

Q&A: “Raised on the Registry”

1. What happens to youth sex offenders after conviction?

They must first serve out their sentence in juvenile detention or prison. After that, youth sex offenders (defined here as individuals found delinquent or guilty of having committed a sex offense between the ages of 8 and 17) must comply with a complex array of legal requirements applicable to all sex offenders, whether children or adults. These requirements, detailed below, can apply for decades or even a child’s entire life.

- **Registration laws:** Offenders must “register” with local law enforcement authorities, which involves disclosing detailed personal information, generally including a current photograph, current address, school attendance, place of employment, and other biographical details. Registrants must periodically update or “register” that information so that it remains current in each jurisdiction in which they reside, work, or attend school. Failure to register is a felony in many states and can carry lengthy prison sentences.
- **Community notification laws:** Law enforcement authorities in turn make information provided by registrants accessible to the public or portions of the public, often on searchable websites but in some jurisdictions via public meetings, fliers, newspaper announcements, highway billboards, postcards, or lawn signs.
- **Residency restriction laws:** Registrants are restricted in where they may live, and with whom. A growing number of states and municipalities have also prohibited registered offenders from living, or spending time, within a designated distance (typically 500 to 2,500 feet) of places where children often gather—for example, schools, playgrounds, daycare centers, and bus stops.

2. What is the purpose of these laws?

The overlapping systems of sex offender registration, community notification, and residency restrictions were initially designed to help police monitor the “usual suspects”—that is, to capture the names and addresses of previously convicted adult sex offenders on a list—with the goal of protecting children and communities from further instances of sexual assault.

3. What kinds of offenses have child registrants typically committed?

The offenses range from heinous crimes like rape to offensive or vulgar, but relatively innocuous, offenses like public nudity (say, streaking) or public urination. Some registrants have been convicted of engaging in consensual teen sex, or of touching another child’s genitalia over clothing. Many people assume that anyone listed on the sex offender registry must be a rapist or a pedophile. But most states spread the net much more widely.

4. Who, typically, are youth sex offender registrants?

Throughout the United States, children as young as eight who are adjudicated delinquent or convicted in adult court may be subject to sex offender registration laws. It is unknown how many persons are subject to registration laws for crimes they committed as children because there are no national statistics that disaggregate children from the larger sex offender population (which in 2011 numbered 747,408). We interviewed 281 registrants in 20 states and the median age at

which they were first placed on sex offender registries was 15. They came from a wide variety of social and family backgrounds. The majority were placed on a registry between 2007 and 2011. Because some state registration laws have been in place for nearly two decades, however, large numbers of people in the United States who began registering as children are now well into adulthood.

5. How widespread are sex offender laws?

Each state, US territory, and federally-recognized Indian Tribe now has its own set of sex offender registration, notification, and residency restriction laws, which can vary considerably between jurisdictions. Overlaying this diversity is a series of federal laws. As of 2011, most jurisdictions subjected children convicted of sex offenses in adult court to the same community notification regimes as adult sex offenders, and a majority registered both children convicted of sex offenses in adult court and those adjudicated in the juvenile system.

6. What is the harm experienced by youth sex offender registrants?

Youth sex offenders experience severe harms that can permeate every aspect of their lives. They include:

- **Psychological harm.** Youth sex offenders are stigmatized, isolated, and often become depressed. Many consider suicide, and some succeed.

Christian W. was 14 years-old when he went on the registry for sexually inappropriately touching his younger cousin. At age 26, Christian told Human Rights Watch, "I live in a general sense of hopelessness, and combat suicidal thoughts almost daily due to the life sentence [registration] and punishment of being a registrant. The stigma and shame will never fully go away, people will always remember." Tulsa, Oklahoma.

A youth offender who was placed on his state's registry at age 16, Nicholas T., told Human Rights Watch, "I have to display a sign in my window that says 'Sex Offender Lives Here'." Another said, "I have been registering since I was 12 years old. I am now 26. Sex offender registration is slow death by humiliation."

- **Physical violence and threats.** Many youth offenders, and often their families, suffer threats and physical violence.

Camilo F. was placed on the registry at age 14. He says strange cars started following him home from school. "One time a man from one of those cars yelled 'child molester' at me." Camilo said a week later several bullets were fired from a car driving by. "The bullets went through the living room window as my family and me watched TV." Gainesville, Florida.

Isaac has been on the registry since he was 12 years old; the victim of his offense was also 12. He told Human Rights Watch, "My brother, who looks like me, was once harassed and nearly beaten to death by a drunk neighbor who thought he was me." Spokane, Washington.

