

What we can learn from the Dugard case

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In 1991, her stepfather watched helplessly as 11-year-old Jaycee Lee Dugard was abducted while walking to her school bus stop near their home in Northern California. It was every parent's worst nightmare.

During the 18 years Jaycee was missing, in the aftermath of a series of horrendous crimes against children, California legislators and their counterparts across the nation addressed the problem of sexual violence primarily by establishing and expanding registration and community notification requirements for convicted sex offenders.

Courts, policymakers and the public operated on the assumption that sex-offender laws worked and were worth the money, even if they meant diverting resources from prevention efforts. Lawmakers have poured a tremendous amount of resources into these programs with strong public support.

But the fact that Jaycee Dugard's captivity in Antioch was never detected, even though her abductor, Phillip Craig Garrido, was on California's sex-offender registry, raises serious questions about these systems. We have to consider the possibility that our policies on sexual violence do not protect us, have not increased the number of offenders brought to justice and waste precious resources in the fight against rape and sexual assault.

Focusing so many resources on registration and community notification ignores the reality of sexual violence in the United States.

First, there is the problem of the registries themselves. Placing all convicted sex offenders on a registry for life could do more harm than good. The public nature of the registry makes it nearly impossible for convicted sex offenders to re-enter the community with the kind of support system they need to reduce the likelihood of their committing another offense. The systems monitor those who pose little risk to the community the same as high-risk offenders, like Garrido, whose crimes escaped detection even though he checked in as required.

Furthermore, an estimated 87 percent of sex crimes each year are committed by individuals without a prior sex-crime conviction. So pouring scarce resources into monitoring all convicted offenders means less money for programs to prevent sexual violence and to counsel victims. There also is less money for rape-investigation units, evidence testing and other tools that could help apprehend rapists who never reach the status of convicted offender.

One indication of the need for a new approach is how little has changed since Dugard was abducted. The statistics today are about the same as in 1991 - only about one-quarter of all reported rapes in California

result in an arrest, and there are very few convictions.

One reason rape cases don't move through the system is the way police and prosecutors make decisions about which cases are worth investigating. National studies show that police are less likely to invest resources in investigations of so-called acquaintance rape cases, more than 80 percent of reported rapes. Studies also show that police are less likely to believe victims when the suspects are acquaintances or intimate partners and that prosecutors are reluctant to take on these cases. Experts say this reflects the rape myths still prevalent in the criminal justice system - that a sexual assault isn't really rape unless committed by a stranger and that women lie about being raped.

One concrete measure of the rape cases left behind is the number of untested rape kits that sit in police and crime lab storage facilities across the country. Testing a rape kit - the physical evidence collected after a sexual assault - can identify an assailant, confirm a suspect's contact with a victim, corroborate a victim's account and exonerate innocent defendants. Testing rape kits in the case of a rapist known to the victim can enormously strengthen prosecution and conviction and greatly reduce the chance that the person will rape someone else.

National studies have shown that both acquaintance and stranger rape cases in which a rape kit was collected and tested and contained DNA evidence are more likely to move forward in the criminal justice system. The kit also could be a useful tool for monitoring previously convicted sex offenders, because the evidence from new rapes would be matched against California's DNA database system, which houses samples from every convicted sex offender in the state.

Investing resources in testing every rape kit could make a real difference in the efforts of rape victims to realize justice in their case. After New York City implemented a policy in 2003 to test every booked rape kit, there was a dramatic increase in arrests, prosecutions and conviction in rape cases. And unexpected testing results have led law enforcement officials in New York to rethink their assumptions about rape cases - they have matched crime scene evidence to identify serial acquaintance rapists and used DNA evidence to discredit a suspect's version of the rape.

As one New York police officer told me, "Having the rape kit test results in every case certainly has changed my view of rape and helped me to realize that cases I initially viewed as weak are much stronger than I thought and worth the best investigation we can give it."

The lack of comprehensive data on the rape kit backlog is one more sign that the government has a long way to go in understanding where to spend its resources to prevent sexual violence.

We will never know for certain at what point better detective work or monitoring might have cut short Jaycee Dugard's ordeal. But if California lawmakers want to protect society from sexual violence, they should support sexual violence-prevention programs and strengthened investigations and prosecutions that are informed by the reality of rape. A good start would be to require every jurisdiction to make a commitment to test every rape kit and to follow up on the findings.

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