

# Moving Full-Speed Ahead in the Wrong Direction? A Critical Examination of US Sex-Offender Policy from a Positive Sexuality Model

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**Abstract** Despite an extensive research literature on sexual offending, much of current sexual offender policy within the United States runs counter to such literature, and instead, is based on common, pervasive myths about sexual offenders. Not surprisingly, recent studies on sex offender policy effectiveness suggest that current approaches are both costly and largely ineffective. In this paper, we suggest that a longstanding socio-cultural climate of sex-negativity fuels common fears and misconceptions about sexual offending and about policy related to treatment and supervision. We present a positive sexuality model and consider how the effectiveness of dealing with sexual offending issues could be improved through using a positive sexuality approach to guide policy.

## Introduction

“What to do with sexual offenders?” was the question that Pfafflin and Eher (2003) asked over a decade ago when speaking to the International Association for the Treatment of Sexual Offenders (IATSO). Consistent with IATSO statutes cited by Pfafflin and Eher, scientific knowledge on a range of topics pertaining to sexual offending and treatment has increased substantially over the past decade. During this same period, sexual offender issues have remained the focus of strict legislation within the United States, including the application of capital punishment to sexual crimes in several states (Gibeaut 2007), though such laws were later deemed unconstitutional by the US Supreme Court (Kennedy vs. Louisiana). Despite the creation of strict policy concerning sexual offending and beliefs

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among criminal justice practitioners and policymakers that such policy is effective (Meloy et al. 2013), recent research suggests that such policy is largely ineffective and may create various additional harms (i.e., Burchfield 2012; Cohen and Jeglic 2007; Levenson and Cotter 2005; Levenson and Hern 2007; Levenson and Tewksbury 2009; Maguire and Singer 2010; Meloy 2005; Prescott and Rockoff 2011; Oliver 2012; Robbers 2009).

The purpose of this paper is to critically examine US sexual offender policy according to socio-cultural constructs of sex-negativity and sex-positivity (or positive sexuality). After further introducing this topic, we examine policy based on existing research that we then structure and discuss according to a recently proposed multidisciplinary positive sexuality model (Williams et al. 2015). While this model can be applied to address a variety of topics pertaining to sexuality, the model can also explain multiple problems that contribute to ineffective sexual offending policy.

### Sex-Negativity in American Society

There is tremendous variation in sexual norms across cultures and historical periods (Popovic 2006), thus common moral judgments and formal laws that govern sexual behavior also vary according to place and time (Hayes and Carpenter 2012). Consistent with this, Bullough (1976) observed that societies can be understood as being more or less sex-negative or sex-positive, though there may be local regions or social backspaces (Goffman 1963) that differ from broader socio-sexual norms.

In particular, sex-negative societies construct sexual behavior as being unnecessarily risky and problematic, perhaps even adversarial. In such societies, there is a relatively narrow range of acceptable sexual practices, and communication about sexuality is restricted. This is often the result of religious perspectives that categorize certain practices and relationships as moral and acceptable, while most other practices and relationships are deemed sinful and perverse (Sherkat and Ellison 1997; Weitzer 2006). In addition, sex-negativity can also arise from other perspectives such as certain forms of feminism (e.g., Dworkin 1981; MacKinnon 1989) that argue that regardless of the consent and desire of individual persons, many practices and relationships should be discouraged and restricted simply due to their assumedly negative effects on women. In contrast to these kinds of perspectives, sex-positive societies acknowledge that there are risks related to sexual behavior, yet they also recognize and validate the importance of sexual pleasure and of diverse sexual interests, preferences, motivations, and meanings. Open communication is encouraged, and consent and desire are upheld as foundational parts of a sex-positive approach.

Of these different perspectives, there is little doubt that the United States is a thoroughly sex-negative society. Even though the United States has long been upheld as a champion of individual rights and as an exemplar of pluralism and diversity (Lipset 1997), this has clearly not been the case with regard to sexuality (Adam 2003). Indeed, in comparison to other Western democracies, there is good reason to think that American society has actually been atypically sex-negative (Widmer et al. 1998).

Some of the most obvious examples of this relate to America's ongoing mistreatment of lesbian, gay, bisexual, and transgender (LGBT) persons (Huebner et al. 2004). In comparison to other Western democracies, the United States has not only been far less accommodating and accepting of such persons (Scott 1998), but the American legal system has also frequently perpetuated injustice in a manner that far exceeds comparable nations

(Hildebrandt 2014; Saez 2011). While many other countries have long protected the rights of LGBT persons in their midst, it was not until 2003 that the US Supreme Court finally struck down the last set of laws that criminalized homosexual behavior (Lawrence vs. Texas). Yet, even still, as of this writing, the Pew Research Center (2014) reports that while 18 other countries have made same-sex marriage the law of the land, such unions continue to remain illegal in several US states.

