

Sexual Offense Adjudication and Sexual Recidivism among Juvenile Offenders

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Abstract This study compares the recidivism patterns of a cohort of 249 juvenile sexual offenders and 1,780 non-sexual offending delinquents who were released from secured custody over a two and one half year period. The prevalence of sex offenders with new sexual offense charges during the 5 year follow-up period was 6.8%, compared to 5.7% for the non-sexual offenders, a non-significant difference. Juvenile sex offenders were nearly ten times more likely to have been charged with a nonsexual offense than a sexual offense. Eighty-five percent of the new sexual offenses in the follow-up period were accounted for by the non-sex offending delinquents. None of the 54 homicides (including three sexual homicides) was committed by a juvenile sex offender. The implications of the results for recent public policy trends that impose restrictions that are triggered by a sexual offense adjudication are discussed.

Keywords Juvenile delinquents · Sex offenders · Recidivism · Sex offender registration · Sex offender treatment

Recent trends in the management of sexual offending have included the implementation of laws that allow for the civil commitment of sex offenders following their incarceration, and sex offender registration, community notification, and residency restriction laws. In every state, people convicted of sexual offenses are required to register with law enforcement. Since 1996 United States federal law has required some form of community notification regarding registered sex offenders. About one-third of the states have adopted laws that allow sex offenders to be civilly committed for an indefinite period of treatment after they have served their sentence (Garfinkle 2003). Many of these statutes include juvenile sex offenders, and Pennsylvania's law applies to juvenile sex offenders only (Pennsylvania Act 21 2003).

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These social policies and laws are directed at reducing sexual violence through registration of sexual offenders and / or civil commitment of sexually violent persons. In at least 28 states and the federal legislation juveniles are included in sex offender registration and notification statutes (Garfinkle 2003; Zimring 2004). Most recently the Adam Walsh Child Protection and Safety Act of 2006 was signed into law, requiring states to maintain a public database of registered sex offenders, including some juvenile sex offenders (Adam Walsh Child Protection and Safety Act 2006).

Implicit in these policies are several assumptions. First, that sexual offending is driven by stable traits that are relatively unaffected by the developmental maturation or changing life circumstances of adolescence. As a result, juvenile sex offenders are presumed to be likely to continue to commit sexual offenses as adults. Second, that adjudication for sexual misconduct can be used to identify a distinct subgroup of delinquents that is likely to account for a large proportion of future sexual offenses. Third, that these statutes can substantially reduce the number of sexually violent incidents in society by notifying potential victims and placing restrictions on persons who are known to have committed sexual offenses as juveniles.

Juvenile delinquents as a group, and especially incarcerated delinquents, tend to have high rates of general criminal recidivism. Reported rates of general recidivism among adjudicated delinquents vary greatly and have ranged from 19% (Aos et al. 2001), to 96% (Gretton et al. 2004). Juvenile sex offenders also tend to have higher non-sexual recidivism rates than rates of sexual recidivism (Caldwell 2002; Worling and Curwen 2000; Zimring 2004). The evidence to date has not demonstrated that juvenile sexual offenders are apt to specialize in sexual offending.

Several studies have found that juvenile sex offenders differ from non-sexual delinquents on a number of characteristics (Becker 1998; Blaske et al. 1989). However, these studies typically compare juvenile samples that were referred to treatment or incarcerated. It is not clear if the differences between these two groups are due to unique characteristics of the juvenile sexual offenders, or to differential handling of sexual offenders by the court system. For example, juvenile courts may be more inclined to place sex offenders in treatment programs or secured custody than non-sexual offending delinquents.

Influential reports have also recommended that juvenile sex offenders be treated as a unique subgroup of delinquents who are apt to continue their sexual misconduct without substantial and specific intervention (National Task Force on Juvenile Sexual Offending 1993). The importance of treating juvenile sex offenders in sexual offense specific programs, distinct from programs designed to treat general delinquents, depends in part on how juvenile sex offenders differ from non-sex offending delinquents in their recidivism behavior. However, the degree to which juvenile sex offenders are similar to more general delinquents in their recidivism behaviors has not been fully explored.

