Can Sex Offender Registration Be Effectively Applied to Juvenile Offenders? A Preliminary Study

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On July 27, 2006, President Bush signed the Adam Walsh Child Protection and Safety Act into law. Title I of the Adam Walsh Act, entitled the Sex Offender Registration and Notification Act (SORNA), provides a comprehensive set of minimum standards addressing sex offender registration and notification that was to be implemented in each jurisdiction by July 27, 2009. Failure to substantially comply with the law will result in a 10% reduction in funding under the Byrne Justice Assistance Grant. The act gained bipartisan support in the United States House of Representatives, where it garnered 88 cosponsors and passed with 371 "yea" votes and 52 "nay" votes (GovTrack.us, 2007). When fully implemented in 2009, SORNA will become the latest in a series of state and federal laws that will place adjudicated sex offenders on a public registry. Information available to the public through the registry will include a personal description and information on residence, employment, school, offense history, and other information. The stated purpose of SORNA is to protect the public from sex offenders. SORNA is intended to create a more uniform registration and notification system across states and establish a national registry publicly available through the Internet.

SORNA requires states to participate in a national sex offender registration and notification database that will include juveniles. Juvenile offenders who offend after their 14th birthday and who were adjudicated delinquent for a crime comparable to or more severe than aggravated sexual abuse as defined in federal law (Sexual Abuse Act of 1986) will be included in the registry.

SORNA also establishes a tiered system that is used to determine the length of time an individual will be required to register. Under the SORNA Tiers, offenders are required to register based solely on the charged offense without regard to a determination of future risk. By definition, all juvenile sex offenders included under SORNA would qualify to be placed on the Tier 3 level, requiring registration for 25 years to life. The statute also includes a provision to study the effectiveness of SORNA.

Despite the legislative popularity of sex offender registration measures, there is considerable discussion about their effectiveness (Caldwell, 2002; Edwards & Hensley, 2001; Garfinkle, 2003; Letourneau & Miner, 2005; Levenson, 2003; Levenson & Cotter, 2005a; Levenson & Cotter, 2005b; McGinnis, & Prescott, 2007; Redlich, 2001; Tewksbury, 2002; 2005; Trivits, & Reppucci, 2002; Welchans, 2005; Zevitz, 2006; Zimring, 2004). Studies have documented that sex offender registration applied to adult offenders has a variety of negative consequences for registrants that may interfere with successful community reintegration of offenders. These consequences include impeding employment and housing, disrupting supportive relationships, and subjecting registrants to social harassment and rejection (Levenson, 2003; Levenson & Cotter, 2005a; Levenson & Cotter, 2005b; Redlich, 2001; Tewksbury, 2002; 2004; 2005; Zevitz, & Farkas, 2000).

Research to date has not supported the effectiveness of sex offender registration and notification in reducing recidivism with adult offenders (Adkins, Huff, & Stageberg, 2000; Barnoski, 2005; Levenson, D'Amora, & Hern, 2007; Schram & Milloy, 1995; Walker, Maddan, Vasquez, VanHouten, & Ervin-McLarty, 2005; Welchans, 2005; Zevitz, 2006) or with juvenile offenders (Caldwell & Dickenson, In press; Caldwell, Ziemke, & Vitacco, 2008; Letourneau Bandyopadhyay, Sinha, & Armstrong, 2009; Letourneau, Bandyopadhyay, Sinha, & Armstrong, 2008). Under SORNA and other state registries, it is assumed that higher-risk juvenile sex offenders can be identified by the characteristics of their offenses or with specialized risk assessment measures.

Letourneau and Miner (2005) have argued that three faulty assumptions serve as the basis for the trend toward harsher sanctions and restrictive management of juvenile sex offenders: (a) that juvenile sex offending is at epidemic levels, (b) that juvenile sexual offenders have more in common with adult sex offenders than they do with other delinquents, and (c) that juvenile sex offenders are at exceptionally high risk for sexual recidivism. None of these assumptions is supported by empirical evidence.

Although limited, studies that have compared juvenile sex offenders with delinquents who have no history of sexual offending have not found significant differences in the rates of sexual recidivism in the two populations. For example, in a study of three birth cohorts from Racine, Wisconsin, Zimring, Piquero, and Jennings (2007) found no significant difference in sexual recidivism rates between juveniles with sex offense histories and those with juvenile police contacts for nonsexual offenses. Similarly, Caldwell (2007) reported no significant difference in the rate of charges for adult sexual offenses between 249 juvenile sex offenders and 1,780 nonsex offending delinquents over a 5-year follow-up.

Risk Assessment of Adolescent Sex Offenders: General and State-Specific Approaches

Base rates of detected sexual recidivism among juvenile sex offenders have tended to be low. In a recent meta-analysis of 63 data sets that studied recidivism in a total of 11,219 juvenile sexual offenders over an average 5-year period, Caldwell (in press) found an average sexual recidivism rate of just 7.08%. These findings were affected by the location of the study, whether recidivism was defined as arrest or conviction, or whether the group studied was drawn from a community or secured placement setting. However, offense rates during adolescence were more than 4 times greater than offense rates in adulthood (e.g., age 18 or older). This finding suggests that sexual aggression may be dependent on developmental stage. Sexual aggression is significantly stable within a particular developmental stage (i.e., adolescence or early adulthood) but typically discontinuous across developmental stages (i.e., between adolescence and early adulthood).

