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Risk to public safety posed by adjudicated delinquent juvenile sex offenders: Do they really need to register

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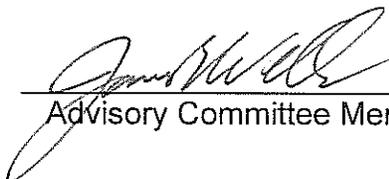
RISK TO PUBLIC SAFETY POSED BY ADJUDICATED
DELINQUENT JUVENILE SEX OFFENDERS
DO THEY REALLY NEED TO REGISTER?

By
Donna S. Mynatt

Thesis Approved



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DELINQUENT JUVENILE SEX OFFENDERS
DO THEY REALLY NEED TO REGISTER?

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DEDICATION

Dedication is to the
Eastern Kentucky University
College of Justice and Safety
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ABSTRACT

This study examined sexual and non-sexual recidivism among a sample of delinquent juvenile sexual offenders (JSOs) following commitment to a state juvenile correctional agency. Both juvenile and adult recidivism rates were studied. The results showed a low rate of sexual recidivism and a high rate of non-sexual recidivism across a 4-year follow-up period past age 18. Logistic and linear regression identified 4 significant predictor variables of non-sexual recidivism. JSOs that were non-white, un-related to the victim in the initial offense, or used another location for the initial offense other than their own home, were significantly more likely to commit non-sexual recidivism. Additionally, JSOs who received sex-offender treatment only in the community displayed more serious non-sexual recidivism. The discussion includes the limitations of the study as well as theoretical and policy implications. The results support the use of re-integrative interventions as opposed to disintegrative stigmatizing ones such as sex-offender registration and notification policies.

KEYWORDS: SORNA, adjudicated juvenile sexual offender registration, juvenile sex offender recidivism, juvenile sex-offender predictor variables, juvenile sex offender non-sexual recidivism

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CHAPTER 1

INTRODUCTION

Juveniles adjudicated delinquent in juvenile court for specific sexual offenses are now required to register as sex offenders and provide notification to the public. The Adam Walsh Act -Title 1 Sex Offender Registration and Notification Act (SORNA) altered the ability of state juvenile courts to protect juvenile offender identities. SORNA provided a crime-of-conviction standard to “protect the public from sex offenders and offenders against children,” (SORNA guidelines, p.5). A crime-of-conviction standard meant everyone over age 14 convicted or found delinquent in adult or juvenile court of sexual offenses equal to ‘aggravated sexual abuse’ must register. Ironically, there is no body of empirical evidence that suggests registration promotes public protection by decreasing juvenile sex-offender recidivism, or even that sexual recidivism is likely following adjudication for sex offending as a juvenile (Caldwell & Dickinson, 2009; Letourneau, Bandyopadhyay, Armstrong, & Sinha, 2010; Salerno, Najdowski, Stevenson, Wiley, Bottoms, Vaca, & Pimentel, 2010). As such, the aim of this study is to investigate juvenile sexual offender (JSO) recidivism, as it constitutes a risk to public safety. Two primary research questions guide the study: (1) What is the prevalence of sexual and non-sexual recidivistic offending among JSOs, and (2) what are the predictors of sexual and non-sexual recidivism? The findings hold implications for existing sex-offender management policies.

Background

The mission of the first juvenile court established in Illinois in 1899 was to protect children from the harshness of adult court penalties (Penn, 2001; Snyder & Sickmund, 1999). The British *parens patriae* doctrine provided government oversight similar to a parent (Grossman & Portley, 2005). The process was informal with a single judge focused on the best interest of the child (Snyder & Sickmund, 1999). Every state followed the suit of Illinois and developed juvenile courts by 1925.

Juvenile courts operated under distinct rules and processes. Law enforcement used codes for juvenile offenses that charged what would be a crime if committed by an adult. In addition, the juvenile court adjudicated youth delinquent instead of guilty, recognizing adolescence as a stage of development. Much later, the legal cases of *Kent v. United States* (1966), *In re Gault* (1967), and *In re Winship* (1970) gave accused juveniles attorney representation, due process rights, and the 'beyond a reasonable doubt' standard for proof of guilt (Snyder & Sickmund, 1999). The juvenile court, in deference to adolescence, provided treatment-oriented dispositions to maintain the rehabilitative mission (Sahlstrom & Jeglic, 2008). However, in the final two decades of the 1900s the pendulum of national crime policy began to swing backward for juvenile delinquents toward retribution, deterrence, and incapacitation. Cook County Illinois, where the juvenile court began, enacted a juvenile justice policy in the mid-1980s that automatically required prosecution of teenagers over age 15 as adults for drug sales within 1,000 feet of a school or public housing (Ziedenberg,

2001). Other states similarly excluded certain crimes from juvenile court with automatic waiver to criminal court or required mandatory sentencing (Snyder & Sickmund, 1999). Moreover, states lessened confidentiality requirements, increased the rights of victims in juvenile crime, and provided modified correctional facilities (Snyder & Sickmund, 1999). It was during this time that adolescent sexual offenders became targets of crime policy changes. The changes stereotyped them as “pedophilic strangers” ready to prey on unwary children (Finkelhor, 2009, p. 169).

