



School of Social Work
CENTER FOR SOCIAL WORK RESEARCH

Challenging Minds, Leading Change,
Transforming Lives

policy & practice brief

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ABOUT THE BRIEF

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The Case of the Juvenile Offender

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ABSTRACT Research has indicated that treatment is highly effective in preventing recidivism among juvenile sex offenders. Re-integrative approaches that build on the strengths and supports in the youth's life and address traumatic exposure are found to be the most effective. However, recent policy trends have moved toward a more punitive approach, including increased criminalization of sexual behavior, incarceration, and sex offender registration, which may impose barriers to successful reintegration and increase recidivism rates.

Social scientists, criminologists, researchers, and mental health professionals have struggled for decades to understand what motivates one to become a juvenile sexual offender. The last decade in particular has focused on cognitive factors and individual differences (Smith-Darden, 2012) rather than a direct causal link between being a victim of child sexual abuse and becoming a perpetrator (Garland & Dougher, 1990). We know that most victims of sexual abuse do not go on to commit sexual offenses however, we also know that being sexually abused as a child, experiencing childhood emotional abuse or neglect, physical abuse or complex trauma (...exposure to multiple traumatic events, often of an invasive, interpersonal nature) (<http://www.nctsn.org/trauma-types/complex-trauma>) is predictive of a myriad of negative outcomes including becoming a juvenile offender (Barbaree & Marshall, 2008; Burton, 2000).

Historically, juveniles convicted of crimes have been adjudicated through the juvenile justice system, focused on the prevention of future crimes through rehabilitative treatment and restorative justice approaches (Trivits & Reppucci, 2002). Juveniles convicted of sexual offenses were commonly treated in residential and non-residential treatment facilities to help the youth take responsibility for the crime, build empathy for the victim, and develop positive behaviors to allow for successful reintegration into society as a productive adult.

In many cases, adjudicated youth who successfully completed treatment could have their crimes removed from their record and sealed at the age of 18, referred to as

consent probation (Terry & Ackerman, 2009). These programs not only provided incentive to participate in treatment, but also allowed youth who had successfully completed the program to "start clean" as adults. Youth participating in these programs would not be faced with the same barriers to education, housing, and employment that they might otherwise experience with a criminal charge on their record, allowing them to become more productive adults (Trivits & Reppucci, 2002).

States were given latitude to determine to what degree policies such as registration and mandatory minimum sentences should apply to youth although The Adam Walsh Act of 2006 removed some discretion from states by requiring that youth age 14 and older be included in the sex offender registry. This mandate required that youth convicted of a sexual crime register for a period of 10 years, 25 years, or their lifetime, depending on the severity of the crime for which they were convicted (Terry & Ackerman, 2009). Research has indicated that juveniles convicted of sexual crimes who receive appropriate treatment are at low risk to recidivate relative to sexual offenses as adults. However, due to registration requirements, these youth will be labeled as violent criminals and face the stigma and related consequences well into adulthood or throughout their lives. When youth do reoffend, it is most commonly for a non-sexual crime.

Current Michigan Policy

In most states, individuals can only be convicted of statutory rape offenses if they are

over the age of 18 or much older than the victim. However, in Michigan any person can be convicted of statutory rape, even if they are the same age, or younger, than the victim. Most commonly, when statutory rape cases arise from two underage youth engaging in consensual sexual activity, the male is charged (Graupner, 2000). This disproportionate application of the law raises important concerns. In addition, the average age of onset of sexual activity is 16 (Haydon, et. al., 2012), meaning that approximately half of youth engage in sexual activity before reaching the age of consent. This may partially explain the relatively low support for registration in these cases (Kernsmith, Craun & Foster, 2009).

As of September 1, 2013, Michigan Court Rules were revised to prohibit youth convicted of sexual crimes from participating consent probation. Previously, the judge and prosecutor could allow a youth to enter a treatment program and, upon successful completion, have the sexual offense removed from their record. Without this provision, youth that have been successfully rehabilitated will continue to be required to adhere to sex offender registry guidelines as well as face the stigma and subsequent barriers to successful reintegration. These challenges as a whole, hold the potential of significantly inhibiting the ability to realize their potential as law-abiding adults.

Intervention

Treatment programs for juvenile sexual offenders is on the decline and has been since first reported by Burton and Smith-Darden in 2001 (Burton, Smith-Darden, & Frankel, 2006) in part because of a paucity of programmatic outcome data, diverse treatment needs, lack of fidelity across programs for juveniles, decreasing arrest and adjudication rates, perceived harshness of varying State mandated juvenile sex offender registry guidelines, as well as a decline in funding driven by political beliefs related to perceived treatment efficacy (Burton & Smith-Darden, 2000 as found in Reitzel & Carbonell, 2006). As a result, efforts to strengthen sex offender management policy have become more focal than strengthening program/treatment models.

For the most part, treatment programs and providers have espoused a cognitive-behavioral approach to treating juvenile offenders with varying degrees of success (Marshall & Law, 2003). Acquired knowledge in brain science now points to the necessity of considering how context or social experience impacts neurobiological systems relative to structure and function of the brain when

considering efficacious service delivery (Anderson, Tomada, Valente, Polcari, & Teicher, 2008; Cicchetti, 2002; Schore, 2003, 2009; Siegel, 2012; Teicher, 2000).

Conclusion

According to the US Department of Justice (2009), juveniles account for more than one-third of those known to commit sexual offences (<https://www.ncjrs.gov/pdffiles1/ojdp/227763.pdf>). Evolving policy has moved toward a more punitive approach to juvenile sexual offenders. Some offending youth face significant consequences and challenges arising from State and Federal mandated sanctions that may, in fact, increase the likelihood of re-offense (D’Orio, Rogers, Kernsmith & Kernsmith, 2009). Future policy development should focus on rehabilitation efforts from a developmental lens, with a focus on the neurobiological and behavioral manifestations of complex trauma. In order to achieve the goal of preventing future abuse, the best course of action may likely be counterintuitive; to reduce the sanctions (Including registration, community notification, and time in juvenile detention) for the crimes in lieu of more rehabilitative approaches. Thoughtful, evidence based consideration is needed to balance the rights and needs of victims against supporting youthful offenders in building a more positive future as adults.

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