

Registering Harm

HOW SEX OFFENSE REGISTRIES FAIL YOUTH AND COMMUNITIES

Congress passed the Adam Walsh Act, a federal law that requires states to include children as young as age 14 on registries — often for the rest of their lives — in an attempt to protect our children from sexual violence.

But the Adam Walsh Act won't keep our children safe.

Instead, this law will consume valuable law enforcement resources, needlessly target children and families, and undermine the very purpose of the juvenile justice system. Thankfully, states can opt out of compliance with this law, and make smart investments in programs and policies that will actually protect our children and our communities.

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INTRODUCTION

Initially, registries were restricted to law enforcement use and were used largely to track adults who had been convicted of violent sex offenses. More recently, policy-makers have expanded the scope of registries by including children on the registry, requiring registration for nonviolent offenses, and making registries available to the public in online databases. The Adam Walsh Act is a federal law that aims to further expand the breadth of registries at the state level and requires states to list all registrants on the national online database, the Dru Sjodin National Sex Offender Public Registry. This report documents the issues related to public safety and fiscal accountability that states should consider as they determine whether to comply with the Adam Walsh Act or otherwise expand the reach of their existing registries.

During the past two decades, sensationalized media accounts of crimes that have a sexualized component have driven policy aimed at preventing sexual violence. As a result, millions of dollars of state and federal resources support registries despite that fact that there is no evidence that public registries reduce sexual violence.

What we do know, however, is that these registries consume public safety resources and may be funded at the expense of alternative approaches that research suggests actually would reduce sexual violence in our communities.

Research shows that laws that place people convicted of sex offenses on registries or that mandate other restrictions are counterproductive and may even make the problem of sexual violence worse. These laws do not deter inappropriate behavior; instead, registries can actually create more crime by alienating those on the registry from social support systems, including education, employment, and housing, that have been shown to reduce the likelihood that an individual might participate in illegal activities.

The Adam Walsh Act (AWA)* mandates the registration of children for certain sex offenses and, through coordinated state effort, the appearance of those records on the Dru Sjodin National Sex Offender Public Registry, which is maintained by the FBI. The AWA requires registration for youth as young as age 14 despite the fact that research shows that children are very amenable to rehabilitation and that the consequences of registration are likely to undermine any rehabilitative programming available for children. In some cases, these young people will be on a public

What is a sex offense?

The definition of sex offenses varies widely from state to state. The FBI defines sex offenses as “Offenses against chastity, common decency, morals, and the like.” Frequently sex offenses include behaviors that psychologists consider to be normative for both adults and children, including sexual experimentation. In some states, sex offenses can also include public urination and streaking.

Specific data on the numbers and types of sex offenses reported are not available on a national scale. The FBI Uniform Crime Report lumps together all sex-related, non-rape, and non-prostitution offenses into the category “sex offenses,” making it difficult to determine where and how sexual violence occurs.*

* The FBI Uniform Crime Report defines “sex offenses” as “Offenses against chastity, common decency, morals, and the like. Incest, indecent exposure, and statutory rape are included. Attempts are included.” www.fbi.gov/ucr/cius2006/about/offense_definitions.html

* Although we refer to the Adam Walsh Act throughout this report, the majority of the analysis and research pertains to Title I of AWA, the Sex Offender Registration and Notification Act.

registry for the rest of their lives, which can have numerous and permanent negative effects on their lives and those of their families, including alienation from social networks, schools, and churches. The AWA purports to protect children, yet subjecting youth to these consequences fails to provide any public safety benefit and instead significantly harms youth who are forced to register.

Victims' rights groups, organizations founded in the name of children harmed by sexual violence, treatment professionals, criminal justice reformers, and researchers have noted that sex offense registries can generate a false sense of security for people in communities and do not provide adequate information on how to protect their families from sexual offenses.

Registries have questionable — and sometimes negative — public safety outcomes for several reasons, including law enforcement's inability to accurately track and maintain all the information required by the registries in a timely manner. Additionally, most registries indiscriminately sweep up people who pose no threat to public safety. The over-inclusiveness of a registry actually diminishes its value as a public safety tool because it becomes impossible to determine who might pose a real threat.

Furthermore, establishing and maintaining registries consumes law enforcement time and money. States can expect to spend millions of dollars fully implementing and sustaining the guidelines of the AWA, without significant federal financial assistance. Law enforcement officers who previously protected our communities are now tracking down people who fail to register, many of whom are not a threat to public safety. This gives police little time to focus on monitoring the select individuals who may be a high risk to the community. Simply put, registries divert resources from positive and effective public safety strategies that have been proven to prevent sexual violence and lower violence in communities.

However, even with enough law enforcement resources to make sure that people are registering accurately and often, there is a distinct lack of evidence that supports the notion that registries make us safer. In fact, the opposite may be true. Continued investments in registries put our families in danger with short-sighted policies that alienate people who are trying to safely re-enter the community. We owe it to our children and to our communities to implement sound public safety strategies based on evidence, not media-created hype.

This report explores the potential impact that compliance with the Adam Walsh Act will have on states, communities, and youth, who are targeted by the new legislation. The report includes the following findings:

- ➔ Despite policymakers' assertions that people who are convicted of sex offenses are likely to commit another sex offense, research from the Department of Justice (DOJ) indicates otherwise. The DOJ determined that individuals previously convicted of sexual offenses had a lower overall re-arrest rate for any new offenses (not necessarily sexual offenses) than did people convicted of other offenses, 43 percent to 67.5 percent respectively.¹
- ➔ Responses to children who commit sex offenses should recognize the difference between children and adults, including the fact that children are

more amenable to rehabilitation. Registries ignore this fact and impose adult criminal sanctions on children and therefore undermine the rehabilitative process.

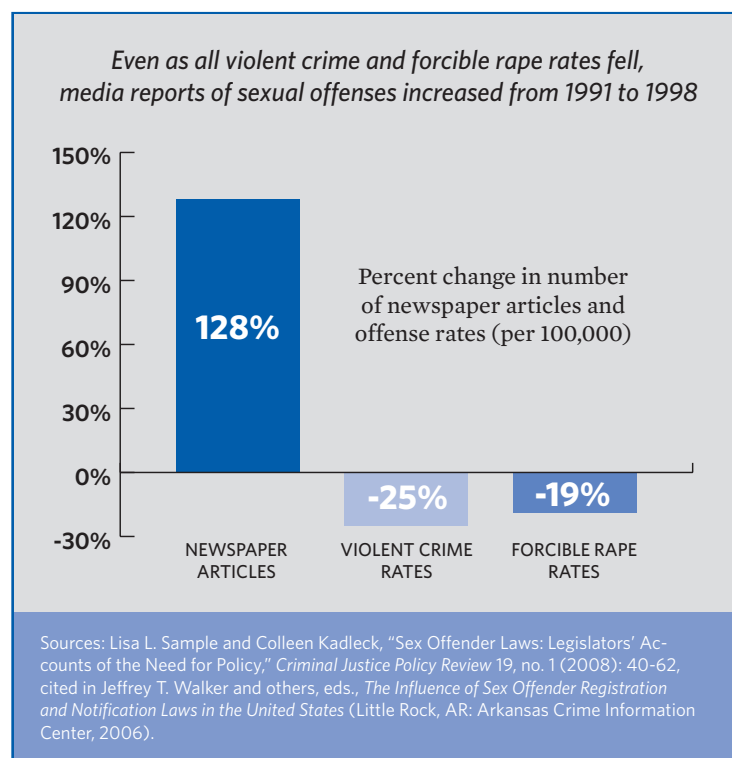
- ➔ According to the National Center on Sexual Behavior of Youth, the vast majority of youth sex offenses are manifestations of non-sexual feelings. Most youth behavior that is categorized as a sex crime is activity that mental health professionals do not deem as predatory.² Many of the behaviors reported are status offenses, including things such as parking and necking, which would not be a crime if committed by an adult.³
- ➔ Lawmakers established sex offense registries with the aim of protecting children from strangers. However, research conducted with the Federal Bureau of Investigation has 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. In other words, 7 percent of youth victims in this study were assaulted by strangers.⁴
- ➔ The cost to states of coming into compliance with the Adam Walsh Act could potentially reach millions of dollars. Virginia estimated that the cost of compliance with the Adam Walsh Act would exceed \$12 million.⁵
- ➔ Being on a registry can hinder a child's ability to access rehabilitative services needed to lead a productive life. Registries can impede access to employment, housing, and education. Barriers to these basic services can inhibit a young person from turning his or her life around, and may actually encourage delinquent behavior.⁶
- ➔ Placement on a registry can be extremely detrimental to a young person's development, making it difficult to progress through school and to participate in appropriate adolescent activities. Youth who are labeled "sex offenders" often experience rejection from peer groups and adults and are therefore more likely to associate with delinquent or troubled peers and are less likely to be attached to social institutions such as schools and churches.⁷ Youth who are detached from normative social institutions may be more likely to engage in illegal behaviors.
- ➔ Registries can lead to a false sense of security for families and communities as they are increasingly overloaded with people convicted of offenses that pose little or no danger to public safety. For example, public urination is a registry-eligible offense and in 29 states consensual sex between teenagers is also cause for registration.⁸

THE HISTORY AND ORIGINS OF SEX OFFENDER REGISTRIES

During the 1990s, a spike in media coverage of sex offenses led to an outbreak of laws aimed at people convicted of sex offenses at the state and national levels. Media attention on sex offenses, especially deadly acts of sexual violence against children by strangers, gave the impression that sex offense rates were higher than ever and media coverage tends to portray sexually motivated child abductions as an everyday occurrence. Although even one threat to a child is too many, the Center for Missing and Exploited Children estimates that approximately 100 such cases occur in the United States each year.⁹ Between 1991 and 1998, there was a 128 percent increase in articles relating to sexual offending.¹⁰ At the same time, the rate of reported violent offenses and forcible rapes during these years fell dramatically. The Federal Bureau of Investigation's Uniform Crime reports show that violent offense rates fell 25 percent during this time and the rate of forcible rapes dropped 19 percent.¹¹

News coverage of tragic, though often isolated crimes motivated lawmakers to commit to protect children from “violent sexual predators.” During this time, lawmakers openly admitted that they were legislating in direct response to the media’s coverage of sex crimes. In Illinois, a study conducted on policymakers’ perception of people who commit sex offenses concluded that “a cycle emerges in which high-profile cases lead to extensive media coverage, which permits public outcry and concern and influences public officials’ perceptions.”¹² When asked about a belief in a growing sex offense problem, one legislator responded, “Of course it’s a problem. You can’t turn on your TV without hearing about some pervert trying something on some kid.”¹³

It appears that Congress was also influenced by sensationalized media coverage of sex offenses. The first Federal law related to registries was the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Act (Wetterling Act) in 1994. The Wetterling Act, Jacob Wetterling, an 11-year-old boy who was abducted by stranger in 1989 while riding his bicycle home. Jacob is still missing. It was later learned that a halfway house in Wetterling’s neighborhood



housed people convicted of sex offenses, and police surmised that if they had a ready-made list of individuals in the area who were previously convicted of sex offenses, they could have saved valuable investigative time by interviewing those suspects first.¹⁴ The Wetterling Act required states to compile a list of individuals convicted of violent sex offenses against children to register with the police for a period of 10 years.