- **Denied access to education.** Many children convicted of sexual offenses are expelled from public school, and even for those who are not, residency restriction laws prevent them from being in or near a school.

Jacob C. was 11 years old when he when he was adjudicated delinquent of one count of criminal sexual conduct for touching, without penetrating, his sister's genitals, and was required to register in Michigan. After graduating from high school, Jacob attended a local university, but ended up dropping out. "I was harassed for being on the registry," he says. "The campus police followed me everywhere." Gainesville, Florida.

- **Difficulties in finding housing.** Registrants and their families struggle to find housing and may be forced to move out of their homes, experiencing periods of homelessness. Given the large number of parks, schools, daycare centers, and playgrounds in many localities—ruled off-limits to registrants by residency restriction laws—sex offenders may be severely limited in where they can live or even spend time.

Aaron I., who is on the registry in Florida for an offense committed at the age of 15, constantly struggles to find housing for himself and his wife and says he's banned even from living in a homeless shelter. "I have found a few places to rent but as soon as we move in the police and neighbors harass us until we get evicted. They keep us homeless." Palm Beach, Florida.

- **Separation of families.** Families of youth offenders also confront enormous obstacles in living together as a family—often because registrants are prohibited from living with other children, including siblings. In these instances, parents are forced to decide which of their children to keep in the home and which to place with a relative, family friend, or in the care of the state. Youth sex offenders who become parents later in life are often unable to participate in most of their children's activities, such as attending a school play, going to sporting events, or attending a birthday party. Individuals placed on the registry for offenses committed over a decade earlier, when they were children, cannot even pick up their own children at school.

A 10-year-old child, Cindy D., told us she can never have a birthday party at her own house. "I cannot bring my friends here because my father cannot be around other children," she said. Cindy's father, now 28, was 14 when he had consensual sex with his 13-year-old girlfriend. As a registered sex offender, he cannot have unsupervised contact with children under the age of 18. St. Louis, Missouri.

- **Difficulty finding or keeping a job.** Youth sex offender registrants often despair of ever finding employment. State and local laws often ban registered youth offenders from working anywhere near children. In many places, registered teens cannot seek jobs at local malls, fast food restaurants, camps, and recreational centers. In many states, current laws require registrants to provide their employers' business name and address, which is then posted on the Internet—further deterring employers from hiring them.

Elijah B. started registering at age 16. "I get hired and fired from so many jobs. I can usually keep a job for a few weeks until the employer's name and address goes up on the

sex offender registry [because registrants must provide this information]. Employers say its 'bad for business' to keep me on." Houston, Texas.

- **Economic hardship.** Depending on the jurisdiction, fines, registration fees, and related charges can end up costing hundreds or even thousands of dollars, with many of the costs payable annually. This can be a source of significant financial strain on both registrants and supportive family members.

One youth sex offender, Lydia B., told Human Rights Watch, "The fees are impossible to pay. The first year I received a bill to pay \$461 for court costs, \$2,500 fine, \$50 crimestoppers. That's \$3,000! If you don't pay it you go back to jail for failure to register." Killeen, Texas.

In Louisiana, an attorney for youth who commit serious offenses explained the considerable economic hurdles his clients face in meeting the registration requirements in the state: "The fees associated with registering as a sex offender are absurd. It would be hard for an individual who works a full-time job to be able to manage these types of fees." New Orleans, Louisiana.

- **Restrictions on movement:** Most jurisdictions impose "no loitering/child safety zones" around schools, playgrounds, parks, daycare centers, and other locations where children congregate, including even bus stops. Essentially these restrictions ban registrants from passing through certain areas of the city.

Blake G. was arrested at the age of 15 for having a sexual relationship with his 13-year-old girlfriend. Still a minor, he is banned from being within 300 feet of a place where children regularly congregate. "I have to look at a map before I walk anywhere," he told Human Rights Watch. "I can be arrested if I am walking anywhere near a school or park." Gainesville, Florida.

- **Restrictions on travel.** States differ as to which offenses trigger registration, and state systems do a poor job of working together to ensure registrants who travel are treated fairly.

Elijah B. started registering in Michigan at age 16 but later moved, and transferred his registration, to Texas. Twelve years later, he was arrested outside his workplace and extradited back to Michigan, where he sat in jail for three months, accused of failing to register in Michigan. He was finally released when a Michigan judge realized that Elijah was no longer required to register in Michigan. Houston, Texas.

