

Federal Standards for Community Registration of Juvenile Sex Offenders: An Evaluation of Risk Prediction and Future Implications

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The enactment of the Adam Walsh Child Protection and Safety Act in 2006 is an extension of current protective legislation aimed at establishing stricter sanctions for community-released sexual offenders. What largely separates the Adam Walsh Act from previous registration and notification laws is the crossing of traditional jurisdictional boundaries between adult and juvenile courts at the federal level. This article addresses several key concerns relating to the application of these federal standards to adolescent offenders. In addition to a review of the extant literature, we present findings from an exploratory evaluation that examines the ability of the Adam Walsh Act's classification system to predict future offending among a sample of 112 adjudicated juvenile sex offenders over a 2-year outcome period. Results indicate that offenders who met criteria for registration did not reoffend (sexually or nonsexually) at a significantly higher rate than those who did not meet registration criteria. Implications regarding appropriate risk assessment and management of youth sexual offenders are discussed.

Keywords: juvenile offenders, sex offender registration, risk prediction, sexual recidivism

Since the 1990s, the number of known sex offenders has increased more rapidly than any other criminal population with the exception of drug-related offenders (Conroy & Murrie, 2007). The increasing numbers of sex offenders has led to a number of philosophies concerning the nature of sexual offending, and subsequent legislative efforts aimed at reducing the risk of sexual violence in the community. For example, many states have enacted laws relating to the registration, confinement, and ongoing treatment of convicted sex offenders.

Of particular concern is the application of sex offender registration policies to juvenile perpetrators. It is estimated that nearly 20% of sexual assaults, including forcible rape, involve an offender under the age of 18 (Federal Bureau of

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Investigation, 2010). Given statistics like this, it is not surprising that youth offenders have been swept up in the popular public safety trend of community notification. However, the inclusion of juveniles in such legislation appears to be driven by misperceptions of children and adolescents who engage in sexually deviant behavior. Additionally, registries that provide demographic and legal information of youth offenders arguably violate traditional objectives unique to the juvenile justice system.

The Adam Walsh Child Protection and Safety Act of 2006 is the first body of legislation that federally mandates certain juveniles to appear on public registries. As the full enactment of this law among the states will likely increase the number of juveniles required to register, it is important to understand the potential impact of this change on the juvenile justice system and those involved. It is also important to examine whether the Adam Walsh Act is poised to achieve its primary objective of preventing continued sexual offending among those previously convicted of sex offenses.

This paper begins with a review of sex offender registration and notification laws in the United States, including the latest addition to the federal standards and its application to juvenile sex offenders. Next, we discuss trends in normative youth sexuality, highlight important risk factors for sexual and nonsexual reoffending, and evaluate current literature on the effectiveness of juvenile registration. We then present findings from an exploratory analysis examining the ability of the Adam Walsh Act to identify high-risk youth offenders and predict sexual recidivism. A discussion of policy implications and recommendations for effectively managing this population follows. We argue that the Adam Walsh Act, with its inclusion of youth offenders, is based on assumptions that are empirically unfounded and contradict historical philosophies regarding the treatment of juvenile offenders.

Emergence of Sex Offender Registration and Notification Laws

Before the 1930s, several states passed what were then called the *sexual psychopath laws*, or *mentally disordered sex offender laws*. Such laws targeted adult sexual offenders who constituted the highest risk to society. These offenders were eligible for special sentencing provisions that involved diversion into a treatment program for an indeterminate length (Witt & Conroy, 2009). This type of indefinite confinement and treatment remained the dominant paradigm in the United States for several decades.

Beginning in the 1970s, perceptions on how to manage sex offenders changed in the eyes of policymakers and mental health professionals. Unlike the sex offender laws of earlier years, ensuing legislation was adopted primarily as public safety measures rather than attempts to rehabilitate offenders. The “second generation” of laws burgeoned from an opinion given by a committee of the Group for the Advancement of Psychiatry, which suggested that specialized sentences for sex offenders that emphasized treatment programming did not work, and were neither necessary nor constructive. Although these laws also focused on long-term civil commitment of sexually violent individuals, they were aimed at extending the incapacitation of high-

risk offenders who completed their criminal sentences (Jackson, Rogers, & Shuman, 2004). Sexually violent predator statutes—as they are now referred—currently exist in 18 states and the District of Columbia (Witt & Conroy, 2009).

During the late 1980s and 1990s, a new method of helping society deal with postrelease sexual offenders was introduced. Particularly poignant, high-profile cases spawned a series of state and federal laws aimed at protecting communities, specifically children, from sexual predators by establishing registration requirements, notification provisions, and sanctions for community-released offenders. In honor of a missing 11-year-old boy believed to be the victim of a sexual assault, a federal sex offender registration statute—known as the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program Act—was passed as part of the Violent Crime Control and Law Enforcement Act of 1994 (also called the 1994 Omnibus Crime Bill; Martin, 1996). This Act sought to protect communities from sexually violent predators by providing law enforcement with up-to-date information regarding the addresses (including home and work) of convicted sexual offenders for the remainder of their lives. By the mid-1990s, all 50 states had enacted laws mandating persons convicted of certain statutorily designated sex offenses to register with local authorities upon release from incarceration (see Boardman & DeMatteo, 2003).

States legislators soon went beyond simply requiring the registration of released sex offenders in law enforcement databases. In response to the well-publicized abduction, rape, and murder of 7-year-old Megan Kanka by a twice-convicted sex offender living anonymously in the public, New Jersey became the first state to add a notification component to its legislation (DeMatteo, 1998). In addition to a registration requirement, nationally enforced “Megan’s laws” allow for the disclosure of personal information (e.g., physical description, place of employment, vehicle license plate number) of postrelease sex offenders to statutorily designated entities and members of the local community, with the scope of the notification determined by the risk level of the offender. Additionally, offenders are mandated to periodically verify and update their registry data. Registered offenders who have committed only one sex crime less serious than aggravated sexual assault, and have not reoffended for a period of at least 15 years after their conviction can appeal to the state superior court to terminate their registration period (Trivits & Reppucci, 2002).

