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Applying Sex Offender Registry Laws to Juvenile Offenders:

Biases against Adolescents from Stigmatized Groups

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**Applying Sex Offender Registry Laws to Juvenile Offenders:
Biases against Adolescents from Stigmatized Groups**

The emotion and urgency surrounding society's need to protect children from dangerous sex offenders has led to policies that require sex offenders to register with police and on public, online registries. These laws were created to help parents better protect their children from sex offenders who live in their community. They have recently been extended to include juvenile offenders (SORNA; 42 U.S.C. §16911). Considering that these laws were designed for adult offenders, is their application to juveniles appropriate, necessary, and supported by public sentiment? Psychology has a role to play in addressing these issues. For example, research suggests that the application of registry laws to juvenile offenders might have inadvertent negative consequences for the well-being of those who are registered—including juveniles whose cases fit the letter—but not the spirit—of these laws (e.g., juveniles registered for mooning schoolmates or having sex within committed peer relationships, Trivits & Reppucci, 2002).

As will be reviewed, previous research provides strong support for applying registry laws to juveniles in the abstract, but more mixed reactions for applying registry laws to specific, less severe, consensual cases. This ambiguity surrounding when registry laws should be enforced against juveniles might provide a context in which biases against stigmatized classes of offenders or victims can be expressed through support for juvenile registration policies. In this chapter, we review current sex offender registration laws and policies and discuss research addressing the psychological issues surrounding the application of these laws to juveniles, including (a) psychological research that speaks to assumptions underlying these laws, (b) public sentiment toward these laws, (c) offender and victim factors that might drive biases in public support for

these laws, and (d) underlying psychological motivation for supporting these laws (i.e., punitive versus utilitarian goals). Finally, we draw from the reviewed research to discuss implications for juvenile sex offender policy.

Sex Offender Registration Laws

In an effort to prevent child sexual abuse and facilitate the apprehension of repeat sex offenders, the federal government passed the 1994 Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. §14071). This federal law required all sex offenders to register personal information (e.g., name, address, photograph, etc.) with the police. The same year, the Violent Crime Control and Law Enforcement Act (i.e., “Megan’s Law,” 42 U.S.C. §13701) was passed, requiring states to establish procedures to inform community members about sex offenders living in their community (42 U.S.C. §16911, p. 4). Both acts were passed in reaction to public outrage about sex crimes against children. For example, Megan’s Law was passed after 7-year-old Megan Kanka was raped and murdered by a previously convicted sex offender in her neighborhood. The public was outraged that they were unaware of the dangerous offender in their community because they believed that being aware of the offender would have helped Megan’s parents protect her. Thus, it is easy to understand why the public supported the implementation of these laws.

What about cases in which the offenders are also children? Sexual activity between juveniles meets the legal definition of a sex offense in many states—even when both parties are underage and the activity is consensual¹ (James, 2009). Recent trends in juveniles recording evidence of their technically illegal sex acts through videotaping or sexting also make juveniles particularly vulnerable to prosecution (e.g., Eraker, 2010; Lithwick, 2009). In 2006, federal legislation was expanded with the Sex Offender Registration and Notification Act (SORNA; 42

U.S.C. §16911). This policy, also known as the Adam Walsh Act, requires all states to participate in a federal national online registry. This federal registry includes juvenile sex offenders who are either (a) convicted in adult criminal court or (b) at least 14 years old and adjudicated delinquent in juvenile court for sex offenses involving aggravating circumstances (e.g., use of force, threat of serious violence). Individual states are allowed, however, to set harsher standards. In other words, states can be more inclusive than the guidelines require—as long as they meet the *minimum* guidelines they are compliant with the Adam Walsh Act and are included on the federal registry. For example, currently registered juveniles who committed minor crimes, such as a 12-year-old who mooned a class of 5- to 6-year-old classmates in Texas or a mildly mentally retarded 17-year-old who grabbed an 18-year-old's buttocks in Nebraska (Trivits & Reppucci, 2002), could be registered under these guidelines. Thus, not all juveniles on the registry fit the highly publicized dangerous and violent sex offender profile that inspired these laws (Human Rights Watch, 2007).