After another highly publicized case involving a child, Congress amended the Wetterling Act by passing Megan’s Law in 1996. Megan’s Law mandated community notification for 15 years after the release of adults convicted of violent sex offenses into the community. Megan Kanka was sexually assaulted and murdered in 1994 by her neighbor, a man who, unknown to Megan’s parents, had been previously convicted of molesting a child.¹⁵ Megan’s parents argued that if they had known their neighbor had previously been convicted of a sex offense their daughter would still be alive today, as they would have warned her not to speak with him.

Congress enacted Megan’s Law without considering research about best practices. During deliberations on the bill, lawmakers continuously relied upon unsupported statistical data and misinterpreted accounts of recidivism rates.¹⁶

CLAIM Representative Ramstad (R-MN) argued the need for Megan’s Law by citing a study by the U.S. Office of Juvenile Justice and Delinquency Prevention stating that over 114,000 children were the victims of abduction in 1988.¹⁷ Taken at face value, this statistic has powerful implications.

TRUTH A closer look at the study reveals that abduction was defined to include “cases involving minimal coerced movement, exceedingly brief time of detention, and such ‘nonfamily’ perpetrators as acquaintances and babysitters.” The study declared that 200 to 400 of the abductions in 1988 fell into a stereotypical definition of kidnapping, one in which a child was taken far from his or her home by a stranger, ransomed, or killed. Ninety-six percent of the 114,000 children abducted in 1998 were eventually found unharmed.

CLAIM In support of Megan’s Law, Representative Jackson-Lee (D-TX) referenced the Children’s Trust Fund of Texas¹⁸ claiming that in 1995 the number of children that were victimized by abuse and neglect exceeded 50,000.¹⁹

TRUTH Abuse and neglect, as defined by the Children’s Trust Fund of Texas, includes “a person’s action or failure to take action which has an adverse effect on a child’s physical or mental health or welfare.”²⁰ This broad definition of abuse and neglect used by Ms. Jackson-Lee reaches beyond Megan’s Law to potentially include the types of neglect generally perpetuated by a child’s parent or guardian (such as medical or educational neglect).

In 2003, Dru Sjodin, a 22-year-old woman, was abducted, sexually assaulted, and murdered by a man who had been on a sex offense registry. In response to the case, President Bush signed into law the Dru Sjodin National Sex Offender Public Registry (NSOPR). The NSOPR joins state web-based registries to a single federal registry available online. The law also makes it a felony for persons on a registry to fail to update their contact information and whereabouts.²¹

Today, all 50 states, U.S. territories, and the District of Columbia have some form of public sex offense registry and notification requirements. State registries vary in many important ways, including the ways they define registerable offenses, the length of time a person will stay on the registry, and how often a person must update the registration. Most public registries include a picture, name, and birth date of the person. Many also include the offense, address, and a physical description of the individual. All registries require the posting of a warning that use of the website should not result in harm or vigilantism. For example, the Dru Sjodin National Sex Offender Public Registry website states: “Any person who uses information contained in or accessed through this Website to threaten, intimidate, or harass any individual, including registrants or family members, or who otherwise misuses this information, may be subject to criminal prosecution or civil liability under federal and/or state law.”²² In general, there is a lack of uniformity among the state databases, as state registries can go beyond the federal law requirements.

THE ADAM WALSH ACT

The Adam Walsh Act explained

A description of the federal law that imposes numerous mandates on local and state law enforcement

As it has with other federal laws requiring registration and community notification, Congress passed The Adam Walsh Child Protection and Safety Act of 2006 without the benefit of research demonstrating that these laws have questionable public safety effectiveness and may even exacerbate sexual offending in some situations. The Adam Walsh Act is different from its predecessors, however, because of the fiscal burden this law places on states and because it specifically targets children for inclusion on a national, public registry.

The Adam Walsh Act (AWA) contains numerous provisions that aim to protect children. One such provision, the Sex Offender Registration and Notification Act (SORNA) of the AWA specifically mandates a national sex offender registry and provides a comprehensive set of minimum standards for sex offender registration and notification in the United States. Most state legislatures have already established standards for state-controlled registries that meet the specific needs of their communities. Under the AWA, states will have to follow federal guidelines. In most instances, states that comply with Adam Walsh will have to both expand their registries to include children and increase the number of offenses for which registration is required. States that fail to comply with AWA will forfeit some federal funding, but AWA compliance will cost states far more than they will receive in federal funds.

SORNA contains the following provisions:

- ➔ Requires that youth register, if prosecuted and convicted as adult OR (a) if offender is 14 or older at time of offense AND (b) adjudicated delinquent for offense comparable or more serious than “aggravated sexual abuse” OR adjudicated delinquent for a sex act with any victim under the age of 12*
- ➔ Extends the jurisdictions in which registration is required (all 50 states, U.S. territories, and the District of Columbia) to include federally recognized Indian tribes.
- ➔ Incorporates more sex offenses for which registration is required.
- ➔ Requires people to register and keep their registration current in the jurisdictions in which they reside, work, or go to school.
- ➔ Requires people to provide more extensive registration information, including photos.
- ➔ Requires people to make periodic in-person appearances to verify and update the registration information.
- ➔ Expands the amount of information available to the public regarding people on the registry.

* “Aggravated sexual abuse” (18 USC 2241) covers (a) engaging in sex act w/ another by force or threat of serious violence; (b) sexual act by rendering unconscious or involuntary drugging; OR (c) engaging in sexual act with child under 12 (see 18 USC 2241(c)).

- ➔ Makes changes in the required minimum duration of registration and establishes a Tier system based on offense.²³
 - » Tier 1: Includes people convicted of whatever offenses do not support a higher classification, such as misdemeanor registration offenses and child pornography possession. People on Tier 1 must register for a minimum of 15 years and must update the registry annually.*
 - » Tier 2: Includes people convicted of most felonious sexual abuse or sexual exploitation offenses involving victims who are minors. People on Tier 2 must register for a minimum of 25 years and must update the registry every 6 months.
 - » Tier 3: Generally encompasses people convicted of sexual assaults involving sexual acts regardless of victim age, sexual contact offenses against children below the age of 13, nonparental kidnapping of minors, and attempts or conspiracies to commit such offenses. People on Tier 3 must register for life and must update the registry every 3 months.
- ➔ Makes the registry retroactive. People convicted of sex offenses prior to AWA's passage are subject to SORNA's registration requirements IF (a) they are currently registering, (b) under supervision or incarcerated, OR (c) if the offender re-enters the system because of a new conviction whether or not the new crime is a sex offense.
- ➔ Requires states to have a failure to register offense on the books and provide a criminal penalty for a "maximum term of imprisonment greater than one year."

The SORNA also establishes the federal Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking Office (SMART Office) to set guidelines for registering people convicted of sex offenses, develop software for the registry, and assist state, local, and tribal governments in implementing their registries. States are required to be in substantial compliance of the AWA by July 27, 2009 or they will face losing 10 percent of their Byrne Grant funds.

The SMART Office also helps states enact registry provisions that are far more restrictive than those required by AWA. A communication from SMART makes this clear: "jurisdictions should consider AWA minimum requirements as a floor, not a ceiling. Jurisdictions are free to implement regulations that are stricter than what AWA requires."²⁴

* SORNA allows jurisdictions to reduce the registration period for a person on Tier I by 5 years after he or she maintains a clean record for 10 years and to terminate registration for a person who is required to register under SORNA based on juvenile delinquency adjudication after he or she maintains a clean record for 25 years.

What information must be made available on the public sex offender registry website?

To comply with AWA, the following information about each person convicted of a sex offense who is registerable and who lives, works, or goes to school in a particular jurisdiction must be included on that jurisdiction's sex offender website:

- ➔ The name of the individual, including all aliases.
- ➔ The address of each residence at which the person resides or will reside and, if the person does not have any (present or expected) residence address, other information about where the person has his or her home or habitually lives. (If current information of this type is not available because the person is in violation of the requirement to register or is unlocatable, the website must note this.)
- ➔ The address of any place where the person is an employee or will be an employee and, if he or she is employed but does not have a definite employment address, other information about where the person works.
- ➔ The address of any place where the individual is a student or will be a student.
- ➔ The license plate number and a description of any vehicle owned or operated by the person on the registry.
- ➔ A physical description of the person on the registry.
- ➔ The text of the sex offense for which the person is registered and any other sex offense for which the person has been convicted.
- ➔ A current photograph of the person required to register.

Source: US Department of Justice, *Frequently Asked Questions: The Sex Offender Registration and Notification Act (SORNA) Proposed Guidelines*, www.ojp.usdoj.gov/smart/pdfs/sorna_faqs.pdf

The Adam Walsh Act exposed

An examination of the faulty data and research that convinced Congress to pass the most sweeping registry law in U.S. history

Congress passed the Adam Walsh Act (AWA) on July 27, 2006. In June 2005, the Subcommittee on Crime, Terrorism and Homeland Security held three hearings to discuss the bills proposed and to develop a consensus on the need for a national sex offender registry and notification system. Nearly a year later, on March 8, 2006, the House of Representatives held a 40-minute discussion on the AWA, which was passed on a suspended calendar, meaning that there were no hearings, amendments, or committee markups on the bill.²⁵ No experts were invited to testify for or against the AWA in its entirety. During the March discussion, Representative John Conyers (D-MI) noted that “this legislation, all 164 pages, has managed to completely circumvent the traditional legislative process.”²⁶

An examination of the Adam Walsh Act’s legislative history reveals that several members of Congress based their support of this bill on inaccurate data. In their efforts to protect children, lawmakers often argued that individuals convicted of sex offenses are more serious offenders because of their propensity to re-offend. The data tell a different story: people convicted of sex offenses have one of the lowest recidivism rates of any group. Yet as described below, policymakers cling to the myth that people convicted of sex offenses are the most likely to commit a new sex offense.

- ➔ Then Attorney General Charlie Crist of Florida testified that “The experts tell us that someone who has molested a child will do it again and again.”²⁷
- ➔ U.S. Representative Ric Keller (R-FL) noted that “The best way to protect children is to keep child predators locked up in the first place, because someone who has molested a child will do it again and again and again.”²⁸
- ➔ Ernie Allen, President and CEO of the National Center for Missing and Exploited Children testified that “Sex offenders represent the highest risk of re-offense.”²⁹

Contrary to these policymakers’ assertions, research demonstrates that individuals convicted of sexual offenses do not inevitably commit new sex offenses. In 1998, researchers Hanson and Bussiere did a meta-analysis of 61 separate studies on patterns of recidivism for people convicted of sex offenses. They concluded that 13.4 percent of the 23,393 individuals in the study committed a new sexual offense.³⁰ Large-scale studies of recidivism find that for people released from prison after being convicted of any offense, 67.5 percent will be re-arrested for any new offense within three years. The recidivism rates for people convicted of sex offenses are considerably lower.³¹

In 2003, the Justice Department’s Bureau of Justice Statistics (BJS) released findings from the largest

“Though often thought of as the most relentless and dangerous of offenders, sex offenders are in fact among the least likely offenders to re-offend.”³²

—RICHARD TEWKSBURY, PROFESSOR,
UNIVERSITY OF LOUISVILLE AND JILL LEVENSON,
PROFESSOR, LYNN UNIVERSITY³³

study ever conducted on re-arrest and re-conviction patterns of people previously convicted of sex offenses. BJS tracked 272,111 individuals, including 9,691 people convicted of sex offenses, for three years following their release in 1994 from 15 different states. BJS determined that individuals previously convicted of sexual offenses had a lower overall re-arrest rate for any new offenses (not necessarily sexual offenses) than did people convicted of other offenses, 43 percent to 67.5 percent respectively.³⁴ BJS also concluded that within the three-year time frame, 5.3 percent of the people convicted of sex offenses in this study were re-arrested for a new sex offense and 3.5 percent were re-convicted. These numbers are significantly lower than the media and crime policies lead the public to believe.

