

Sex Offender Registration and Notification Policies Don't Work with Youth

Pathways for Promising Futures Conference
June 12, 2012

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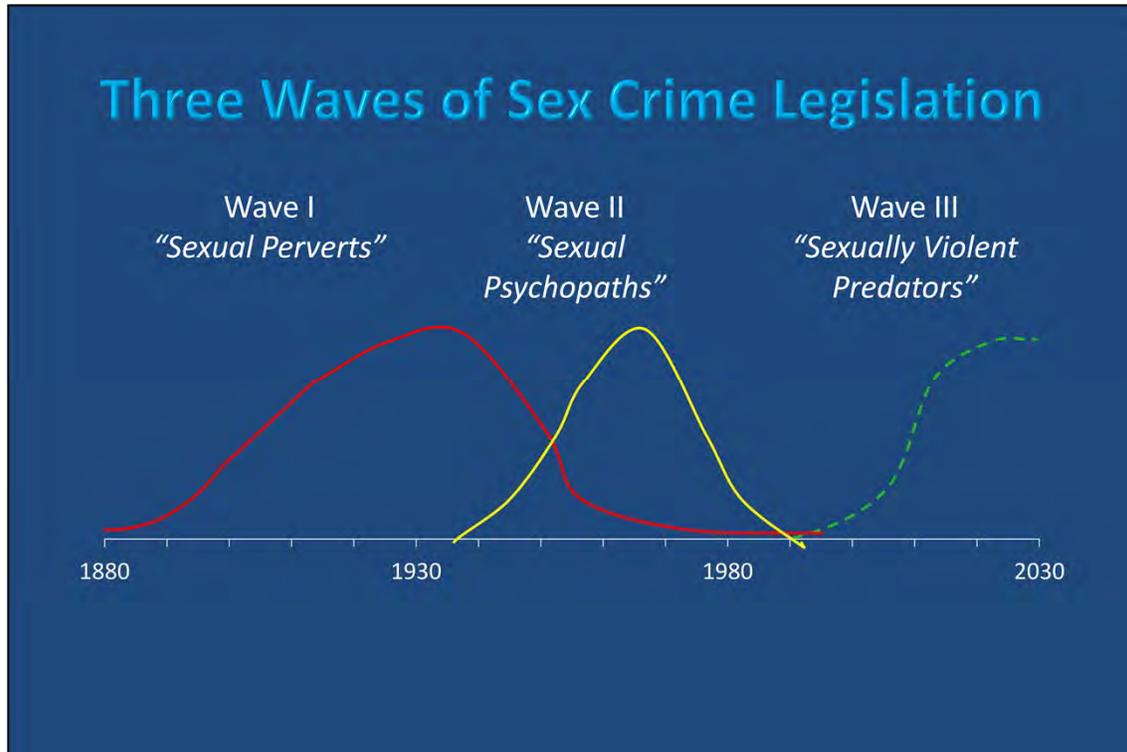
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Overview

Part I: U.S. Sex Crime Legislation

Part II: Effects of Sex Crime Policies

Part III: Policy Recommendations



The US has experienced three waves of sex crime legislation, starting in the late 1800's when professionals in the nascent field of sexology colluded with proponents of eugenics to convince the country that so-called sexual perverts were on an immutable trajectory from their first offense—whatever that may be—toward rape and murder. Local and state jurisdictions created policies permitting the involuntary institutionalization and sterilization of sexual perverts.

Forced sterilization of US citizens eventually fell out of favor, in part because eugenics became associated with Nazism .

However, fears about sex offenders resurfaced in 1937 following a horrendous crime committed by Albert Fish against children (Barbara Schwartz, 2003). 30 states ultimately passed so-called sexual psychopath laws, in which some sex offenders who were deemed mentally ill and lacking the power to control their sexual impulses could be institutionalized in lieu of incarceration.

