12 Dark sides and black holes

A study of criminological research utilization in two sex offender policies

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Introduction: from Hollywood to Marcinelle

Sex offenders arguably classify, in Christie's terms, as a special kind of 'suitable enemies' (Christie, 1986), as of lately joined by that other group of abject offenders: extremist terrorists. 'There are few groups of individuals who are more reviled than sex offenders,' Terry (2013: 3) put it. Especially since the late 1980s and 1990s, sex offenders increasingly have become represented as those 'greater-than-life monsters,' 'the worst of the worst,' (Horowitz, 2015: ix) or 'the lowest of the low' (Griffin & West, 2006: 143). These last decades, sex offenders have become depicted as 'the folk devil[s] of our times' (Thomas, 2011: 153). This went hand in hand with a telescoping of the public attention towards cases of child abduction, rape, and murder – considered to be 'the most heinous of crimes' (Cullen, 2015: xii) – exacerbated by 'a media frenzy to report them' (Stafford & Vandiver, 2017: 463). D. Richard Laws, in his 2016 book on the social control of sex offenders, opens his concluding pages by stating that 'the war against sex offenders cannot be won,' but it will not be lost either, given that 'the demands for ever more control increase' (Laws, 2016: 201). Such statements bear witness to the public emotions linked to the phenomenon of sex offending and the persons committing sex offences.

In Belgium, sex offending and sex offenders have been capturing the public imagery at least since the early 1990s.[1] For example, in 1993, Muselle and Bourgard went on a short horrendous rampage, committing a series of offences including sexual violence and murder. This case led to a major public outcry and sparked the launch of a victim advocacy organization, the NGO Marc and Corinne (named after the young couple that fell victim to Muselle and Bourgard). The most infamous and best-known case in Belgium ignited a few years later. In August 1996, two young girls, Laetitia Delhez and Sabinne Dardenne, were found alive in the basement of a house in Marcinelle. Marc Dutroux, his wife Michelle Martin, and his aide Michel Lelièvre were arrested and, after a careful search, the bodies of four other girls were found (Julie, Mélissa, An, and Eefje). This case stirred public sentiments and caused a major crisis in trust in the criminal justice system of the state, culminating in the so-called White March during which some 300,000 people took the streets in Brussels. Institutionally, this case was a catalyst for many

changes, including reforms of the police and prisoner release. In 2004, Michel Fourniret, a Frenchman living in the south of Belgium, was arrested for the rape and murder of several women (a case which informed the creation of the European Arrest Warrant). Since 2010, testimonies from people abused by representatives of the Catholic Church emerged, leading to the creation of a special Parliamentary commission that looked into this. In the wake of this, similar testimonies about sexual abuse in youth institutions and in the context of sports and other leisure activities arose. In 2012, a documentary was launched by a journalism student, Sofie Peeters. In her documentary *Femme de la rue* (Woman of the street), she walked around in Brussels, filming with a hidden camera how men approached her and launched all kinds of indecent proposals and even outright sexual insults. In the wake of her testimony, many others followed, which sparked a debate about sexism in the public arena. And then, travelling from Weinstein's Hollywood to Belgium, the #MeToo movement shook Belgium with several national celebrities who have been charged with indecent sexual conduct towards employees.

Internationally, Belgium is no exception but rather seems to be in line with patterns observed elsewhere. In terms of the sociolegal construction of sexual deviance, scholars identify several different periods with changing sensitivities and views on offenders, on aetiology, and on related societal and criminal justice responses to sex offending and sex offenders (e.g. Laws, 2016; Lussier, 2018; Matravers, 2003; Terry, 2017). Generally, the last decades have been characterized by a strong focus on those rare offenders that target (young) children, abduct, abuse and murder them – the period of the 'sexual predator,' as Lussier (2018: 45–51) calls it – and on risk management and minimization through a range of formal social controls (e.g. longer sentences, sex offender registrations, community notifications). Many of the penal measures oriented towards these offenders have been drawn from a penal repertoire intended for offenders deemed most dangerous to society – think of the sex offender registration and notification schemes, the residential restrictions and preventive detention. As elsewhere, penal policy initiatives in Belgium have targeted sex offenders in a differential way, distinct from offenders committing non-sexual offences.

In this chapter, the direct objective is to assess whether and how criminological research results are put to use in two particular sex offender policies in Belgium.[2] This provides an illustration of looking at modes of 'research utilization' (notably, Weiss, 1979) and connects to debates about 'public criminology,' including the variety of possible links between knowledge and action (e.g. Loader & Sparks, 2010a, 2010b; Uggen & Inderbitzin, 2010).

I will proceed as follows. First, it is important to bring up widespread beliefs about sex offenders. Increasingly, criminologists have turned towards the study of such assumptions and beliefs, which led to debunking many stereotypes. In light of this, the question emerges whether such research findings manage to enter into sex offender policy-making and if so, how the results of research affect sex offender policies.

Next, I will assess different types of research utilization in two specific sex offender policies: one relates to particular attention for sex offenders in the context

of prisoner release, while the other has to do with a housing restriction for child sex offenders. In order to check for instances and modes of research utilization, a citation analysis and content analysis of the parliamentary debates and official preparatory documents in the run-up to these policies are conducted. In terms of research utilization, the results paint a bleak picture, in that for these two policies, scientific evidence seems totally absent.

In the last part of this chapter, these findings are discussed and wider questions are raised about criminological research. Although much has been done in terms of the production of knowledge (sex offending and sex offenders are no longer at the 'dark side' of criminology's attention), what is already known and available in terms of research evidence is left aside in these policies. This suggests that it is not (just) the lack of a knowledge base that affects sex offender policies. Some sex crimes also seem to operate as emotion-driven black holes for policy-makers, with an impact on whether and how research results enter into the policy arena. This absence of research findings also points to the importance for researchers to take into account (or at the very least, to be aware of the) sensitivities of research consumers.

