

The Perversion of Youth

*Controversies in the
Assessment and Treatment
of Juvenile Sex Offenders*

Frank C. DiCataldo



NEW YORK UNIVERSITY PRESS

New York and London

Contents

	<i>Acknowledgments</i>	ix
1	The Birth of a Moral Panic	1
2	The Return of the Blob: The Heterogeneity of Juvenile Sex Offenders	19
3	Test Authors in Search of a Clinical Population: Risk Assessment Instruments for Juvenile Sex Offenders	49
4	The Adolescent as Sexual Deviant: The Treatment of Juvenile Sex Offenders	85
5	Creating the Objects of Our Concern: Normal Childhood Sexuality and the Invention of Childhood Sexual Behavior Problems	109
6	Becoming a Man: The Waiver of the Juvenile Sex Offender to Adult Court	143
7	Making Monsters: The Civil Commitment of Juvenile Sex Offenders	167
8	Collateral Consequences: The Invisible Punishment of the Juvenile Sex Offender	203
	<i>Epilogue</i>	223
	<i>References</i>	231
	<i>Index</i>	253
	<i>About the Author</i>	269

1

The Birth of a Moral Panic

Delinquency has always been with us. Adolescents have always fought, stolen, run away, abused substances, been truant, set fires, destroyed property, and congregated in groups that promulgate such activities. There is nothing new about adolescents engaging in these troublesome behaviors. But childhood sexuality is an idea deeply engraved in the American psyche as something altogether different: damaging, scarring, inherently harmful, traumatizing, a warping mark (Levine 1996). To borrow a phrase from Michel Foucault (1978), sex has been problematized by us moderns, and nowhere does this problematization run deeper than in the sexuality of children and adolescents.

Childhood sexuality has become a police matter, or at least a matter for the legions of child welfare and delinquency workers who police the borders of the various systems that have been devised—child welfare or dependency, education, mental health, and juvenile justice—to deal with the “troubling and troublesome children” (Weithorn 2005) who are shuttled back and forth across the porous borders of these interconnecting networks of institutions and systems. The children who are netted within the webs of these various systems often share more commonalities with each other than differences. What happens to any of these children, where they end up—in the mental health, child welfare, or juvenile justice system—often depends more on which system they happen to enter than on anything unique or distinctive about their needs (Lerman 1982). Often, where they enter depends on their race, their social class, their sex, or just plain old random misfortune. The significant question is why juvenile sex offenders have been separated out of this churning, heterogeneous mixture of “troubling and troublesome children” and set apart as separate and distinct from the rest of the children held within the vast child-saving network of systems and institutions.

Historians of childhood since Phillip Ariès (1962) have argued that children and childhood are the products of our ways of seeing. The child

is not something out there in the world, a natural object, waiting to be discovered (Kincaid 1998). The child is a byproduct of the web of institutions and the systems of thought within which he or she is ensnared. And these systems of thought are historically contingent and situated. They shift and evolve, and the view of the child within their prisms shifts and changes accordingly. The idea of the child is not static, not a given or a discovery. The child is shaped by the ideational framework within which he or she is captured. Throughout history children have been trapped within discourses of romantic innocence contaminated by a vile world; discourses that portray them as a tabula rasa awaiting the imprinting of experience; discourses that depict them in a state of savagery tempered by a disciplined order; and discourses that implant within them a biological program of development that unfolds within a facilitating environment. There have been discourses upon discourses of childhood that have produced a vast gallery of distinct childhood portraitures through history.

Today the adolescent who has engaged in some form of sexual misconduct and is legally labeled a juvenile sex offender has been framed within a discourse of deviant desire. Such youth are no longer depicted as errant minors in need of some corrective guidance or instruction; rather, they have been implanted with an alien sexuality that requires exclusionary legal and mental health treatment—confinement, assessment, intervention, community surveillance—and, in most cases, the prevailing wisdom of these views argues, some of these measures need to be applied across the span of their lives. They are no longer depicted as awkward, fumbling sexual neophytes prone to impulsive and poorly judged acts that will probably smooth out with maturation and corrective experience, but instead are seen as budding sexual menaces in need of careful surveillance and control. The categories used for adolescents whose sexual experiences have drawn the attention of the legal system are often loose and amorphous. The 18-year-old victim of sexual assault is a child while the 14-year-old molester is frequently an adult (Kincaid 1998). Analyzing how these categories are constructed and maintained is the overarching task of this book. What empirical evidence exists to support the conceptualization of juvenile sex offenders in the manner that prevails today? Are there empirically sound alternatives for the treatment of juvenile sex offenders that are less potentially harmful to them and still meet the goal of protecting the community? These are the questions that occupy the chapters ahead.

