

“Dark Figures” in Prior Sex Offenses

An important distinction in the literature is whether the online offender has committed any “contact” sex offenses in the past or in the instant event. A contact offense is a hands-on event as compared to CP viewing, voyeurism, exhibitionism, or surreptitious filming. Within this area of focus is an issue of how many contact events have occurred in the past without any law enforcement / court awareness. This is referred to as “*Dark Figures*”. Nicholas Scurich explains:

In 2011, James Lynch, then the director of the Bureau of Justice Statistics, made the following observation (Lynch, 2011):

It is essential that the police and the criminal justice system not be the only source of data on crime and responses to crime....This is particularly important in the case of measuring rape and sexual assault, because there is good evidence that the majority of these offenses are not reported to the police. These offenses remain the darkest of the “dark figure” of crime (p. 193).

The “dark figure” of crime is a term popularized by the noted criminologists Biderman and Reiss (1967). It refers to “occurrences that by some criteria are called crime yet that are not registered in the statistics of whatever agency was the source of the data being used” (Biderman & Reiss, 1967, p. 2). A common finding is that the frequency of self-reported crime commission or crime victimization is orders of magnitude larger than the frequencies found in official criminal justice statistics (see, e.g., Decker, 1977; Jansson, 2007; Krohn, Thornberry, Gibson, & Baldwin, 2010; MacDonald, 2002).

Although all categories of crime and victimization are underreported to law enforcement, Lynch and others have pointed out that sexual abuse in particular is likely to be substantially underreported (Langton, Berzofsky, Krebs, & Smiley-McDonald, 2012; Planty, Langton, Krebs, Berzofsky, & Smiley-McDonald, 2013; Rice, Harris, Lang, & Cormier, 2006). The possible reasons for underreporting of sexual abuse vis-à-vis other crimes are manifold. For example, as noted by Felson and Pare' (2005):

Sexual assaults may be less likely to be reported to the police than physical assaults for a variety of reasons: (a) the embarrassment and stigma associated with the crime, (b) perceptions by victims that they will not be believed or that the criminal justice system is ineffective, (c) perceptions that some incidents are not serious enough, (d) ambiguity about what constitutes illicit sexual conduct, (e) less fear of future attack because sexual assaults are less likely to be repeated, (f) greater fear of reprisal if they do report, and (g) less third-party reporting because sexual assaults are much more likely to occur in private (pp. 598–599, internal citations omitted).

The underreporting problem is potentially even more pronounced when the victim is a child, given that children may not understand the impropriety of sexual contact, may be confused by it, may lack linguistic ability to articulate what occurred, or may fail to disclose in order to protect the abuser, who may be related, may occupy a powerful social position, or may threaten the child not to tell (Goodman-Brown, Edelstein, Goodman, Jones, & Gordon, 2003; Katzenstein & Fontes, 2017; McElvaney, 2015; Paine & Hansen, 2002).

There is clearly a complex set of intrapersonal and interpersonal dynamics that impede disclosure of sexual abuse both by victims (see Holland & Cortina, 2017; Orchowski & Gidycz, 2012; Tillman, Bryant-Davis, Smith, & Marks, 2010) and by perpetrators (see, e.g., Schneider & Wright, 2004; Ware & Blagden, 2020). However, beyond the uncontroversial observation that sexual abuse is underreported to law enforcement, the nature and extent of the underreporting remains largely

uncertain and the subject of disputation (see, e.g., Fisher, 2009). This is in part due to the methodological and pragmatic difficulties associated with measuring phenomena that are not readily observable and may not be readily disclosed, even to researchers (Koss, 1992).

Introduction to this special issue: Underreporting of sexual abuse. Nicholas Scurich.
Behavioral Sciences & the Law, Nov 17, 2020, pp. 537-538

Research on Dark Figures

The dark figure of sexual offending: A replication and extension.

Drury, Alan J., United States Probation and Pretrial Services, Des Moines, IA, US

Elbert, Michael J., United States Probation and Pretrial Services, Des Moines, IA, US

DeLisi, Matt. Iowa State University, Ames, IA, US, delisi@iastate.edu

Behavioral Sciences & the Law, Nov 17, 2020, pp. 559-570

Abstract:

Studies of the dark figure of sexual offending using federal correctional clients reported significant evidence of previously unknown or hidden sexual violence, often among clients with no official criminal history. Unfortunately, research has produced variable estimates of how large the dark figure is. The current study sought to replicate recent studies of federal sexual offenders about the dark figure of sexual offending. We also extended the knowledge base by providing additional correlational analyses to see whether self-reported and official sexual offending have shared or divergent correlates. Overall, 73.8% of federal sexual offenders reported prior contact victims, which is higher than, but generally consistent with, prior prevalence estimates of 55–69% in studies of federal correctional clients. In the current data, clients convicted of child pornography possession or receipt and who had no official record of sexual abuse nevertheless reported contact sexual offenses in more than 59% of cases.