- **Disproportionate punishment for failure to register.** The complex rules and regulations that govern the lives of sex offenders on the registry can be so onerous and labyrinthine, it is hard enough for adults to comply with them. Human Rights Watch's interviews suggest that compliance may be particularly difficult for children, for reasons linked to their youth and immaturity. Nevertheless, nearly all jurisdictions in the US have made failure to register a felony offense punishable by fines and imprisonment.

Gabriel P. was arrested in 1996 when he was 11 years old for sexually touching a playmate. He has not reoffended, but now, at age 26, he has three felony convictions and has served a total of six years in prison for failure to register associated with his inability to find housing. Bryan, Texas.

7. Shouldn't protecting children from sexual assault and holding sex offenders accountable take priority over the rights of sex offenders?

The harm that youth sex offenders have caused to their victims, family members, and communities can be harrowing, and offenders should be held accountable. As a human rights organization, Human Rights Watch seeks to prevent sexual violence and to ensure accountability for sexual assaults.

However,

- **Registration, community notification, and residency restriction laws impose disproportionately harsh and unnecessary punishment after youth offenders have already served their sentences.** Punishment should fit both the offense and the offender, and placing children who commit sex offenses on a public registry—often for life—is going too far. Registration imposes a range of detriments so all-encompassing that, layered on top of time in prison or juvenile detention, it constitutes ongoing punishment, even if not formally recognized as such by US courts.
- **There is little evidence that sex offender registries are effective.** Studies are inconclusive as to whether sex offender registries have any effect on incidence of reported sex offenses.
- **Sex offender registration overburdens law enforcement.** The vast majority of sex offender laws paint all offenders with the same brush, irrespective of the offense they commit and the level of threat they pose to their communities. This approach is ineffective at deterring crime because it overburdens law enforcement with large numbers of people to monitor, with the most dangerous offenders often supervised in the same way as low-risk offenders who are not likely ever to reoffend sexually. With thousands of new registrants added each year, law enforcement is stymied in an attempt to focus on the most dangerous offenders. Federal guidelines risk worsening the problem by mandating that states eliminate the use of risk assessment tools in determining which offenders must register. Instead states are now required to use “crime of conviction” as the sole means to classify offenders. This approach is flawed, since sex offenders differ greatly in their level of impulsiveness, persistence, risk to the community, and desire to change their deviant behavior. The crime of conviction alone provides too little information about the risk of re-offending. While the sex offender database grows exponentially, moreover, funding for the monitoring of sex offenders is on the decline.

8. What are common misconceptions about youth sex offenders?

- **Misconception #1: Children found guilty of a sex offense are likely to commit further sex offenses.** In fact, available research indicates people who commit sex offenses as children are among the least likely to reoffend. The recidivism rate among

kids who commit sexual offenses is believed to be between 4 and 10 percent (compare this to a 13 percent recidivism rate for adult sex offenders and a national recidivism rate of 45 percent for all crimes). Given the low recidivism rates of youth sex offenders, it is doubtful whether registration truly furthers the government's objective of protecting future victims from new sex offenses.

- **Misconception #2: Sex crimes tend to be committed by strangers.** In fact, evidence suggests that the overwhelming majority of sex offenses are committed by persons known to the victim. According to the Justice Department, 93 percent of sexually abused children are molested by family members, close friends, or acquaintances. This suggests that residency restrictions do little to prevent the most common situations in which children are likely to be harmed—by people they know, not by strangers lurking in schoolyards or at bus stops.
- **Misconception #3: Children are essentially younger versions of adults.** Early thinking about juvenile sexual offending behavior was based on what was known about adult child molesters, particularly the adult pedophile, under the mistaken belief that a significant portion of them began their offending during childhood. However, psychological research confirms what every parent knows: children, including teenagers, act more irrationally and immaturely than adults, and therefore cannot be held as culpable for their actions as adults are. The US Supreme Court has ratified this understanding in the context of criminal justice: “[O]ur history is replete with laws and judicial recognition’ that children cannot be viewed simply as miniature adults.” Children, moreover, are more amenable to rehabilitation and treatment as they mature, and sexual misconduct by children is generally less aggressive, more experimental, and likely to occur over shorter periods of time than adult sexual offending.

9. Could it be that recidivism rates are low *precisely because* registration laws are working as intended?

Available research suggests not. One study of 10 states with registries concluded that “the results do not offer a clear unidirectional conclusion as to whether sex offender notification laws prevent rapes.” A study in New Jersey found that sex offense rates have been on a consistent downward trend since 1985, with the data showing the greatest rate of decline before the passage of registration laws in 1994 and a slower rate of decline since their implementation in 1995.