The enactment of the Adam Walsh Child Protection and Safety Act in 2006, also named in memoriam of a child murder victim, is an extension of these protective measures, and a testament to the legislative and public support they continue to receive (Jackson et al., 2004). In a public opinion survey, 83% of respondents believed that community registration policies were an effective strategy in reducing sexual offending, and approximately half of those surveyed indicated that they would continue to support such laws even if there was no scientific evidence demonstrating that registration actually reduces the risk of sexual offending (Levenson, Brannon, Fortney, & Baker, 2007). Federal legislators capitalized on this public support by enacting stringent requirements for the management of sex offenders.

Application of Sex Offender Registration to Juveniles

Although the application of registration laws to adult offenders is highly favored in public and political domains, the inclusion of juvenile sex offenders on community registries has been a long-standing debate among legislative decision-makers and mental health providers. Despite growing opposition (see Craun & Kernsmith, 2006; Trivits & Reppucci, 2002), juvenile sex offenders are increasingly included in registration and notification procedures. Before the Adam Walsh Act, 32 states mandated juveniles adjudicated of a sexual offense to register. However, many jurisdictions placed special provisions on youth offenders (e.g., reduced time periods of registration, registration waivers and petitions for removal, multiple offenses before registration) (Trivits & Reppucci, 2002).

Traditionally, the juvenile justice system has maintained a rehabilitative approach to dealing with youth offenders. Whereas criminal court seeks to establish culpability and impose a commensurate punishment, the primary goal of juvenile court is to address identified targets for treatment that will reduce the risk of continued antisocial behavior. Another major difference between the adult and juvenile court systems is the level of public disclosure regarding litigation proceedings. Congruent with the nonpunitive philosophy of the juvenile system, confidential and private delinquency adjudications are generally considered an important element in protecting youth from public scrutiny. However, during in the latter part of the 20th century, the landscape and public opinion of juvenile crime began to change. Fueled by persistent media attention to violent youth crime and school violence, the legal system's response to juvenile delinquency followed a trend toward treating children as criminals, rather than as malleable individuals more amendable to treatment than adults (Redding, Goldstein, & Heilbrun, 2005). Registration policies that include juveniles are further support of this philosophical shift.

The Supreme Court of the United States has held that registration requirements are not punitive measures and instead are civil mechanisms intended to protect the public from identified sex offenders (*Smith v. Doe*, 2003). Nevertheless, legislation that includes child or adolescent sex offenders seemingly contradicts the historical rehabilitative intention of the juvenile court by violating confidentiality and creating stigmatization (Trivits & Reppucci, 2002; Wilson, 2006). Many mental health professionals argue that public registration will greatly hinder intervention efforts, and some evidence even suggests an increased likelihood of sexual and general recidivism by creating barriers to the successful reintegration of youth offenders (Letourneau & Armstrong, 2008). The already complex treatment needs of juvenile sex offenders may be exacerbated by verbal or physical aggression by peers, poor quality of education (e.g., through placement in alternative school settings, denial of college admittance), or employment restrictions that result from public disclosure of their offense history. A federal appellate court has even recognized the potential for adverse outcomes. In *United States v. Juvenile Male* (2010), Chief Justice Reinhardt of the United States Court of Appeals for the Ninth Circuit admitted that “[public registration of juveniles] seriously jeopardizes the ability of such individuals to obtain employment, housing, and education” (p. 935). Furthermore, treating juveniles as adults neglects extant research highlighting clear differences in the neurological, cognitive, and

social development of youth that limit their culpability for criminal behavior (Letourneau, Bandyopadhyay, Sinha, & Armstrong, 2009).

Overview of the Adam Walsh Act (AWA)

According to a Congressional Research Service Report, the Adam Walsh Act (AWA) serves four purposes (Doyle, 2007). First, it revises the federal standards for sex offender registration at the national, state, and local levels with the goal of creating a more cohesive, inclusive, informative, and accessible online public notification system. Second, the AWA amends federal criminal law and procedures for convicted sex offenders. Such amendments include randomized search authority over community-released offenders, the addition of new federal crimes that may qualify an offender for registration (e.g., production of obscene material, child exploitation enterprises), and tighter penalties for committing a federal sex crime and failure to comply with sanctioned registration requirements. The above regulations are detailed under Title I of the Act—known as the Sex Offender Registration and Notification Act [SORNA]. Third, the AWA is designed to revive and modify several government grant programs that fund prevention efforts, law enforcement, and treatment programming for sexual crimes committed against children. Lastly, the AWA promotes a variety of administrative initiatives in the interest of child safety.

The minimum standards of the AWA were required to be implemented at the state level by July 27, 2009, but most states have not yet been approved to implement their legislation. Before implementation, jurisdictions are required to submit a proposal to the U.S. Attorney General that outlines how the AWAs provisions will be carried out. The Attorney General then reviews and gives final approval regarding whether the proposal meets federal compliance. Failure to substantially comply with the AWA will result in a 10% reduction in government funding. However, each state may apply for an extension not to exceed 2 years. At the time of this writing, only four states (Ohio, Delaware, Florida, and South Dakota) have received federal approval to begin implementing the AWA standards in their jurisdictions (National Conference of State Legislatures, 2010). According to a national survey (The National Consortium for Justice Information & Statistics, 2009), many states are experiencing barriers to federal compliance. The most frequently cited factor (reported by 50% of states) impacting the decision to comply with the AWA was the Act's juvenile registration and reporting requirements. Other major concerns were related to the cost of program set-up and maintenance (e.g., additional staff, background check logistics, regular verification updates, retroactive application to certain offenders), overly restrictive guidelines that conflict with state constitutions, and transforming from a risk-based to a conviction-based assessment.

Unlike prior registration laws, the AWA utilizes a unique method of classifying sex offenders. Offenders are divided among three Tiers according to the severity of their crimes. Each Tier varies in the length of registration, ranging from 15 years for Tier I offenders to life for Tier III offenders. Under certain conditions, offenders may be eligible to have the registration period shortened. Tier I offenders and individuals classified as Tier III through a juvenile adjudication may be terminate their registration status after 10 and 25 years, respec-

tively, if they have maintained a clean record since their original offense. Federal guidelines do not permit registration reductions for offenders classified as Tier II or III resulting from an adult conviction (National Conference of State Legislatures, 2009). Other provisions, such as the frequency of probation or parole visits and changes to the registry profile (e.g., reappearing for new photographs), also depend on the classification of an offender. Regardless of class status, the AWA mandates those who register to provide their name, social security number, name and address of employers, name and address where they attend school, license plate numbers and vehicle descriptions, a copy of their driver's license, a physical description, fingerprints, palm prints, a DNA sample, the law under which they were convicted, criminal arrest records, outstanding warrants, and any supervisory release violations (Doyle, 2007).