A series of highly publicized sexual assault and murder crimes produced nationwide law and order oriented changes concerning sexual offenders (Garfinkle, 2003). The sensationalized crimes were cases that “unduly influenced public policy” (Erooga, 2008, p.180). The Adam Walsh case was one of 17 cases across the nation that evoked a powerful policy reaction from Congress. Swift enactment of sex-offender management laws resulted, with the victims memorialized through the titles (Erooga, 2008). The Violent Crime Control and Law Enforcement Act of 1994 contained Title XVII- the Jacob Wetterling Crimes against Children and Sexually Violent Offender Registration Act (1994). The law mandated adult sex offender registration for 10 years following a prison term, with data available to law enforcement only. The Pam Lyncher Sexual Offender Tracking and Identification Act (1995) followed, establishing a national database to track sex offenders and mandating lifetime registration in violent crime cases. Subsequently, Megan’s Law (1996), amended the Wetterling Act, providing public community notification for adult offenders and adjudicated juvenile sex-

offenders (JSOs). Megan's Law gave discretionary leeway for jurisdictions in the methods of registration and notification. States, Indian tribes, and U.S. territories set their own juvenile age limits for registration. Additionally, registration policies changed from jurisdiction to jurisdiction. For example, 16 states chose to register all adjudicated JSOs of any age, while eight states did not register any adjudicated JSOs (Szymanski, 2009). However, JSOs waived to adult court and found guilty had to register as adult sex offenders. Additionally, jurisdictions developed their own methods of community notification, including both door-to-door and online registration (Garfinkle, 2003).

In drafting Megan's Law as a public safety measure against stranger rapes, "legislators ignored the important statistic that only 3% of sexual abuse and 5% of child murders are committed by strangers" (Garfinkle, 2003, p. 170). Nonetheless, lobbying vigorously persisted for standardized adolescent sex offender registration and notification with publicly accessible information. In 2006, 10 years after Megan's Law, the federal government enacted The Adam Walsh Child Protection and Safety Act (AWA), Title 1- Sex Offender Registration and Notification Act (SORNA), or Public Law 109-248. This law incorporated all previous federal sex-offender registry and notification laws (AWA: Public Law 109-248; Harris & Lobanov-Rostovsky, 2010). SORNA requires sex offenders in the United States to register with law enforcement of any state, locality, territory, or tribe where they reside, work, and/or attend school (Adam Walsh Act, 2006).

The standard states that juveniles must register if they are "persons adjudicated delinquent as a juvenile for a sex offense, but only if the offender is

14 years of age or older at the time of the offense and the offense adjudicated was comparable to, or more severe than, aggravated sexual abuse (as described in 18 U.S.C. § 2241(a) or (b)), or was an attempt or conspiracy to commit such an offense” (Adam Walsh Act, 2006). The definition of aggravated sexual abuse is engaging in a sexual act with any degree of genital or anal penetration, and any oral-genital or oral-anal contact with another by force or threat of serious violence or by rendering unconscious or involuntarily drugging the victim (SORNA final guidelines, 2011). This crime-of-conviction standard mandates registration according to the offense for which youth were found delinquent in juvenile court (e.g., sodomy, rape, sexual abuse). According to Caldwell, Ziemke, and Vitacco (2008, p. 91), SORNA assumes “higher risk juvenile sex offenders can be characterized by their offenses”.

Jurisdictions faced a loss of 10% of allocated funds from the Byrne Justice Assistance Grant formula funds for a non-compliant penalty if they failed to implement the standard (Adam Walsh Act, 2006, Sec.125). Nevertheless, jurisdictions remained non-compliant. Therefore, the Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) office within the U.S. Department of Justice, overseeing implementation of the Act, authorized changes in 2011 that provided incentives for compliance. Modification provided substantial compliance if juveniles adjudicated delinquent registered for committing “nonconsensual sex offenses involving penetration” or *attempts* or conspiracies (SORNA Supplemental Guidelines, 2011). The definition became the standard for registration (instead of aggravated sexual abuse) for jurisdictions

to achieve substantial compliance. The SMART office also approved jurisdictional discretion in lowering the age of registration, adding sex offenses, and posting information online. These modifications allowed jurisdictions to register pre-adolescents (e.g., ages 9 to 11) brought into juvenile court with sexual behavior problems (SBP) if they so desired. Jurisdictions could also receive allocated funds if they attained substantial compliance while continuing to strive for full compliance with all of SORNA's requirements.

Despite SORNA modifications, AWA remained a law created from the intense Congressional reaction to the public's panicked sense of threat and moral outrage (Garfinkle, 2003; Sahlstrom & Jeglic, 2008; Salerno et al., 2010). The Declaration of Purpose within SORNA cited the widely publicized 17 victims of sexual assault (Adam Walsh Act, 2006). Contrariwise, out of the 17 cases, only one case stated the perpetrator was a juvenile sex offender, the case of Amie Zyla. Amie Zyla was an eight-year old child victim of a recidivist juvenile sexual offender. Amy survived the assault, grew up, and testified before Congress. The result was the inclusion of adjudicated juveniles with the section within SORNA bearing her name (Adam Walsh Act, 2006, Sec. 111).

Congress' purpose in SORNA was to deter recidivism, and promote incapacitation by publishing offender identities (SORNA Final Guidelines, 2009; Caldwell & Dickinson, 2009). Purportedly, notification provides many eyes on the offender. Contrarily, the following literature review examines evidence that challenges the Acts' capacity for achieving these goals.

CHAPTER 2

LITERATURE REVIEW

JSO Sexual and Non-Sexual Recidivism

Research from the past decade shows that JSO sexual recidivism is typically low following treatment, while general non-sexual recidivism rates are higher upon transition to adulthood. According to Caldwell (2002), using reconviction as the definition for recidivism, juvenile sexual offenders were six times more likely to recidivate in commission of non-sexual general crime than sexual crimes. Additionally, Vandiver (2006) followed 300 male juvenile sex offenders for 3 to 6 years into adulthood using rearrests as the definition of recidivism. The research found a JSO adult sexual recidivism rate of 4%, with a non-sexual general crime recidivism rate of 52.6% (as cited in Zimring, Piquero, & Jennings, 2007).

In addition, Caldwell (2010) found in a meta-analysis of 63 data sets with 11,219 juvenile sexual offenders and recidivism defined as rearrests or reconviction that the mean JSO sexual recidivism rate was 7.08% ($SD = 3.9\%$). In addition, the non-sexual recidivism rate in the study had a mean of 43.4% ($SD = 18.9\%$) after a follow-up of 59.4 months into adulthood. Further, according to Efta-Breitbach and Freeman (2004, p. 258), JSO sexual reconviction rates ranged from “6% to 20%”, and non-sexual general crime reconviction ranged from “34.8% to 90%” using follow-up periods of up to 10 years into adulthood. Comparatively, according to Minor, Wells, and Angel (2008), non-sexual

offending juvenile delinquents recidivated at a rate of 52% in non-sexual delinquency after an 18 month follow up.

