

Pros and cons of sex offender registration laws



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Criminal recidivism poses a serious risk to public safety. In the middle 1990's, the United States passed a series of laws to deal with the sex offender threat to the public. The legislative solution for the problem of sex offenders was found in sex offender registration and notification laws. This legislation stemmed from a series of highly publicized incidents where the offender had prior record of committing sexual offenses and where the crimes often resulted in a murder of a child in addition to the sex offense. Today, these same laws punish all sex offenders, without regards to the nature or circumstances surrounding the crime. Sex offender laws should be modified to fit the nature of the crime.

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Sex offender laws, originally, were designed to protect the children of a community. Harsher sex offender laws must surely protect children more effectively; unfortunately, this is neither accurate nor constitutional. It is inaccurate for its reliance on unproven recidivism statistics and false claims of security, and unconstitutional for its excessive and punitive effect. The

Jacob Wetterling Crimes against Children and Sexually Violent Offender Registration Act of 1994 formalized the practice of registering sex offenders in centralized databases. It was Megan's Law, however, that is credited with making the information on sex offender registries accessible to the public. Both of these laws stemmed from sex crimes against children, which resulted in the death of the child. Today, the same laws govern sex offenders, regardless of if their crimes involved a child or resulted in the death of the victim. Some registered sex offenders' crimes did not actually involve the act of sex.

The face of registration includes Dean Edgar Weisart, who was convicted of indecent exposure for skinny-dipping with his girlfriend in a hotel pool in 1979 and then required to register more than twenty years later. It contemplates offenders such as Ricky Blackmun, whose family moved to Oklahoma from Iowa for a fresh start after Ricky was convicted as an adult sex offender for having sex with a thirteen-year-old girl when he was sixteen. Even though Ricky's record was expunged in Iowa, he was required to register as a tier III sex offender- the highest level- in Oklahoma until a change in law terminated his duty to register. Registration rolls are also populated by children- adjudicated juvenile offenders who, despite their ages, face the same burdensome registration requirements for certain offenses, as do convicted adults.

The face of registration also compromises offenders displaced from their homes because of onerous residency restrictions. (Berlin v. Evans, 923). In South Florida, numerous convicted offenders live under the Julia Tuttle Causeway, a large bridge, because there is no community in South Florida
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where they may reside without violating residency restrictions (Skipp 2010). In Georgia, Anthony Mann, a registered sex offender was prohibited from entering the restaurant he half owned and ran because child-care facilities located themselves within 1000 feet of Mann's business.

Society has long detested sex offenders, a group which has traditionally been considered to be among the most heinous and repulsive of all criminals as evident by historically harsh treatment and their subjectivity to “severe sentencing laws” (Quinn et al. 2004). Recent responses have included publicly accessible sex offender registries developed under the guise of increasing community awareness of sex offenders. Sex offender registries and notification procedures were also created with the intent of promoting public shaming and societal ostracism (Blair 2004). Quinn and colleagues (2004) describe this shaming or “branding” as a mechanism used by society to control deviance throughout history. In short, shaming is useful for establishing and publicizing boundaries between persons and groups. Registries and notification procedures are not without problems, however, and have been deemed to be “a flawed strategy for controlling sex crime” (Presser and Gunnison 1999, p. 311).

One of the major tenets of sex offender registration and notification laws is the idea that sex offenders are more likely to recidivate than other types of offenders. This is also one of the biggest myths about sex offenders according to the Center for Sex Offender Management (2001). From a review of sex offender recidivism studies, Sample (2001, 106) argued that because of “methodological difficulties, differences in sample size, and variability in

follow-up lengths, most studies report inconsistent levels of reoffending among sexual offenders.”

Hanson and Bussiere (1998) conducted a meta-analysis of studies on sex offender recidivism. From an international sample of 87 research projects (representing 28, 972 sex offenders), the average recidivism rate for sex offenses was only 13. 4%, while the average recidivism rate for any offense was 36. 3%. Findings on offender characteristics showed that only age and marital status predicted sex offense recidivism. This was particularly true if the offender had prior sexual offenses, victimized strangers, had an extrafamilial victim, began offending at an early age, had a male victim, or had engaged in diverse sexual crimes. Sex offenders who committed new crimes that are non-sexual in nature were those most likely to have used force against their victims and less likely to have chosen child victims.

Hanson and Bussiere (1998, 357) argued that their findings “ contradict the popular view that sexual offenders inevitably reoffend . . . even in studies with thorough search and long follow-up periods the recidivism rate almost never exceed 40%.”

History has shown that a collective response to a national problem concerning safety and security does not necessarily make it the right one. Today’s sex offender registry laws are no longer rationally connected to their regulatory purpose, more driven to appease a fearful public, legislation has been transformed into excessive criminal penalties. It is time to provide meaningful guidance on the parameters that will support the states’ interest in keeping their communities safe while providing constitutional protections to offenders.

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