On dark sides and cooling devices

In 1973, Pink Floyd launched their album *The Dark Side of the Moon*. Next to their artistic reasons, the title of their album refers to a belief that was held about the other side of the moon. Through a mix of nature's laws, the moon is in synchronous rotation with the earth; it is 'tidally locked' to the earth and always shows its same side to us. The visible side of the moon is called the 'nearside,' and the part that remains hidden from the earth's view has been labelled the 'farside' of the moon (NASA, 2011). When it was understood that earth's natural satellite is always showing its same side, this observation was rapidly followed by the idea that no sunlight ever reaches the surface of the 'farside' of the moon, followed by speculations about what may be found at the other side of the moon, such as the idea of alien civilizations living there. A combination of man's (sometimes too zealous) imagination about the unknown and gaps in empirical evidence have served as two important ingredients for such conjectures (on these and similar fantasies, see the writings by sceptics such as Shermer (2011) and Braeckman and Boudry (2011)).

It is only when these beliefs and assumptions are scientifically assessed that they can be proven right or wrong. Astronomers have long ago established that the moon slowly spins around its axis, changing the parts lighted up by the sun. The lunar cycle of day and night takes an equivalent of 27.3 earth days in total, as compared to the 24 hours in an earth day. A moon day thus differs from a day on earth in duration, but both the earth and its moon share the fact that they spin around their own axis, i.e. there is no dark side of the moon.

Public ideas about sex offenders operate as a 'dark side' along similar lines. They are in no minor way infused with unchecked conjectures and assumptions. Public depictions of sex offenders include references to 'the bogeyman'

(Leon, 2011a), 'the beasts in our midst' that have to be kept at bay (Sanders, 2017: vii), observing potential victims at night, waiting for 'prey' to be 'hunted' – as is suggested by the term 'sexual predator.' These and other depictions reveal some of the commonly held and widespread ideas about sex offenders and sex offending. They also are reflective of the strong public emotions involved when it comes to sex offending, especially sex offending against young children. As mentioned above, the public's (and policy-makers') views on sex offending risk being affected by a kind of 'telescoping' of the attention to the worst cases of sex offending (Thomas, 2016: 19–20). This in turn may lead to over-generalizing, to identifying sex offences with the worst (and coincidentally also the most mediatized) types of sex offences.

Sex offending entails a broad range of phenomena, with diverging ranges of severity or gravity for those that are involved. For example, Lussier (2018: 3–11) distinguishes between three major categories of sex offences: sexual violence (including sexual murder, rape and sexual abuse); sexual misconduct (such as public sexism, sexual harassment, and indecent sexual behaviour, especially when a context of authority is in play); and sexual exploitation (such as prostitution and child pornography). This is but one of the many categorizations (alongside contact versus non-contact sex offences and several others, e.g. Terry, 2013; Thomas, 2016; Zara & Farrington, 2016: 298–300), but they all have in common the wide array of offences covered by the concept of sex offending.

Thus, the concept of sex offending runs the risk of quickly bringing to mind horrific examples that are very rare and thus all the more risky as 'mental anchors' or 'implicit categories' for our thinking. This consequence of telescoping attention to some sex offences may also trickle down into policy-making initiatives, thus importing potentially skewed views into the creation and construction of policies focused on sex offending and sex offenders. 'Policymakers, as do the general public, tend to treat all sex offenders alike and view them as highly repetitive, extremely dangerous, and incorrigible offenders – the worst of the worst' (Blokland & Lussier, 2015: 4).

Furthermore, it is striking that the study of sex offenders and sex offending has long remained relatively marginal in criminology. This relative lack of attention provides no exhaustive explanation for the existence of unchecked ideas and beliefs, but it undoubtedly is one of the elements, alongside the effects of telescoped public attention. Sex offending has been studied mainly by sexologists, clinical psychologists, and psychiatrists, with much attention for (deviant) biological and psychological aspects, leaving out sociological elements reflective of wider situational and structural contexts (e.g. Blokland & Lussier, 2015: 15; see also Francis, Hargreaves, & Soothill, 2015: 234; Beauregard & Lussier, 2018).

This led Lussier and Beauregard (2018: 3), in a 2018 edited book that seeks to bring 'a criminological perspective' to the study of sex offending, to state that 'up until recently, the field of research on sex offending has grown independently from criminological theory and research.' Elsewhere, Lussier (2018: 1) refers to the field of sex offending as 'a phenomenon in the blind spot of criminology' (my translation). This is not to say that sex offending and sex offenders have never

been studied in criminology. In fact, one of the giants in criminology, Edwin H. Sutherland, wrote about the sexual psychopathy laws in 1950 and assessed the ideas about sex offenders in those laws, drawing on the best available scientific evidence he had at his disposal (Sutherland, 1950; for a similar illustration, see Tappan, 1951). As a research topic, it remained somewhat marginal in criminology, even though notable examples can be found in the twentieth century.

Another possible reason for this is that criminological research on sex offending tends to follow the agenda of policy-makers, rather than setting the agenda (Lussier, personal communication). It thus comes as no surprise that criminologists increasingly have turned to the (empirical) study of sex offending and sex offenders, especially since the mid-1980s and the 1990s. The mounting attention probably was informed by policy-makers' and the public's focus on 'sexual predators' and a range of penal measures taken against sex offenders.

Furthermore, changes within criminology also informed the increasing attention paid to sex offending and sex offenders. In the last two decades, researchers specializing in the study of criminal careers and developmental and life course criminology also started to zoom in on sex offenders, often comparing them with non-sex offenders or differentiating between types of sex offenders (e.g. Blokland & Lussier, 2015).

The increased research attention has allowed an assessment of many of the prevailing stereotypes about sex offenders. It would lead us too far to enumerate all stereotypes or to go into detail about the empirical evidence about each of these (e.g. Lussier, 2018). As an illustration, two of the most persistent beliefs about sex offenders are mentioned here, alongside important research findings.

