



Desistance from Sexual Offending: A Policy and Research Agenda Whose Time Has Come

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FINAL AUTHOR VERSION

RUNNING HEAD: Introduction

Desistance from sexual offending: A policy and research agenda whose time has come

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In the last decade, desistance from crime has emerged as a critical theoretical concept, an important policy theme, and a challenging research question with important implications for crime prevention. Up to this point, desistance from crime has been understood as a relatively sudden event by some as well as a gradual process leading to the termination of a behavior by others. Whether desistance from crime is sudden or a gradual process that takes time and includes lapses and relapses remains to be clarified empirically. To date, however, criminological research on desistance has been focused on youth involved in serious, chronic juvenile delinquency and their transition into adulthood. Aging, maturity, entry into the labour force, access to adult roles, a good loving partner and developing a more future-oriented perspective are some of the key factors that have been identified for young adults on a life course path away from crime (e.g., Kazemian, 2014). Research has shown that the importance of some of these factors, however, have been somewhat overstated by theorists (e.g., see Blokland & Nieuwebeerta, 2005). It has also shown that there is a multiplicity of offending trajectories all of which are characterized by varying desistance patterns that are difficult to reconcile with some of the explanatory factors proposed, suggesting among others things, the presence of several pathways out of crime. Researchers have also started to observe that, in adulthood, offending is often intermittent where periods of nonoffending are intertwined with periods of offending implying that desistance from crime may be a more elusive phenomenon than generally described in the scientific literature. In that regard, some have even used depicted adult offending as relatively unpredictable zigzags (Laub & Sampson, 2009).

Desistance, in the context of sexual offending, represents serious challenges from either ethical or legal as well as theoretical or policy perspectives. In relation to the former, a host of ethical and legal issues surrounding empirical research with this hard-to-to-reach population

(such as the nature of their offending and the associated possible “emotional harm” to the participants as well as the researchers in recalling details of their offenses; the risks of disclosing the identities of the participants; the risks of participants relapsing into offending by recounting their offending past; the risk of participants making further disclosures about other offending behaviour; and risks to the personal safety of the researchers) have traditionally made such research “high risk” and subject to rigorous research governance protocols.

In relation to the latter, since the 1990s, media coverage of high profile cases of sexual recidivists, the growing availability of empirical and statistical information, as well as a certain sense of urgency to clarify the impact of sex offender treatment, contributed to the emergence of a research agenda aiming to estimate the persistence of sexual offending. Since this time, research has been heavily focused on the description, prediction and more recently, explanation of persistence of sexual offending. Researchers in the field generally recognized that over a five-year period, between 10 to 15 percent of individuals will be rearrested and charged again for a sexual offense, leaving between 85 to 90 percent of this group not charged again for this type of crime during the same time period. Some individuals might have committed another sexual offense without being caught and apprehended for it. Some will be charged again for sex crime, though some years later. Even the studies with the longest follow-up period, that follow the same cohort of people over twenty plus years, rarely show recidivism rates beyond the 35 percent mark. It is unclear what proportion of nonrecidivists are “false negatives.” However, this situation is unlikely to characterize all, or even most, of these situations given the level of supervision, control, and management these individuals are subjected to upon community reentry. Some individuals might have been involved in a nonsexual crime that may or may not have been sexually motivated. In all likelihood, some of these individuals return to the community without committing another sexual offense. They might struggle with deviant sexual fantasies, urges, and behaviors, without committing a sexual offense but the majority of them will not experience these

inner struggles because their sexual offending was not the result of a sexual disorder, a deviant sexual preference or deviant sexual interests as is commonly believed. In fact, current research suggests that sexual offending is generally short-lived, temporary, and circumscribed to a particular life stage and *not* reflective of a sexual offending career in the making (Lussier & Davies, 2011).

In the past twenty years or so, at least in western countries, the main theme underlying the enactment of legal and penal dispositions to prevent sexual violence and abuse has been based on the idea that individuals having been convicted for a sexual offense are life-course persistent sexual offenders. In the USA, a more repressive approach has been pursued in order to deter individuals from committing a sexual offense by implementing a series of measures limiting their individual rights (e.g., civil commitment, housing residency restrictions) but also, through another series of measures (e.g., public notification, public sex offender registry), increasing the informal social controls these individuals, adults and adolescents alike, are subjected to in order to help prevent a sexual re-offense (e.g., see Levenson & D'Amora, 2007). These dispositions have had dramatic consequences on the lives of many individuals in the absence of empirical evidence supporting such measures as effective policy.

Comparatively speaking, in Canada, a more precautionary approach has gradually emerged during the same time period, one that is embedded in a risk management perspective rather than a rehabilitation perspective, with its own issues and challenges (e.g., Lussier & Gress, 2014). Measures such as dangerous offender provisions, the long-term supervision order, peace bonds, longer prison sentences, and a non-public national sex offender registry have been added to the policy landscape. Similarly, within the United Kingdom, a precautionary approach to risk management has also become the cornerstone of academic and policy debates. A range of regulatory frameworks have been enacted, such as multi-agency public protection arrangements, vetting and barring schemes, and notification and related orders, in order to pre-emptively capture

“risk” (e.g., see McAlinden, 2010). The measures have been limited to adult offenders and, with the exception of the sex offender registry, risk assessment instruments have played a significant role in dictating how, when, and with whom some of these measures can and should be used.

