



ASSERTION: PUBLIC REGISTRIES WERE ORIGINALLY PRESENTED AS A MEANS FOR TRACKING PERSONS CONVICTED OF THE MOST HEINOUS OFFENSES, BUT THEIR REACH HAS EXPANDED EXPONENTIALLY TO INCLUDE EVEN TEEN SEXTING AND CONSENSUAL RELATIONS BETWEEN YOUNG PEOPLE

Executive Summary

Current public registries grew out of a series of heinous crimes against children. Their original intent was to protect minors against strangers who, having committed serious sexual offenses previously, were seen at high risk of doing so again. However, today many states are putting individuals, including many juveniles, on registries whose offenses were nonviolent and who pose minimal risk to the community. Registries do little to curb the first-time offender who is responsible for the vast majority of sexual offenses and who is usually a family member or acquaintance of the victim. Critics of current registration practices call for a remake of the system so that resources can be directed toward education, prevention, and a focus on repeat offenders and those at greatest risk of endangering the public.

Law enforcement agencies have long maintained their own files on those convicted of crimes, but it was California that created the first sex offense registration program in 1947, primarily targeting gay males.ⁱ Nearly 50 years would pass before Washington in 1990 became the first state to establish a community notification program narrowly focused on those considered to be its most dangerous offenders.ⁱⁱ

In the years that followed, a series of heinous attacks on children that received extensive media coverage prompted legislators to expand public registry and notification programs and to include an ever-growing number of individuals within them. Often, these new laws were named after the child victim, surrounding them with an emotional appeal that tended to blunt consideration of their practicality and fairness.

Five years after the abduction of 11-year Jacob Wetterling in Minnesota in 1989, an act named for him was signed by President Clinton that required states to create a sex offense

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registry—accessible only to police—intended to help them quickly locate those who may have committed a sexual offense. The law set guidelines for police to confirm an offender’s place of residence annually for ten years following his or her release into the community, or every three months for life if the individual had been convicted of a violent sex crime.ⁱⁱⁱ

Shortly after the signing of that bill, news outlets around the country reported on the rape and murder in New Jersey of 7-year-old Megan Kanka by a neighbor who, unbeknownst to her parents, had previously served time for attempted sexual assault of another child. Megan’s parents argued that if they had known someone convicted of a sex offense lived nearby, they could have protected their child. Accordingly, in 1996, President Clinton signed Megan’s Law, which for the first time provided for the public dissemination of information from the state registries established by the Jacob Wetterling Act.^{iv}

With enactment of Megan’s Law, the United States became the only nation in the world besides South Korea to provide public access to such information. A few other nations (Australia, Canada, France, Ireland, Japan, New Zealand, South Africa and the United Kingdom) maintain limited registries that deliberately restrict access to law enforcement agencies.^v

More federal laws followed over the next several years, setting additional guidelines for registration and community notification, culminating in the Adam Walsh Child Protection and Safety Act—also known as the Sex Offender Registration and Notification Act (SORNA)—signed by President Bush in 2006. The law is named for a Florida boy who was abducted from a Florida shopping mall and was later found murdered. The legislation to set it up was heavily lobbied for by Adam’s father, the television personality John Walsh.

The Walsh Act creates a national compilation of state registries and imposes rules on states, under the threat of losing federal crime prevention funds, designed to bring uniformity to the information each posts on the Internet. It categorizes registrants into three tiers based on the severity of the offense(s) for which they were convicted. Those in the most serious category (Tier 3) are required to update their whereabouts every three months for life. Those in Tier 2 must update their whereabouts every six months for 25 years, and those in Tier 1 must update their whereabouts every year for 15 years of registration.^{vi}

Despite the intent to establish uniformity, more than 30 states have refused to comply with all the conditions of the act, citing concerns ranging from how the program works to how much it costs. Many states have balked at the act’s requirement that all juveniles 14 and older who have committed aggravated sexual assaults must be registered for 25 years. Also, at least half a dozen states limit public access to just Tier II and Tier III individuals.^{vii}

Despite the narrow scope of the early registration programs focusing on violent offenders such as rapists and repeat offenders who pose the highest risk to the community, registries now include many individuals whose offenses are nonviolent, and in some cases not even

related to sexual activity. Despite the low risk these individuals pose, they suffer the same severe restrictions on their activities and social stigma that violent offenders face.

