Sex Offender Management Board Position Paper
"No-Cure Policy" with Juveniles Who Have Committed Sexual Offenses

Purpose

The Sex Offender Management Board (SOMB) enabling statute (C.R.S. 16-11.7-103(4)(a), as passed in 1992, states that, "sex offenders are extremely habituated and that there is no known cure for the propensity to commit sex abuse. The Board shall develop and implement measures of success based upon a no-cure policy for intervention." This statute was written to apply to adult sex offenders.

The purpose of this paper is to affirm and explain why the "no-cure policy" should not be applied to juveniles who are treated and supervised pursuant to the *Standards and Guidelines for the Evaluation, Assessment, Treatment, and Supervision of Juveniles who have Committed Sexual Offenses*. This paper will present an overview of relevant factors including:

- Background History
- Community Safety
- Adolescent Development
- Juvenile Justice System
- Recidivism Research

Background

Legislative- In 2000, the Colorado General Assembly, acknowledging significant differences between adults and juveniles, amended the enabling statute to additionally require the SOMB to develop and prescribe a standardized set of procedures for the evaluation, assessment, treatment, and supervision of juveniles who have committed sexual offenses. These Standards continue to hold public safety as a priority, specifically the physical and psychological safety of victims and potential victims.

In 2002 the juvenile standards were published. In these standards, the position of the SOMB was identified in the introduction, stating:

> In contrast to legislation and policy regarding adult sex offenders, the "no cure model" should not, as a general rule, be applied to juveniles who commit sexual offenses. Due to developmental and contextual considerations, the identification of individual differences among juveniles who commit sexual offenses is a more accurate method than the "no cure model" for identifying risk and supporting the goal of victim and community safety. It is the intention of the Board that each juvenile, to whom these Standards apply, has an individualized evaluation from which a comprehensive treatment and supervision plan will be developed.

Through subsequent revisions of the standards, the SOMB has maintained this position.

"No-Cure Policy" - During the 1980s and early 1990s, much of what had been learned about the assessment, treatment, and management of adult sex offenders was applied to

juveniles, in what has been referred to as the "trickle down effect". One of the predominant assumptions applied to juveniles was, "once a sex offender, always a sex offender". This assumption was driven in part by the misapplication of retrospective research on adult sex offenders related to self-report of their juvenile offending. Prospective recidivism research on juveniles (see below) and knowledge of adolescent development indicate that there is no evidence to support this assumption in the case of juveniles. There is growing support for holistic/integrated models of treatment that support the significant diversity that exists in juveniles in regard to offense patterns, clinical characteristics, history of child maltreatment, age and developmental level, and treatment and supervision needs.

Community Safety

The SOMB recognizes that juveniles who have committed sexual offenses merit careful professional attention and clinical and legal interventions as indicated. Juvenile sexual offending has personal, financial, and social impacts on victims, families, and secondary victims. The Guiding Principles of *The Standards and Guidelines for Evaluation, Assessment, Treatment, and Supervision of Juveniles who have Committed Sexual Offenses* (SOMB, 2008) state, "Research and clinical experience indicate that sexual assault can have devastating effects on the lives of victims, their families, and the community…By defining the offending behavior and holding juveniles accountable, victims may potentially experience protection, support and recovery" (p. 7). This accountability involves providing the appropriate level of treatment and supervision that addresses the wide range of risk and needs associated with juveniles who have committed sexual offenses. In addition, the Juvenile Standards and Guidelines identify the following guiding principles related to community safety and victims that are the foundation of the Standards.

- Principle #1: Community safety is paramount
- Principle #2: Sexual offenses cause harm
- Principle #3: Safety, protection, and developmental growth and psychological well being of victims must be represented within the multidisciplinary team established for each juvenile who commits a sexual offense

Current estimates suggest that juveniles (typically defined as those under 18) account for approximately 15-20% of the arrests for forcible rape and 18-50% of all other types of sexual assaults in the United States and Canada (Federal Bureau of Investigation, 2008; Statistics Canada, 2007; Snyder & Sickmund, 2006; UCR, 2005). Consistent with overall trends in youth-perpetrated violence, juvenile sexual crime peaked in the early 1990s and has declined since that time (UCR, 2005).