Alongside this antagonism toward LGBT persons, broader American society has also been thoroughly inundated by sex-negativity. While perhaps rooted in religion (Cochran and Beeghley 1991; Thomas and Olson 2012) as well as certain forms of feminism (e.g., Dworkin 1981; MacKinnon 1989), such negativity is clearly reinforced and perpetuated through America's draconian approach to sex education (Irvine 2004). This approach not only regularly hides information about homosexuality and contraception (Kirby 2008) but has also been known to, at times, even discourage masturbation (Luker 2007). Corresponding to this, it is not surprising that the United States is noted for its lack of access to contraception (Harrison 2005) and as well as for its ongoing "War on Women" (Deckman and McTague 2014) that further illustrates a variety of attempts to restrict women's birth control choices.

For much of America, then, it seems that the only acceptable form of sexuality is what Rubin (1984: 281) has called "the charmed circle" of "good, normal, natural, [and] blessed sexuality." Inside this circle, sexuality is "heterosexual, married, monogamous, procreative, non-commercial, in pairs, in a relationship, same generation, in private, no pornography, bodies only, [and] vanilla." Needless to say, other forms and expressions of sexuality are relegated to "the outer limits." Here we find, not only homosexuality, masturbation, and promiscuity, but indeed, all kinds of "bad, abnormal, unnatural, [and] damned sexuality."

Rubin's classification of such activities is consistent with a wide range of literature that has documented both popular and academic disdain for anything outside of this charmed circle (De Block and Adriaens 2013; Levine and Trolden 1988; Moser 2009). Indeed, with the increased medicalization of sexuality (Bancroft 2002; Tiefer 1996), the pallor of deviance and pathology has regularly descended on a variety of practices and relationships, especially those related to consensual bondage-discipline, dominance-submission, and sadomasochism (BDSM, Beckmann 2009; Kleinplatz and Moser 2005), as well as a whole range of other fetish and kink activities (Ortmann and Sprott 2012). Perhaps even more jarring than this, though, is the blatant hypocrisy with which American society reacts to the commercialization of sexuality. While large proportions of the population view pornography (Carroll et al. 2008; Döring 2009) and many adults regularly visit strip clubs and massage parlors as well as sometimes transact for various forms of prostitution (Monto and McRee 2005), at the same time, Americans manage to offer wide-spread moral condemnation of these very practices (Sherkat and Ellison 1997; Thomas 2013) and regularly seek to decrease access to and increase the regulation and/or criminalization of these practices (Weitzer 2007, 2010). Because of such examples, we think that America clearly fits Bullough's (1976) archetype of the sex-negative society. Widespread sex-negativity provides a climate where myths concerning sexuality can quickly proliferate and impact policy development.

### **Popular Myths and Moral Panic: Sex-Negative Roots of Current Policy**

In their excellent review of the literature on sexual offending research, Quinn et al. (2004) discussed how severe sentencing laws, civil commitment procedures, and community

notification statutes have been created based on popular myths rather than scholarly research about sexual offenders and the effectiveness of treatment. Quinn et al. described how sexual offenders have generally been constructed as predators who target the most vulnerable members of society—women and children—which further amplifies fear and hatred (for a review on pedophilia and the social construction of childhood a/sexuality, see Gooren 2011). Quinn et al. also reviewed how increased media coverage of news events in recent years, including 24 h reporting, has focused on sexual offending cases, especially the most horrific ones, and thus there has been far more visibility of horrific sexual abuse cases among the public. At the same time, research studies on sexual offending are sometimes difficult to interpret (Furby et al. 1989), especially among non-academics and may be misunderstood or misused (such as overgeneralizing) to exaggerate offense and recidivism rates.

These factors seem to facilitate pervasive myths concerning sexual offenders, including that: (1) sexual offenders and their motivations are all the same (a homogenous population); (2) almost all sexual offenders will reoffend; and (3) sexual offender treatment is ineffective (Quinn et al. 2004). These myths are so prevalent that even law enforcement and clinical professionals frequently believe them (Hanson cited in Kersting 2003; Meloy et al. 2013). A recent study by Meloy et al. (2013) confirmed that recent sexual offender legislation was created based on pervasive sexual offending myths and that many policymakers believe current sexual offender policy is effective in ensuring public safety. However, research on sexual offending clearly runs counter to these myths, and it is paramount that better processes of communicating research on sexual offending are developed if policy is to be improved (Robinson 2003).

