

Testimony for NE Judiciary Committee hearing

written by Brenda Jones | September 28, 2019



Negative Consequences of Public Registration

By Brenda and Sandy . . . In 2009, Nebraska adopted the tiering system of the Adam Walsh Act, overnight essentially doubling its public database by pulling previously non-public registrants onto its published sexual offender registry, individuals who had already paid their debts to society and were moving forward with their lives.[\[1\]](#) Many had married, started families, built or rebuilt meaningful careers, and were contributing, tax-paying members of Nebraska society. All of this came to an abrupt halt when their names were put on the public list.

The Adam Walsh Act does not make any actual assessment of risk, instead simply lumping all persons with particular offenses into its three tiers. In the years since AWA was first introduced, there has been no evidence that published registries have had any significant benefit to public safety. In fact, Nebraska found that after the transition was made to

everyone being publicly listed, sexual recidivism actually increased: “Specifically, the pre-LB 285 classification system resulted in a 2-year recidivism rate of 1.7% and a 1-year recidivism rate of 0.6%. In comparison, the post-LB 285 classification system resulted in a 2-year recidivism rate of 2.6% and a 1-year recidivism rate of 1.7%.”[\[2\]](#) In addition, many studies have appeared indicating the societal harm registries cause, not only to former offenders but also to their families and to their communities who are deprived of a stable, contributing member.

No Reduction in Offenses

Registries have been promoted from their beginning as a way to reduce future offenses, especially sexual abuse of children. Studies are simply not proving them to be effective at this for several reasons. Registration imposes such severe costs, such as stigma, limitations to housing and employment, and psychological stress, that this can actually hinder rehabilitation.[\[3\]](#)

Review of other statistics found that there simply has not been any significant decrease in arrests as a result of registration, either for new offenses or via stopping recidivism, which is already quite low. One analysis in Washington DC stated, “Knowing where a sex offender lives does not reveal much about where sex crimes... will take place.”[\[4\]](#)

Although some have observed a slight decrease in new crimes, this may actually be due to fewer people reporting. One of the greatest fears of a victim is of being disclosed as a victim. An overwhelmingly high majority of sexual assault is committed by persons known to the victims. The younger the victim, the more likely this is to be the case. Studies show an average of 96% of child sexual abuse involving minors ages one through sixteen occurs between a victim and someone within the family, a peer, or an adult authority figure.[\[5\]](#) As a result of the close proximity between victim and offender, many persons

choose not to report at all, rather than risk exposing their abuse. As one police officer explained in testimony to the House Committee on the Judiciary, "Victims tell us that their greatest concerns are their family knowing about the assault (71%), and people outside the family knowing about the assault (68%). *The last thing we want to do is create disincentives to victims and their families to report.*" [6]

Public Shaming, Physical Harm, and Murder

Regardless of the severity of their crimes, persons on the registry are consistently targets for public shaming, harassment, and even violence. A 17-year-old boy who had had consensual sex with a 13-year-old who had claimed to be 16 was kicked out of school due to being on the registry. [7] A man convicted for consensual sex with a 15-year-old he later married, remarked, "My wife and I get pulled over constantly because our license is registered to a sex offender." He has "...received telephone calls from people calling him a child molester and threatening his life." [8] Another young man convicted at 17 for having consensual sex with his age-14 girlfriend reported having feces left at his door and a stone thrown through his window with a note saying he should watch his back. [9]

The violence certainly does not end with rocks. For example, in 2006, the news reported two registrants murdered in Maine. [10] Again in 2012, two more registrants in Washington state were shot and killed, and the perpetrator explained that he hated sex offenders and "...it had to be done." [11] Just a year later, a registrant and his wife were murdered by a man who had randomly selected him from the registry. The murderer had planned to kill more. [12] And these are simply several examples of this recurring problem.

