

NATIONAL JUVENILE JUSTICE NETWORK

Policy Platform

SEX OFFENDER REGISTRATION AND NOTIFICATION LAWS

JULY 2012

With the goal of creating safer communities, many states—and Congress, through the Adam Walsh Act—have created sex offender registration and notification laws to track individuals convicted of sex offenses and publicize their whereabouts.¹ Protecting children and creating safer communities are of utmost concern. However, research shows that placing youth designated as sex offenders on registries does not in fact keep children and communities safe, and can actually expose both to greater harm.²

Sex offender registration and notification laws are often promoted as effective tools to prevent child sexual abuse. However, the majority of child sex abuse victims are abused by family members or acquaintances, rather than strangers or anyone who might be listed on a registry.³ Since most child sexual abuse is intra-familial, notification laws and inclusion of youth on sex offender registries may in fact lead to an underreporting of sexual abuse and failure to seek out treatment, as family members seek to protect each other from punishment and registration.⁴

Sex offender registries needlessly damage the lives of youth and waste limited resources. Placement on a public registry can prevent youth from accessing rehabilitative services and disconnect them from their families, communities, education, and employment, thus increasing the likelihood that they may engage in future delinquent behavior.⁵ Additionally, the incidence of sexual reoffending by youth is quite low.⁶ Placing such low-risk offenders on public registries clogs databases, squanders valuable law enforcement time and resources, and distracts the law enforcement system from attending to more serious public safety concerns.⁷

The National Juvenile Justice Network Recommends:

Defining Sex Offenses and Public Notification Laws

- States should reexamine their sexual offense laws with regard to youth in order to ensure that only truly harmful behaviors are classified as sex offenses. Normative adolescent behavior and sexual exploration should not be pathologized and inappropriately punished.⁸

- Public notification laws—through which individuals and organizations in communities are notified about people who have been convicted of sex offenses who live, work, and/or attend school in the area—are, on the whole, ineffective and counterproductive, and should only be implemented in the most extreme cases.
- Youth should not be placed on publicly available sex offender registries for actions that occurred when they were under the age of 18.

Placement of Youth on Registries

Registries should be used only in extreme circumstances and should not include youth. If states do choose to place youth on sex offender registries, NJJN recommends:

- Registries must be restricted to use by law enforcement only, and not made public.
- Law-enforcement-only sex offender registries should be risk-based, rather than offense-based.⁹ Registries should only include youth that are determined by an empirically guided clinical risk assessment to be at high risk for committing a future sex offense.¹⁰ Risk assessments should be conducted by experienced, qualified clinicians.
- In order to ensure that youth who no longer pose a threat of committing a future sex offense are removed from registries, all youth placed on a registry must be regularly reevaluated by qualified mental health professionals trained to assess sexual offending.
- Given the research on adolescent brain development and the ongoing and profound changes in cognitive and social development during adolescence and young adulthood, youth placed on registries must be allowed to petition for removal at regular and frequent intervals.
- Youth should be automatically removed from registries after a reasonable, designated period of time unless they have committed a subsequent sexual offense.

Outreach, Training and Research

- Rather than using scarce funds to place and track youth on sex offender registries, states and the federal government should invest funds in prevention and intervention programs for youth and families.
- Victims of sexual abuse should have access to affordable, confidential, and competent clinical care and other supports.
- States and the federal government should support and fund outreach efforts to help parents learn about prevention and identification of sexually inappropriate or dangerous behavior.
- States and the federal government should fund education, outreach, and training for teachers, social workers, youth workers, mental health providers, health care professionals, and the faith-based community so that they can better understand

normative adolescent behavior as well as the risks of sexual offending, and recognize the signs of sexual abuse of children.

- States should provide funding for judges, public defenders, prosecutors, and law enforcement to collaboratively analyze the current structure and utility of registries and to develop research-based recommendations to maximize the safety of youth and communities.
- States and the federal government should support further research on validated risk assessment instruments and empirical methods to determine whether youth who commit sex offenses are at risk for future offending.
- States and the federal government should support further research on youth who commit sex offenses, identifying behaviors that should not be labeled as sex offenses, and identifying effective interventions. Efforts should be focused on more effective individual treatment to reduce recidivism, rather than elaborate, broad-based controls, such as registries and public notification.
- States and the federal government should support further research targeted at increasing our understanding of the potential harms or benefits to the community, public safety, and youth resulting from sex offender registries and public notification laws.