10. If most sexual offenses are committed by persons known to the victim, doesn't it make sense to separate youth sex offenders from young family members?

In some cases, after an individualized process in which family members' interests are carefully weighed by experts, some youth sex offenders may need to be separated from their families. The key point is that the decision to split up a family should be carefully weighed and subject to review, not automatic.

11. So what's the alternative?

The United States should exempt youth sex offenders from public registration (registration in combination with community notification). It should also exempt all youth sex offenders from

registration schemes that are not specifically tailored to take account of the nature of their offense, the risk they pose (if any) to public safety, their particular developmental and cognitive characteristics, their needs for treatment, and their potential for rehabilitation.

Human Rights Watch urges federal, state, and local authorities to adopt a number of specific reforms, including the following:

- All persons who were below the age of 18 at the time of offense (youth sex offenders) should be exempt from all sex offender registration, community notification, and residency restriction laws unless evidence-based research demonstrates that registration of youth sex offenders provides a significant and measurable improvement in public safety that outweighs the harms to former youth offenders.
- Short of a full exemption, youth offenders should be placed on registries only after a judge determines by clear and convincing evidence at an evidentiary hearing that the youth poses a high risk of sexual reoffending. Youth offenders should be represented by counsel at such hearings and required evidence should include a risk assessment and recommendation from a panel of qualified experts using a validated risk assessment tool. The determination should be reviewed at least on an annual basis for as long as the registration requirement lasts, with the burden of proof on the state to prove that a registrant poses a public safety risk and must remain on the registry.
- If some youth offenders determined to pose a high risk of sexual reoffending are placed on sex offender registries, they should not be subject to community notification, Internet publication, or a record that is open to public inspection; their registry information should be used solely for purposes of law enforcement. No youth offender should be subject to lifetime registration requirements.
- States should amend their penal laws on “failure to register” crimes to allow for an exception for “good faith” efforts to comply with registration requirements.
- Federal and state governments should support a range of strategies to prevent sexual abuse that go beyond control and treatment of former offenders, including educational programs for families and treatment and other resources for survivors of sexual violence.

12. Are there examples of other states or countries that take a different approach to youth sex offenders?

The US is not alone in implementing registration systems for sex offenders; at least six other countries—Australia, Canada, France, Ireland, South Africa, and the United Kingdom—have registries, too. However, the US stands out for the public and easily accessible nature of the information on its registries, the onerous conditions imposed on registrants, the imposition of residency restrictions, and the broad application of many of these aspects to youth sex offenders.

In some countries, registration systems have come under judicial challenge. While the registries have been upheld as compatible with protection of human rights, courts have ruled that governments must appropriately balance the rights of individuals on the registry against the

public safety interest that the registries are designed to serve. The European Court of Human Rights (ECtHR) has acknowledged that non-public registries pursue legitimate aims, but emphasized that the constraint imposed on offenders' private and family lives must be proportionate and capable of review and appeal. The United Kingdom's Supreme Court has struck down provisions of sex offenders laws that did not meet that test.

13. Why is this a human rights issue?

Under human rights law, youth sex offenders should be treated in a manner that reflects their age and capacity for rehabilitation, and with respect for their rights to family unity, to education, and to be protected from violence. To be sure, none of these rights is absolute. But laws that infringe upon them must serve a legitimate public interest and be no more restrictive than is necessary to do so. And while violent crimes should be punished appropriately, conviction for even a very serious sex offense does not extinguish a child's claim to just treatment at the hands of government, nor does it free a government to ignore fundamental rights when imposing punishment or consequences collateral to punishment.

- **The child's right to special treatment.** International law recognizes that youth offenders require special protection in light of their age, particular vulnerabilities, differences in cognitive capacity (which have a bearing on culpability), and amenability to rehabilitation and treatment.
- **Protection from harm.** Youth sex offenders are also entitled under international law to protection from harm, including from vigilante violence and other forms of suffering caused by their status as sex offenders.
- **Privacy and family unity.** Sex offender registration laws interfere with a child's right to privacy, which international human rights law recognizes as more robust than that of an adult. Registration laws also violate other international legal guarantees of treatment with dignity and respect, and protection from cruel, inhuman, or degrading treatment.
- **Education and freedom of movement.** The Universal Declaration of Human Rights states that everyone has a right to education and to freedom of movement and residence.