The scope of the AWA also differentiates it from previous legislation. Rather than leaving the inclusion of juveniles to the discretion of each state, the AWA federally mandates that certain youth adjudicated of a sexual offense be required to register on public notification forums. Specifically, the Act states that all juveniles who commit a misconduct that qualifies as a Tier III classification (i.e., the offense is comparable to or more severe than *aggravated sexual assault* as defined by 18 U.S.C. § 2241, 2006) and are 14 years of age or older at the time of the misconduct will be subject to registration under the AWA for a period of 25 years to life (Doyle, 2007). It should also be noted that the federal definition of *aggravated sexual assault* includes any offense in which the perpetrator knowingly engages in a sexual act with a person younger than 12.

The underlying assumption of the AWA is that juveniles classified as Tier III offenders present the greatest risk to society and should therefore be subject to the same penalties as adult sex offenders. However, there are two main concerns relating to the inclusion of youth offenders at the federal level: (1) the shift from a treatment to a punitive model for adolescents and children who sexually offend, and (2) the abundance of research suggesting that juvenile sex offenders typically have low rates of recidivism for both sex and nonsex crimes (Caldwell, 2007; Gurley et al., 2009; Wilson, 2009). Although the AWA seeks to include only the most severe youth offenders, it nonetheless creates the potential to falsely categorize risk and, in turn, could compromise effective rehabilitation for delinquent youth. This concern is, of course, not unique to the AWA; any attempt to classify offenders according to risk-level introduces the possibility of false positives.

Normative Youth Sexuality

Before considering the literature on juvenile sex offenders specifically, it is important to understand the nature of normative sexuality among youth in the context of the AWA assumptions. By implying that registered juvenile sex offenders demonstrate a continuous risk to recommit sexual offenses over a long period of time, registration laws suggest that sexual misbehavior of these youth is atypical and a function of a stable personality trait. However, research does not substantiate such conclusions (Caldwell, 2002). Based on Caldwell's comprehensive literature review (2002), sexual behavior that is often defined as illegal is common among youth.

Over one third of the children and adolescents surveyed in the 1997/1998 National Longitudinal Survey of Youth (NLSY) (U.S. Department of Labor, 2000) reported engaging in sexual intercourse before they were of legal age.¹ In another survey of over 6,000 nonoffending youth, ~5% of 12- to 13-year-olds reported at least some sexual activity including intercourse (Waylen, Ness, McGovern, Wolke, & Low, 2010). In many states in which noncoerced peer teen sexual activity falls under the mandatory child abuse reporting laws (often referred to as Romeo and Juliet laws), the meaning of committing a sexual offense becomes difficult to interpret.

With the rise of technology-based forms of social networking, another outlet for sexual behavior is coming to the attention of parents, school administrators, and legal decision-makers. So-called “sexting” is the practice of sending or posting sexually suggestive messages or images via cellular phones or the Internet. A recent review reported that ~20% of American teenagers have sent explicit photographs of themselves through their cell phones or posted the images on a Website (Bowker & Sullivan, 2010; Sullivan, 2011). This phenomenon has sparked some debate as to whether these teens should be considered registered sex offenders. Although “sexting” clearly represents inappropriate sexual conduct, its increasing popularity brings up an important policy-relevant question: Is this behavior truly representative of criminality and indicative of future reoffending, or is it a product of normative sexual and social exploration? Depending on the types of sexual misconducts that states define as *aggravated sexual assault*, sexting may be considered an act of child pornography and, therefore, a Tier III offense. In many cases of sexting, charging a juvenile with a sexual crime—possibly resulting in registration—is a gross overreaction (Bowker & Sullivan, 2010). As such the AWA has the potential to inappropriately include normative youth not at risk for continued sexual offending on sex offender registries.

Risk Factors for Juvenile Sex Offending

Juvenile sex offenders seem to share similar characteristics, yet they remain a highly heterogeneous group (Chaffin, 2008). Common characteristics include exposure to violence or conflict within the family, abuse or neglect, and moderate levels of psychopathy (Wieckowski, Hartsoe, Mayer, & Shartz, 1998). Despite individual differences, researchers have tried to identify a set of risk factors associated with recidivism among this population.

Some factors appear to be more strongly related to sexual recidivism than general recidivism; however, findings across studies are not always consistent in terms of relationship strength or even whether such a relationship exists. The inconsistency in predicting sexual recidivism may be because of the typically low base rates of these events among this population. As with other low base rate events, sexual recidivism among juvenile sex offenders is difficult to predict. Juvenile sex offenders are six times more likely to reoffend nonsexually than sexually (Caldwell, 2002), with general recidivism rates falling between 58 and 78%, and sex-specific recidivism rates falling between 14 and 29% (Langstrom,

¹ The legal age of sexual intercourse may vary across jurisdictions.

2002; Rasmussen, 1999). The range of these rates demonstrates the inconsistency of outcomes found across different samples of sex offenders.

Family history, mental health characteristics, and prior offending have emerged as common categories of risk factors for general recidivism among juvenile sex offenders. However, it is important to note that these risk factors are also commonly found among juvenile offenders who do not commit sex offenses, which adds to the difficulty of identifying which youth are at increased risk for sexual offending. Calley (2007) suggests that the families of these offenders are typically disorganized and unstable, including such events as divorced or separate parents (Rasmussen, 1999), parental incarceration, and substance abuse. Certain psychiatric traits also appear to be prevalent among this population. Psychopathic traits, antisocial personality features, and Conduct Disorder before age 15 have all been found to predict nonsexual or violent reoffending in youth who sexually offend (Gerhold, Browne, & Beckett, 2007; Langstrom, 2002). Additionally, several studies have shown that juvenile sex offenders with a record of other violent offenses are more likely to reoffend than those with no history of this behavior (Gerhold et al., 2007; Langstrom, 2002; Rasmussen, 1999).