One of the most widely spread myths about sex offenders relates to their proneness to recidivism, more than other, non-sex offenders. Sex offenders are believed to have higher recidivism rates than non-sex offenders, but as far as scientific research is concerned, this seems to have little empirical validity. Meta-analyses such as those by Hanson and Morton-Bourgon (1998), alongside individual studies from a wide range of countries (e.g. for Belgium, Maes et al., 2018), have shown how sex offenders overall are less prone to commit new offences, and if they do, their new offences are most often non-sexual offences.

Another belief is that treatment does not work for sex offenders. This type of belief has been contradicted by a range of studies. It has also been observed in meta-analyses by Lösel and Schmucker (2005) and Schmucker and Lösel (2015), who found overall evidence for the effectiveness of some types of treatments for some types of sex offenders, even though there is still some work to be done in terms of making this finding more robust (Schmucker & Lösel, 2015). It is at the very least safe to conclude that some sex offenders are amenable to treatment, and that some programmes are effective in reducing sex offending (recidivism), which opposes detrimental generalizations.

As Loader and Sparks (2014: 162) put it, it is part of the tasks of criminology to bring with it an important degree of scepticism 'that refuses to treat at face value the categories, assumptions and self-understandings that make up prevailing "common sense" about crime and its control.' Criminologists, so it seems,

have stood up to this challenge. The mounting criminological evidence about sex offending and sex offenders has provided criminologists with scientific findings and results that oppose many of the ill-founded beliefs and stereotypes. This seems to meet what has been identified as one of the central tasks for a public criminology, i.e. 'to challenge false statements, question shoddy evidence, and debunk harmful myths and scare tactics' (Uggen & Inderbitzin, 2010: 743). Such criminological knowledge, in the terms of Loader and Sparks (2010a), has the potential to serve as a 'cooling device' in an otherwise 'hot penal climate.' Yet, it would be naïve to assume that the mere presence or availability of such results would affect and impact upon sex offender policy-making overall. Rather, the question emerges whether and how empirical research findings are drawn upon in specific sex offender policies.

Research utilization in two sex offender policies

In what follows, I will assess whether and how policy-makers have drawn from the reservoir of criminological evidence in drafting two policies that focus on sex offenders. This exercise can be seen as an (admittedly, relatively crudely operationalized) exercise in 'research utilization' (see Weiss, 1979, who is most associated with coining this term, but see also Brodsky, 1975), which, in its most simple meaning, boils down to the ways research findings are actually put to 'use' in policies.

As Weiss (1979: 427) put it, 'the use of social science research in the sphere of public policy is an extraordinarily complex phenomenon.' In her landmark paper on research utilization, she coined no less than seven different types of research utilization. Later on, other typologies were introduced. I draw here on the typology of Smet (2013: 60–63), who has based her three categories of research utilization on the work of Weiss and Bucuvalas (1980a, 1980b). Research can be used in an instrumental, conceptual, and symbolic way, and these are not mutually exclusive; the same research results can be used in different ways at once (Smet, 2013: 63). The instrumental use refers to 'the direct application of the results of a specific social science study to a pending decision' (Weiss' problem-solving model; Weis, 1979: 427). Conceptual use relates to wider influences of knowledge on the way(s) a topic is thought about, leading to a change in thought, making certain concepts familiar, etc. (Smet, 2013: 60). It suggests that research ideas and concepts percolate into thinking about a certain topic or issue also beyond the world of academia and research. Symbolic use of research findings and results means the use of research for a purpose or objective that has little if anything at all to do with the research itself. For example, scientific evidence may be used as a kind of 'scientific back-up' for a certain position by the policy-maker (e.g. Smet, 2013: 61).

Two sex offender policies are focused upon here. They are both part of legislation currently in vigour. Furthermore, these policies are relatively recent and specific, and they are also selected because of the extensive parliamentary preparations involved, providing a 'paper trail' in the parliamentary documents.

The first policy is part of the Law of 17 May 2006 concerning the external legal position of persons convicted to a deprivation of liberty and the rights granted to the victims in the context of modalities for the execution of sentence (hereafter: the Release Act of 17 May 2006). It singles out persons convicted for certain sex offences (listed in the legislation). Section 32 of the Release Act states that 'when they apply for a modality of early release, a motivated advice has to be provided by a service specialised in the treatment of sex offenders' (my translation), including an assessment about the necessity that the prisoner is to be subjected to treatment. Section 41 of the same act sets out that, for sex offenders, being granted a modality of early release can be made conditional on treatment with a service specialized in treating sex offenders. The duration of the treatment will be defined by the decision-maker who grants the modality of early release (i.e. the sentence implementation judge or court). These two sections came into vigour on February 1, 2007. Until mid-2019, sex offenders were the only specific group of offenders singled out in the Release Act; from mid-2019 onwards, another exception has been created for violent extremist offenders.[3]

The second policy dates back to the Law of 14 December 2012 concerning the improvement of tackling sexual abuse and acts of paedophilia within a context of authority, which came into force in 2013. In the aftermath of a special Parliamentary commission that focused on sexual abuse in the Catholic Church, Section 5 of the Law of 14 December 2012 introduced a residential restriction that was included in the Penal Code (as Section 382bis, first paragraph, 4°). The residential restriction can be handed out by the sentencing judge and involves restrictions 'to live in, remain in or enter the zones identified by the judge,' a restriction that specifically targets offenders who committed their offence on minors or with the help of minors. The residential restriction has to be motivated and has to take into account the seriousness of the offence and the possibilities for resettlement of the convicted offenders. It can last for between one and twenty years and can be given to persons convicted with a prison term or to offenders with a community sentence. The restriction begins after the offender is released from prison. No similar residential restrictions are legally in place for other types of offences or offenders.