Summary of their findings:

- The paper reviews some methods of attempting to estimate the true rate of sexual offending, suggesting the best method appears to be offender self-report facilitated by polygraph.
- The “*dark figure*” refers to the difference between estimates of criminal activity based on criminal justice statistics and the true rates.
- A 25-year-study of sexual victimization in Canada revealed about 75% of child molestations went unreported, but only about 10% of violent non-sexual victimizations went unreported.
- Participants were 216 men with a sexual offense, half of which had a charge for contact sexual offense. Non-contact charges included possession and distribution of child pornography, attempt to entice a minor for sexual contact, and violations of sexual offender registration requirements. Polygraphs were required as a condition of supervised release.
- 74% of non-contact offenders reported at least one prior victim, about 50% reported two or more victims, and 10% reported at least eight victims. Mean self-reported victims was 3.3.
- Previous “dark figure” estimates were 69% and 55%.
- The child pornography offenders with no documented history of contact sexual abuse were among the most prolific sexual abusers with 8, 10, 12, 15, 17, 18, and 25 victims.
- The authors assert that most child pornography viewers are not mere voyeurs.

Some limitations with this study include;

- The study does not cite preapproval or oversight from a Human Studies Ethics board.
- Were there institutional rewards for falsely reporting prior acts (as was the case in the Butner Study, discussed below.)?
- Would the polygraphs have accounted for the false positives? There were no recurrent polygraphs to determine whether the added victim count was authentic or simply a product of demand characteristics.
- The study had no objective verification of the expansive lists of victims – they were taken at face value.
- The authors cite the “Butner Study” which has been largely discredited.
- They also cite a 2020 study by Smith, which does not appear in searches through Psych Info or Google Scholar. Personal communication with one of the authors indicates the Smith study is not publicly accessible.
- At best, the study was retrospective regarding unconfirmed previous victims (called “pseudo-recidivism”) and does not contribute to understanding future rates of offending.

The 'Butner Study' redux: A report of the incidence of hands-on child victimization by child pornography offenders.

Bourke, Michael L., Hernandez, Andres E.

Journal of Family Violence, Vol 24(3), Apr, 2009. pp. 183-191.

Abstract

This study compared two groups of child pornography offenders participating in a voluntary treatment program: men whose known sexual offense history at the time of judicial sentencing involved the possession, receipt, or distribution of child abuse images, but did not include any 'hands-on' sexual abuse; and men convicted of similar offenses who had documented histories of hands-on sexual offending against at least one child victim. The goal was to determine whether the former group of offenders were 'merely' collectors of child pornography at little risk for engaging in hands-on sexual offenses, or if they were contact sex offenders whose criminal sexual behavior involving children, with the exception of Internet crimes, went undetected. Our findings show that the Internet offenders in our sample were significantly more likely than not to have sexually abused a child via a hands-on act. They also indicate that the offenders who abused children were likely to have offended against multiple victims, and that the incidence of 'crossover' by gender and age is high.

There has been much controversy regarding the “Butner Study Redux” (2009). Criticism in the professional community has included:

- The study had no preapproval or oversight from a Human Studies Ethics board. Some researchers say this may have led to the abuse of the prisoners involved in the study, who were subjected to demand characteristics to continuously produce more names of fictional victims every six months in order to advance in the treatment program, avoid penalties, and to earn earlier release. This is denied by the authors.
- The study had no objective verification of the expansive lists of victims – they were taken at face value.
- There were no recurrent polygraphs to determine whether the added victim count was authentic or simply a product of demand characteristics. Some prisoners had an initial screening polygraph on admission to Butner. Others had an exit polygraph just prior to being released into the community. But none were done during the actual study period to provide authentication.

- At best, the study was retrospective regarding unconfirmed previous victims (called “pseudo-recidivism”) and does not contribute to understanding future rates of offending.
- The results of the Bourke study were an extreme outlier that were not reflected in any other research (Seto, 2011).
- The results of the Bourke study have never been replicated.

