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Carolyn Côté-Lussier, David Moffette, Justin Piché, Gillian Balfour, Chris Bruckert, Kathryn Campbell

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Beyond Judgment: How Parents and Professionals Negotiate In/Exclusion and (In)Security among Youth Who Sexually Offend

Christine Gervais, Matthew S. Johnston, Serenna Dastouri, Leslie McGowran, and Elisa Romano

The resilient and complex ways in which parents navigate the criminal justice system (CJS) after their children have sexually offended are largely undocumented in critical criminological literature. With relatively few notable exceptions across academic disciplines (Baker et al. 2003; Gervais and Romano 2018; Hackett et al. 2014; Levenson and Tewksbury 2009; Pollack 2017; Romano and Gervais 2018; Tewksbury and Levenson 2009; Thornton et al. 2008; Worley et al. 2011), research is limited with regard to understanding parents’ involvement in their child’s rehabilitation; their deep concerns for victims’ rights and recovery; and their various ways of coping with stigma, isolation, and challenging emotions in the aftermath of their child’s sexually offending behaviour (Gervais and Romano 2018; Romano and Gervais 2018).

Based on an interdisciplinary study involving criminological and psychological analyses of children’s rights, this chapter offers a counterpoint to some of these limitations. We demonstrate how ten families of youth who sexually offended negotiated various obstacles as they sought to prioritize inclusion and security throughout the accountability processes following their child’s sexual offending. In line with critical criminological literature that recognizes how people who sexually offend and their families are often excluded from society and the rehabilitation process (Petrunik and Deutschmann 2008;
Viki et al. (2012), we further explore how the parents in our study were met with overwhelming institutional exclusionary practices despite some individual CJS workers’ attempts to be more considerate of their children’s rehabilitation and reintegration needs and rights. To do so, we review the historical and recent scholarship on adult and youth sexual offending that steers many institutional responses to sexual violence. We then reveal two overarching themes that emerged from the family narratives: CJS-based exclusion, and police and parental advocacy. Finally, we conclude this chapter by offering policy recommendations that advance knowledge about parents’ successes and struggles in mitigating the detrimental effects of exclusion and insecurity in the context of youth sexual offending.

**History of Sexual Offending Research**

All acts of sexual violence violate—often recurrently—the physical, emotional, and psychological boundaries of victims (Kelly 2008). Given that women and children are among the least powerful people, they comprise the majority of known victims, and their perceptions and claims of abuse are often subject to heavy scrutiny and disbelief when confronted by powerful individuals and institutions (Naffine 2003; Saunders 2012; Wagenaar et al. 1993; Yarbrough and Bennett 2000). In response, critical feminist and victimology studies focus on mobilizing the traumatic experiences of sexual assault survivors into protests of passionate activism, and calls for more carefully considered research and commentary on effective responses to sexual violence on the part of governments and institutions (Brown and Walklate 2011; Farkas and Stichman 2002; Martin 2005; McGarry and Walklate 2015; Messman-Moore and Long 2000; Salter 2017; Walklate 2007; Walklate and Spencer 2016).

In Canada and the United States, early criminal justice reforms focused on the statutory and procedural responses to sexual violence committed by adults against women. These reforms included the replacement of the crime of rape with sexual assault offences classified by their gravity, and the enactment of shield laws that circumscribed the use of evidence related to the survivor’s prior sexual history and conduct (Marsh et al. 1982). These policy changes aimed to advance the treatment, legal protections, and dignity of sexual assault victims in the CJS and, in turn, encourage more survivors to report offences to the police and increase the probability
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of successful prosecution (Berger et al. 1994; Spohn and Tellis 2012; Stanko and Williams 2009; Wheatcroft and Walklate 2014). Despite these advances, much of the literature on child sexual violence has not moved beyond discussions about the accuracy of children’s reporting (e.g. Carter et al. 1996; Granhag and Stromwall 2005; Hershkowitz et al. 2007; Quas et al. 2007; Quinn 1988; Wheatcroft and Walklate 2014).