The preparatory documents in the run-up to these pieces of legislation serve as the data for the exercise at hand. All preparatory documents have been analyzed with a focus on assessing the 'research utilization' of criminological evidence about sex offending and sex offenders, which, for both acts, boils down to a focus on the specific sections that target sex offenders as a separate category or group. For the Release Act, a total of 25 documents are used, from a preliminary study by Professor Dupont in 1998 up to and including the Parliamentary document with the debate and vote in the Federal Parliament. I also included the Act of 5 March 1998 on Conditional Release and analyzed the Parliamentary debates in the run-up to that legislation. For the residential restriction, a total of 22 documents are drawn upon, ranging from the so-called Commission Adriaenssens, named after the Professor in psychiatry asked by the Catholic Church to deal with complaints and witness accounts about sexual abuse by the clergy, over the special

Parliamentary commission that looked into sexual abuse in the context of the Catholic Church, up to and including the Parliamentary document with the debate and vote in the Federal Parliament.

The objective of this exercise is to assess whether and how research results are utilized in these two specific sex offender policies. In order to do this, a twofold strategy is used. On the one hand, I conducted a citation analysis of research quoted in the preparatory documents that focus on the sections singling out sex offenders. The goal is to count the number of scientific documents and to describe, in its most basic way, how many references are used and which documents are cited and how often. I also conducted a content analysis. The policy debates that inspired these passages were analyzed with particular attention to debates that directly inspired these specific policies.

As far as the citation analysis is concerned, none of the preparatory documents refer to scientific research about these specific policies. There is not a single reference to research when it comes to making an assessment obligatory for sex offenders, or for linking treatment as a particular condition to early release, or to introducing a residential interdiction for child molesters or sex offenders using minors when committing sex offences.

In terms of the content analysis, it is important to mention that sections 32 (mandatory assessment and advice) and 41 (treatment) of the Release Act of 17 May 2006 differ from the prior policy. The Act of 5 March 1998 on Conditional Release stated that persons convicted for a sex offence who are granted conditional release are required to undergo treatment with a service specialized in the treatment of sex offenders. At the time, the continued existence of conditional release was hanging on a thin thread. Upon his arrest in 1996, Marc Dutroux was on conditional release following a prior conviction for sex offences, which sparked further negative sentiments about sex offenders and about conditional release. In the immediate aftermath of the Dutroux case, almost three million persons signed a petition to abolish conditional release in Belgium (Snacken, 2007: 156), but policy-makers decided to keep it, while raising the bar of conditional release for sex offenders. Perhaps the mandatory treatment in the 1998 Conditional Release Act was a political trade-off for keeping conditional release in spite of wide-spread public adversity. Snacken (2007: 158) suggests this policy *quid pro quo*, with mandatory treatment for sex offenders, as 'the political price that had to be paid to keep parole eligibility open to all prisoners.'

Almost a decade later, the Release Act of 17 May 2006 stepped down from this mandatory treatment. The introduction of a mandatory assessment in section 32 to assess whether persons convicted for a sex offence should be subjected to treatment is new. Although in line with international findings about sex offender treatment (e.g. avoiding overtreatment of low-risk sex offenders), there is no explicit or implicit reference to the risk of overtreatment. Coincidentally, this change helped counter one negative side-effect of mandatory treatment: by raising the bar for conditional release, it was believed that less sex offenders were getting out on conditional release, and that more were released at the expiration of their sentence instead (e.g. Robert, 2018). This implies a release without any

conditions or requirements, which, from a public safety point of view, would seem less advisable than conditional release, where they are still under some type of supervision in the community during a certain period upon release. However, no explicit arguments could be found about mandatory treatment, nor about mandatory assessment, let alone about the move from mandatory treatment to mandatory assessment.

Via experts and specialized policy departments, research results can also penetrate into policy-making. This role of experts in Belgian penal policy has previously been described, and their influence can serve as a buffer against 'expressive' or populist legislation (e.g. Snacken, 2007: 185). In the report on 12 January 1998 by the Commission of Justice of the Chamber of Representatives leading to the Act of 5 March 1998 on Conditional Release, a statement of a representative of the then Minister of Justice could be found. The policy advisor stated that 'it would be incorrect to state that most sex offenders could not be treated,' after which he mentions low recidivism rates and a lack of further scientific evidence (Willems & Giet, 1997–1998: 61). In the preparatory documents about the Release Act, this is a rare instance in which scientific evidence is used in a conceptual manner and especially in an instrumental way, in that this statement provides information that informs policy-makers with regard to their decision about the future of conditional release for sex offenders.

The residential restriction for child molesters and sex offenders committing their offences with the help of minors is more recent, with the oldest Belgian legislative proposals going back to 2008. As far as the preparatory documents prior to the legislation are concerned, no single instance of scientific evidence nor any indirect mentioning of studies could be found. Beyond that, it is interesting to mention that the special Parliamentary commission that looked into sexual abuse in the context of the Catholic Church (De Wit, Marghem, Terwingen, & Landuyt, 2011) did not include any type of discussion related to the (geographical) proximity of offenders, but that in its recommendations, the introduction of a residential restriction was put forward (recommendation 65). This recommendation served as a key reference for the legal proposal to introduce such a restriction, alongside other changes targeting sex offenders. It is also interesting to note that among the authors of the special Parliamentary commission report, one of the four rapporteurs (MP Landuyt, of the sp.a, the Flemish Socialist-Democratic Party) had put in a Bill to introduce a residential restriction for sex offenders in the past. Also, among the members of Parliament who co-authored the Bill that led to the legislation in 2012, it is interesting to observe that MP Landuyt and MP Van Cauter, of Open Vld, the Flemish Liberal Party, had co-authored the first Bill to instate a residential restriction already in 2008 (Landuyt, Van Cauter, Van Den Bossche, & Vautmans, 2008). This suggests that prior ideas were 'smuggled into' the report of the special Parliamentary commission, even though the proposed solution of instating a residential restriction did not match with the problem dealt with during the special Parliamentary commission.

