

Getting Smarter on Sex Offenses & Youth:

A Resource Guide for Ohio Policymakers



SCHUBERT CENTER
FOR CHILD STUDIES



PURPOSE STATEMENT

We want to prevent sexual offenses from occurring. Most laws, including Ohio's, focus not on preventing sexual offenses, but on holding offenders accountable after a crime has been committed. While accountability is important, it does not prevent the initial harm and is only a temporary fix, at best. We seek to better address this issue by focusing attention on how best to intervene with youth who commit sex offenses.

The authors of this resource guide met over the course of one year and believe that Ohio can lead the country in an effort to truly prevent sexual violence by shifting its focus and resources to education, prevention, and treatment, and ensuring that developmentally appropriate, trauma-informed services for youth who commit these offenses and those who are victimized by them are consistently available throughout Ohio.

A great deal is known about sexual offending, much of which challenges popularly held beliefs. This guide compiles information about sexual offenses involving children, as victim and offender. This information, derived from scientific studies, should inform policymaking focused on prevention.



Q: Is there a difference between normative sexual behavior and abusive sexual behavior in childhood and adolescence?

A: Yes. Sexual behaviors and exploration are a normative part of child development. Although there is no definitive set of agreed-upon normal sexual behaviors throughout childhood, researchers generally agree that for behavior to be considered normative, children should be of similar ages and participation should be mutual.¹

Among preadolescent children, the most common sexual behaviors include self-stimulating behaviors, exhibitionism, and behaviors related to personal boundaries. Less commonly seen behaviors cross the line from normative when:

- those behaviors are not consensual;
- those behaviors are no longer in balance with other activities in preadolescents' lives;
- sexual activities become patterned rather than isolated events;

KEY TERMS

Throughout this guide, you will see words like **child**, **adolescent**, **youth**, and **juvenile**. Unless specified, those terms are used interchangeably in this document, to refer to people under age 18.

Know, however, that in clinical and treatment settings, “child” refers to pre-pubescent and “adolescent” to post-pubescent. And in the court system, a person may be considered a “child” or a “juvenile” until age 21.

- the child becomes preoccupied or obsessed with sexual activities; and
- the child becomes especially secretive and develops defensive strategies.

Among adolescents, sexual experimentation with adolescents of the same age is common, voyeuristic behaviors are common, and first consensual sexual intercourse will occur for approximately one-third of teens.

QUICK FACTS

- » The number of youth coming to the attention of police for sex offenses increases sharply at age 12 and plateaus after age 14. Early adolescence is the peak age for youth offenses against younger children.
- » A small number of juvenile offenders—one out of eight—are younger than age 12. Females constitute 7 percent of juveniles who commit sex offenses.
- » Most adolescent sex offenders are not sexual predators and will not go on to become adult offenders.
- » Most adolescent offenders do not meet the criteria for pedophilia and do not continue to exhibit sexually predatory behaviors.
- » Adolescent sex offenders are more responsive to treatment than adults. They do not appear to continue to reoffend into adulthood, especially when provided with appropriate treatment.

Sexual behaviors may raise flags when the reasons for engaging in sexual behaviors are not confined to curiosity and exploration, but serve as a coping mechanism for satisfying unmet needs, such as feelings of loneliness, isolation, fear, or anxiety. If force, coercion, or similar tactics are used to get another child to comply or participate, these behaviors cross an important line and become abusive.

Children with sexual behavior problems are a heterogeneous group; therefore, determining the appropriate response to non-normative behavior requires evaluating each instance.

Q: Does Ohio law distinguish between normative and abusive sexual behavior by children?

A: No. Ohio law does not consider normative adolescent behavior; instead, the law strictly applies the elements of adult crimes to the behavior of children and adolescents. Ohio's sex-offense laws are written with adult offenders in mind, and laws that enhance penalties based on the age of the victim often do not account for the age of the offender.ⁱⁱ Laws that recognize children as a class of victims in need of heightened protection because of their vulnerability and immaturity also cause normative juvenile sexual behavior to be treated as though it were adult sexual offending.ⁱⁱⁱ For example:

- Two 16-year-old high school students are dating and both agree to exchange nude or partially nude pictures ("sexting"). They are both subject to prosecution under Ohio's child pornography laws, which were written to prohibit adult pedophiles from creating, possessing, or distributing photographs of children.