Early work on adult sexual offending was primarily psychological and focused on typologies of offenders. Men who harmed women or children were generally characterized as sadistic, angry, manipulative, introverted, opportunistic, or antisocial, or a combination of these (e.g. Cohen et al. 1971; Gebhard et al. 1965; Knight 1992, 1999), while female-perpetrated sexual violence was understood to result from male coercion, teacher/mentor exploitation and dominance, or non-heteronormative sexualities or a combination of these (e.g. Blasko 2016; Mathews et al. 1989; Sarrel and Masters 1982; Vandiver 2006). The collective fear that sexually offending adults are permanently disordered and untreatable led to the creation of controversial laws to protect communities from them (Cross 2005; Petrunik 2002, 2003). These laws included community notification registries, long-term sentences of incarceration, GPS electronic monitoring, and surgical or chemical castration (DiCataldo 2009; Kleinhans 2002; Miller 1998; Pratt 2000; Scott and Holmberg 2003; Spencer 2009). Founded on the belief that no person is disposable, community volunteer-based programs eventually emerged to provide adult offenders, including those at warrant-expiry, with the necessary social support to help them rehabilitate, reintegrate, and learn accountability (Hannem 2013).

With respect to youth perpetrators, there is a more nuanced understanding of the circumstances that predate their sexual offending. Based on years of clinical research, Howard Barbaree and William Marshall (2006) identify some of the leading social and psychological risk factors associated with (but not prescriptive of) youth sexual violence, such as: childhood sexual abuse; substance use; impulsivity; sensation seeking; family separation and divorce; rejection of and conflict with the child; intimate partner violence; low levels of parental involvement, monitoring, and supervision; and inconsistent parental discipline (see also Cale et al. 2015; Farrington 1994; Loebber 1990; Martinez et al. 2007; Roberts et al. 2004). Questions aimed at determining who and what influences youth sexual violence have primarily driven the cited research, with findings often placing the
responsibility on the family for an inferior upbringing of the child, low economic status, lack of involvement in the child’s life, and adverse responses to the offending behaviour.

Calls for more inclusive and restorative solutions to youth sexual offending propose that youth have the opportunity to reform their behaviour and to engage in reconciliation with the affected individuals (Bouhours and Daly 2007; Braithwaite 2002; Brown and Walklate 2011; Daly 2006; Daly et al. 2013; Gxubane 2015; Rossner 2011, 2013). In spite of the limitations of restorative justice, we suggest that treating youth who sexually offend, within an integrated, holistic, and humanistic approach that takes into account their strengths, developmental stage, and childhood environment, requires a better understanding of how their families can be involved in the restorative justice process (Longo 2005). Our findings enlighten these frameworks with a more complex understanding of parents’ roles and responsibilities in guiding sexually offending youth through their rehabilitation.

Research Design

This chapter draws upon data collected between March 2011 and March 2017 among sixteen parents (ten mothers, four fathers, and two stepfathers) from ten Ontario-based families whose sons (aged ten to fifteen years) had engaged in sexually offending behaviour that involved varying degrees of invasiveness, ranging from suggestive behaviour and sexual touching to penetration against female (n=8) and male (n=5) victims aged three to eleven years old who were primarily relatives (n=7) or neighbourhood children (n=6). Families were comprised of biological, adoptive, and step-parents within a range of married, divorced, and single contexts, and varied in size (one to five children) and location (nine in urban or suburban settings and one in a rural-based town). At the time of the interview, parents ranged in age from thirty-four to fifty. Ethics approval was obtained from the University of Ottawa and the hospital through which parents were recruited and the offending youth received mental health services.

While this project involved a mixed-methods approach that included semi-structured interviews and self-report measures with the parents, our analyses in this chapter focus on the interview data. Interviews were confidential, audio-recorded, transcribed by research assistants, and anonymized. We conducted a round of open coding,
beginning with the broad topical areas covered by the open-ended questions, and then moved toward the development of initial thematic categories (Berg 2007). Lastly, we conducted a round of analytic coding to align related themes with the existing literature on experiences of parents of sexual offending youth (Berg 2007; Jones 2015; Pierce 2011; Thornton et al. 2008) and on the best interests of the child (Gervais and Romano 2018).

We engaged in a collaborative and inclusive research process with families to ensure that they felt respected, consulted, and well-informed about the nature and implications of our study. To this end, the research team held pre-interview meetings to go over strategies that would help create a safe, non-stigmatizing, and non-judgmental interview atmosphere and that would safeguard participants from encountering distress or unease (Mander 2010; Pittaway et al. 2010). Following the interviews, we provided families with an extensive list of local mental health, counselling, wellness, and emergency resources, and we asked them several questions about their emotional state and stress levels.