Risk factors for sexual recidivism fall into similar categories as those for general recidivism. Having a prior history of sexual offending is the most common risk factor for sexual recidivism among juvenile offenders (Gerhold et al., 2007; Langstrom, 2002; McCann & Lussier, 2008). Contrary to general reoffending, however, sexual recidivism predictors tend to be more dependent on the characteristics of the offense and the victim. For example, Langstrom (2002) suggests that those who have committed a sex offense in a public area are at an increased risk of sexual recidivism compared to those who offended privately. Additionally, research shows a positive correlation between number of victims and recidivism risk (Gerhold et al., 2007; Rasmussen, 1999). Rasmussen's (1999) findings also demonstrate that "juvenile sexual offenders are more likely to commit additional sexual offenses if they have molested multiple female victims than if they have molested a single female victim or multiple male victims" (p. 81), suggesting that the victim's gender also has implications for sexual recidivism. Risk level also seems to increase when the offender has no association or familiarity with the victim (Gerhold et al., 2007; Langstrom, 2002; McCann & Lussier, 2008). Finally, the age of the victim has predictive utility. For example, McCann and Lussier (2008) found that larger age discrepancies between the offender and victim make it more likely that an individual will continue to offend sexually. All of these factors (both general and sexual) help create a profile of juvenile sex offenders who may be more likely to reoffend. Despite the predictive validity of certain risk factors, it is essential to consider heterogeneity and individual traits when determining potential risk (DeMatteo, Batastini, Foster, & Hunt, 2010). Mandatory registration of juvenile offenders fails to recognize this diversity by placing adjudicated youth in a one-size-fits-all paradigm.

Consequences of Juvenile Registration

Misperceptions Concerning Appropriate Treatment

Finding effective interventions for juvenile sex offenders is a difficult task for criminal justice and mental health professionals, and it continues to be a focus of

research efforts (Borduin & Schaeffer, 2002; Fanniff & Becker, 2006). Despite the lack of consensus regarding best practice, several treatment modalities have stood out as yielding some degree of effectiveness. Treatment outcome studies suggest that changes in the areas of cognitive distortions, sexual knowledge, attitudes toward sexual behavior, and self-esteem can reduce juvenile sexual reoffending (Eastman, 2004).

Multisystemic therapy (MST), a technique that addresses various interpersonal systems in which the youth is involved (e.g., family, peers, school), has demonstrated effectiveness in reducing criminal activity among juvenile sex offenders across several outcome studies (Borduin, Henggeler, Blaske, & Stein, 1990; Borduin & Schaeffer, 2001; Henggeler, 1999). For example, Borduin and colleagues (1990) found that youth who received MST had recidivism rates of 12.5% for sexual and 25% for nonsexual offending compared to 75% for sexual and 50% for nonsexual offending among youth who received individual therapy alone. Another study comparing MST to routine community services for chronically violent juveniles showed that 39% of the MST group and 20% of the comparison group had not been rearrested following treatment (Henggeler, Melton, Smith, Schoenwald, & Hanley, 1993).

Various brands of cognitive-behavioral therapy (CBT) used in combination with other interventions have also shown improvements in samples of juvenile sex offenders (Fanniff & Becker, 2006). For example, one study combined CBT with relapse prevention techniques, and found that the treatment group had significantly lower sexual and general recidivism rates compared to treatment drop-outs and a comparison condition (Worling & Curwen, 2000). Specifically, the treatment group had sexual recidivism rates of 5%, violent nonsexual recidivism rates of 19%, and nonviolent general reoffense rates of 21%, compared to 18, 32, and 50% for the comparison group, respectively. Incorporating psychosocial education, group therapy, and behavioral management into treatment programs also seems to lower levels of sexual recidivism, with rates remaining stable for a number of years after treatment (Hagan & Gust-Brey, 2000). Walker, McGovern, Poey, and Otis (2004) provide some additional support for these approaches in their meta-analysis of 10 studies that examined the effectiveness of adolescent sex offender treatments; studies involving CBT yielded effect sizes ranging from .39-.77, the MST study yielded an effect size of .54, and the psychosocial education study yielded an effect size of .65.

This synthesis of extant literature suggests that youth who sexually offend are capable of being rehabilitated with the appropriate combination of techniques similar to those used for other treatment groups (offender and nonoffender). Thus, the assumption that juvenile sex offenders need specialized treatment seems unwarranted. Not only does this misconception go against the original philosophy of the juvenile justice system, but it also makes little intuitive sense given existing research. Adhering to the standards outlined in the AWA may compromise efforts to effectively treat delinquent youth and increase public safety.

Risks to Positive Development

Faulty assumptions about juvenile sex offenders, combined with public outcry over high-profile offenses, appear to be the basis for these harsher sanctions and

more punitive measures (Letourneau & Miner, 2005), which often bring about unintended negative consequences that seemingly override their purpose. Although registration and notification policies are aimed at community protection, they also pose substantial risks to the developmental, social, and psychological stability of these youth.

Long-term registration for juveniles inhibits their ability to become productive members of society by diminishing social bonds and placing restrictions on employment, housing, and education (Enniss, 2008; Letourneau & Miner, 2005). These youth are also often subjected to physical and emotional harm through criticism and threats by peers and neighbors, making them easy targets for those who feel justice has not been served (Enniss, 2008; Letourneau & Miner, 2005). Furthermore, permanent public stigmatization and greater likelihood for exclusion from the community opposes the way other juvenile offenders are treated. Under these strict registration policies, youth are actually more likely to reoffend because important ties with mainstream society are broken (Chaffin, 2008; Letourneau & Armstrong, 2008) and their opportunities for success are greatly limited. These iatrogenic effects are troubling, yet they receive little attention from legislators and policymakers.

The consequences of registration may also preclude youth who evidence sexually inappropriate behavior from seeking adequate treatment. For example, parents and caregivers of these youth might not want to address problem behaviors or seek out help for fear that their child will be required to register (Enniss, 2008). This suggests that instances of sexual misconduct (e.g., inappropriate touching) may become increasingly under reported. Additionally, youth who show early signs of risky, though not necessarily illegal, sexual behaviors (e.g., obsession with private parts) that could lead to later sexual offending may not get the preventative help they need. The opportunity for rehabilitation is overshadowed by stigmatization and, as a result, youth are no longer encouraged to make amends, engage in more positive behaviors, and move on with their lives (Enniss, 2008).

