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## **ASSERTION: PUBLIC REGISTRIES PROVIDE NO MEASURABLE PROTECTION FOR CHILDREN OR THE GENERAL PUBLIC YET ENDANGER THE WELL-BEING OF CHILDREN AND FAMILY MEMBERS OF REGISTRANTS**

### ***Executive Summary***

*Scant evidence exists that registries play any meaningful role in protecting children or the general public from sex offenders. Registries are ineffective because the rationale for them is based on a number of fallacies, including that sex offenders are at high risk of re-offending and that individuals unknown to the victim commit the majority of sex offenses. In fact, the vast majority of sex offenders never re-offend and family members and other acquaintances are responsible for more than 90 percent of sex crimes against children. Besides being ineffective in accomplishing their purported goals, registries may ironically make it more likely that an individual will re-offend because they impede the offender's reintegration into the community. In addition, registries can cause a host of intended negative consequences for the children and families of offenders. These include harassment, physical assault, limited residential options, social isolation, loss of family income, shame and stress.*

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Sex offender registries were created to assist law enforcement agencies in tracking and monitoring a category of offenders believed to be at high risk of re-offending and to allow members of the community to protect themselves from those who have committed prior sex offenses. Often, however, laws establishing registries were passed in response to a particularly abhorrent crime against a child with little attention given to whether they are effective in accomplishing their stated goals or considering their unintended consequences.

In fact, laws establishing sex offender registries are based on a number of faulty assumptions, particularly that sex offenders are at high risk to re-offend and that

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offenses against children are most likely to be committed by strangers. Moreover, studies have shown that not only are registries not effective in achieving their purported goals but they may make it more likely that a sex offender commits a future crime.

A Human Rights Watch study noted that, “Sex offender laws are based on preventing the horrific crimes that inspired them—but the abduction, rape, and murder of a child by a stranger who is a previously convicted sex offender is a rare event. The laws offer scant protection for children from the serious risk of sexual abuse that they face from family members or acquaintances. Indeed, people children know and trust are responsible for over 90 percent of sex crimes against them.”

The report went on to state that, “Sex offender laws are predicated on the widespread assumption that most people convicted of sex offenses will continue to commit such crimes if given the opportunity. Some politicians cite recidivism rates for sex offenders that are as high as 80-90 percent. In fact, most (three out of four) former sex offenders do not re-offend and most sex crimes are not committed by former offenders.”<sup>i</sup>

Patty Wetterling is the mother of a young boy named Jacob Wetterling who was abducted in 1989, and was the impetus for a law signed by President Clinton that for the first time required states to create sex offender registries. Patty Wetterling at the time was a strong advocate for registries, but has since reconsidered. She said in an interview that, “I based my support of broad community-based notification laws on my assumption that sex offenders have the highest recidivism rates of any criminal. But the high recidivism rates I assumed to be true do not exist. It has made me rethink the value of broad-based community notification laws, which operate on the assumption that most sex offenders are high-risk dangers to the community they are released into.”<sup>ii</sup>

A George Mason University professor who has extensively studied this country’s sex offender policies points out that “the crimes that most spur public outrage—the abduction, rape and murder of children—are exceedingly rare. Statistically, a child’s risk of being killed by a sexual predator who is a stranger is comparable to the chance of being struck by lightning...”

He continued, “Advocates for laws to register, publicize and monitor sex offenders after their release from custody typically assert that those convicted of sex crimes pose a high risk of sex crime recidivism. But studies by the Justice Department and other organizations show that recidivism rates are significantly lower for convicted sex offenders than for burglars, robbers, thieves, drug offenders and other convicts. Only a tiny proportion of sex crimes are committed by repeat offenders, which suggests that current laws are misdirected and ineffective.”<sup>iii</sup>

A University of Albany study looked at the differences in sexual offense arrest rates before and after the enactment of the sex offender registration law in New York. Its finding was that “Results provide no support for the effectiveness of registration and community notification laws in reducing sexual offending by: (a) rapists, (b) child

molesters, (c) sexual recidivists, or (d) first-time sex offenders. Analyses also showed that over 95% of all sexual offenses arrests were committed by first-time sex offenders, casting doubt on the ability of laws that target repeat offenders to meaningfully reduce sexual offending.”

The same report noted a study done by the U.S. Department of Justice that found that only 5.3% of the nearly 10,000 sex offenders released from prison in 1994 were rearrested for a new sex offenses within three years of being released. In addition, the University of Albany researchers examined a number of other recently done study looking at this same issue. They said, “Despite the differences in methodologies, all of these studies found limited support for the effectiveness of registration and community notification laws to reduce sex offenders to rearrest and re-conviction rates.”<sup>iv</sup>

Unfortunately, legislators crafting the laws that govern sex offense registries too often discount, or are simply ignorant of, the many studies showing the low recidivism rate for sex offenders. This disregard of the facts reaches to the highest levels. For example, in a U.S. Supreme Court ruling mandating a therapy program for a convicted sex offender, Justice Anthony Kennedy cited what he termed “such a frightening and high risk of recidivism” among sex offenders—a rate that he said “has been estimated to be as high as 80%.” But this often-quoted number is not from a study at all. It was published in a 1986 article in the consumer magazine *Psychology Today* that was written by a counselor, not a researcher, and provided no source or supporting evidence for the claim.<sup>v</sup>

The number of individuals on registries has now soared to nearly 850,000,<sup>vi</sup> and includes many convicted of nonviolent offenses who pose no threat to the community. A New York University report noted that, “As registries expand, they become even less useful to both the public and law enforcement. The vast over inclusiveness of many registries...makes it harder for police officers to identify and monitor those offenders who actually pose a public safety risk.”<sup>vii</sup>