U.S. States' Juvenile Sex Offender Registration Laws

According to the latest review of juvenile registration laws across the United States (for details, see Salerno, Stevenson et al., 2010), a majority of states ($n = 33$) require juveniles to register as sex offenders under some circumstances. In fact, in many of those states ($n = 26$), juvenile registration is automatic and mandatory. Juveniles as young as 8 years old can be placed on sex offender registries (e.g., in Montana). Only four states explicitly prohibit the registration of juveniles under age 14 (Indiana, Ohio, Oklahoma, South Dakota). Further, in most states, registration extends long after adolescence (22 states require registration for at least 10 years, several require registration for life), often with no opportunity for discretion, appeal, or petition. Other states' laws reflect greater recognition of the developmental differences between juvenile

and adult offenders by taking juveniles' ages into account when deciding registration duration, often lasting only until the juvenile is 18 or 21 years old, or by allowing juveniles to petition for removal from the registry after three to five years. The type of offenses for which a juvenile is required to register also varies across states. In some states, registration is required only in cases that involve threats, the use of force, or incapacitation. In at least 19 other states, however, juveniles adjudicated guilty of non-forceful offenses can be required to register. Information about juvenile sex offenders is publicly available via online databases in many states (Salerno, Stevenson, et al., 2010).

Although all states are federally mandated to comply with the Adam Walsh Act or risk losing 10% of their federal funding for law enforcement activities (42 U.S.C. §16911; Caldwell, Ziemke, & Vitacco, 2008), 35 states missed the deadline of July 2011 for implementing these guidelines into their sex offender registration programs. As of the writing of this chapter, only 15 states have substantially implemented these guidelines according to the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) (<http://www.ojp.gov/smart/index.htm>). In fact, the U. S. Department of Justice has specifically cited resistance to public disclosure of juvenile sex offenders' information as "one of the largest impediments to SORNA implementation" (U. S. Department of Justice, 2010), and states, such as Nebraska, Ohio, and Vermont, have modified or passed new legislation to limit punishment for juveniles who commit less severe sex crimes (e.g., ensuring lesser punishment for teenagers who engage in sexting as compared to adults charged with child pornography).

Assumptions Underlying the Application of Sex Offender Registration Laws to Juveniles

The rationale behind registration laws is intuitive and reflects good intentions—alerting police and community members of dangerous, repeat sex offenders to protect children.

Extending these laws to juvenile offenders, however, reflects two major unsupported assumptions about juvenile sex offenders: that juvenile and adult sex offenders are similar in their amenability to treatment and recidivism, and that sex offender registries are effective in reducing recidivism. Regarding the first assumption, research reveals that not only are juvenile sex offenders amenable to treatment (for reviews, see Chaffin, 2008; Trivits & Reppucci, 2002), but juveniles respond to different treatments than adults. Treatments that typically work for non-violent juvenile offenders reduce the likelihood that juvenile sex offenders recidivate, but treatments typically used to treat adult sex offenders do not (St. Amand, Bard, & Silovski, 2008). In other words, juvenile sex offenders appear to be more similar to juveniles who commit nonsexual crimes than they are to adult sex offenders in terms of rehabilitation potential. Further, the recidivism rate is lower for juvenile offenders compared to adult sex offenders. Only 5–15% of juvenile sex offenders reoffend, compared to 20–40% of adult sex offenders (for reviews, see Chaffin, 2008; Salerno, Stevenson, et al., 2010; Trivits & Reppucci, 2002). Juvenile sex offenders may be no more likely to commit future sexual crimes than are juveniles who commit nonsexual offenses (Caldwell, 2007; Caldwell et al., 2008; Carpentier, Silovsky, & Chaffin, 2006; Zimring, Piquero, & Jennings, 2007). Thus, the argument that sex offender registries are equally necessary for juvenile and adult sex offenders is based on flawed assumptions that contradict a central tenet of our juvenile justice system: the idea that juveniles are a special group who can and should be rehabilitated.