In sum, studies suggest JSOs will recidivate in non-sexual crimes as they transition into adulthood at rates approximately equal to the rates of non-sexual offending delinquents. In addition, common traits associated with delinquency, as shown through research, are also significantly associated with adolescents who sexually offend.

Predictors of Sexual and Non-Sexual Offending

Antisocial traits associated with general delinquency then may be significant in predicting sexual offending. However, Seto and Lalumière (2010, p. 529) in a meta-analysis of 59 studies comparing juvenile sex offenders with juvenile non-sexual offenders found that general delinquency antisocial traits alone did not *fully* explain sexual offending; instead predictor variables for adolescent sexual offending fell into two categories: “offense specific” and “general delinquency.” Literature on juvenile sexual offending further expounds on variables in these two divergent paths leading to sexual offending.

Offense-specific predictor variables have more psychopathological origins such as childhood sexual abuse, atypical sexual interest, arrested sexual development, early exposure to pornography, emotional loneliness, low self-esteem, and anxiety combined with the inability to form intimate relationships with peers (Ronis & Borduin, 2007; Seto & Lalumière, 2010; van Outsem, Beckett, Bullens, Vermeiren, Horn, & Doreleijers, 2006; Witt, Bosley, & Hiscox, 2002).

In contrast, general delinquency antisocial traits include family dysfunction, lack of bonding to parents, lack of bonding to social institutions (i.e., school, church), behavior problems, poor academic achievement, impulsivity, close association with delinquent peers, and substance abuse (Efta-Breitbach & Freeman, 2004; Ronis & Borduin, 2007; van Outsem, et. al, 2006; Witt, et. al, 2002).

Antisocial traits are common predictors in non-sexual delinquency, and sexual offending among adolescents. Antisocial traits were also predictors of non-sexual recidivism among JSOs after treatment, in addition to a prior criminal history and lack of self-esteem (Worling & Curwen, 2000). This indicates that antisocial traits are a red flag indicating at risk youth vulnerable for delinquency and/or to offend sexually especially when other predictors are present. The following literature expounds on “offense specific” and “general delinquency” predictors.

Choice of Victim and Offense Location

The majority of sexual offending by adolescents is against an immediate family member, a relative, or person bonded to the family (Center for Sex Offender Management, 2013; Garfinkle, 2003). Studying the choice of victim (e.g., sibling, child, and peer), or location of the initial offense indicated predictor variables. Latzman, Viljoen, Scalora, and Ullman (2011) found that adolescents who sexually offended against siblings in the home had a greater probability of exposure to domestic violence, pornography, and prior sexual abuse than adolescents who sexually offended against non-siblings. According to Worling

(1995), adolescents who sexually offended against siblings in the home also had punishments that were more physical (by comparison to other types of punishment) in a chaotic family atmosphere with increased parental conflict.

Gunby and Woodhams (2010) used data from 43 male juvenile sex offenders to find out whether offenders of peer-victims (the same or near the age of the teenage perpetrator) differed in characteristics from offenders of child-victims (5 or more years younger). They found that compared to offenders of peer-victims, child-victim abusers had greater deficiencies in self-esteem and social isolation. Knowledge of the victim, lack of age appropriate friends, and a history of being bullied were predictor variables for child-victim abusers. They also found that adolescent peer-victim abusers had likely experienced significant familial violence, plus criminal activity within the family unit.

Age at Offense and Puberty

In the meta-analysis of 59 studies of adolescent sexual offending referred to above, the mean age at first contact with the justice system was 13.2 years and the peak age of sex offending was 14 (Seto & Lalumière, 2010). Onset of puberty hovers between ages 10-15 (Center for Disease Control, 2013). The age at initial offense then might be a significant predictor of adolescent sexual offending if other factors are present. Pubertal hormonal changes can propel youth to delinquent sexual activities normally held in abeyance by social norms (Skoog, Stattin, & Kerr, 2009). Viewing internet pornography, sexual harassment, and forcing sex on peers or younger children are unacceptable sexual behaviors noted during pubertal changes (Skoog, et.al, 2009). Thus, adolescent youth

between the ages of 10-15 with antisocial characteristics and at risk for sexual offending are in need of effective intervention strategies at the onset of puberty.

Intervening with JSOs

Children showing sexual behavior problems (SBP) as young as 9 years old are also at risk in some state jurisdictions for registration as sex-offenders. Pre-adolescent children adjudicated in juvenile court face the same length of registration time (25 years to life) as adolescents. One of the fears prompting registration is that pre-adolescent offenders will become adolescent and adult offenders. Contrary to that presumption, a taskforce on childhood sexual behavior found children with sexual behavior problems do not pose a high risk for sexual offending when provided effective short-term treatment (Chaffin, Berliner, Block, Johnson, Friedrich, Louis, Lyon, Page, Prescott, Silovsky, & Madden, 2008). Multisystemic therapy (MST), can address preadolescent sexual behavior problems or adolescent sex offending. The MST approach is inclusive of family engagement and addresses risk/need factors of the adolescent such as delinquent peers, antisocial traits, social isolation, and school, in a whole life approach. Borduin, Schaeffer, and Heiblum (2009) compared MST to usual community services (UCS) and found that MST participants had 83% fewer arrests for sexual (8%) and nonsexual (29%) crime compared to the UCS group (46% and 58%) over an approximate 8-year follow-up.