Recognizing the relatively low base rate of juvenile sexual recidivism, some states have limited the application of sex offender registration to select juveniles meeting statutorily defined risk criteria or those assessed as high risk on assessment instruments. Such strategies are assumed to narrow the application of these laws to more serious and high-risk juveniles (Gonzales, 2007). Statutory strategies identify a subgroup of juvenile sex offenders based on their age at the time of the offense or the characteristics of their offenses (as with SORNA), or both. Other states employ risk assessment protocols that are widely available or have been developed by the state to predict sexual recidivism.

Measurements of Risk in Juvenile Sexual Offenders

For many years, the reliable assessment of risk of future sexual violence by juvenile sex offenders has been pursued without much success. One of the more concerted efforts to develop a reliable risk measure produced the widely used *Juvenile Sex Offender Assessment Protocol–II* (J-SOAP–II, Prentky & Righthand, 2003). The original J-SOAP–item pool was generated through a review of available adult and juvenile literature (Prentky, Harris, Frizzell, & Righthand, 2000), with items scored on a three-point scale (0,1, or 2). The scale did not predict sexual recidivism in the development study, possibly due to the low (4%) sexual recidivism rate. The scale underwent two major revisions to improve reliability, resulting in the current 28-item measure. The Rhode Island Department of Children, Youth, and Families and the Wisconsin Department of Corrections, Division of Juvenile Corrections, have adopted the J-SOAP–II as a mandated component of their assessment processes for youth who have committed sex offenses. The J-SOAP–II is not specifically intended for use in determining registration, and in both states, the J-SOAP–II is scored to inform community supervision and treatment planning decisions.

The predictive accuracy of the J-SOAP–II for sexual recidivism has not yet been established. Several studies have reported no relationship between the J-SOAP–II and sexual recidivism (Prentky, Harris, Frizzell, & Righthand, 2000; Viljoen, Scalora, Cuadra, Bader, Chávez, Ullman, & Lawrence, 2008; Waite, Keller, McGarvey, Wieckowski, Pinkerton, & Brown, 2005). Other studies have found conflicting information about what components of the J-SOAP–II predicted sexual recidivism. For example, Martinez, Flores, and Rosenfeld (2007) reported that the Dynamic scales of the J-SOAP–II (which rate the youth's treatment response and community adjustment) predicted sexual recidivism, but the Static scales (which rate previous behavioral problems and sexual offending) did not. By contrast, Parks and Bard (2006) found that one of the two components of the Static Summary scale predicted sexual recidivism, but the Dynamic scale components did not.

Three states (Wisconsin, Texas, and New Jersey) have sex offender registration laws that contain elements similar to SORNA and have created their own risk tools to improve classification when evaluating juvenile sex offenders. Each of these state risk assessment protocols was developed with the input of one or more experts in the field, and they relied heavily on risk factors derived from studies of adult offenders (see Table 1 for a listing of the items on each measure). These measures mirror the sex offender registration laws that include certain juveniles and employ some form of risk assess-

ment or tiers to inform or determine the specific requirements of registration and notification. Thus, all three are designed to assess the same underlying trait: the propensity for sexual recidivism. Not surprisingly, these measures contain several overlapping items, including level of force or seriousness of sexual offenses, characteristics of the victims, and the degree of nonsexual offending.

The New Jersey and Wisconsin measures include some items devoted to treatment compliance and response. The *New Jersey Registrant Risk Assessment Scale* (NJRRAS, Codey & Harvey, 2007) was developed by a panel of experts assembled by the Office of the Attorney General. The risk measure generates a total risk score matched to a category of risk that determines the tier of registration and community notification. In response to a 2001 New Jersey Supreme Court decision, the Office of the Attorney General developed a juvenile risk scale by slightly revising the RRAS. The resulting 14-item *Juvenile Risk Assessment Scale* (JRAS, Office of the Attorney General, 2006) retained 13 items from the RRAS and added one item (victim gender). The coding of two items was slightly modified and the scales and weights of the RRAS were dropped. The measures are to be completed by the prosecutor, and the result, although subject to judicial review, is considered binding.

By contrast, the *Wisconsin Department of Corrections Guidelines for Release of Confidential Information on Persons Committing Sex Offenses as Youth* (WDOC, Wisconsin Department of Corrections, 2006) and the *Texas Juvenile Sex Offender Risk Assessment Instrument* (TJSORAI, Texas Department of Criminal Justice, 2005) are intended to be advisory. The TJSORAI, completed by correctional staff, is the latest of several measures developed in response to a legislative mandate that requires a numeric risk level to be assigned to all registered sex offenders. Although the total score corresponds to a risk level, the final assignment of a registration tier is the responsibility of a judge. The WDOC was developed in response to legislation allowing local law enforcement to determine the breadth of notification to the community regarding a juvenile sex offender who has been placed on the sex offender registry. The measure does not produce a numeric score or risk level. Instead, a risk level for each item is checked. The measure is intended to assist Department of Corrections staff in advising local law enforcement about the extent of community notification.

