

Sex Offending

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Entry:

Sex offending

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1. What is sex offending?

There is much disagreement regarding the causes of sex offending, the probability of recidivism, and how to respond to perpetrators of sex offences. While some of this disagreement stems from theoretical and ideological preferences, much of it also surrounds a lack of clarity regarding the heterogeneity of what constitutes a 'sex offense'. For some, sex offenses are sexually motivated offending behaviors; for others they are illegal and harmful sexual behaviors that are not necessarily sexually motivated; yet for others they are more simply a subtype of violent crime. Such descriptions of sex offending are too vague and create much confusion about the nature and scope of sex offending. Sex offending is a complex social phenomenon that is historically, politically, and culturally determined. As a result, various institutions, sociopolitical movements, and victims' right advocates are responsible for identifying and defining social manifestations as sex offenses. This is exemplified by the plethora of overlapping terms used to describe sex offending, such as rape, sexual assault, sexual aggression, sexual violence, sexual coercion, sexual deviance, and so on. This abundance of terminology reflects the lack of a consensus between social institutions, policy and lawmakers, and so-called experts (see Bryden & Grier, 2011). In other words, these social constructions are far from being perfectly aligned with one another. Rather than reach a consensus across different institutions (e.g., criminal justice systems, mental health systems, educational systems), these institutions have constructed their own definitions and subsequent responses to this complex social phenomenon. Furthermore, because the scientific community often receives data on sex offending from these various sources, rather than help explain the nature and extent of the problem of sexual offending, researchers in large part have allowed institutions to define the phenomenon that they seek to understand.

From the early 20th century on, mental health institutions and psychiatrists contributed to the construction of sex offending as sexual deviance (or paraphilia), which comprised what is considered abnormal sexual urges, sexual thoughts and fantasies, sexual interests and preferences as well as sexual behaviors. Sexual deviance can be distinguished from behaviors that are legally defined as criminal behaviors or sex crimes. Sexual deviation implies some deviation from what society considers conventional and normative sexual behavior, whether in terms of the source of sexual interest (e.g., animals, objects, corpses, or human body parts as opposed to consenting humans) and age-appropriate sexual partners. From a psychiatric standpoint, not all sex crimes are sexually deviant behavior and vice versa. For example, while rape and sexual assault are sex crimes, they are not considered a paraphilia from a psychiatric standpoint although this is still a source of debating (Laws & O'Donohue, 2008). The specific behavioral manifestations of sexual deviance and sex crimes are bound to evolve and change over time. The recent history of perceptions of homosexuality in the Western world is an example of the evolving social construction of certain phenomena as sexual deviance and sex crimes. In the 1970s and 1980s, feminist movements around the western world challenged the legally-accepted definition of rape which lead to legal reforms that expanded the definition of sex crimes. In recent years, social justice movements further contributed to the recognition of certain social manifestations as sex offenses in the context of gender-power inequalities, especially in professional settings (e.g., university and college campuses, military, police force).

2. Conceptual issues in sex offending research

Given that sexual offending is a socially constructed phenomenon bound to change and evolve from one generation to another, this leads to important conceptual issues and challenges. In fact, research on sex offending, although abundant, is fragmented, disjointed, and often lacks meaningful consensus, making it difficult to draw firm conclusions on even basic questions, such as the prevalence of sex offending. In light of the absence of an agreed upon definition of what constitutes a sex offense and a comprehensive measure of sex offending, researchers have turned their focus to individuals having been labeled by social institutions as ‘sex offenders’ or ‘sexual deviants’ rather than studying the behavioural manifestations themselves. Not surprisingly, therefore, the three key institutions that have played a role in the definition and identification of certain social phenomena as sex offending are mental health institutions, the criminal justice system, and colleges/universities. In fact, we can distinguish three distinct traditions of research along these lines that are virtually independent of one another.

The first line of research has been conducted in psychiatric hospitals or treatment programs in psychiatric settings with individuals characterized by sexually deviant behavior. This line of research focused on the measurement, description and explanation of deviant sexual interests and deviant sexual preferences (e.g., pedophilia, frotteurism, sexual sadism, voyeurism). The second line of research has been conducted in prisons and penitentiaries with individuals having been convicted for a sex crime or sexually motivated offense (e.g., sexual homicide). This line of research focused on the description, prediction and explanation of the criminal careers (e.g., onset, frequency, persistence, continuity), sexual recidivism, and offending trajectories of these individuals (e.g., see Blokland & Lussier, 2015). The third line of research has been conducted in the community, especially on university and college campuses, with individuals having perpetrated or having been victim of sexual violence and abuse. This line of research focused on the prevalence of sexual victimization for a very specific sociodemographic group and the associated psychological consequences of such victimization. Together, these three lines of research have produced a very large body of scientific evidence that is not well integrated, and often characterized by mixed evidence and contradictory findings (see Lussier, McCuish & Cale, 2020).