Following the above research, a further study provided 1-year results from a randomized effectiveness trial on multisystemic therapy for juvenile sexual offenders. There were 36 youth on probation, and 31 diverted youth in the MST

program, with 35 youth on probation and 25 diverted youth in the treatment as usual for JSOs (TAU-JSO) program; all youth had referrals to sexual offender-specific treatment. “Youth offended against relatives (36%), friends (including classmates and neighbors, 37%), acquaintances (21%), and/or strangers (6%)” (p. 96). Treatments lasted approximately 7 months, and the mean age of youth was 14.6 years old. Treatments conducted were in the home or community rather than a residential facility. Additionally, both groups had risk factors (e.g., antisocial traits, lack of bonding with parents, non-affiliation with pro-social institutions, and association with delinquent peers) similar to non-sexual offending delinquents. The groups did not manifest psychopathological traits indicative of an offense-specific path to offending. The results showed the trial had more effective results from MST than treatment as usual for JSOs (Letourneau, Henggeler, Borduin, Charles Schewe, McCart, Chapman, & Saldana, 2009). In addition, the trial illustrated that effective treatment of JSOs is heavily dependent on family involvement in therapy. A positive monetary outcome also showed MST could reduce costs of treatment by maintaining the youth in the least restrictive environment of the home and community.

Registration and Notification

Previously this paper described the registration and notification laws for JSOs. The limited research available on the effectiveness of these laws questions their deterrent value. Letourneau, et al. (2010), gathered South Carolina juvenile justice data from 1991 to 2004 to model trend analyses on the years 1995, the year South Carolina implemented JSO registration under

Megan's Law, and 1999 the year after online sex offender notification began. The purpose of the research was to determine if registration and notification had a deterrent effect on new juvenile sexual offenses. The analyses, after inclusion of waived cases to adult court, found that registration and online notification did not deter new sexual crimes.

Caldwell and Dickinson (2009) also followed a group of 106 registered and 66 unregistered JSOs for 49.2 months to examine the effects of registration. At the end of the follow-up period, they compared rates of new charges, risk scores on the Juvenile Sex Offender Assessment Protocol-II (JSOAP-II; Prentky & Righthand, 2003), and the Youth Level of Service/Case Management Inventory (YLS/CMI; Hoge, Andrew, & Leschied, 2002). They found that juveniles on sex offender registries had lower risk scores but received charges for new crimes at a similar rate to unregistered sex offending youth. The research concluded that registration did not moderate recidivism risk.

Although not a direct test of the effectiveness of JSO registration and notification laws, research by Zimring, Piquero, and Jennings (2007) is instructive. They followed three birth cohorts in Racine, Wisconsin from birth to ages 20 and 30. The birth cohort records showed that 8.5% of males had juvenile "sex police contacts" and later had adult "sex police contacts," while 6.2% of males in the cohorts with only non-sexual juvenile police contact later also had adult sex police contacts. Therefore, the findings showed no differences in the rates of sexual recidivism between sexual offending juveniles and non-sexual delinquents. The authors concluded that having a juvenile sex police contact

adds “little predictive value, which contradicts the assumption behind many sex offender registration requirements” (p.523). They further concluded that focusing only on juvenile sex offenders, as possible adult offenders, would miss 90% of actual adult offenders.

Research by Caldwell, Ziemke, and Vitacco (2008), is also instructive. They conducted assessments of 91 juvenile males adjudicated of felony sexual offenses, and 174 juveniles with no sexual offenses but with substantive delinquent characteristics. The assessment instruments used were the Psychopathy Checklist: Youth Version, J-SOAP II, Wisconsin, Texas, and New Jersey state assessment protocols, and the tier designation criteria within SORNA. The follow-up was on average 71.6 months. The results showed SORNA’s crime-of-conviction standard, where the offense determines the risk to reoffend, failed to predict recidivism. Only the Psychopathy Checklist: Youth Version was successful in predicting offending in general crime, sexual offenses, or violent criminal acts.

As can be seen, there is little empirical evidence to support juvenile registration and notification laws. This mirrors research conducted on adult registration and notification laws (Gendreau, Little, & Goggin, 1996). But what accounts for these findings? The next section points to theories of the causal factors of crime that are insightful as to why sex offender registration and notification laws appear to be ineffective as deterrents.

Theoretical Foundations

Criminological theories provide speculative explanations, while research supports or rejects the theory. The research findings cited above (e.g., Efta-Breitbach & Freeman, 2004; Letourneau et al., 2009; Ronis & Borduin, 2007; van Outsem, et. al, 2006; Worling & Curwen, 2000; Witt, et al., 2002) lend more credibility to the criminological theories based on social factors and antisocial behaviors with adolescent sexual offending and non-sexual offending than to theories emphasizing offense-specific psychopathological causes of offending. Consideration now shifts to three such criminological theories.

Social Learning Theory

Social learning theory focuses on modeling behaviors after observing behavior and its consequences in other people, including adults and peers (Akers & Sellers, 2009). Delinquent adolescents in dysfunctional family environments are subject to negative models within the family. Domestic violence, involvement in crime, pornography, and emotionally detached family members influence adolescents and they model themselves similarly, even on a subconscious level. Peers and young adults in the neighborhood are often in similar situations, thus reinforcing the modeling by bonding together. Censure of criminal attitudes and behavior by conventional figures (e.g., school authorities) is a cause for further identification with delinquent peers and rejection of pro-social normative boundaries. JSOs, modeled into non-conformity as a child and as a youth with later labeling through harsh registration laws, may identify themselves even further with delinquent peers or adults who commit crimes

where they can find acceptance. Acceptance is crucial to an adolescent, and breaking the law may be insignificant in comparison.

Labeling Theory

Labeling theory (Wilkins, 1964) states that individuals are not inherently deviant but receive labels according to an act, they committed (sex offender, rapist, etc.). Labeling theory hypothesizes that when significant individuals label a perpetrator as deviant, the individual may internalize the label, believing it to be true. The internalization can lead to an altered self-perception. Perceiving themselves as deviant or criminal, they may continue in crime. Nationwide, many juveniles are already bearing labels as juvenile sex offenders. JSOs could comprise “0% to 10% of state registrants, or 3% or 19,000 of all registrants” (Letourneau, et al., 2010, p. 554). They remain outcasts when restoration is possible through reintegration into society, and as outcasts act accordingly against social norms.