In contrast to common sexual offending myths, several large reviews of scientific studies show that sexual offenders differ markedly in their offenses, personal characteristics, and risk factors, and, compared to other classifications of offenders, have relatively low rates of recidivism (e.g., Alexander 1999; Center for Sex Offender Management 2001; Hanson and Bussiere 1998; Hanson et al. 2003; Sothill 2010). Research reviews also show that well-designed sexual offender treatment programs are effective in lowering recidivism (Hanson et al. 2009; Losel and Schmucker 2005; Marshall et al. 2007; Walton and Chou 2014). For example, the recent meta-analysis by Walton and Chou (2014) utilized a methodologically-strict inclusion criteria (randomized control trials and cohort studies) and found that the recidivism rate for treated offenders was 13.9 % compared to 18.6 % for untreated offenders.

Sexual offending is, of course, a very serious issue that can bring substantial harm to people individually and to society at large. However, there is a vast difference between what is known about sexual offending issues based on research as opposed to common interpretations that are rooted in pervasive myths and assumptions, which contribute to an environment where policy is driven by moral panic (Maguire and Singer 2010; Neuilly and Zgoba 2006; West 2000). Due to public pressure, punitive legislation that focuses on monitoring and confining sexual offenders has been enacted with little input from scholars (see Cohen and Jeglic 2007; Janus 2003; Logan 2003; Robinson 2003). Since these laws were enacted, empirical research is accumulating, cited at the beginning of this paper, that illustrates that these policies do not have their intended effect. Indeed, recent harsh US sexual offender laws were created based on outrage that followed from highly publicized though rare cases, which Surette (2007) has referred to as “memorial crime control.” In such cases, harsh new legislation occurs as a reaction to public outrage from these highly visible cases, where victims are children from White, upper-middle class families. Griffin and Stitt (2010) have argued that instead of rushing to create harsh new legislation based

on the most horrific cases (typically including murder of the victim), policymakers should recognize that such rare and tragic cases are statistically inevitable. Indeed, harsh and costly policies based on few cases but applied to all sexual offenders are likely to produce additional problems.

### **Applying a Positive Sexuality Model to Guide Policy**

A positive sexuality perspective—based on embracing sexual diversity, open and honest communication, empowering individuals' in their sexual choices, and acknowledging the importance of pleasure along with the consideration of risk—may be useful in helping reduce multiple social issues pertaining to sexuality. This includes providing more inclusive sexual education programming, empowering sexual minorities, and helping young adults successfully negotiate sexual interactions (LaFrance et al. 2012; Williams et al. 2013). Because positive sexuality encourages open and honest communication about sexuality and sexual interests and preferences, it may be helpful in minimizing sexual victimization in at least two ways: (1) individuals with deviant sexual interests may be better able to communicate such interests and find healthy, consensual ways of sexual expression; and (2) children who are educated and not afraid to talk about their bodies are empowered and thus less likely to be sexually assaulted (Williams et al. 2013). In other words, sex-negativity breeds secrecy, which contributes to a climate where sexual assaults may be more likely to occur.

Recently, a multidisciplinary model of positive sexuality has been developed by sexuality scholars (Williams et al. 2015) that includes the following interrelated eight dimensions: (1) "positive" in positive sexuality refers to strengths, happiness, and well-being; (2) recognition that individual sexuality is unique and multifaceted; (3) open and honest communication; (4) positive sexuality is humanizing and inclusive; (5) positive sexuality encourages peacemaking; (6) positive sexuality is applicable across all levels of social structure; (7) positive sexuality is applicable to professional ethics; and (8) welcoming multiple epistemological and methodological positions.

Positive sexuality, as conceptualized by the above model, is consistent with restorative justice and other important forms of critical criminology. For example, Pepinski's (2002, 2013) excellent work on peacemaking criminology had a direct impact on the development of positive sexuality (Williams et al. 2015). Furthermore, communication and humanization are important aspects of restorative justice, convict criminology, and other forms of critical criminology. Critical criminology in many forms, of course, often critiques positivism while recognizing that there may be multiple truths, theoretical approaches, and legitimate ways of knowing.

Perhaps most notable and directly relevant are key similarities and shared emphases between positive sexuality and feminist criminology. Feminist criminology explicitly focuses on gender as a primary component in understanding crime, victimization, structural systems, and injustice (Chesney-Lind and Morash 2013) and has also specifically embraced intersectionality (Potter 2013). The positive sexuality model arose within the field of human sexuality and focuses on the unique sexualities (and subsequently the complex needs and motivations) of each individual and how individuals may express their particular sexualities in ways that promote psychological health, happiness, and well-being.

