Chapter eleven.

the management and treatment of sex offenders.

This chapter will look at how criminal psychology helps us understand some of the reasons why men and women become sex offenders and how sex offenders are punished, treated and managed once they are caught. The chapter will also talk about the effectiveness of these treatments; do the punishments work? Do they stop sex offenders committing crimes once they are let out of prison?

Sex offending is thought of as a very serious problem within contemporary society. It is an offence that seems to be more than just a crime; it is regarded as a social and health problem and is frequently reported in newspapers and on the television and radio. Sex offending in the UK includes crimes such as rape (penetration by the penis of someone’s vagina, anus or mouth without consent); assault by penetration (penetration by a body part or object of someone’s vagina or anus without consent); sexual assault (sexual touching); administering a substance with intent to commit a non-consensual sexual act (this covers spiking some- one’s drink); sexual activity with a child (under the age of sixteen), causing or inciting a child to engage in sexual activity; engaging in sexual activity in the presence of a child; meeting a child following sexual grooming (this new offence has been triggered by child abusers using the Internet to meet children); abusing positions of trust (it is unlawful for people who work with children, say in youth services, care homes or schools, to have sex with anyone in their care who is under the age of eighteen).

The National Society for the Prevention of Cruelty to Children (NSPCC) reports that one in six children are sexually abused before the age of sixteen and that children are far more likely to be abused by someone they know (a family member or a neighbour) than by a stranger. Other research has shown that one in four women have been subject to a sexual assault or rape. In England and Wales in the period 2004–5 there were 60,000 sexual crimes recorded by the police. This was an increase on the previous year by 8,000 crimes, but in this period the Sex Offences Act 2003 came into force meaning that new offences, such as grooming and abuse of trust, were taken into account. A higher crime rate might also partly be an increase in the reporting of sexual offences, which implies that people are becoming more intolerant of unacceptable behaviour and believe that reported offences will be taken seriously by the police and courts. In the USA, the country that puts more of its population in prison than any other country in the world, almost one quarter of the state prison populations are sex offenders. Despite this, rates of sexual offending are very much lower than for almost every other type of crime and criminal psychologists question whether our fear of sexual offending has been heightened by the constant media discussion on the topic.

Research carried out on adult sexual offenders has shown that the majority say that they started to sexually offend before the age of eighteen, and studies of adolescent sexual offenders indicate that the majority commit their first sexual offence before fifteen years of age and not infrequently before twelve years of age. A trend consistent across the literature is that approximately twenty per cent of sexual offences are committed by adolescents. However, in England and Wales sexual offences account for less than one per cent of all crimes committed by young people aged ten to seventeen that actually result in them being put in a secure institution or being under the supervision of youth offending services. Males account for ninety-eight per cent of convicted sexual offenders (Youth Justice Board, 2004). This high proportion may be an indication that people still find it difficult to believe that women can be sex offenders too.

Victim surveys, for example the 2005 British Crime Survey (Nicholas et al., 2005), show higher levels of sex offending than are reported to the police and it is commonly accepted that there is a high proportion of hidden sexual victimization. The human and financial cost of sexual offending to victims and the social and health services is large, as is the public investment in policing, prosecuting and incarcerating sex offenders.

Crime prevention policies always seem to be heavily influenced by media and public pressure, and sexual offending has thus become a major challenge for social policy. How can the government and policy-makers make sensible, evidence-based decisions about how to deal with sex offenders, while meeting the demands of the public? It is clear that media reporting of sexual offending is often distorted, for example, giving the impression that young women are very likely to be sexually attacked on the way home from a night out, or that young boys will be abused by strangers. Exaggerating the danger that sexual offenders pose is problematic and can increase public fear, stigmatize and hinder rehabilitation of offenders who have changed their lifestyles.

MEGAN’S LAW AND THE CAMPAIGN FOR SARAH’S LAW.

Megan Kanka was a seven-year-old girl who was raped and murdered by a convicted sex offender in 1994 in New Jersey, USA. Three months after her murder the State of New Jersey passed the first version of Megan’s Law. This stated that when sex offenders are released into the community, that community will be ‘actively notified’ of their presence. If the offenders are assessed as being ‘medium risk’ of reoffending, then schools and community groups that may encounter those offenders will be notified. If the offenders are assessed as being at ‘high risk’ of reoffending, then schools, community groups and members of the public, such as neighbours, will be notified. Active notification means that leaflets are sent out, people are visited by their local police, e-mails are sent to schools and community groups, and notices may be placed in local newspapers. The Federal version of Megan’s Law, which was passed in May 1996, signed by President Clinton, is different. This law requires States to release information to the public about offenders, but it does not require them to ‘actively notify’ the public. This means that information about offenders’ names and addresses is made accessible to the public in listings at criminal justice agencies, registry books, or electronic formats (for example, on some police Internet sites). If a state does not make this information available, then crime prevention funding is withheld from the state. As well as collecting information on adult sex offenders, twenty-eight states have a register for juvenile sex offenders and of these twenty-one release information on these offenders to the public.

Advocates of Megan’s Law believe that active community notification will help criminal justice agencies in investigations, establish legal grounds to hold known sex offenders, deter sex offenders from committing future crimes and offer the public information that they can use to protect their children from offenders.