Pre-incarceration commitment policies fell out of favor largely because the criteria for distinguishing sexual psychopaths from other sex offenders were flawed and treatment was viewed as ineffective. Then, in the early 1990's fear about sex offenders resurfaced—fanned again by sensational media coverage of exceptional cases. Believing that sexually violent predators were untreatable, policy makers in 21 states created post-incarceration civil commitment policies.

Parent activism following horrific child sex crime cases helped resurrect civil commitment—though now following rather than preceding incarceration and introduced registration and notification. Following several horrific cases resulted in sex offender registration and then community notification policies.

Wave I: Sterilization & Incapacitation

John H----, aged 17



- Reason for operation:
Degenerate practices—
allowing other prisoners to
commit sodomy on him.

- The operation apparently has
had the desired effect, at least
we have had no further
trouble with him.

Owens-Adair, B. A. (1922). *Human Sterilization* (p. 145).
Portland, OR: Metropolitan Press

According to Dr. Owens-Adair, an enthusiastic proponent of eugenics and sterilization, prison officials at the Oregon State Penitentiary reported on the sterilization of many people, including this 17-year-old boy, referred to only as John H.

Today it is embarrassing to read Owens-Adair's book. To know that well-educated citizens much like ourselves supported such barbaric practices, especially against children.

Wave II: Pre-incarceration Commitment

Elvry Stoneham, aged 17



- Reason for commitment: At 12 adjudged a ward of juvenile court because he was in danger of leading a lewd and dissolute life.
- At 17 returned for parole violations to the Youth Authority which found him to be a mentally disordered sex offender.

In re Stoneham [232 Cal. App. 2d 337]

According to the petition, this youth was never adjudicated for or convicted of a sexual offense. The court ultimately held that his commitment was inappropriate due to technicalities and ordered that he be remanded to the Youth Authority so that a probation officer can request that “provision be made for the welfare of the person” (i.e., involuntary commitment).

Wave III: Registration and Notification

Johnnie, aged 15 years



- ▣ Reason for public registration: At 11 he fondled and received oral sex from his younger sister
- ▣ Adjudicated and sent to residential treatment
- ▣ Following treatment, pictured on the Delaware internet registry
- ▣ His first suicide attempt came 2 weeks later, after classmates learned of his registration

Jones, M. (2007). *How can you distinguish...* NYT Magazine

Johnnie is featured in a New York Times Magazine cover article published in 2007 and authored by Maggie Jones. After serving as a “model client” at a residential treatment site for 16 months, he was shuttled between family members and between schools.

The mother of a middle school classmate found him on the registry and word leaked out to other classmates, who called him rapist and sex offender and threatened to beat him up. He switched schools repeatedly, attempted suicide at least twice and struggles with depression.

Are We Registering the “Worst of the Worst”?

Michael Caldwell and more recently Ashley Batastini have examined federal juvenile registration

- ▣ Most children adjudicated for sexual offenses (60-70%) will be required to register
- ▣ Tiering disproportionately places low risk youth in higher tiers
- ▣ Recidivism rates for children meeting tier criteria are low (<2% sex recidivism)
- ▣ Recidivism rates for children meeting criteria do not differ from those not meeting criteria

The Department of Justice SMART Office is tasked with helping states comply with the registration and notification policy requirements of the Adam Walsh Act. Laura Rogers was the first director of SMART. She defended registration and notification of children by stating that only the “worst of the worst” were required to register.

PART II POLICY EFFECTS

These policies were designed to deter sexual offending

- ▣ Do policies based on a few extraordinary cases work?
- ▣ Could policies make things worse, despite good intentions?

The Public Strongly Support Registration/Notification

Surveys document near universal support for registration and notification:

- ▣ Makes people feel safer
- ▣ Makes people more likely to report suspicious behavior
- ▣ Makes offenders behave better
- ▣ I would support these policies even if there is no scientific evidence showing that they reduce sexual abuse:
 - 73% “true” or “partially true”



Slide credits: Kurt Bumby, Jill Levenson

Offenders Subjected to Notification Often Suffer Severe Social Harm

Surveys of offenders and their families document possibly risk-enhancing effects:

- ❑ Loss of social supports, isolation
- ❑ Harassment of partners and children
- ❑ Loss of housing and employment
- ❑ Verbal/physical harassment

So what?