The Effectiveness of Juvenile Registration Policies

Although research is limited, studies generally show that (1) juvenile sex offending is not correlated with adult sexual offending (Nisbet, Wilson, & Smallbone, 2004; Zimring, Piquero, & Jennings, 2007); (2) juvenile sex offenders do not typically have higher rates of sexual recidivism than juveniles arrested for nonsex related crimes (Caldwell, 2007; Kahn & Chambers, 1991); and (3) most importantly, current registration policies do not deter future sex crimes or specifically reduce recidivism in this juvenile population (i.e., registered youth are just as likely to reoffend sexually as nonregistered juvenile offenders; Caldwell & Dickinson, 2009; Caldwell, Ziemke, & Vitacco, 2008; Letourneau & Armstrong, 2008; Letourneau et al., 2009).

Zimring, Piquero, and Jennings (2007) found that the best predictor for adult sex offending was frequency of offending as a juvenile ($p < .001$), regardless of whether those offenses were sex-related. A chi-square analysis indicated that males with alleged juvenile sexual offenses were not significantly more likely to have future alleged sexual offenses than males with alleged nonsexual juvenile

offenses. Additionally, the odds ratio indicated that those who had a juvenile sex offense were unlikely to have any type of adult criminal record. This longitudinal study examined 6,127 boys and girls from three birth cohorts followed for 20 to 30 years. Based on these findings, the authors predict that policy efforts focused on deterring recidivism in juvenile sex offenders alone will miss 90% of individuals who eventually grow up to commit sex crimes as adults, and will misidentify 90% of juvenile sex offenders as future adult sexual predators. This lack of sensitivity and specificity is troubling. If 90% of juvenile sex offenders are falsely labeled as high-risk for sexual recidivism in adulthood, then juvenile registration policies may increase the number of youth who face unwarranted societal isolation and stigma early in life. In time this social disconnect may spur psychological distress, which can increase criminal activity in those with a history of offending (Cottle, Lee, & Heilbrun, 2001).

Letourneau and Armstrong (2008), in the first study examining the effects of a U.S. registration policy on juvenile sex offenders matched with nonregistered controls ($N = 111$), found that registration may have this detrimental effect. Pairs were matched based upon demographic and offense characteristics, and were followed for a mean of 4.3 years. Registered youth were found to be significantly more likely to commit nonperson offenses into adulthood, with 85% higher odds of recidivism for these types of crimes. It is unclear, however, if the consequences of registration status alone lead to higher rates of nonperson offenses, or if registration is actually successful in identifying juveniles who are at a higher risk to commit these types of offenses. Further, only 2 out of 222 (0.9%) juveniles in the total sample recidivated sexually; both events were committed by registered youth. This rate was too small to support between-groups comparisons. Letourneau et al. (2009) replicated the findings from the above study by comparing the effects of the South Carolina sex offender registration policy on 574 juvenile male sexual offenders and 701 nonregistered juvenile sex offenders over a 9-year follow-up period ($N = 1275$). The primary outcome variables were new sexual offense charges and adjudications. Results showed that registration status did not have a statistically significant effect on the risk of new sexual offense adjudications. Given the findings from these studies, registration policies seem to be targeting a relatively low risk group of juvenile offenders who might not benefit from the tight restrictions (e.g., increased surveillance, public notification) that accompany registration (Letourneau & Armstrong, 2008).

Other research has also provided support for the ineffectiveness of lifetime registration policies for juveniles to serve their intended purpose (i.e., to correctly identify high-risk sexual recidivists). Caldwell et al. (2008) found that the SORNA criteria not only failed to accurately identify high-risk offenders and sexual recidivists, but also designated low risk offenders as appropriate for lifetime registration and community notification. Another study that examined the effects of the AWA classification system in states with active SORNA protocols (Harris, Lobanov-Rostovsky, & Levenson, 2010) found a significant difference between newly classified "high-risk" offenders and those designated as high risk under prior legislation, suggesting that the Tier system may be disproportionately placing lower-risk offenders into the highest risk category. These findings suggest that the criteria being used may result in a greater risk to community safety and

increased risk of reoffense because the appropriate individuals are not being targeted.

Furthermore, many psychological tests aimed at assessing risk factors for juvenile sex offenders do not seem to share concurrent validity. Caldwell et al. (2008) examined the SORNA Tier classification registration system compared to the Juvenile Sex Offender Assessment Protocol-II (J-SOAP-II; Prentky & Righthand, 2003; Righthand et al., 2005) and three state-developed risk assessment protocols, including the New Jersey Registrant Juvenile Risk Assessment Scale (JRAS; Office of the Attorney General of New Jersey, 2006), the Texas Juvenile Sex Offender Risk Assessment Instrument (TJSORAI; Texas Department of Criminal Justice, 2005) and the Wisconsin Guidelines for Release of Confidential Information on Persons Committing Sex Offenses as Youth (Wisconsin Department of Corrections, 2006). Results from this study showed that the SORNA tiered inclusion system had no significant relationship with the J-SOAP-II scale or with the Texas or Wisconsin risk measures, but was statistically significantly related to the New Jersey JRAS. Arguably the most concerning finding, however, was that none of the state developed risk measures, the J-SOAP-II or the SORNA criteria significantly predicted new general or sex offense charges among the 265 juvenile males in the study's sample. Interestingly, of the measures included in this study, only the SORNA Tier system was able to predict new charges for violent offenses, but the offenders captured by the Tier III designation had a lower rate of new violent offense charges than their nontiered counterparts. Overall the results from this study showed a lack of construct validity among these assessment approaches, and no measure significantly and reliably predicted sexual or general reoffense charges among adolescent sex offenders.

Another possible outcome of registration policies is its effect on court proceedings and decision-making. For example, registration status has been found to alter judicial decision-making by perhaps unintentionally decreasing the likelihood of prosecution. Letrouneau et al. (2009b) examined prosecutors' decisions and final disposition outcome for 5,166 juvenile sex offenders in South Carolina. Results showed that for sexual offense charges, there was a 41% reduction in the odds of a prosecutor moving forward after a juvenile sex offender was registered, within a narrow 95% confidence interval of 37–52%; registration was found to be a statistically significant predictor for the odds of moving forward with sexual charges ($p < .001$).

If the intention of juvenile registration policies is based upon flawed assumptions, and if these policies do not accomplish their purported effects (i.e., identify high risk offenders, deter future offending), then it is necessary to revisit the question of whether such legislation makes sense. Although the research on juvenile sex offending is limited, the available literature does not support the status quo, and it appears that more research is necessary to justify the use of juvenile registration for sex offenders.