In prior Bills, a few mentions could be found about the existence of a sex offender registry in the United States of America. The two proposals that brought

this up came from Vlaams Belang, a Flemish extreme right party. None of these brought up any discussion about scientific evidence, let alone about the effectiveness of a sex offender registry. These politicians only mentioned that 'public security has the highest priority' and that 'contemporary penal politics is "too soft" on sex offenders, in particular paedophiles' (Swennen & Lijnen, 2008; Van dermeersch & Coveliers, 2009). In the context of the residential restrictions, this use is conceptual (the idea and concept of such a sex offender register) and slightly symbolic, in that the idea of such a register is drawn upon as ammunition for the management of sex offenders in the community, regardless of any evidence.

These results present a bleak picture of the use of research in the context of two specific sex offender policies. No citations were found to studies that directly had relevance for the specific focus on sex offenders. In terms of the content, hardly any concepts or arguments, let alone scientific results, are present in the written Parliamentary documents. As mentioned, via experts or specialized departments within the administration, oriented to informing and preparing policy-makers, it is possible that research results percolate in a very indirect way. There are rare indications that this occurred in the context of conditional release for sex offenders (e.g. the Minister's representative in the run-up to the Conditional Release reform in 1998, mentioned above), but as far as the residential restrictions are concerned, no indication was present.[4]

The above should be seen as an illustration, an exercise in looking at research utilization, which comes with a number of limitations and flaws. By no means are these two policies representative for all sex offender policies; they are chosen given that they single out sex offenders as a distinct group, and they are relatively recent and well-documented. The choice to zoom in on legislation as policy is motivated by the very fact that this legislation sets the framework in which professionals and institutions have to work; legislation is in this regard policy, as it involves a decision, even though it may be far away from practicalities and operational issues. No other data were collected about these policies, which might limit views on 'back-office' arguments. The choice to conduct a citation analysis may seem odd, but legislative proposals in the penal context and in other fields can and often do include references to scientific experts and/or research, so it would not be absurd to look at references or experts when taking important measures oriented towards sex offenders.

Afterthoughts

In this final section, I will draw on the above exercise in research utilization as a springboard for a set of questions. For ease of presentation, I link them to two topics: the persistence of beliefs, and policy-makers as consumers of research. I claim expertise about neither of these complex issues, but hope the content of this chapter and the questions below can be helpful for future reflections about the manifold entanglements between knowledge and action and for how criminologists can situate themselves and their research (these matters have been treated much more in depth and much more eloquently and eruditely by Loader and Sparks,

2010a, 2010b, 2014, see also Dzur, Loader, & Sparks, 2016). Underlying these comments is also a call to link studies on research utilization with work on public criminology and democratic politics (e.g. focusing on drug policy, Tieberghien & Monahan, 2018).

A first set of questions is linked directly to the expanding stock of research results, be it about sex offending and sex offenders or other topics. Nowadays, there are few topics where the metaphor or analogy of a 'dark side' still applies. Yet, (false) beliefs and stereotypes persist, both within the wider public and among policy-makers, even when research results are ever more within reach. This raises a number of questions for scientific researchers.

The persistence of beliefs affects the ways in which research findings can percolate into wider culture and influence policy-makers. In the context of research utilization, Weiss, in her later work, identified four 'I's as factors that mediate, moderate and/or inform the use of research: ideology, interests, institutional norms and practices, and prior information (e.g. Weiss, 1995). Beyond this specific topic, one of the major American sceptics, Michael Shermer (2011), has provided us with a very insightful view about this. In his work *The Believing Brain*, he draws on the work of physicists to introduce the term *belief-dependent realism*, a term he puts forward to explain why people believe. As he puts it, once we have formed our beliefs,

> we then defend, justify, and rationalize them with a host of intellectual reasons, cogent arguments, and rational explanations. Beliefs come first, explanations for beliefs follow … Reality exists independently of human minds, but our understanding of it depends upon the beliefs we hold at any given time.
>
> (Shermer, 2011: 5)

It thus comes as no surprise that the more discordant evidence is, the harder it will be to 'displace prior beliefs' (Weiss, 1995). Furthermore, the influence of our beliefs on our perceptions operates subconsciously. The underlying psychological mechanisms involved (e.g. confirmation bias) affect research utilization in many different ways.

Criminologists are by no means alone in having to face up to challenges to research results. This is not merely a matter of science communication, but also of the impact of research findings and of expertise and the public's and policy-makers' openness and receptivity for it. It suffices here to bring up the measles, mumps, and rubella (MMR) vaccine that is still believed by many to be associated with higher odds of having a child with autism, lower immunity, and other adverse effects. It took only one paper by Dr Wakefield to create a flawed association, and even though its content has been falsified and the paper was retracted, and regardless of the decades of evidence, an increasing number of people refuse vaccinations and some actively lobby against vaccinations, the 'anti-vaxxers' (e.g. Goldacre, 2009). Think also of climate change, where in public debates, climate change deniers seek to discredit climate science and

climate scientists, and sometimes resort to other tactics, e.g. taking the daily weather in their immediate environment as a falsification for climate change (with an American president as a prime example) or rejecting a message about climate change by a former vice-president because of his political lineage or affiliation.

This is not to say that policy-makers or the public are not open to research findings or that they have insulated themselves from research. Rather, a differential reception of research will take place depending on the person, faction, or alliance and much will depend on how the evidence aligns with or opposes underlying beliefs. Questions that emerge in this regard for researchers are: how can researchers deal with this reality of differentiated readership of our findings? What are the conditions and requirements for being persuasive towards policy-makers? This is important, as it affects the core of what we as researchers do and also the rhetorical strategies researchers can apply (e.g. infusing texts with complex statistics to create an aura of 'scientific rigour'), how these different strategies relate to scientific standards and views, and so on. How can researchers optimally engage with public understandings about topics (be they beliefs and stereotypes) in their research? What conditions and thresholds of evidence do we as criminologists have to pursue in order to promote research utilization, while respecting the rules and standards that apply to criminological research? These questions relate to the conditions, capacities, and requirements for the criminologist as a 'democratic under-labourer' and for criminology as a type of democratic under-labouring (Loader & Sparks, 2010a).

