



## Is It Wise to List Juvenile Sex Offenders on Public Registers?

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In modern times, the United States has dealt in individualized ways with children and youth accused of crimes. A juvenile accused of an especially horrendous offense can be tried in adult court and sent to prison. But usually youthful offenders are separated from adults, tried in family courts, and sent for confinement and treatment outside of adult prisons. Such separate treatment makes sense given research on adolescent development and the clear possibilities for rehabilitating many youthful offenders. Established U.S. juvenile justice practices are also consistent with the Convention on the Rights of the Child, an international human rights treaty that the United States has signed and will hopefully ratify in the near future.

Yet recently the United States struck off in a new direction for one category of youthful wrongdoers – juvenile sex offenders. In 2006, Congress passed the Sex Offender Registration and Notification Act (also known as the Adam Walsh Child Protection and Safety Act in memory of a Florida child abducted and later found murdered). This law requires inclusion on a standardized official sex offender registry of any juveniles aged 14 years or older who commit certain sexual offenses, without regard for individual circumstances or assessments about whether that child is likely to commit future offenses. The law federal threatens states with a ten percent reduction in federal funding for crime-fighting if they continue to follow longstanding practices of treating youthful sex offenders like others in the juvenile justice system. Why is the United States moving away from established commitments to treating young offenders in special ways that protect their prospects for rehabilitation? And is it good public policy to list juvenile sex offenders on public registries?

### A Dubious Step

The requirement for states to publicly register youth convicted of sex-related crimes was adopted by Congress even though public registries have a questionable record of achieving their objective of preventing future offenses – and even though research has established that juvenile sex offenders rarely repeat similar crimes later in life.

The underlying theory of sex offender registration is that it will help parents, neighbors and local authorities identify potential predators in their communities and protect vulnerable children from coming into contact with them. However, the vast majority of sex crimes involve perpetrators violating victims such as family members who are personally known to them. Registers cannot prevent such crimes, but they emerged in response to highly publicized horrific cases of rape and murder of children by strangers. Proponents have tended to cast ever-wider nets – and now the requirement for public registration has reached juvenile offenders along with adults.

Prior to the 2006 law, many U.S. states were reluctant to handle juvenile sex offenders in the same way as adults.

- As of 1998, only seventeen states had required juveniles to register if they had been adjudicated delinquent for sexual offenses. Some states required registration only for juveniles transferred for trial in the adult system, and other states gave judges discretion. They could order registration for particular juvenile sex offenders deemed at strong risk to repeat offenses, or if there were clear aggravating circumstances.
- By 2003, 28 states provided for registration of juveniles judged guilty of certain serious sexual offenses, and the number using this approach grew to 36 by 2006. But about half of these three dozen states still allowed judges considerable room for discretion about individual offenses and circumstances.
- Some states permitted juveniles who demonstrated successful rehabilitation to be removed from registries – a step consistent with the longstanding rehabilitative philosophy of juvenile justice and consistent with research evidence that most juvenile sex offenders do not repeat this kind of violation.

### The Unstable Current Policy Situation

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What is the situation now? Research I have done with Carole Peterson finds that, as of 2011, thirteen states made no distinction between juvenile and adult offenders in registry requirements. But twelve states did not require juvenile registration unless the youth was tried as an adult. The remaining 25 states fell in the middle, permitting registration and community notification, but leaving room for judicial discretion based on individual assessments. The national Sex Offender Registry aims to draw all states into a standardized system of registering sex offenders, yet the majority of states are not fully complying. Some are reluctant to limit prospects for rehabilitation, while others point to the costs of compliance.

Those costs are truly high for public authorities as well as the offenders themselves. Federal law mandates in-person verification four times a year; each time, offenders must appear before officials, pose for new photographs, and verify registry data. In 2011, Congress introduced a bit of flexibility, allowing states to exempt certain juveniles from public web disclosure and avoid notifications to schools, social services and public housing managers. But of course individual flexibility is also costly, and brings additional risk (what if officials assess risks mistakenly?)

Federal courts are weighing in, too. In the recent case *Miller v. Alabama*, the U.S. Supreme Court determined that for a juvenile a mandatory life sentence without parole amounts to cruel and unusual punishment, even when the crime is homicide. Along with their own second and third thoughts, this ruling may prompt federal and state officials to give further consideration to how best to handle youngsters who commit serious crimes, including sex offenses.

The basic question remains as it always has been: while protecting public safety, can we sanction and treat young offenders in ways that allow most to change their ways and go on to live productive lives? Proclaiming youthful sex-related offenses on a public registry takes a step in the opposite direction from traditional juvenile justice practices designed to foster such rehabilitation – to the detriment of young offenders and society alike.