“Two teens face charges of statutory rape of girl” (Schworm 2005)—a headline newsworthy enough for front page coverage in the city section of a large metropolitan newspaper. It was the third criminal case that year of underage sex in the school. Two 17-year-old boys, well-regarded athletes in a public high school of high academic standing, were arrested and charged in district court for having sex with a 15-year-old girl from the same high school. The brief newspaper report cleared up the usual questions often surrounding incidents like these. The sexual acts were not violent; they were not described as overtly coercive. The report called the acts “consensual,” but legally that is impossible because the legal age of consent in this particular state begins at 16. The victim reported two separate sexual incidents with the perpetrators: the first at one of the perpetrator’s homes and the second at an undisclosed location somewhere in another nearby city. The boys were also charged with disseminating obscene material to a minor, as a number of pornographic videos were confiscated from one of the perpetrator’s homes. The boys allegedly viewed the videos with the girl. The newspaper article quoted the high school principal describing the case as “deeply disturbing,” and in a letter sent to parents he wrote, “The behavior of these young people is unacceptable, irresponsible, and illegal.” A varsity coach of one of the boys said he was stunned and “sick to his stomach.”

There is no way of knowing from the story how close the victim was to the bright line for the legal age of consent—as much as a year or as little as a day—or how much the perpetrators were over that other magical transitional line—the one that divides juvenile court and adult court jurisdiction. Juvenile court jurisdiction ends after 16 years of age in this state; at 17 one is an adult. These perpetrators were suspended from school while they awaited trial in adult court for the rape of a minor child. And though they will probably be sentenced if convicted, whether by trial or by a plea, to a term of probation with community service and outpatient sex offender treatment, they will also probably have to comply with the state’s mandatory sex offender registry law. They will be assigned a risk category by a classification board and will be required to inform the police within their residential community about their presence for the next twenty years.

The remaining factual ambiguities about the sexual acts themselves are easily cleared away with the description that they were engaged in willingly, if not legally consensually, by all the participants. The moral ambiguity of the story is not as easily resolved. What is this story about?

What is the warning? What makes it newsworthy? What aspect of it draws our collective attention or concern? Is it the fact that two 17-year-old boys had sex with a 15-year-old girl who was unable to provide legal consent? Or is it that two 17-year-old boys were arrested and will be charged in district court for rape of a minor—that they will be classified as sexual offenders who will be required to attend sexual offender treatment and mandated to register as sexual offenders for the next twenty years? The report itself, told with journalistic neutrality, does not betray a point of view.

The current movement to hold children equally as legally accountable for their sexual transgressions as we do adults is born out of the best of intentions. But even the best of intentions can carry coiled within them unintended negative consequences. The predominant trend that advocates dealing with most instances of sexual misconduct of children and adolescents through formal legal measures is predicated on the idea that by not doing so we enter into a sort of complicity with the offender, a subtle endorsement of the sexual act. The trend is viewed as a corrective revision of a deeply misguided historical practice that often failed to hold adolescent boys accountable for their sexual acts, when the sexually abusive behavior of juveniles was often dismissed as “an adjustment reaction,” “a manifestation of stress,” “sexual experimentation or curiosity,” or merely “boys being boys.”

Lionel Trilling (1947), the novelist and literary critic, in an essay entitled “Manners, Morals, and the Novel,” advanced the idea of the novel as a form of investigation that is able to peer beneath the hidden cruelties of our most benevolent social actions. Think of the nineteenth-century novels of Charles Dickens or Henry James or the twentieth-century naturalism of Stephen Crane or Theodore Dreiser, with their stories about the carnage heaped upon the life outcomes of their protagonists, trapped like wounded animals within moral systems that foretold their ruin. Through its adherence to a perspective Trilling termed “moral realism,” the novel demonstrates

that to act against social injustice is right and noble but that to choose to act so does not settle all moral problems but on the contrary generates new ones of an especially difficult sort. . . . We have the books that point out the bad conditions, that praise us for taking progressive attitudes. We have no books that raise questions in our minds not only about

conditions but about ourselves, that lead us to refine our motives and ask what might lie behind our good impulses. There is nothing so very terrible in discovering that something does lie behind. (Trilling 1947, 116-17)

That some unspoken cruelty or, more likely, some unacknowledged fear may lie behind our “moral passions” is worth knowing. Trilling warned us about the insidious nature of our “moral passions,” such as those that direct the current response to juvenile sex offenders: “We must be aware of the dangers which lie in our most generous wishes” (118). And so it is with the current trend to criminalize many forms of adolescent sexual transgressions: it solves one set of problems while generating entirely new ones that will need new solving.