In Colorado, there were 273 juveniles adjudicated for sex offenses during Fiscal Year 2009-10. Currently, there are 431 juveniles on probation for sex offenses. In addition, there are a number of juveniles being supervised under alternative sentencing options.

Adolescent Development

The "no cure" belief system is <u>not</u> supported by what is known about the dynamic period of adolescent development. This developmental stage (approximately ages 12 to 20) is

marked by dramatic changes (Lerner & Steinberg, 2009). (The age range associated with the developmental stage of adolescence is differentiated from the legal status of juveniles being treated and supervised pursuant to the standards). This maturation process into adulthood includes:

- Physical/Physiological Development- Pubescent changes to the body
- Cognitive Development- Cognitive processing moves from concrete thinking to more logical and complex cognitions with an increase in futuristic orientation and delayed gratification
- Psychosexual Development- Heightened interest in sexuality, romantic attraction, sexual experimentation, and relational stability
- Social Development- Increased independence from parents, heightened interest in peer relations, exploration of their own self identity, and decreased egocentrism
- Neurological Development- Maturation of the brain's prefrontal cortex (located directly behind the forehead), which is the area that governs "executive functions" (i.e., planning, goal setting, problem solving, judgment, attention, and impulse control). Neurological studies have identified the prefrontal cortex as one of the last regions to fully mature (Casey, Giedd, & Thomas, 2000; Diamond, 2002; Giedd, et al., 1999; Luna & Sweeney, 2004; Rubia, et al., 2000; Sowell, Thompson, Holmes, Jernigan, & Toga, 1999a; Sowell, et al., 1999b; Sowell, Thompson, Tessner, & Toga, 2001; Sowell, Trauner, Gamst, & Jernigan, 2002; Spear, 2000). It is estimated that this area of the brain is not fully mature until we are in the mid-twenties.
- Emotional Development- As the prefrontal cortex matures in late adolescence and early adulthood, the ability to regulate emotions, manage impulses, and think consequentially (Baird & Fugelsang, 2004) can significantly improve.

Developmental and neurological research provides strong evidence that the way adolescents think, feel, and behave will often be remarkably improved after maturation into late adolescence and early adulthood. In addition, evolving knowledge about the neuroplasticity of the brain offers more support for the importance of experiences and interventions in producing positive changes in developing youth. The neural pathways used on a regular basis become stronger and thrive while the unused pathways get pruned away or become less prominent (Bennett, Diamond, Krech, & Rosenzweig, 1996; Cicchetti & Tucker, 1994; Diamond, 2001; Nelson, 2003; Nelson & Bloom, 1997). Juveniles who are encouraged to repeatedly practice "healthy alternatives" to their sexually abusive behaviors can stimulate neural pathways and wire the brain in very positive ways, subsequently changing behavior. In summary, adolescent development suggests that personalities and behaviors are not fixed and stagnant and therefore youth are highly amenable to treatment and rehabilitation (National Juvenile Justice Network, September, 2008).

Juvenile Justice System

Until the late 19th century, judicial practice was to utilize the same punishment systems for juveniles as for adults. It was common to find young adolescents in prisons with adults for similar crimes until the passing of the Illinois Juvenile Justice Act of 1899 (Fox, 1996). This act established needed reforms in the system by distinguishing that

differences existed between neglected and delinquent children, as well as adults and children. The act established a separate court of law and procedures for children, as well as creating new standards for probation; it also separated adults and juveniles within the corrections setting (Bertomen, n.d.). This new system was not punitive but intended to be rehabilitative and reforming in nature.

The evolution of the juvenile justice system has occurred based on the recognition that there are significant differences between adults and juveniles, which require a different approach to justice. The judicial system has separated juveniles from adults based on the core belief that youth are more capable of change, and need support and opportunities for healthy development that is developmentally appropriate and rehabilitative. Juvenile courts have emphasized that rehabilitation, education, and treatment are in the best interests of youth in order to prevent them from entering the adult criminal justice system (Coalition for Juvenile Justice, 2006). The juvenile justice system along with policy makers view adolescence as a time of opportunity to help youth become responsible adults and make informed decisions.