One of the most important connections between positive sexuality and feminist criminology is the shared recognition that many current problems surrounding sexuality have their roots in long-standing patriarchal views about gender and sexuality (Ogle and Batton

2009; Radford and Stanko 1991). For example, both positive sexuality and feminist criminology are keenly aware that women frequently face the double bind of simultaneously being perceived as both Madonna figures and whores (Conrad 2006; Tavis and Wade 1984). Hence, not only are women typically portrayed as the assumed victims of most sexual crimes (e.g., the victims of rape and assault), but, at the same time, they are often portrayed as the instigators of these very crimes (e.g., through being a “tease,” “slut,” or “jailbait”).

Corresponding to this, both positive sexuality and feminist criminology have regularly theorized about how this double bind is not only rooted in patriarchy but is also connected to the sexualization of culture (cf., Attwood 2006; Gill 2012; Gooren 2011) and specifically to the commodification of sexuality by means such as sexualized advertising and pornography. While positive sexuality and feminist criminology sometimes have different perspectives on the causal processes at work with regard to this sexualization (cf., Dekeseredy and Olsson 2010; McNair 2013), it is clear that both disciplines are concerned with the ways that patriarchy undermines positive experiences of sexuality, and thus not only contributes to generalized sex-negativity, but also and especially prevents girls and women from fully enjoying and experiencing their own sexualities (Lamb and Peterson 2012).

Accordingly, both positive sexuality and feminist criminology offer strong condemnation of patriarchy and insist on the rights of both women and men to celebrate and live their sexualities free from exploitation, coercion, and abuse. This is perhaps no better articulated than in the shared belief that individual consent is at the heart of both positive sexuality and feminist criminology.

In sum, both positive sexuality and feminist criminology are compatible, and both value empowerment and inclusion, plurality and legitimacy of voices, social justice, and healing. We see positive sexuality as an overlapping perspective with feminist criminology, which can potentially benefit both (as well as additional) theoretical perspectives (see Chesney-Lind and Morash 2013). In the remainder of this paper, we consider the research literature on sexual offending according to each of the eight dimensions of positive sexuality.

“Positive” Refers to Strengths, Wellbeing, and Happiness

The “positive” in positive sexuality may be understood in the same fashion as the field of positive psychology, wherein scholars and practitioners strive to understand what makes people happy, fulfilled, and thrive (Williams et al. 2015). A positive sexuality approach also emphasizes empowerment by recognizing and utilizing clients’ specific strengths in order to resolve problems, especially as pertaining to their sexual health and wellbeing. Interestingly, a “positive criminology” perspective, which focuses on social inclusion and fulfilling personal experiences that can both reduce recidivism and prevent criminal behavior from occurring in the first place, is also beginning to emerge (Ronel and Elisha 2011; Ronel and Segev 2014). It is exciting that scholars in overlapping social and behavioral sciences are recognizing the many potential benefits that can occur by shifting the therapeutic focus from client deficits to a perspective that prioritizes subjective wellbeing, fulfillment, and quality of life.

A positive sexuality perspective recognizes that each person’s sexuality is unique and multifaceted, and thus strives to understand and subsequently address how each person can be happy, healthy and fulfilled in expressing a unique sexuality. Positive sexuality applied to sexual offending issues, then, is consistent with the Good Lives Model of offender rehabilitation, which seeks to help offenders improve the quality of their lives and

simultaneously manage their risk for re-offense (Ward and Brown 2004; Ward et al. 2006; Ward and Marshall 2004). Proponents of the Good Lives Model have observed that current approaches to working with sexual offenders are excessively negative; these approaches do not seek to work collaboratively with offenders; and do not encourage optimism and self-efficacy among offenders (Marshall et al. 2005). In reviewing the relevant literature, Marshall et al. (2005) believed that a more positive, collaborative approach to working with sexual offenders would greatly improve treatment effectiveness.

Indeed, contemporary forensic sexology assumes that sexual offending is first and foremost a crime that happens to be sexual, whereas a general human sexuality perspective interprets sexual offending as maladaptive sexual behavior that happens to be illegal (Miner 2006). While these two approaches begin with different disciplinary orientations, they continue to differ markedly on a number of important factors, including the former area approaching its work from a strongly sex-negative perspective compared to the latter (Watters 2006). While both forensic sexology and a human sexuality perspective recognize that sexual offenders frequently minimize the implications of their sexual behavior, Miner (2006) outlined several key differences between the two perspectives, including:

1. Forensic sexology seeks to eliminate deviant fantasy while a sexuality perspective seeks to understand fantasy (the fantasy itself is not problematic, though acting on it in ways that violate the law is, obviously, a problem).
2. A human sexuality perspective views “deviant” fantasy as leading to shame and guilt, which then contribute to offending. Thus, safe communication is needed.
3. Forensic sexology requires polygraph testing because it assumes that offenders cannot be trusted, and they will not be responsible. A human sexuality perspective assumes that offenders can be motivated, and that the treatment process can be trusted. Quality intervention, not the polygraph, helps increase public safety.
4. Forensic sexology emphasizes treatment techniques but not therapeutic relationships, while a human sexuality perspective recognizes that a quality therapeutic relationship is critical to an effective outcome.

