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# Effects of Sex Offender Registration Policies on Juvenile Justice Decision Making

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This study examines effects of sex offender registration policies on juvenile judicial decision making. Prosecutor decisions and disposition outcomes are examined across a 15-year period. Results indicate that prosecutors are significantly less likely to move forward on both serious sexual and assault offense charges after registration implementation, with the estimated effect nearly twice as large for sexual offenses. There also is increased likelihood of guilty findings for sexual and assault offenses over time. As new policies legislate harsher consequences for juvenile offenses, prosecutors become less likely to move forward on sexual and assault charges. This effect is especially strong for juvenile sexual offenders, who face reforms targeting both violent and sexual crimes. Results suggest that state and national policies requiring long-term public registration of juveniles might unintentionally decrease the likelihood of prosecution. If replicated, the results indicate a need to reform registration policies as applied to juveniles.

**Keywords:** *juvenile sexual offenses; registration; prosecution*

During the past 2 decades, new laws were enacted by state and federal legislatures that created new classes of sexual crimes (e.g., spousal rape), increased the penalties for existing sexual crimes (e.g., by lengthening sentences or requiring

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lifetime probation), provided for postsentence civil commitment of some sexual offenders, and required the registration of sexual offenders (for reviews of these changes, see LaFond, 2005; Schlank & Cohen, 1999; Terry & Furlong, 2004). As noted by LaFond (2005) and others, these legal changes developed in response to increasing awareness of the potentially devastating consequences of sexual assault to victims and their families and concerns that sex offender treatment was ineffective. Likewise, an explosion of media attention to (and subsequent public outrage against) horrific cases of sexual sadism and murder committed by known offenders who had actually stated their intentions to reoffend upon release (e.g., see LaFond, 2005, pp. 5-6) or who might as well have, given criminal histories so violent and lengthy as to virtually guarantee recidivism (e.g., see Schlank & Cohen, 1999, pp. 2-3), riveted attention on the problem of sexual recidivism.

Sex offenders who recidivate are in the minority (see, e.g., Hanson & Bussière, 1998; Hanson & Morton-Bourgon, 2004), and those who commit overtly sadistic acts and/or murder their victims are in the extreme minority (e.g., fewer than 1% of murder cases involve rape or a sexual offense; LaFond, 2005). It is the case, however, that nearly all new sex offender policies, and certainly those enacted at the federal level, apply to a wide cross-section of offenders, the majority of whom are unlikely to be characterized by the same features (e.g., high levels of psychopathy and/or deviant sexual arousal) as are offenders most likely to recidivate or to commit excessively violent crimes (Sample & Bray, 2003). This net-widening effect has been identified for numerous legal interventions (e.g., Tonry, 1998) and is not surprising in the case of adult sexual offenders. However, juvenile sexual offenders, who bear little resemblance to their adult counterparts (Letourneau & Miner, 2005) and have even lower sexual recidivism rates (Caldwell, 2002; Fortune & Lambie, 2006) often are included in policies aimed at curbing sexual violence and recidivism (Garfinkle, 2003; Zimring, 2004). Thus, new laws targeting sexual offending were extended to lower risk adult offenders but also crossed traditional jurisdictional boundaries between adult and juvenile courts. The original federal legislation that mandated registration did not require the inclusion of youth adjudicated as minors, although states could choose to do so. More recently, the Adam Walsh Child Protection and Safety Act of 2006 specifically extended public registration requirements to offenders as young as 14 years of age for durations of 15 years, 25 years, and life. Some state policies already meet or exceed this requirement. In South Carolina, for example, the sex offender registration policy was specifically crafted such that, regardless of age, offenders convicted of specific sexual crimes would register for life. In other states, juveniles were inadvertently included in registration policies (e.g., see *Illinois v. J.W.*, 2003). Whether intentionally or not, minors have been subjected to sex offender registration policies, the effects of which have gone largely unstudied. The purpose of this study is to empirically examine the effects of lifetime registration on juvenile judicial decision making.