Recidivism Research

Recent studies suggest that sexual recidivism rates, particularly for juveniles who have committed sexual offenses, are much lower than public perception. It is important to note that studies of sexual recidivism only study detected sexual recidivism, and arrest statistics or conviction figures underestimate the true incidence. Alexander (1999) analyzed the follow-up data from eight studies totaling over 1,000 juveniles who participated in sex offense specific treatment in a variety of settings. Combined recidivism rates for all youth were 7.1% in 3-5 year follow-up. These studies did not have untreated juvenile comparisons. Worling et al (2010) compared youth who had completed specialized community-based treatment with an untreated comparison group over a follow up interval ranging from 12 to 20 years. Recidivism rates for *treated juvenile* were: sexual (9%); violent non-sexual (22%); and non-violent offenses (28%). The *untreated* comparison group had higher recidivism rates: sexual (21%), violent non-sexual (39%) and non-violent (52%).

A meta-analysis (n=2,986) of nine studies on treatment effectiveness found recidivism rates for sexual offending juveniles with or without treatment were as follows (Reitzel & Carbonell, 2006): sexual (12.53%); non-sexual violent (24.73%); non-sexual non-violent (28.51%); and unspecified non-sexual (20.40%). Youth who participated in treatment had a sexual recidivism rate of 7.37% while youth in the untreated control group had a sexual recidivism rate of 18.98%. It is a robust finding that sexually offending juveniles recidivate more frequently with general criminal behavior rather than with a new sexual offense (Alexander, 1999; Langstrom & Grann, 2000; Caldwell, 2007; Worling et al., 2010; Zimring, 2004).

Typology research has differentiated subtypes of juveniles based on personality characteristics, social and interpersonal skills, patterns of offending, and etiology (Hunter, et al., 2003; Hunter, 2006, 2008; Miner, 2008; Richardson, et al, 2004; Worling, 2001). This research offers an essential foundation for understanding the diversity that

exists among juveniles who commit sexual offenses. Understanding the diverse risk factors and personality characteristics provides the foundation for more individualized and targeted treatment and supervision interventions (Leversee, 2010a; 2010b)

Historically, it was assumed that sexually abusive youth were significantly different from other at-risk or delinquent adolescents and that these differences required specialized treatment programs. This assumption has been challenged by the higher rates of non-sexual recidivism, as well as evidence of the diverse developmental and dynamic factors associated with sexually abusive youth (Hunter, et al., 2003; Hunter, 2006, 2008; Miner, 2008; Richardson, et al, 2004; Worling, 2001). This knowledge calls for more holistic and comprehensive treatment planning that targets both sexual and non-sexual conduct problems, as well as other risk factors

Finally, the research on juveniles who have committed sexual offenses is consistent with the literature on general delinquency. Numerous studies have shown that delinquent behavior peaks at approximately age 17 and dramatically decreases in late adolescence and early adulthood. In addition, juvenile delinquent behavior does not necessarily lead to adult antisocial behavior. While it is true that adult antisocial behavior virtually always involves childhood antisocial and conduct disorder behavior, the converse, that many juveniles who offend and commit crimes during adolescence go on to adult criminal behavior, is not true (Caspi & Moffit, 1995; Farrington, 1986; Hirshi & Gottfreson, 1983; Moffit, 1993a).

Summary and Recommendations

The response to juveniles who have committed sexual offenses has evolved from a narrow and specialized model to a more holistic model that is consistent with the diverse developmental and dynamic factors associated with juvenile sexual offending and prosocial living. Research on juvenile recidivism, typologies, and the development of empirically guided risk assessment instruments has illuminated the diversity that exists among youth with sexual behavior problems. This has emphasized the importance of providing holistic services that are individualized to meet the specific supervision and treatment needs of each youth. Therefore, it is the position of the SOMB that the "no-cure policy" not be applied to juveniles who have committed sexual offenses.

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