Genarlow Wilson’s story reads like a modern American gothic novel. He was released from a Georgia Department of Correction facility after serving two years of a ten-year sentence for the felony conviction of aggravated child molestation (CNN 2007a and b; Goodman 2007a and b). His mother and younger sister were there to greet him at the correctional facility following the Supreme Court of Georgia’s decision on October 27, 2007, declaring that his sentence amounted to a violation of the Eighth Amendment’s prohibition against “cruel and unusual punishment.” At a 2003 New Year’s Eve party, an intoxicated Wilson, 17, a star athlete and honor student, had received oral sex from an intoxicated 15-year-old girl, too young to legally consent to such an act and considered too drunk anyway to have been able to provide such consent had she been old enough. It was all right there on the videotape filmed at the party.

News of his case set off a media firestorm of controversy, capturing the support for Wilson of former president Jimmy Carter, also a former governor of Georgia, and several members of the jury that convicted Wilson, who were unaware at the time of their deliberation of the mandatory minimum sentence that a guilty verdict would require of him. A cruel twist in the case was the fact that if Wilson had had sexual intercourse with the victim rather than oral sex, he would have been spared the felony conviction and would have been convicted of a misdemeanor offense because of a “Romeo and Juliet” provision that sought to protect adolescent defendants like Wilson who engage in sexual intercourse with underage partners. The Georgia General Assembly in 2006, in response to Wilson’s case, closed the oral-sex loophole, defining most sexual acts between willing but legally nonconsenting adolescent participants, no more than four

years apart in age, a misdemeanor punishable by no more than a 12-month sentence without a mandatory requirement that the defendant register as a sex offender with the state. But the legislature deliberately refused to have the amended law apply retroactively. Wilson remained incarcerated until the state Supreme Court ordered his release. In the various stages of appeals, counsel for Wilson argued that the sentence was too severe for a case of two drunken teenagers at a party. The law arguably was intended to protect children from the unscrupulous predation of adult sex offenders, and was not intended to apply to an adolescent who lacked anything remotely resembling a perverted past.

The media outrage focused more on the issue of racial discrimination than the criminalization of adolescent sex. Wilson was black. His plight was largely wrapped within the larger social discourse about the entrenched racial biases in the criminal justice system. But this case at its origins may have as much to do with the collective fears of adolescent sexuality and the sexual abuse of children as it does with racial injustice. In this case the 15-year-old victim was a child and the 17-year-old perpetrator was an adult, and although they were separated by only two chronological years, more or less, they were being depicted by the criminal justice system in terms about as far apart as is possible. They existed at opposite ends of the criminal justice spectrum: victim and offender.

Wilson had refused the offer of a plea bargain from the prosecutor even though it would probably have resulted in a briefer sentence, maybe even release with time served and community registration. He refused because an admission of guilt would have affixed on him the label of sex offender, which would have trailed him for the rest of his days. As a sex offender registrant, Wilson would have to provide the state with his address, his fingerprints, his Social Security number, his date of birth, and his photograph, and he would have to update this information every year for the rest of his life. All this information would be posted in various public places and on the internet. Moreover, Wilson would be unable to live or work within one thousand feet of any child care facility, church, or area where minors congregate. What if the designation prevented him from having unsupervised contact with his younger sister or followed him into college and beyond? This was too high a price to pay, in his estimation, so he refused the plea and took his chances with the courts.

The Supreme Court of Georgia in a four to three decision concluded that “Wilson’s sentence of ten years in prison for having consensual oral sex with a fifteen-year-old girl when he was only 17-years-old constitutes

cruel and unusual punishment” (*Humphrey v. Wilson* 2007, 1) and was “grossly disproportionate to the offense” (11). The court further concluded that the legislative amendments to the law, reducing an adolescent defendant’s sexual acts with victims not more than four years younger to a misdemeanor offense, which followed Wilson’s conviction but did not retroactively apply to him, represented

a seismic shift in the legislature’s view of the gravity of oral sex between two willing teenage participants . . . [and] that the severe felony punishment and sex offender registration imposed on Wilson make no measurable contribution to acceptable goals of punishment. . . . This conclusion appears to be a recognition by our General Assembly that teenagers are engaging in oral sex in large numbers; that teenagers should not be classified among the worst offenders because they do not have the maturity to appreciate the consequences of irresponsible sexual conduct and are readily subject to peer pressure; and that teenage sexual conduct does not usually involve violence and represents a significantly more benign situation than that of adults preying on children for sex. (*Humphrey v. Wilson* 2007, 18-20)

Juvenile sexual offending is certainly a serious problem that needs to be addressed rationally. The concern now is that what started out as a solution to one social problem may have tipped over into a new problem from which new relief must be sought. It is hard to consider the story of Glenarlow Wilson and not conclude that a state of “moral panic” (Cohen 1972) presides in the current legal response to juvenile sex offenders. The current state of the legal response to juvenile sex offenders has led legal scholars like Franklin Zimring (2004) to describe it as an “American travesty” and others to lament that perhaps the pendulum has swung too far in the direction of draconian responses (Barbaree and Marshall 2006; Chaffin and Bonner 1998; Letourneau and Miner 2005).