The Association Between Juvenile Sex Offending and Psychopathy Features

Psychopathy is defined by a constellation of affective, interpersonal, and behavioral characteristics that include egocentricity; shallow emotions; lack of empathy, guilt, or remorse; a behavioral pattern of impulsivity; irresponsibility; lying and manipulating others; and the repeated violation of social rules and expectations (Hare, 1991). Psychopathy has been associated with a variety of antisocial and maladaptive behaviors (Leistico, Salekin, DeCoster, & Rogers, 2008). Features of psychopathy have often been associated with persistent sexual offending in adult offenders, particularly when associated with sexual deviance (Serin, Malcolm, Khanna, & Barbaree, 1994; Seto & Barbaree, 1999; Quinsey, Rice, & Harris, 1995). Studies that have examined how useful features of psychopathy may be in predicting future sexual offending in adolescents have

produced inconsistent results. Most studies have reported that although features of psychopathy in teens were associated with general violence, they have not been related to sexual violence in particular (Auslander, 1998; Brown & Forth, 1997; Gretton, Hare, & Catchpole, 2004; Gretton, McBride, Hare, O'Shaughnessy, & Kumka, 2001; McBride, 1998). Others have reported that features of psychopathic personality were associated with past sexual offending (Forth, 1995) or that some characteristics were associated with future sexual offending (Parks & Bard, 2006). All studies were limited by the relatively small number of youth in the study that had severe psychopathic features and by the low sexual recidivism rates of the youth they studied.

A Preliminary Study

Despite widely adopted statutes that impose substantial restrictions on juvenile sex offenders in the hope of reducing sexual offending, the risk that juvenile sex offenders pose for future sex offending is not well understood. There are some indications that juvenile sex offenders may not pose a greater risk for sexual recidivism than general delinquents who are not subject to registration laws. Whether risk measures for adolescent sex offending can reliably predict such a low-base rate event remains an open question. More generally, features of psychopathy appear to have some utility for predicting violent recidivism, but psychopathy's efficiency in predicting sexual recidivism in adolescents is not established due to limited research plagued by inconsistent results.

This study was designed to address three interrelated issues. First, the study examined whether juveniles adjudicated for a sexual offense differ in their reoffense patterns from nonsex offending delinquents. Second, the study looked at the predictive accuracy of risk measures currently used in juvenile sex offender registration decisions, and the statutory inclusion criteria embedded in SORNA. Third, the study examined the predictive accuracy of the PCL:YV in predicting sexual recidivism. For a complete description of this study, see Caldwell, Ziemke, and Vitacco (2008).

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Methods

Participants

This study included 91 juvenile males who were treated in a secured correctional treatment program after being adjudicated for a felony sexual offense. An additional group of 174 juvenile males who were treated in the same program during the same time period—but who had never been referred, charged, or adjudicated for a sexual offense—were included in the study. The two groups were of similar age and racial makeup, and they were followed for an average of 6 years to determine the rates of new charges for general, violent, and sexual offense.

Measures and Instruments

All participants had been assessed with the *Psychopathy Checklist: Youth Version* (Forth, Kosson, & Hare, 2003) on admission to the program. For this study, the treatment records of participants who were sex offenders were coded using the *Juvenile Sex Offender Assessment Protocol–II* (Prentky & Righthand, 2003), the *Wisconsin Department of Corrections Guidelines for Release of Confidential Information on Persons Committing Sex Offenses as Youth* (Wisconsin Department of Corrections, 2006), the *New Jersey Registrant Risk Assessment Scale* (Codey & Harvey, 2007), the *New Jersey Juvenile Risk Assessment Scale* (Office of the Attorney General of New Jersey, 2006), and the *Texas Juvenile Sex Offender Risk Assessment Instrument* (Texas Department of Criminal Justice, 2005). The adjudicated sex offenses of the sex offending participants were compared with the SORNA juvenile inclusion criteria and coded as included or excluded from SORNA Tier 3.

Recidivism/Outcome Data

Data were collected from open records of all charges filed in a state circuit court during the follow-up period. The number of sexual and nonsexual misdemeanors, felonies, and violent offenses were recorded. To minimize underreporting due to plea bargaining, the original charge was considered in recording recidivism. Participants were followed for an average of 71.6 months after release from custody (*SD* = 18.1 months). The follow-up time of the two groups of participants did not differ significantly.

The degree of overlap among the state risk measures, the J-SOAP–II, and the SORNA Tier designation was examined by calculating the correlations between the various scale scores, total scores, and (where relevant) risk tier designation. The predictive accuracy of the measures was then examined using a Cox proportional hazard analysis. This procedure calculates the recidivism risk associated with a specific factor while controlling for variations in opportunities to offend due to varying time at risk for the participants. For this analysis, each risk score or tier designation was analyzed separately to determine how well it predicted general, violent, or sexually violent recidivism.