Registered offender victim of arson



Sex offenders' killer found names on state site



Slide credit: Kurt Bumby

Sustained social support, employment, and housing have been identified as three key components necessary for successful reentry of offenders into their communities.

Registration & Notification Do Not Deter Sexual or Violent Recidivism

NO DIFFERENCES

Tewksbury et al, in press
Letourneau et al., 2010 (adult)
Letourneau et al. 2009 (juv)
Veysey, Zgoba, & Dalessandro, 2009
Zgoba et al., 2009
Sandler, Freeman & Socia, 2008
Vásquez, Madden & Walker, 2008
Letourneau & Armstrong, 2008 (juv)
Zevitz, 2006
Adkins et al., 2000
Schram & Milloy, 1995

REDUCED RECIDIVISM

Duwe & Donney, 2008
WSIPP, 2005

INCREASED RECIDIVISM

Sandler & Freeman, 2010
Letourneau et al., 2009 (juv)
Letourneau & Armstrong, 2008 (juv)

South Carolina Program of Research

- ▣ CDC (R49 CE00567) and NSF (SES 0455124) funded research examining policy effects on juveniles
 - NIJ (2006-WT-BX-0002) funded our similar adult-focused research
- ▣ All juvenile charges and adjudications from 1990-2006
- ▣ All adult arrests and adjudications from 1990-2006
- ▣ Males only

Similarity Between SC & Adam Walsh Act

Adam Walsh Act

- Offense based
- Includes no risk assessment process
- Lower age limit of 14
- Requires lifetime registration for juvenile registrants

SC Registration/Notification

- Offense based
- Includes no risk assessment process
- No lower age limit
- Requires lifetime registration for juvenile registrants
- Requires public notification for juvenile registrants

Description of SC Registered Youth

From January 1995 to July 2006:

- ▣ 12% of registered offenders ($N = 855$) were 17 years or younger at offense
- ▣ Mean age at adjudication = 15 years ($SD = 1.6$ years); youngest was 8 years old
- ▣ Mean age at initial registration = 21 years ($SD = 7$ years); youngest was 10 years old
- ▣ 98% were male
- ▣ 55% were African American; 45% White

Note that the wide range of age at initial registration is due to retroactivity of SC's policy

Sex Offenses That Resulted in Registration

The most common index sex offenses included:

▣ Criminal sexual conduct w/minor	33%
▣ Criminal sexual conduct (CSC)	31%
▣ Lewd act on child under 16	18%
▣ Assault w/intent to commit CSC	8%
▣ Indecent exposure/voyeurism	5%
▣ Aggravated assault/battery	2%

Note that judges can expand SORN (e.g., to non sex offenses like assault/battery) but have no legal grounds on which to limit SORN in SC

Study 1: Policy Effects on Recidivism

This study included all juvenile sex offense adjudications from 1990-2004

- ▣ $N = 1,275$ male youth adjudicated for sex offenses
- ▣ Mean follow-up: 9 years
- ▣ Follow-up included charges/convictions in juvenile or adult justice records

Letourneau, E. J., Bandyopadhyay, D., Sinha, D., & Armstrong, K. S. (2009). The influence of sex offender registration on juvenile sexual recidivism. *Criminal Justice Policy Review*, 20, 136-153.