The momentum for the current state of affairs was set off in the late 1970s and early 1980s when it was discovered that sexually dangerous adults often began their sexually deviant careers in adolescence (Abel, Becker, Mittelman et al. 1987; Abel, Osborne, and Twigg 1993; Groth 1977; Groth, Longo, and McFaddin 1982; Longo and Groth 1983). But a distorted image emerges when the life histories of such a rare and deviant group come to represent the story for the vast, heterogeneous group of adolescents who engage in sexually abusive behavior. The overwhelming

majority will not repeat their sexually abusive behavior through their life course (Caldwell 2002; Letourneau and Miner 2005; Righthand and Welch 2001; Zimring 2004). Most will leave it behind, along with all their other youthful indiscretions, from driving too fast to drinking too much and all the other poorly judged and impulsive behaviors that have come to define modern adolescence. Nothing cures quite like maturation. Only a rare, dangerous few will pass through the threshold of adolescence into adulthood with their sexual deviance in tow and go on to become adult sexual offenders. Rather than an early harbinger of adult sexual deviance, most adolescent sexual offending is more properly viewed as a general sign of maladaptation or emotional crisis. Rarely is adolescent sexual offending about deviant desire, perversion, or a “paraphilia,” the psychiatric term for sexual deviance. It is more likely to be a nonspecific sign indicating any number of underlying problems. Unfortunately, the legal responses and clinical interventions that have evolved to address adolescent sexual offending have lacked precision and specificity. Adolescent sexual offenders are treated en masse as though the entire group harbors some silent and secret contagion that will manifest in time.

The vast majority of adolescents who are labeled juvenile sex offenders do not live up to the image that the term conjures up. They simply are not, in the aggregate, as sexually deviant as they are often made out to be. There are alternative ways to think about adolescent misconduct that are more flexible and pliable. In his book *The Changing Legal World of Adolescence*, published twenty-five years ago, Franklin Zimring (1982) lamented the social and legal foreclosure of adolescence as a time when teenagers were allowed and even expected to “muddle through” that awkward middle phase of life between the innocence of childhood and the mature rationality of adulthood, likening the stage of adolescence to a sort of “learner’s permit” granted before one becomes a legally licensed and fully responsible adult:

Part of the process of becoming mature is learning to make independent decisions. This type of liberty cannot be taught; it can only be learned. And learning to make independent judgments can be a risky process. . . . In blackjack, an ideal “career” is never to lose a hand. In the game of learning to make free choices, winning every hand is poor preparation for the modern world, just as winning every hand is a terrible way to learn to play blackjack. We want adolescents to make mistakes, but we hope they make the right kind of mistakes. (Zimring 1982, 91)

A similar perspective regarding adolescent culpability was recently taken by the U.S. Supreme Court in its decision to constitutionally ban the execution of adolescents who committed their capital offense at the age of 17 or younger (*Roper v. Simmons* 2005). The Court, echoing the position staked out in an amicus brief filed by the American Psychological Association (2005) in support of the constitutional ban, agreed that adolescents as a group are not yet mature in their decision making and are therefore less likely to consider alternative courses of action. They are more limited than adults because of their developmental immaturity. They are less likely to take into account the perspectives of others, are more vulnerable to peer pressure and group forces, have a more difficult time inhibiting impulses, and take high risks. They are simply not fully formed adults and are prone to immature judgments (Scott and Grisso 1998; Steinberg and Scott 2003).

Zimring (1982) advocated a more rational and forgiving legal jurisprudence for adolescence, arguing that most adolescents will outgrow their penchant for risk taking and their perception of invulnerability through the simple and unavoidable process of maturation. Forgiving does not mean free rides or passes, however. The task of maturation requires taking responsibility. This comes with becoming a mature adult. There must be consequences, but Zimring resoundingly rejected the notion that adolescents should shoulder the full burden we place on adults, advancing instead a continuum notion of moral and legal accountability proportional to their level of developmental immaturity. Zimring, the APA, other scholars, and even the United States Supreme Court are advocating not that adolescents be excused from punishment but simply that their responsibility be mitigated to a degree commensurate with their psychosocial immaturity. Heavy-handed retributive legal schemes not only ignore the time-limited nature of adolescent indiscretions; they also potentially interfere with adolescents' developmental progression by diverting some youth from a normal pathway of development, condemning them to a downward path through severe criminal penalties that could result in further deviant behavior. The major concern here is that the juvenile sex offender, because he is labeled a sexual deviant, may encounter some life-altering "snare" (Moffitt 1993)—a serious charge resulting in long-term incarceration, a serious record that limits future opportunity, a derailed education, or a lack of vocational opportunity—that may inhibit his ability to transition successfully to adulthood.