Scholars are beginning to recognize that while sexual offenders are a unique population with some specific issues that must be considered, there are substantial limitations in relying on current forensic sexology assumptions and procedures, which tend to be negative, overly standardized, and dehumanizing. US sexual offender policy would be improved by emphasizing offender responsibility and accountability from a positive sexuality stance that also allows for sexual expression in ways that are legal, consensual, and pleasurable for offenders. As mentioned earlier, a positive sexuality approach remains consistent with multiple forms of critical criminology, whereas contemporary forensic sexology severely lacks critical engagement.

### Individual Sexuality is Unique and Multifaceted

Although scholars of human sexuality recognize that each person’s sexuality is unique and shaped by numerous multiple factors (World Health Organization 2006), many sexual offender assessment and treatment programs do not address the diversity and complexity among sexual offenders and offenses. In fact, while various risk assessment measures are obviously important, the information gleaned from such measures remains limited (Center for Sex Offender Management no date). Although scholarship on sexual offending is driven by traditional research methods that privilege generalizations, and such methods are

extremely useful, there remains a strong need to consider individual differences and situational details when assessing and treating sexual offenders.

One of the key ways that these differences and details play out is in terms of distinguishing between truly problematic sexual interests and those which simply represent the diversity of human sexual desire. Indeed, there is a long history of the medicalization of virtually all aspects of sexuality, which certainly includes those practices that are not within socially-constructed norms (Cacchioni and Tiefer 2012). A well-known historical example of the problematic medicalization of sexual diversity is the change in the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders* (DSM) between earlier versions and those after 1973, in which homosexuality had been considered a mental disorder, but was removed after political pressure from the Gay and Civil Rights movements of the time. Prior to, and even for some period after this revision to the DSM, homosexuality was, and in some areas continues to be, linked with sexual desires like pedophilia, although evidence suggests that homosexuality per se is not linked to pedophilia (Hall and Hall 2007). More recently, when the DSM was under revision for the fifth edition, activist and research groups attempted to provide evidence in the form of white papers to the revision committee about removing, or at least clarifying, other items within the DSM that pertain to sexual diversity, like sadism and masochism and gender identity disorder. Although gender identity disorder was changed back to previously used language—gender dysphoria—the categories of sadism and masochism, as well as categories of fetishism, were not revised for the new edition despite evidence that these have not been well-established through research to be sexual disorders so much as diverse ways of expressing sexuality that are often connected to sex-negative and legally problematic sexuality (Hinderliter 2011). It is also important to note that sexual interests and desires are not always fixed and can change due to circumstances such as aging, health, availability of partners, introduction to new information, as well as other factors (Diamond 2009).

Instead, then, of trying to treat sexual offenders through the advocacy of narrow and repressive visions of sexuality, such as those described by Rubin's (1984) "charmed circle," sexual offenders should be encouraged to channel their desires into consensual and legal activities. For example, if offenders have fetishistic interests that have previously led them to violate the privacy of others in order to fulfill these interests (e.g., voyeurism or exhibitionism), such offenders should be encouraged to find sexual partners who can help them fulfill their interests in a consensual and legal manner. Alternatively, in situations where it is not possible for offender's to fulfill their desires in a consensual and legal manner (e.g., pedophilia or zoophilia), in such cases, offenders should be encouraged to find sexual partners with whom they can role play and thus help satisfy their desires in a safe, fantasy sense.

The important thing to understand here is that a sex-positive approach moves away from moralizing and policing desire and moves toward advocating for the management of desire in a consensual and legal manner. This, in turn, requires treatment strategies that avoid the temptation of assuming that everyone's sexuality does or should look the same. Instead, sexual offender treatment should celebrate sexual diversity and work hard to find ways for sexual offenders to enact their unique sexualities in a consensual and legal way.

#### Open, Honest, Communication

As noted earlier, a positive sexuality approach encourages open, honest communication and education about diverse sexualities and practices, which is in sharp contrast to common



sex-negative perspectives where sex is a taboo topic and is often avoided (Williams et al. 2013). Sex-negativity across the US leads to restrictions and censoring concerning what and how youth are formally taught about sexuality in schools. Abstinence-only and abstinence-plus programs at best have little effect, and at their worst increase the incidence of STIs and unwanted pregnancies (Advocates for Youth 2007; Kohler et al. 2007; Lindberg and Maddow-Zimet 2012). These programs lack important information and in some cases purposefully misinform their target audience (mostly adolescents) regarding sex and sexuality (Elliott and Ngo-McKelvy 2015; US House of Representatives 2004). Also, topics such as relationships, communication, and negotiation are for the most part nonexistent, even in supposedly comprehensive programs. This sex-negative approach omits valuable information about sexuality, and thus does little to facilitate healthy relationships or expressions of sexuality.