Results

Sex Offender Registration and Notification Act Tier

The majority of the sex offender participants (70.3%) met the criteria for inclusion under SORNA. With respect to the specific criteria, 82.4% (*n* = 75) offended after their 14th birthday, and 81.3% (*n* = 74) had been adjudicated for a crime comparable to or more severe than aggravated sexual abuse, as defined in federal

law (Sexual Abuse Act of 1986). The majority of these involved young child victims. Sex offending participants had assaulted victims between the ages of 1 and 69, with 78% (*n* = 71) victimizing individuals under the age of 12. Two victims were over age 60, and the rest were under age 16. The mean age of the child victims assaulted by sex offending participants was 9.1 years (*SD* = 3.9 years). This is consistent with other studies that have determined that juvenile sex offenders are more likely to have victims that are close in age to or younger than themselves, as compared with adult sexual offenders (Craun & Kernsmith, 2006; Righthand & Welch, 2001).

Relationships Among Risk Measures

The relationships among the instruments and inclusion in SORNA were evaluated. A complete listing of the correlations among the risk measures is presented in Table 2. This analysis found that SORNA Tier inclusion had no significant relationship with any of the J-SOAP–II scale scores. Of the three risk measures developed specifically by the states, the SORNA Tier status was significantly related only to the New Jersey JRAS tiers. In addition, the SORNA Tier designation had a significant negative correlation with the PCL:YV total score. Although the state risk measures were designed to measure the same type of risk, for the most part, they were not significantly correlated. The New Jersey JRAS total score was positively correlated with the WDOC total score and the SORNA Tier status. The Texas JSORAI tier, however, was significantly negatively correlated with the WDOC total, and it was unrelated to the New Jersey RRAS and JRAS tiers and to SORNA Tier status.

Predictive Accuracy

The prevalence rate of new felony sexual offense charges among the juvenile sex offenders (12.1%) was not significantly different from that of nonsex offending delinquents (11.6%). Cox proportional hazard analysis revealed that the risk for a new violent or sexual offense charge for juvenile sex offenders was similar to the rates for nonsexual offending delinquents. However, juvenile sex offenders were significantly *less* likely to be charged with general offenses. Sixty-nine percent (69%) of the juvenile sex offenders were charged with any new offense, while the comparable rate for nonsexual offending delinquents was 88.4%.

Likewise, none of the total scores or risk tiers on the J-SOAP–II and state-developed risk measures significantly predicted new sexual offense charges during the follow-up period. However, scores on the J-SOAP–II scale 3 that indicated better treatment progress predicted less risk for new felony sexual offense charges.

The risk measures studied here fared no better with regard to more general offending. SORNA Tier designation was unrelated to new charges for general or sexual offenses. The SORNA Tier designation did predict new charges for violent offenses, but offenders captured by the SORNA Tier designation had a lower rate of new violent offense charges than their non-SORNA designated counterparts. Of the participants qualifying for SORNA registration, 46.9% were charged with a new violent offense (including nonsexual and misdemeanor offenses), while 70.4% of the participants who were not eligible for SORNA registration were so charged. Similarly, the Texas JSORAI total score was inversely related to new violent

offense charges, and the New Jersey JRAS tiers were inversely related to general offense charges. In each of these analyses, *higher* risk scores were associated with *lower* actual offense rates.

The tier designations generated by the Texas JSORAI did not predict general or violent offense charges. WDOC total score also failed to predict new general or violent offense charges, as did the tier designations from the New Jersey JRAS tiers. Repeating these analyses after controlling for the difference in racial make up of the two groups did not alter the earlier findings. In sum, not only did the state-developed risk assessment instruments and SORNA Tier fail to predict sexual recidivism but these specialized instruments also possessed no demonstrable ability to predict new offending of any kind.

None of the J-SOAP–II scales, including the total score, predicted charges for general offending. However, scale 2 (measuring impulsive, antisocial behavior) predicted new charges for any violent offense, including misdemeanor and nonsexual offenses. None of the other J-SOAP–II total or scale scores predicted charges for general offending.

A further examination of the 55 individual items coded on the J-SOAP–II and the state risk measures revealed that only 6 items were related to new felony sex offense charges. These 6 items, including internal motivation in treatment (J-SOAP–II-item 18), expressions of remorse or guilt (J-SOAP–II-item 21), lack of cognitive distortions (J-SOAP–II-item 22), compliance with treatment (WDOC-item 8), and therapeutic support (JRAS-item 12), predicted higher risk as scored. That is, higher scores on each item predicted lower reoffense rates. On the other hand, WDOC-item 6 (any evidence of deviant sexual arousal) was inversely related to felony sexual offense charges; the presence of evidence of deviant sexual arousal was associated with *lower* sexual offense rates. Only 4.7% of participants coded as having shown any evidence of deviant sexual arousal (such as having multiple young child victims) had new felony sexual offense charges compared with 18.8% of participants who had no indications of sexual deviance.