Additionally, the BJS study tracked the re-arrest patterns of individuals who were released but had no prior sex offense convictions. After the three year period, BJS reported that 1.3 percent of the 262,420 people convicted for nonsexual offenses were re-arrested for a sex crime.³⁶ Therefore, 3,382 individuals (1.3 percent) out of the non-sex offender group and 517 individuals (5.3 percent) from the group who had been convicted of a sex offense were re-arrested for a sex crime. If each of these individuals only victimized one person, then the total number of victimizations resulting from these two groups would be 3,845 (3,382 + 517). In this example, the group of released sex offenders was only accountable for 13 percent of the 3,845 sex crimes and the non-sex offender group was responsible for 87 percent. This means that 87 percent of sexual victimizations would not have been prevented through sex offender registration because the majority of the new victimizations were committed by individuals who were first-time sex offenders.

Registries are not proven to be effective at preventing sexual violence. Indeed, compelling research shows that even if the registry was perfect — that it contained completely accurate information; that everyone who was a potential danger to communities based on previous behavior was included; and that all people in the community could access the information — it is unlikely that registries would make us safer.

Studies have shown that states that implemented registries under Megan’s Law did not necessarily see a drop in reported sex offenses, and some states saw increases.³⁷ A large percentage of sex offenses are committed by people known to the victim, including within the family.³⁸ Having a family member on the sex offense registry will not protect that victim and may cause other detrimental effects to the family.³⁹

As most people who commit sex offenses are “first-time offenders,” meaning that they have never been convicted of a sex offense, the majority of people committing sex offenses would not already be on the registry.⁴⁰ Having a registry can therefore create a false sense of security within families and communities, who might rely on the registry to identify people who may be a threat to their safety.

Being on a registry can hinder a person’s ability to access rehabilitative services needed to lead a productive life and engage in appropriate, legal behavior. Registries can impede access to employment, housing, and education, which have been shown to be an integral part of the re-entry process and a necessity for young people who are trying to turn their lives around.⁴¹

Finally, these registries cost a significant amount of money to implement and adequately maintain, and they take away resources from law enforcement and communities that could be providing effective solutions to public safety challenges.

States that implemented community notification under Megan's Law did not necessarily see a drop in reported forcible rapes

Megan's Law mandated that law enforcement notify communities when a person on the sex offender registry moves into a neighborhood. This law was premised on the idea that people will be able to protect themselves better if they are aware of certain individuals living in their immediate community. Although Megan's Law was passed in 1996, many states had already implemented sex offense registries that included aspects of community notification prior to this time.⁴² Community notification by law enforcement soon morphed into internet databases, which greatly expanded the reach of who had access to information about individuals on the registry.

In 2006, a group of researchers with the Arkansas Crime Information Center analyzed the effectiveness of Megan's Law at reducing forcible rapes by examining reports of these offenses in 10 states.* The data was collected from the FBI's Uniform Crime Report for a 10-year span — five years before and after each state implemented the community notification component mandated by Megan's Law. The researchers concluded that the data did not provide a definitive answer on whether community notification laws in fact did prevent rapes, as most of the changes in the number of offenses were not statistically significant.⁴³

Five states in the study witnessed a drop in the number of monthly rapes five years after the notification laws were put into place. However, the other five states showed an *increase* in the number of monthly rapes recorded after community notification was implemented. Half of the states showed no significant differences either way in the average number of rapes being reported. The researchers do point out, however, that "These non-significant findings masked the fact that roughly half of these non-significant changes were actually increases in the average incidence of rape within a given state."⁴⁴ The researchers conclude that "sex offender registration and notification laws have had no systematic influence on the number of rapes committed in these states as a whole."⁴⁵

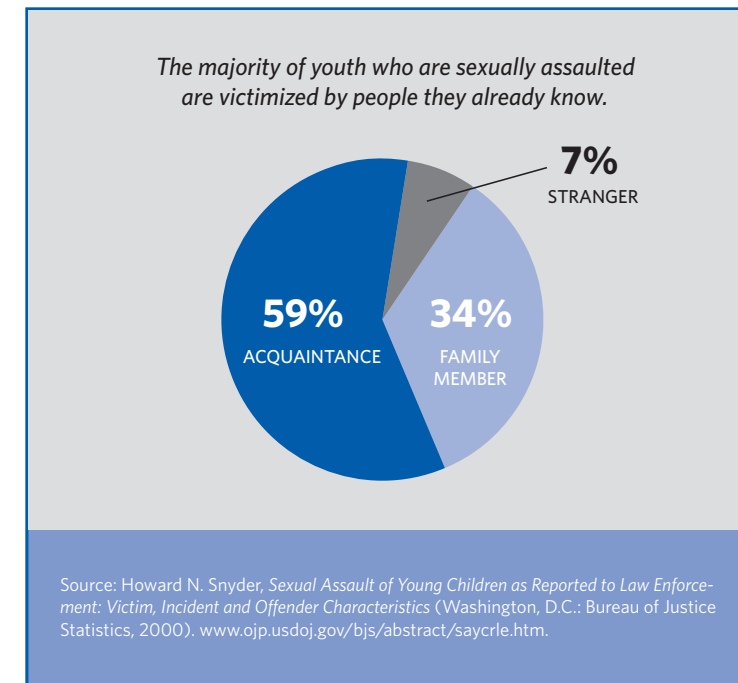
Self-report surveys show that the majority of sex offenses are not committed by strangers

The supposed purpose of the registries is to protect youth and adults from potential sexual predators. But evidence shows that most people who experience sexual abuse are victimized by people they know, including family members, and thus

"... sex offender registration and notification laws have no systemic influence on the number of rapes committed in these states as a whole."³⁵

—JEFFERY T. WALKER, PROFESSOR,
UNIVERSITY OF ARKANSAS

* States included: Arkansas, California, Connecticut, Hawaii, Idaho, Nebraska, Nevada, Ohio, Oklahoma and West Virginia.



registries do not necessarily make us safer. In an effort to uncover more comprehensive data regarding sexual assaults against youth, Dr. Howard Snyder with the U.S. Department of Justice launched a research project which analyzed police reports collected by the FBI's Uniform Crime Reporting Program. The police reports contained incidents of sexual assaults* collected from 12 states between 1991 and 1996. Dr. Snyder compiled information on more than 60,000 sexual assault victims and more than 57,000 victim-identified offenders within this five-year period.⁴⁶

The research showed that almost half (49 percent) of youth under age six and 42 percent of children ages six to 11 in the study were sexually assaulted by a family member. Additionally, about three-quarters (72.6 percent) of adults in the study were victimized by people they knew. Overall, the study concluded that 34 percent of youth victims (0-17 years old) were sexually assaulted by a family member and 59 percent were assaulted by acquaintances. In other words, 7 percent of youth victims in this study were assaulted by strangers.⁴⁷

* "Sexual assault" was defined in this study by the FBI to include forcible rape, forcible sodomy, and sexual assault with an object.

THE HARMFUL EFFECTS OF THE ADAM WALSH ACT ON OUR CHILDREN AND COMMUNITIES

The Adam Walsh Act is not cost effective and will put pressure on state resources

The Adam Walsh Act (AWA)* requires states to register more people and keep track of them for even longer periods of time, without receiving substantial additional federal funding. By July 2009, all states must be in compliance with AWA or risk losing 10 percent of the state's Byrne Justice Assistance Grant funding, money that is granted to fund a variety of criminal justice initiatives, but generally focuses on enforcing drug laws and supporting law enforcement.

All states currently have some form of registry and community notification, but fully implementing AWA poses a significant challenge, both logistically and fiscally. As a largely unfunded mandate, the AWA provides little federal funding for implementation and stands to cost states more than they will receive in federal funding. In times of budget crises in many states, it is important that they consider the costs and benefits of implementing the AWA on public safety and on state budgets.

States and localities can expect to incur significant costs as they attempt to implement the AWA

Although all states currently have some form of public sex offender registry and notification laws, AWA requires the implementation of a national format for all registries and a nationwide way of notification. In addition to new software and technology costs to fully implement the registry, onerous registration requirements will likely result in more people being arrested and prosecuted for failure to register, being sent back to prison or jail, and/or put on probation.

Virginia estimated that expanding the list of registry-eligible offenses will likely increase the number of state prison beds needed for people who violate the registry provisions.⁵³ Increasing the frequency with which the state police and probation officers must verify registration information may also result in the additional detection of violations. In addition, increasing penalties for first-time registry violations for people who are not defined as "sexually violent" could increase State bed requirements. Based on these facts, Virginia estimates an additional cost of \$351,376 to the state.

Costs to Virginia's juvenile justice system in terms of correctional and detention centers were not able to be determined, but will likely be affected by these guidelines, because changing penalties of registration violations from a misdemeanor to a felony can result in additional commitments to these facilities.⁵⁴

"The repercussions of the [Adam Walsh Act] are many, and its effects will be with us for years to come."

—LORI MCPHERSON, AMERICAN PROSECUTORS RESEARCH INSTITUTE'S NATIONAL CENTER FOR PROSECUTION OF CHILD ABUSE⁵²

During this time of budget shortfalls, states should consider all possible areas in which increased expenditures will occur.

- ➔ New personnel to register more people more often, collect information, make updates, etc.
- ➔ Software, including installation, maintenance, and technical support
- ➔ Additional jail and prison space for people who fail to register
- ➔ Court and administrative costs related to reclassification due to the retroactivity clause of the AWA
- ➔ Law enforcement costs related to tracking down people who fail to register
- ➔ Legislative costs related to adopting and crafting state law

States can expect to spend more on implementation than they stand to lose

In the last two years, some states have done extensive cost analyses to determine the feasibility of adopting AWA given the cost. These states have found that implementing AWA in their state is far more costly than the penalties for not being in compliance.