Sexuality and sexual behavior should be discussed respectfully from a wide range of disciplinary approaches. While basic education on reproductive biology is important, there is also a strong need among citizens to develop sexuality knowledge from other fields, including anthropology, sociology, feminist studies, psychology, and cultural studies.

There are huge differences in what constitutes healthy, fulfilling sex as presented in popular culture, which powerfully shapes people's beliefs on the topic, compared to actual research on healthy, fulfilling sexual experience (Kleinplatz et al. 2014). Indeed, a widespread lack of knowledge about diverse sexuality among citizens impacts a number of important social issues, including sexism, racism, homophobia, and ageism (Glickman 2000).

Regarding sexual offender policy, Williams and Burnett (2012) pointed out that in a social climate of sex-negativity, where people cannot openly and safely discuss sexuality and sexual diversity, various sexual problems and issues are not likely to be effectively resolved. In other words, if we cannot talk openly, honestly, and safely about sexuality in society, then why should we expect to have a sufficiently informed public on matters of sexuality? This ultimately leads to ineffective policies concerning sexuality, generally, and sexual offending, specifically.

Besides the need for open and honest communication concerning sexuality within society generally, current sexual offending policy discourages openness in various ways. Knowing that offenders, who are often family members, receive harsh sentences with severe repercussions, victims are less likely to report sexual abuse when it happens (Paine and Hansen 2002). At the same time, mandatory reporting laws among psychologists, social workers, and other helping professionals discourage offenders from being fully open and honest with such clinicians (Bell 2014). Even in cases when offenses occurred many years or even decades earlier, professionals must report these incidences to correctional authorities and offenders may be further punished. The severe stigma associated with sexual offending also discourages those who have not committed crime, yet may be at risk to do so, from discussing their urges with helping professionals, who may be instrumental in preventing a sexual offense.

### Humanizing and Inclusive

The most problematic aspect of current US sexual offending policy is the rampant dehumanization and blatant social constraints to facilitating the successful reintegration of sexual offenders. Although we recognize that dehumanization is a problem endemic to all areas of the criminal justice system, such dehumanization is especially obvious in the implementation of current sexual offender policy. Along these lines, Sullivan (2006: 119)

has called America's collective treatment of sexual offenders "a disgrace." Indeed, when one thinks about the invasiveness of procedures such as polygraphs, penile plethysmography, chemical and surgical castration, as well as post-conviction constraints ranging from registries to civil commitment—it is clear that current sexual offender policy enacts a very special and extreme kind of dehumanization that is not otherwise seen in the US criminal justice system.

In contrast, a positive sexuality model acknowledges that people can sometimes act in problematic, even atrocious, ways. Making mistakes, even significant ones, is part of being human. Furthermore, people also have the capacity to change and improve, and there are things that society can do to help facilitate positive change in individuals. Therefore, the "othering" and ostracizing of sexual offenders, especially those who have completed treatment programming and are successfully managing their risk, is a major societal problem. Positive sexuality advocates try to avoid language that is dehumanizing or derogatory, such as the term *sexual predator* (Williams et al. 2015). Such use of language is not helpful in preventing or reducing sexual offending.

Sexual offenders experience considerable stigmatization, which then produces resentment and internalized negative feelings, such as shame, hopelessness, and fear (Jahnke et al. 2014; Tewksbury 2012). Notification laws, intended to empower citizen awareness and thus reduce risk for victimization, are often perceived as being unfair by sexual offenders and contribute to high percentages of offenders experiencing property damage, threats, or assault (Brannon et al. 2007; Robbers 2009). Levenson and Tewksbury (2009) found that while sexual offenders face substantial constraints to reintegrating into the community (i.e., employment problems and difficulties obtaining housing), family members and children of sexual offenders are also very likely to experience stigmatization, threats, and harassment. Dehumanization of sexual offenders is correlated with less support for rehabilitation, more support for excluding sexual offenders from society, and more support for violence toward sexual offenders (Viki et al. 2012).

Current US sexual offender policy, which includes being listed on sexual offender registries for very long periods of time and residency restrictions, significantly impedes reintegration into the community and healing for all parties (Levenson and Hern 2007). Current policy runs contradictory to both contemporary criminological and behavioral change theories. For example, control theories focus on the importance of social bonds, and people with weak attachments to others are more likely to commit crime (Hirschi 1969). We would expect, then, that sexual offenders who do not develop sufficiently strong social bonds upon reintegration back into the community would be more likely to reoffend.