## Scope of the Problem

The scope of juvenile registration is significant. In January 2008, our review of public registry Web sites (including sites maintained by all 50 states and the District of Columbia) indicated a count of 624,020 registered offenders. Most state registry Web sites do not provide an overview of registrants by age, making it difficult to determine the percentage of juvenile registrants. Some states include few or no juveniles on their public registries (e.g., New York State Office of Sex Offender Management, personal communication, May 6, 2008), whereas juveniles make up as much as 8% (Craun & Kernsmith, 2006) to 10% (Wisconsin Office of Justice Assistance, personal communication, August 24, 2007) of registrants. Using similar information from these and other states, we conservatively estimate that juvenile registrants account for 3% of all registered offenders, for an estimated total of 18,721 registered youth. The Adam Walsh Act (with which states must comply by July 2009) will increase the number of juvenile offenders identified by public Internet Web sites, thus further increasing the scope of this issue. Many state policy makers have expressed concerns about their ability to shape policy that adheres both to Adam Walsh Act requirements and to existing state laws (and philosophies) governing the legal treatment of juvenile offenders (see Office of Justice Programs, 2008). Timely research on the effects of long-term juvenile registration could help influence these upcoming policy reforms.

## Review of the Literature

Available research on the effects of registration policies focuses primarily on adult offender recidivism rates (e.g., Adkins, Huff, & Stageberg, 2000; Duwe & Donnay, 2008; Schram & Milloy, 1995; Zevitz, 2006; Zgoba, Veysey, & Dalessandro, 2008), general deterrence (e.g., Vásquez, Maddan, & Walker, 2008), collateral consequences of policies to offenders and their families (e.g., Levenson & Cotter, 2005; Tewksbury, 2005; Tewksbury & Lees, 2005), and perceptions of specific groups (e.g., citizens, police officers) regarding aspects of public registration policies (Lawson & Savell, 2003; Levenson, Brannon, Fortney, & Baker 2007). To our knowledge, no published research has examined the influence of registration policies on judicial decision making and few studies (e.g., Letourneau & Armstrong, 2008; Letourneau, Bandyopadhyay, Sinha, & Armstrong, in press) have examined other aspects of registration policies as applied to juvenile offenders. However, research from two relevant areas (juveniles who face adult penalties and the effects of mandatory minimum sentences) suggests the possibility that judicial decision makers might be influenced by the perceived harshness of some policies.

### Juveniles Facing Adult Penalties

The application of adult legal interventions to minors runs counter to traditional juvenile court philosophy that emphasizes rehabilitation over retribution (Garfinkle,

2003; Trivits & Reppucci, 2002). Treating juveniles as adults also runs counter to research documenting clear differences in the neurological, cognitive, and social development of juveniles (vs. adults) that limit both their culpability for criminal behavior (Zimring, 2000, 2004) and their capacity as trial defendants (e.g., Grisso, 2000; Steinburg & Schwartz, 2000; Woolard & Reppucci, 2000). Yet, in the past decade, states have made it easier to prosecute more youth for more offenses in adult criminal courts (Bonnie & Grisso, 2000). In response to statutes that require criminal prosecution of young offenders, some judicial actors have found ways to increase discretion in these decisions. For example, Kupchik (2006) reported that adult court judges and prosecutors took immaturity into consideration when determining youths' sentences. Thus, adolescents convicted in adult court received more lenient sentences than their adult counterparts and this was attributable, in part, to prosecutors' and judges' beliefs that minors were less culpable than adults (Kupchik, 2006). Requiring juveniles to register is another example of applying an adult penalty to juvenile offenders (Garfinkle, 2003; Zimring, 2004), with some predictable iatrogenic effects, such as social isolation and bullying (Jones, 2007; Oliver, 2007; Trivits & Reppucci, 2002). Indeed, a survey of juvenile and family court judges ( $N = 210$ ) found that most judges (75% to 92%, depending on the specific survey item) had significant reservations regarding the placement of juvenile offenders on public registries (Bumby, Talbot, & West, 2006). Given these results, it seems conceivable that judicial decision makers might subvert registry statutes that require long-term registration of juvenile offenders.