The legal world did not heed Zimring's warning, and if anything the 1980s and 1990s became a more punitive time for adolescents than when his book was first published. And while the assault on the rehabilitative ideal of the juvenile court had slowed substantially by the turn of the millennium (Melton, Petrila, Poythress et al. 2007, 467-68), for no group of adolescents is this more punitive legal world more real today than for the adolescent who has committed a sexual offense.

The system of legal sanctions that has been brought to bear on juvenile sex offenders over the course of the past two decades is not battling mere straw men or windmills. The problem of adolescent sexual offending is a real one that often causes real harm to its victims. Adolescents involved in serious forms of sexual offending need critical intervention, and some, unfortunately, will for the sake of public safety need to be incapacitated by means of longer-term confinement within exclusionary programs. A clear and accurate depiction of the extent of the problem of juvenile sexual offending is not easily derived, however. The various methods utilized to estimate the prevalence of the problem are fraught with imprecision, error, and bias. Often the estimates, utilizing different methodologies, are in contradiction.

The research literature has generally reported on the results of three separate methodologies for capturing the prevalence rates of various categories of sexual offenses for juveniles: official statistics, like arrest or conviction rates, self-report of sexual offending by adolescent offenders, and self-report of victims of sexual offenses committed by adolescent offenders. Each method has its own set of limitations and shortcomings. The true rate of juvenile sexual offending, like the true rate for any crime category in society, a problem often referred to as a "dark figure" by sociologists (Best 2001), is elusive. Apart from the obvious issue of the rate being contingent on how one defines "sexual offense" or "juvenile," there is simply no way to be sure if one has ever captured the true number. Not all sex offenses committed by juveniles are reported; not all reported sex offenses committed by juveniles result in an arrest. The best one can hope for is a defensible approximation of the true rate, and the best approach to determining the actual "dark figure" of sexual offense rates of juveniles will combine the three methods, off-setting the specific failings of each.

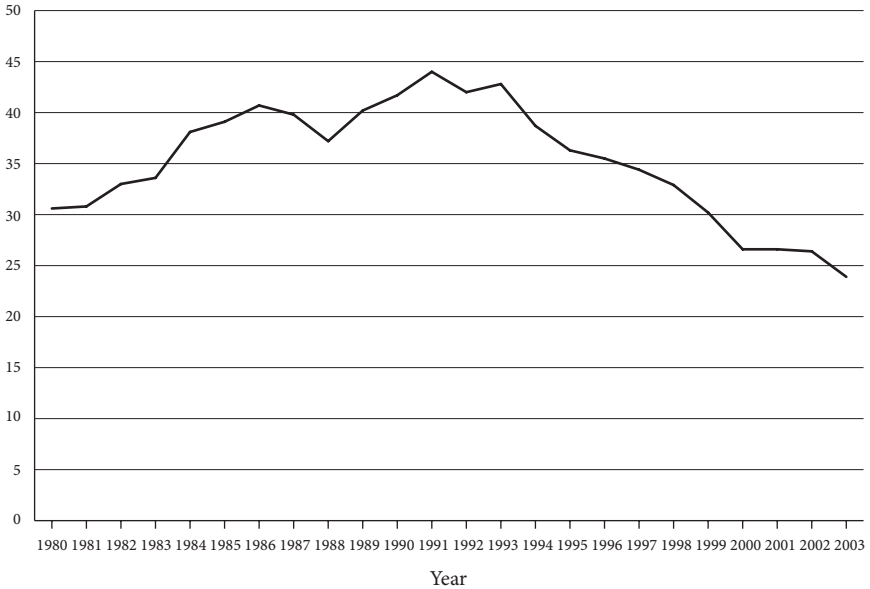
For the year 2003, of the total number of those arrested for forcible rape, including adults, about 16% were juveniles, and of the total number

of those arrested for sexual offenses, excluding prostitution, about 20% were juveniles (Snyder and Sickmund 2006). There were approximately 4,155 arrests of male juveniles between the ages of 10 and 17 for the crime of forcible rape in the United States in 2003. This calculates to a prevalence rate of about .02%, or about one arrest for every four thousand male adolescents. About 98% of the juveniles arrested for rape were male and about two-thirds of those arrested for forcible rape were 16- or 17-year-olds. In the same year about 16,470 male juveniles between the ages of 10 and 17 were arrested for sexual offenses, excluding forcible rape and prostitution. The prevalence rate was about .10%, or approximately one arrest for every one thousand boys. About 90% of those arrested for a sexual offense were male and about half were 16- or 17-years-old. In total there were about 20,625 juvenile males between the ages of 10 and 17 arrested for any sexual offense in 2003, excluding prostitution. This calculates to an arrest rate of about .12%, or an arrest of one male juvenile for about every eight hundred in the population.