Inability to Become a Productive, Tax-Paying Citizen

According to the US Department of Justice, "Meaningful

employment can provide a stabilizing influence by involving offenders in pro-social activities and assisting them in structuring their time, improving their self-esteem, and meeting their financial obligations,” and is likely to help prevent recidivism.[\[13\]](#) But with the registry publicly proclaiming a person’s past conviction and very often listing the person’s employment address, the challenge of finding and keeping employment is far worse than that of any other convicted person’s. One study in New Jersey reported that 52% of those publicly registered had lost jobs as a result of community notification.[\[14\]](#) It should go without saying that a person who is unemployed or underemployed is not going to be able to contribute to his or her community through income or property taxes.

Collateral Harm to Families

The impact of the registry on individuals, their families, and society is powerful and negative, interfering for a lifetime with their ability to earn, to provide safety and security for their families, and to participate in many expected parental duties.

The incredible stigma and ostracization placed on persons required to register deeply impacts their families. Spouses, parents, and children of registrants experience the same fear and financial insecurity as do their loved ones. Studies are consistently showing that the instability caused by public registration increases fear, anxiety, depression, and anger in families of registered persons.[\[15\]](#) When a family must deal with such struggles, often with little money or personal resources, the community ends up shouldering the burden through services of various sorts.

Providing a Path Off

One ray of light in this otherwise bleak landscape is being allowed to petition for removal from the registry requirement.

Slightly over half of our states have a statute in place addressing this issue, but close inspection reveals that few registrants are eligible to apply for this relief, and even fewer are able to succeed. Furthermore, a significant number of states, at least fourteen, deny it outright to all who are registered.[\[16\]](#)

West Virginia is one such. There are no codified paths for removal from either the requirement to register or from the registry itself. West Virginia has no risk level assessments; thus, those moving to West Virginia are assigned the requirement, a lifetime requirement for most, with no due process, assessment of risk, or provision for relief. West Virginia is not the only state for which this holds true.[\[17\]](#)

One West Virginia registrant describes the impact of this on his life.[\[18\]](#) “I must relive my worst day and my worst act for life. I am unredeemable for life. I may never prove that I am not a risk. I may never work towards redemption. Those I love and who love me are condemned with me as long as they are with me. I feel like a modern-day leper, a scarlet letter recipient without any hope of redemption. My crime, for which I completed all court-ordered punishment years ago, was over twenty years ago, but it might as well have been yesterday.”

As a contrast, North Carolina provides a relief process for registered citizens who are not otherwise designated as aggravated, recidivists, or sexually violent predators by allowing registrants to petition for removal ten years after being placed on the state’s sex offender registry.

Robin was originally convicted in Virginia but returned to his home state of North Carolina in 2009.[\[19\]](#) He successfully petitioned for removal from the registry in August, 2019, and is no longer burdened by any of the onerous requirements imposed by that state’s registration and notification scheme. “I am certainly very thankful to be living in a state where it’s still possible to be removed. But it’s not something I

crow about because there's nothing to prevent North Carolina's legislature from going back in the statutes and imposing a lifetime requirement. I'm very cognizant of this, and I don't want to do or say anything that might encourage North Carolina to adopt the same lifetime model that exists in other states. As an advocate who opposes sex offender registries entirely, I'm also sensitive about how my fellow advocates may feel about my successful removal, especially if they're stuck living in a state where no such removal process is available," Robin said.

The negative impact on individuals, families, and society as a whole as a result of publicly listed sexual offender databases is severe. Even more egregious are situations where those with past sexual crime convictions have been fully rehabilitated and are well established as responsible, law-abiding, contributing citizens only to be pulled back into the morass of the registry with the retroactive application of registry requirements. A clear path off of the registry is essential to the redemption of registered citizens, but even that is denied them in many of our states.

Such negative impact to so many, and with no redeeming or beneficial elements to help offset the negativity, is something America must not allow to continue.

[\[1\]](#) *Nebraska Sex Offender Registry Study*, Final Report, University of Nebraska at Omaha, Ryan Spohn, PhD., Director. At 9 (July 31, 2013).