Criminology and criminal justice research tends to focus on perpetrators of sex crimes, commonly referred to as “sex offenders”. The term ‘sex offender’ generally refers to legal criteria characterizing individuals convicted for a sex crime. Sex crimes, however, include a broad range of offenses from gross indecency and child pornography to rape and sexual assault. Therefore, the broad term “sex crime” masks important variations across types of sex crime, such as the nature of the behavior, level of seriousness, level of sexual intrusiveness, victim’s age and offender-victim relationship. There has been little empirical work done to conceptualize and operationalize these criminal behaviors into dimensions, which explains the continued reliance on the more generic term “sex crimes”. At a conceptual level, research suggests the presence of at least three distinct dimensions to these offending behaviors: (a) sexual violence and abuse; (b) sexual misconduct, and; (c) sexual exploitation (see Lussier & Beauregard, 2018). Perhaps the central feature that all these manifestations share in common is the victim’s lack of consent surrounding the behavior in question. Much of the empirical research conducted in criminology and criminal justice, however, has been limited to the dimension of sexual violence and abuse (e.g., rape, sexual assault, child molestation, sexual homicide), while sexual misconduct (e.g., sexual harassment) and sexual exploitation (e.g., sexual trafficking, child pornography) have been

relatively neglected. The focus of research on sexual violence and abuse might have contributed to the portrayal of all sex offenders as sexually violent offenders.

3. Measurement issues in sex offending research

Criminology and criminal justice research on sex offending is further complicated by several measurement issues. Criminological research has been overly focused on policy evaluation of strategies designed to prevent sexual recidivism. These strategies, in the form of “sex offender laws”, have included sexual psychopathy laws, civil commitment and sex offender treatment, sex offender registries and public notification laws, and housing restriction laws. While the objectives of these strategies differ considerably (e.g., retribution, rehabilitation, deterrence, protection of the public), the prevention of sexual recidivism has become a pivotal criminal justice indicator to determine their value. Sexual recidivism has been used to establish the risk of sexual reoffending for these individuals upon their return to the community following their release, but also to assess the impact of these crime prevention policies as to whether they help reduce sexual recidivism. Sexual recidivism is generally operationalized as a formerly convicted sex offender being re-arrested or re-convicted for a sex crime during some follow-up period. Criminological research on sex offending has relied on these official measures of sexual crime to assess the criminal behavior of individuals who have been convicted for a sex crime. In other words, criminological research on sex offending is seriously limited by its focus on officially designated sex offenders and their officially designated sex crimes.

The reliance on sexual recidivism as a pivotal measure for evaluative research is problematic for several reasons. The measurement of sex offending with official data is subject to the methodological and empirical issues characterizing official data on crime (e.g., dark figure of crime). Official data on sex offending are influenced by legal definitions and police and court practices that may significantly vary across jurisdictions but also across time and cases. Only a fraction of sex offenses are captured by the criminal justice system and the magnitude of this fraction is subject to much debate. Even then, due to a number of legal, procedural, and individual factors, there is an important attrition effect within the criminal justice system suggesting that only a fraction of sex crimes that are before the justice system actually lead to a criminal conviction (see Daly & Bouhours, 2010). Furthermore, legal labels assigned to sex crimes do not speak to the nature, seriousness, frequency and context of the offense. These issues create inherent problems when addressing the impact of crime prevention policies. While researchers acknowledge that sexual recidivism is an imperfect measure of sex offending, they have neglected the study of the extent of this imperfection and alternative measurement strategies that address these limitations.

The study of crime and delinquency has greatly benefited from the use of self-report data and self-reported crime and delinquency scales in criminological research. Not only have self-report data contributed to the understanding of criminal careers and offending trajectories, but also our understanding of etiological factors of crime and delinquency. Unfortunately, self-report scales of crime and delinquency rarely include items specifically related to sex offending, and when they do, the items are crude indicators, such as questions about the perpetration of “a sexual offense” or “a sexual behavior without consent”. Such questions encapsulate a broad array of possible behaviors that are associated with similar limitations of official measures of sex offending. The self-report of undetected sex crimes is subject to important moral, social, ethical, and legal issues and considerations, which influences its use for research purposes but also the validity and reliability of the data gathered using such methodology. For example, what are researcher

obligations in instances where a sex crime is perpetrated but undetected? Similarly, to what extent is it ethical to ask relatively intrusive questions about a person's sexual behaviors and preferences, especially when it comes to adolescents? While criminology and criminal justice research remains focused on evaluative research of crime prevention strategies, such research will remain relatively flawed without first seeking to advance the conceptualization and operationalization of sexual offending. Until this is done, research on sex offending will remain fragmented, disjointed, and ultimately the conclusions that can be drawn from research on this phenomenon will remain relatively simplistic and ineffective for promoting meaningful change.

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