### **Mandatory Minimum Sentences**

Another area of research on the unintended effects of statutory reform focuses on mandatory minimum sentences (MMS). Studies have documented significant variation in the application of MMS to offenders (see, e.g., McCoy, 1984; Zimring, Hawkins & Kamin, 2001). This variation has been attributed to the "hydraulic displacement" theory of statutory reform, in which removal of judicial discretion in one area results in increased discretion in another area (McCoy, 1984; Nardulli, Flemming, & Eisenstein, 1985). A recent examination of Ohio's MMS is especially relevant to the present study. Wooldredge and Griffin (2005) examined rates of prosecutor indictments in the year prior to (July 1, 1995, to June 30, 1996) and following (January 1, 1997, to December 30, 1997) Ohio's MMS. Results indicated that prosecutors indicted significantly fewer rapists (but not assault offenders or murderers) after MMS went into effect. The authors did not speculate as to why rapists were treated differently than assault offenders or murderers, but the timing of the study offers a clue. Specifically, Ohio enacted a public registration policy that coincided with the post-MMS timeframe (effective July 1, 1997; see Ohio Rev. Code, 1997). Offenders indicted for rape (but not assault or murder) would have faced both MMS and the new public registration requirements. Thus, the public registration policy might have accounted for some of the reduction in the rape indictments. One possible explanation for such findings is the hydraulic displacement

theory of judicial decision making, mentioned above, in which the removal of decision-making power from one judicial component results not so much in the loss of that power as in the redistribution of power between judicial actors (McCoy, 1984). With respect to sex offender registration policies, juvenile justice decision makers might alter their behaviors in ways that reassert their power to influence registration decisions. This effect might be stronger in states where registration requirements are based primarily on disposition offenses versus a risk assessment approach that considers other risk factors and mitigating circumstances.

Registration policies were originally developed to address the recidivism risks posed by violent adult repeat sexual offenders. These policies have been extended downward to juvenile offenders, often with little consideration of developmental and motivational differences between juvenile and adult offenders, and with little regard for the fact that juvenile offenders are, as a group, unlikely to reoffend sexually. To our knowledge, no research has examined the influence of registration policies on juvenile judicial decision making, although research on the effects of juvenile transfer laws and mandatory minimum sentences suggests the possibility that judicial decision makers might be influenced by registration policies.

To assess the effects of registration on juvenile judicial decision making, we focused on data from South Carolina. South Carolina's registration policies (S.C. Code of Laws, 1995) exceed, in every respect, the original federal registration and community notification requirements established by the Jacob Wetterling, Megan Kanka, and Pam Lychner Acts in the 1990s (e.g., Federal 42 U.S.C.A., 2006; Public Law No. 104-145, 1996) and continue to exceed even the expanded requirements more recently established by the Adam Walsh Act. Although putatively harsh, South Carolina's laws are not unique. Indeed, 36 states currently require juveniles to register (Terry & Furlong, 2004), and, as noted, the Adam Walsh Act now requires all states to register juvenile offenders, some as young as 14 years of age.

## Method

The aim of this study is to examine whether judicial decision making regarding juvenile sexual offense charges changed in response to the initial enactment of South Carolina's sex offender registration (implemented on January 1, 1995) and/or to subsequent increased public access to the registry resulting from this information being made available over the Internet (implemented on January 1, 1999). Specifically, we examined patterns of prosecutorial decisions and disposition outcomes for all youth charged with serious sexual offenses between 1990 and 2004 (inclusive). Additionally, to address the potential effects of nonspecific factors that might have influenced judicial decision making regarding juvenile offenders in general (e.g., the influence of other policy changes enacted in the 1990s), we examined patterns of judicial decision making for two other serious person offenses: assault and robbery.

Disentangling the influence of one policy (e.g., targeting sexual offenses) from the influence of other policies (e.g., targeting violent crimes in general) is important given national crime trends. Criminal offending in general, including most forms of serious or violent offending, declined for both adult and juvenile offenders from the early 1990s through the early 2000s, attributable to a broad array of nonspecific factors (Finkelhor & Jones, 2004). To account for the potential effects of these nonspecific factors, research purporting to examine the effects of sexual offense-specific policies should include examination of other crime types.

## Sample

The entire population of South Carolina male youth charged as minors with felony-level sexual, assault, and/or robbery offenses between January 1, 1990, and December 31, 2004 ( $N = 18,068$ ) was accessed for the present analyses. Few females were charged with felony-level sexual crimes, and thus all analyses focus only on male defendants to facilitate comparison across crime types. Of these youth, 5,166 had a total of 5,503 sexual offense charges; 12,379 had a total of 14,095 assault offense charges; and 2,675 had a total of 2,942 robbery offense charges. There were 23 different types of sexual charges (e.g., criminal sexual conduct with a minor), 8 types of assault charges (e.g., assault and battery of a high and aggravated nature), and 6 types of robbery charges (e.g., common law/strong arm robbery) contributing to these data. Each charge had an associated severity rating. These ratings were developed by the South Carolina Department of Juvenile Justice (DJJ) and were based on the number of years an adult might spend incarcerated if convicted of a similar charge (Barrett, Katsiyannis, & Zhang, 2006). Across all juvenile charges, severity ratings range from 1 (lowest level misdemeanor) to 25 (highest level felony). Felony (vs. misdemeanor) offenses are operationally defined by the South Carolina Advisory Sentencing Guidelines Act as offenses with maximum sentences of five or more years (S.C. PL Chapter 2, Title 16, 1995). Because the South Carolina registry policies target felony-level offenses, the present study focuses on charges with severity ratings of 5 or higher.

