



National Alliance to
End Sexual Violence

Discussion Paper: Youth with Sexually Harmful Behaviors

October 2017

More than 35% of those who sexually abuse minors are themselves juveniles¹ and interventions must be developmentally appropriate to address the harm. 29% of the victims in one sample were sexually assaulted by youth age 17 or younger,² and according to the National Children's Alliance "in 20-25% of cases handled by children's advocacy centers, youth or children under age 18 have acted out against another child."³ Juveniles accounted for 14% of arrests for rape and 18.2% of arrests for other sex offenses in 2012⁴ in a study combining both adult and youth offenders. 64% of perpetrators were acquaintances and 10% of perpetrators were family members in one study.⁵ According to one study of juvenile offender population coming to the attention of law enforcement, females constitute 7% of juveniles who commit sex offenses.⁶

Limited research exists about the causes of youth sexual offending. However, research exists to suggest:

- "The sexual offending of some adolescents represents a reenactment of their own sexual victimization.
- For some adolescents, sexual aggression is a learned behavior modeled after what they observe at home.
- Adolescents who commit sexual offenses have much less extensive criminal histories, fewer antisocial peers, and fewer substance abuse problems compared with nonsexual offenders."⁷

Are adolescent and adult sex offenders the same?

Reporting rates of sex offenses remain low, which means that sex offender recidivism data is based on convicted offenders and juveniles adjudicated delinquent. According to the SOMAPI Report, "The goal of intervention with juveniles who commit sexual offenses is to prevent recidivism, decrease risk, and

¹ Finkelhor, D., Ormrod, R., & Chaf n, M. (2009, December). Juveniles who commit sex offenses against minors. *Juvenile Justice Bulletin*. Retrieved from the National Criminal Justice Reference Service: <https://www.ncjrs.gov/pdffiles1/ojjdp/227763.pdf>

² Finkelhor, D., Hammer, H., & Sedlak, A. J. (2008). *Sexually assaulted children: National estimates and characteristics* (NCJ 214383). Retrieved from the National Criminal Justice Reference Service: <https://www.ncjrs.gov/pdffiles1/ojjdp/214383.pdf>

³ National Children's Alliance 2015 statistical data submitted by Children's Advocacy Center members. Cited in National Children's Alliance fact sheet, What We Can Do: Understanding Children and Youth with Problematic Sexual Behaviors, <http://www.nationalchildrensalliance.org/sites/default/files/downloads/2017-PSB-Fact-Sheet-Overview-3.pdf>.

⁴ Puzzanhera, C. and Kang, W. (2014). "Easy Access to FBI Arrest Statistics 1994-2012" Online. Available: <http://www.ojjdp.gov/ojstatbb/ezaucr/>

⁵ Ibid

⁶ Finkelhor, D., Ormrod, R., & Chaf n, M. (2009, December). Juveniles who commit sex offenses against minors. *Juvenile Justice Bulletin*. Retrieved from the National Criminal Justice Reference Service: <https://www.ncjrs.gov/pdffiles1/ojjdp/227763.pdf>

⁷ Laversee, Tom (2014, October). Smart Office Sex Offender Management & Planning Initiative, Juvenile Section, Chapter 2: Etiology and Typologies of Juveniles Who Have Committed Sexual Offenses https://www.smart.gov/SOMAPI/sec2/ch2_etiology.html

increase protective factors that buffer against reoffending.”⁸ Treatment for juveniles who commit sex offenses reduces recidivism,⁹ and juveniles have a lower sexual recidivism rate than adult offenders. While previous estimates ranged from 7-13% over a 5-year follow-up period,^{10 11 12} a more recent study by Caldwell revealed a weighted mean sexual recidivism rate for adolescents of 2.75% and a weighted mean base rate for sexual recidivism of 4.92% over a follow-up period of nearly 5 years.¹³

What is SORNA?

The Adam Walsh Child Protection and Safety Act is a federal law that was originally passed in 2006, and includes the Sex Offender Registration and Notification Act (SORNA). SORNA is currently in the process of being [reauthorized](#) by Congress. The Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office) was authorized under the Adam Walsh Act to administer the minimum standards for sex offender registration and notification across the United States. Jurisdictions that meet the minimum standards are considered to have “substantially implemented” SORNA. If a state or territory does not substantially implement SORNA they are subject to a 10% reduction in Byrne JAG funding. Visit this [link](#) for state by state implementation process information.