There is an extra factor to take on board in the context of research utilization. Sex offending and sex offenders are the topics of an increasing stock of knowledge – they are no longer at criminology's 'dark side.' What to make of sex offending and sex offenders as a topic that has long been at the margin of criminology's focal concern? Some would perhaps argue that sex offending is a whole different topic than burglary or non-sexual types of violence, but scholars in this field have begun to question the label of 'sex offender' itself and cast a shadow over all the differential policy attention that comes with it (e.g. Beauregard & Lussier, 2018).

Furthermore, in case of shocking incidents or of such troublesome and gruesome offences that come to light regarding those we deem most vulnerable, in particular our children, sex crimes seem to operate as emotion-driven black holes for policy-makers, (temporarily) short-circuiting the many links between knowledge (of which research results are but one important aspect) and action (including the inception of policies that target sex offenders). Some issues can be too emotional, normatively tainted, and/or ideological to make room for evidence (e.g. Tonry, 2010: 793). In this regard, the symbolic role of law-making or policy-making will then become very important, accentuating the expressive dimension of policies and legislation. In this regard, Leon (2011b: 423) aptly puts it: 'bare implementation data cannot counter emotion successfully.' What then should be done by researchers to (further) incorporate (strong) public emotions and emotional reactions among policy-makers when studying sensitive topics? How can

research take these 'strong emotions' into account when studying delinquency and the responses to it?

A second, related set of questions relates to policy-makers as users or consumers of criminological research. Over a decade ago, Loader and Sparks (2008: 18) observed a 'fall in *demand* for many kinds of criminological products, especially on the part of government itself.' This statement is perhaps a rhetorical overaccentuation of a tendency, so as to allow them to make their point. It might also be related to the specific context in the UK. Drawing on almost a decade of research at the National Institute of Criminalistics and Criminology (NICC), a scientific institute of the Federal state, I would say it is more complex and more ambiguous than that. It is not perhaps even a matter of interest, but also, in times of austerity, of available funds and budgets. At least since 2010, the Minister of Justice has not financed any study at the NICC Department of Criminology (previously, it did, sometimes occasionally financing research programmes of three years), even though an interest in NICC research results has remained and repeated interactions with the Minister's Cabinet Office continue. And more generally, in Belgium, policy-makers, also in Parliament, do seem to show an interest in more knowledge; they are even in demand of more knowledge (in certain fields, on certain topics). For example, recommendation 25 of the special Parliamentary commission that looked at sexual abuse in the context of the Catholic Church deals with scientific research and goes as follows: 'in order to be able to develop good policies, more knowledge is needed about the phenomenon of sexual abuse, the needs of victims, the possibilities of prevention and treatment of offenders and the way they are dealt with in criminal justice' (2012: 414, rec.25 on scientific research).

Of course, this is not to say that policy-makers should be taken as passive recipients or consumers of research. Policy-makers, in case of dealing with subjects about which ample evidence exists (e.g. the detrimental effects of imprisonment), sort through all the available information in a selective way. In the literature on research utilization, Weiss and Bucuvalas, for example, documented different frames of reference policy-makers invoke when 'coping with the incoming flood of information.' These three frames include 'the relevance of the content of the study' related to the topic at hand, 'the trustworthiness of the study,' and 'the direction it provides' (Weiss & Bucuvalas, 1980b: 311). Whereas the first frame refers to a direct topical answer, the second and third frame suggest that policy-makers subject research to a 'truth test' and a 'utility test' (for more, including the operationalization of these concepts, see Weiss & Bucuvalas, 1980b). These types of analyses of the consumers of research are helpful in understanding why for some politicians or policy-makers, only some studies are interesting, while others are not.

Receptivity of research then raises important questions for researchers when seeking to include policy-makers as recipients (consumers) of their research. What, in the views of policy-makers (and sometimes also the wider public), would be a threshold for evidence or research results that opposes existing stereotypes or beliefs and that would be likely to change views – what would be their 'black

swan'? Under what circumstances would (the public and) policy-makers consider the results of research as useful? These and related questions also call upon us as researchers and reconnect our research with the wider question of what kind of criminology it is we wish to pursue, and brings back to it a political dimension that some of us sometimes try to avoid or bypass (see also on this [re]connection, Loader & Sparks, 2014: 166–169).

Notes

1 The following overview is derived to a large extent from Robert et al., 2018.
2 Part of the research for this chapter is based on work in the context of a project 'Sex Offenders in and out of Crime,' financed by the Belgian Science Policy Office (BELSPO), grant nr.[BR/154/A4/SOC].
3 Legislation of 5 May 2019 introduced the exception for terrorist offences or in case a convicted person 'shows signs of violent extremism' in the Release Act by adding a paragraph to section 32 of the Release Act. For this group, too, an assessment is made mandatory. Analogously to sex offenders, section 41 is amended by adding a paragraph about the condition of a particular type of supervision by a service or person specialized in dealing with these phenomena (terrorism, violent extremism).
4 This was corroborated by one of the two expert members that assisted the Parliamentary commission, Professor Ivo Aertsen, who could not recall any discussion or debate about residential restrictions at all (Aertsen, personal communication, 2019).

References

Beauregard, E., & Lussier, P. (2018). From the 'sex offender' to sex offending: A necessary conceptual shift. In P. Lussier & E. Beauregard (Eds.), *Sexual offending. A criminological perspective* (pp. 392–399). London: Routledge.

Blokland, A., & Lussier, P. (2015). The criminal career paradigm and its relevance to studying sex offenders. In A.A.J. Blokland & P. Lussier (Eds.), *Sex offenders: A criminal career approach* (pp. 3–22). Oxford: Wiley Blackwell.