Ohio determined that the cost of implementing new software to create a registry would approach a half million dollars in the first year.⁴⁸

- ➔ Installing and implementing software alone would cost \$475,000 in the first year. The software would then cost \$85,000 annually thereafter for maintenance.
- ➔ Certification of treatment programs and providing a description of a person on the registry to the state's Bureau of Criminal Identification and Investigation would cost another \$100,000 annually.
- ➔ Ohio also lists other factors that would increase the cost of implementing AWA, including salaries and benefits for new personnel, new court and administration costs, and costs to counties and municipalities. These costs are in addition to the \$475,000 needed for software, but have not yet been quantified by the state.
- ➔ If Ohio chose not to implement AWA, the state would lose approximately \$622,000 annually from its Byrne funds. However, the total cost of software, certification of treatment programs, salaries, and benefits for new personnel would likely exceed the lost Byrne funds.

Virginia conducted a comprehensive cost analysis and determined a total cost of more than \$12 million for the first year of compliance with the registry aspect of the AWA.⁴⁹

- ➔ The first year of implementing AWA would cost the Commonwealth of Virginia \$12,497,000. This figure would include the cost of hiring 99 new staff people, implementing new technology and increasing the number of people on the registry by approximately 8,000 individuals.
- ➔ The yearly annual cost of AWA would be \$8,887,000. Adjusted with a 3.5 percent yearly inflation rate,⁵⁰ Virginia would be paying more than \$10 million by 2014.
- ➔ If Virginia chose to enact AWA, implementation costs would cause the state to effectively lose \$12,097,000 more than it would if it chose not to implement AWA and forfeit 10 percent of its yearly Byrne grant of approximately \$400,000.⁵¹

* Title I of the Adam Walsh Act, the Sex Offender Registration and Notification Act (SORNA), specifically addresses the sex offense registry.

	AWA Implementation Estimate for 2009	Byrne Money Received in 2006**	10 Percent of Byrne Money
ALABAMA	\$7,506,185	\$3,178,628	\$317,863
ALASKA	\$1,108,573	\$565,971	\$56,597
ARIZONA	\$10,281,201	\$3,653,881	\$365,388
ARKANSAS	\$4,597,925	\$2,180,442	\$218,044
CALIFORNIA	\$59,287,816	\$21,876,819	\$2,187,682
COLORADO	\$7,885,178	\$2,725,489	\$272,549
CONNECTICUT	\$5,680,602	\$2,189,001	\$218,900
DELAWARE	\$1,402,612	\$1,248,534	\$124,853
DISTRICT OF COLUMBIA	\$954,186	\$1,804,991	\$180,499
FLORIDA	\$29,602,768	\$12,402,693	\$1,240,269
GEORGIA	\$15,481,193	\$5,594,288	\$559,429
HAWAII	\$2,081,603	\$933,732	\$93,373
IDAHO	\$2,431,969	\$1,170,003	\$117,000
ILLINOIS	\$20,846,306	\$8,501,000	\$850,100
INDIANA	\$10,291,799	\$3,696,033	\$369,603
IOWA	\$4,846,488	\$1,881,623	\$188,162
KANSAS	\$4,502,553	\$2,035,999	\$203,600
KENTUCKY	\$6,879,497	\$2,702,451	\$270,245
LOUISIANA	\$6,963,401	\$3,514,704	\$351,470
MAINE	\$2,136,456	\$1,172,583	\$117,258
MARYLAND	\$9,112,724	\$4,320,568	\$432,057
MASSACHUSETTS	\$10,461,238	\$4,353,201	\$435,320
MICHIGAN	\$16,336,082	\$6,793,169	\$679,317
MINNESOTA	\$8,430,328	\$3,061,831	\$306,183
MISSISSIPPI	\$4,734,150	\$2,065,269	\$206,527
MISSOURI	\$9,534,548	\$4,182,382	\$418,238
MONTANA	\$1,553,611	\$1,076,424	\$107,642
NEBRASKA	\$2,878,281	\$1,288,957	\$128,896
NEVADA	\$4,160,944	\$1,808,095	\$180,810
NEW HAMPSHIRE	\$2,134,219	\$1,192,435	\$119,244
NEW JERSEY	\$14,088,206	\$5,160,709	\$516,071
NEW MEXICO	\$3,195,121	\$1,879,901	\$187,990
NEW YORK	\$31,300,125	\$11,279,841	\$1,127,984
NORTH	\$14,696,622	\$5,460,983	\$546,098
NORTH DAKOTA	\$1,037,592	\$554,556	\$55,456
OHIO	\$18,598,869	\$6,223,825	\$622,383
OKLAHOMA	\$5,867,138	\$2,790,472	\$279,047
OREGON	\$6,078,218	\$2,251,312	\$225,131
PENNSYLVANIA	\$20,165,479	\$7,640,322	\$764,032
RHODE ISLAND	\$1,715,760	\$967,292	\$96,729
SOUTH CAROLINA	\$7,149,123	\$3,610,292	\$361,029
SOUTH DAKOTA	\$1,291,426	\$513,858	\$51,386
TENNESSEE	\$9,985,946	\$4,817,782	\$481,778
TEXAS	\$38,771,924	\$14,045,713	\$1,404,571
UTAH	\$4,290,617	\$1,557,034	\$155,703
VERMONT	\$1,007,649	\$630,419	\$63,042
VIRGINIA	\$12,508,695	\$3,943,036	\$394,304
WASHINGTON	\$10,491,519	\$3,538,816	\$353,882
WEST VIRGINIA	\$2,939,046	\$1,679,108	\$167,911
WISCONSIN	\$9,085,630	\$2,982,833	\$298,283
WYOMING	\$848,009	\$584,036	\$58,404

In every state, the first-year cost of implementing the Adam Walsh Act outweighs the cost of losing 10 percent of the state’s Byrne grant money.*

* See Appendix B for methodology and additional information.
 ** The U.S. House of Representatives estimates that 2009 federal allocations for Byrne grants will return to 2006 levels, which total approximately \$200 million.

The retroactivity clause of the AWA will impose significant costs on states

Since the AWA is retroactive, in states like Ohio, the attorney general must reclassify people and mail out notices of their reclassification. An individual who is sent a reclassification notice may petition the court for a hearing to challenge the new classification, creating more administrative costs for the county.⁵⁵

“Experts say the data disaster is attributable to an unwieldy and ever-growing sex offender registry, one driven more by state politics in recent years than by scientific evidence. Legislators are calling on local police departments to track more sex offenders — many of them low-risk — than ever before, without including the money necessary to do so.”

— DALLAS MORNING NEWS⁶¹

Although not all states will require court hearings for people convicted of sex offenses before the implementation of AWA, many will face lawsuits brought by people whose status will change as a result of the law. On July 1, 2008, Nevada changed the classification of sex offenses so that many individuals who had been registered on Tier I, which included no public registration notification, would be changed to Tier III, which does require public registration and notification. Individuals have already brought lawsuits against the state.⁵⁶ The American Civil Liberties Union of Nevada has also filed suit.

Counties, as the major law enforcement arms within the states, will bear the brunt of the new registry policies. Manpower will be used to seek out people who fail to register or update their registration at the appointed intervals. County jails could fill up with people who are caught for failure to register, which is punishable with between one and 10 years of imprisonment.⁵⁷

As shown in a previous section of this report, errors in the registries and failures to update known information could potentially result in substantial lawsuits and enormous payouts for people incorrectly listed on the registry.

The Adam Walsh Act places significant burdens on local law enforcement

The AWA requires local law enforcement agencies and corrections departments to shoulder the burden of registration and notification laws, with little federal funding or technical assistance. Spending so much time tracking down people for failing to register and making sure that information in the registry is accurate overburdens law enforcement and can take away precious time and resources from more effective crime-fighting strategies like educating communities about effective ways to prevent sexual violence.

- ➔ In Texas, the number of registerable crimes has grown from four to 20 since the enactment of the first registration laws in 1991, with approximately 100 new people added to the registry each week.⁵⁸
- ➔ In 2003, San Jose, California, spent \$600,000 to dedicate seven staff people to monitoring 2,700 people who are required to register.⁵⁹
- ➔ In Michigan, as of August 2004, two full-time employees manage information and records for people convicted of sex offenses, but according to a state audit, the state’s sex offender registries still contain inaccurate and incomplete information that may give the public a false sense of security.⁶⁰

The Adam Walsh Act needlessly targets children and families

In recent years and following several well-publicized cases of sexual violence committed by adults against children, legislation and media attention has focused heavily on sex offenses and adults deemed “sexual predators.” In the push to target people who may actually pose a significant danger to the public, youth convicted of sex offenses have been swept up in punitive legislation that publicly brands them as sexual predators. Research has shown however, that juvenile sexual offending is very different from adult sexual offending, and that youth are not committing the majority of sex offenses.

In 2006, youth under the age of 18 accounted for 18 percent of arrests for any sex offense* and 15 percent of arrests for forcible rape. Youth under the age of 15 accounted for 9 percent of sex offense arrests and 5 percent of forcible rape arrests in the same year. Less than 1 percent of all arrests of youth under the age of 18 were for sex offenses.⁶³

According to the National Center on Sexual Behavior of Youth, the vast majority of youth sex offenses are manifestations of non-sexual feelings. Youth engage in fewer abusive behaviors over shorter periods of time and engage in less aggressive sexual behavior.⁶⁴ Youth rarely eroticize aggression and are rarely aroused by child sex stimuli. Most youth behavior that is categorized as a sex crime is activity that mental health professionals do not deem as predatory.⁶⁵ Many of the behaviors reported are status offenses, including things such as parking and necking, which would not be a crime if committed by an adult.⁶⁶ National data that disaggregates sex offenses by type or seriousness are not available; however the observations of organizations who work with youth who commit sex offenses generally report relatively non-serious acts and many statutory offenses.

There have been numerous stories publicized in the media of youth as young as age 6 being labeled a sex offender for behaviors such as hugging or kissing other youth.⁶⁷ These zero-tolerance attitudes and policies towards common youth behavior do not increase public safety but rather alienate youth and disconnect them from communities, education, and jobs, aggravating the likelihood that they may engage in future delinquency. Although youth can and do commit sexually violent offenses against young children, these situations are very rare.

While Adam Walsh does not mandate registration for consensual sex acts or for minor offenses that have a sexualized component, expanding registries could easily lead to the inclusion of offenses like those listed below:

- ➔ After slapping a first-grade girl on the bottom on the playground, a six-year-old boy from Woodbridge, Virginia, was written up in an incident report by school

* Sex offenses included here do not include forcible rape or prostitution.

“A common misperception is that they’re like adults. But they’re not. We’re mainly talking about geeky, nerdy, socially immature kids. And so many of the factors that contribute to risk — like where they live or how their families work — are out of their control.”

—DAN KNOEPFLER, PRESIDENT OF THE WASHINGTON [STATE] ASSOCIATION FOR TREATMENT OF SEXUAL ABUSERS⁶²

officials who called it “Sexual Touching Against Student, Offensive,” which will remain on his student record permanently. Then school officials called the police.⁶⁸

- ➔ A kindergartner in Hagerstown, Maryland, was accused of sexual harassment after pinching a female classmate’s bottom.⁶⁹ The charge will remain on his record until he enters middle school.
- ➔ A four-year-old in Texas was given an in-school suspension after a teacher’s aide accused him of sexual harassment for pressing his face into her breasts when he hugged her. School officials later agreed to remove sexual references but refused to expunge the “inappropriate physical contact” charge from the boy’s school record.⁷⁰

In most states, intercourse with a child under the age of 14, 15, or 16 is considered sexual assault regardless of consent. However, according to the National Longitudinal Survey of Youth, slightly more than three-quarters of youth in the survey reported having had sexual intercourse. Of those youth, more than 80 percent reported having had sex by age 15.⁷¹ Thus, the youth reporting having engaged in sex by the age of 15 would be guilty of committing a sex offense.