Purpose of Current the Study

The purpose of this study was to supplement the existing (albeit limited) literature by providing some additional insight into the effectiveness of the AWA in identifying high-risk offenders and subsequently reducing future sexual offend-

ing. This study prospectively evaluated the ability of the SORNA classification system to predict future sexual and nonsexual offending among juveniles. The primary research question was whether juvenile sex offenders who satisfy the criteria for registration according to the AWA standards (i.e., classified as Tier III) actually present a higher risk for reoffending than juvenile sex offenders who do not satisfy registration criteria. In line with previous findings, sexual and general reoffense rates were not expected to differ between registered and nonregistered juveniles. We also examined overall rates of recidivism regardless of registration status. It was expected that general reoffending would occur more frequently than sex-specific reoffending, but that recidivism rates would be low for both categories of offenses (sexual and nonsexual). Lastly, this study aimed to survey the proportion of juveniles adjudicated of a sexual offense who would likely be mandated to register after the enactment of the AWA.

Method

Data and Procedure

Data for this study were derived from a larger database containing demographic, criminal history, and treatment information on male and female youth who were adjudicated for a sexual offense through juvenile court and mandated to participate in a cognitive-behavioral, outpatient program in Western Pennsylvania. This program uses a standardized intervention model delivered by trained clinicians that focuses on treatment targets identified for adolescent sex offenders, such as parent/child interactions, healthy social functioning, psychological well-being, and sexual offense prevention (e.g., normative sexuality, victim awareness). In addition to individual psychosocial therapy, offenders must complete a step-work program designed specifically for youth sex offenders. This component is implemented by a special division of the juvenile probation unit. Involvement in the collaborative program typically lasts between 7 and 15 months. For families who provide formal consent to participate in research, legal data are collected annually from juvenile and adult court records up to 2-years after discharge from the program.

A separate, de-identified dataset containing only consented adolescents was created for the purposes of this study. This secondary database included the following variables: offender age at the time of offense, victim age at the time of offense, original adjudication, and recidivism rate. Recidivism was defined as at least one arrest in juvenile or adult court occurring within 2 years posttreatment. If a juvenile was arrested for multiple offenses, and any of those offenses were sexual in nature, the juvenile was considered a sexual recidivist. Participants were subsequently categorized as either satisfying or not satisfying the SORNA registration standard (i.e., Tier III classification). For this study, participants were classified as a Tier III sex offender if they were at least 14 years old at the time of the offense and carried an original adjudication of: (a) Rape, (b) Statutory Sexual Assault, (c) Involuntary Deviant Sexual Intercourse, (d) Sexual Assault, (e) Aggravated Sexual Assault, or (f) any offense in which the offender engaged in a sexual act with a victim under 12 years of age. The list of Tier III offenses was created by two research assistants who independently matched state definitions cited in the Pennsylvania Sex Crimes Code to the federal definition of

Aggravated Sexual Assault outlined in 18 U.S.C. § 2241 (2006). Interrater agreement on this task was 100%.

Participants

As of October 2009, follow-up data were recorded for 112 male youth between 10 and 19 years of age ($M = 14.59$, $SD = 2.04$). Although female sex offenders are also mandated to this treatment program, a large majority of referrals are male. None of the female offenders involved in treatment gave consent to participate in research; therefore, the current study only includes male offenders. The sample consists of 51 (45.5%) White and 61 (54.5%) minority offenders. The most frequent original adjudication among offenders was Indecent Assault² ($n = 74$; 66%). Table 1 presents additional data on offense type at initial adjudication. Because of missing data (i.e., age of victim or original adjudication unknown), four participants could not be included in group comparisons. Using a sample of 108, 67 juveniles (62%) met Tier III classification, while 41 juveniles did not.

Results

Including the 108 juveniles in both study conditions, the overall rate of recidivism regardless of offense type was 16.7% ($n = 18$). The prevalence of nonsexual reoffending among the sample was 14.8% ($n = 16$); only 2 of the 108 offenders were arrested for a sex-specific crime, yielding a sex-offending recidivism rate of less than 2%. Of the 67 juveniles who met SORNA registration criteria, 10 (15%) reoffended at least once within 2 years after discharge from treatment: 9 were arrested for a nonsexual offense and 1 was arrested for a sexual offense. Of the 41 juveniles who did not meet SORNA registration criteria, 8 (19.5%) offended at least once within the 2-year follow-up period: 7 were arrested for a nonsexual offense and 1 was arrested for a sexual offense. Another participant, who was excluded from group comparisons because of missing data, was also arrested for a sexual offense. Of the 3 participants arrested for sexual offenses, 2 were arrested for Indecent Assault and 1 was arrested for Indecent Exposure. Nonsexual arrests for the total sample were varied, but generally nonviolent in nature. Offenses included Retail Theft, Unauthorized Use of an Auto, Reckless Endangerment, Disorderly Conduct, Fleeing Police, Resisting Arrest, Firearms Possession, and Criminal Conspiracy. One participant was arrested for Simple Assault.

To evaluate whether juveniles who satisfy the criteria for registration (i.e., classified as Tier III) under SORNA provisions are at a higher risk of reoffending than those who did not satisfy the registration criteria, two 2 (registration criteria met: yes, no) \times 2 (recidivism: yes, no) chi-square analyses were used. One chi-square test was conducted for any type of reoffending (i.e., sexual *and* nonsexual), and one chi-square was conducted for sex-only reoffending. The

² Indecent assault involves *indecent contact* with a complainant without the complainant's consent. The Pennsylvania Crimes and Offenses Code (1972) defines indecent contact as any touching of the sexual or other intimate parts of the complainant with the intent of arousing or gratifying sexual desire in either person.

Table 1
Frequency of Adjudicated Offenses by Type (N = 112)

Offense type	Frequency	Percent
Indecent assault	74	66.1
Involuntary deviant sexual intercourse	8	7.1
Aggravated indecent assault	5	4.5
Indecent exposure	5	4.5
Burglary	2	1.8
Open lewdness (criminal intent)	2	1.8
Rape	2	1.8
Sexual assault	2	1.8
Unlawful restraint	2	1.8
Aggravated indecent assault (criminal intent)	1	0.9
Criminal conspiracy	1	0.9
Harassment	1	0.9
Incest	1	0.9
Open lewdness	1	0.9
Rape (criminal intent)	1	0.9
Simple assault	1	0.9
Missing	3	2.5

chi-square test used to compare reoffense rates of any type indicated that juvenile sex offenders who met registration criteria ($n = 67$) did not offend at a significantly higher rate than offenders who did not meet registration criteria ($n = 41$), $\chi^2(1, N = 108) = .385, p = .599, \phi = .059$ [small effect size]. A chi-square statistic could not be used to compare sex-only recidivism among the groups because two cells had a expected frequency count of less than 5. Results of the Fisher's exact test for sex-only reoffending indicated that juvenile offenders who met AWA registration criteria did not significantly offend at a higher rate than offenders who did not meet those criteria, $p = 1.00$.