Braeckman, J., & Boudry, M. (2011). *De ongelovige Thomas heeft een punt. Een handleiding voor kritisch denken*. Antwerp: Uitgeverij Houtekiet.

Brodsky, S.L. (1975). Go away – I'm looking for the truth: Research utilization in corrections. *Criminal Justice and Behavior*, *4*(1), 3–10.

Christie, N. (1986). Suitable enemies. In H. Bianchi & R. van Swaaningen (Eds.), *Abolitionism: Towards a non-repressive approach to crime* (pp. 42–54). Amsterdam: Free University Press.

Cullen, F.T. (2015). Foreword. In R.G. Wright (Ed.), *Sex offender Laws. Failed policies, new directions* (2nd ed., pp. xi–xiv). New York: Springer.

De Wit, S., Marghem, M.-C., Terwingen, R., & Landuyt, R. (2011). De behandeling van seksueel misbruik en feiten van pedofilie binnen een gezagsrelatie, inzonderheid binnen de Kerk. Verslag namens de bijzondere Commissie betreffende de behandeling van seksueel misbruik en feiten van pedofilie binnen een gezagsrelatie, inzonderheid binnen de Kerk. Parl.St. Kamer 2010/2011. DOC 53 no.0520/002.

Dzur, A., Loader, I., & Sparks, R. (2016). Punishment and democratic theory: Resources for a better penal politics. In A. Dzur, I. Loader, & R. Sparks (Eds.), *Democratic theory and mass incarceration* (pp. 1–17). Oxford: Oxford University Press.

Francis, B., Hargreaves, C., & Soothill, K. (2015). Changing prevalence of sex offender convictions: Disentangling age, period, and cohort effects over time. In A.A.J. Blokland & P. Lussier (Eds.), *Sex offenders: A criminal career approach* (pp. 231–256). Oxford: Wiley Blackwell.

Goldacre, B. (2009). *Bad science*. London: HarperCollins Publishers.

Griffin, M.P., & West, D.A. (2006). The lowest of the low? Addressing the disparity between community view, public policy, and treatment effectiveness for sex offenders. *Law and Psychology Review*, *30*(Spring), 143–169.

Hanson, R.K., & Bussière, M.T. (1998). Predicting relapse: A meta-analysis of sexual recidivism studies. *Journal of Consulting and Clinical Psychology*, *66*(2), 348–362.

Horowitz, E. (2015). *Protecting our kids? How sex offender laws are failing us*. Santa Barbara, CA: Praeger.

Landuyt, R., Van Cauter, C., Van Den Bossche, F., & Vautmans, H. (2008). Wetsvoorstel van 22 Oktober 2008 wat het woonverbod voor veroordeelden voor bepaalde zedenfeiten betreft. Parl. St. Kamer 2008/2009, DOC 52 no.1509/001.

Laws, D.R. (2016). *Social control of sex offenders. A cultural history*. London: Palgrave Macmillan.

Leon, C.S. (2011a). *Sex fiends, perverts, and pedophiles. Understanding sex crime policy in America*. New York: New York University Press.

Leon, C.S. (2011b). The contexts and politics of evidence-based sex offender policy. *Criminology and Public Policy*, *10*(2), 421–430.

Loader, I., & Sparks, R. (2008). 'What are we gonna do now?' Revisiting the public roles of criminology. *Criminal Justice Matters*, *72*(1), 18–19.

Loader, I., & Sparks, R. (2010a). *Public criminology?* London: Routledge.

Loader, I., & Sparks, R. (2010b). What is to be done with public criminology? *Criminology and Public Policy*, *9*(4), 771–781.

Loader, I., & Sparks, R. (2014). The question of public criminology: Seeking resources of hope for a better politics of crime. *International Annals of Criminology*, *52*(1–2), 155–177.

Lösel, F., & Schmucker, M. (2005). The effectiveness of treatment for sexual offenders: A comprehensive meta-analysis. *Journal of Experimental Criminology*, *1*(1), 117–146.

Lussier, P. (2018). *La délinquance sexuelle. Au-delà des derives idéologiques, populistes et cliniques*. Laval: Presses de l'Université Laval.

Lussier, P., & Beauregard, E. (2018). 'Sex offender' theory and research in context: The relative absence of a criminological perspective. In P. Lussier & E. Beauregard (Eds.), *Sexual offending. A criminological perspective* (pp. 3–11). London: Routledge.

Lussier, personal communication 15 May 2018 (interview published in Dutch as: Robert, L. (2018). Publieke mythes en wetenschappelijk onderzoek over seksuele delinquentie. FATIK sprak met Professor Patrick Lussier. FATIK. Tijdschrift voor Strafbeleid en Gevangeniswezen, *160*, 43–52).

Maes, E., Telle, E., Strzoda, I., Delannoy, D., Pham, T.H., Robert, L., & De Blander, R. (2018). Twee decennia na Dutroux. Wat weten we in België over de recidive van seksuele delinquenten? *Panopticon*, *39*(6), 540–561.

Matravers, A. (2003). Setting some boundaries: Rethinking responses to sex offenders. In A. Matravers (Ed.), *Sex offenders in the community. Managing and reducing the risks* (pp. 1–28). Cullompton: Willan Publishing.

National Aeronautics and Space Administration (NASA) (2011). *Lunar reconnaissance orbiter*. Retrieved from https://nasa.gov/mission_pages/LRO/news/lro-farside.html

Robert, L. (2018). *Maxing out in prison. A study of pre-release long-term prisoners*. Unpublished Ph.D. dissertation, KU Leuven.

Robert, L., Vander Beken, T., & Vermeulen, G. (2018). Editoriaal. Tussen Hollywood en Marcinelle. Van seksueel grensoverschrijdend gedrag tot seksueel geweld. *Panopticon*, *39*(6), 380–383.