Recidivism rates of youth who commit sex offenses are low and youth are more amenable to change

Research has shown that a young person who commits a sex offense is unlikely to commit another one. Current, national recidivism rates are difficult to routinely ascertain and compare because states and localities often define recidivism differently. However, a few academic studies have attempted to determine recidivism rates generally for youth and specifically for sex offenses at the state or local level. Overall, general recidivism rates for youth convicted of all offenses are higher than recidivism rates for youth convicted of sex offenses.

The Virginia Department of Juvenile Justice⁷² conducted a study in 2005 that reviewed 27 states’ youth recidivism rates. They found that 55 percent of youth were re-arrested within one year and 24 percent were re-imprisoned for any offense, not just sexual offenses.*

RECIDIVISM FOR YOUTH CONVICTED OF SEX OFFENSES

- ➔ A 2002 review of 25 studies concerning juvenile sex offense recidivism rates reveals that youth who commit sex offenses have a 1.8 — 12.8 percent chance of re-arrest and a 1.7 — 18.0 percent chance of reconviction for another sex offense.⁷³
- ➔ A 2000 study of 96 youth who committed a sex offense in Philadelphia showed a 3 percent sex re-offense rate.

* *Re-arrest*: 55 percent of juveniles released from facilities in Florida, New York and Virginia were rearrested within one year. *Re-referral to court*: 45 percent of youth released from incarceration in Colorado and Maryland were re-referred to Court during the 12-month follow-up period. *Re-conviction/Re-adjudication*: 33 percent of youth released from detention centers in Arkansas, Florida, Georgia, Kentucky, Maryland, North Dakota, Oklahoma and Virginia were reconvicted or re-adjudicated within one year. *Re-incarceration/Re-confinement*: 24 percent of juveniles released from facilities in Florida, Maryland and Virginia were re-incarcerated during the 12-month follow-up period. Source: Virginia Department of Juvenile Justice, 2005.

- ➔ A 2006 retrospective study of 300 boys on a sex offense registry in Texas who were under age 18 at the time of their first sex offense charge found that 4.3 percent of the sample was rearrested as an adult for another sex offense.⁷⁴

A 2007 study funded by the MacArthur Foundation reviewed a longitudinal data set of three cohorts of youth in Wisconsin and found that of men who had contact with police for a sex offense as youth, 8.5 percent had contact with police for a sex offense as adults.⁷⁵ In other words, **more than nine out of 10 times the arrest of a youth for a sex offense is a one-time event.** The author of the study, Franklin Zimring, a juvenile justice expert at the University of California at Berkeley, found that youth who have committed a sex offense are no different from youth who commit other nonsexual offenses and would likely benefit from similar interventions.⁷⁶ The study goes on to say that putting youth on sex offender registries “would have little effect on the prevention of sex crimes and, thus, do little to protect the public.”⁷⁷ Additionally, the threat of lifelong marginalization from schools, jobs, and communities may prevent families and youth from seeking interventions that could help youth who may be engaged in inappropriate sexual behavior.

Increasingly punitive sanctions and policies may make people who need treatment less likely to seek it

Perhaps no offense carries as high a stigma as a sex offense. These stigmas and the way that laws feed off the prejudices leads to a lower probability that someone who needs treatment may actually seek it. Adding the risk of lifetime consequences to the mix can lead to even fewer people seeking the help they may need. According to Edwards and Hensley, “As the severity of criminal sanctions have increased for sexual crimes, it has become more and more difficult for sex offenders to initiate therapeutic intervention both before abuse is brought to the attention of authorities and even after an individual is incarcerated and confronted with the opportunity of accepting or refusing prison-based sex offender treatment.”

Furthermore, according to Bruce Winick of the University Of Miami School Of Law, sexual predator and community notification laws may be providing a strong disincentive for sex offenders to plead guilty to their crimes and accept treatment.⁷⁹ “Offenders may feel that no matter what they do, they are still going to face the same postrelease exposure, scrutiny, and ostracism associated with high-risk assessments and community notification measures, whether they attend a treatment program or not.”⁸⁰ In other words, people who commit sex offenses may be less likely to seek treatment because of the risks associated with turning themselves in. Thus, instead of receiving treatment for behavior that may be a threat to public safety, individuals are forced to cope on their own and not receive the resources needed to tame such behavior.

Registering children means registering entire families

“As the severity of criminal sanctions have increased for sexual crimes, it has become more and more difficult for sex offenders to initiate therapeutic intervention both before abuse is brought to the attention of authorities and even after an individual is incarcerated and confronted with the opportunity of accepting or refusing prison-based sex offender treatment.”

—WILLIAM EDWARDS, MOREHEAD STATE UNIVERSITY, AND CHRISTOPHER HENSLEY, MOREHEAD STATE UNIVERSITY⁷⁸

Currently, there are no exceptions for intra-familial cases of sexual abuse, meaning that even if the abuse occurs within the home, the person convicted can still remain on the registry, even while living with the victim.⁸¹ The AWA explicitly states that the victim cannot be identified on the registry; however, publishing the address of the person convicted can sometimes inadvertently identify the victim.

Additionally, having a family member on the registry puts an extra burden on the family, who may wish to aid or support their loved one as they struggle to get back on their feet after being released from prison. Although most people released after being convicted of a sex offense do not have this sort of family support, “for those

who do, such relationships are severely strained under the thumb of such laws because the community’s ostracism of the offender now often extends to anyone willing to support or assist him or her.”⁸² Having support and a place to stay while trying to regain your life can be critical when trying to keep people from repeating past behaviors. A study of 183 people participating in sex offense treatment in Florida found that about 19 percent reported that other members of their household had been “threatened, harassed, assaulted, injured, or suffered property damage” as a result of living with a person on the registry.⁸³

According to a 1996 study by Freeman-Longo, reports in New Jersey and Colorado suggest a decrease in the reporting of both incest offenses and juvenile sex offenses by victims and by family members who do not want to deal with the impact of public notification on their family.⁸⁵

The Adam Walsh Act undermines the very purpose of the juvenile justice system

As of 2007, 31 states allowed youth to be on a registry, with certain restrictions, and 17 states allowed for community notification for these youth (See Appendix 2). The AWA increases the likelihood that youth will be on registries because it includes youth adjudicated in juvenile court of sex offenses, thus undermining a system which is designed to protect youth from the lifelong penalties carried by the adult criminal justice system. Sixteen states offer a process for getting youth convicted of sex offenses off the registry. The AWA mandates that youth fitting certain criteria, and who are at least 14 years old, must be listed on the registry under the same conditions and timelines as adults, including possible lifetime registry. This mandate contradicts everything we know about youth and about youth behavior and undermines the very purpose of a juvenile justice system

Young people are still developing and are thus highly amenable to change; the nature and intention of youthful sexual experimentation is not considered to be predatory or aggressive; and the likelihood that a youth will commit another sex offense is small. Youth need to be held accountable for their behaviors in an age-appropriate manner,

“SORNA as applied to youth will disrupt families and communities across the nation because SORNA does not just stigmatize youth; it stigmatizes the entire family.”

—ASSOCIATION FOR THE TREATMENT OF SEXUAL ABUSERS⁸⁴

“Public shaming of an incest offender is humiliating to the victim and the rest of the family.”

—ERIC LOTKE, NATIONAL CENTER ON INSTITUTIONS AND ALTERNATIVES⁸⁶

but a registry system designed for adults does not fit these standards and should not apply to youth.

As the U.S. Supreme Court recognized in *Roper v. Simmons*,⁸⁷ the landmark case that outlawed the juvenile death penalty, children are categorically less culpable for their actions than adults. This should mean that the state cannot punish children in the same manner it uses to punish adults, particularly because the part of a young person's brain that deals with judgment and risk assessment is not fully formed. Since their brains are still developing, youth are even more susceptible to appropriate and effective treatment.⁸⁸

Research has shown that community notification and registry laws exacerbate the stress felt by any person released from prison, and such stress can trigger new offenses.⁸⁹ Stressors can be brought on by the ostracism felt by people on the registry and the difficulties in finding adequate housing and employment after being put on the registry. A study by JJ Prescott and Jonah Rockoff found that “registered sex offenders might be more likely to commit crime in a state that imposes a set of notification requirements, perhaps because of heavy social and financial costs associated with the public release of their information.”⁹⁰

The link between barriers to education, employment, housing, and treatment and involvement in the criminal justice system has been well documented for both youth and adults. Registries alienate individuals from the very opportunities that are likely to reduce the likelihood of future offending. Research on adolescent brain development indicates that youth are particularly vulnerable to the stigma and isolation that registration and notification create. The Annie E. Casey Foundation's annual Kids Count data book also keeps tally of “disconnected” youth (youth who are not working or in school) as a factor in child well-being. In other words, the youth who are connected to school or work are generally expected to have better life outcomes than youth who are not.⁹²

Placement on a registry can be extremely detrimental to a young person's development, making it difficult to progress through school and to participate in appropriate adolescent activities. Youth who are labeled “sex offenders” often experience rejection from peer groups and adults and are therefore more likely to associate with delinquent or troubled peers and are less likely to be attached to social institutions such as schools and churches.⁹⁴ Youth who are detached from normative social institutions may be more likely to engage in illegal behaviors.

“To ignore the emotional, psychological, and social-situational impact of community notification laws on offenders is irrational, short-sighted, and potentially dangerous.”

—WILLIAM EDWARDS AND CHRISTOPHER HENSLEY,
MOREHEAD STATE UNIVERSITY PROFESSORS⁹¹

“And if we know that negative emotional states and maladjustment to a community setting are common triggers to offender relapses, then it behooves us to consider how public notification laws exacerbate these known stressors for newly released offenders.”

—WILLIAM EDWARDS AND CHRISTOPHER HENSLEY,
MOREHEAD STATE UNIVERSITY PROFESSORS⁹³

In addition to the negative impacts on education or employment for youth who are put on a registry, having a young person's information made publicly available may also put him or her at risk of physical harm. There have been numerous reports of vigilantism against people on the sex offender registry, including harassment, threats, and even murders.⁹⁵ A qualitative study by Richard Tewksbury at the University of Louisville found that 47 percent of people surveyed had been harassed in person and 28 percent had received threatening phone calls as a result of being on the registry; 16 percent had been assaulted.⁹⁶

There is no evidence that registries and notification systems for people convicted of sex offenses are effective ways of improving public safety or deterring future sex offenses. For youth, registries and notification systems are particularly damaging to developing brains,⁹⁷ increase the risk of suicide, alienate a youth from school and community, and raise barriers to successful participation in society.⁹⁸ Additionally, youth who are on public registries have their home and school addresses, as well as other personal information, displayed for everyone to see, including those who may wish to prey on youth.