Discussion

This study represents a prospective attempt to evaluate the ability of the AWA criteria to predict reoffending in a sample of outpatient youth. The results showed no significant difference in reoffense rates between juveniles who qualified for registration and those who did not. This finding was true when groups were compared on both offense types (i.e., any reoffending and sex-only reoffending). Further, the overall recidivism rates for these juveniles, regardless of registration status, was low for sexual and nonsexual offenses. General reoffending was more frequent than sexual reoffending for both groups, but the base rate of any offending was low (as predicted). These rates of offending follow a trend that is consistent with the abundance of research indicating the low long-term risk of future sex crimes among youth offenders (e.g., Caldwell, 2002; Caldwell, 2007; Chaffin, 2008; Letourneau & Armstrong, 2008). Although not statistically significant, juveniles who did not meet registration criteria had a slightly higher recidivism rate than juveniles who met criteria (19.5 and 15%, respectively).

The results of this study add to the existing literature that fails to support registration policies as a valid and reliable method of identifying high-risk

juvenile sex offenders and predicting recidivism (e.g., Caldwell & Dickinson, 2009; Caldwell et al., 2008; Letourneau & Armstrong, 2008). In addition, this study estimates that the majority (62%) of adjudicated youth sex offenders will be mandated to register under the Tier classification system, despite a demonstrated low rate of recidivism among this population. This figure is consistent with that reported in previous research. For example, Caldwell and colleagues (2008) reported that ~70% of juveniles who commit sexual offenses would qualify for lifetime registration annually.

Study Limitations

Results of this study must be interpreted in light of several limitations. There are several aspects of the study that may limit its generalizability. First, it cannot be assumed that the sample is representative of all juvenile sex offenders. The sample consisted of outpatient offenders who typically have less severe adjudications than institutionalized offenders (Caldwell, 2002). However, using a sample of juvenile sex offenders incarcerated in a secure setting, Caldwell and Dickinson (2009) also found that registered youth recidivated at rates similar to those of unregistered youth. This seems to imply little differences between juveniles mandated to register and their nonregistered counterparts, regardless of offense severity. Congruent with this, Caldwell et al. (2008) provided evidence that the severity of sexual offenses does not reliably predict recidivism among a sample of criminally prone adolescent offenders. Second, participants in the current study underwent outpatient cognitive-behavioral treatment. Because this treatment modality has demonstrated therapeutic effects—particularly in combination with other components (e.g., Fanniff & Becker, 2006)—the results may not replicate in juvenile sex offender populations where specialized treatment services were not provided. Likewise, the results may differ in a group of institutionalized youth where more intensive sex offender interventions are offered. Third, the measure of recidivism used in this study (i.e., rearrest in juvenile or adult court) may be an underestimate of true reoffense rates. It is possible that some youth may have reoffended, but evaded additional legal contact. Furthermore, reoffense rates were calculated using a 2-year follow-up period. Whether these rates will remain low over time is uncertain. Lastly, the sample studied here was drawn from a single state. Although the implementation of the AWA will likely increase standardization of registration and notification laws, states may vary with regard to which sexual behaviors they consider illegal and which behaviors lead to a Tier III classification.

Another noteworthy limitation relates to the prospective nature of the study. The federal definition of “aggravated sexual assault” as applied to Pennsylvania has not yet been determined. The hypothetical definition based on federal standards may not accurately reflect what is ultimately outlined in the state legislation—Pennsylvania or otherwise. Longitudinal research after AWA implementation will provide a clearer picture of the types of offenses that will place youth offenders on public registries. However, given past research on registration requirements at the state-level (e.g., Letourneau & Armstrong, 2008) and the lack of judicial discretion afforded by the AWA, it seems unlikely that post hoc

research will yield different results. Further, in their study of active SORNA protocols, Harris et al. (2010) found that low-risk juvenile sex offenders may be disproportionately placed into the highest risk category. Thus, it seems that the hypothetical construct used here and federally approved legislation both fail to provide overwhelming evidence to support the inclusion of children and adolescents who sexually offend.

Policy Implications

Despite its limitations, the present study, as well as the limited research before it, calls into question the applicability of registration and notification requirements to juveniles, and may even suggest a detrimental effect (e.g., falsely categorizing risk, missing high-risk individuals). Unfortunately, despite the relatively robust data on youth sexual offending and emerging evidence that discredits the use of registration requirements for these offenders, well-intentioned but arguably misguided legislative attempts to protect the public continue to threaten the philosophical underpinnings of the juvenile justice approach, which had traditionally emphasized treatment over punishment (Chaffin, 2008). In an attempt to encourage reexamination of federal registration laws as applied to juveniles, and prevent risky changes in the legal treatment of youth offenders, we discuss several recommendations for policy reform.

If juveniles are to remain eligible for registration and notification requirements, such policies should reflect greater consistency with the traditional goals of the juvenile justice system, rather than applying adult sanctions without the benefit of adult proceedings to youth offenders (Caldwell et al., 2008; Letourneau et al., 2009). Although the effectiveness of registration laws for juvenile offenders was questionable even before the enactment of the AWA, many jurisdictions exercised at least some flexibility in the way registered youth offenders were treated (Trivits & Reppucci, 2002). However, existing legislation does not allow for judicial discretion in deciding which juveniles should be placed on national registries. The federal criteria outlined in the AWA are standardized, thus ignoring potentially relevant variables that may influence deviant sexual conduct. For example, factors that are not necessarily indicative of criminality, such as developmental maturity and the normative nature of the behavior (e.g., Romeo and Juliet relationships, sexting), may not represent reliable risk factors for future offending, yet youth adjudicated delinquent of any eligible offense will be required to register.