Braithwaite’s Re-integrative Shaming Theory

According to Braithwaite’s (1989, p.4) variant of labeling theory, “shaming can be counterproductive if it is disintegrative rather than re-integrative”. His theory of re-integrative shaming postulates that shaming processes are an effective anti-crime tool when the processes re-integrate the offender back into society. The offender reconciles with the community and if possible, the victim. Unfortunately, Braithwaite’s tenets are not the norm in social control practices. In emphasizing rejection and stigma, registration and notification policies for sex offenders provide a perfect example of the type of disintegrative shaming to

which Braithwaite refers. The JSO is treated as an outcast, as a person to be avoided and coercively controlled.

General Strain Theory

General Strain Theory (Agnew, 1985, Akers & Sellers, 2009) proposes that environmental strains lead to negative emotional states, which in turn can lead to crime and deviance. General strain theory broadens the definition of strain. It is more than achievement of monetary goals (Broidy, & Agnew, 1997). Environmental strain for an adolescent focuses on the things he/she values; such as social goals and relationship goals (e.g., girlfriend, boyfriend). In addition, the presence of negative stimuli (e.g., abuse, domestic violence) creates further strain. Thus, when social and relationship goals are unattainable and negative stimuli in the home create a lack of stability, behaviors may disintegrate and adolescents gravitate toward delinquent acts and delinquent peers. Delinquent acts can include sexual offending which in turn produces greater antisocial behavior and separation from goals. The JSO label and the ensuing requirement for registration and notification create more anger and push the juvenile into further deviance.

Self-Control Theory

The self-control theory offered by Gottfredson and Hirschi (1990) is a possible explanation for impulsive sexual offending directed against a sibling or relative in the home. The theory's premise is that people with high self-control are much less likely to commit crime compared to those with low self-control (Akers & Sellers, 2009). Low self-control manifests itself as impulsivity. Many

JSOs have Axis I diagnoses (53.2% in this study) that include impulsivity. JSOs may impulsively coerce siblings into sexual acts, and as adults impulsively commit non-sexual crimes, later regretting the action.

In conclusion, social learning through negative modeling lends itself to nonconformity and deviant acts (sexual or non-sexual). The judicial process of commitment and treatment can stigmatize the adolescent. He or she may accept the label of delinquent or sex-offender, thus producing social isolation, especially when family rejects them. The stigmatization produces strain and propels the youth to seek acceptance among delinquent peers or a deviant life-style. JSOs may impulsively engage in non-sexual criminal acts when the opportunity presents itself or when their peers suggest it. Trafficking in drugs, shoplifting, burglary, and other crimes with monetary gain are typical non-sexual crimes committed by JSOs in adulthood.

The statistic of 40%- 50% of JSOs who are recidivating as adults in non-sexual crimes may reflect this theoretical cycle. Predictor variables discussed in the literature review associated with general delinquency (e.g., antisocial traits, domestic violence) are the red flags to potential non-sexual recidivism following treatment. Registration and notification shown not to have a deterrent effect on juveniles means the solution lies in prevention during the pre-pubescent ages. Education, therapy, and family engagement would be the components of treatment to prevent sexual offending and the aftermath of adult non-sexual crime.

CHAPTER 3

METHOD

The researcher obtained permission from the Kentucky Department of Juvenile Justice (KY-DJJ) Community Services Director to allow collection and analysis of archived data on juvenile sex offender cases from the Juvenile Offender Resource Information (JORI) network. In addition, the Eastern Kentucky University IRB approved the use of the data, providing there was deletion of identifiers and no contact with individuals associated with the cases. The criterion for selection of cases was exit from DJJ during the years SORNA was in the federal legislature (i.e., 2000 to 2008).

Participants

The sample consisted of adjudicated delinquent JSO closed cases. These cases originated in juvenile court and resulted in commitment to the custody of KY-DJJ for sex-offender treatment. In addition to the 2000-2008 time frame mentioned above, criteria for inclusion in the sample were a minimum of six months treatment, and date of birth between 1981 and 1991. The minimal six months of treatment covered the standard portion of required therapeutic treatment (prior to implementation of the Adam Walsh Act). The date of birth allowed a consistent four-year adult follow up period per case. Application of these criteria along with removal of four outliers provided a final sample of 588 cases (N=588). Table 1 provides characteristics of the sample.

Table 1 – Characteristics of the Sample

Variable	Percentage
Gender	
Male	98%
Female	2%
Race	
White	77.2%
Non-White	32.8%
Age	
11	1.0%
12	4.4%
13	11.8%
14	19.9%
15	24.8%
16	19.6%
17	11.8%
Others	7.7%
Custodian	
All others	63%
Biological Mother	37%
Charge	
Sexual Abuse 1 st	39.7%
Sodomy 1 st	25.8%
Sexual Abuse 2 nd	9.6%
Rape 1 st	7.1%
Sexual Abuse 3 rd	4.1%
Incest	2.0%
Other	≤1.0%
Counties	
Jefferson (Louisville)	14.7%
Fayette (Lexington)	11.8%
Kenton (N. KY)	3.9%
Hardin	3.5%
Laurel	3.0%
Christian	2.9%
Remainder	≤ 2.5%
Grades	
Gr. 9	21.4%
Gr. 8	20.4%
Gr. 10	17.2%
Gr. 11	14.0%
Gr.7	13.8%
Gr. 12	8.3%
Other	4.9%

The majority of the cases were males and white. The most common Uniformed Officer Report (UOR) charge was first degree sex abuse. A fourth of the cases came from the urban areas of Kentucky, including Jefferson County/Louisville and Fayette County/Lexington. There were 103 counties represented out of 120. The mean age of offending was 15 years old (SD =1.56), with grades 8-10 containing 59% of the cases (Mean Grade = 9.19, SD = 1.62). The primary custodian in 37% of the cases was the biological mother.