Regarding the second assumption, there is little evidence that registration reduces sex offender recidivism in general (Adkins, Huff, & Stageberg, 2000; Letourneau & Armstrong, 2008; Sandler, Freeman, & Socia, 2008). Letourneau and Armstrong (2008) matched 111 registered and non-registered juvenile sex offenders on case and demographic characteristics

(e.g., crime severity, prior offenses, age, race) and found no differences in recidivism rates between the registered and non-registered juveniles—even after more than four years. Further, time-series analyses do not indicate that registration implementation has had an impact on offender recidivism. For example, the enactment of sex offender registration in New York State did not appear to reduce sex offense rates among either first-time or previously convicted adult sex offenders (Sandler et al., 2008). The implementation of public sex offender registration requirements was associated with a significant decrease in rape rates in only 3 of 10 states, and a significant *increase* in rape rates in 1 state (Vasquez, Maddan, & Walker, 2008).

The assumption that these laws reduce recidivism is based, at least in part, on the belief that would-be juvenile sex offenders are deterred by the risk of registration. Stevenson, Najdowski, and Wiley (in press) investigated whether registration policies deter juveniles from committing sex offenses. Nearly 3 out of 5 of their sample of young adults were unaware that juveniles can be registered as sex offenders. Further, even after participants were informed of the fact that juveniles can be registered, many still held inaccurate beliefs about the types of sex offenses that can warrant registration (e.g., consensual sex with a minor) and what registration means. For example, a majority of participants were unaware that registered juvenile sex offenders can have their information made publicly available on the Internet or can remain on the registry as adults or even for the rest of their lives. Further, the less the young adult participants knew about juvenile registration policies, the more likely they were to report having engaged in behaviors that could have warranted registration when they were younger than 18 years old. These findings suggest that recent policies do little to deter youth from sexual behavior that puts them at risk of registration. Even if juveniles are aware of the legal consequences, these policies still might not be an effective deterrent. In a study of high school students, Strassberg and

colleagues (2012) found that 20% had sexted a nude photograph of themselves, and of those sexters, one-third did so despite being aware of the legal consequences.

Public registries might not only be ineffective in reducing recidivism, they might also have unintended negative consequences on offenders' lives. For example, in extreme cases, registered offenders have been targeted through the registry and killed by vigilantes, and others have committed suicide after being required to register (Human Rights Watch, 2007). Beyond these extreme cases, there are less severe, yet pervasive negative consequences resulting from registration that could theoretically affect offenders' rehabilitation potential and lead to *increased* recidivism. Substantial percentages of registered sex offenders also report that discovery of their registration status has led to serious consequences, such as job loss, being forced out of a place to live, harassment by neighbors, physical assault, and property damage for offenders (Levenson & Cotter, 2005; Levenson, Brannon, Fortney, & Baker, 2007; Tewksbury, 2005). The majority of registered sex offenders feel isolation, loss of close relationships, shame, embarrassment, hopelessness, and stress (Levenson & Cotter, 2005; Levenson et al., 2007; Tewksbury, 2005; Tewksbury & Lees, 2006). Although these studies focus on adult offenders, interviews with the parents of juveniles on the registry for consensual sexual activity suggest that juveniles are likely to have similar experiences (Conmartin, Kernsmith, & Miles, 2010). Psychologists have argued that these factors might have the iatrogenic effect of leading to *increased* recidivism (Letourneau & Miner, 2005). Why might this be the case? Juvenile delinquency is more likely to occur when "individuals' bonds to society are attenuated" (Sampson & Laub, 2005, p. 15), the chance of which might be increased by registration laws. Thus, the argument that sex offender registries will reduce juvenile offender recidivism is based on a potentially flawed assumption that these registries are effective.

Public Support for Sex Offender Registration Laws

Although empirical research has demonstrated that juvenile (versus adult) sex offenders recidivate less, and has *failed* to demonstrate that registry laws decrease sexual offenses, the assumption that there is high public support for these laws might deter politicians and policy makers from modifying them. The public is, in fact, strongly in favor of policies that require *adult* sex offenders to register and notify community members about neighborhood adult sex offenders (Caputo & Brodsky, 2004; Proctor, Badzinski, & Johnson, 2002; Redlich, 2001). For example, Levenson, Brannon, Fortney, and Baker (2007) found that 76% of community members surveyed believed that all adult sex offenders should be subject to community notification, and Phillips (1998) found that 80% of survey respondents believed that community notification laws are very important. This research suggests that a political platform built on being “tough on sex crimes” would be more popular with the public than policy that could be perceived as prioritizing concerns about offenders over potential victims (Chaffin, 2008). Does public support for the registry, in fact, extend to juvenile sex offenders—especially juveniles who engaged in less severe, consensual sexual activity with peers? If not, policymakers might feel more free to base their decision to support juvenile registry laws on social scientific evidence about the laws’ actual effectiveness (or lack thereof), rather than on the unsupported belief that the policies are effective at deterring recidivism and protecting the community.