In one of the few studies to address this issue, Hagan et al. (Hagan et al. 2001) did not find significant differences in sexual recidivism rates between 50 juvenile child molesters, 50 juvenile rapists, and 50 non-sex offending delinquents over an eight year follow-up after release from a secured juvenile correctional setting, although all three groups had relatively high rates of subsequent sexual recidivism (20% for the child molesters, 16% for the rapists, and 10% for the non-sex offending delinquents).

It is clear that the overwhelming majority of youth that engage in sexually aggressive behavior are never detected by law enforcement and do not appear in official records. In a summary of over two decades of research into the prevalence of sexually violent behavior among college enrolled men Abbey (2005) estimated that the prevalence of sexual assault committed by adolescent boys to be one in four. Thus, the effectiveness of law enforcement interventions targeting known juvenile sex offenders in reducing sexual violence in society is limited by the low detection rate of sexually violent adolescents, and the low recidivism rate of detected juvenile sex offenders.

The current study compares the relationship between sexual offense adjudication and later sexual recidivism using a cohort of delinquents that includes adjudicated sex offenders and non-sex offending delinquents. The purpose of the study is to compare the rates of sexual, violent and general recidivism between the groups of delinquents in order to determine the predictive utility of sexual offense adjudication in identifying higher-risk delinquents.

Materials and Methods

Participants

The study sampled 2,029 male juvenile delinquents released from secured institutions over a two and one half year period (between 1998 and 2000). African-Americans made up 47.2% percent of the participants ($n=957$), 48.2% ($n=978$) were White, 1.7% ($n=34$) were Native American, 1.0% ($n=20$) were Asian, and the remainder were unspecified ($n=40$). On admission their average age was 16.2 years ($SD=4.3$ years). The mean age on release to the community was 17 years of age ($SD=1.2$ years). One hundred ninety-six were adjudicated for a violent sexual offense, and an additional 53 had been adjudicated for a non-violent sexual offense. An additional 543 had been adjudicated for a non-sexual violent offense. There were no significant differences in the mean length of incarceration or age of the sex offenders and non-sex offending delinquents. The mean follow-up time was nearly identical for both groups (60.3 months). There were no significant differences in age or demographic makeup of the sex offender and other groups. All recorded adjudicated offenses were considered when categorizing participants as sex offenders.

Recidivism

Recidivism data was collected from open records of all charges filed in a state circuit court during the follow-up period. The number of sexual and non-sexual misdemeanors, felonies, and violent offenses were recorded. To minimize under-reporting due to plea bargaining, the original charge was recorded. For the purposes of this study, violent sexual offenses were defined as hands-on or felony sexual offense charges. Non-violent sexual offenses included non-contact sexual misdemeanors (nearly all involved indecent exposure). Non-sexual violent offenses were defined as violent crimes against persons that were not sexual in

nature (e.g. robbery, battery, murder). Participants were followed for an average of 60.3 months after release from custody ($SD=15.4$ months; range 53–83 months).

Results

Adjudication for a sexual offense did not identify a subgroup of delinquents that were significantly more apt to be charged with a new sexually violent act in the 5 years after release from custody. Table 1 shows the prevalence of general, non-sexual violent, felony, and violent sexual recidivism for participants who were originally adjudicated for a violent sexual offense, any sexual offense, a non-sexual violent offense, and any non-sexual offense. Only 13 of the 196 (6.6%) juvenile sex offenders were charged with a sexually violence offense in the follow-up period. Including the 53 juveniles that had been adjudicated for misdemeanor sexual offenses produced a rate of new sexual offense charges of 6.8% (17 of 249). One hundred and one (5.7%) of the juveniles who had not been previously adjudicated for a sexual offense were charged with a sexually violent offense during the follow-up period. Sex offenders averaged more charges per offender for sexual offenses. Non-sexual offenders comprised 89.9% of the sample and accounted for 84.9% of the new sexual offenses.