The lead author, Christine Gervais, maintained supportive and empathic relationships with the parents for a number of years following the interviews and involved them heavily in the decision-making processes of the study. Specifically, parents shared their advice on how to best guarantee anonymity and confidentiality; provided valuable feedback about their research experience, which the research team incorporated into subsequent interviews; and gave direct recommendations that informed knowledge-translation activities, including the production and approval of a resource and rights pamphlet for affected parents, entitled What Do You Do When Your Child Has Hurt Another Child? (Gervais and Romano 2014). While time-consuming, the respect that such methodological sensibility afforded parents served to validate their voices, as well as the concerns and goals that were relevant and meaningful to them (Mander 2010; Pittaway et al. 2010).

**CJS-Imposed Exclusion Experienced by Parents and Youth**

This section exposes the repercussions of confusion and isolation resulting from punitive reactions and exclusionary restrictions imposed by the CJS on child perpetrators of sexual harm and their families.
Exclusion through Lack of Communication

The parents’ accounts of CJS protocols revealed how the exclusionary practices that they and their offending youth experienced resulted in both physical and social repercussions. For example, while deeply troubled by the possibility of never seeing their child again, parents had to navigate informational barriers in order to act in the best interests of their child. One mother recounted the emotionally taxing impact of feeling forced to put her trust in criminal justice authorities to address her child’s offending behaviour. The investigative process was not transparent and left her wondering if her child would be safe and treated appropriately: “As scared as he was … we went to the police station and we said, ‘we’ll see you later’ … it was a children’s aid worker and the investigator that went along, … So they took him and I didn’t know if he was going to come back after” (Mother 1). Other parents and siblings experienced similar uncertainty and stress as they remained physically and mentally isolated in small, overcrowded waiting rooms while the youth were interrogated. As one parent put it: “It wasn’t handled right … there was no assistance in this matter, it was just ‘Sit in that room, wait, you’re gonna go in that room next’” (Stepfather 2). Another said: “It was very cold … we were six people … we had to sit on the floor … a long time to wait … it was quite traumatic for them [siblings] as well” (Mother 2).

Amidst great confusion, worry, and fear, parents found themselves negotiating their own internal suffering while protecting their child’s rights. For example, since CJS officials did not appear to reassure the other children present that their sibling would come home again after questioning, parents were also tasked with comforting their other children in what became long, tiring, and intense periods of doubt, waiting, and fear.

The lack of procedural transparency continued during the interview phase and was a great source of unease, as some parents were advised by police officers not to retain legal counsel during their son’s interview. Consequently, parents felt uncertain about how to effectively advocate for their child after being instructed not to exercise rights guaranteed to all Canadian citizens, which led them to seriously question the professional motives and rationales of police. Mother 1 explained that after legal counsel advised her and her husband to remain silent, they did not know whether it was a “trap”
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When officers informed them that “disclosure ... will go a long way to create a good will.”

Other parents reported that some detectives impressed upon them that the criminal justice process could become adversarial if legal counsel were retained. The potential for a more hostile confrontation with police was undeniable and likely counterproductive to the police’s intention to divert the youth out of formal criminal justice processes and toward a treatment referral at a local children’s hospital. However, given that most parents were never told that such an outcome could occur, the presence of a lawyer would still have been instrumental to reassure families that a reconciliatory avenue was possible. We are also left questioning how legal representation could be seen to hinder youth diversion out of the criminal justice system, or if the issue reflects potential biases that some police officers and detectives have toward other criminal justice professionals.

Further confusion resulted from the presence of a child-welfare worker whose role was not clarified to parents during the youth’s interview. Several parents assumed that the worker observing their son’s police interrogation in the adjacent recording room was acting as a child-rights advocate. Consequently, these parents appeared less concerned about the lack of legal representation because they assumed that the child-welfare worker was acting in the best interests of their son. It was not until after the police interview that one mother realized the worker was actually conducting a parallel child-welfare investigation involving their son. She described her regret over how she handled that moment: “Don’t leave people hanging ... there has got to be a better way; there has to be better advocacy for the children, the offenders ... because I didn’t know that he [son] was not being supported in there. I assumed because the CAS [Children’s Aid Society] worker was there that he would ... If I had known, I would have had a lawyer in there with my son” (Mother 3).

This same mother wondered if the false confession by her son, who struggled with both anxiety and attention difficulties, resulted from the absence of both legal and child-welfare representatives during what she described as an intimidating police interview: “I don’t know if [my son] just made up [stuff] because they were pressuring him, because there was nobody there advocating for him” (Mother 3).

