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Emerging Research About Sex Offenders: What Judges, Attorneys, Child Welfare Workers and Child Advocates Should Know.

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Balancing the welfare of children with the rights of abusive or neglectful parents can be a complicated and daunting responsibility. Fortunately, contemporary research is beginning to contribute a wealth of information about the etiology underlying criminal sexual behavior, the true rate of undetected sex crimes, outcomes of sex offender treatment and need for long-term risk management. This information is particularly important to the child welfare and juvenile court systems because it clarifies issues related to family decision-making, visitation and reunification. Findings also suggest that some of our current policies regarding family reunification are out of date, ineffective and potentially dangerous to children. Given the magnitude of potential harm involved for victims it is imperative that child welfare workers, dependency and delinquency court staff, policy makers and decision makers familiarize themselves with current research.

Sex Offenders Are Not All The Same.

Sex offenders are a heterogeneous group and present varying degrees of risk to children and the community at large. The behavior that initially brings an offender into the system can range from children engaging in sexual contact with younger siblings or peers to chronic acts of child molesting or sexual assault. Despite the way in which a case may appear during the early stages of investigation, research continues to demonstrate that the majority of sex offenders have far more extensive histories of sexual and criminal behavior than initially detected. In addition to representing a small fraction of the offender's history, official records can also distort the true nature of the offender's proclivities. Early on, in a groundbreaking study, Gene Abel and his colleagues obtained a Federal Certificate of Confidentiality to explore undetected offenses among sex offenders. Through the certificate, participants were guaranteed confidentiality and immunity from prosecution. During interviews, 411 sex offenders acknowledged that, during the preceding 12 years, they had committed an average of 44 sexual crimes per year, per offender (Abel, et al., 1987). The offenders reported committing both "hands on" and "hands off" offenses and more than half of the men whose identified crimes involved the sexual assault of an adult revealed that they had sexually abused children. All total, researchers determined that fewer than 5% of the men's crimes had ever been reported or sanctioned.



Another similar study conducted in Washington in the early 90's produced similar findings. A mixed group of child molesters and rapists revealed high rates of undetected sexual offending (119.7 sexual crimes per offender) and even higher rates of undetected generic criminal acts like theft, assault and drug crimes (Weinrott & Saylor, 1991). In a third study, when seemingly low risk offenders were offered a chance to self-disclose additional crimes and avoid future prosecution and incarceration, offenders admitted that they had molested an average of 12 children prior to apprehension (Hindman & Peters, 2001).

Undetected crimes have important implications for law enforcement, parole and probation officers, treatment providers and criminal justice professionals alike. Having access to accurate information clearly plays a role in sentencing, risk management and public safety strategies. However, obtaining an accurate picture of an offender's true history and risk is equally imperative to the child welfare and juvenile court systems whose responsibilities frequently include decision making about the offender's future access to children. In order to accomplish this goal, decision makers must insist that sex offenders be thoroughly evaluated via a comprehensive battery of instruments that include self-report measures (personality and psychological tests), non self-report measures (such as polygraph examination and arousal assessments via the penile plethysmograph) and standardized risk assessment tools.

The Importance of "Cross Over" Data.

As studies evolved and polygraph examination became the norm, the sex offender field recognized that a significant portion of offenders engage in a variety of undetected sexually deviant and criminal acts. Following Abel's early study, more studies confirmed the fact that a significant percentage of rapists also target children. A Colorado study revealed that nearly half of the men whose crime of record involved the sexual assault of a female adult also had undetected child victims and vice versa. In addition, more than 40% of the Rape III or "statutory offenders" admitted molesting younger children (ages 6 to 9) and a third of the molesters who abused girls admitted boy victims (English, 2000). Most of the offenders reported victims in multiple age groups and 64% of the "incest" offenders reported "out of home" child victims. Current studies focused on the histories of child pornography offenders indicate that the majority of men who are convicted of possessing child pornography also have "hands on" child victims as well (Bourke & Hernandez, 2008). This kind of information is crucial to the various professionals who are responsible for drafting court orders, approving and planning family visits, particularly, when considering "unsupervised" visits.

Characteristics of Re-Offenders

During the past decade, the large scale studies on "re-offenders" assisted the sex offender management field in establishing a list of identifiable characteristics (see Tables 1 & 2) that most accurately predict future re-conviction (Hanson, et al., 2005). It should be noted that studies continue to indicate that fewer than 20% of sexual crimes against adults or children are reported in the first place suggesting that very few "reoffenses" are reported either. Studies also suggest that sex offenders who exhibit high degrees of sexual deviancy and criminality are the most likely group to re-offend. Therefore, evaluations should always incorporate a thorough criminal background check and a review of all police reports and arrest records.