Sexual Recidivism Was Rare for Juveniles

- ▣ 32 or 2.5% youth had new sex crime convictions
- ▣ New sex crime charges predicted by:
 - Offense-free years in community (negative)
 - Older age at index offense (negative)
- ▣ Being registered did not predict new sex crime convictions

Supervision Effect

- ▣ Registration status was associated with new nonsexual/nonviolent offense charges but not convictions
- ▣ These results suggest a supervision effect

Study 2: Policy Effects on General Deterrence

This study examined whether registration/notification deterred first-time sex crimes

Trend analyses included data on 26,574 youth charged with 28,288 crimes from 1990-2004

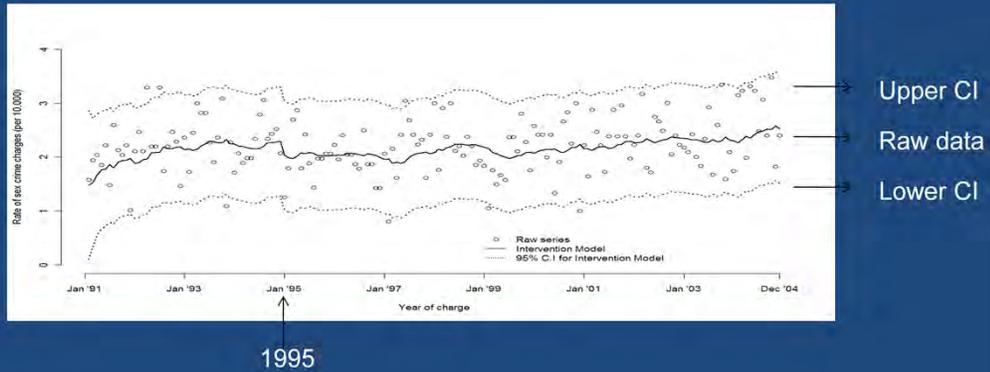
- 3,148 youth charged with sex crimes
- 23,046 youth charged with assault crimes
- 2,094 youth charged with robbery crimes

Letourneau, E. J., Bandyopadhyay, D., Armstrong, & Sinha, D. (2010). Do Sex Offender Registration and Notification Requirements Deter Juvenile Sex Crimes? *Criminal Justice & Behavior*, 37, 553-569.

Auto-regressive Iterative Moving Average

No General Deterrence

No significant reductions in rates of first time sex crimes following 1995 enactment of registration/notification policy



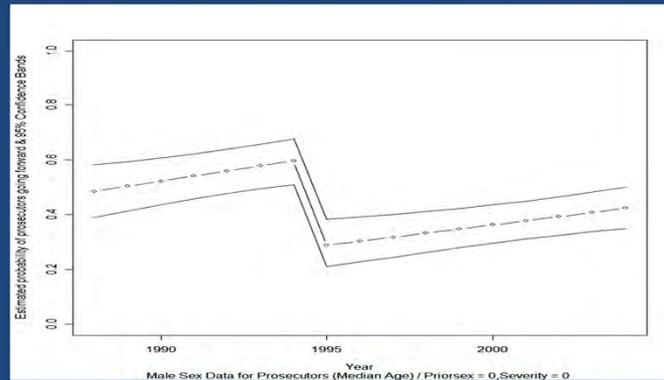
Study 3: Policy Effects on Judicial Case Processing

- ▣ This study examined likelihood of solicitors prosecuting juvenile sex offense cases
- ▣ Examined all violent offending cases from 1990-2004:
 - All juvenile sex crime charges ($N = 5,503$)
 - All juvenile assault crime charges ($N = 14,095$)
 - All juvenile robbery crime charges ($N = 2,942$)

Letourneau, E. J., Bandyopadhyay, D., Sinha, D., & Armstrong, K. S. (2009a). The effects of sex offender registration policies on juvenile justice decision making. *Sexual Abuse: A Journal of Research and Treatment*, 21, 149-165.