Risk assessment instruments have significantly shaped the criminal justice decision-making process over the last two decades. These instruments, however, remain relatively silent about nonrecidivists, focusing instead on risk and probabilities, risk factors and “predictors”, and the actuarial prediction of the persistence of sexual offending through measures of sexual recidivism. More specifically, these instruments do not inform us about the complex and dynamic aspect of human lives and offending over the life course. Instead, these instruments suggest that there is *always* some risk--whether it is high, low, or even very low--that these individuals will sexually reoffend at some point in the future. Desistance from crime and termination of criminal behavior, in that context, is not part of the assessment protocol or the clinical perspective in which these individuals and their offending behavior are depicted by criminal justice professionals. In fact, contemporary sex offender treatment programs also suggest that these individuals will remain at-risk of committing a sexual offense over the long term and that sexual offending and associated sexual problems are something that they will have to be concerned with and control on a daily basis, for the rest of their lives (e.g., Pithers, 1990). These programs will instruct them that significant life difficulties and life struggles can potentially become the ignition or the trigger of a chain of events leading to another sexual offense. With that in mind, they will learn social and life skills so that, if the situation arises when they are back in the community, they will be in a position to break this chain of events using these skills and avoid such a progression and an escalation up to a sexual reoffense. In recent years, however, this view and approach has begun to be challenged and alternatives are being proposed.

Researchers have witnessed a growing gap between scientific knowledge and the socio-legal response to sexual violence and abuse. This widening gap is not without important social

implications with significant life course impact for a troubling number of individuals. For example, the United States is fast approaching the unfortunate milestone of having one million names on the sex offender registry. As a result of their arrest and conviction, these individuals now labeled as a “sex offender” have the stigma that attaches to being identified as a perpetrator. Many of these individuals have experienced profound obstacles as they re-enter their communities including barriers to fulfilling employment and safe and affordable accommodation. They often experience strained and damaged relationships as a result or have had to cut ties with family members and friends. They may also have experienced divorce or separation, or even lost the custody of their children. Others, quite to the contrary, have never experienced a stable relationship or a stable job, they reside in deprived communities, and do not have many friends to begin with, often living in relative isolation and generally keeping to themselves. Additionally, another group has been in and out of the criminal justice system for a myriad of offenses in adulthood, often struggling with alcohol and/or substance abuse, and their recent experience with the criminal justice system now expands to sex crimes. While their backgrounds are strikingly different, they all carry the label of “sex offender.” The social stigma they experience in the community begins in prison where they are unwanted and seen as outcasts by other inmates; even some criminal justice professionals are reluctant to work with them because of the nature of their crime and/or for security reasons. It is in that context that these individuals will eventually return to the community.

In fact, the vast majority of individuals convicted for a sexual offense eventually return to the community after serving their custodial sentence. Some receive community-based sanctions and remain in the community having to comply with specific, often offense-related, conditions and report to a probation officer. In that regard, American research has shown that current laws and penal dispositions, not only have a limited impact on sexual recidivism, but they have profoundly negative unintended consequences on their community re-entry and reintegration

possibilities. Such dispositions significantly impact these persons' individual, familial, work, residential, and social opportunities (e.g., see Harris, 2014). In fact, these dispositions impact what desistance theorists believed to be some of the pivotal path-leading factors of desistance from crime.

In this context, the relatively low sexual recidivism rates that have been observed across studies could at best be considered somewhat puzzling. Against all odds and in spite of the social stigma, it is undeniable that the majority of individuals convicted for a sexual offense do *not* come back into the criminal justice system for a subsequent sexual offense. Understanding and contextualizing their experience of desistance represents a challenge for criminologists given that these individuals are often hard to reach outside the criminal justice system. Unsurprisingly, they are justifiably reluctant to participate in research on sexual offending and do not feel compelled to give back to a community in which they feel ostracized or vilified. Methodologically speaking, measuring desistance from sexual offending through other means than police data, such as self-reports, in itself, raises several other important ethical, legal, and individual issues related to the disclosure of unreported sexual offenses, which in turn raises additional validity and reliability issues.

This special issue explores current themes in desistance research by examining the life course of individuals convicted for a sexual offense while contextualizing their experience of desistance/persistence in crime and sexual offending. To our knowledge, this is the first special issue dedicated to this important policy-relevant theme. Given the current state of research and the general lack of studies on desistance from sexual crime specifically, this volume breaks new ground by exploring important themes and issues through various analytical strategies and methodologies. With that in mind, this special issue brings together the work of international scholars from the USA, Canada and the UK in order to establish the foundation for a comparative and collaborative perspective promoting research and social innovations to address this critical

issue. Preliminary versions of these articles were presented at the ‘Understanding Desistance from Sexual Offending’ Research Symposium, held at Queen’s University Belfast, UK, 18th-19th March 2015 which brought together many of these leading scholars for the first time.* The articles presented offer significant potential for increasing the knowledge base about sexual offending and the desistance and reintegrative processes of those individuals previously arrested and convicted of sexual crime. The collective insights generated have the potential to make positive and significant changes to how societies, practitioners and policy makers perceive and respond to “sex offenders”. In particular, they point towards downplaying a singular focus on the “risks of reoffending” and instead facilitating desistance by promoting the achievement of protective factors, thereby improving the outcomes for individuals with a sexual offending past.

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