At the same time, there are several major empirically-driven health and behavioral change theories, including Social Cognitive Theory (SCT, Bandura 1991), Theory of Planned Behavior (TPB, Ajzen 2002), Transtheoretical Model (TTM, Prochaska and Velicer 1997), and Self Determination Theory (SDT, Ryan and Deci 2000) that have been tested across multiple behaviors, such as quitting smoking, beginning an exercise program, changing dietary habits, and increasing the frequency of condom use during sexual intercourse. Interestingly, an essential component of each theory or model, in order to produce behavioral change, is *self-efficacy* or a very closely related construct (e.g., TPB incorporates *perceived behavioral control* while SDT includes *competence*). In other words, in order for people to change their behavior, people must sufficiently believe in their capacity to change. Current policy undermines sexual offenders' self-efficacy by suggesting, indirectly or directly, that they are predators or monsters and cannot change. Thus, several behavioral change theories predict that current sexual offender policy will lack effectiveness. In contrast, effective policy should send the message to sexual offenders

that they will be supported in their efforts to change behavior and manage risks, that crime-free living is both possible and expected, and that they will be welcomed back into society.

### Peacemaking

Humanization, of course, is an essential aspect of peacemaking. This dimension of positive sexuality was inspired largely from Pepinski's (2002, 2013) work on peacemaking criminology, which draws on knowledge and wisdom from diverse cultures. Pepinski (2013) explained that peacemaking applies to both personal matters and to community and societal issues, and that peacemaking promotes healing at multiple levels. While violence is often a reaction to pain and fear, peacemaking focuses on acceptance, compassion, and love. Furthermore, when people experience feelings of emotional pain and fear, there is a strong tendency to fight and to exert more control (Pepinski 2013). This process explains how current US sexual offender policy has become increasingly harsh and punitive, and how it has been driven by "memorial crime control" (see Surette 2007). However, peace requires self-control, careful listening, empathizing, and learning; it requires an ability to let go of trying to make all crime disappear rather than exerting more control (Pepinski 2013).

Sex negativity is rooted in fear, which then provides fertile ground for the proliferation of misinformation and myths about sexuality, generally, and sexual offending, specifically. If sex, generally, is constructed as being risky, dangerous, and difficult to control, then violations of perceived sexual norms will be especially problematic and fear-inducing. Such fear generates a strong position of war and separation, which are reflected in current sexual offending policy.

For decades now, the American government has conducted a "war on drugs." Oliver (2012) recently discussed America's new "war against sex offenders." Wars, of course, often bring unintended injustices and additional harms. Wars dehumanize, while often bringing out the worst in normally peaceful citizens. Wars typically do not make people feel safer. The amplification of fear which then leads to a position of war seems to be what has occurred in the development of US sexual offending policy.

### Multiple Levels of Social Structure

Positive sexuality applies across multiple levels of social structure—micro (individual), mezzo (family/close friends), and macro (neighborhoods, organizations, communities, and broader society)—and recognizes that each level is inextricably connected to the others. Indeed, a person's unique sexuality is shaped by interactions of biological, psychological, social, cultural, economic, political, historical, legal, religious, and spiritual factors (WHO 2006).

In considering US sexual offending policy, we should likewise remember that policy significantly impacts multiple people at multiple levels. In other words, many people seem to assume that policy only impacts offenders, perhaps also believing that, from a stance of retribution, such offenders deserve what they get. However, harsh policy can also lead to harm and injustice toward innocent family members and children of sexual offenders (Levenson and Tewksbury 2009). It may also generate and amplify fear and feelings of lack of safety and security in neighborhoods and communities, thus restricting people's choices, which is also problematic.

Harsh US sexual offender policies are also grossly unjust toward numerous offenders who were convicted of sexual crimes but are at very low risk, such as young adults in their

late teens or early 20s who engaged in consensual sex with romantic partners that were not quite at the age of consent. Despite numerous such cases in the US, national age of consent laws vary considerably across nations, which then dictates whether or not a sexual crime has occurred (Pfafflin and Eher 2003). Strict policies also have unintended and unjust consequences when people are convicted of sexual offenses for relatively common behavior, such as sexting (see Winkelman et al. 2014). Severe injustices that ruin people's lives have also occurred from a failure to consider intersubjective power relations in matters of sexual crime (Anglides 2009). Furthermore, some research has found that because the criminal justice system has so much power, some victims feel unheard and powerless based on structural and procedural realities (Skinner and Taylor 2009). Unfortunately, current US sexual offending policy does not reflect careful thought and planning regarding the interconnectedness of sexuality and the impact of policy across all levels of social structure.