[\[2\]](#) Ibid at 2

[\[3\]](#) Jill S. Levenson, David A. D'Amora & Andrea L. Hern, *Megan's Law and its Impact on Community Re-Entry for Sex Offenders*, 25 BEHAV. SCI. & L. 587, 598 (2007) ("[S]ocial policies that ostracize and disrupt the stability of sex offenders are unlikely to be in the best interest of public safety.");

Amanda Y. Agan, *Sex Offender Registries: Fear Without Function?*, 54 J.L. & ECON. 207, 213 (2011).

Elizabeth J. Letourneau, Jill S. Levenson, Dipankar Bandyopadhyay, Debajyoti Sinha & Kevin S. Armstrong, *Evaluating The Effectiveness Of Sex Offender Registration And Notification Policies For Reducing Sexual Violence Against Women* 4, 9–10 (2010), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/231989>.

4 Amanda Y. Agan, *Sex Offender Registries: Fear Without Function?*, 54 J.L. & ECON. 207 (2011).

5 Office of Juvenile Justice and Delinquency Prevention *Statistical Briefing Book* (2008).

[\[6\]](#) *Sex Offender Registration and Notification Act (SORNA): Barriers to Timely Compliance by States: Hearing Before the Subcomm. on Crime, Terrorism and Homeland Sec. of the H. Comm. on the Judiciary*, 111th Cong. 89 (2009) (statement of Robert Shilling, Seattle Police Dep't, Sex & Kidnapping Offender Detail, Sexual Assault & Child Abuse Unit, Seattle, Wash.), at 91–92.

[\[7\]](#) Dan Gunderson, *Sex Offender Laws Have Unintended Consequences*, Minn. Pub. Radio News (June 18, 2007), <http://minnesota.publicradio.org/display/web/2007/06/11/sexoffender1>

[\[8\]](#) Libby Lewis, *Murders Put Focus on Sex-Offender Registry Policies*, NPR (Apr. 21, 2006, 3:33 PM), <http://www.npr.org/templates/story/story.php?storyId=5355980>.

[\[9\]](#) Human Rights Watch, *No Easy Answers: Sex Offender Laws In The U.S.* 9, 9–10 (2007), available at <http://www.hrw.org/sites/default/files/reports/us0907webwcover.pdf>

[\[10\]](#) *Ibid*, at 91.

[11] See Doug Esser, Two Sex Offenders Shot to Death on Olympic Peninsula, The Seattle Times (June 4, 2012, 10:13 AM), http://seattletimes.nwsources.com/html/localnews/2018353214_apwasexoffenderkillings1stldwritethru.html

[12] Jeremy Moody, S.C. Man, Killed Registered Sex Offender, Planned to Target Other Offenders, Police Say, CBS.COM (July 25, 2013), http://www.cbsnews.com/8301-504083_162-57595477-504083/jeremy-moody-s.c-man-killed-registered-sex-offender-planned-to-target-otheroffenders-police-say.

[13] Ctr. For Sex Offender Mgmt., U.S. Dep't Of Justice, Time To Work: Managing The Employment Of Sex Offenders Under Community Supervision 1 (2002), available at www.csom.org/pubs/timetowork.pdf.

[14] Wayne A. Logan, Knowledge As Power: Criminal Registration And Community Notification Laws In America 25 (2009).

[15] Jill Levenson & Richard Tewksbury, Collateral Damage: Family Members of Registered Sex Offenders, Am. J. Of Crim. Justice 54, 62-64 (2009), available at http://www.opd.ohio.gov/AWA_Information/AW_Levenson_family_impact_study.pdf (data from 584 family members living with a registrant on the impact of registration laws).

[16] <http://ccresourcecenter.org/state-restoration-profiles/50-state-comparison-relief-from-sex-offender-registration-obligations/>

[17] Ibid.

[18] Philip is a registrant from West Virginia and member of NARSOL's Board of Directors.

[19] Robin Vander Wall is a former registrant from North Carolina and member of NARSOL's Board of Directors.