Data Source

The data source for the thesis was the electronic databases maintained by the Kentucky Department of Juvenile Justice and the Kentucky Administrative Office of the Courts (AOC). The KY DJJ Juvenile Offender Resource Information (JORI) system electronic database provided the case information. Sexual and non-sexual adult crime data came from the AOC database. Juvenile service workers assigned the active case amassed the data. Reliability and validity of the data depended on DJJ and AOC staff to obtain information and accurately enter it. Each case had a random number assigned to it.

Variables

There were two dichotomous dependent variables: adult sexual recidivism and adult general crime recidivism. The operational definition of recidivism was new adjudications in juvenile cases until age 18, and new adult charges after age 18 in the four-year follow up. Presented in Table 2 are the 13 independent variables, with definitions, codes, and frequencies.

Table 2 – Independent Variables with Frequencies

Variable (N=588)	Definition	Numeric Codes	Frequency
Axis I diagnoses	Diagnostic and Statistical Manual of Mental Disorders (4 th edition) diagnoses in the perpetrator's case	Coded yes = 0, no = 1	53.2% yes 46.8 % no
CHFS	The Cabinet for Health and Family Services referral or case in the perpetrator's home	Coded yes = 0, no = 1	58.6% yes 41.4 % no
CHFSX	The Cabinet for Health and Family Services case: perpetrator was victim of sexual abuse	Coded yes = 0, no = 1	26% yes 74% no
Days at DJJ	Total days of perpetrator commitment	None	Median=1016
Facility Treatment or Community Only Treatment	DJJ facility sex offender treatment or Community providers only sex offender treatment	Coded Facility = 0, Community= 1	79.2% Fac. 20.8% Com.
Location of Offense	Initial offense location (perpetrator home or other location)	Coded perp. home= 0 other loc. = 1	68.9% perp. 31.1% other
Substance use	A documented history of substance use	Coded yes = 0, no = 1	54.9% yes 45.1% no
Victim under 12	The victim was under 12 years old	Coded yes = 0, no = 1	79.1% yes, 20.1% no
Victim related to perpetrator	The victim was related to the perpetrator	Coded yes = 0, no = 1	67.2% yes; 32.8% no
Race	Categories of White, Non-White	Coded white= 0 non-white =1	77.2% white 32.8% non-w
Age at Initial offense	Perpetrator's age at initial offense	None	Mean=15.0 SD=1.56
Grade	Grade level at commission of offense	None	Mean=9.19 SD=1.62
Custodian	Primary custodian	Coded 0 = Mother 1= others	62.5% others 37.5% biological mother

CHAPTER 4

RESULTS

Frequency of Juvenile and Adult Sexual Recidivism

The frequency of juvenile sexual recidivism after sex-offender treatment and prior to age 18 that resulted in new charges or extended commitment was 15 out of 588 cases (N=588), for a rate of 2.6%. The seriousness was as follows (from least to most serious):

- 6 Misdemeanor cases
- 6 Felony-D cases
- 1 Felony-C case
- 2 Felony-A cases

In addition, 5 out of the 15 juvenile recidivist cases mentioned above offended as adult sex offenders, for a rate of .85% of total cases (N=588). The adult crime seriousness was as follows:

- 2 Misdemeanor cases (least serious)
- 1 Felony-D
- 2 Felony-A cases (most serious)

Further, 18 cases out of 588 (3%) were adult sexual recidivists only (past age 18) within the 4-year follow up. The seriousness was as follows:

- 2 Misdemeanor cases (least serious)
- 2 Felony-D cases
- 5 Felony-C cases
- 5 Felony-B cases
- 4 Felony-A cases (most serious)

Frequency of Juvenile and Adult Non-Sexual Recidivism

The frequency of juvenile non-sexual recidivism after sex-offender treatment and prior to age 18 that resulted in new charges or extended commitment was 9 out of 588 (1.5%). The seriousness was as follows (from least to most serious):

- 5 Misdemeanor cases
- 2 Felony-D cases
- 2 Felony-B cases

The frequency of adult non-sexual recidivism across the 4-year follow-up was 244 cases out of 588 (41.5%), while 344 (59.5%) of the cases did not recidivate as adults. The seriousness of the 244 cases follows (from least serious to most serious).

- 23 Misdemeanor-B cases
- 71 Misdemeanor-A cases
- 78 Felony D
- 49 Felony C
- 21 Felony B
- 2 Felony A

The number of sexual recidivism cases was too small to allow inferential statistical testing, as seen above there were only 15 cases. This restricted inferential testing to non-sexual adult recidivism, with 244 cases. The next section discusses the diagnostics that are necessary for conducting ordinary least squares (OLS) regression for seriousness of non-sexual adult recidivism.

Diagnostics for Multivariate Analysis

Note that these diagnostics are not required for the logistic regression model on whether adult general recidivism occurred; the OLS model follows the logistic model presented below.

In terms of diagnostics, there were no univariate outliers. Three multivariate outlier cases were removed. Checks of bivariate correlations, variance inflation, and conditioning indexes revealed no bivariate or multivariate multicollinearity. An examination of expected normality probability plots and detrended normal probability plots found some skew present; residuals appeared to be roughly normally distributed. An examination of bivariate scatterplots on a sample of skewed variables found no curvilinearity or heteroscedascedascity present. Given that the dependent variable “Adult General Crime Type” had a positive skew of .935 (Table 3), square root transformations were performed in an attempt to normalize this variable. Transformations were partially successful in cutting the skew in half (.537) (J. Wells, personal communication).

Logistic Regression Analysis

Regression of the variable adult general crime recidivism (yes/no) on the predictor variables revealed three significant predictors: Race, Victim Related, and Location of Initial Offense, with race the most significant (see Table 3). Adult non-sexual recidivism was significantly more likely among non-whites, cases in which initial juvenile sex offenses perpetrated occurred in a location other than the offender’s home, and cases in which the victim and offender were unrelated to one another.