PCL:YV and Recidivism

The mean PCL:YV total score for the full sample was 31.0 (*Median* = 32.1, *SD* = 5.9). Statistical analysis revealed that the mean scores for the sex offender and nonsex offender groups did not differ significantly. The PCL:YV could be expected to predict general and violent recidivism; however, results concerning its predictive accuracy for sexually-based offenses have been inconsistent. In contrast to the sex-specific measures, the PCL:YV significantly predicted new felony sex offense charges. In addition, the PCL:YV significantly predicted general and violent offenses. A subsequent analysis examined whether criminal propensity as measured by the PCL:YV may have masked the predictive accuracy of an adjudication as a juvenile sexual offender. To analyze this, the PCL:YV total score was controlled while the predictive ability of a youth's status as a juvenile sex offender was analyzed. Juvenile sexual offense adjudication continued to fail to significantly predict any form of recidivism. An important caveat to this finding, however, is that the juveniles who sexually offended in the follow-up period had obtained extremely high-PCL:YV scores (i.e., over 34).

Discussion

The current study is one of the first to prospectively evaluate the efficacy of specialized measures to predict sexual offenses in light of new statutory requirements for classifying and registering juvenile sex offenders. The findings highlight important deficiencies with both instruments and legislation specifically designed to identify high-risk youth and to prevent future sex offenses.

The specialized measures created by New Jersey, Texas, and Wisconsin did not consistently correspond with each other, nor did they predict sexual reoffending. Despite the fact that the state risk measures were intended to measure the same recidivism potential, assessed several of the same dimensions, and shared several of the same items, their final risk ratings did not consistently overlap. It is also evident from our data that some juveniles assessed as high risk using the SORNA criteria would not be so designated on some state measures. Of greater concern is the failure of these risk measures to predict reoffense of any kind. These findings suggest that a juvenile's assessed level of risk may be more dependent on the state he lives in than on his actual recidivism risk.

More important, these inconsistencies suggest that these methods are not valid assessments of the underlying risk construct. The SORNA criteria that would be used to place putatively higher-risk juveniles in a national public registration database did not identify juvenile sex offenders at greater risk to commit either sexual or general offenses. In fact, the only significant predictive value of inclusion in the SORNA Tier was in predicting *lower* rates of violent offending among participants designated as *higher* risk. These initial data indicate that sexual recidivism-specific measures and the proposed tier classifications will not correctly identify adolescents most at risk for sexual offenses.

In this study, the risk for sexual reoffense was predicted by variables that tapped two general areas. First, the finding that extreme PCL: YV total scores predicted sexual offense charges, independent of sexual offending history, supports the findings that characteristics related to a relatively extreme criminal propensity predicted adult sexual offending in sex offenders and nonsex offending adolescents alike (Zimring et al., 2007). Second, scale items that tapped into dynamic variables related to treatment involvement and progress were associated with lower rates of new sexual offense charges. Considering the findings in Martinez et al. (2007) and Reitzel and Carbonell (2006), the results reported here suggest that, among adolescents, sexual reoffense risk is dynamic and susceptible to mitigation through treatment.

These results may shed some light on the inconsistent previous findings concerning the utility of the PCL:YV for predicting sexual recidivism. The participants studied here were an unusually criminally prone group that included a substantial number of individuals with high-PCL:YV scores (*Median PCL:YV total* = 32.1). All of the participants who sexually offended in the follow-up period had obtained extremely high-PCL:YV scores. These data suggest that previous studies may have been limited by having relatively few participants with extremely high-PCL:YV scores.

Scale items that tapped into static variables such as characteristics of the previous sexual offenses (e.g., victim selection, previous sex offenses, or level of force) were consistently unrelated to sexual recidivism. These items, primarily based on factors predictive of recidivism in adults (Codey & Harvey, 2007; Prentky et al., 2000), failed to demonstrate any power to predict sexual or general recidivism. Notably, specific offense characteristics are commonly used to determine which youth will be subject to sex offender registration or community notification.

As noted by Saleh and Vincent (2004), simply extending protocols from adult sex offenders to juvenile sex offenders inadequately captures the complexities inherent in juvenile offenders. Predicting persistence of a specific type of misconduct in juvenile delinquents is limited by the complexities of adolescent development. Although it is clear that developmental forces play a significant role in adolescent sexual behavior (Sisk & Foster, 2004; Sisk, 2006), exactly what aspects of adolescent development are most salient to sexual aggression and how these change to generate more adaptive sexual behavior in adulthood are not well understood. The legislation proposed by SORNA and its predecessors is based upon the assumption that juvenile sex offenders are on a singular trajectory to becoming adult sexual offenders. This assumption is not supported by these results, is inconsistent with the fundamental purpose of the juvenile court, and may actually impede the rehabilitation of youth who may be adjudicated for sexual offenses.

The finding that indicators of involvement and progress in treatment substantially outperformed static risk variables further highlights the importance of recognizing juveniles as distinct from adult sex offenders. By contrast, in a large meta-analysis of studies that primarily focused on adult offenders, Hanson and Morton-Bourgon (2005) found static variables to be the most reliable predictors of sexual recidivism, while indicators of treatment motivation and progress were noted to be poor predictors of sexual recidivism. This suggests that the most common determinants and protective factors relevant to persistent sexual offending in juveniles differ dramatically from those commonly found in adults.