*Personal characteristics.* The population of male youth with felony-level sexual, assault, and/or robbery charges was predominantly Minority (70.8%) versus White (29.2%). Mean age at first charge for the entire sample was 14.2 years ( $SD = 1.8$  years, range 6-17 years). Youth with any sexual offense charges ( $N = 5,166$ ) had a mean age at first sexual offense of 14.19 years ( $SD = 1.81$ ) and a mean of 0.42 prior charges ( $SD = 1.13$ ); 60% were Minority. Youth with any assault charges ( $N = 12,361$ ) had a mean age at first assault charge of 14.59 years ( $SD = 1.71$ ) and a mean of 0.66 prior charges ( $SD = 1.40$ ); 71% were Minority. Youth with any robbery charges ( $N = 2,673$ ) had a mean age of 15.11 years ( $SD = 1.32$ ) and a mean of 1.35 prior charges ( $SD = 2.04$ ); 89% were Minority. Because some youth received charges

across multiple offense types, between-groups comparisons on these three characteristics were precluded (this overlap was not problematic for the principal analyses, which were conducted separately for each crime type). However, given apparent differences across these characteristics for youth with different types of offenses, subsequent statistical models included age at index offense, race, and an indicator of prior guilty findings to account for any variability of the responses attributable to these characteristics.

## Procedures

All data were drawn from the South Carolina Department of Juvenile Justice (DJJ) Management Information System in collaboration with the South Carolina Budget and Control Board Office of Research and Statistics. The information obtained for the present study included prosecutors' decisions and final disposition outcome. Prosecutors' decision options included (a) taking no action on the charge (e.g., dismiss, *nolle prosequi*), (b) ordering a nonjudicial resolution (e.g., pretrial diversion, diversion to mentor program), (c) forwarding for judicial action (e.g., prosecute the charge), and (d) forwarding for administrative action (e.g., transfer to another state, transfer to criminal court). For purposes of analyses, a dichotomized prosecution variable was created with 0 = *divert/dismiss* (categories a and b) and 1 = *forward for prosecution* (categories c and d). Dispositions outcomes were examined for cases that were prosecuted. Dispositions outcomes included (a) not guilty determinations (e.g., indicated by decisions to acquit, dismiss), (b) conditional determinations (e.g., indicated by court ordered intensive family services, alcohol and drug counseling), and (c) guilty determinations (e.g., indicated by parole, probation, or commitment orders). For analyses, a dichotomized variable was created with 0 = *not guilty or conditional determination* (categories a and b) and 1 = *guilty determination* (category c).

As noted, only those cases charged with felony-level sexual, assault, or robbery offenses between January 1, 1990, and December 31, 2004, were included in the present study. This time frame permitted examination of cases processed during the 5 years prior to implementation of the South Carolina sex offender registration (January 1, 1990, through December 31, 1994), cases processed during the 4 years following registration but prior to implementation of the online registry Web site (January 1, 1995 through December 31, 1998), and cases processed during the 5 years subsequent to implementation of the Internet-based public registry Web site (January 1, 1999, through December 31, 2004). Charges filed against minors in general sessions (adult) court were not included in the analyses for this study. All data were de-identified prior to being made available for analysis. The use of de-identified archival records did not require informed consent, which was waived for this study. This study was approved by the university institutional review board and by the agencies that provided access to the data.

## Data Preparation Steps

Several steps were taken to prepare data for analysis. When multiple charges within a class of offense were present (e.g., two or more sexual offense charges filed on the same date), the highest severity charge was selected. Records indicating very young (<6 years) or old (>21 years) age at initial juvenile offense charge were omitted. The data are limited by the fact that there was no method available for verifying the accuracy of DJJ intake data entry or coding. Another limitation is that jurisdiction indicators were omitted as part of the de-identification process, thus precluding analyses of the influence of specific jurisdictions on results. Despite these limitations, the DDJ database provides the only comprehensive state-level source of officially documented juvenile delinquency charges and dispositions.

