

Policy Platform

SEX OFFENSE REGISTRATION AND RELATED LAWS: TREATING YOUTH FAIRLY

JULY 2016

Policy Recommendation

NJJN recommends that all youth* and adults who committed sexual offenses as youth be exempt and/or removed from sex offense registries, public notification laws, and residency restriction laws.

Model Policy for Removing Youth from Registries

In order to implement NJJN's policy recommendation, we recommend the following best practices:

- Youth currently on sex offense registries should be removed and no longer subject to public notification requirements or residency restrictions. No additional youth should be placed on registries or subjected to public notification or residency restrictions.
- Any statutory change to remove youth from sex offense registries, public notification requirements, and residency restrictions should be automatically applied retroactively.
- A process should be put in place for individuals to petition to be removed from a registry in cases where they have been inappropriately placed on it in contravention of the above policy and counsel should be appointed to represent these individuals.

* Throughout this policy platform, the term "youth" refers to anyone adjudicated delinquent or convicted of an act which occurred when they were under the age of 18 years old.

Background

As Americans, we believe in taking practical, responsible approaches to rehabilitate youth in trouble with the law while keeping our communities safe. In fact, we have an opportunity now to adopt realistic, sensible policies to ensure that youth who commit sex offenses receive the support and services they need to become productive, law-abiding members of society.

Following several high-profile cases in the 1980s and 1990s, many states—and Congress, most recently through the Adam Walsh Act—created registration and notification laws to track adults convicted of sex offenses and publicize their whereabouts.¹ Naturally, protecting youth and creating safer communities are of utmost concern to all and require effective public policies. However, the widespread practice of registering youth who have committed sex offenses and subjecting them to notification laws actually creates a difficult maze with a lot of entrances, but not many exits—and lots of dead ends.

It simply doesn't make sense to put youth into this maze, because research shows that placing youth who have committed sex offenses on registries and subjecting them to public notification and residency restrictions does not in fact keep children and communities safe—it has no public safety benefits and can actually expose the youth and their communities to greater harm.² For these and additional reasons, the Federal Advisory Committee on Juvenile Justice³ recently recommended that “Existing federal law should be amended to explicitly exempt juveniles (all persons who were below the age of 18 at the time of their offense) from all sex offender registration, community notification, and residency restriction laws.”⁴

The consequences to youth of being placed on registries—sometimes for life—are profound: youth and their families are often the targets of threats and violence;⁵ and youth are frequently ostracized, prevented from attending school, and are subject to such strict residency requirements that “many [youth] are in effect banished from their neighborhoods.”⁶ Often denied education, housing, and jobs, it can become nearly impossible for these young people to ever live normal, productive lives. A majority of registered youth interviewed for a 2013 report described many negative impacts which they attributed to registration, including feelings of depression, isolation, and suicidal ideation. Nearly one-fifth of youth interviewed attempted suicide and three had committed suicide.⁷

The maze of registration serves no purpose. The incidence of sexual reoffending by youth is exceedingly low and has declined further in recent years. The latest empirical findings reviewing studies from 1943 to 2015 found that 95 percent of youth adjudicated for sexual offenses did not recidivate, or commit any further sexual offenses. For youth adjudicated between 2000 to 2015, this rate decreased even further—only 2.75 percent sexually recidivated.⁸ Multiple studies on juvenile registration show no evidence that registering youth adjudicated for sex offenses reduces the already very low recidivism rate for such youth, or deters future sexual offenses.⁹ Rather, registration and notification policies have been noted to “stigmatize and isolate children with no identifiable public benefits.”¹⁰

Instead of reducing sex offenses, the threat of registration may lead fewer families to seek help, thereby potentially increasing sexual harm. Since most child sexual abuse is intra-familial, notification laws and inclusion of youth on registries may 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.¹¹

Placing youth on registries clogs databases, squanders valuable law enforcement time and resources, and distracts the law enforcement system from attending to more serious public safety concerns.¹² Sex offense registries and public notification needlessly damage the lives of youth, and have no known public safety benefits. Instead, we need to redesign our juvenile justice system to eliminate the maze by closing entrances and creating clear pathways out of the system, so that the youth who do enter it have the opportunity to exit it and move on to contribute to their communities.

Outreach, Training, and Research

- Rather than using scarce funds to place and track youth on sex offense 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 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.

¹ Adam Walsh Child Protection and Safety Act of 2006 (AWA), Pub. L. No. 109-248. One of the key provisions of the AWA is the Sex Offender Registration and Notification Act (SORNA), which standardized registration and community notification practices and required jurisdictions to include youth. 42 U.S.C. §16911 (8) (2006). Currently, 39 states place juveniles on registries for people who have committed sex offenses. The Center on Youth Registration Reform at Impact Justice, “How the U.S. Includes Children in Sex Offender Registration & Notification Schemes: A 50 State Breakdown,” last updated November 2015, <http://bit.ly/28QgeIW>.