Policy Implications

Full enactment of SORNA would result in a significant increase in the number of juvenile sex offenders subject to registration and community notification. This increase would result from several interrelated factors. First, many states that now exempt juveniles from sex offender registration or notification would be required under SORNA to include juveniles, resulting in an increase in the number of states that register juveniles. Based on these data, 70% of the approximately 15,000 juveniles arrested for sexual offenses annually would qualify for lifetime registration under SORNA Tier 3 (Federal Bureau of Investigation, 2006). Second, most states that currently register juveniles make certain exceptions for them, recognizing that juveniles have a different risk profile than adults. For example, several states exempt juveniles from community notification and limit access to their information only to law enforcement. Other states have a provision allowing juveniles to petition the court for termination of registration by showing that they have been rehabilitated and no longer pose a threat to the community. SORNA makes no provision for judicial discretion to determine which juveniles will be subject to registration. As a result, some juveniles who are currently excused from state registries will be subject to registration under SORNA. Third, juveniles currently

on state level registries, but who do not qualify for SORNA Tier 3, would most probably be retained on some form of registry.

The finding that the propensity for criminality, as measured by the PCL:YV, was predictive of sexual violence cuts across sex offenders and nonsex offending delinquents alike. These and other studies (Caldwell, 2007; Zimring et al., 2007) suggest that criminal propensity in adolescence plays an important role in future sexual violence. Recent research with adolescent offenders suggests that even the most intractable offenders with elevated PCL:YV scores and significant and varied histories of antisocial behavior can be rehabilitated (Caldwell, Skeem, Salekin, & Van Rybroek, 2006; Caldwell, McCormick, Umstead, & Van Rybroek, 2007), and it can be done in a cost-effective manner (Caldwell, Vitacco, & Van Rybroek, 2006). This suggests that even criminal behavior arising from high levels of criminal propensity can be amenable to treatment interventions.

The finding that treatment-related variables were reliable predictors of sexual recidivism poses specific practical problems. The meaning and value of participation and progress in treatment depends on the nature and quality of the treatment. Recent studies of the effectiveness of sex offender treatment for juveniles have reported mixed results (Hanson, Broom, & Stephenson, 2004; Reitzel & Carbonell, 2006), and failure to participate in an ineffective treatment program may have no bearing on an adolescent's risk. These results lend support to studies that indicate that juvenile sex offenders can benefit from treatment and, as a clinical matter, it is reasonable to assume that treatment can reduce risk in juvenile sex offenders. However, these results do not resolve the issue regarding the effectiveness of treatment and do not support imposing long-term registration and notification requirements on the basis of treatment refusal or poor treatment progress.

An important finding in these results was the failure of the SORNA Tier criteria to identify sexual recidivists. Of greater concern is the fact that the SORNA Tier criteria designated participants who were at lower risk for violent reoffense as appropriate for lifetime registration and community notification. To the extent that registration and community notification impede community reintegration and adjustment, they may have the paradoxical effect of increasing risk of reoffense. A recent study found that a group of registered youth who obtained lower scores on the Youth Level of Service/Case Management Inventory (a measure of general recidivism risk) had recidivism rates that were comparable to juvenile sex offenders who were at higher risk but not required to register (Caldwell, 2009). To the extent that registration and community notification are intended to reduce offending opportunities for high-risk offenders, these data suggest that SORNA will fall short by failing to accurately identify high-risk offenders. These findings also raise the possibility that including juveniles in SORNA Tier 3 would actually result in a greater risk to community safety.

The state risk measures studied here fared no better as predictors of reoffense risk. These results suggest that the risk estimates that these measures generate have no reliable connection to a youth's risk to the community. To the extent that these results may generalize, the registration and notification demands placed on juveniles that are based on these risk estimates appear to be nonscientific

and arbitrary. This may raise important constitutional questions related to the equal protection of juveniles subject to SORNA registration.

The Equal Protection Clause of the U.S. Constitution does not deny the government the power to treat different classes of persons in different ways. It does, however, require that the criteria for defining a class of persons accorded different treatment must be rationally related to the objective of the statute. The classification must be reasonable, not arbitrary, and it must rest upon some ground of difference having a fair and substantial relation to the objective of the legislation, so that all persons similarly circumstanced will be treated alike (see, for example, *Carolene Products Co. v. United States*, 1938a; b; *City of Cleburne, Texas v. Cleburne Living Center*, 1985; *Plyler v. Doe*, 1982; *Romer v. Evans*, 1996). These results support a small but growing body of research that has found juvenile sex offenders engage in adult sexual offending at similar rates to nonsex offending delinquents (Caldwell, 2007; Sipe & Jensen, 1998; Zimring, et al., 2007). More important, the identification of juvenile sex offenders as a class of individuals whose characteristics are distinct from other juveniles and whose civil regulation will further the public safety purpose of the law is not supported by this study.

Although sex offender registration laws have survived several constitutional challenges, several features of SORNA revive or raise new constitutional concerns. These include provisions that juveniles subject to SORNA would lose protection from warrantless searches for life. This provision raises the potential that SORNA will merit a more rigorous standard of constitutional review than previous sex offender registration laws.