The original philosophy of the juvenile justice system was rehabilitative (for review, see Reppucci, Michel, & Kostelnik, 2009), reflecting actual developmental differences that tend to render juvenile offenders less legally culpable than adult offenders (e.g., Cauffman & Steinberg, 2000). Following a shift toward increased punitiveness toward juvenile offenders in the 1990s (Levesque, 1996), public attitudes might now be shifting back toward treating juveniles more

leniently than adult offenders (Scott, Reppucci, Antonishak, & DeGennaro, 2006). This might not be the case for juvenile *sex* offenders. There are few studies that have assessed public support for sex offender registration for juveniles. One such study demonstrated that 86% of respondents agreed that a juvenile under the age of 18 who forced someone to have sex should be required to register, but the juvenile was perceived as less worthy of registration than adults who sexually abused children (Kernsmith, Craun, & Foster, 2009). This study's focus on a very severe juvenile sex offense and the confounding of age and offense limits our ability to draw conclusions about how the public reacts to registration for juveniles who commit less severe offenses based on consensual sexual activity among peers.

Research from our laboratories has assessed support for sex offender registration for juveniles more directly. For example, we demonstrated that family law attorneys support registry laws less for juveniles than for adults, but that prosecutors and laypeople support juvenile and adult sex offender registration equally in the abstract—even though they perceive juveniles as generally less threatening than adults (Study 1; Salerno, Najdowski, et al., 2010). The public's support for juvenile registration laws might be an artifact, however, of how they are typically asked about these laws, and might not apply to all types of cases. In support, the participants in this study were asked about applying sex offender registration laws to juvenile offenders in the abstract, without being given a specific case example. Laypeople are less supportive of registry laws, however, when they envision less severe cases—either spontaneously on their own, or when they are asked to think of a less severe case (Salerno, Najdowski, et al., 2010). Thus, community members support registration much less for juveniles who commit less severe (e.g., consensual sex between same-aged peers) as opposed to severe sex offenses (e.g., violent rape). Because, in many states, registry laws are mandatory for a broad range of sex offenses—

including less severe offenses committed by juveniles—these laws are therefore not in line with public sentiment. For example, Stevenson and colleagues (2009) found that most community members do not support public on-line registration for a 15-year-old boy in a case involving mutually desired oral sex with an underage girl (legally defined as statutory rape).

Thus, although there is strong support for adult sex offender registration, support for juvenile registration is ambiguous. For adult offenders, the appropriateness of registration is relatively unambiguous—these are the type of cases for which the registry was designed. For *juveniles* who engage in less severe offenses (e.g., sexual activity with their peers), however, the basis for judgments about whether registration is appropriate is more ambiguous. For example, consider a 12-year-old juvenile who mooned 6-year-old children (Trivits & Reppucci, 2002), a 16-year-old juvenile sentenced to life-long registration for having sex with a minor within a committed relationship (Human Rights Watch, 2007), or teenagers texting each other naked photographs of themselves (*A.H. v. State of Florida*, 2007). They have technically committed sex offenses, but they do not represent the prototypical dangerous offenders for which registries were created. Because of the ambiguity surrounding the application of sex offender registration laws to juveniles in these types of cases, the public's support for these laws might be particularly vulnerable to biases against juveniles from stigmatized groups.