These parents’ accounts point to a number of non-transparent exclusionary practices employed against sexually offending youth; often what parents believed the situation to be was not aligned with
the practices of CJS authorities. Many CJS efforts appeared to equate accountability with extracting a confession from the youth, regardless of whether or not the confession was obtained in a transparent manner and respected children’s rights. Furthermore, parents were not informed by the police that they had the right to be present in the adjacent viewing room during their son’s interrogation. When asked if they knew this option was available, parents responded with disbelief and frustration: “No, no of course not! … I didn’t even know until now that I could’ve … and … in hindsight, I should have asked for that” (Mother 2). Another set of parents were also confused when their son was whisked away: “Why couldn’t we stay? I still couldn’t figure that out” (Mother 9). The parents’ testimonies reveal that in these instances it seemed unclear what processes, if any, were in place to include them in procedural steps to safeguard their child’s rights.5

Given the youth’s age and corresponding vulnerability, the legal and child rights–based omissions were problematic and disconcerting. One family expressed feeling “deceived” into accepting the criminalization of their son, and recalled their stress and frustration after they brought their child to the police station for questioning: “But we didn’t know it was an arrest, right. The police [said] that they just wanted to talk to us” (Father 9) and “As he came out [the detective said] ‘nothing’s going to happen here today’ and then my child was arrested … As soon as he stepped through the door, he arrested [our son] … the level of deception is enough to make you very angry” (Mother 9).

Not only did the police suggest these parents forego legal counsel during the initial interview, but the family also described how their son was “given the full treatment.” This “process” reportedly involved the child being hand- and leg-cuffed, slammed into a wall, charged with eight different offences, jailed over a weekend because of difficulties connecting with a child-welfare worker who “refused to talk to [the judge]” late on a Friday, and ordered to provide a DNA sample. The parents expressed that the police were not sensitive to their son’s obvious intellectual and developmental challenges, and that their son’s interactions with the police were far more punitive and degrading than restorative because one of the alleged victims was a police officer’s child.

Information barriers persisted well into the later stages of the criminal justice process. Mother 3 recounted her frustration about the lack of communication about changing and uncertain court
proceedings: “And on and on ... and then the fact that ok you have to go to court in February ... and then they cancelled out on me the night before and said that they would get back to me and they didn't get back to me till August!”

While in the end this mother was relieved that her son was not charged with a criminal offence, the lack of transparency regarding the potential delays and outcomes caused her enough stress that she turned to medication and professional counselling to help her cope (Romano and Gervais 2018). Several other parents recalled how abruptly the investigative process concluded, with one noting, “the only thing ... and it’s not the police’s fault, is that, it was just sort of like ‘ok that’s it’. We did ... the report, and ... ‘see you later’ ... no follow-up” (Mother 6). Mother 8 expressed frustration and bewilderment when she realized that she could not rely on professional assistance from either child welfare or police services. Instead, she had to “be the one to pursue them when [she felt] they should have been trying to pursue [her].”

In sum, families in our study reported experiencing a range of emotions—stress, confusion, deception, humiliation, and anger—from the lack of communication related to their sons’ navigation through the CJS. They also noted that the lack of professional advocacy on the part of the police did little to further the rehabilitation of their children or promote inclusive measures of accountability. While a child rights advocacy approach may not have been explicitly prohibited or impeded by the CJS, the use of exclusionary tactics (e.g., lack of transparency about the investigative process, discouraging access to legal counsel) understandably forced parents into a position of raw advocacy and as adversaries against some members of the CJS. When considering the parallel need to prevent future offending behaviour, one questions whether these tactics promoted the sense of trust in the system that is needed for full rehabilitation.

Exclusion through Neglect of Individual Needs

Families also experienced exclusion due to the institutional CJS processes and protocols, including a limited acknowledgment of and accommodation for the individual needs of the youth. In our study, five families communicated to police officers that their sons had special needs and each family experienced the CJS differently. While Mother 7 expressed that her son—who had severe anxiety and autism spectrum symptoms—was accommodated by police, two families
recalled the perceived lack of consideration and empathy for their son’s mental health during the interrogation process. Mother 3 recounted her worry for her son, noting that despite explaining to officers “my son is 15 but ... he’s got anxiety issues” and attention deficit hyperactivity disorder, he was left isolated without mental health support during his time at the police station. The special needs of Family 9’s son were also ignored when he was arrested with “child cuffs” that he reportedly told police officers hurt because they were too small and were not functioning properly.