Also consider the impact when the law treats juveniles and adults the same:

- A 14-year-old and a 12-year-old engage in sexual intercourse. In a separate incident, a 40-year-old and a 12-year-old engage in sexual intercourse. In both cases, no force is used, although the 12-year-old cannot legally consent in Ohio. Both the 14-year-old

and the 40-year-old would be prosecuted under Ohio's strict-liability statutory rape statute, a first degree felony that carries potential lifetime registration as a sex offender.

Do you think the 14-year-old and the 40-year-old should be treated the same way?



Q: Are juvenile sex offenders and adult sex offenders different?

A: Yes. Children classified as juvenile sex offenders are “decidedly different” from adult sex offenders.^{iv} Adults and juveniles who sexually offend differ in the number of offenses committed, the type and duration of relationships between victims and offenders, the types of acts committed against victims, and the use of force.

There is little evidence to support the assumption that juvenile sex offenders are simply younger versions of adult sex offenders. Rather, juvenile sex offenders more closely resemble juveniles who commit non-sexual delinquent acts, exhibiting risk factors associated with poor supervision and communication within their families, and involvement with delinquent and substance-abusing peers.^v

Where sexually delinquent youth differ from other delinquent youth is in their higher rates of sexual abuse victimization, exposure to sexual violence, exposure to nonsexual abuse or neglect, social isolation, early exposure to sex or pornography, anxiety, and low self-esteem.

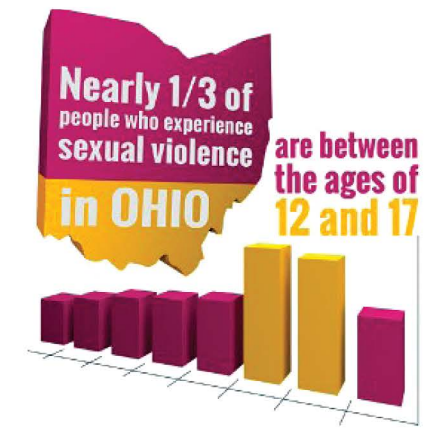
Q: Do child victims receive effective support?

A: No and yes. Unfortunately, not all areas of Ohio have rape crisis centers, child advocacy centers, and trauma-informed therapists and counselors with expertise in this area. Additionally, not all families can afford counseling and may have other barriers, such as transportation, that affect their ability to access services.

It is important that children who experience sexual abuse are provided with access to trauma-informed counseling that will aid in their healing. Since many cases of child sexual abuse occur within families, other members of the family may also benefit from counseling. It is essential that competent, caring adults are involved in monitoring the situation and ensuring that child victims are as safe as possible from further victimization.

When a case goes through the criminal justice system, victims of child sexual abuse and their families may receive information and support through the victim advocate of the county prosecutor's office. The advocate can answer questions about the criminal justice process, provide information about the status of the case, and offer emotional support to the child and their family members.

Ohio's rape crisis centers provide free and confidential advocacy and support to survivors and co-survivors of sexual violence. Rape crisis



centers are uniquely equipped to help survivors navigate the health-care and criminal justice systems, and provide compassionate, non-judgmental support at any point in a survivor’s recovery process.

Q: Can we effectively assess the risk of juvenile sex offending behavior?

A: Yes. Research has identified factors that contribute to juvenile sexual offense recidivism and informed the creation of widely-used tools in the field of juvenile sexual offender assessment, including the Estimated Risk of Adolescent Sexual Offense Recidivism (ERASOR) and the Juvenile Sexual Offender Assessment Protocol-II (J-SOAP II). These instruments and the larger comprehensive risk assessment process help point providers toward the targets of treatment, rather than being indicators that another offense will or will not occur.