## Statistical Analyses

The primary goals of this study were to examine whether comprehensive sex offender registration laws originally implemented by South Carolina in 1995 and revised to increase public access in 1999 influenced (1) the probability of prosecution and (2) the probability of guilty disposition for felony-level sexual offense charges. Respectively for Points 1 and 2, we consider both 1995 and 1999 as possible significant change-point years to evaluate whether enactment of sexual offender-specific policies in these landmark years influenced the probabilities of prosecution or disposition outcomes in subsequent years. The response variables for both Points 1 and 2 were coded as binary  $Y = 1$  when cases were forwarded for prosecution or resulted in guilty determination and coded as  $Y = 0$  otherwise. Let  $p = \text{Prob}[Y = 1]$  be the probability of a case being forwarded for prosecution, as in Point 1 or a case resulting in a guilty determination, as in Point 2. The main objective was to evaluate the strength of statistical evidence behind the hypothesis that the general pattern of the probability ( $p$ ) of prosecution and disposition outcomes changed significantly before and after the years that landmark registration (1995) and Internet-based notification (1999) policies were implemented. Apart from the change-point indicators of 1995 and 1999, other covariates included in the model were race (coded as White or Minority), age at charge, prior offenses, and year of prosecution (or disposition). Statistical analyses revealed a high degree of association between race and charge severity (i.e., a significantly greater proportion of low severity charges involved Minority vs. White youth). Because the relationship between race and severity varied by severity level, charge severity was used as a class variable in all models.

As noted previously, youth could contribute multiple charges to the analyses. To account for association among repeated offenses within youths, generalized estimating equation (GEE) methods were used (Liang & Zeger, 1986). This GEE method provides robust and consistent estimates of the marginal/population averaged regression coefficients (effects of explanatory variables on the response) and their standard

errors under weak assumptions about the true association structure among the repeated observations within a subject (Stokes, Davis & Koch, 2000). Additionally, the probability of the response (outcome  $Y = 1$ ) was modeled using logistic regression. Although alternative analytic strategies could be applied to the data (e.g., time-series analysis with ARIMA model), the longitudinal data analysis via GEE tools used in this study essentially uses time-series data while preserving the within-subject information (Conaway & Lohr, 1994). Furthermore, the GEE method handles for within-offender association over time and is robust to underlying modeling assumptions (such as ARIMA) about the structure of the association. Longitudinal data analysis is also more efficient than time-series method using ARIMA assumptions (Ballinger, 2004; Fitzmaurice, Laird, & Ware, 2004; Liang & Zeger, 1986) because it accommodates for a very general class of within subject association. All computations for the analysis were performed using SAS (version 9.1; SAS Institute, Cary, NC) procedure PROC GENMOD that fits GEE models controlling for association among repeated offenses within an offender. Statistical significance of the effect of each covariate was assessed using a two-sided test controlling for a .05 type-I error level.

## Results

Models estimating the probability of cases being prosecuted for felony-level sexual offense, assault, and robbery charges are presented first, followed by models estimating the probability of guilty dispositions.

### Probability of Cases Forwarded for Prosecution

Table 1 presents the point and 95% interval estimates of the odds ratios of cases being forwarded for prosecution for each of the three crime types. In all three models, youths' age at initial charge and the prior offense indicator were statistically significant predictors, with prosecutors less likely to move forward on charges against younger defendants and on defendants with fewer prior offenses. The estimated magnitude of the association between these covariates and prosecutors' decisions was less for robbery offenses than those of sexual or assault offenses. For example, each year of age increase at initial charge accounted for a 12% and 15% increase in the odds of prosecution for sexual and assault offense, respectively, but only an 8% increase in the odds of prosecuting robbery offenses. Recall that youth with robbery offenses tended to be older at initial robbery offenses ( $M = 15.11$  years) than youth with sexual offenses ( $M = 14.19$  years) or assault offenses ( $M = 14.59$  years). Thus, the reduced magnitude of the association between age at index robbery offense and prosecutor decision to move forward might be attributable to the truncated age range and age variance of robbery offenders. Likewise, each prior offense

**Table 1**  
**Point (95% Interval) Estimates of Odds Ratios of Prosecutors' Moving Forward on Felony-Level Sexual, Assault, and Robbery Offense Charges**