Assistant Attorney General of Louisiana, Emmy Devillier, stated in testimony before a U.S. Congressional hearing that “as a prosecutor who has specialized in sex crimes, I can tell you that SORNA’s [the Sex Offense Registration and Notification Act] offense-based...retroactive system is over inclusive, overly burdensome on the state, exorbitantly costly, and will actually do more to erode community safety than to strengthen it.”<sup>viii</sup>

Ironically, a study published in 2011 by the University of Chicago Journal of Law & Economics found that sex offender registration may actually increase the number of sex offenses committed. While registration was seen to possibly deter some individuals not already on the registry from committing sex offenses, it “has the perverse effect of increasing recidivism among registered sex offenders.” According to the researchers, the reason for this is that registration “imposes severe costs” that offset the benefits of not reoffending. “These costs,” the researchers wrote, “include social stigma and limitations

on where offenders may find housing and employment, which in turn cause psychological stress and hinder rehabilitation.”<sup>ix</sup>

The New York University report mentioned above noted similarly that the “direct and collateral consequences of offender registration can make it enormously difficult for registrants to find housing and employment and create meaningful ties to a community after conviction. There is no evidence that these laws enhance community safety—to the contrary, they may cause registrants to feel isolated and impede them from seeking treatment, which may make them more likely to re-offend.”

Aside from ignoring research that registration laws have a questionable effect on preventing sex offenses, lawmakers have been disinclined to consider the negative effects that sex offender registration has on the lives of their children and other family members.

Their names, addresses and photographs publicly available on the Internet, registered sex offenders can be the target of self-styled vigilantes who feel entitled to deal out their own forms of “justice,” sometimes violently. The threat is not only to the offender, but to others living within their household. In New Jersey, a father and son broke into the house of a registered sex offender whose address they found through on the Internet. They proceeded to beat a man they mistook for the registrant.<sup>x</sup> A man in Washington state confessed to killing two recently released sex offenders who he located using a sex offender community notification website maintained by the local sheriff’s department.<sup>xi</sup>

Those on the registry, and by extension their families, are limited in where they are permitted to reside. They are barred from living in some jurisdictions entirely. In others they cannot reside within certain distances of schools, public parks, day care centers, bus stops and other places minors may gather, even if their offense had nothing to do with children. The result is they may be forced to relocate to less desirable areas that lack access to public transportation, mental health services and other resources important to both the registrant and family members.<sup>xii</sup>

Individuals on the registry can face serious challenges in obtaining employment, limiting their ability to provide adequately for their families. In a study published in the American Journal of Criminal Justice looking at the collateral damage caused by registration laws, 82% of the family members surveyed said the registered sex offender had “a very hard time finding a job because employers don’t want to hire a registered sex offender, and this has created financial hardship for my family.”<sup>xiii</sup>

Registered sex offenders are routinely face severe restrictions on their ability to attend functions at the school their child attends. Typically, permission from a school official must be sought for each event the registrant wishes to attend, such as participating in a parent/teacher meeting or watching a school play or sporting event in which the child is involved. While such permission is often granted, it is not guaranteed. A study polling a random sample of school principals in Kentucky found that “all types of schools

principals are unlikely to grant permission, regardless of event or school type.”<sup>xiv</sup>

“Families can serve an important stabilizing role by providing support for offenders and assisting their reentry. The collateral consequences of registration instead punish families, however, by decreasing their financial security and limiting their access to housing. As studies have shown, this instability increases the rate of fear, anxiety, depression and anger in the families of registered sex offenders.”<sup>xv</sup>

A review published in the American Journal of Public Health reported that a team of researchers found that 67% of registered sex offenders in their study said their families suffered emotional distress as a result of community notification. The review noted “This finding indicates that, whereas some may advocate the need for ‘shame and blame’ effects of community notification, rarely do we consider the impact, by proxy, on the registered sex offender’s family.”<sup>xvi</sup>

The study published in the American Journal of Criminal Justice cited above summarized that “a direct survey of family members themselves revealed that they are affected in important ways that are sometimes subtle and not obvious to others...Most family members of RSO’s (86%) reported that SORN has caused stress in their lives. 77% often felt a sense of isolation, and 49% often felt afraid for their own safety due to public disclosure of the sex offender’s status. Half had lost friends or a close relationship as a result of community notification and 66% said that shame and embarrassment often kept them from engaging in community activities. These adverse consequences of SORN laws were correlated with increased stress levels in RSO family members.”<sup>xvii</sup>

The researchers concluded that “whether intended or not, the criminal justice system, via SORN polices, extends punishments to a wide swath of society beyond sex offenders. In particular, the impact on children of sex offenders is worthy of contemplation. Whether we like it or not, many sex offenders have children of their own, and they encounter stigmatization as a result of their parent’s RSO status. Those who are truly without culpability—and many times already victims—are punished through SORN policies and their consequences.”<sup>xviii</sup>

the consequences.”<sup>xviii</sup>

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ii <http://www.citypages.com/news/patty-wetterling-questions-sex-offender-laws-6766534>

iii [http://www.nytimes.com/2011/08/21/opinion/sunday/sex-offenders-the-last-pariahs.html?\\_r=0](http://www.nytimes.com/2011/08/21/opinion/sunday/sex-offenders-the-last-pariahs.html?_r=0)

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<http://www.rethinking.org.nz/images/newsletter%20PDF/Issue%2078/C%2002%20watchedpot.pdf>

v <https://casetext.com/analysis/the-supreme-courts-crucial-mistake-about-sex-crime-statistics>

vi [http://www.missingkids.com/en\\_US/documents/Sex\\_Offenders\\_Map.pdf](http://www.missingkids.com/en_US/documents/Sex_Offenders_Map.pdf)

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- viii Sex Offender Notification and Registration 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, 11th Cong. 58 (2009)
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