From www.megans-law.net

In the UK a campaign for a similar law came from the News of the World newspaper and the parents of Sarah Payne, who was killed in 2001. However, the Home Secretary (the government minister who deals with law and order) at the time was not convinced that public access to information on the Sex Offender Register would be helpful in protecting children. A senior police officer stated that ‘Sarah’s Law’ would drive offenders under- ground, which would then stop criminal justice agencies from monitoring their movements or treating them.

In the USA, such concerns led to Megan’s Law in 1996, which allows private and personal information on those registered as sex offenders against children, to be made available to the community (see the box on the previous pages for more information). In the UK, the Sexual Offences Act 2003 includes substantial increases in sentence length for many sexual offences and increased management of offenders for up to ten years after a sentence has been spent.

how is a sexual offender defined?

It is very difficult to give a full and complete definition of a sexual offender – examples might include someone who has committed a sexual offence, someone who has been convicted of a sexual offence or someone who has committed a sexual act without the consent of the other person. Consent might not have been given for a number of reasons. The victims might have withheld it, or they might not have been in a position to give consent to the sexual act (for example, they might be under the age of consent, be mentally disabled, drunk, drugged or unconscious). Researchers have suggested that there are two types of sexual offence, the sexually aggressive act – which is a non-consensual act – and a breach of a sexual taboo. Breaches of taboo are sexual behaviours that have taken place between two consenting adults but which are against the law, for example, in some states in the USA oral and anal sex are sexual offences, even if taking place in a consensual relationship.

what causes sexual offending?

There is no single cause of sexual offending and our understanding of what makes someone a sexual offender is far from perfect. There are a number of different ways in which sexual offending has been explained. These include:

Developmental histories. Studies on this topic compare the childhood and development of sex offenders with non-sexual offenders. They try to find out what the differences are in the histories of these people, which will then, hopefully, show whether there is a childhood trigger for sexual offending.

Comparisons of adult activity and functioning. Again, these types of studies compare sexual offenders with non-offenders, but they try to find out what it might be in adult functioning that causes sexual offending.

Risk prediction studies. These studies tend to look at sex offenders only, and try to see what part of adult functioning is linked to repeat offending. Are there aspects of a person’s perception, intuition, thought processes or ability to reason that makes them at a higher risk of re-offending than someone else, and what are these aspects?

Descriptive models of the offence process. These studies look at what happens in the run up to an offence, while the offence is taking place and after the offence.

Studies that have compared childhood experiences of sexual offenders with non-offenders have identified key factors which may be related to sexual offending. The first key theme is the relationship between children and their parents. This relationship is likely to be the blueprint for all future relationships; so if this relationship is marked by untrustworthiness and lack of caring, then so too will all future relationships. Building on this, other researchers have found that sex offenders showed poorer relation- ships with their parents than did non-offenders. They found that abusers of children within their own family (intra-familial offenders) were very likely to report poor relationships with their mothers, saying that they were abusive, unloving or uncaring. Rapists reported that their fathers were uncaring. As with other types of offenders, sex offenders often have parents who were law- breakers. Living in a family where anti-social behaviour is the norm is reported to hinder a child’s moral and social development, and is likely to lead lives where crime plays a significant part. When trying to understand why sex offenders commit offences, people often ask whether it is true that all sex offenders were abused as children. While it is unlikely that all sex offenders were abused as children, there is research evidence to show that a significant proportion were – around a quarter of rapists and almost two-thirds of child abusers according to one study. Rapists report very high levels of physical abuse from their fathers and intra-familial offenders are more likely to have been physically abused as children than their non-offending peers. However, when considering this sort of information, one needs to think about how it was gathered. Most of it comes from self-report questionnaires and most of the abuse was not reported at the time. This is not surprising, given that we know abuse of any kind at the hands of family members is severely under reported. Recently, research has shown that offenders reporting sexual abuse in earlier life drops from seventy per cent to twenty per cent when a poly- graph (sometimes known as lie a detector) is employed. (For more on the polygraph see chapter 4.)

Some of the developmental experiences mentioned above are often typical of many types of offenders, not just sex offenders. So it is important to think about what it is that separates sex offenders from people who are sometimes termed ‘general offenders’. Researchers have suggested that some form of salient sexual experience may, when coupled with other developmental issues, set a person on a path to sexual offending. Early exposure to pornography is one such experience which has been studied; one study showed that twenty-two per cent of sexual offenders were exposed to pornography before the age of ten compared to two per cent of non-sexual offenders. Pornography typically supports a view of sex as being focused on one person’s pleasure, which might lead to a selfish approach to sexual behaviour. For example, a teenage boy may find that an arousing experience may fuel future masturbatory fantasies in which he is in control and powerful, something which is at odds with the rest of his life. These fantasies can spill into interpersonal relationships and lead to future offending.

We have considered some developmental issues that might influence people becoming sex offenders, but there are also explanations of sexual offending behaviour which look at adult functioning. It is generally assumed that all sexual offenders have deviant sexual interests, but this is not the case. Some sex offenders do show arousal to deviant forms of sexual behaviour, but just as many show arousal to non-deviant stimuli. More recent research shows that deviant fantasies are linked to mood, with this type of fantasy being used to rid the offender of anger, boredom or humiliation. This is supported by work which shows that sex offenders use sex as a coping strategy more regularly than non-sexual offenders.