The juvenile justice system was founded on the premise that youth are different from adults and need to be held accountable in appropriate ways. Juvenile court judges are experts in assessing the culpability and rehabilitative potential of young people. Youth involved in the juvenile justice system typically receive more treatment and rehabilitative services than they would if they were treated as adults.⁹⁹ The registry undermines rehabilitation by labeling a young person a “sex offender,” thereby stigmatizing the youth and closing available doors for treatment.

The juvenile justice system's purpose is to treat and rehabilitate — not to punish. Because of this, youth are not afforded the same due process protections that are provided to criminal defendants. For example, only a very few states provide children with the right to a jury trial. This fact illustrates that an adult punishment such as lifetime registration undermines the very foundation of juvenile justice.

Registries and community notification have the power to push individuals and whole families out of stable housing, disrupting their ability to participate in employment and education. This can be extremely detrimental to young people who are trying to complete their education and find adequate employment, especially when they cannot live with their families and must support themselves at an early age. The incidental limitation of housing options by imposing registries and community notification is sure to have a negative impact on public safety.

“SORNA as applied to youth is contrary to the core purposes, functions, and objectives of our nation's juvenile justice systems in that it strips away the confidentiality and the overall rehabilitative emphasis that forms the basis of effective intervention and treatment for youthful offenders.”

—ASSOCIATION FOR THE TREATMENT OF
SEXUAL ABUSERS¹⁰⁰

Residency Restrictions

Although residency restrictions on people who have been convicted of a sex offense are not part of the Adam Walsh Act, states and localities are permitted to initiate such restrictions. Residency restrictions are implemented with the supposed intent of protecting children from being victimized by people previously convicted of a sex offense by keeping a person from living within close proximity to schools, parks, daycare centers, and other places children gather. Most restrictions fall within the 1,000 to 2,500 foot range. Residency restrictions can have an even more significant negative impact on youth on the registry, as they are not permitted to live near their school, making it even more difficult to get an education.

At least 20 states have enacted laws restricting where people convicted of certain sex offenses can live.¹⁰² Some states, like Georgia, have laws that do not discriminate between offense types or risk — no person with a sex offense conviction can live within 1,000 feet of these areas.¹⁰³

Residency restriction laws rely on the belief that people previously convicted of sex offenses are highly likely to reoffend and thus must be separated from potential victims; that they will choose victims who live within close proximity to their home; and that new victims will be children that they do not already know. But compared to people convicted of other offenses, research has shown that people convicted of sex offenses are statistically less likely to re-offend, whether in a sexual or nonsexual manner,¹⁰⁴ and that place of residence has no effect on recidivism rates.¹⁰⁵ Studies in states have found similar results:

- ➔ The Colorado Department of Public Safety published a report in 2004 finding that “sex offenders who recidivate are not more likely than non-re-cidivating sex offenders to live near schools or day care centers.”¹⁰⁶
- ➔ According to a report by the Minnesota Department of Corrections, “Rather than lowering sexual recidivism, housing restrictions may work against this goal by fostering conditions that exacerbate sex offenders’ reintegration into society.”¹⁰⁷
- ➔ The California Research Bureau released a report in 2006 that said “there is little research regarding the effectiveness of restricting the housing locations available to sex offenders, but the few studies available find they have no impact on re-offense rates.”^{108,109}

“Some research suggests that residency restrictions may lead to serious unintended collateral consequences for offenders, such as limiting their opportunities for employment, treatment services, pro-social support systems, and most importantly, housing.” California Research Bureau, 2006¹¹⁰

“If we can get these people out of our community, it’s not that these crimes won’t happen... It’s just that they won’t happen in my community.... We’re not punishing these people any more than the lepers of ancient times were punished. We’re just isolating them from our community.”

—CHRISTOPHER J. SHIPLEY, MOUNT DORA,
FLORIDA CITY COUNCIL MEMBER¹⁰¹

When people convicted of sex offenses do re-offend, 75 percent of their victims are someone they already know.¹¹¹ A study conducted by the National Institute of Justice in 2006 confirmed what other research has also shown: that a majority of sex offenses are happening in the home by individuals who have legitimate, daily contact with the child victims.¹¹² Residency restrictions, therefore, would not prevent a large portion of child sexual abuse.

A number of law enforcement officials, victims, and people who work with people who have committed sex offenses have come out against residency restrictions:

- ➔ According to John Gruber, executive director of the Association for the Treatment of Sexual Abusers (ATSA), the organization is generally opposed to residency restrictions: “What you’re doing is pushing people more underground, pushing them away from treatment and pushing them away from monitoring. You’re really not improving the safety, but you’re giving people a false sense of safety.”¹¹³
- ➔ Seattle police detective Bob Shilling, a nationally recognized expert on sex offenders, noted that Seattle’s residency restriction law “creates a lot more homeless sex offenders, which makes it a lot harder for us to keep track of them. [Residency restrictions] do not work. In fact, it exacerbates the problem.”¹¹⁴
- ➔ The director of the Jacob Wetterling Foundation indicated that residency restrictions were ineffective. She stated that residency restrictions are often “feel good quick fixes” that do not make the best use of community resources and create a false sense of security.¹¹⁵
- ➔ Ernie Allen, the president of the National Center for Missing and Exploited Children, is of the opinion that residency restrictions can create a false sense of security because communities will believe that people who have sex offense convictions will just go away. Also, they may move these people from one community to the next, setting off a competitive spiral of ever-tougher “not in my backyard” ordinances.¹¹⁶

The Adam Walsh Act compromises public safety

Registries encourage a disproportionate and inappropriate focus on registries and the people on them

Statistics from the Justice Department support the idea that the people on the registry are not likely to be the people who pose the greatest potential threat.

- ➔ The majority of people arrested for sex offenses have never been previously convicted of a sex offense. In 2003, the Bureau of Justice Statistics (BJS) reported that 86.1 percent of the people arrested for a sex offense had never been previously convicted of a sex offense and would therefore not already be included in the registry.¹¹⁸ Furthermore, another study by BJS found that of all the adults arrested for rape in 1997 (791,513), 3.6 percent were of people released from prison in 1994. In other words, people who had been previously convicted of sex offenses are not the majority of people arrested for sex offenses on a yearly basis.¹¹⁹
- ➔ People who are convicted of sex offenses are not likely to repeat the offense. The BJS found that 5.3 percent of people released from prison after serving time for a sex offense were rearrested for a new sex crime within three years.¹²⁰

Registries create a false sense of security

Reliance on registries creates the illusion that parents can protect their children from sexual violence simply by checking an online database. A survey of mental health professionals found that 70 percent of those surveyed felt that “a listing of sex offenders on the web would create a false sense of security for parents who might feel that they can protect their children simply by checking a web site.”¹²¹

Despite registry requirements and stiff penalties for not registering, registries are often inaccurate and out of date.¹²² The result is misdirected apprehension and the alienation of people who live at an address listed on the database, but who have never been convicted of any crime. A number of media outlets have exposed inaccuracies in sex offense registries.

- ➔ In 2006, *Dallas Morning News* found that 18 percent of Dallas County registrants either had incorrect addresses listed or never lived at the address listed.¹²³

“[Notification] laws are likely to increase the already common public misperception that child sexual abuse is mostly a “stranger” problem. When this occurs, parental attention is focused toward the nonfamilial offender and away from the familial environment where the majority of sexual abuse occurs.”

—WILLIAM EDWARDS, MOREHEAD STATE UNIVERSITY, AND CHRISTOPHER HENSLEY, MOREHEAD STATE UNIVERSITY¹¹⁷

“Sex offender registries are popular, and it’s easy to see why. People don’t want to see their loved ones become victims. It stands to reason we can better protect ourselves and our children if we know where predators live. But there’s a danger that registries can make us feel safer without necessarily making us more safe”

—EDITORIAL, BIRMINGHAM NEWS¹³²

- ➔ Inaccuracies in the registries mean that occasionally people not on the registry are the only inhabitants of the address listed on the registry. Thus people never convicted of any crime are by default listed on the registry, as was the case in Chandler, Arizona.¹²⁴
- ➔ In Columbus, Ohio a woman’s name and address was passed out to neighbors after her brother registered her address with the sex offender registry. He had never resided at the home and police are not required to verify the addresses.¹²⁵
- ➔ In 2007, *Birmingham News* revealed that there are enormous discrepancies between the information available on the public registry and the information that Jefferson County, Alabama, had about people charged with sex offenses.¹²⁶ Even though the county had correct, current information, it takes months for the information to be corrected on the public site. Seventeen percent of the addresses listed on the Jefferson County public site were different from the information that the county had collected. Also, the state registry and the county registry didn’t match; both had names and addresses that the other didn’t contain.
- ➔ In 2005, a Virginia man sued a private registry management company for falsely listing his name on a registry of people convicted of sex offenses. Another suit was filed against a neighbor for defamation. The company managing the registry does not verify information before posting it online.¹²⁷
- ➔ In 2007, the *Las Vegas Sun* documented the story of a 71-year-old man, who had never had even a traffic ticket, misidentified by neighbors as having committed a sex offense because a public registry run by Watch Systems LLC failed to update the address of a man who had been on the registry and formerly lived at that address. Despite complaints to the state and county, no efforts were made to change the information until he brought the issue to the attention of the ACLU.¹²⁸
- ➔ Human Rights Watch reported that the *Boston Herald*, newspapers in Florida, and researchers in Kentucky have all documented serious inaccuracies in those states’ internet registries.¹²⁹

A study by Richard G. Zevitz, Ph.D., at Marquette University found “negligible support for sex offender community notification having any kind of measurably deterrent effect on sex offender recidivism patterns. If anything, these findings call into question the utility of this practice and the danger of creating a false sense of security in the communities where notification occurs.”¹³⁰ A survey of men listed on the sex offender registry found that “These offenders generally feel that registries do little to heighten community awareness and protect the public, which in turn provides no deterrent effect on sex offenders.”¹³¹

Currently, most state registries do not provide adequate interpretation of the information listed about individuals on the registry or direction for what to do with the information; and the AWA compounds these problems.

Overbroad registration or notification practices make it difficult for the public to determine who on the registry may pose a public safety threat and who doesn’t.¹³³ The tier system of the AWA provides little context to people who receive

notification or view a public registry. In a review of all state registries, Human Rights Watch found that only five states provided enough understandable information on online registries for the public to be able to interpret the charge and the age of both the registrant and the victim.¹³⁴ This may be one of the reasons that the public incorrectly assumes that everyone on the registry is listed because of an offense against a child.

The Human Rights Watch study also found that residents who received community notification or viewed online information were not educated about how to protect themselves or family members. Recipients of notification were left feeling scared and powerless.¹³⁵ Similar studies have found that people in the community report increased anxiety due to notification because of the lack of strategies offered for protecting themselves or their families from people who may pose a real threat.¹³⁶

Anxiety and suspicion caused by registries and notification may undermine a community's cohesion and sense of trust, both of which scholars have linked to public safety.¹³⁷ In other words, members of a community who do not trust each other are less likely to exert the positive social controls that improve public safety. For example, neighbors that have trusting relationships are more likely to conduct neighborhood watches and monitor activities on each other's property.