Most of the offenses committed by male youth are not sexual in nature. Sexual offending only makes up a small proportion of their criminality. In 2003, the crime category of forcible rape comprised only 4.6% of the total of the FBI's Violent Crime Index (Murder and Nonnegligent Manslaughter, Forcible Rape, Robbery, and Aggravated Assault) for youth. For youth, the total proportion of sexual offenses, including forcible rape, in 2003 comprised only 6.7% of the total number of arrests for person offenses, including the crime of simple assault (Snyder and Sickmund 2006). For the past twenty years, sexual offenses have amounted to about 1-2% of the juvenile indictments in juvenile court (Zimring 2004). Overall, sexual offenses make up only a small proportion of the violent crime of juvenile offenders and only a small portion of the docket of any juvenile court.

Between 1980 and 1991 the rate of arrest for rape by juveniles grew about 44%, reaching a peak in 1991, a time when the rates of most violent crime for juveniles rose dramatically. Then, as with the other crime categories for juveniles around this time, the arrest rate for forcible rape fell substantially from 1993 to 2003. In 2003 it was 22% lower than the level it had been in 1980. Between the same years, the arrests of male juveniles for violent crime, including forcible rape, decreased by about 36%. During this same time period, the arrest rate for other sexual offenses for juveniles was essentially flat. Changes in the rate of arrest for forcible rape between the years 1980 and 2003 for the ages of 10 and 17 are depicted in figure 1.1.

FIGURE 1.1
*Trend in Arrests per 100,000 Juveniles, ages 10-17,
 in the United States for Forcible Rape (1980-2003)*



Source: OJJDP, U.S. Department of Justice.

The arrest rate of juveniles for forcible rape, like the rates of arrest for all crime categories, has decreased significantly over the past fifteen years, providing little in the way of support for the current “moral panic” that currently prevails regarding juvenile sexual offending. The most telling observation from this data is that the stricter forms of legal sanctioning for juvenile sex offenders that dawned during the decade from 1993 to 2003 occurred while the arrest for rape was significantly decreasing.

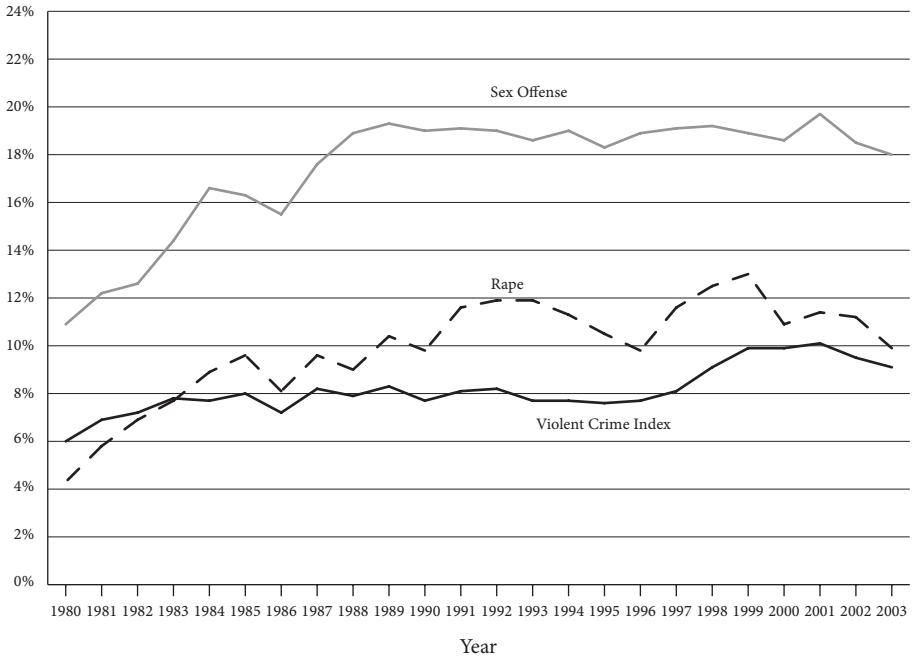
A dramatically different story emerges when the arrest statistics for young male juvenile offenders under the age of 13 are examined. Between the years 1980 and 2003, this younger cohort witnessed a 116% increase in arrests for sexual offenses (Snyder and Sickmund 2006). What makes this increase all the more stunning is that it occurred during a period of time

when the arrest rates for all offenses for this age group had decreased by 20%. While it is certainly possible that there was an explosive increase in the rate of sexual offending among young juveniles over this 23-year time frame, it is much more likely that the slightly more than doubling of their arrest rate was the result of changes in the way sexual offenses were officially handled for these young offenders by the police and the juvenile justice system. The police probably paid closer attention to these cases and responded through more formal processing. Sexual offending for young offenders was taken more seriously whereas in the past they may have been processed through noncriminal forms of intervention such as referral to child welfare or dependency agencies. The percentage of arrests for violent crime, forcible rape, and other sexual offenses compared to the total arrests of young juveniles aged 13 and younger, between 1980 and 2003, are depicted in figure 1.2.