Registration/Notification Reduced Likelihood of Prosecution

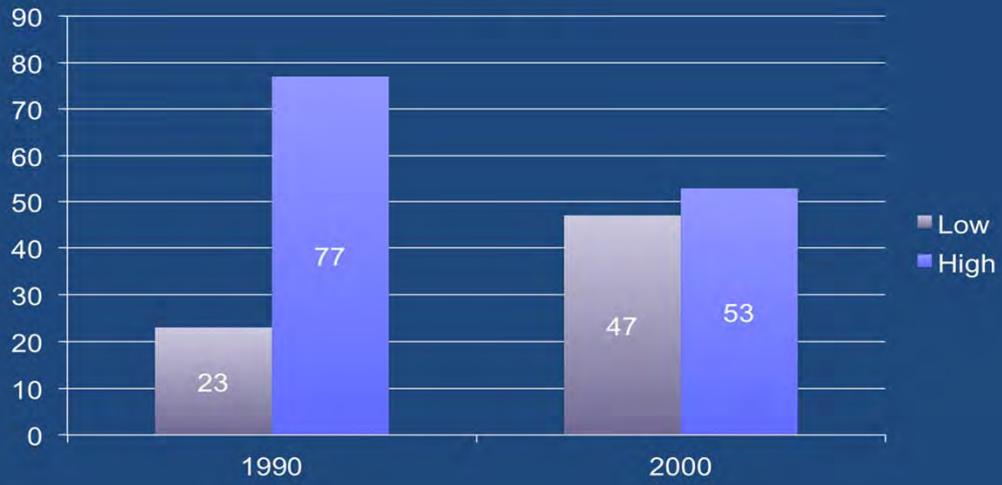
41% reduction in the odds of prosecutors moving forward on juvenile sex crime cases following registration enactment



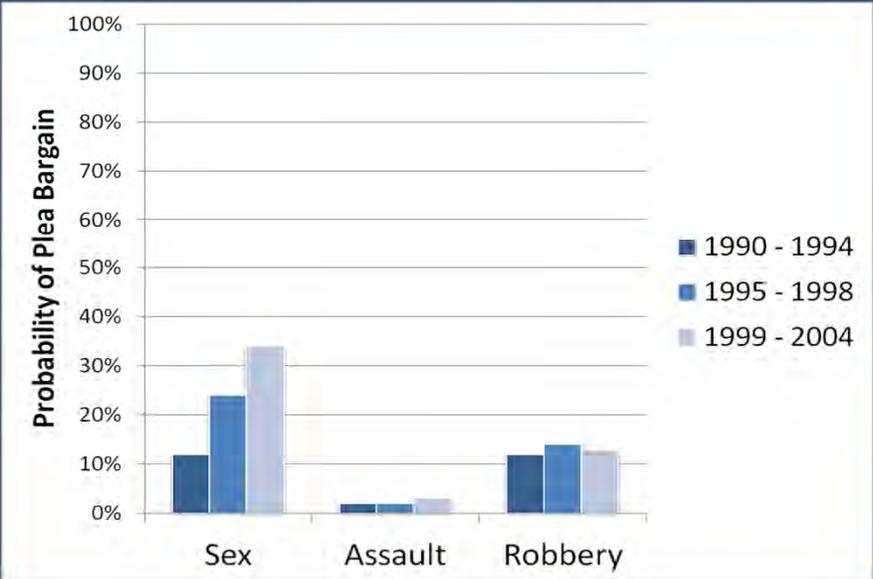
Notification Associated with Increased Guilty Determinations

- ▣ 67% increase in the odds of a guilty disposition after 1999 than before (95% confidence interval: 14% to 144%)
- ▣ We suspected that more youth were accepting plea bargains
- ▣ Evidenced by higher rate of less severe charges following notification

Percent of Cases with Lower vs. Higher Severity Charges

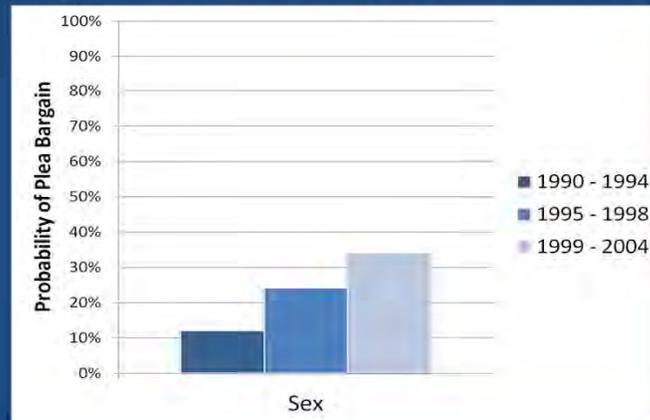


Study 4: Policy Effects on Plea Bargains



Plea Bargain Results

- 124% increase from pre-SORN to post-SORN
- Additional 50% increase from post-SORN to online SORN