In addition, juveniles affected by SORNA will be subject to adult sanctions without the benefit of the same degree of due process protections afforded adult offenders. The traditional juvenile court priority of protecting juveniles from adult sanctions and long-term stigmatization will be largely abandoned by public registration, and the traditional confidentiality afforded juvenile records will be compromised.

Trivits and Reppucci (2002) outlined the difficulties of applying sex offender registration and notification laws to adolescent sex offenders, including evaluating appropriate and inappropriate sexual conduct, the heterogeneity of adolescent sex offenders, and developmental issues that complicate risk assessment. Laws designed to target adolescent sex offenders must balance risk, management, and treatment (Byrne & Roberts, 2007) if they are to be effective. Unfortunately, data suggest that laws intended to manage risk miss the mark and have an unintended and detrimental effect of interfering with access to treatment. Letourneau (2006) has described the unintended effects of restrictive sex offender legislation applied to juvenile sex offenders that may result in less formal intervention and, consequently, less treatment. These results suggest that improving access to treatment and community support services should be the overriding concern of public policies that hope to reduce the risk of persistent sexual offending.

Despite the incentives included in SORNA, some states may elect to exclude juveniles from sex offender registration. States that elect to include juveniles under these laws could reduce the potential harm and improve the effectiveness of these measures by incorporating several provisions. The application of these laws to juveniles could be designed to be more consistent with the traditional goals of the juvenile justice system. For example, recognizing that most juvenile sex offenders desist from offending by early adulthood, the term of sex offender registration could be limited to the maximum age of juvenile court jurisdiction.

The finding that commonly used risk measures perform poorly in predicting recidivism raises questions regarding how to identify juveniles who may be more appropriate for registration. These data indicate that the specific characteristics of a particular offense category are of little or no value. There are, however, indications that a comprehensive assessment may be a more reliable way to identify higher-risk delinquents. The most comprehensive assessment utilized in this study was the PCL:YV, and this measure proved to be the best predictor of all forms of recidivism. Although scores from the PCL:YV have not proven to be a reliable predictor of sexual recidivism, a similarly comprehensive assessment of treatment needs, behavioral history, personality, social influences, and other issues is an important part of the juvenile court dispositional process (Grisso, 1998). The best method for identifying higher-risk juveniles may be this type of comprehensive assessment, particularly if informed by the findings that most juvenile sex offenders do not sexually reoffend. This would be in keeping with traditional practice in juvenile court dispositional hearings and would require that juvenile court judges be granted discretion in applying registration requirements in the disposition of specific cases.

None of this is to say that adolescent sexual violence is not a significant public policy concern. In fact, the results of public health surveys over the past several decades have led to a consensus that at least 1 in 5 adolescent males engages in sexually assaultive behavior (Abbey, 2005). Considering that only a fraction of these assaults come to the attention of authorities, the potential for sex offender registration to significantly reduce the incidence of sexual violence in society is quite limited. The findings reported here lend further support to those who have called for a broader approach that places emphasis on prevention of sexual violence (Abbey, 2005; Caldwell, 2007).

Limitations and Future Directions
This study represents an initial attempt to evaluate the capacity of commonly used risk measures and the SORNA criteria to predict sexual offenses in a sample of antisocial adolescents. However, the results must be interpreted in light of some methodological limitations. First, the results are limited by the reliance on a sample drawn from a program designed to treat unusually aggressive and disruptive adolescent males (Caldwell et al., 2006). The risk assessment methods studied here may be more effective with a less criminally prone population. However, a less delinquent population would be expected to generate lower reoffense base rates, making accurate risk assessment even more difficult.

In addition, all of the participants studied here were assessed or treated in a specialized intensive treatment program that has demonstrated promising results in treating aggressive delinquents (Caldwell, McCormick, & Umstead, 2007; Caldwell, Skeem, Salekin, & Van Rybroek, 2006; Caldwell & Van Rybroek, 2005; Caldwell, Vitacco, & Van Rybroek, 2006). All of the sex offending participants received some level of specialized sex offender treatment. It is a possibility that specialized sex offender treatment reduced the risk of the sex offending participants to the level of more generic delinquents. This possibility, however, would not alter the findings that the J-SOAP–II total, SORNA Tier 3, and state risk measures failed to predict any type of recidivism, including sexual recidivism, among adolescent sex offenders.

Psychopathy as a predictor for adolescent sexual offending presents an additional dimension that requires further study. Although the results described here suggest an avenue of speculation to account for the inconsistent performance of PCL:YV scores in predicting juvenile sexual recidivism, the issue is far from resolved. Use of PCL:YV scores to predict juvenile sexual recidivism is clearly not warranted on the basis of the existing research.

On one level, the impulse to adopt broad statutory restrictions on sex offenders reflects a skepticism that the professionals entrusted with the supervision and rehabilitation of sex offenders possess the expertise to optimally manage the risk posed by these offenders. To the extent that our knowledge about the onset, persistence, and desistence of sexual misconduct in adolescents is incomplete, expertise in managing sexual offenders' risk is also limited. These results, however, indicate that current sex offender registration and notification laws that are broadly applied to adolescents have significant limitations of their own. Further, these laws cannot be refined, and the expertise of professionals cannot advance, without a concerted effort to conduct high-quality empirical studies of these issues.