The results show that juveniles committed on the basis of a sex offense had rates of new sex offense charges that were similar to non-sex offending delinquents. The prevalence of sexual recidivism among the sex offenders did not differ significantly from that of non-sexual violent delinquents, and non-sexual offending delinquents. In addition, the juvenile sex offenders were not more likely to be charged with non-sexual offenses when compared to the other two groups. In fact, sexual offenders as a group were significantly less likely to be charged with any general offense, or with a felony offense, during the follow-up period. Excluding sex offenses, juvenile sex offenders averaged 4.8 ($SD=6.9$) charges per youth during the follow-up period, compared to 6.3 ($SD=7.6$) offenses per non-sex offending delinquents ($t=2.56, p<.05$).

All groups were far more likely to be charged with non-sexual violent offenses than with sexual offenses. The juvenile sex offenders, for example, were nearly ten times more likely to be charged with a non-sexual offense, and over five times more likely to be charged with a non-sexual violent offense, than with a sexual offense.

Table 1 Percent (number) of new charged offenses for juveniles adjudicated for a violent sexual offense, for any sexual offense including misdemeanors, for a non-sexual violent offense, and all non-sex offending delinquents over an average 5 year follow-up period

	Any new charge (%)	Any violent charge (%)	Any felony charge (%)	Sexual offense charge (%)
Violent sex offenders ($n=196$)	72.4 ($n=142$)	38.8 ($n=76$)	46.9 ($n=92$)	6.6 ($n=13$)
All sex offenders ($n=249$)	73.9 ($n=184$)	41.8 ($n=104$)	49.4 ($n=123$)	6.8 ($n=17$)
Non-sexual violent offenders ($n=543$)	77.9 * ($n=423$)	45.9 ($n=249$)	60.4 * ($n=328$)	4.2 ($n=23$)
All non-sex offenders ($n=1780$)	80.4 * ($n=1432$)	45.7 ($n=813$)	61.6 * ($n=1096$)	5.7 ($n=101$)

* $p<0.01$ compared to violent sex offenders

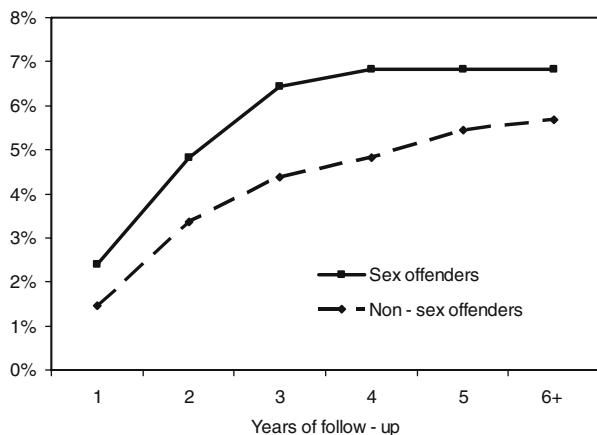
To further examine the relative rates of sexual recidivism over time, the percent of sexual recidivists in the group of all sex offenders ($n=249$) was compared to the non-sex offending delinquents during each of the first 6 years of the follow-up period (less than a quarter of the sample was followed for seven or more years). The results (Fig. 1) show that the nearly all of the juvenile sex offenders were charged for offenses that occurred within the first three years after their release. Among the non-sex offending delinquents, however, new sexual offense charges increased at an approximately constant rate between the third and sixth year.

None of the sex offenders was charged with a homicide offense during the follow-up period. In contrast, 54 of the non-sex offending delinquents were charged with at least one homicide offense during the follow-up period. All three of the sexual homicides involved non-sex offending delinquents with no prior history of felony or misdemeanor sexual offense allegations.