Importantly, Dr. Hernandez himself noted the same year this study was published,

“CP offenders are distributed along a wide spectrum with multiple dimensions (e.g., criminogenic, sexual deviance, demographic). For example, there are CP possessors who are highly criminalized, behaviorally dysregulated, and sexually deviant. These individuals obviously represent a risk to public safety. On the other side of the spectrum, there are CP possessors who are not generally antisocial or sexually deviant, and have relatively intact self-regulatory mechanisms. Although both offenders commit the same crime (i.e., possession of child pornography), they are vastly different in terms of their risk to public safety. Understanding CP offenders requires comprehensive study of the individual offenders, the crimes, and the contextual variables in which the crimes occur. Focusing on only the extremes of a subject matter obscures the truth, inhibits rational dialogue and scientific inquiry, and sometimes results in uninformed public and criminal justice policy decisions. . . Some individuals have misused the results of Hernandez (2000) and Bourke and Hernandez (2009) to fuel the argument that the majority of CP offenders are indeed contact sexual offenders and, therefore, dangerous predators. This simply is not supported by the scientific evidence.” (pp. 3-4)

Position Paper: Psychological and Behavioral Characteristics of Child Pornography Offenders in Treatment

Andres E. Hernandez, Psy.D.

Global Symposium: Examining the relationship between online and offline offenses and preventing the sexual exploitation of children. The Injury Prevention Research Center. The University of North Carolina, Chapel Hill. April 5-7, 2009

In 2013, The New Yorker published an article critiquing Dr. Hernandez, the Butner Program, and the validity of his study’s claims.

“Former patients at Butner say that they did not realize they were research subjects. Federal civil-commitment hearings have offered a window into the conditions that gave rise to the study’s sensational results. Several inmates said that the program’s emphasis on confession led them to “remember” crimes that never happened. They disavowed disclosures that were later used as evidence against them.

The program required that its hundred and twelve patients accept responsibility for a life of deviant behavior and thoughts—a philosophy common to most treatment programs. Since sex crimes are vastly underreported, it is reasonable to expect that inmates have committed more crimes than their records reveal. At a professional workshop, Hernández explained that he created a climate of “systematic pressure,” so that inmates would “put all the cards on the table,” abandoning a “life style of manipulation.” Patients were required to compose lists of people they had sexually harmed, which they updated every few months. At daily community meetings, when offenders insisted that they had nothing left to disclose, other prisoners accused them of being in denial or “resistant to change.” If they failed to accept responsibility, they were expelled from the program.

For sex offenders, who occupy the bottom of the prison power hierarchy, the Butner unit

was a safe haven in the federal prison system. One child-pornography convict, Markis Revland, told the judge at his civil-commitment hearing that when prisoners discover a sex offender among them “they’ll go to great lengths to stab that person.” He requested treatment at Butner after being raped at knifepoint in a Kansas penitentiary. He was encouraged by the psychology staff at Butner to “get it all out,” and came up with a hundred and forty-nine victims. Like other patients, he kept a “cheat sheet” in his cell so that he could remember his victims’ ages and the dates that he’d abused them. There was no evidence for the crimes, thirty-four of which would have occurred during a time when Revland was incarcerated. At his hearing, the judge concluded that his crimes were the “product of his imagination, not actual events.” After having been held in prison nearly five years beyond the expiration of his criminal sentence, Revland was allowed to go home.

The government has lost roughly half of the more than sixty Adam Walsh cases that have gone to trial so far. Confirming the facts of sexual abuse, the most intimate sort of crime, has always been difficult, with far too many victims keeping quiet about their abuse or not having their stories believed. For offenders, too, the heightened emotional stakes may complicate attempts to get at the truth. Another former patient, Sean Francis, testified that, in order to stay in the “safe confines of Butner,” he “fabricated” fifty-four victims and invented and embellished rape fantasies. “Every single human being, if we were to open their head up, has some form or fashion of a deviant sexual fantasy,” he said at his hearing. “I don’t deny that.” But Francis said that he turned himself into a caricature of a sex offender in order to please the “psychological gods that they have working at Butner.” Patients would sit in groups and offer one another tips for sprucing up their criminal histories. “We shared victim lists,” he testified. “So I would go and I would say, ‘Jim, show me what you have. Oh, that—that’s really good.’”

The Science of Sex Abuse: Is it right to imprison people for crimes they have not yet committed?

Rachel Aviv. The New Yorker, (January 14, 2013).