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 youth convicted of sex offenses, the harms of registries for youth who have committed sex offenses, and their effectiveness. Public notification laws in particular have been found to actually lead to increased recidivism. J. J. Prescott, & J. E. Rockoff, “Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?,” *Journal of Law and Economics*, Vol. 54, No. 1 (2011): 31; Association for the Treatment of Sexual Abusers, “Adolescents Who Have Engaged In Sexually Abusive Behavior: Effective Policies And Practices,” October 30, 2012, <http://bit.ly/28T080s>

³ The Federal Advisory Committee on Juvenile Justice (FACJJ) is composed of appointed representatives of the nation’s state advisory groups and it advises the President and Congress on matters related to juvenile justice, evaluates the progress and accomplishments of juvenile justice activities and projects, and advises the Office of Juvenile Justice and Delinquency Prevention (OJJDP) Administrator on the work of OJJDP.

⁴ Recommendation from the Research/Dual Status Subcommittee to the Federal Advisory Committee on Juvenile Justice (FACJJ) and adopted by the FACJJ on May 18, 2016, <http://bit.ly/28Po1He>.

⁵ Fifty-two percent of youth experienced violence or threats of violence against them or their families, which they directly attributed to their registration. Nicole Pittman, “Raised on the Registry: The Irreparable Harm of Placing Children on Sex Offender Registries in the US” (Human Rights Watch, May 2013), 51, <http://bit.ly/107hYSm>.

⁶ Pittman, “Raised on the Registry,” 50.

⁷ Pittman, “Raised on the Registry,” 51; In a new study, youth currently or previously registered reported significantly higher rates of seriously considering and/or attempting suicide than nonregistered youth. Comments on the Supplemental Guidelines for Juvenile Registration Under the Sex Offender Registration and Notification Act, submitted by Researchers with Expertise on Juvenile Sexual Offending (June 7, 2016): 3, citing Letourneau, Harris, Shields, Walfield, & Kahn, 2016), <http://bit.ly/290mAE1>.

⁸ Caldwell conducted a meta-analysis of 106 data sets in 98 reports that included a total of 33,783 youth from the years 1943 - 2015. The weighted sexual recidivism rate was 4.97 percent over a mean follow-up of 4.92 years; the 33 more recent studies conducted between 2000 and 2015 showed an even lower sexual recidivism rate of 2.75 percent. Michael F. Caldwell, “Quantifying the decline in juvenile sexual recidivism rates,” *Psychology, Public Policy, and Law* (forthcoming). A study of registered and non-registered male youth found a sexual offense reconviction rate of less than one percent over four years. E. J. Letourneau, & K. S. Armstrong, “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. E. J. Letourneau, et al., “The Influence of Sex Offender Registration on Juvenile Sexual Recidivism,” *Criminal Justice Policy Review*, 20 (2009): 136-153. Also see J. R. Worling, 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.

⁹ Comments on the Proposed Supplemental Guidelines for Juvenile Registration Under the Sex Offender and Registration and Notification Act, submitted by Youth Justice Alliance (June 9, 2016): 5, n. 13, <http://bit.ly/28Qa4sy>, citing Elizabeth J. Letourneau, Dipankar Bandyopadhyay, Debajyoti Sinha, and Kevin S. Armstrong, “The influence of sex offender registration on juvenile sexual recidivism,” *Criminal Justice Policy Review* 20:2 (2009): 136-153; Elizabeth J. Letourneau, Dipankar Bandyopadhyay, Kevin S. Armstrong, and Debajyoti Sinha, “Do sex offender registration and notification requirements deter juvenile sex crimes?” *Criminal Justice & Behavior* 37:5 (2010): 553-569; Michael F. Caldwell and Casey Dickinson, “Sex Offender Registration and Recidivism Risk in Juvenile Sexual Offenders,” *Behavioral Sciences & the Law* 27:6 (Nov/Dec 2009)” 941-95.

¹⁰ Comments on the Proposed Supplemental Guidelines for Juvenile Registration (Youth Justice Alliance), 5, n. 16, citing Mark Chaffin, “Our Minds Are Made Up – Don’t Confuse Us with the Facts: Commentary on Policies Concerning Children with Sexual Behavior Problems and Juvenile Sex Offenders.”

¹¹ “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, <http://bit.ly/28Qkk1N>.

¹² “Testimony: Detective Bob Shilling,” 4.