

Recommendation from: Research/Dual Status Subcommittee

Recommendation to: Federal Advisory Committee on Juvenile Justice

RECOMMENDATION: Existing federal law should be amended to explicitly exempt juveniles (all persons who were below the age of 18 at the time of their offense) from all sex offender registration, community notification, and residency restriction laws.

Rationale: Since the passage of federal law requiring the registration of juvenile sex offenders, a wealth of studies have shown no net measurable public safety benefits but have identified multiple unintended negative consequences to youth, victims of sexual abuse and families of both:

Youth are different from adults

Offender registries and community notification laws were developed with adult predatory offenders in mind. But juveniles are not younger versions of adult predatory sex offenders. Studies of adolescent brain development reveal that children and teenagers are impulsive, emotional, and present-oriented. Their developing brains often ignore, discount, or fail to comprehend the consequences of their actions for themselves or others. Sexual offending by juveniles is generally less aggressive, less deviant, often experimental, and occurs over shorter periods of time, compared to the predatory offending envisioned by proponents of registries. As the adolescent brain matures, risky and illegal behaviors, including sexual offending, tend to disappear into adulthood.

Juvenile sex offenders are at very low risk of reoffending

Recidivism rates for juvenile sex offenders are consistently low, less than 10% in most studies, with most re-offenses of a non-sexual nature. Studies show that only 2.5% to 5% of juvenile sex offenders are reconvicted for a sex crime.

Registration does not reduce recidivism

Studies indicate that the registration of juvenile sex offenders is not associated with reductions in future sex crimes, or other crimes, and may in fact create barriers to the types of positive development, education, employment and interpersonal relationships which reduce risks for reoffending. Consequently, registries produce no measurable public safety benefit.

Registration undermines the charging process

Studies indicate that prosecutors are more likely to drop charges, reduce charges, or engage in plea bargaining to avoid triggering juvenile sex offender registration requirements, thus circumventing the law's intent, creating inconsistent patterns of practice and potentially undermining public confidence in the juvenile justice system.

Registration has life-long negative impacts on juveniles

Juveniles placed on sex offender registration experience social stigma, isolation, depression, financial burdens and suicidal thoughts. They face numerous obstacles to completing education, seeking employment, obtaining housing, and maintaining stable family relationships. Together these effects may increase risks for criminal conduct and minimize a young person's long term chances of becoming contributing members to society.

Registration may harm victims of sexual offending

When juveniles engage in sexually abusive behaviors, victims are often members of the immediate or extended family due, in large part, to the unique developmental underpinnings of problematic youth

sexual behavior. As a result, the registration, community notification and restrictions on housing and other community activities imposed on youth may also have profound harmful and lasting consequences for victims of sexual offending.

Registration laws across the country are a hodgepodge of inconsistency

While intended to promote uniformity and consistency, the opposite has occurred. Only seventeen states are substantially in compliance with the federal requirements and five states have refused to cooperate. Of those that do comply, or are struggling to comply, there is wide variation in the offenses included, the costs required, the length of registration, and the specific restrictions on the juvenile offender.

Federal requirements limit states' abilities to craft local solutions to youth offending

States seeking to align their law and policy with research on reducing risks for reoffending, protecting victims and improving youth outcomes are disadvantaged by federal requirements for the registration of youth and potential penalties for failure to comply. Removing juveniles from federal registry requirements would allow states to craft evidence-based law and policy to protect public safety and improve youth and victim outcomes.

Registration is an expensive unfunded mandate on states

Many states have struggled with the costs associated with establishing or expanding their offender registry and adding additional law enforcement resources to ensure offender compliance. Furthermore, states not in compliance are subject to hefty financial penalties that cut funding from other important programs designed to enhance public safety.

CONCLUSION:

Existing federal law should be amended to explicitly exempt all persons who were below the age of 18 at the time of their offense from all sex offender registration, community notification, and residency restriction laws. Federal juvenile sex offender registration laws are inconsistent with research and evidence based practice; fail to promote public safety; have long-term adverse impacts on registrants; may harm victims of intrafamilial abuse; are not cost effective; limit states' abilities to craft evidence-based policy and practice, are being substantially resisted or undermined at the state level; and fundamentally ignore the burgeoning science of adolescent brain development. The time is ripe to remove juveniles from federal registry requirements.

Sources: *"Raised on the Registry, The Irreparable Harm of Placing Children on Sex Offender Registries in the US," Human Rights Watch, 2013; "Child Maltreatment, Our Minds Are Made Up So Don't Confuse Us With The Facts: Commentary Concerning Children with Sexual Behavior Problems and Juvenile Sex Offenders," Mark Chaffin, Sage Publications, 2009; "Revising Harmful Policy: An Inside Look At Changes to US Juvenile Sex Crime Laws," Elizabeth J. Letourneau, Presentation to the Federal Advisory Committee on Juvenile Justice, March 18, 2016; "Youths Who Sexually Abuse: What Works," Sue Righthand, Presentation to the Federal Advisory Committee on Juvenile Justice, March 18, 2016; "Community Based Services for Youth with Problematic Sexual Behavior, Child Victims and Caregivers," Jane F. Silovsky, Presentation to the Federal Advisory Committee on Juvenile Justice, March 18, 2016; "Juvenile Sex Offenders and SORNA, National Conference of State Legislatures," May 2011; "Costs And Benefits Of Subjecting Juvenile to Sex-Offender Registration and Notification," Richard B. Belzer, R Street Policy Study #41, September 2015; "Improving Illinois's Response to Sexual Offenses Committed By Youth: Recommendations for Law, Policy and Practice," Illinois Juvenile Justice Commission, March 2014; "Some States Refuse to Implement SORNA, Lose Federal Grants," Prison Legal News, September 2014.*