SORNA & Juveniles

“Very few studies examining SORNA with juveniles have been undertaken to date.”¹⁴ It’s also important to emphasize that registration and notification are two different things. SORNA requires registration for juveniles ages 14 and older who are adjudicated delinquent for certain violent sexual offenses. States are not required under SORNA to post information about juveniles adjudicated delinquent of sex offenses on their public registry.

The Juvenile Supplemental Guidelines were published by the SMART Office in August 2016.¹⁵ These guidelines allow for states, territories and tribes to have their policies and practices regarding SORNA’s juvenile registration requirement reviewed by the SMART Office if they don’t fit exactly into SORNA requirements (but may have other policies and practices that could meet SORNA’s objectives), to determine if the jurisdiction has substantially implemented SORNA.¹⁶

[The Center for Youth Registration and Reform](#) at Impact Justice works to repeal all laws that allow or require youth to be placed on sex offender registries. They have a number of resources available on this topic including a breakdown of [which states require youth to register](#).

It is imperative to consider victim confidentiality issues related to sex offender registries. The Alliance’s statement on the [community management of sex offenders](#) touches on issues of victim confidentiality

⁸ SMART Office SOMAPI Report, *Registration and Notification for Juveniles Who Commit Sexual Offenses*, <https://www.smart.gov/pdfs/JuvenileRegistration.pdf>.

⁹ SMART Office SOMAPI Report, *The Effectiveness of Treatment for Juveniles Who Sexually Offend*, <https://www.smart.gov/pdfs/JuvenileTreatment.pdf>.

¹⁰ Alexander, M.A. (1999) Sexual offenders treatment efficacy revisited. *Sexual Abuse: A Journal of Research and Treatment*, 11(2), 101–116.

¹¹ Caldwell, M.F. (2010). Study characteristics and recidivism base rates in juvenile sex offender recidivism. *International Journal of Offender Therapy and Comparative Criminology*, 54(2), 197–212.

¹² Reitzel, L.R., & Carbonell, J.L. (2006). The effectiveness of sexual offender treatment for juveniles as measured by recidivism: A meta-analysis. *Sexual Abuse: A Journal of Research and Treatment*, 18, 401–421.

¹³ Caldwell, M. F. (2016, July 18). *Quantifying the Decline in Juvenile Sexual Recidivism Rates*. *Psychology, Public Policy, and Law*. Advance online publication. <http://dx.doi.org/10.1037/law0000094>

¹⁴ Lobanov-Rostovsky, Chris (2014, October). Smart Office Sex Offender Management & Planning Initiative, Juvenile Section, Chapter 6: *Registration and Notification of Juveniles Who Commit Sexual Offenses*

¹⁵ 81 Fed. Reg. 50,552 (Aug. 1, 2016), <https://www.gpo.gov/fdsys/pkg/FR-2016-08-01/pdf/2016-18106.pdf>.

¹⁶ SMART Office: *Juvenile Sex Offender Registration and SORNA*, SMART Watch Dispatch. Online. Available: <https://www.smart.gov/pdfs/juvenile-dispatch-final-2016.pdf>. Released September 2016.

and public registries which can be of particular concern when the victim and offender are in the same family or household.

What does research tell us about SORNA and juvenile registration?

- Research is limited regarding the effectiveness of SORNA and juveniles.
- Two studies^{17 18} found that in some cases where juveniles committed sexual offenses, charges were either reduced or pled down to nonregistration offenses, which in one study¹⁹ resulted in ineligibility for county funded sex offender treatment in some instances.

Sexual Victimization of Youth in Juvenile Facilities:

- According to the 2012 National Survey of Youth in Custody, nearly 1 in 10 (9.5%) of adjudicated youth reported being sexually victimized in juvenile facilities.²⁰
- Males, youth age 18 and older, black youth, and non-heterosexual youth were most likely to report being sexually victimized while in a juvenile facility.
- More than one-third (37%) of adjudicated youth who reported youth-on-youth sexual victimization were victimized by more than one perpetrator.

State Ages of Adult Criminal Responsibility:²¹

For federal crimes, 18 years of age is the age of adult criminal responsibility. In 18 states, 18 years of age is the standard; however, in other states, 16 or 17 years of age is the age in which individuals are tried as adults and subject to adult sex offender registration and notification.