These examples demonstrate how discretionary procedures used by criminal justice professionals significantly impact a family’s experience. Moreover, how this discretion is exercised can sometimes lead to exclusionary practices that impact the family’s sense of security and trust in the system. The CJS has long treated child perpetrators of harm as security risks (Cross 2005; Petrunik 2002, 2003) and the societal approach toward youth who engage in sexually offending behaviour is similar. These youth seemed to be viewed with the same apprehension and suspicion employed against their adult counterparts (DiCataldo 2009; Kleinhans 2002; Miller 1998; Pratt 2000; Scott and Holmberg 2003; Spencer 2009).

**Police and Parental Advocacy for Inclusivity and Security**

Much of the data in our study emphasizes how families faced obstacles that led to feelings of exclusion and insecurity. Although there is considerable room for improvement in how the CJS approaches child perpetrators of sexual harm, in this section we discuss how these exclusionary practices were not universal, due in part to strong parental advocacy and individual officers who recognized that youth who sexually offend are still children in need of support, inclusion, and protection.9

*Police-Based Advocacy for the Best Interests of Offending Youth*

Some families, even ones who described negative experiences, recalled instances of striking empathy, non-adversarial attitudes and “good will” on the part of criminal justice staff. Some police and correctional officers were, in fact, compassionate child-welfare advocates dedicated to diversionary approaches that allowed young offenders to bypass the traditional CJS. In these instances, proper communication played an important role in alleviating anxiety and fostering an
atmosphere of trust. For example, Mother 9 noted that while it appeared that “nobody cared” when her son was being detained, she was temporarily relieved by the thoughtful actions of a correctional officer, “the person who called me from the cell block” to advise her that her son’s medication was finally being administered for the first time since he was placed in custody; she described this officer as “the person who cared the most.”

Another mother’s initial gratitude towards investigating police officers, who created a secure environment for her son to acknowledge his own behaviour, fostered a sense of trust with one particular detective and helped the family form a supportive relationship that would last throughout their entire experience with the CJS: “[the detective’s] been a godsend ... my son kept denying everything to me; he denied everything and he went with the detectives and told them everything” (Mother 4). While the mother perceived her son’s admission as positive because it fostered accountability and created a diversion-oriented avenue for treatment, other observers may interpret the context of incrimination as problematic or even coercive. Yet it is interesting how the son’s confession was described as positive when interpreted as being made under what would become longstanding conditions of respect and empathy—a perception that was juxtaposed in our study with CJS accusations of dishonesty, deception, and unsupportiveness.

The same mother further explained how transparent the detective was in his communications with the family, as he continually clarified the entire criminal justice process. After describing the stressful decision to involve a lawyer, Mother 4 recounted the sincerity with which the detective helped her decide against engaging counsel: “I had so many people around me saying you need to get a lawyer ... and I thought you know what, this guy has been nice, from the first day I spoke to that detective, I just had a good feeling, you know ‘I'm going to chance this,’ and he said, ‘Had you involved a lawyer, this never would have been dropped ... It would have become a power struggle.”

Following the interview, the detective exercised his discretion, diverted the son out of the formal CJS process, and helped place him into community service and treatment. When the mother later learned that her son’s name had been put on a provincial child abuse registry, she immediately sought advice from the same detective who expressed “that’s the most ridiculous thing” (Mother 4) and he worked with the
mother to remove her son’s name from the registry. The mother and the detective continued to have a positive relationship following the youth’s involvement with police. The detective reportedly claimed he had “put everything on the line” for her son because of how diligently he had negotiated diversionary options for the youth among his superiors and colleagues who held more punitive views. Critical criminologists seldom find themselves aligning with police officers; however, the detective’s actions demonstrate the potential of CJS authorities to be first responders in youths’ rehabilitation and primary resources for struggling families who want nothing more than to see their children recover, reintegrate, and never recidivate.

As with Family 4, most of the cases in which police interviewed the youth resulted in diversion options beyond the formal criminal justice process. In such diverted cases, police played a positive role in opting for pre-diversion avenues through referrals to treatment services at the nearest children’s hospital. In so doing, officers appeared to recognize the risks of further exclusion, including self-harm and recidivism.

Another family, who claimed to have seen “both sides of the [criminal justice] system … work for [them]” and “against them,” recounted that they were “really impressed actually with the police” and found that “their sensitivity to the situation was fantastic” (Mother 6). In this case, the police demonstrated consideration towards the family who, while advocating for their offending son’s rights, also focused heavily on their victimized daughter’s needs. The police reportedly reassured the mother that “she wasn’t a bad parent”—support and encouragement which helped her to “trust the professionals” and to “[let] the system work its way through.”