### Emphasis on Ethics

Codes of ethics in various helping professions emphasize the necessity of practice that reflects common core values such as self-determination, cultural competence, dignity of people, and human diversity (American Counseling Association 2005; American Medical Association 1996; American Psychological Association 2010; National Association of Social Workers 1999). The Code of Ethics of the American Correctional Association (1994) states that the civil and legal rights of persons are to be protected; that all professions in corrections are important and should work to improve cooperation; that professionals should work to improve quality of services; and that professionals should treat each situation with concern for all people involved. Clearly, an essential aspect of being a professional means practicing high ethical standards, including when dealing with sexual offenders.

Because sexual offender myths are so common and entrenched in contemporary US society (Quinn et al. 2004), there are many professionals who also believe these myths, which then contributes to poor quality service delivery. Indeed, research shows that therapeutic climate and the interactional styles of professionals impact treatment effectiveness (e.g., Beech and Hamilton-Giachritsis 2005; Blagden et al. 2014; Grady and Brodersen 2008; Marshall 2005).

Excessive fear due to overgeneralizations about the nature of sexual offenders can commonly lead to overprescribing treatment for low risk offenders, which can be both overly costly and predictably ineffective based on the empirically derived Risk-Need-Responsivity (RNR) model of offender rehabilitation (Lovins et al. 2009; Mailloux et al. 2003). While a core ethical responsibility of correctional professionals is to work to keep the community safe, which means applying necessary restrictions based on offender risk, it also appears to be both ineffective and unethical to apply more restriction than is warranted. Furthermore, many sexual offenders, regardless of their specific offenses, are often dehumanized in society. Obviously, the demonization of sexual offenders is a salient ethical issue in US sexual offender policy that deserves special attention.

### Multiple Epistemological and Methodological Positions

Positive sexuality embraces multiple ways of knowing. Sexology is a multidisciplinary field and draws from a range of epistemological, theoretical, and methodological

approaches, including positivism, postpositivism, constructionism, postmodernism, post-structuralism, and narrative. However, in contrast to sexology, the sexual offender research literature generally lacks similar multidisciplinary contributions and relies heavily on traditional positivist methods. While traditional scientific methods are obviously extremely valuable, other scholarly approaches are also capable of producing valuable knowledge, potentially answering different types of research questions, and thus helping to inform and improve sexual offender policy (Williams 2009). More methodological and theoretical diversity can greatly enrich an area of study, while producing a much more thorough understanding of issues and ultimately more possibilities for creative, effective solutions. The realization that a wide and diverse range of theoretical and methodological approaches produces important new ways of knowing and thinking about topics has spread rapidly not only in sexology but also across other social and behavioral sciences (e.g., Gergen 2000; Richardson 2000; Sparkes 2002). Without more research diversity, we will remain limited in how we understand various sexual offending issues and implications for policy.

## Conclusion

Current US policy on sexual offending is not only ineffective, but it often perpetuates additional harm and injustice. Widespread sex-negativity within US society contributes to a general lack of knowledge concerning sexuality, which fuels myths and misunderstanding on important issues, including sexual offending and what to do about it. Policymakers, law enforcement, and criminal justice professionals need to be better informed about the range of what constitutes healthy sexual expression. Part of this education needs to also focus on the wide array of crimes that often fall under the heading of “sexual offense” that have very little to do with anything sexual (such as urinating in public) or anything blatantly criminal (such as sexting). Furthermore, there are numerous “sexual offenders” that have been created when young male adults, age 18 or perhaps a few years older, have had consensual sexual relations with partners that are slightly under the age of consent (i.e., 16 or 17 years of age). Such criminalization does not reduce sexual violence, is a waste of public resources, and can ruin people’s futures.

Support for the implementation of sex-positive rehabilitation for sexual offenders is also necessary. Professionals should recognize that offenders and offending behaviors vary extensively, and therefore efforts to rehabilitate should be adjusted to acknowledge this diversity of expression and criminality. Understanding that sexual needs and interests are a part of an overall healthy lifestyle (WHO 2006) and finding ways to account for them in a sex-positive and socially appropriate manner could be especially beneficial in preventing and reducing sexual crimes.

Finally, it is necessary for a variety of research orientations and approaches, including critical perspectives on sexual violence, to be recognized as legitimate and beneficial to society. Funding and social support for new research approaches have been lacking (Laws 2002). However, creative research approaches bring fresh ideas, innovative therapies, and hopefully new frameworks that allow for high-risk individuals to express themselves in a positive manner without infringing on the rights of others. The sex-positive model discussed herein is a major step in that direction, but significant policy changes and more research are warranted.

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