While the arrest rate for rape was falling and the arrest rate for other sexual offenders remained unchanged for adolescents between the ages of ten and seventeen over the past fifteen years, the rate of placement into residential treatment and correctional settings was moving in the opposite direction. According to data from the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention (Sickmund, Sladley, and Kanf 2005), from 1997 to 2003 the rate of placement of juvenile sex offenders in residential and correctional settings grew a total of 34%. The rate of placement in private treatment settings rose a whopping 62% while the rate within public settings rose just under 20%. The steep increase in the placement of juvenile sex offenders in private treatment settings is a clear indication of the vast expansion of a cottage industry for treating juvenile sex offenders that occurred during a time period when the arrest rate of juveniles for sexual offenses was decreasing for rape and flat for all other sexual offenses. This data is depicted in table 1.1.

The major limitation to official crime statistics relating to sexual assault among adolescents, such as arrest rates, is that they underestimate the incidence of offenses since a large proportion of sexual assaults are not reported and only those incidents of sexual assault that lead to an arrest are counted (Koss 1992). Studies that utilize an anonymous self-report of sexual assault provide a more accurate measure of the rate of incidence since they are not limited to juveniles who were detected and arrested for a sexual offense. The reliability and validity of self-report measures of

FIGURE 1.2
*Trends in the Percentage of Arrests for Young Juveniles
 (Under Age 13) in the United States*



crime and delinquency have generally been found to meet acceptable social science standards (Elliot, Huizinga, and Morse 1987; Hindelang 1979; Hindelang, Hirschi, and Weis 1981; Huizinga and Elliot 1986). Self-report measures are not a replacement for but a complement to official criminal statistics. There are obvious limitations to self-report measures as well. There is the problem of possible underreporting due to concerns about the potential legal consequences of admitting prior delinquency and the desire to avoid eliciting negative social appraisals or perceptions from the interviewer. In studies using retrospective self-report methodologies, there is also the problem of the accuracy of memory and its general decay over time. Nonetheless, despite these limitations, self-report measures can add another dimension to the overall portrait of the prevalence of sexual assault among adolescents.

TABLE 1.1 *Juvenile Sex Offenders in Residential/Correctional Placement, 1997-2003*

Year	Total	Public	Private
1997	5,582	3,974	1,608
1999	7,455	5,124	2,324
2001	6,779	4,650	2,128
2003	7,452	4,749	2,608

Source: Sickmund, Sladley, and Kanf 2005.

Self-reports of youth in the community, when compared to official crime reports, provide significantly higher estimates of the prevalence of sexual assault by adolescents. The National Youth Survey was a prospective longitudinal study of delinquent behavior in a community sample of American youth conducted at the University of Colorado at Boulder under the direction of Delbert Elliott and colleagues (Elliott, Huizinga, and Ageton 1985). The project, initiated in 1976, utilized a sample of about seventeen hundred American youth who were between the ages of 11 and 17 at the start of data collection. Elliot and his research team conducted nine waves of data collection. The last one was in 1992, when the group of participants was between the ages of 27 and 33. The overall drop-out rate over the life of the 16-year project was small. The study used personal face-to-face confidential interviews with participants, who were asked about their annual involvement in delinquent behavior. The survey included questions about the occurrence of any incidents of sexual coercion over the course of the prior year. The interviewer specifically asked each research participant whether he had “pressured someone (in the last year) to do more sexually than they wanted to do” (Ageton 1983, 153). The use of such verbally persuasive tactics as “if you love me you will” or “I’ll break up with you if you don’t” were considered to be instances of verbal coercion. A major limitation of the study is the heterogeneous grouping of sexual offenders—the lumping together of those who used verbal pressure (“you’d do it if you loved me”) with those who raped at the point of a weapon.

Over the course of three years of data collection between 1978 and 1980, between 2.2% and 3.8% of the male juveniles between the ages of 13 and 21 reported having committed an act of sexual coercion in the preceding

year (Ageton 1983). But about two-thirds of them used verbal coercion. Approximately 1.3% of the sample in 1978, the year with the highest self-report rate, used physical force to commit their sexual offense. There was not much difference with regard to various psychosocial factors between the youth who committed sexual assaults and the youth who committed general delinquency offenses, leading to the conclusion that the explanation for sexual assault is not particularly different than it is for any other form of delinquency.

Victim survey research reveals the highest prevalence rates of juvenile sex offenses compared to official crime statistics and the self-report of perpetrators. The three methods form an “inverted pyramid,” with victim surveys providing the highest estimates, followed by self-reports by male perpetrators, and then followed by official arrest or conviction statistics, which yield the lowest rates. The large discrepancy between the rates reported by victims and the other estimates is an indication of the vast amount of official underreporting of sexual assault. The National Youth Survey reported that for the years between 1978 and 1980, the prevalence rates ranged from between 5% and 11% for females reporting sexual assault victimization by male youth (Ageton 1983). However, verbal persuasion was used by between two-thirds and four-fifths of the male offenders, dropping the rate of sexual offenses committed by physical force to as low as 1% or as high as 4%. Most of the sexual assaults were described as unplanned events that occurred in the context of a date, most often at the home of the victim or the perpetrator. For the vast majority of incidents, drugs and alcohol had been used by either the victim or by the perpetrator.