Another mother, convinced that a “scared straight” approach might have a positive effect on her son, persuaded an initially reluctant officer to interrogate the boy as she typically would other suspects. In this instance, the parents understood exactly what the interrogation would involve prior to being conducted: “[The officer said,] ‘We actually don’t have anything like that [scared straight program] but if you want, you can bring him in and I can interrogate him the way that I would do’ and I’m like ‘Yeah that’s fine’ and she’s like ‘are you sure?’ and like ‘Yeah. I want him to know how serious this really is, that it’s not a joke, right?’” (Mother 8)

Even after the parents agreed, the officer continued to seek their consent prior to proceeding with the interview: “So we did take him
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in ... she pulled us aside and said ‘I’m gonna be very hard on him, I just want you to know. Are you guys okay with it?’ And we’re like ‘Yeah,’ so he went into the room. ... she ... interrogated him; he told us that he was scared” (Father 8).

While the interrogation was held at the insistence of the parents and did not result in their exclusion from the process, the parents inadvertently contributed to a potentially compromised outcome for their son. While they initially meant to impress upon their child the gravity of his behaviour, the father regretted that there now existed a recorded interview of his son in relation to sexually harmful behaviour, which posed a potential risk of incrimination. Nevertheless, while the end result of the interview could have been far more isolating, the parents were satisfied overall with how the officer co-operated and helped hold their son accountable. They felt the interrogation complemented the pre-diversion counselling services that the son was receiving at the local children’s hospital. This scenario also counters existing literature that portrays some affected parents as lacking discipline and concern for their children’s accountability (e.g. Cale et al. 2015; Farrington 1994; Loeber 1990; Martinez et al. 2007; Roberts et al. 2004).

In sum, the families who narrated positive experiences attributed them to supportive interactions with individual police officers. The parents’ accounts demonstrate how empathy and child advocacy on the part of criminal justice staff can generate conditions of inclusion that are known to be beneficial in ensuring the safety of both potential child victims and youth offenders.

Parental Advocacy for the Best Interests of Their Offending Child

While the parents in our study were often highly critical of their experiences with the CJS and the child welfare professionals, many were also tolerant, to varying degrees, of the informational and physical barriers that they experienced. Some parents were willing to relinquish a level of control over their child’s fate when faced with actions that privileged punishment over an inclusive resolution which benefitted the best interests of all affected parties. However, even in light of this acquiescence to exclusionary practices employed by CJS professionals, many parents were formidable advocates for their children. Though it is difficult to correlate CJS exclusionary practices to parental advocacy, the sustained efforts by parents to advocate for
their child’s needs, as well as the needs of other children affected by the sexually offending behaviour, cannot be overlooked—particularly given how existing literature problematizes parental involvement in youth sexual offending behaviour (e.g. Cale et al. 2015; Farrington 1994; Loeber 1990; Martinez et al. 2007; Roberts et al. 2004).

For example, Mother 8 explained that she remained persistent when seeking information from authorities about resources for her son because she recognized how urgent it was for him to receive guidance and support. She was insistent and pragmatic as she sought immediate attention: “I’m like, ‘You couldn’t find another way to get my phone number?’ ‘You didn’t think that … I’d been waiting around all day to try … and get [my son] help …’”; “I was like, ‘Okay, so who do I call first? Can I have this number and this number and this number?’ Like I … took charge of it because I care about [my son] … I needed someone to kind of guide me in what I’m supposed to do to help my child” (Mother 8).

A number of other examples demonstrate parents’ efforts to advocate for their son’s best interests with regard to the offending behaviour. The parents in Family 9 worked tirelessly with their lawyer and their son’s hospital-based social worker to minimize the criminalization of their special needs-affected son to the point of using most of their life savings toward those ends. They fought to remove their son from a DNA registry, and strongly advocated for his continued education and social inclusion among peers. When the bail conditions recommended his removal from school because of the presence of other children, his parents went to great lengths to reach an agreement that meant their son would “be under as strict supervision at the school as he would be if he were at home with us” (Father 9). Mother 4 displayed a similar tenacity when she reached out to the police detective about her concerns over her son’s name being placed on the child abuse registry and then collaborated with the detective to have it removed.