Registering people for consensual, nonviolent, and statutory offenses and activities overloads the registry and distracts the public. Furthermore, not every person on a sex offender registry has committed rape or a sexual offense against a child.

Human Rights Watch reviewed statutes in all 50 states and found that a sex offense is defined differently in different states. The Adam Walsh Act (AWA), the newest piece of federal legislation related to registries, is designed to represent the minimum offenses that are registerable, thus the law is likely to encourage states to further expand the offenses for which people must register. At the time of the publication of the Human Rights Watch report, the following offenses require registration:

- ➔ Adult prostitution-related offenses (five states)
- ➔ Public urination (13 states, two limit registration to urination in front of a minor)
- ➔ Consensual sex between teenagers (29 states)
- ➔ Exposing genitals in public (32 states; of those, seven require the victim to be a minor).¹³⁹

It is important to note that the AWA does not require states to register young people convicted of sex offenses involving consensual sexual activity between minors as long as the "victim" is at least 13 years old and the "offender" is no more than four

“Vigilant parents and community groups are relying on faulty or incomplete data to protect themselves. Some homeowners are targeted as sex offenders because their addresses mistakenly appear in the database. And hundreds of the region’s sex offenders are avoiding registration or filing false information with law enforcement agencies — some to hide in the crowd, others to re-offend.”

—DALLAS MORNING NEWS¹³⁸

GENARLOW WILSON

Homecoming King, Football Star, Honor Student, Sex Offender?

On New Year's Eve 2003 in Douglasville, Georgia, Genarlow Wilson, 17, and five friends engaged in consensual oral sex with a 15-year-old girl at a party. The whole thing was video-taped. Wilson was convicted and sentenced to 10 years in prison for felony aggravated child molestation, plus lifetime registration as a sex offender. According to jurors, the tape clearly showed that the 15-year-old girl involved in the oral sex episode had consented, but Georgia law at the time made any oral sex with a partner under 16 a felony, regardless of consent.

According to Marie Manigault, the jury forewoman in Wilson's case, "He didn't do a single thing that was physically aggressive toward either of the girls, and he wasn't vocally intimidating. This whole thing was a bunch of kids who decided they wanted to try A, B, C and D and it got totally out of control. It was a night of stupidity and not one of them had any idea that what they were doing was illegal. There should never have been a charge of aggravated child molestation in the first place."¹⁴¹

Wilson refused to plea guilty for the offense, because he did not want to be labeled a sex offender and forced to be on the registry. In his words, "I wouldn't be able to stay with my mother because I have a little sister. You know, when you're a sex offender you can't be around kids. Basically, I can't even have kids myself, you know, so what is the point of life?"¹⁴²

There was a multitude of public outcry related to the case which led to the passage 2006 of a "Romeo and Juliet" law, which made most consensual oral sex between minors a misdemeanor, rather than a felony. But the law didn't help Wilson, since it included language that specifically barred its application to those who had already been convicted. If this law was made retroactive, more than 1,100 young people's cases could be reopened.¹⁴³

On October 26, 2007, Wilson was released from prison at age 21 after serving two years, after the Georgia Supreme Court ruled that his 10-year sentence for having consensual oral sex with a 15-year-old girl was "cruel and unusual punishment."¹⁴⁴ He is now a student on full scholarship at Morehouse College.



years older than the “victim.”¹⁴⁰ This is referred to as the “Romeo and Juliet” clause. While the AWA does not require it, the legislation does encourage state legislation to be more stringent. Indeed, many states still have laws on the books that would punish youth in this situation, leading to some highly publicized and controversial cases of young people being registered for typical teenage behaviors.

Assuming that sex offender registries are an effective means of preventing sexual violence, overloading registries with people who have engaged in activities like those similar to Genarlow Wilson’s (see text box) makes it difficult for the public to determine who might pose a threat and who might not, especially given the complicated and technical language used on registries to describe offenses.

Registries and notification create barriers to education, employment, housing, and other social networks and outlets that allow successful participation in the job market and the community. Such barriers increase the likelihood that a person will engage in illegal behavior in the future and become involved in the criminal justice system. Prison and social isolation are a high price to pay for public urination.

“The reason I believe that many of those men succeeded in treatment is they were able to get a fresh start. They could get jobs. They weren’t feeling disenfranchised, angry at the community. They succeeded, I believe, in part because they were able to do those things. It begs the question whether, if we drive these people underground, are we actually making the community safer?”

—TESTIMONY OF FRED BERLIN, M.D., ASSOCIATE PROFESSOR, JOHNS HOPKINS UNIVERSITY¹⁴⁵

RECOMMENDATIONS

These recommendations encourage policymakers to protect communities from sexual violence by employing proactive preventative strategies. Providing education and information for community members and resources for families to combat certain behaviors before they start can be an effective means of making sure our communities are safe. Instead of expanding the scope of existing registries, state and federal lawmakers should consider implementing interventions that have been shown to prevent sexual violence. Additionally, state and local governments should evaluate the effectiveness of their existing programs and policies aimed at reducing sexual offenses.

Federal and State Policy

1. Congress should repeal the section of the Adam Walsh Act that mandates the registration of youth under age 18.

Subjecting children to lifetime registration will not keep our communities safe, and this practice will undermine juvenile justice systems across the country. In passing the AWA, Congress failed to consider the most recent research regarding public safety and adolescent brain development. This information justifies repealing this provision of the AWA.

2. Refuse to put children on public registries in your state.

Given the questionable public safety consequences of the Adam Walsh Act, and the strain it will place on law enforcement resources, states should refuse to put children on public registries. Because of the tremendous costs of implementation, most states can do so without adversely affecting their state budgets. Instead of expanding registries for our children, states should invest in proactive strategies to reduce sexual violence in our communities.

If your state chooses to put youth on state registries, it should ensure that registries do the least harm and are not funded at the expense of effective programming. Specifically:

- ➔ Ensure sure that your state legislature can appropriate significant funding to ensure compliance with the AWA.
- ➔ Ensure that placing children on a public registry does not violate your state constitution, especially with regard to a child’s right to treatment, rehabilitation and due process.
- ➔ Ensure that no child under the age of 13 is placed on a public registry, for any reason.
- ➔ Pursuant to 18 U.S.C. 16911(8), ensure that no child over the age of 14 is placed on the registry, unless one of children the following circumstances exists:
 - » The child has been adjudicated of a crime similar or more serious than the federal crime of aggravated sexual assault. This crime, which is punishable by life in prison, is defined by the use of force or threat to cause another to engage in a sexual act and/or impairing the ability of another to cause her to engage in a sexual act. 18 U.S.C. § 224.
 - » The child’s victim is younger than 12 years old.

- ➔ Pursuant to 42 U.S.C. 16911(5)(c), ensure that no individual is placed on the registry for consensual sexual contact, as long as the victim is at least 13 years old and the offender is no more than four years older than the victim.
- ➔ Pursuant to 42 U.S.C. 17915, ensure that your state has developed procedures for children placed on the registry to petition for removal 25 years after the date of their adjudication.
- ➔ Ensure that your state is prepared to meet its legal obligations to provide for the educational, mental health and rehabilitative needs of children who are publically labeled sex offenders.

3. Assess the effectiveness of sex offense registries and community notification on a national or state scale.

As laws to implement state and federal registries have been passed, it is now the job of governments to evaluate the efficacy of those measures, particularly as they pertain to the welfare of all youth, including those on the registries.

A number of academic institutions and even a few state governments have found that the harm that sex offense registries and notification cause communities outweighs any benefits. However, such assessments have largely gone ignored by both the public and policymakers. A national, federally sponsored assessment of registries and community notification should be commissioned, especially as the country moves toward a mandated implementation of a national registry.

Policymakers should base their decisions on research, data, and evidence, rather than on misinterpreted analyses and conjecture. While it is impossible to predict the outcome of a national assessment of registries, at least policymakers would have much clearer evidence on which to base decisions.

4. Reframe the problem of sexual violence from a criminal justice issue to a public health issue.

Sexual violence devastates lives and people who have experienced sexual violence are more likely to harm others. Advocates from Stop It Now! are clear that sexual violence should not be viewed as an individual pathology or failure, but rather as a systemic problem that requires a “proactive, prevention-based model that will address the root causes of abuse on a social systems scale.”¹⁴⁶

Unlike the criminal justice system, which tends to address problems after the fact, the public health system uses evidence-based approaches to prevent abuse, including education, community involvement, increased communication, and appropriate interventions. The criminal justice system response is punishment, registries, and notification, which according to the research presented in this report does little to prevent future sexual violence. However, a public health approach to sexual violence would frame the problem of sexual violence as that of a community and focuses on education from a young age.

STOP IT NOW! Shifting the Paradigm

Stop It Now! is an organization dedicated to preventing sexual abuse by mobilizing adults, families, and communities to take actions that protect children before they are harmed. Stop It Now! advocates for shifting the problem of sexual violence from a criminal justice issue to a public health issue.

The public health system is a valuable tool for addressing sexual violence for the following reasons:

- ➔ Multi-disciplinary and multi-agency collaboration and cooperation: Sexual violence is a problem that affects victims, abusers, families and communities, and multiple experts and public agencies have a role in addressing those effects.
- ➔ Promotion of prevention: The public health system is designed to promote collaboration to define, contain, and prevent problems that negatively impact the health of individuals and, by extension, whole communities.
- ➔ Rigorous assessment of the problem and the solution: Decisions about public health are historically made using quantitative and, potentially also, qualitative data. Data-driven decisions allow for reassessment to be done after an intervention.

Specific methods for using a public health paradigm to prevent sexual violence include, but are not limited to:

- ➔ Create public service announcements educating the public about sexual violence and prevention strategies.
- ➔ Establish collaborations with survivors, abusers, and family members to share information.
- ➔ Educate criminal justice professionals on the tenets of public health strategies for prevention.
- ➔ Increase and support community involvement and investment in positive parenting skills and other prevention strategies.
- ➔ Redefine accountability based on community needs. Accountability does not necessarily mean incarceration.

Stop It Now! is careful to explain that treatment and prevention do not supplant accountability, but too often public outcry and political pressure derail efforts to make systemic changes. Finally, to achieve real success the public health model must be accessible to all communities, particularly racially and economically diverse communities.¹⁴⁷

5. Determine how money spent maintaining sex offense registries and notifying communities might be better used elsewhere.

According to research published by Eric Janus, a professor of law at William Mitchell College of Law, a violence reduction program in southern Minnesota, which among other things educates schoolchildren about sexual violence prevention, costs \$125 per school.¹⁴⁸ In total, the programs reached 4,000 elementary school students and 2,500 junior high students in one year. Evaluations showed significant changes in attitudes about sexual violence. However, as evidenced by this brief, implementing a national registry could potentially cost states a total of nearly \$500 million without any proof that future sexual violence will be prevented.

6. Evaluate the effectiveness of responses to sexual violence.

We should not assume that the current methods of intervention in the lives of people who have committed sex offenses are the most appropriate or effective for all individuals. In particular, research suggests that the interventions and sanctions used with adults who have committed a sex offense are not appropriate for youth. Continued research and evaluation will likely reveal more effective, more appropriate interventions.