Sanders, T. (2017). Preface: Confronting and challenging the issues. In T. Sanders (Ed.), *The Oxford handbook of sex offences and sex offenders* (pp. vii–x). Oxford: Oxford University Press.

Schmucker, M., & Lösel, F. (2015). The effects of sexual offender treatment on recidivism: An international meta-analysis of sound quality interventions. *Journal of Experimental Criminology*, *11*(4), 597–630.

Shermer, M. (2011). *The believing brain. From ghosts and gods to politics and conspiracies – How we construct beliefs and reinforce them as truths*. New York: St. Martin's Griffin.

Smet, V. (2013). *Sociaalwetenschappelijk onderzoek en beleid. Een analyse van de interactie, kennisgebruik en doorwerking in België en Vlaanderen*. Den Haag: Boom Lemma.

Snacken, S. (2007). Penal policy and practice in Belgium. In M. Tonry (Ed), *Crime, Punishment, and Politics in a Comparative Perspective (Crime and Justice: a Review of Research, volume 36)*, 127–215.

Stafford, M.C., & Vandiver, D.M. (2017). Public perceptions of sex crimes and sex offenders. In T. Sanders (Ed.), *The Oxford handbook of sex offences and sex offenders* (pp. 463–481). Oxford: Oxford University Press.

Sutherland, E.H. (1950). The sexual psychopath laws. *Journal of Criminal Law and Criminology*, *40*(5), 543–554.

Swennen, G., & Lijnen, N. (2008). Wetsvoorstel van 16 December 2008 wat het woonverbod voor veroordeelden voor bepaalde zedenfeiten betreft. Parl. St. Senaat, 2008/2009. DOC 4-1077/1.

Tappan, P.W. (1951). Sentences for sex criminals. *Journal of Criminal Law and Criminology*, *42*(3), 332–337.

Terry, K. (2017). What is sex crime? In T. Sanders (Ed.), *The Oxford handbook of sex offences and sex offenders* (pp. 3–20). Oxford: Oxford University Press.

Terry, K.J. (2013). *Sexual offenses and offenders. Theory, practice and policy* (2nd ed.). Wadsworth, CA: Belmont Cengage Learning.

Thomas, T. (2011). *The registration and monitoring of sex offenders. A comparative study*. London: Routledge.

Thomas, T. (2016). *Sex crime. Sex offending and society*. London: Routledge.

Tieberghien, J., & Monaghan, M. (2018). Public criminology and evidence-based policy: The case of Belgian drugs policy. *European Journal of Criminology*, *15*(3), 278–295.

Tonry, M. (2010). 'Public criminology' and evidence-based policy. *Criminology and Public Policy*, *9*(4), 783–797.

Uggen, C., & Inderbitzin, M. (2010). Public criminologies. *Criminology and Public Policy*, *9*(4), 725–749.

Van dermeersch, A., & Coveliers, H. (2009). Wetsvoorstel van 24 maart 2009 betreffende de bekendmaking van het woonverbod en de uitsluiting tot eerherstel van veroordeelde pedofielen. Parl. St. Senaat, 2008/2009. DOC 4-1244/1.

Weiss, C.H. (1979). The many meanings of research utilization. *Public Administration Review*, *39*(5), 426–431.

Weiss, C.H. (1995). The four 'I's' of school reform: How interests, ideology, information, and institution affect teachers and principals. *Harvard Educational Review*, *65*(4), 571–592.

Weiss, C.H., & Bucuvalas, M.J. (1980a). *Social science research and decision-making*. Guildford: Columbia University Press.

Weiss, C.H., & Bucuvalas, M.J. (1980b). Truth tests and utility tests: Decision-makers' frames of reference for social science research. *American Sociological Review*, *45*(2), 302–313.

Willems, L., & Giet, T. (1997-1998). Verslag Op 12 januari 1998 namens de Commissie voor de Justitie over Wetsontwerp betreffende de voorwaardelijke invrijheidstelling en tot wijziging van de wet van 9 april 1930 tot bescherming van de maatschappij tegen de abnormalen en de gewoontemisdadigers, vervangen door de wet van 1 juli (1964), Wetsontwerp tot instelling van de commissies voor de voorwaardelijke invrijheidstelling, Wetvoorstel tot wijziging van de wet van 31 mei 1888 tot invoering van de voorwaardelijke invrijheidstelling in het strafstelsel, Wetsvoorstel tot beperking van de proeftijd of van de voorwaardelijke invrijheidstelling voor personen die zijn veroordeeld wegens diefstal met geweld of bedreiging en die het gestolene niet teruggeven, Wetsvoorstel tot wijziging van de wet van 31 mei 1888 tot invoering van de voorwaardelijke invrijheidstelling in het strafstelsel, teneinde zware misdrijven effectiever te bestraffen, Wetsvoorstel strekkende tot het herstellen van de rechterlijke bevoegdheid inzake strafrechtelijke veroordelingen door afschaffing van de wet van 31 mei 1888 tot invoering van de voorwaardelijke invrijheidstelling in het strafstelsel, Wetsvoorstel tot wijziging van de wet van 31 mei 1888 tot invoering van de voorwaardelijke invrijheidstelling in het strafstelsel, Wetsvoorstel tot invoering in het Strafwetboek van niet-reduceerbare straffen voor bijzonder zware misdrijven, Wetsvoorstel houdende verscherping van het toezicht op personen die invrijheid zijn gesteld of veroordeeld na zedenfeiten met minderjarigen, Wetsvoorstel tot wijziging van de wet van 1 juli 1964 tot bescherming van de maatschappij tegen abnormalen en gewoontemisdadigers om de waarborgen voor de invrijheidstelling aan de geïnterneerden te vergroten, *Parl. St. Kamer*, 1997–1998, Doc 1070/8 − 96/97.

Zara, G., & Farrington, D.P. (2016). *Criminal recidivism. Explanation, prediction and prevention*. London: Routledge.