Discussion

This study examined the degree to which adjudication for a sexual offense served to identify youth at increased risk for various forms of recidivism, as compared to adjudication for non-sexual violent offenses and general delinquent adjudication. The juvenile sex offenders in this study were not significantly more likely to be charged with a future sexual offense during the follow-up period. Although the sex offenders continued to be charged with other offenses at high rates, they were less likely to be charged with general or felony offenses than the non-sex offending comparison group. In addition, all of the 54 homicides, including the three sexual homicides, committed during the follow-up period were all committed by juveniles with no prior history of sexual offending. Thus, in this study, a sexual offense adjudication did not identify a distinct subgroup of juvenile offenders that were more likely to commit future crimes in general, more likely to commit sexually violent crimes, or more likely to commit sexual homicides.

Fig. 1 Cumulative prevalence of juvenile sex offenders ($n=249$) and non-sex offending delinquents ($n=1780$) charged with sexual offenses per year of follow-up



These results are consistent with previous findings that the majority of juvenile sexual offenders do not sexually offend as adults, and are much more apt to commit non-sexual offenses (Caldwell 2002; Zimring 2004). These results did not find that juvenile sex offenders tended to specialize or persist in their sexual offending. This finding may indicate that stable internal traits have a very limited impact on juvenile sexual offending. The majority of sexual offending in the teen years may be a result of external or other unstable forces, including developmental factors (Sisk and Foster 2004).

Limitations to this study include the reliance on charges as the dependent variable. It is generally understood that data on criminal charges tends to underestimate the actual rate of sexual violence in a population. The same limitation applies to all the groups studied here. However, youth previously identified as sex offenders may be at increased risk for detection, relative to other youth, reducing the impact of this limitation on these results. Another limitation is that the juvenile sex offenders were typically listed on a sex offender registry that was maintained by local law enforcement, which may account for the finding that they were detected more rapidly than the non-sex offending group. Alternatively, it may be that sex offender registration impedes the community re-integration of sex offenders, resulting in higher sexual failure rates in the first few years after release.

An additional limitation to this study is that participants were all adjudicated delinquents held in secured custody in Wisconsin. This group was selected because they qualified for sexually violent person or sex offender registration policies. The results may not translate to other States that differ in laws and arrest rates.

Policy Implications

Considering that self-report prevalence rates for sexual assault among college men are often far higher than the rates observed here (Abbey and McAuslan 2004; White and Smith 2004; Abbey 2005), it is not clear whether a delinquency adjudication by itself indicates an increased risk of future sexual violence, or simply increases the likelihood of detection for sexually violent acts. In any event, the level of sexual violence among adolescents not designated as sexual offenders lends support to Abbey's (2005) assertion that more restrictive or vigorous law enforcement interventions are not likely to solve the societal problem of sexual violence in the community.

These data did not support public policies that rely on a sexual offense adjudication or placement in a secure setting to identify a subset of juveniles that are at significantly higher risk for future sexual violence and employ more restrictive management interventions on that basis. The sexual recidivism rate of the juvenile sex offenders in this study was low, especially considering that these were offenders who were considered in need of placement in a secure correctional facility. This rate of sexual recidivism suggests that there is likely to be little benefit to notifying the community about the prior history of juvenile sexual offense adjudication for the vast majority of these juvenile sex offenders. Although the benefits of restrictive public policies targeting juvenile sex offenders may be limited, there is reason to be concerned that the potential harm of applying a label and stigma to a juvenile may be substantial and long-lasting (Trivits and Reppucci 2002; Letourneau and Miner 2005).

When applied to juveniles, sex offender registration, notification, and residency restriction statutes, and sexually violent person commitment laws, are intended to

address the very real and serious problem of sexual violence in society by targeting a designated high risk subgroup. However, the bulk of community sexual violence involves individuals that are not so designated, and identified juvenile sex offenders are unlikely to persist in sexual offending, or present a greater risk of other serious offending. The results described here suggest that restrictive public policies that target juvenile sex offenders are unlikely to substantially benefit community safety.

Acknowledgement The author wishes to acknowledge the assistance of Patti Coffey, Ph.D. in the editing of the manuscript.

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