Recidivism Rates

Estimates of re-offense rates vary greatly between risk groups and over time. Many studies report only short (5-year) follow-up studies and others portray only select risk groups. In general, the longer the follow-up, the higher the re-conviction rate (see Table 3). In addition, most offenders live many years longer than the majority of follow-up studies. The typical offender will live 30 to 50 years after their first conviction and very few studies provide follow-up data farther out than 20 years.

Regardless of the presumed risk an offender appears to pose, the risk of re-offense should never be assumed to be zero or 100%. A certain percentage of low risk offenders re-offend and some high risk offenders successfully avoid re-offending (see Table3). Therefore, even "low risk" offenders should be required to abide by safety plans that optimize the potential for success rather than maximizing the chance of failure by allowing risky situations.

Undetected Recidivism

The best any study can do is provide data about offenders who were detected and convicted and then detected and re-arrested or re-convicted a second time. However, based on the probable rate of both detected and undetected offense rates, experts have been able to estimate re-offense rates (see Table 4). The foremost authority on recidivism estimates that one out of every two sex offenders will re-offend at some point in the future. That means that each and every case in which a child may potentially be placed with a known sex offender deserves scrutiny, caution, expert safety planning and long-term follow-up. The estimates also suggest that giving offenders the "benefit of the doubt" is probably not a responsible practice when it comes to the welfare of children and puts offenders in a situation that may not be in their best interest either.

The Effect of Treatment

Whether sex offender treatment has a significant effect on future sexual crimes is a highly controversial and understudied topic. Early studies suggested that treatment did not appear to have an effect (Furby, et al., 1989). The results of a more recent study, (Marques, et al., 2005) which, to date, has been the most well designed study in the world, proved equally negative. The study indicated that the "treated" group of sex offenders had higher re-offense rates than the "untreated" group. Critics of the study later pointed out that, while the study design was optimal, the treatment program itself was severely flawed. Poor outcomes appear to be more common with older treatment models, such as those offered in the 80's and early 90's. As such, cases that resurface usually require an "up to date" assessment and booster sessions to amend the deficits or "slippage" that occurs over time. More recent studies, such as the ATSA Collaborative Data Base (Hanson, et al., 2002), suggest that comprehensive sex offender treatment can reduce re-offense rates by 5% to 40%. Unfortunately, "comprehensive" programs are not always available and many offenders "drop out" as soon as their parole or probation end or resume risky behavior following treatment. In most states many incarcerated offenders are released back into the community without sufficient parole time to adequately complete formal treatment, let alone the necessary follow-up. As such, an alarmingly number of sex offenders leave the correctional system without adequate treatment and support systems in place, or without adequate after care or follow-up. Many are later identified by social services as presenting a "Threat of Harm" to children when officials discover that they have moved back in with their family, fathered children or are found living in a home with a partner and his/her children.

Contact with Children

Due to our increased understanding of "cross over" behavior, treatment outcomes and re-offense rates, it appears as though the best strategy for child welfare requires a better informed system of care. We must be willing to "rule out" dangerous sex offenders for reunification and develop practical and rigorous guidelines for cases that are deemed appropriate for family reunification. If the estimates are correct, and one out of every two offenders will re-offend, it is more than reasonable to demand that the majority not be given opportunities to be alone with children, even in family settings. In 2008, the Oregon Chapter of the Association for the Treatment of Sexual Abusers, surveyed 32 adult sex offender treatment providers and 31 parole officers about some of the more obvious issues related to family reunification. The average "number of years experience in the field" among the treatment providers was 13.6 and the average number of service years for parole/probation officers was 5.5 years. More than a third of the professionals indicated that moderate and high risk sex offenders should never be allowed to live with children and the remainder suggested a "case by case" approach.

On closer inspection, the data revealed that the more experienced clinicians and parole officers were more likely to restrict risky offenders from having access to children. When the 63 professionals were asked if they believed the “majority” of sex offenders should be instructed to “never” be alone with children for the duration of their lives, three quarters of the respondents agreed that it should be a “life time” rule. The majority also indicated that, after completing the intensive phase of sex offender treatment, most offenders should remain in “after care” for “life.” Unfortunately, most state systems do not allow for long-term follow-up, even for their highest risk sex offenders. And, as noted above, many offenders leave the criminal justice system without specialized treatment, fail to remain engaged in after-care, or were simply too damaged or dangerous for the system to repair in the first place. The problem is further exacerbated by the fact that adult sex offender evaluation, treatment and aftercare eventually become the responsibility of the child welfare and family court systems, both of which are less familiar with the terrain, and in some cases, inadequately prepared for the task. These problems frequently result in increased risk to children, misuse of valuable resources and “burn out” for professionals charged with resolving sometimes unresolvable risks.

