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Release from the Sex Offender Label

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Sexual offenses evoke a potent emotional response from the public that exceeds that of other forms of criminality. The impassioned response and revulsion associated with the perpetration of a sexual offense is not without merit; the ramifications of sexual abuse and assault on victims are palpable and wide ranging (Andersen et al., 2008; Chen et al., 2010). Our responses to, and fear of, sexual offenders are further amplified by media outlets that over report sexual offenses compared to their actual rate of incidence (Ditton & Duffy, 1983) and sensationalize sexual offenses in a way that perpetuates a greater sense of fear than other forms of serious criminality (Dowler, 2006).

Over the last two decades, this intensified level of public fear has led to a barrage of sex offender management policies that are derived from intuitive moral judgments rather than deliberate and empirical evaluations of scientific evidence. Such policies include sex offender registration and notification systems (SORN), civil commitment laws, GPS monitoring, and residential restrictions for sexual offenders. In many jurisdictions, policies such as sex offender registration are designed to be permanent. This is in part due to the Pam Lychner Sexual Offender Tracking and Identification Act of 1996, when the U.S. Congress expanded state registration requirements of sexual offenders, requiring any individuals convicted of a qualifying violent sexual offense or those who have sexually reoffended to register for life. Thus, all 50 states have enacted some form of lifetime

registration requirement for sexual offenders, although time requirements may vary as a function of the sexual offense committed. Although such policies have the intention of protecting the public, they simultaneously function as a barrier to successful community reintegration (e.g., Levenson & Hern, 2007). Furthermore, the public safety benefits we amass from these policies likely do not outweigh the harm they promote, with research suggesting such policies may even serve to increase recidivism rates (e.g., Mercado, Alvarez, & Levenson, 2008).

All of these contemporary responses to sexual offending promote an underlying theme: Sex offenders' risk for recidivism is high and enduring. Yet, the scientific literature is at odds with these laws and policies and suggests risk for reoffending among sexual offenders is not enduring and predictably decreases with age (Hanson, 2006) and time spent offense-free in the community (e.g., Hanson, Harris, Helmus, & Thornton, 2014). Evidence-based policies designed to reduce the risk presented by sexual offenders should not be one-size-fits-all; instead, policies and practices should recognize divergent and malleable risk levels for sexual offenders. Given strong evidence that the risk for sexual recidivism declines over time, policies should specify a threshold where the level of risk for a sexual offender reduces to a degree that would warrant exemption from a permanent sex offender label. Inarguably, the risk for sexual recidivism will never correspond to zero for sexual offenders, so setting an absolute threshold of risk to zero would be an unreasonable expectation. An alternative would be to establish a tolerable risk level, one low enough to warrant exempting an individual with a history of sexual offenses from the lifetime label of sexual offender.

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Lowest Risk Category

Recently, the Justice Center of the U.S. Council of State Governments has been working to establish standardized risk levels for offender risk assessment tools. In their proposed five standardized

risk levels, a lowest risk category (Level 1) represents individuals who are ordinarily prosocial but have, for transitory reasons, committed a criminal offense (Hanson et al., 2017). Within this lowest risk category, recidivism rates are equivalent to rates of spontaneous offending among non-offender populations. Although the Justice Center's risk levels cannot be applied in a seamless or straightforward manner to sexual recidivism, the principal theme of a lowest risk category can be taken from this classification and applied to sexual offender risk assessment tools. One reasonable way to apply this lowest risk category to sexual recidivism would be to identify the rate of spontaneous or "out of the blue" sexual offenses among general criminal offenders. That is, if we can identify a rate of spontaneous sexual offenses committed by non-sexual offenders (those with no known history of sexual offenses), this would be a good representation of recidivism for a lowest risk category for sexual offenders. In turn, defining a lowest risk category for sexual offenders could, in effect, create a dynamic shift in the way we classify sexual offenders and how we convey risk for reoffending in this group of offenders who demonstrate differential levels of recidivism risk. This shift could impact policies and procedures in an array of systems to include both the broader criminal justice and healthcare systems.