Table 3– Logistic Regression of General Recidivism

VARIABLE	B	S.E.	Wald	df	Sig.	Exp.(B)
Race	.921	.215	18.359	1	.000	.398
Custodian	.186	.183	1.031	1	.310	1.204
CHFS.	-.262	.210	1.550	1	.213	.770
CHFSX	.233	.228	1.045	1	.307	1.263
Substance use	.317	.180	3.093	1	.079	1.373
Axis 1	-.124	.187	.444	1	.505	.883
Grade	-.027	.090	.089	1	.765	.973
Victim Related	1.073	.362	8.808	1	.003	2.924
Victim under 12	-.349	.248	1.979	1	.160	.706
Total days at DJJ	.000	.000	.005	1	.945	1.000
Facility Treatment or Community Treatment	.454	.243	3.486	1	.062	1.574
Location of initial offense	-.796	.354	5.047	1	.025	.451
Age at Initial Offense	.019	.100	.037	1	.847	1.019

Source: SPSS 21

Possible explanations for these findings are in the discussion section of the study. Ordinary least squares regression (OLS) examined predictors of the seriousness of adult non-sexual recidivism, given that the variable General Crime Type was continuous rather than categorical. Table 4 shows the results

Ordinary Least Squares Regression Analyses

Table 4 – OLS Model of Adult General Recidivism Seriousness

Model	Standardized Beta Coefficients	t	Sig.
Race	.217	5.190	.000
Victim Related	-.218	-2.996	.003
Treat facility or Community only	.098	-2.223	.027
Location of Initial Offense	.145	2.024	.043
CHFSX.	.048	-1.043	.297
Custodian	-.031	-.763	.446
CHFS	.060	1.265	.206
Substance abuse	-.078	-1.890	.059
Axis 1	.026	.614	.539
Grade	.016	.242	.809
Vic Under 12	.079	1.718	.086
Total days DJJ	-.010	-.199	.843
Age at initial offense	-.010	-.146	.884

Source: SPSS 21

The combination of predictors accounted for a low proportion of variance (adjusted $R^2 = .064\%$). The overall model was significant [$F(13,574) = 4.100$, $p = .000$]. The 4 significant predictors of offense seriousness were (in order of predictive strength): being unrelated to the victims, being non-white, location of initial offense other than perpetrator's home, and receiving treatment in the community only. A discussion follows on the findings of the analyses.

CHAPTER 5

DISCUSSION AND CONCLUSION

Recall that one of the research questions asked, “What is the prevalence of sexual and non-sexual offending among adjudicated juvenile sex offenders?” Findings revealed that after sex-offender treatment, only 2.6% of adjudicated JSO total cases recidivated with new sex offenses while under age 18. Further, only 3.85 % of Kentucky adjudicated JSO total cases recidivated with a sexual crime as an adult within four years after age 18. This pattern of findings is consistent with the research of Finklehor, Ormrod, and Chaffin (2009, p. 3) who reported that “85% to 95% of sex-offending youth have no arrests or reports for future sex crimes”. Moreover, less than 1% of the JSO cases were recidivists as both a JSO and adult sex offender. These low sexual recidivism rates challenge the basis for blanket registration and notification policies.

In addition, the majority of initial sexual offenses (68.9%) occurred in the perpetrator’s home, while 31.1% occurred at other locations. The study also found that the majority of cases (67.2%) were sexual offenses against relatives of the offender. In comparison, the research of Latzman et al. (2011, p. 245) found 50% of all cases involved ‘sibling’ victims. These results imply the main threat from adolescent sexual offending lies in the perpetrator’s home with siblings or relatives, as opposed to threats posed by strangers to the public at large. Non-sexual adult recidivism was much more prevalent. Analysis showed that 41.5% of the sample recidivated with non-sexual crimes within four years after exiting DJJ

and becoming an adult. This finding is consistent with the results of Vandiver (2006) who found a JSO recidivism rate of 4% and a 52.6% rate of non-sexual general crime recidivism.

The second research question asked, "What are the predictors of sexual and non-sexual re-offending?" The small number of sexual recidivism cases precluded study of predictors of sexual offending. Statistically significant predictors of non-sexual adult offending were:

- Non-white race
- Initial offenses perpetrated at locations other than the perpetrator's home
- Victim not related to the perpetrator.

A possible explanation for non-white race as a predictor of general recidivism is the high rate of unemployment among African American males; the rate was 13.5% in 2013. This compares with 9.2% for Hispanic males, 5.2% for Asian males and 6.2% for White males (Census quick facts, 2013). High unemployment, combined with the negative stigma associated with the label of sex-offender, poverty, and family dysfunctions, are all risk factors for using crime to satisfy needs, and attain goods.

Initial offenses perpetrated at locations other than the offender's home, as a significant predictor of general recidivism, is a possible indicator of an existing tendency to commit crimes that are more serious. The action requires more premeditation than impulsive actions against siblings or relatives in the home. Antisocial traits, such as lack of bonding to parents and pro-social community institutions and closer bonding to deviant peers may also be a characteristic of

this type of offender (Henggeler, Melton, & Smith, 1992). Sexually offending against unrelated victims indicates premeditation by planning an event rather than acting impulsively. The boldness and aggression it takes to accomplish the action shows more of a tendency toward rejection of social norms, and a willingness to commit crime.