“Safer” Decision Making for Children.

A possible method by which to approach family decision making with sex offenders might include a structured matrix approach (Table 5) that relies on the offender’s static risk classification (which is based on the historical factors associated with risk), dynamic variables (treatment, current situation and strengths), and family protective factors (appropriate and reliable support systems, older children in the home, compliancy with child welfare and treatment expectations, ongoing polygraph examination) (Table 6.) For example, as noted above, most sex offender treatment/management professionals would agree that, even with the successful completion of sex offender treatment, moderate and high-risk sex offenders will probably never be able to be deemed “safe” to live with children. However, most professionals would probably support a reunification plan for an offender who is deemed to present a low or moderately low risk as long as the potential risks have been addressed, there are adequate safeguards in place, and a follow-up plan. In some cases, offenders might be considered for reunification if they re-engage in treatment and address unresolved issues, such as deviant sexual arousal, “slippage,” or involvement with a new family. Each case could be assessed in a similar manner to the matrix outlined below, which could serve as a guide to assess and weigh various factors, and be far more effective and fair to children than simply asking the questions, “Did he complete treatment or not?” At this point in time, a matrix approach appears to offers the best option for children and offenders alike. Unfortunately, very few states have the ability to remove offenders from a home once they have served their probation or parole unless they have “Threat of Harm” statues or state policies in effect. If states do not have these guidelines in place, developing them would be an important step in protecting children.

Table 1: Characteristics that Predict Recidivism

Predictors of Sexual Offense Recidivism (Hanson & Bussiere, 1998)			
Sexual Deviance		Criminal history/Lifestyle	
PPG sexual interest in children	.32	Past X failure/drop out	.17
Any deviant sexual preference	.22	AntisocialPersonality	.14
Prior sex offense	.19	Any prior offense	.13
Stranger victims	.15	Under 25 yrs of ag	.13
Early onset	.12	Never been married	.11
Unrelated victims	.11		
Male victims	.11	**Psychopathy	
Diverse sexual crimes	.10		

Table 2. More Characteristics that Predict Recidivism

Static and Dynamic Predictor of Sexual Recidivism (Hanson & Bussiere, 1998; Hanson & Morton-Burougon, 2004)			
Prior sex offense	.19	Non compliance (probation)	.31
No TX completion	.17	Self regulation problems	.19
Stranger	.15	Conflicted intimate relations	.18
Early onset	.14	Deviant sex interest	.16
Criminal history	.13	PPG arousal to C/V	.12
Younger than 25	.14	Pro-ped/rape attitudes	.11
Never married	.11	Negative peer group	.11
Unrelated victims	.11	Antisocial	.11
Male victims	.11	Negative social group	.08
Young victims	.05	Substance abuse	.06
Force	.04	Low self esteem	.02
		Denial	.01

Table 3. Recidivism Rates per Risk Group/Static 99 Scores (Hanson,1998)

Static 99 Categories	Recidivists 5 years out	Recidivists 10 years out	Recidivists 15 Years out
Low risk (24%)	6%	9%	10%
Medium low (33%)	11%	13%	17%
Medium high (27%)	29%	33%	37%
High risk (12%)	39%	45%	52%

Table 4. Estimates of True Sexual Recidivism Rates (Hanson and Harris, 2007)

Years of Follow-up	Observed/Detected	Estimated
5 years	10-15%	30-40%
10 years	15-25%	30-45%
20 years	30-40%	40-55%

Table 5. Decision Matrix for Contact with Children (Jensen & Jensen, 2008).

Risk Group vs Tx & Current Behavior	Low Risk	Moderate Risk	High Risk
Treated *	Possible	Possible	No
Untreated	Possible	Unlikely	No
Treated & Risky ***	Unlikely	No	No
Treated & Re-Offended	No	No	No

Table 6. Protective Factors Matrix (Jensen & Jensen, 2008).

Risk Group vs Family Protective Factors	Low Risk	Moderate Risk	High Risk
Wife/family accepts risk, willing to fully complete SOTX with offender, older children and abides by rules. ***	Possible	Possible	No
Wife/family minimizes risk, younger children in home but amenable to change ***	Possible	Unlikely	No
Wife/family denies risk, dysfunctional, young children, but amenable to change***	Unlikely	No	No
Wife/family denies risk, non-amenable to TX, actively violates plans or deceives system, or criminal.	No	No	No

* Completed a comprehensive sex offender treatment program consistent with ATSA Standards.

*** Living with untreated or vulnerable family system, found having unsupervised contact with children, violating previously established safety plans, active case of substance abuse, using pornography, risky behavior, not participating in follow-up treatment or high STABLE or ACUTE Scores.

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