Perhaps the most important and least studied question in this field relates to why so few juvenile sexual offenders continue to offend as adults. The existing evidence shows that, in general, even juveniles who continue to offend rarely persist in sexual offenses. What accounts for this extensive pattern of desistance? It is reasonable to assume that developmental forces play some role in this, but exactly what those forces are, how they work, and what policies may foster or impede their effects on desistance remain unknown.

The extensive use of sex offender registration and concerns over public safety must be balanced against the potential and significant harm that may accompany public registration of juvenile offenders. Clearly, considerably more study of the effects of these laws is needed. Considering that these laws are currently in place and affect thousands of individuals nationwide, the need for additional study goes far beyond scientific interest. It is a requirement of fair, just, and effective public policy.

Table 1: Items on the *New Jersey Registrant Risk Assessment Scale (RRAS)*; *Wisconsin Department of Corrections Guidelines for Release of Confidential Information on Persons Committing Sex Offenses as Youth* (DOC); and *Texas Juvenile Sex Offender Risk Assessment Instrument* (JSORAI).

New Jersey RRAS	Wisconsin DOC	Texas JSORAI
(1) Seriousness of offense scale:	Number of charged sexual offenses	Seriousness of offense
Degree of force	Number of victims	Use of a weapon
Degree of contact	Duration of sex offense history	Age at first referral
Age of Victim	Other nonsexual antisocial behaviors	Prior sex offense adjudications
(2) Offense history scale:	Any stranger victims	Prior referrals for sex offense
Victim selection	Evidence of deviant sexual arousal	Prior adjudications for felony offenses
Number of offenses/victims	Deception, planning, or grooming of victim	Prior felony referrals
Duration of offensive behavior	Treatment compliance	
Length of time since last offense	Stability of living situation	
History of antisocial acts	Positive support system	
(3) Characteristics of offender:		
Response to treatment		
Substance abuse problems		
(4) Community support scale:		
Therapeutic support		
Residential support		
Employment/educational stability		

Table 2: Correlations Between Studied Risk Measures: *Sex Offender Registration and Notification Act of 2006 Risk Tiers (SORNA); Psychopathy Checklist: Youth Version* (PCL:YV); *Juvenile Sex Offender Assessment Protocol–II* (J-SOAP–II); *New Jersey Registrant Risk Assessment Scale* (NJRRAS); *New Jersey Juvenile Risk Assessment Scale* (JRAS); *Wisconsin Department of Corrections Guidelines for Release of Confidential Information on Persons Committing Sex Offenses as Youth* (WDOC); *Texas Juvenile Sex Offender Risk Assessment Instrument* (TJSORAI).

$* = p < .05; ** = p < .005; *** = p < .001;$ - = no significant relationship

	2	3	4	5	6	7	8	9	10	11	12
(1) SORNA Tier	.28**	.28**	.00	.04	- .18	- .10	- .25*	- .16	.28**	- .17	.23*
(2) NJRRAS tiers	-	.70***	.11	.38***	.08	.15	- .06	.37***	.72***	.37***	.79***
(3) JRAS tiers		-	.04	.36***	- .03	.19	- .21*	.37***	.71***	.38***	.24*
(4) TJSORAI tiers			-	- .10	- .06	- .07	.09	- .12	- .00	- .23*	.63***
(5) J-SOAP–II scale 1				-	- .25*	- .09	- .33**	.48***	.57***	.74***	- .03
(6) J-SOAP–II scale 2					-	.29**	.39***	.49***	- .02	.04	- .25*
(7) J-SOAP–II scale 3						-	.15	.71***	.29**	.25*	- .11
(8) PCL:YV total							-	.07	- .19	- .13	- .06
(9) J-SOAP–II total								-	.55***	.66***	- .21
(10) JRAS total									-	.68***	.14
(11) WDOC total										-	- .16
(12) TJSORAI total											-

Table 3: Results of Cox Proportional Hazard Survival Analysis of Study Measures Used to Predict New Charges. Analyses that found that higher-risk scores were significantly related to lower offense rates are designated as *(reversed)*.
*= p < .05; ** = p < .005; *** = p < .001; - = no significant relationship

Measure	Any offense	Violent offense	Violent sexual offense
Sex offense adjudication (N = 264)	-	-	-
PCL:YV total (N = 264)	***	***	***
Wisconsin DOC guidelines (n = 91)	-	-	-
J-SOAP–II scale 1 (n = 91)	-	-	-
J-SOAP–II scale 2 (n = 91)	-	**	-
J-SOAP–II scale 3 (n = 91)	-	-	*
J-SOAP–II total (n = 91)	-	-	-
JRAS total (n = 91)	*(reversed)* *	-	-
JRAS tiers (n = 91)	-	-	-
Texas JSORAI total score (n = 91)	-	*(reversed)***	-
Texas JSORAI risk tiers (n = 91)	-	-	-
SORNA inclusion (n = 91)	-	*(reversed)* *	-

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