	Sexual Offense Charges		Assault Offense Charges		Robbery Offense Charges	
	Odds Ratio	Confidence Limits	Odds Ratio	Confidence Limits	Odds Ratio	Confidence Limits
Charge age	1.12****	1.09–1.16	1.15****	1.13–1.17	1.08*	1.00–1.15
Race	1.07 <sup>a</sup>	0.95–1.20	0.91*	0.84–0.98	1.00 <sup>a</sup>	0.75–1.33
Prior offenses	1.13****	1.07–1.20	1.20****	1.16–1.24	1.07*	1.01–1.12
Prosecution year	1.03 <sup>a</sup>	0.99–1.07	1.02 <sup>a</sup>	1.00–1.04	0.98 <sup>a</sup>	0.92–1.05
1995 change-point	0.59****	0.47–.73	0.78***	0.69–0.90	0.89 <sup>a</sup>	0.65–1.22
1999 change-point	1.10 <sup>a</sup>	0.87–1.39	0.96 <sup>a</sup>	0.83–1.12	1.14 <sup>a</sup>	0.75–1.73

Note: Not significant.

\* $p < .05$ . \*\* $p < .01$ . \*\*\* $p < .001$ . \*\*\*\* $p < .0001$ .

accounted for a 13% and 20% increase in odds of prosecution for sexual and assault offenses, respectively, but only a 7% increase in odds of prosecution for robbery offenses. Robbery offenders were more likely to have prior offenses, perhaps inuring prosecutors to the influence of prior offenses for youth charged with robberies. Youth race was statistically significant only for the assault offense, with a 9% decrease in the odds of moving forward on cases involving White versus Minority defendants (95% interval estimate 2% to 16%). Prosecution year and the 1999 change-point were nonsignificant covariates in all three models. The 1995 change-point was a statistically significant predictor for odds of moving forward on sexual and assault (but not robbery) offense charges. For sexual offense charges, there was a 41% reduction in the odds of a prosecutor moving forward after registration was implemented than before, within a relatively narrow 95% interval estimate of 37% to 52%. For assault offenses, there was a 22% reduction in the odds of a prosecutor moving forward after 1995 (95% interval estimate 10% to 31%). Thus, although the odds of prosecutors moving forward declined for both offense types, the reduction in odds of moving forward on sexual offense charges was nearly twice that of assault offense charges.

## Probability of Guilty Disposition

Table 2 presents the point and 95% interval estimates of the odds of guilty dispositions, with the same covariates as in the previous models. Age at initial charge was a statistically significant predictor only for the sexual offense model, with an 8% increase (per year of age at initial charge) in the odds of a guilty disposition. Race was a significant predictor for the sexual and assault offense models. The odds of

**Table 2**  
**Point (95% Interval) Estimates of Odds Ratios of Guilty Dispositions for**  
**Felony-Level Sexual, Assault, and Robbery Offense Charges**

	Sexual Offense Charges		Assault Offense Charges		Robbery Offense Charges	
	Odds Ratio	Confidence Limits	Odds Ratio	Confidence Limits	Odds Ratio	Confidence Limits
Charge age	1.08**	1.02–1.15	1.01 <sup>a</sup>	0.07–1.05	1.07 <sup>a</sup>	0.98–1.17
Race	1.52****	1.27–1.84	1.16*	1.02–1.32	1.23 <sup>a</sup>	0.85–1.84
Prior offenses	1.02 <sup>a</sup>	0.95–1.09	1.03 <sup>a</sup>	0.99–1.07	1.01 <sup>a</sup>	0.95–1.07
Disposition year	1.00 <sup>a</sup>	0.95–1.06	0.99 <sup>a</sup>	0.95–1.03	1.09*	1.01–1.18
1995 change-point	0.93 <sup>a</sup>	0.67–1.30	1.23*	1.00–1.51	0.88 <sup>a</sup>	0.55–1.26
1999 change-point	1.67**	1.14–2.44	1.41**	1.11–1.77	1.09 <sup>a</sup>	0.65–1.82

a. Not significant.