Juvenile Offender and Victim Factors

Although blatant prejudice has declined, certain situations can elicit subtle prejudice against stigmatized groups, especially in ambiguous situations (Dovidio & Gaertner, 2002). For example, people exhibit less helping behavior toward African Americans when the appropriateness of helping is more ambiguous and less obvious as compared to when it would be normatively inappropriate not to help (e.g., Frey & Gaertner, 1986). That is, people usually

adhere to normative egalitarian standards when situations clearly dictate them, but when situations are more ambiguous and standards are less clear, biases tends to emerge. The ambiguity generally surrounding whether sex offender registration should be applied to juveniles might set the stage for biases to influence judgments in these cases. Specifically, juveniles might be at greater risk of being required to register when they belong to stigmatized groups compared to non-stigmatized groups, and conversely they might be at lesser risk of being required to register when their victims are from stigmatized as compared to non-stigmatized groups. In fact, research has shown that juveniles accused of nonsexual crimes are perceived differently depending on factors such as the juvenile's race or own history of experiencing abuse (for review, see Stevenson, Najdowski, Bottoms, & Haegerich, 2009). Next, we review a set of recent studies, which each identify a stigmatized characteristic of offenders and victims (i.e., race, socio-economic status, abuse history, sexual orientation) that can influence public support for applying sex offender registration policies to juvenile sex offenders.

Race

Legal decision making research has revealed evidence of a racial bias against African American offenders, such that African American adults (see Sweeney & Haney, 1992, for review) and juveniles (e.g., Bridges & Steen, 1998; Stevenson & Bottoms, 2009) are sometimes perceived more negatively and treated more harshly than their White counterparts. This seems to be true particularly when Black defendants are accused of sexual crimes against White victims (e.g., Bottoms, Davis, & Epstein, 2004; Klein & Creech, 1982). Stevenson and colleagues (2009) tested whether race has similar effects on public support for juvenile sex offender registration. Community member participants read a vignette describing a 15-year-old boy who received “consensual” oral sex from a girl of the same age. The boy's and girl's race were manipulated by

describing them as African American or Caucasian and by using race-consistent names (i.e., Tyrone or Jacob for the boy and Shaniqua or Elizabeth for the girl). Participants were marginally more supportive of registration when the defendant and victim were different races (i.e., a Black defendant with a White victim and a White defendant with a Black victim) than when they were the same race (i.e., a Black defendant with a Black victim and a White defendant with a White victim). These results suggest that public support for registration in the context of sex crimes described as consensual may be affected by racial biases directed, not just at the offender, but at interracial relationships. Specifically, the authors theorized that in the context of an ambiguously serious sex crime (i.e., described as consensual sex), some participants might perceive it as a crime, whereas other participants might view it as normative adolescent activity. Yet, because interracial relationships are still perceived as more deviant and less normative than same-race relationships (e.g., Ross, 2005), it is likely that participants perceived the sex crime as more like a true crime when it was interracial than when the adolescents were the same race. In other words, these results might reflect lingering societal disapproval of interracial relationships.

Socioeconomic Status

Public perceptions of criminal offenders are also influenced by offenders' socioeconomic status (SES). For instance, a study of mock jurors' perceptions of a juvenile charged with robbery and murder found more convictions when the juvenile was described as coming from a low- versus middle/high-SES background (Sorenson & Stevenson, under review). To test whether such a bias would also emerge in cases involving juvenile sex offenders, Sorenson-Farnum, Stevenson, and Skinner (2011) presented participants with a vignette describing a 15-year-old boy convicted of forcibly raping a 15-year-old girl. The SES of both the boy offender and girl victim were varied from low-SES to middle-SES. Participants' support for requiring the

boy to register as a sex offender was not affected by his SES, but participants were more supportive of registration as an outcome when the girl victim was described as coming from a low-SES background (i.e., her family made \$19,000 annually) as compared to a middle-SES background (i.e., her family made \$65,000 annually). Participants made more uncontrollable attributions for a defendant's behavior (e.g., "he couldn't help himself") and expressed less desire for retribution when he raped a middle-SES girl than a low-SES girl, and in turn, supported registration less.