- 8% reduction in odds per year increase in age
- 17% reduction in odds for minority relative to nonminority defendants

Summary

South Carolina's registration/notification policy is conviction-based, requires life-long registration, and subjects youth to community notification

This policy

1. Overwhelming targets low risk youth
2. Fails to reduce sexual or violent recidivism
3. Increases risk of nonviolent charges
4. Fails to reduce first-time sex crimes
5. Deters solicitors from prosecuting juvenile sex crime cases and encourages plea bargains

Does the Policy Cause Harm?

<u>Child</u>	<u>Family</u>	<u>Peer</u>	<u>School</u>	<u>Community</u>
Depression	Siblings harassed	Bullying	Unfair Treatment	Child & family ostracized by neighbors
Anxiety	Friends/family abandon parents	Ostracism	Frequent School Changes	Family forced to relocate
Suicidality	Parents abandon child	Deviant Peers	Expulsion	Child targeted by predators

We have no empirically rigorous proof that registering children and subjecting them to public notification as sex offenders causes them any harm. Nevertheless, based on adult reports of harm and anecdotal reports by children and their parents, we are deeply concerned that these policies cause harm in every system in which children are embedded.

My colleague Andrew Harris and I will be conducting a survey of children and parents to determine whether problem occurrence and severity across these systems fluctuates systematically with intrusiveness of registration and notification requirements.

Part III: POLICY RECOMMENDATIONS

Several policy changes seem warranted:

- ▣ Eliminate all notification requirements for juveniles
- ▣ Eliminate all registration requirements for juveniles
- ▣ AT THE VERY LEAST
 - Restrict registration requirements to highest risk youth as identified by the best available methods
 - Limit duration of registration; for example, link duration to formal supervision
 - Eliminate all additional consequences triggered by registration (e.g., school & residency restrictions, GPS monitoring)

Collateral consequences of SORN for juveniles & adults
residency restrictions
prohibitions from public school
GPS monitoring

Is Wave III Ending?

- ▣ United States Attorney General dropped ALL child notification requirements from AWA
- ▣ SMART Office has certified as compliant states with “light” juvenile registration requirements
- ▣ Amendments to AWA reauthorization would remove juvenile registration requirements
- ▣ States refusing to comply with AWA
- ▣ Legal challenges reaching state supreme courts

THE TIDE IS TURNING

Under Ms. Baldwin, the new SMART director, child notification requirements were dropped.

Representative Bobby Scott from VA has offered amendments that would make juvenile registration optional

Texas and New York have formally refused to comply with juvenile registration and other aspects of AWA

SC and OH supreme courts have heard or agreed to hear challenges to child notification

Given broad public support for registration/notification, it seems likely that the only additional “real” change will come from the courts.

SORNA is a Floor not a Ceiling

Pittman and Nguyen, 2011

- 
- 35 states subject children to SORN requirements
 - 7 states register children for life
 - 25 states subject children to public internet notification
 - Several states post pictures of prepubescent children
 - Some states have thousands of children on their registries

Nicole Pitman and “Quin New Win” summarized each state’s child registration and notification policies as of 2011.

And lest you think the US stands alone,

The UK recently ruled lifetime registration as unconstitutional

The case was brought by a person who was adjudicated for rape at the age of 11 and required to register for life following 30 months of incarceration

Australia does not register youth, to my knowledge, but subjects children to a policy that limits their professional choices following adjudication

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