QUICK FACTS

- » About 90 percent of children who are victims of sexual abuse know their abuser; only 10 percent are abused by a stranger.
- » Approximately 30 percent of children who are sexually abused are abused by family members.
- » The younger the victim, the more likely it is that the abuser is a family member. Of those molesting a child under six, 50 percent were family members.
- » Family members also accounted for 23 percent of those abusing children ages 12 to 17.
- » About 60 percent of children who are sexually abused are abused by people the family trusts.

Assessments are done for several reasons: to provide documentation of what offense has occurred and the mental health needs of the young person being assessed; to provide a written assessment of possible risk factors that can be shared among those involved in the treatment and legal aspects of the juvenile's life; and to provide recommendations about the treatment and supervision needs of each client.

Q: Should there be consequences for juvenile sex offending?

A: Yes. Any time one person's behavior harms another, there should be consequences for that behavior. Sexually harmful behavior needs to be addressed and treated as the serious problem it is. Any response must hold the juvenile accountable and ensure steps are taken to reduce the risk that the harmful behavior will happen again, and the severity of the consequences should be based upon the individual child. With juveniles, there is an opportunity to stop behaviors from reoccurring; appropriate treatment can stop behavior from becoming entrenched.

Intervention, treatment, or diversion programs are generally the most effective way to address juvenile sex offending. However, criminal consequences for child and adolescent sex offending behavior may not be appropriate for all youth and may adversely impact normal development, worsen the likelihood of effective intervention, and ultimately undermine future public safety.

Q: Can we effectively treat juvenile sex offending behavior?

A: Yes. Juvenile sex offenders respond well to treatment and do not recidivate sexually at high rates. Research has demonstrated that juvenile sex offenders who receive treatment recidivate sexually at a rate between 3-12% (significantly lower than the recidivism rates of other delinquent youth). Treatment should be guided by a risk assessment, and include:

- an estimate of the possibility of harmful consequences recurring without supervision or treatment interventions;

- a focus on antisocial behavior, healthy and unhealthy relationships and attachments, family dysfunction, substance use, personal trauma, patterns of thinking and beliefs, and other criminal behavior; and
- how the young person interacts with and responds to the treatment environment, including learning style, motivation, and treatment relationships.

REGISTRIES FOR YOUTH

Most stakeholders agree: sex offender registration requirements are confusing, complicated, and extremely difficult to follow.

Timeframes for registering are firm, and can be challenging for registrants and demanding on sheriffs who may only have a registration officer available one day per week.

The failure to register on time can result in new felony-level charges. Juvenile registrants who have turned 18 are charged with felony offenses as adults and receive adult convictions and prison sentences for failing to strictly abide by the requirements of their juvenile registration. Consequences are severe: imprisonment for up to 11 years and fines of up to \$20,000.

Thousands of registrants are incarcerated for technical violations, not because they pose a continuing danger to the community: at the time this resource guide was written, 2,415 individuals were incarcerated in Ohio for technical parole and other violations accompanying prior sex offenses, and 508 individuals were in prison for failure to register.

Treatment must also be developmentally-appropriate and trauma-informed, include information about healthy sexual decision-making and relationships, build upon strengths the young person already possesses, and address the needs of each adolescent rather than trying to apply adult techniques to the treatment of adolescent offenders.

Q: Is the juvenile sex offender registry an effective tool for public safety?

A: No. Researchers investigating the public safety impacts of registering juveniles have found no discernible effects on sexual recidivism.^{vi}

Educational attainment, stable employment and housing, and the development and maintenance of pro-social relationships are known to greatly decrease the likelihood of recidivism. The juvenile sex offender registry often disrupts these positive forces that can help ensure a child's success and ensure community safety.

Treatment professionals who work with juvenile sex offenders report several negative consequences from registration, including mental health problems, social harassment and unfair treatment, disruption in education, housing instability including homelessness, disruption in caregivers, and exposure to criminal sanctions for failing to comply with registry requirements.^{vii}

Children required to register are more likely to feel mistreated by the criminal justice system; to be placed in an out-of-home setting; and to experience school problems, including being required to switch schools, not being able to attend school, and not being allowed to participate in extracurricular activities.