Depending upon the state, an individual may be placed on the registry for public urination, streaking, exposing their genitals, or hiring a prostitute. An increasing number are individuals who as children or teenagers themselves had sex with a willing, but younger, partner, or who sent sexually-oriented images of themselves or their partners via their phone or computer.

- In Texas, a woman who had lost custody of her son fled with him to Mexico claiming she needed to protect him from her abusive former husband. She was later arrested and convicted of aggravated kidnapping, yet was placed on the state's sex offense registry for ten years.^{viii}
- A Kansas man had begun having consensual, and legal, sex with his girlfriend when he was 17 and she was 15. But when he turned 18, what he was doing became illegal. The girlfriend's parents did not want to press charges, but the state persisted and pressured him into pleading guilty to a relatively minor charge of solicitation. However, he still deals with the consequences of being on the state's registry.^{ix}
- A Georgia woman got in trouble when she was a 17-year old high school student and she was caught performing a consensual sex act in a high school classroom with a 15-year old male. She was forced to register for 12 years before a class action challenge ultimately allowed her to apply to be released from the registry.^x
- A Michigan man was jailed and forced to register because police charged he allowed his 15-year old daughter to sleep with her 20-year old boyfriend. The father said he believed the boyfriend was 18, though even that would still have been illegal.^{xi}
- A man who had been charged with public urination in Massachusetts moved to Florida, where he was required to register. He was unable to live in the house he moved into because Florida law restricted those on the registry from living within a certain distance of a public park.^{xii}
- A 19-year-old Maine man had consensual sex with his 15-year old girlfriend. He served four months in jail for it, then was placed on the state's public registry. Five years later, his name and another man's were picked at random from the registry, and they were shot to death by a vigilante who then took his own life.^{xiii}
- An Illinois woman initiated a consensual sexual affair with her guitar instructor when she was just shy of 15. Five years later they were married. However, her husband is on the state's registry because they had sex when she was too young.^{xiv}
- A 15-year old boy was convicted of molesting his younger sister. He was

convicted as an adult and spent three years in an Arizona jail. He is now required to register every 90 days for the rest of his life.^{xv}

Public registries are defended as a way to protect children from strangers who pose a high risk to them. In fact, the value of public access registries is debatable. More than 9 out of 10 sexual offenses against children are committed by members of their own family or close acquaintances. An American Psychological Association analysis noted, “Despite the public perception that sex offenders are strangers stalking playgrounds and other areas where children congregate, the majority of offenses occur in the victim’s home or the home of a friend, neighbor, or relative.”^{xvi}

A 2008 University of Albany analysis of New York State’s sex offense registry found “...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.”^{xvii} Another 2008 study, done for the New Jersey Department of Justice and looking at the impact of Megan’s Law, found the law has no effect in reducing either sexual re-offenses or first-time sexual offenses, and that the growing costs of the registry “may not be justifiable.”^{xviii}

This explosive growth in the number of individuals on registries is challenging states to keep up the spiraling costs and manpower needs required to maintain their registries. In March 2014, the California Sex Offender Management Board, which oversees that state’s registration laws, recommended to the state legislature that only violent offenders such as kidnappers and sexual predators be compelled to register for life instead of everyone currently listed.^{xix} Today, anti-registry advocates, including NARSOL, favor elimination of the sex offender registry altogether as it has been found ineffective in meeting its stated goal of providing public safety.

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ⁱ <http://alj.am/1sMcvhY>

ⁱⁱ www.wsipp.wa.gov/ReportFile/920

ⁱⁱⁱ ojp.gov/smart/legislation.htm

^{iv} www.pameganslaw.state.pa.us/History.aspx?dt=

^v www.hrw.org/reports/2007/us0907/1.htm and en.wikipedia.org/wiki/Sex_offender_registration

^{vi} www.smart.gov/pdfs/practitioner_guide_awa.pdf

^{vii} <http://alj.am/1sMcvhY>

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