History of Abuse

Because approximately one-third of juvenile sex offenders have themselves been sexually abused (for review, see Worling, 1995), we also examined how juvenile sex offenders' own abuse histories affect public support for registration (Stevenson, Najdowski, Salerno, Wiley, & Bottoms, 2012). First, we found that community members approximated that 65% of juvenile sex offenders have been sexually abused as children, which is nearly identical to community members' estimates for adult sex offenders (Levenson et al., 2007), but more than twice as high as actual prevalence rates (31%, Worling, 1995). Many participants also, in turn, assumed that experiencing sexual abuse is a precursor for sex offending. When we asked about juvenile sex offenders in the abstract (i.e., when they are asked about juvenile offenders in general, without being given a specific case to think about), the extent to which participants believed that sexual abuse leads to sexual offending was associated with reduced support for registering juvenile sex offenders. When we asked about juvenile sex offenders in specific cases, however, the effect of juveniles' own histories of abuse on participants' registration support depended on the type of sexual offense committed. Consistent with how participants responded to abstract cases, juvenile sex offenders' own abuse experiences had a mitigating effect on registration support in cases

involving more severe offenses (e.g., forced rape), but an *aggravating* effect in cases involving *less* severe offenses (e.g., statutory rape). These results are consistent with our prior research showing that people who are asked about sex offenders in the abstract tend to imagine offenders who commit heinous crimes (Salerno, Najdowski, et al., 2010). We suggest that in the context of more severe offenses, a juvenile's history of abuse might elicit sympathy and reduce registration support, but in the context of less severe offenses, a juvenile's history of abuse might make otherwise normative sexual behavior seem sexually deviant and increase registration support. This would conflict with laws mandating that a history of abuse be used as a mitigating factor in juvenile cases (e.g., Juvenile Court Act, 1987).

Sexual Orientation

The ambiguity surrounding the application of sex offender laws specifically to juveniles might also lead to the manifestation of anti-gay biases in judgments about juveniles engaging in consensual sexual activity with their peers. Salerno, Murphy, and Bottoms (2012) tested whether people would support harsher registry punishments for gay versus straight juveniles who engaged in consensual sex with a minor (i.e., a peer) and engaged in sexting behavior with an under-aged peer (Salerno, Murphy, & Bottoms, 2012). For adult offenders, participants showed no sexual orientation bias, recommending similarly high rates of registration for straight as gay adults. In the more ambiguous context of juvenile offenders, however, participants were significantly more likely to support harsher registry laws when the juvenile engaged in gay versus straight consensual oral sex with a minor. We conceptually replicated this finding in a second study, finding that when a boy sent a sexting message, participants were significantly more likely to support harsher punishments when he was gay versus straight. This anti-gay bias

did not, however, replicate for girl offenders: When a girl sent a sexting message, participants were marginally *less* likely to support harsher punishments when she was gay versus straight.

Summary

Our research indicates that public support for juvenile sex offender registration can be influenced by characteristics of the offender, victim, or a combination of the two. This raises the question of whether registration requirements are applied fairly in actual cases. The public's subjective biases against stigmatized offenders and victims might be more likely to manifest in more ambiguous cases involving juveniles engaging in less severe, consensual sexual activity, compared to less ambiguous cases involving adult offenders. The one study that included an adult offender control group indicated that biases emerged only for juvenile sex offenders, not for less ambiguous adult offender cases (Salerno et al., 2012). It is also noteworthy that the public is not a singular entity but rather composed of individuals who vary along a multitude of factors which might influence registry support. For example, Stevenson and colleagues (2009) found that White women supported registration more than White men when the juvenile sex offender's victim was portrayed as White (and thus similar to perceivers' race), but this effect did not emerge when the victim was portrayed as Black. Thus, future research could explore how citizens' characteristics shape their support for juvenile registration.

Psychological Motivations Driving Support for Juvenile Sex Offender Registration

Finally, what motives drive public support for juvenile sex offender registration policy? In a series of studies, we have identified psychological mediators that explain, in part, why the public supports juvenile registration. Specifically, Salerno, Najdowski, et al. (2010) found that community members who read about more severe offenses (compared to less severe offenses) perceived the offender as more of a threat and reported feeling more moral outrage toward the

offender, which both in turn increased support for registering the juvenile. In other words, both utilitarian concerns for protecting society (perceived threat) as well as retributive desires to punish the offender (moral outrage) emerged as significant mechanisms explaining how the public's reactions to juveniles influenced their support for registration.

