

# BEYOND BORDERS INC.

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## Once a Sex Offender, Always a Sex Offender?

**Is there a stereotypical child sex offender?** According to law enforcement officials, child sex offenders come from different professions, education backgrounds, age groups and income brackets. Anecdotally, about the only similarity that the Toronto Police Sex Crimes Unit finds between offenders is that many have an obsession with Star Trek.<sup>1</sup>

Not all child sex offenders are pedophiles. According to the Centre for Addiction and Mental Health, only about half of men who sexually abuse children have an actual sexual preference for them. The other 50% have almost-normal, adult-oriented sexual attractions. Their sex offence is simply the result of a terrible lapse of judgment, often abetted by drugs or alcohol.<sup>2</sup> Many are morally indiscriminate as they make terrible lapses of judgment over and over again.

### **What are the most commonly reported statistics on child sex offender recidivism?**

The majority of reported findings on recidivism rates for child sex offenders vary but are low. Many studies peg the recidivism rate at 10-15%, and a recent survey conducted by the Correctional Service of Canada found that the figure for those who undergo “proper treatment” is 3-4%.<sup>3</sup> Bill Marshall, one of the world’s leading experts on treating child sex offenders, believes the overall recidivism rate for child molesters is 20%, far less than for most criminals.<sup>4</sup> A recent U.S. Bureau of Justice Statistics recidivism study concluded that sex offenders have a lower rate of recidivism than people who commit other kinds of serious offences.<sup>5</sup>

These statistics have led to some media reports that fear about the release of child sexual offenders is overblown. The subtitle of a January 2006 Economist article reads: “Convicted child abusers are much less dangerous than the British public—and the government—believe.”<sup>6</sup>

<sup>1</sup> Jonathon Gatehouse, “The Star Trek Connection” *Macleans* (26 May 2005).

<sup>2</sup> *Ibid.*

<sup>3</sup> Susan Bourette, “Tainted Love” *The Globe and Mail* (28 May 2005).

<sup>4</sup> Chad Skelton, “Child molesters can be rehabilitated, expert says” *The Vancouver Sun* (3 August 2006) A3.

<sup>5</sup> William DiMascio, “Sex offenders have low rate of recidivism; Better treatment, fair sentences would isolate truly dangerous” *The Sunday Patriot – News* (16 April 2006) F.03.

<sup>6</sup> “Britain: The end of innocence; Sex abusers and schools” *The Economist* (21 January 2006) Vol. 378, Iss. 8461, p. 29.

**Could the majority of reported statistics be wrong?** In 2004, “Lifetime Sex Offender Recidivism: A Twenty-five Year Follow Up Study” was released by Ron Langevin et al. of the University of Toronto’s Department of Psychiatry. It reported the results of a study in which a sample of 320 sex offenders and 31 violent non-sex offenders were compared retrospectively on life time recidivism rates over a minimum of 25 years. Among other findings, they reported that *89.8% - 94.1% of extra-familial child sexual abusers reoffended.*<sup>7</sup>

**Why is there such a difference between the results of this study and other studies?**

Langevin et al. point out that recidivism studies are often based on reconvictions, and that the low rates they report are probably due to the difficulty of securing convictions rather than a decline in actual sexual reoffending.<sup>8</sup> Langevin et al.’s study examines both convictions and rearrests.<sup>9</sup>

Another problem with many recidivism studies is that they often will not consider nonsexual offences. Langevin et al. note that many sex offences are often re-classified through plea bargaining as violent nonsexual charges, and that sex murders would not be labeled as sex offences, but as homicide. Their report therefore separately examines convictions and arrests leading to charges for both sexual and nonsexual offences.<sup>10</sup>

Most recidivism studies do not account for the fact that the majority of apprehended sex offenders are not incarcerated, but rather mandated treatment or put on probation. In addition, the majority of sex offences are not reported to the police. Langevin et al.’s study attempts to address these gaps by taking into account the actual time at large when offenders have opportunities to commit offences, as well as crimes offenders disclosed to clinicians, but that were undetected or not reported to authorities.<sup>11</sup>

Finally, most recidivism studies have short follow up periods, on average 4-to-6 years. Langevin et al.’s study uses a minimum 25 year follow up period.<sup>12</sup>

**What are some criticisms of Langevin’s report?** Cheryl Marie Webster et al. argue that the Langevin et al. study has two fundamental flaws. First of all, they accuse Langevin et al. of using a sample of sex offenders that may not accurately represent the larger population of sex offenders, but rather “an unusually high proportion of the more serious or atypical sex offenders.” One reason in support of this is that the study’s subjects were selectively chosen as men referred for psychiatric assessment or treatment,

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<sup>7</sup> Ron Langevin, Susan Curnoe, Paul Federoff, Renee Bennett, et al., “Lifetime Sex Offender Recidivism: A 25-Year Follow-Up Study” *Canadian Journal of Criminology and Criminal Justice* (October 2004) Vol. 46, Iss. 5.