The same level of scrutiny should be consistently applied to Risk Assessment Instruments (RAI), which are often used to determine the risk that a person might commit another sex offense in the future. Much like intervention strategies, RAIs should evolve with new research and evaluation. RAIs are not necessarily appropriate for all individuals and should not be viewed as a definitive determination of risk. Other strategies for assessing risk should be explored, evaluated, and implemented.

7. Assess the public safety impact of registries on communities.

Congress and other state legislative bodies commonly use impact statements to determine the environmental and fiscal impact of specific pieces of legislation. Racial impact statements are also increasingly used in decision-making processes, especially pertaining to criminal justice legislation, and most legislative bodies have long required fiscal notes to accompany legislation. Such proactive assessments provide a holistic view of the legislation and provide a better foundation on which to pass laws.¹⁴⁹

Before passing legislation that would expand registries, lawmakers could consider public safety impact statements to determine how registries or notification would actually change public safety and the general health and well-being of communities and children.

Local and Community Strategies

1. Educate the public about the realities of sex offenses

The media has focused its coverage of sexual violence on rare cases of child abduction and sexual abuse.¹⁵¹ This type of coverage can frighten communities and families and result in ill-informed public policies. Additionally, having a sex offender registry can lead to a false sense of security, as people may think that because nobody is registered in their neighborhood, they are safe from possible victimization. However, these registries are not completely accurate and place too great an emphasis on the danger presented by strangers.

Since the majority of sex offenses go unreported, the registry is under-inclusive and does not provide a clear picture of possible threats in a community. Yet at the same time, most registries are over-inclusive and list people who are not a threat to public safety. This dilutes a registry's public safety effectiveness as families cannot tell who the real threats are in their communities.

The public should know that youth are rarely considered by mental health professionals to be predators. Youth who commit sex offenses are not likely to become adults who commit sex offenses, and although adults who commit sex offenses are not likely to do so again, youth are even less likely to reoffend.

How do communities educate citizens?

Many jurisdictions use public education to accompany community notification of the presence of someone on a sex offense registry. However, some of the same issues that advocates from organizations such as the Center for Sex Offender Management say should be discussed during the community notification process would be just as effective in the absence of notification or a public registry.

Those issues include:

- ➔ Differentiating between common myths and facts regarding people who commit sex offenses and their victims¹⁵⁴
- ➔ Identifying and verbalizing their fears and perceptions about people convicted of sex offenses in the community¹⁵⁵
- ➔ Accessing and utilizing information in the community to prevent sexual violence¹⁵⁶

Forums for education might include:

- ➔ Door-to-door education initiatives to reach as many community members as possible
- ➔ Community forums and meetings
- ➔ School-based courses open to children, parents, and other community members

The public must be aware that effective treatment interventions for people convicted of sex offenses exist, not all people on the registry are “incurable,” and not everyone on the registry is a threat to public safety. Furthermore, youth who are convicted of sex offenses benefit from the same interventions available to all youth who come in contact with the juvenile justice system.

2. Educate the public on ways to increase personal safety

Although children alone cannot protect themselves from sexual abuse, it is by far more beneficial to educate a child about potentially dangerous situations than to rely on a registry. The National Center for Missing and Exploited Children advocates for building children’s confidence and teaching them to be aware rather than looking out for a singular or “particular type” of person.¹⁵²

Public courses, training, school, and work-based initiatives can help individuals understand how to better protect themselves and to understand how to identify suspicious behavior, both within a home or familiar situation and among strangers.

Internet safety is a growing concern for communities. While many resources are available to communities and individuals concerning internet safety, localities could provide additional community-based resources to help parents set up controls on their computers, provide guidelines for talking to children about the people they meet online, and discussing the importance of privacy.¹⁵³

3. Provide resources to families who may be worried about inappropriate behavior

Defining appropriate and inappropriate behavior can be a challenge for many parents and families. Resources should be provided to families who have questions about these issues to make sure that they are handled appropriately and to ensure that they have the ability to talk to their children about what is and is not appropriate behavior. If the child is exhibiting behavior that is inappropriate then appropriate interventions should be made available before the child becomes involved in the criminal or juvenile justice systems.

Additionally, for youth who have been charged with a sex offense, or any offense, adequate legal resources need to be made available so that the young person and his or her family fully understand the legal consequences of this behavior and the ramifications associated with the sex offender registry so that they can make better decisions and be prepared for the criminal justice process.

4. Provide training to teachers to help identify and distinguish between appropriate and concerning behavior

As more and more frequently teachers are becoming responsible for reporting inappropriate behaviors to

school officials and even law enforcement, it is important that they are trained to recognize appropriate and inappropriate behavior and how they should respond when concerned.

According to the National Center for Missing and Exploited Children, “Programs on child safety that are taught in the schools should be designed to increase children’s ability to recognize and avoid potentially dangerous situations and help better protect themselves. Equally important is the development of self-esteem at every level of the educational process, because children with self-confidence are less likely to be victimized.”¹⁵⁷

“Providing the public with accurate information about sex offending is central to successful prevention and management efforts.”

—MADELINE M. CARTER AND
LAURA MORRIS OF THE CENTER FOR
SEX OFFENDER MANAGEMENT¹⁵⁰

APPENDIX A

Cost analysis methodology

The Justice Policy Institute calculated estimates of the potential costs of coming into compliance with Title I of the Adam Walsh Act (AWA) based on the fiscal impact drafted by one state. States that complete individual, comprehensive analyses based on their unique statutory and law enforcement characteristics may arrive at different figures. Regardless of individual state differences in statutes, technology, and law enforcement resources, the added staff and technology needed to come into full compliance with the AWA is sure to exceed the Byrne funds that would be lost by not complying.*

In the Virginia Department of Planning and Budget's *Fiscal Impact Statement for Proposed Legislation, Senate Bill No. 590* — ID# 08-0244806,¹⁵⁸ the state found that implementing a registry and notification system that would be in compliance with the Adam Walsh Act would cost \$12,497,267 in the first year of implementation. This figure appears to include the hiring of 99 new sworn personnel and other support staff. The Justice Policy Institute chose to use Virginia's fiscal impact statement of Senate Bill 590 because it was the most comprehensive analysis available.

To arrive at the fiscal analysis based on Virginia's cost estimate, JPI used the following methodology:

1. Determined the predicted number of people who will reside in Virginia in 2009 by multiplying the number of people in Virginia in 2007 by 1 percent, which is an estimate of the average growth of the population of the United States.¹⁵⁹
2. Divided Virginia's estimated total cost (\$12,497,267) by the predicted number of people living in Virginia in 2009 to get the cost per person of compliance with the Adam Walsh Act in Virginia. The cost per person is \$1.59.
3. Determined the predicted number of people in each state in 2009 by multiplying the number of people in the state by the projected average increase of 1 percent.
4. Multiplied the predicted number of people in each state in 2009 by \$1.59 (the cost per person of coming into compliance with AWA in Virginia).

To arrive at 2009 state allocations for the Edward Byrne Memorial Justice Assistance Grant, JPI used the allocations allotted for Byrne grants for 2006.¹⁶⁰ In May 2008 the Senate had unanimously voted to authorize the Byrne grant program at fiscal year 2006 levels until 2012. In July 2008, the bill also passed the House of Representatives.¹⁶¹

Although these numbers are estimates, Virginia would have overestimated the cost of coming into compliance with the Adam Walsh Act by a factor of 31 to break even with the Byrne funds that could potentially be lost by non-compliance.

* According to the Association for the Treatment of Sexual Abusers, California, Colorado, Arizona, and Washington are also completing fiscal impact statements related to coming into compliance with the Adam Walsh Act.

APPENDIX B

State by State Registration Survey 2007

State	Juvenile Registration	Juvenile Community Notification	Termination of Juvenile Registration	Comments
ALABAMA	YES	YES	YES	
ALASKA	NO	NO	NO	
ARIZONA	YES	NO	YES	
ARKANSAS	YES	YES	YES	Separate registration laws for juveniles
CALIFORNIA	YES	NO	NO	Only juveniles sent to the adult correctional system are required to register. Juveniles on probation are not required. This means that 95 percent of juveniles are not required to register.
COLORADO	YES	YES	YES	Juveniles under age 18 can petition for removal upon successful completion of and discharge from the sentence.
CONNECTICUT	YES	NO	NO	
DELAWARE	YES	NO	NO	
FLORIDA	YES	NO	NO	Juveniles are not required to register unless they are sentenced as an adult.
GEORGIA	NO	NO	NO	
HAWAII	YES	NO	NO	
IDAHO	YES	NO	YES	Juveniles must be at least 14 years old to be put on the registry and they are required to register until the age of 21.
ILLINOIS	YES	NO	YES	
INDIANA	YES	YES	YES	Juveniles are only required to register if they are at least 14 years old and found by the court by clear and convincing evidence to be repeat offenders.

IOWA	YES	YES	NO	
KANSAS	YES	NO	NO	Separate registration laws for juveniles
KENTUCKY	NO	YES	NO	
LOUISIANA	NO	NO	NO	
MARYLAND	NO	NO	NO	
MASSACHUSETTS	YES	YES	NO	
MICHIGAN	YES	NO	NO	
MINNESOTA	YES	NO	YES	
MISSISSIPPI	YES	YES	YES	
MISSOURI	YES	NO	NO	Separate registration laws for juveniles
MONTANA	YES	NO	NO	A judge determines the need for a juvenile to be on the registry based on information from the probation officer and sex offender treatment provider. Separate registration laws for juveniles.
NEBRASKA	NO	NO	NO	
NEVADA	YES	NO	YES	
NEW MEXICO	YES	YES	NO	Juveniles must be at least 14 years old at the time of the offense and are subject to the same community notification requirements as adults. If a juvenile is convicted as a "youthful offender" he/she will be listed on the registry if the court determined at sentencing that he/she is a danger and not amenable to treatment.
NEW YORK	NO	NO	NO	
NORTH CAROLINA	YES	YES	YES	Separate registration laws for juveniles. Laws only apply to juveniles who are at least 11 years old at the time of the offense and found by the court to be a danger to the community.

NORTH DAKOTA	YES	NO	NO	
OHIO	YES	YES	YES	Juveniles must be at least 14 years old or older to be on the registry.
OKLAHOMA	YES	NO	YES	Juveniles must be at least 14 years old or older to be on the registry. Separate registration laws apply.
OREGON	YES	YES	YES	
PENNSYLVANIA	NO	NO	NO	
TENNESSEE	NO	NO	NO	
TEXAS	YES	YES	YES	The court may defer registration requirements or de-register a juvenile.
UTAH	YES	NO	NO	Individuals who have had to register as a juvenile and who commit a subsequent offense as an adult are subject to lifetime registration.
VERMONT	NO	YES	NO	
VIRGINIA	NO	YES	NO	
WASHINGTON	YES	YES	YES	
WASHINGTON, D.C.	NO	NO	NO	
WEST VIRGINIA	NO	NO	NO	
WISCONSIN	YES	YES	NO	Separate registration laws apply to juveniles.
WYOMING	NO	NO	NO	

ENDNOTES

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