Defining a Spontaneous Rate of Sexual Offending

We compiled empirical research examining spontaneous (first time) sexual offending using the inclusion criteria of routine samples (e.g., complete cohorts released from prison), sample size greater than 1000, and at least three years of follow-up time. In total, 11 studies were found representing data from 543,204 individuals ($M = 49,382$; median = 9852; range 1780–262,420). The majority of the studies examined adult offenders ($k = 8$), who had been released from prison/secure institutions ($k = 9$), and operationalized recidivism as reconviction ($k = 7$). Definitions of a sexual offense were broad, encompassing offenses that would meet modern criteria for a violent sexual offense (e.g., rape, child sexual abuse, statutory rape), but some studies also included hands-off sexual offenses, such as exhibitionism.

Table 1 presents descriptive details of all studies including recidivism rates. Raw recidivism rates ranged from 0.15 to 5.67% with a median rate of 0.90%. Given these rates were based on variable follow-up times (ranging from 3 to 11 years), the follow-up time was standardized to 5 years to allow for comparison across studies. To do this, we assumed that the observed rate was the sum of the proportion of individuals who sexually offended in each previous year. Additionally, we assumed the yearly rate was not constant, but was highest at the time of release and declined the longer individuals remained offense-free, as this pattern is observed for sexual recidivism among convicted sexual offenders (Harris & Hanson, 2012). For sexual recidivism, a discrete-time hazard function (Singer & Willett, 1993) can be adequately modeled by a logistic function of $\pi = \beta_0 - 0.131$ (years), where π is the predicted recidivism rate in logit units (Harris & Hanson, 2012). For any observed recidivism rate and follow-up

time, we can solve for β_0 (the hazard rate at time of release) allowing us to then estimate an adjusted, cumulative recidivism rate for any specific follow-up time.

Adjusted to a common 5-year period, estimated recidivism rates ranged from 0.22 to 5.67% with a median rate of 0.90%. The lowest recidivism rates were observed for the studies that used reincarceration as the outcome criteria (0.22 and 0.28%, i.e., 220–280 per 100,000). The highest rate was observed in the study that examined arrest among juvenile delinquents (5.67%; 5670 per 100,000). The median rate for the five studies of adult (non-sexual) offenders that used reconviction as the recidivism criteria was 1.30% (range of 0.84–3.18%). Collectively, these studies indicate a reasonable estimate for the rate of spontaneous sexual offenses among non-sexual offenders is in the range of 1–2% within a 5-year period.

Conclusions

Sexual offenses are committed by both convicted sexual offenders and offenders with no prior history of sexual offenses. If we are to adopt risk-based policies and practices for sexual offenders, then the likelihood of sexual offending should be meaningfully higher among the individuals subject to sexual offender provisions than among other groups of offenders. For most sexual offenders, this would be the case. However, there is an empirically identifiable subset of sexual offenders whose risk for sexual recidivism is no different than that of non-sexual offenders. Our review found that an "out of the blue" rate for sexual offending in adult offender populations was between 1 and 2% over a 5-year period. This rate of offending is also observed in routine samples of sexual offenders for those that obtain the lowest values on the Static-99R (−3, −2) or Static-2002R (−2, −1) sexual offender risk assessment tools (Hanson, Thornton, Helmus, & Babchishin, 2016). Scores at this level identify a small, but meaningful, number of individuals with approximately 6% of the Static-99R normative samples obtaining a score in this range at the time of release (Hanson, Lloyd, Helmus, & Thornton, 2012), and most sexual offenders once they have remained sexual offense-free in the community for 10 years (Hanson et al., 2014; Harris & Hanson, 2012).