Additionally, some states have legislative and prosecutorial waivers for serious sex offenses. In these states, state law and/or prosecutors retain the discretion for charging decisions of juveniles for the most serious sex offenses either remaining in juvenile court or being prosecuted in adult court. It's critical that coalitions are familiar with both state law and prosecutorial discretion in their jurisdiction for charging decisions, as it impacts the requirements regarding registration and notification of children and youth with sexual behavior problems who may be tried as an adult.

The Alliance is collaborating with the [Campaign for Youth Justice](#) to look at issues of sexual violence against youth incarcerated in adult facilities, and they have a [breakdown of state laws](#) on charging youth as adults.

What terms should be used?

Under SORNA, a "sex offender" is defined as "an individual who was convicted of a sex offense." Sex offender registration requirements extend to juveniles adjudicated delinquent of a sex offense who are at least 14 years of age and *engaged in a sexual act with another by force or the threat of serious*

¹⁷ Letourneau, E.J., Bandyopadhyay, D., Sinha, D., & Armstrong, K.S. (2009b). Effects of sex offender registration policies on juvenile justice decision making. *Sexual Abuse: A Journal of Research and Treatment*, 21, 149–165.

¹⁸ Calley, N.G. (2008). Juvenile sex offender and sex offender legislation and unintended consequences. *Federal Probation*, 72(3), 37–41.

¹⁹ Id

²⁰ *OJJDP Statistical Briefing Book*. Online. Available: <http://www.ojjdp.gov/ojstatbb/corrections/qa08801.asp?qaDate=2012>. Released on April 29, 2016.

²¹ SMART Office *SMART Summary: Prosecution, Transfer, and Registration of Serious Juvenile Sex Offenders* (2015), <http://www.smart.gov/pdfs/SMARTSummary.pdf>.

violence or engaged in a sexual act with another by rendering unconscious or involuntarily drugging the victim.²²

Children and youth with sexual behavior problems is the preferred terminology. Because most sexual assaults are not reported and the focus is on rehabilitation and prevention, referring to youth as “predators” or “perpetrators” does not advance the shared goal of ending sexual violence. Advocates working to end sexual violence value the importance of language. The terms used in the field are part of shifting the response to and prevention of sexual violence. Just as advocates emphasize the importance of victim and survivor-centered practices, it’s equally important that advocates consider the language used when discussing those who have caused harm, and working collectively to prevent future harm.

Questions to Ask Policy Makers and Other Statewide Partners When Considering Sex Offender Policy:

- Will the proposed measure increase safety?
- Are there programs and funding in place that include an advocate for the victim(s) and ensure a victim-centered response?
- How does this policy treat children and adolescents different from adults?
- What is the recidivism rate in our state, territory or tribe for juveniles vs. adults? What is the data for sexual recidivism vs. general recidivism?
- How much does our state spend per year on sex offenders; on victims of sexual violence; and on preventing sexual violence?

Additional Resources:

- [Raliance-funded report by the MNCASA: Children with Sexual Behavior Problems](#)
- [National Center on the Sexual Behavior of Youth: Sexual Behavior: Typical or Problematic?](#)
- National Children’s Alliance Fact Sheet: [What We Can Do: Understanding Children and Youth with Problematic Sexual Behaviors](#)
- National Children’s Alliance Fact Sheet: [What Happens Now? Facing Sexual Behavior Problems with Your Child](#)
- [National Sex Offender Public Website](#)
- [SOMAPI Report](#)
- [SMART Summary: Prosecution, Transfer, and Registration of Serious Juvenile Sex Offenders](#)
- ATSA’s [Adolescents Who Have Engaged In Sexually Abusive Behavior: Effective Policies And Practices](#)
- [A Reasoned Approach: Reshaping Sex Offender Policy to Prevent Child Sexual Abuse](#)
- Human Rights Watch’s [Raised on the Registry](#)
- Restorative Community Conferencing found at impactjustice.org
- NSVRC’s [Considering family reconnections and reunification after child sexual abuse: A road map for advocates and service providers](#)

For more information, please contact Terri Poore, Policy Director, at terri@endsexualviolence.org.

²² SMART Office: *Juvenile Offenders Required to Register Under SORNA: A Fact Sheet*, https://www.smart.gov/pdfs/factsheet_sorna_juvenile.pdf.