In two other studies, we uncovered evidence that biases associated with race and sexual orientation are typically driven by retributive desires for punishment (e.g., moral outrage), rather than utilitarian desires to protect society. Specifically, as we described earlier, Salerno and colleagues (2012) found that participants supported registration more for a less serious crime (i.e., consensual sex) when the two juveniles were the same gender than when they were of the opposite gender. This anti-gay bias was driven by moral outrage toward the offender, such that they were more morally outraged at a gay versus straight offender, which in turn led them to be more likely to support harsher registry laws. Similarly, Stevenson et al. (2009) found that greater registration support for interracial juvenile sex crimes (compared to same-race sex crimes) was significantly mediated by a retributive desire to punish the offender. Neither the anti-gay bias nor the bias against interracial relationships was driven by a utilitarian desire to protect society, however. Biases against gay youth and interracial sexual activity appear to be driven by a desire to punish the offender rather than protect society—a goal that is antithetical to the stated legislative purpose of registration policy.

Conclusion and Policy Implications

Research regarding the psychological issues surrounding the application of sex offender registration policies to juveniles whose offenses do not fit the spirit of these laws is timely and important. For example, many news stories report public debate about the prosecution of teenagers for consensual sexual activity. Despite the fact that sexting behavior is common among

minors (Strassberg et al., 2012), it meets the legal criteria of child pornography and leads to prosecution and registration of juveniles as sex offenders in many states (e.g., *A.H. v. State of Florida*, 2007; for review see Eraker, 2010). Although questioning the application of sex offender laws to juveniles is not a popular thing to do, it is important to do so because this issue influences many adolescents in this country—particularly those from stigmatized groups.

Our review of the literature reveals several important points relevant to public policy regarding juvenile sex offender registration. First, in many states, registration for juvenile sex offenders is mandatory and judges may not exercise discretion based on offense severity (Salerno, Stevenson, et al., 2009). Our data suggest that sentencing juveniles to sex offender registration for less severe offenses is not in line with public sentiment. Second, although it seems like a significant step in the right direction to allow states more discretion, it is worth noting that our data suggest that support for applying sex offender registration laws to juveniles can be biased against stigmatized offenders and victims. Thus, granting discretion might place juveniles who belong to stigmatized groups at greater risk of being registered than other juveniles—even if they commit the same offense. Third, one of the purposes of the sex offender registry is to deter potential offenders from committing crimes for which they might be registered. Our data suggest that most young adults are either unaware of or hold incorrect beliefs about the possibility of juvenile sex offender registration and that the less aware they were, the more likely they were to have committed registration-worthy offenses when they were minors. Thus, efforts made to deter juvenile offenders through policy might be futile unless coupled with efforts to educate juveniles about these policies.

Since SORNA became a law in 2006, a number of public commentators, advocates, and academics have identified problems associated with the application of its guidelines to juvenile

sex offenders. Although additional legislation has not been enacted, administrative guidelines have addressed some of the more problematic provisions. For example, the Department of Justice's Supplemental Guidelines, released in 2011, explicitly (a) provided jurisdictions with the discretion to determine whether a juvenile sex offender's information need be publicly disclosed, (b) clarified the intent of the law to require registration only for juveniles who commit the most serious kinds of offenses, and (c) indicated that there is no requirement to register juveniles for lesser offenses wherein the criminality depends on the age of the victim (Supplemental Guidelines for Sex Offender Registration and Notification, 2011). As of the writing of this chapter, SORNA is being considered for reauthorization (HR 3796). Assuming that SORNA is reauthorized, it is important to keep in mind that, although SORNA sets *minimum* guidelines for states, states are free to enact harsher rules. In other words, states are free to be more inclusive of juveniles in their guidelines—as long as they meet the minimum requirements of SORNA, they are considered compliant. The history of SORNA illustrates that policy can be influenced both legislatively and administratively. For advocates who wish to influence the policy process, it will be important to observe how individual states enact this law and to be proactive in providing lawmakers with information about how to apply registration laws to juveniles in developmentally appropriate ways.

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Footnotes

¹We use the term “consensual” while acknowledging the social, moral, and psychological difficulties of defining the age at which adolescents are capable of giving consent to sexual activity.