In addition to these three predictors, receiving treatment only in the community was a significant predictor of non-sexual adult recidivism seriousness. Treatment provided only in the community has a single focus on the sexual deviance of the offense. Treatment in the community came from private providers of sex offender treatment deemed acceptable to the state of Kentucky. Sex offender specific treatment provided was through one-on-one scheduled therapy sessions for the perpetrator and family, with no other services. Community treatment relied on the adolescent and family arriving at treatment sessions consistently and actively participating. Duration of treatment, session length, and quality of therapy varied according to the provider. Conversely, regularly scheduled treatment sessions in facilities had multiple workers responsible for youth attendance, with non-participation resulting in sanctions. Facility treatment was standardized in method, duration, and session times. The treatment wrapped around all aspects of life in the facility and life at home. It addressed substance abuse, behaviors, and attitudes of the youth. It also involved family participation by phone or in person. Further, school was on site, and vocational educational opportunities were part of the program. These options offered some

youth the advantage of a GED and a skill upon exiting the facility. The quality of facility treatment, however, was also dependent on the staff.

Theoretical Implications

The results in this study did not show childhood sexual abuse, Axis I diagnoses or CHFS referrals as significant predictors of recidivism. The frequency of childhood sexual abuse within in the cases was 26%. This result, coupled with the low sexual recidivism rates and high general crime rates as adults, support sociological theories of crime over psychopathological ones. The significant predictors of general recidivism (non-white race, offenders and victims unrelated, and offense taking place outside the offender's home) are consistent with social learning theory and strain theory.

Moreover, a 41% non-sexual recidivism rate (after a four-year follow-up as an adult) points toward possible effects of disintegrative shaming. Disintegrative shaming effects accompanying the JSO label may spill over into adulthood, with high unemployment and lower educational attainment as consequences (Chaffin, 2008). Additionally, labeled juvenile sex offenders transitioned to adulthood may act upon a self perception of themselves as criminals. Believing that no one would hire them for good jobs, they may commit non-sexual crimes for material/monetary gain or some other form of perceived gain (e.g., satisfaction in reaction to frustration or anger). This implies that Braithwaite's tenets of re-integrative shaming and restorative justice, providing forgiveness and acceptance in the community, are critical to develop JSOs into productive adult members of society.

Practical Implications

Over two-thirds of initial sex offense cases were family-related and took place at the perpetrator's home, implying the most danger from adolescent offending in this study occurred in the home from a relative. The practical implication is that youth exhibiting risk factors that are associated with perpetration against siblings should have interventions in place prior to the onset of puberty.

However, about a third of cases involved victims who were not relatives and the offense did not occur in the home. This suggests the need for further research on offender typologies. Moreover, the literature review cited research (e.g., Caldwell, 2010; Efta-Breitbach & Freeman, 2004; Vandiver, 2006; and Zimring, Piquero & Jennings, 2007) that is consistent with this study's findings of low sexual recidivism rates, and higher non-sexual recidivism rates. The high non-sexual recidivism rates are indicative of a lack of effective reintegration into the community, or a failure in applying reintegrative methods during reentry.

Most importantly, the frequency of sexual recidivism was very low. Therefore this study does not support the 'public safety' concern that underlies the inclusion of adjudicated JSOs in SORNA legislation. The majority of initial offending is within the perpetrator's family and not among the public at large. The assumption that all or even the majority of juvenile sexual offenders will become adult sexual offenders is erroneous. Effective MST therapies can rehabilitate offenders while re-integrating them to society (Borduin, et al., 2009, Letourneau et al., 2009). Therefore, state juvenile court is typically an effective arena for handling adolescent sexual offenders relying on state registration until

age 18, without need for federally mandated registration/notification policies. Initiatives that promote stigmatization may only promote adult recidivism, especially non-sexual general crime. Currently, 16 states, 3 territories, and multiple Indian tribes are in substantial compliance with SORNA; and repeal of the inclusion of adjudicated juvenile sexual offenders is doubtful. This is another instance of policy going against the grain of theory and research.

Limitations

A major limitation of this study was the utilization of the earlier year cases from the JORI system. Only 106 of the earlier year cases had Youth Level of Service/Case Management Inventory (YLS/CMI; Hoge & Andrews, 1996b) scores, with 482 missing scores; therefore, YLS data could not serve as a variable in the research. The YLS provides invaluable recorded data on eight risk/need categories in an adolescent's life. The YLS data includes presence of aggression, substance use, frustration tolerance, delinquent friends, and antisocial traits among other characteristics.

A further limitation was the accuracy of JORI data depended on the worker entering the data. In addition, the study results generalizability is to states and cases with similar characteristics; as the population of Kentucky is 88.6% White, 8.1% African American, 3.2% Hispanic or Latino and 1% Asian (Census quick facts, 2013). Finally, the risk assessment and reassessment by the state psychologist staff is not part of the JORI electronic file. The predictive nature of the assessments would be valuable for comparison to recidivism data. Also, the low number of juvenile sexual recidivist cases prevented the use of

multivariate analyses. Additionally, a final limitation is that the predictor variables included in this study accounted for a relatively low amount of variance in general recidivism. This suggests a need for future research to identify additional predictors.

In conclusion, less than 1% of juveniles reoffended as juveniles and continued to adult sex crimes. This result refutes the idea that all or most JSOs become pedophilic adults dangerous to the public at large. Additionally, the finding that 68% of initial sex offense cases involved victims related to the perpetrators brings to light that sibling/relative incest is a significant problem. Follow-up intervention with the entire family is called for rather than debasing labeling (e.g., registration) following completion of facility based treatment. Concerning, nonsexual recidivism, the second strongest predictor was non-white race, possibly coinciding with the nationwide rates of non-white unemployment and poverty.

Finally, the high rate of non-sexual recidivism into adulthood suggests that adolescents committed for sex offender treatment, and labeled as JSOs, may be losing familial and community support as a result of stigmatization. The youths may exit commitment and treatment but retain a criminal self-concept. They transition into adulthood at age 18 without having a pro-social niche in the community. This may be a causal factor in increasing an antisocial way of life and drifting toward criminal young adult peers. Based on this and other studies, approximately 40-50% of JSOs proceed to commit general crime as adults. Thus, there is a critical need to address this nationwide trend. Cohesive efforts by

concerned groups are necessary to develop justice and treatment goals that minimize stigmatization and disintegrative shaming allowing reintegration into the community by JSO youth.

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