¹ Currently, 35 states place juveniles on sex offender registries. The fifteen remaining states require juveniles to register if they are convicted in adult court. Pittman, N. and Nguyen, Q., “A Snapshot of Juvenile Sex Offender Registration and Notification Laws: A Survey of the United States” (October 2011).

² “Summary of Research Briefing by Elizabeth J. Letourneau, Ph.D.,” *Family Services Research Center, Medical University of South Carolina* (June 29, 2011). This summary document includes references to several studies on recidivism rates for juveniles convicted of sex offenses, harms of sex offender registries, and effectiveness of sex offender registries. Public notification laws in particular have been found to actually lead to increased recidivism. Prescott, J.J. & Rockoff, J.E., “Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?,” *Journal of Law and Economics*, Vol. 54, No. 1 (2011): 31.

³ In a study conducted by the U.S. Department of Justice, among youth who were victims of sexual violence, 49 percent of children under age six and 42 percent of children ages six to 11 were sexually assaulted by a family member. Overall, the study found that 34 percent of youth victims (0–17 years old) were sexually assaulted by a family member and 59 percent were assaulted by acquaintances. Only seven percent of youth victims were assaulted by strangers. Snyder, H.N., “Sexual Assault of Young Children as Reported to Law Enforcement: Victim, Incident and Offender Characteristics,” *U.S. Bureau of Justice Statistics* (2000). Additionally, most people who commit sex offenses are “first-time offenders,” meaning that they have never been convicted of a sex offense, and therefore are not on registries. “Registering Harm: A Briefing Book on the Adam Walsh Act,” *Justice Policy Institute* (November 21, 2008): 6.

⁴ “Testimony: Detective Bob Shilling,” *House Judiciary Committee, Subcommittee on Crime, Terrorism and Homeland Security, Sex Offender Registration and Notification Act (SORNA)* (March 10, 2009): 4.

⁵ “The Negative Impact of Registries on Youth: Why Are Youth Different than Adults?,” *Justice Policy Institute* (September 2, 2008).

⁶ A recent study of registered and non-registered male youth found a sexual offense reconviction rate of less than one percent over four years. Letourneau, E. J. & Armstrong, K. S., "Recidivism Rates for Registered and Nonregistered Juvenile Sexual Offenders," *Sexual Abuse: A Journal of Research and Treatment*, 20 (2008): 393-408. Another study of male youth with sex crime convictions found a sexual offense reconviction rate of less than three percent over nine years. Letourneau, E. J., et al., "The Influence of Sex Offender Registration on Juvenile Sexual Recidivism," *Criminal Justice Policy Review*, 20 (2009): 136-153. Also see Worling, J.R., et al., "20-Year Prospective Follow-Up Study of Specialized Treatment for Adolescents Who Offended Sexually," *Behavioral Science and the Law* Jan.-Feb. 28(1) (2010): 46-57, finding that fewer than one in ten youth sexually reoffend after completing sex-specific treatment.

⁷ "Testimony: Detective Bob Shilling," *House Judiciary Committee, Subcommittee on Crime, Terrorism and Homeland Security, Sex Offender Registration and Notification Act (SORNA)* (March 10, 2009): 4.

⁸ Consensual sexual conduct between peers should not be criminalized and should not lead to inclusion on sex offender registries.

⁹ Offense-based registries include youth who have been convicted of certain sex offenses. Risk-based registries more appropriately include youth who are deemed to be the highest risk by a validated risk assessment tool.

¹⁰ Effective, validated risk assessment instruments designed for youth who commit sex offenses are just beginning to emerge, although some experts argue that there is not yet an appropriate, reliable tool to be used with youth. The Juvenile Sex Offender Assessment Protocol-II (J-SOAP-II) is currently being used in many jurisdictions; the manual is available at <http://www.csom.org/pubs/jsoap.pdf>. The authors of the J-SOAP manual include the following caveat: "In assessing the risk posed by a juvenile, we have an enormous burden of responsibility. Decisions based on our evaluations can have a profound impact: on the one hand, protecting society from genuinely high-risk youths, while on the other hand, possibly resulting in severe, life-altering consequences for low-risk youths." The Estimate of Risk of Adolescent Sexual Offense Recidivism (ERASOR) is another risk assessment tool, developed by Dr. James R. Worling. More information on assessing risk with juvenile sex offenders can be found at http://www.csom.org/pubs/cap/2/2_0.htm.