Several reforms to juvenile registration policies that will better serve the rehabilitative needs of youth offenders without compromising community safety have been suggested. First, Letourneau et al. (2009) propose that registration decisions should be dependent on the outcome of empirically validated clinical and actuarial violence risk assessments (e.g., the Structured Assessment of Violence Risk in Youth [SAVRY]; see Meyers & Schmidt, 2008), rather than specific adjudications. Relying on a uniform list of offenses to determine registration status overlooks individual and situational factors that are unique to children and adolescents. This approach may ultimately threaten public safety by limiting opportunities for effective treatment (e.g., MST, CBT, sexual education). Risk assessments conducted by trained mental health providers may yield a more

reliable and valid prediction of future offending than registration designation based solely on the underlying offense. Furthermore, research has not supported the Tier classification system as an effective measure for predicting new crimes (Caldwell et al., 2008). Well-informed evaluations of risk and protective factors are rich sources of data for identifying dynamic treatment needs and assigning the appropriate intensity of services to individual offenders (Andrews & Bonta, 1998).

In line with this recommendation, Caldwell (2002) suggests that a greater understanding of the different criminal career trajectories of juvenile sex offenders will strengthen the accuracy of mental health assessments in categorizing high-risk offenders. Becker and Kaplan (1988) anecdotally proposed three pathways, or typologies, of youth sex offenders. These include (a) complete desistance from crime, (b) continued nonsexual offending, and (c) continued sexual offending. Other researchers have described empirically supported subtypes of juvenile sex offenders (e.g., Langstrom, Grann, & Lindblad, 2000). Additional research in this area may further increase the likelihood of correctly identifying an offender's risk level far beyond the capacity of registration status.

Letourneau et al. (2009) also recommend that registration durations reflect the juvenile offender's developmental stage. They suggest probation as a possible alternative to long-term registration in the absence of new sexual offenses. Another approach may be to create a separate Tier system for juvenile offenders. Perhaps youth offenders could be classified as a Tier I, II, or III offender depending on certain factors, such as their appraised level of risk, age, and sexual offense history. For example, a first-time offender who was 14 years old at the time of the offense and was determined to be at low risk for future offending would likely qualify for Tier I classification—a punishment that carries a shorter registration term. However, it remains necessary to maintain certain restrictions (e.g., at least 14 years of age at the time of the misconduct) regarding which juveniles are subject to registration at any level. An adjustment to the system should not be equated with more liberal inclusion criteria.

The developmental differences between youth and adult offenders also highlight the need to either change the federal definition of *aggravated sexual assault* or apply a different standard for juveniles mandated to register. For example, recalling the components of this federal definition, *aggravated sexual assault* includes—but is not limited to—engaging in a sexual act with a person younger than 12 years of age. Although this is an important distinction for adult sexual predators, it seems less fitting to place such weight on the victim's young age when offenders themselves are so close in age and developmentally similar. This is particularly relevant in cases where sexual activity is consensual. Restructuring the definition may reduce the likelihood of disproportionately punishing low-risk, normative sexual behaviors. As a final developmental consideration, Caldwell and colleagues (2008) propose reducing the term of registration to the maximum age of juvenile court jurisdiction, which is typically 21 years old. All of these recommendations seem appropriate given the low base rate of juveniles who persist in pervasive sexual offending (Caldwell, 2007; Chaffin, 2008).

Another recommendation also warrants mentioning. Establishing federal guidelines that limit access to national registry data on youth sexual offenders may help set this group apart from chronic antisocial adults, while at the same time adhering more closely to the confidentiality principle of juvenile court. For instance, sharing information about adolescent sex offenders with organizations that service young children (e.g., daycare centers, summer camp programs, and pediatrician offices) is relevant from a community safety perspective. Conversely, sharing information without exclusions could jeopardize community safety. By minimizing public accessibility of registries, juvenile offenders are less susceptible to stigmatization effects. Reducing stigma presents greater opportunities for treatment, education, and employment that will likely lead to decreased future misconduct. However, the economic costs of maintaining higher security regulations are unknown.

Finally, Letourneau and colleagues (2009) advocate for the elimination of public notification requirements for juveniles. Once information is released publicly, it becomes permanent. This enduring quality not only violates juvenile justice philosophy relating to confidentiality, but also weakens the effectiveness of the aforementioned policy reforms. Nongovernment agencies, for example, that collect information from public registries might not update their records regularly. If shorter registration terms are adopted, data may still be available on youth who are no longer required to register (Letourneau et al., 2009). Because the empirical evidence to date, including the current study, consistently highlights the failure of registration and notification policies to successfully identify youth recidivists and improve public safety, the best policy reform may be no policy at all. It should be understood that this is not an argument for the removal of all policies regarding sanctioning and treatment of juvenile sex offenders. Rather, it is statement (albeit bold) designed to entice researchers and policymakers to consider moving away from scientifically unfounded, potentially adverse public registration and notification laws for adolescents who sexually offend.

However, withdrawing the application of these policies to juveniles would not be a simple task. First, legislators would need to decide how to handle offenders who are already listed on registries. For example, would the abolition of registration for juveniles be retroactive? If so, what procedures would be in place to ensure that existing registration and notification documents are permanently destroyed? Second, jurisdictions may face public protest because of the generally low acceptability of empirically supported evidence. It is often difficult to sway public opinion even when contradictory data is presented (Levenson et al., 2007). Third, and probably most importantly, an equally popular, more effective, replacement policy has not been proposed. Large overhauls of this kind can be burdensome and expensive, and it would take many individuals from multiple disciplines to accept the challenge of developing, testing, and campaigning for successful policies that appropriately target juvenile sex offenders. Whether efforts will be made to continue exploring positive outcomes of youth registration, or initiate a movement toward alternative methods for enhancing public safety remains unforeseen.

Conclusions

The fundamental philosophy and objectives of the juvenile system highlight the importance of addressing developmental differences of youth offenders and identifying needs-based rehabilitative interventions (Letourneau et al., 2009). However, despite contrary empirical evidence, the AWA assumes that adult and juvenile sex offenders can be grouped together, and that juvenile sex offenders who meet registration criteria should be treated differently than juveniles who do not meet such criteria (Caldwell et al., 2008; Wilson, 2009). The AWA facilitates the shift from treatment to punitive approaches for juveniles who sexually offend—a change that could compromise effective rehabilitation of delinquent youth. Through scientific data, it is clear that the implementation of federal juvenile registration statutes must be reassessed and, at best, reformed. The difficult task becomes how best to get the attention of policymakers so that public safety can be improved without ignoring the needs of youth offenders.

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