Finally, conversations with many parents often centred around concerns over feeling isolated and excluded as they navigated various institutional systems following their son’s sexually offending behaviour. An isolating context can serve as a risk for further sexually offending behaviour should the youth’s mental health needs not be adequately addressed. Despite these perceived obstacles, we found that all parents actively sought to secure and participate in their son’s treatment to address the many offending-related effects, including
the youth’s experience with the criminal justice and child welfare systems; the safety of affected children and the prevention of further offending behaviour; the youth’s personal challenges that contributed to the offending behaviour; the youth’s development of healthy sexual behaviour; and the development of a long-term safety plan for the youth and potential future victims.

One powerful parental advocacy effort included reconciliation attempts. In instances where the victim of the sexual offending behaviour was part of the extended family, some parents (Families 1 and 8) took an active role in initiating or facilitating forgiveness among the affected relatives (including the victims/survivors), as well as the non-judgmental reintegration of the offending child within the family. For instance, the parents in Family 8 insisted their son apologize in person to the victim and her parents before the next extended family gathering as a way to instill within their son a greater sense of responsibility toward the victim. The parents felt the conversation led to greater understanding and inclusivity among all relatives impacted by the initial sexual offending behaviour. Grandparents (in Families 1 and 8) also served an important role in reconciliation efforts by both encouraging and facilitating the apologies among the affected children and grandchildren.

Successful reconciliation efforts brought comfort to parents (in Families 1, 5, 6, 7, 8 and 10) and were indicative of the families’ own resourcefulness in implementing beneficial restorative practices in the absence of criminal justice and child welfare efforts in this regard. By contrast, the deprivation of opportunities for apologies and forgiveness in Families 2, 3, 4, and 9 left parents with unresolved feelings of guilt and remorse that exacerbated their stress and sense of hopelessness. The emotional, often tear-filled, ways in which parents expressed the impacts of the deprivation of reconciliation revealed the extent to which restorative processes are sorely needed and should be built into interventions among sexual abuse–affected children and their families.

Of course, implementing restorative practices authentically and successfully in a bureaucratic and retributive paradigm is no easy task. Doing so effectively requires that supportive measures are prioritized over punitive ones, that there is an adequate community-based infrastructure in place to sustain them (Curtis-Fawley and Daly 2005), and that disputes of facts between victims and victimizers are avoided, especially in cases of gendered violence (Astor 1994).
Nevertheless, even when restorative justice programs are developed and implemented successfully, the state can co-opt them through over-regulation, which weakens the community’s capacity to respond and take matters of justice into their own hands (Chapman 2012).

As ways to avoid such co-optation of restorative justice programs, we suggest that—alongside other community stakeholders, politicians, police officers, parole officers, or other members of the public who may offer a different and competing vision of how the program should be designed and employed—experienced researchers and academics should be involved in the restorative process so that communication becomes more transparent (Gerkin et al. 2017). Ensuring that critically minded people are present during the facilitation of restorative processes might allow a relationality to surface between all members involved, from the CJS to the families and the larger community, that is productive and keeps the primary goal of restorative justice in mind—which is to seek the healing of all people involved in and/or harmed by the offending behaviour.

**Conclusion**

In an attempt to move beyond mainstream scholarly and criminal justice emphases on the causality and classification of sexual offending that have often been rationalized in the name of security and risk management (Blasko 2016; Cohen et al. 1971; DiCataldo 2009; Gebhard et al. 1965; Knight 1992, 1999; Mathews et al. 1989; Pratt 2000; Sarrel and Masters 1982; Vandiver 2006), we have drawn attention to the importance of scrutinizing criminal justice responses to youth sexual offending that result in both institutional and social exclusion and, by extension, may compromise public safety. As the parents’ accounts reveal, the outcomes of both the problematic exclusionary criminal justice tactics and the positive benefits associated with supportive child-rights advocacy measures underscore the need for communication and guidance. In cases where police discretion was coupled with an understanding of the youth’s individual needs and a transparent approach to the criminal justice process, restorative alternatives prevailed. As a result, entire families—and arguably society at large—benefitted.

A child-centered approach that emphasizes inclusion of young offenders is critical, not only for the sake of respecting the offending child’s dignity and rights within a criminal justice context
Beyond Judgment: How Parents and Professionals Negotiate (UNOHCHR 1989), but even more so from the standpoint of prevention versus recidivism. Children isolated by a punitive process aimed solely at accountability are inevitably deprived of the personal and professional resources required to modify their behaviour and to reduce their risk of future offending (Bouhours and Daly 2007; Braithwaite 2002; Daly 2006; Daly et al. 2013; Gxubane 2015; Rossner 2013). An approach that promotes inclusion and restorative justice for children and families simultaneously fosters crime prevention, as well as personal and societal security.