Assuming that policies imposed on those with a history of sexual offending should be related to empirically estimated risk, then there is little justification for special conditions to apply to these lowest risk sexual offenders. Furthermore, given that the recidivism risk for sexual offenders predictably decreases over time, restrictions and sanctions should also decrease. For example, if an evidence-based policy stipulates that individuals at risk for sexual offending should be included on a registry list for community safety, there should also be an evidence-based method of removing individuals from that list. Broadly speaking, if the recidivism risk for a sexual offender drops to the point where only approximately 2 of 100 sexually reoffend after five years, it may no longer be appropriate for this individual to be subject to the intensive monitoring efforts that apply to higher-risk sexual offenders. In essence, rather than treat-

Table 1 Descriptions of study samples

Study	N	Sample description	Country	Average follow-up period (years)	Recidivism definition	Recidivism (%)	Recidivism (%) 5-year adjusted
Bonta and Hanson (1995)	2427	Federal inmates released from Canadian Penitentiaries in 1983–1984	Canada	10	Reconviction	3.79	2.49
Langan, Schmitt, and Durose (2003)	262,240	Adult offenders released from 15 state prisons in the USA in 1994	USA	3	Arrest	1.27	1.88
Caldwell (2007)	1780	Juvenile delinquents released from secure institutions in 1998–2000	USA	5.03	Charges/arrest	5.67	5.67
Bonta, Rugge, and Dauvergne (2008)	9852	Federal inmates released from Canadian Penitentiaries in 1994–1997	Canada	4.73	Reconviction	0.90	0.90
Maine Statistical Analysis Center (2010)	2698	Adult offenders released from Maine prisons between 2004 and 2008	USA	3	Reincarceration	0.15	0.22
Howard (2011)	170,709	Adult offenders from England and Wales between 2002 and 2007	UK	3	Reincarceration	0.19	0.28
Duwe (2012)	9064	Adult offenders released from Minnesota prisons between 2003 and 2006	USA	4	Reconviction	1.10	1.30
Kuzyk (2012)	13,652	Adult offenders released from Connecticut prisons in 2005	USA	5	Reconviction	0.84	0.84
Wormith, Hogg, and Guzzo (2012)	24,545	Adult offender cohort from Ontario released in 2004	Canada	4.54	Reconviction	3.17	3.18
Christiansen and Vincent (2013)	38,718	Juvenile delinquents born between 1978 and 1982	USA	4.73	Reconviction	0.58	0.58
Lussier and Blokland (2014)	7339	1984 Birth Cohort from the Netherlands	Netherlands	11	Reconviction	0.50	0.31

ing or applying permanent and costly sanctions to the lowest risk sexual offenders, we could make a greater contribution to public safety through other approaches, such as primary prevention, and more intensive treatment of higher-risk offenders.

Although the effectiveness of treatment for sexual offenders remains a topic of scientific and professional debate (Dennis et al., 2012; Ho, 2015; Khan et al., 2015; Långström et al., 2013; Schmucker & Lösel, 2015), there is evidence that the most effective psychological interventions follow Andrews, Bonta, and Hoge's (1990) Risk, Need, Responsivity (RNR) principles of offender rehabilitation (Hanson, Bourgon, Helmus, & Hodgson, 2009). These RNR principles indicate that the intensity of a treatment should be proportional to the risk for recidivism, that treatment should address problems related to reoffending, and that treatment delivery should be consistent with the culture and learning style of offenders. If we are to take the Risk Principle seriously, what level of sexual offender-specific treatment should be provided to individuals whose risk is so low that 98 out of 100 would not reoffend if we did nothing? This is especially relevant for decision making by individual clinicians or physicians. Specifically, patients with a history of sexual offending often present with a variety of physical and mental health issues, and healthcare practitioners are faced with the challenge of determining the point at which a patient's sexual offending history is a

primary treatment concern versus an incidental element of a patient's medical history. Healthcare practitioners are ethically bound to provide treatment or care that is in a patient's medical interest; for patients who present at this lowest risk level, their sexual offense history may become irrelevant for their treatment or plan of care.

Although arguments can be made that any known level of risk for sexual recidivism is worthy of resources and attention, our resources are not unlimited. Rather than treating or applying permanent and costly sanctions to the lowest risk sexual offenders, we could make a greater contribution to public safety through other approaches, such as primary prevention and more intensive treatment of higher-risk offenders.

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Compliance with Ethical Standards

Conflict of interest The authors declare they have no conflict of interest.

Ethical Approval This article does not contain any studies with human participants or animals performed by any of the authors.

Informed Consent Informed consent is not applicable for the current study.

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