\* $p < .05$ . \*\* $p < .01$ . \*\*\* $p < .001$ . \*\*\*\* $p < .0001$ .

guilty dispositions were 52% higher for White than Minority youth charged with sexual offenses and 16% higher for White than Minority youth charged with assault offenses. Prior offense was a nonsignificant covariate in all three models. Disposition year was significant only for the robbery offense model, with a 9% (95% interval estimate 1% to 18%) increase in the odds of guilty dispositions at each subsequent year of disposition. The 1995 change-point was statistically significant only for the assault offense model, with a 23% increase (95% interval estimate 0% to 51%) in the odds of a guilty disposition after 1995 than before. The 1999 change-point was statistically significant for both the sexual and assault offense models. For sexual offense cases, there was a 67% increase in the odds of a guilty disposition after 1999 than before (95% interval estimate 14% to 144%). For assault offense cases, there was a 41% increase in the odds of a guilty disposition after 1999 than before (95% interval estimate 11% to 77%). For the three statistically significant change-point findings, the confidence intervals were large, and this was especially true for the sexual offense disposition finding. These wide confidence intervals indicate that the estimated relationship between change-points and odds of guilty disposition were not precise. Additionally, there might be unidentified latent class variables that influence these change-point/disposition relationships.

One possible explanation for the overall finding that odds of sexual and assault offense guilty dispositions increased after 1999 (and after 1995 for assault offenses) is that as penalties for these offenses stiffened, youth might have been more likely to accept plea bargains. If plea bargains were increasing, we would expect to see a higher percentage of lower severity cases at disposition over time, and this is indeed what we found. Specifically, to examine this hypothesis, we plotted the percentages of all cases (for which disposition outcomes were known) by offense severity level by

year. For sexual offense charges, which had severity ratings of 5, 8, 15, or 21, lower severity cases made up an increasingly greater proportion of cases over time. Thus, in 1990, 23% of all cases had severity ratings of 5 or 8 and 77% had severity ratings of 15 or 21. In 2000, 47% of cases had severity ratings of 5 or 8 and 53% of all disposed cases had severity ratings of 15 or 21. A similar although less striking finding occurred for assault offense, which saw the percentage of cases with severity ratings of 5 or 8 increase from 71% to 79% between 1990 and 2000.

## Discussion

The present study sought to empirically examine the effects of sweeping registration policies as applied to juvenile sexual offenders in South Carolina. Results of data analyses suggest that prosecutors altered their decision-making procedures in ways that seemed to protect many juveniles (especially younger offenders and offenders with fewer priors) from the possibility of lifetime registration and that redistributed the decision-making power from legislators (i.e., who wrote the policy to require registration of youth based almost solely on conviction offense, regardless of other risk factors or mitigating circumstances) to prosecutors (i.e., who appeared to take a more nuanced approach regarding which cases should be subjected to registration requirements). The size of this effect was significant, with the odds of prosecuting felony-level sexual offense charges decreasing by more than 40% after South Carolina's lifetime registry policy was enacted, compared with the period prior to enactment. By comparison, 1995 also a significant change point for assault offenses. However, the magnitude of this effect was smaller, with a 22% reduction in odds of prosecution after 1995. Several policies were altered or enacted in the mid-1990s that influenced the prosecution of certain juvenile offenses. For example, minimum age requirements for juvenile transfer to adult court were lowered for certain violent offenses (including many sexual and assault offenses). South Carolina also enacted truth-in-sentencing and three-strikes legislation that targeted certain violent offenses (including many sexual and assault offenses) and that permitted juvenile adjudications to count as first strikes. These changes might have resulted in an increased reluctance on the part of prosecutors to prosecute felony-level sexual and assault offenses. The risk of lifetime public registration for juvenile sexual offenders appears to have had an additional effect on prosecutor decision-making behavior, resulting in the much larger reduction in odds of prosecution for youth charged with felony-level sexual offenses compared with youth charged with felony-level assault offenses.

The odds of guilty dispositions for sexual and assault offenders increased in relation to the 1995 (assault offenses) and 1999 (sexual and assault offenses) change-points, although these findings were characterized by wide confidence intervals, suggesting a lack of precision and the influence of unidentified variables. We suspect that as penalties for sexual and assault offenses stiffened, cases on which prosecutors

chose to move forward might have been more amenable to accept plea bargains, resulting in the increased odds of guilty dispositions. An initial examination of the data lent some support to this view. Specifically (and particularly for sexual offenses), disposition case severities declined over time, suggesting an increasing rate of plea bargains. We are presently examining the pattern of plea bargains to more fully explore how this aspect of judicial decision making might have changed in response to registration and other legal policies.