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

which is typically reserved for a minority of those charged with sex offences.<sup>13</sup>

Secondly, they charge that Langevin et al. pre-selected a sample of which a substantial proportion were already recidivists, artificially inflating recidivism rates<sup>14</sup> by inappropriately excluding first-time sex offenders who desist from crime.<sup>15</sup>

R. Karl Hanson accuses Langevin et al. of inflating the observed recidivism by eliminating offenders lacking criminal history records over a certain time period. Langevin et al. draw their sample from an RCMP database, which according to Hanson was subject to a purge policy in the 1990s that would have removed the records of anyone with no recorded criminal activity for 15 years. This would mean that non recidivist offenders should have been deleted from the database.<sup>16</sup>

Dr. Langevin defends his study against Dr. Hanson's allegations by disputing that cases without criminal records during the 1990s were eliminated from the sample. He admits that some cases went missing from RCMP files, but that this was simply due to a lack of communication between federal and provincial sources of criminal records.<sup>17</sup>

**How might this debate impact correctional planning?** Beyond Borders and other child advocacy groups push for tougher restrictions upon released child sex offenders. These efforts are sometimes criticized as “draconian” and unnecessary, implying they are fueling some sort of moral panic that is not supported by actual statistics.

If the Langevin et al. study is correct in its conclusion, then this panic is justified because former child sex offenders are ticking time bombs in any community with a more than 90% chance of reoffending. If the conclusion is wrong, then there is still much to be learned from the report; namely, that there are fatal limitations to the majority of reported recidivism studies. Until more research is done to correct for these limitations, we should not accept the prevailing academic notion that recidivism rates are low.

If the Langevin et al. study is not applicable to all child sex offenders, it at least demonstrates that it is possible to identify high recidivism rates for some subgroups. It appears to be generally accepted among other researchers that some groups, such as molesters of boys, have very high recidivism rates.<sup>18</sup> Why then, was pedophile Peter Whitmore, with a history of sexually assaulting boys after every prison release, not declared a dangerous offender before he kidnapped two boys in the summer of 2006?<sup>19</sup> Clearly, more “panic” needs to be placed in the minds of some legislators and/or judges

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<sup>13</sup> Cheryl Marie Webster, Rosemary Gartner, Anthony N Doob, “Results by Design: The Artefactual Construction of High Recidivism Rates for Sex Offenders” *Canadian Journal of Criminology and Justice* (January 2006) Vol. 48, Iss. 1.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

<sup>16</sup> R Karl Hanson, “Long-Term Follow-Up Studies are Difficult: Comment on Langevin et al. (2004)/Reply to Webster, Gartner, and Doob”, *Canadian Journal of Criminology and Justice* (January 2006) Vol. 48, Iss. 1.

<sup>17</sup> Ron Langevin, “Addendum to Dr. Hanson’s Remarks”, *Canadian Journal of Criminology and Criminal Justice* (January 2006) Vol. 48, Iss. 1.

<sup>18</sup> *Supra* note 5.

<sup>19</sup> “To declare a predator a dangerous offender” *The Globe and Mail* (14 August 2006) A.14.

and crown attorneys about the potential for these individuals to harm children upon release.

### **Recommendations:**

**1. Better monitoring of released child sex offenders.** There are many ways in which Canadian child sex offenders could be better monitored, including placing foreign travel restrictions on them and having a publicly accessible national sex offender registry (please see our other fact sheets for other examples).

**2. Lower the threshold required for dangerous offender designation.** The *Criminal Code* allows a court, upon conviction, to designate someone as a dangerous offender, which imposes detention in a penitentiary for an indeterminate period.<sup>20</sup> There is, however, a very high threshold attached to this designation, requiring, among other things, that the person has committed a serious personal injury offence,<sup>21</sup> and sexual offences often do not fit this description.<sup>22</sup>

Any person who commits a sexual offence against a child should be analyzed immediately to determine how much of a risk there is that he or she will offend again. While such a determination will be difficult, judges must often make difficult assessments and should be given more discretion in this area. It should not be required that the offender commit subsequent offences before he or she can be designated as a dangerous offender. One strike against a child is enough.

**3. Chemical castration.** More sex offenders should be ordered by courts and parole boards to take anti-androgen drugs (“chemical castration”) to eradicate their sex drives. According to some experts, this virtually eliminates their risk of reoffending.<sup>23</sup> The problem is that it is up to pedophiles to keep taking their drugs. However, if this is made a condition of release, the violation of which can send the offender back to jail, this provides a safeguard in at least some cases that is preferable to nothing at all.

While some civil libertarians may protest against the idea of the state forcing someone to take drugs, it is preferable to leaving the offender in prison indefinitely. As recognized in a recent Federal Court of Appeal decision, mandating “chemical castration” is not unconstitutional: “the right to refuse medical treatment, while perhaps accepted as the general rule, is also recognized as properly subject to limitations in certain contexts.”<sup>24</sup>

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<sup>20</sup> *Criminal Code*, R.S.C. 1985, c. C-46 s. 753 (4).

<sup>21</sup> *Ibid.* s. 753 (1)(b).

<sup>22</sup> David Matas, “Protecting children from sexual abuse” online: Beyond Borders <<http://www.beyondborders.org/Publications/D.%20Matas%20on%20Whitmore.pdf>>.

<sup>23</sup> *Supra* note 4.

<sup>24</sup> *Deacon v. Canada (Attorney General)*, 2006 CarswellNat 2181 at 71 (eC).