In this regard, we put forth two recommendations related to our findings. The first relates to the modelling of inclusion. By its very nature, this study countered experiences of social exclusion resulting from the CJS processes by prioritizing inclusivity both topically and methodologically. Not only did we shed light on the benefits of inclusive approaches to accountability and prevention, but we also involved the caregivers respectfully and productively within multiple phases of the research process (Gervais and Romano 2018). These longer-term relationships with caregivers helped to build complexity in their narratives, reflections, and accounts of their sons’ cases, and thus were instrumental in giving nuance to the earlier and descriptive literature on sexual offending. The parents’ involvement and advice throughout the study also led to the comprehensive dissemination of the results and to the development of appropriate community outreach resources, including the pamphlet mentioned earlier (Gervais and Romano 2014).

The second recommendation pertains to a child’s right to legal representation (UNOHCHR 1989). In light of the challenges identified by parents, we recommend that families seriously consider exercising their right to legal counsel because it can provide crucial guidance to families navigating criminal justice processes for their children, particularly those with special needs. Counsel can also act as trusted witnesses to any police behaviours that may violate an individual’s legally defined rights. An approach to child sexual offending that weaves together child rights-informed police discretion, legal counsel, and child welfare advocacy can foster a transparent, balanced, collaborative, and restorative process that is devoid of deception and that encompasses opportunities for accountability and inclusion—both of which are essential to maximizing all children’s safety in the context of child sexual offending behaviour.
Notes

1 Article 18 of the Convention on the Rights of the Child underscores caregivers’ responsibility toward their children’s development and best interests; article 40 emphasizes the rights of children who offend to counselling without resorting to judicial proceedings (UNOHCHR 1989).

2 Institutional and systemic exclusion denotes how people experience social inequalities and are disconnected “from major societal institutions including those in the civic, educational, economic, and family domains” because of state punishment and policy regimes (Foster and Hagan 2015, 136). More specific to our study, “CJS-based exclusion” refers to instances where the parents and the youth were inadequately informed about legal processes and were insufficiently involved in key decisions related to the youth’s well-being. It also refers to both perceived and actual social isolation felt by the parents and youth as a result of CJS-based procedures.

3 Restorative justice programs can become co-opted and thus mirror the same principles embodied within the punitive apparatus (Piché and Strimelle 2007). They also have the potential to re-traumatize victims through power imbalances between the victims and offender (Curtis-Fawley and Daly 2005).

4 Despite its limitations, rehabilitation for youth who sexually offend may provide guidance on how they can accept responsibility for their actions without externalizing blame; identify and detect the core issues that led to the offending behaviour; develop victim awareness and empathy; understand the consequences of an offence to themselves, their family, the victim, and the victim’s family; and consider options for restitution and healing (Efta-Breitbach and Freeman 2004).

5 The invitation to participate was open to families of all youth who engaged in sexual offending behaviour. However, only the families of male youth responded, so we were not able to examine issues as they pertain to families of female offending youth.

6 Articles 18 and 40 of the Convention on the Rights of the Child (UNOHCHR 1989) describe such responsibilities and rights.

7 The youth’s special needs included, but were not limited to, anxiety, attention deficit hyperactivity disorder, learning disorder, emotion dysregulation, obsessive-compulsive disorder, oppositional defiant disorder, and autism spectrum disorders.

8 Given our broader study’s emphasis on collateral consequences to relatives, we did not examine how class, race, gender, and sexuality among
the youth, parents, and criminal justice and child welfare authorities may have shaped the use of discretion in these cases; parents did not disclose such concerns either. Future studies should explore how power relations and markers of (in)equality influence institutional responses to youth-perpetrated sexual harm.

9 As per Articles 18 and 40 of the Convention on the Rights of the Child (UNOHCHR 1989).

10 With the exception of Family 9, none of the youth in our study were charged or convicted.

11 Deoxyribonucleic acid (DNA), is believed to be “a powerful tool for identifying individuals” (RCMP 2017).

12 Many parents expressed concern about the potentially lingering isolation that could result if their child was not able to pass a police records check in the future, which would exclude them from the integration opportunities of volunteer or employment positions. Parents and their social worker worried that such ongoing entanglement in the CJS could impede their son’s recovery and rehabilitation.

Bibliography


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