Social isolation, anxiety, and low self-esteem are factors that distinguish juveniles who sexually offend from children who commit non-sex delinquent acts. The impacts of the juvenile sex offender registry can actually exacerbate these and other risk factors for recidivism. ■

» RECOMMENDATIONS «

For children and adolescents, education is key to prevention. Rather than dedicate so much of the state's limited resources to criminal sanctions and a registry system that is largely ineffective and counterproductive, a more effective approach is found in education, prevention, assessment, effective intervention and treatment, and victims' services.

Given these facts, we urge Ohio policymakers to:

- » Recognize the individuality of both the victim and the offender, and allow each to access the treatment and services most likely to repair the harm suffered and prevent future abuse.
- » Decriminalize normative child and adolescent sexual behavior, focusing instead on the assessment and treatment of problematic behaviors.
- » Scale back Ohio's ineffective, costly juvenile sex offender registry and redirect financial savings to creating a statewide network of research-supported education, prevention, and treatment services for victims and offenders.
- » Acknowledge that child sexual abuse affects more than just the offender and the victim, and ensure access to developmentally appropriate and trauma-informed treatment, counseling, appropriate family reunification and supervision, and other supportive services for each child's circumstances.
- » Move away from Ohio's current focus on punitive responses to sexual offending after the fact and dedicate resources to preventing sexual violence from ever occurring. ■

AUTHORS AND CONTRIBUTORS

Jill Beeler, Director of Appellate Services,
Office of the Ohio Public Defender

Kari Bloom, Legislative Liaison,
Office of the Ohio Public Defender

Amy Borrer, Director of Policy & Outreach,
Office of the Ohio Public Defender

Gabriella Celeste, J.D., Policy Director, Co-Director,
Childhood Studies Minor, Schubert Center for Child Studies, Case Western
Reserve University

Tyffani Monford Dent, Psy.D.,
Licensed Psychologist/Trainer/Consultant

Katie Hanna, Executive Director,
Ohio Alliance to End Sexual Violence

Nancy Radcliffe, Sexual Assault Services Director,
HelpLine of Delaware and Morrow Counties

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ⁱ See <http://www.stopitnow.org/ohc-content/tip-sheet-23> for a tip sheet of age-appropriate sexual behavior.

ⁱⁱ“Most adolescents are not sexual predators nor do they meet the accepted criteria for pedophilia.” Chaffin, Mark, Barbara L. Bonner, and Keri Pierce, National Center on Sexual Behavior of Youth, *What Research Shows About Adolescent Sex Offenders*, July 2003, citing American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders* (4th Edition).

ⁱⁱⁱ See <http://www.oesv.org/wp-content/uploads/2012/12/Ohio-Age-of-Consent-Fact-Sheet.pdf> for a fact sheet on the age of consent in Ohio.

^{iv} Harris, Andrew, Scott Walfield, Ryan Shields, and Elizabeth Letourneau. *Collateral Consequences of Juvenile Sex Offender Registration and Notification: Results from a Survey of Treatment Providers*, *Sexual Abuse: a Journal of Research and Treatment* 1-22 (2015).

^vId.

^{vi} Caldwell, M. F., & Dickinson, C. (2009). Sex offender registration and recidivism risk in juvenile sexual offenders. *Behavioral Sciences & the Law*, 27, 941-956.; Caldwell, M. F., Ziemke, M. H., & Vitacco, M. J. (2008). An examination of the Sex Offender Registration and Notification Act as applied to juveniles: Evaluating the ability to predict sexual recidivism. *Psychology, Public Policy, and Law*, 14, 89-114.; Letourneau, E. J., Bandyopadhyay, D., Sinha, D., & Armstrong, K. S. (2009). The influence of sex offender registration on juvenile sexual recidivism. *Criminal Justice Policy Review*, 20, 136-153.

^{vii}*Raised on the Registry: The Irreparable Harm of Placing Children on Sex Offender Registries in the U.S.*, Human Rights Watch (2013).

This publication was supported in part by Grant No. 2015-SW-AX-0024 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, finding, conclusions, and recommendations expressed are those of the authors and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

Published April 2016