The National Crime Victimization Survey provides data about the rates of sexual victimization through the use of interviews with a random sample of community participants aged 12 years and older. According to the most recent survey results, between 1993 and 2003 the rape and sexual assault victimization rate for youth ages 12 to 17 fell 46% (Snyder and Sickmund 2006). Other researchers estimate that there was a 40% decline in reported cases of childhood sexual abuse between 1990 and 2000 (Finkelhor and Jones 2004) and a decrease of 49% for the substantiation of sexual abuse between 1990 and 2004 (Finkelhor and Jones 2006). This substantial decline in agency statistics matches the declining trend previously reported in the arrest of juveniles for sexual offenses, suggesting that the decrease in reported cases of sexual violence represents a real decline and

not an institutional or system change in the way cases were defined or categorized or the way cases were handled.

How is one to make sense of this avalanche of statistics, data, and trends? The rates of reported victimization have gone down significantly, and are probably lower than in any other historical epoch (Bullough 1990). Once again it appears that the ramping up of the legal consequences for juvenile sex offenders occurred during a time when the rate of reported victimization underwent a steep decline. And while it seems possible that the stricter legal responses were in part responsible for the welcomed decline, this hypothesis requires more stringent empirical testing before it can be accepted.

The self-report surveys of victims have been critiqued on a number of grounds, most frequently for their use of verbal coercion as part of the definition of sexual assault. Nonetheless, the rates of sexual violence remain startlingly high. There is a high rate of verbal and physical coercion occurring within the early sexual experiences of adolescents and young adults in America, and this clearly and unambiguously calls for intervention in the form of education and other preventative strategies. The high rates of sexual violence against adolescent girls and young women make it a major public health concern requiring a priority response.

Theoretical models have been developed that explain the problem of the prevalence of sexual assault by reference to sociocultural contexts, focusing on the gendered scripts or roles that legitimate sexual violence and often normalize it (Malamuth, Linz, Heavy et al. 1995; White and Kowalski 1998; White, Kadlec, and Sechrist 2006). These culturally transmitted sexual scripts often support the enactment of power dynamics within intimate relationships whereby males are socialized to be sexually aggressive and females are relegated to the role of “sexual gatekeepers.” The high rates of sexually coercive interactions among young males may be a function of the way they have been instructed about what masculinity entails—dominance, sexual prowess, and promiscuity—whereas young females have been instructed that confronting and navigating coercive sexual interactions with boyfriends, dates, and acquaintances are an expectable part of being young and female.

An aspect of this cultural problem not readily revealed in the rates and percentages of the survey research, however, is that sex is a relatively new activity for adolescents. They are learning the rules of sexual engagement as they go along. This fact in no way detracts from the significantly high

rates of sexual coercion that occur within youthful sexual relationships. It only argues that these are still immature social actors, and this fact needs to be taken into account when the justice system develops strategies to respond to their actions. It would be incorrect to necessarily conclude that youth who engage in sexual offenses suffer from some deviant sexuality that requires life-long legal and clinical intervention. To consider them as such would illuminate Trilling's notion of a new problem emerging from the well-intentioned attempt to solve some prior problem. The high prevalence rates of juvenile sex offenses point to a broader sociocultural problem about the sexual scripts that are transmitted to boys and girls. Certainly some of the subjects within the research estimates will need strenuous criminal justice intervention. The problem is identifying who they are.

A 16-year-old male adolescent had gathered together in the back of his pickup truck what is often referred to as a "rape kit" by law enforcement professionals, comprised of mace, handcuffs, and duct tape. These were the instruments he used in the brutal rape and attempted murder of an 8-year-old girl he left in a trash dumpster for dead, who miraculously walked away and summoned help. This adolescent's sexual offense bears no similarity to the stories of the juvenile sex offenders previously described in this chapter. They are as far apart on the spectrum of juvenile sex offenders as is probably possible, yet they were treated relatively the same way within the criminal justice system.

It is obvious that these two types of cases call for vastly different legal and clinical responses. However, any book that argues its points from such extreme cases is not doing much work. Cases that exist at the extreme of any continuum are easy to deal with. It is the 90% or so that occupy the various shades of gray in between that are hard. This book will examine the vast landscape of adolescent sexual misbehaviors between the two extremes. What do we know in a scientific way about them? What is to be done legally and clinically about them? These are the uneasy questions the following chapters will examine.