As with any study, evaluation of these results should take into consideration study strengths and weaknesses. Strengths of this study include examination of all judicial decisions pertaining to juvenile sexual offenders over a 15-year time interval, comparison of results across three distinct crime types, and use of efficient and robust data analytic techniques that address specific features (e.g., youth with multiple offenses) of these data. Considering these strengths, we believe that results can be generalized across South Carolina and across states that have enacted (or intend to enact) similar registration policies for juveniles. There are, however, important limitations to this study. First, this study is a retrospective examination of data versus a prospective study. Retrospective studies are more prone to the influence of confounding variables, a concern we attempted to address by including models of assault and robbery offenses. A second limitation is the lack of self-report data from the judicial decision makers themselves. Without interviewing prosecutors and judges, we can only speculate as to why they apparently altered their decisions subsequent to South Carolina's registration policies. Research that includes interviews with judicial decision makers regarding the bases for their decisions could help to further clarify reasons behind observed changes. A third limitation of the present study was an inability to identify specific jurisdictional circuits. There are 16 judicial circuits in South Carolina to which at least two family court judges are assigned. Previous research has suggested a nesting effect, in which a greater degree of variance is shared within, rather than between, courts (Eisenstein & Jacob, 1977; Flemming, Narduilli, & Eisenstein, 1993; however, see Kupchik, 2006). With respect to the present study, it is possible that the wide 95% interval estimates observed for the 1999 change-point in the sexual and assault offense disposition models might have been attributable in part to jurisdictional variation. Variables denoting specific jurisdictions were purposely omitted from the data made available for this study, in part to protect the identities of youth who were charged or convicted of sexual offenses in sparsely populated areas. Future research should endeavor to include such variables to determine the extent to which jurisdiction influences outcomes.

We conclude that one effect of applying a lifetime, charge-based (vs. risk-based) registration policy to juvenile sexual offenders is that prosecutors became significantly less likely to move forward on cases, thus undermining the primary aims of registration policies (i.e., increase police and community surveillance of sexual offenders). That is, following enactment of South Carolina's registration policy, fewer youth were charged with and convicted of felony-level sexual offenses than

likely would have been the case in the absence of the registration policy. These results correspond with the hydraulic displacement theory of statutory reform (McCoy, 1984; Nardulli et al., 1985), reviews of other statutory reforms associated with unintended changes in the prosecution of offenders (e.g., see Zimring et al., 2001), and distinctions made by many judicial actors regarding the differential culpability of juvenile (vs. adult) offenders (e.g., Bumby et al., 2006; Trivits & Reppucci, 2002). If replicated, these findings suggest the need to reform registration policies as applied to juvenile offenders.

## Policy Implications

Before discussing policy implications, we must note that in the United States, counselors and therapists are mandated reporters of sexual offending and that treatment of sexual offenders nearly always follows some level of police or protective service involvement. Thus, not only are juvenile sexual offenders less likely to receive court-ordered supervision in the absence of prosecution, they also are unlikely to receive treatment services (e.g., it would not be in a youth's best interests to acknowledge a sexual offense while in therapy after having had that sexual offense charge dropped by a prosecutor). If current results are replicated, they indicate the need to amend registration policies so as not to interfere with legitimate supervision and treatment needs of juveniles who sexually offend.

To align registration policies more closely with the philosophy of the United State's separate juvenile justice system, which strives to balance the need for community safety with the rehabilitative needs and potential of youthful offenders, three specific registration policy reforms are suggested. First, registration requirements should be tied to objective measures of recidivism risk, rather than specific charges. Judicial actors might be less likely to dismiss serious sexual offense cases if they are assured that registration requirements will be based on overt risk factors and will take into consideration mitigating circumstances. Second, registration duration should reflect the developmental stage of juveniles. For example, a youth's registration requirements could end with probation, in the absence of new sexual offenses. Judicial actors might be less likely to alter their decision-making behaviors when subsequent penalties such as registration take into consideration youth developmental status. A third recommendation also seems warranted, although it is not directly tied to the results of the present study. Specifically, placing the South Carolina registration online did not appear to overtly influence judicial decision making. However, when registration is made public, it is also made permanent. For example, organizations that compile information from public registries might not delete information on particular individuals whose registration durations have elapsed. Thus, if juvenile registration durations are shortened (as recommended), it seems prudent to eliminate public notification requirements for juveniles.

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