

Proposals for Structuring Relief for Sex Offenders from Registration and Notification Requirements
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I. Introduction

II. Sex Offender Registration and Notification

- federal mandate
- state laws:
 - * scope of statutes
 - * lack of uniformity:
 - length of registration
 - types of crimes subject to registration and notification
- international comparisons

III. Rationale for Registries and Notification

- general deterrence
- prevention of recidivism and promise of enhanced public safety:
 - * recidivism research remains limited and is at best contradictory
 - * definition of recidivism impacts re-offense data
 - * much research about sex offenses devalued because of low reporting rates
 - * more research needed on specific types of crimes of conviction and offender characteristics (age, etc.) to fulfill public safety goals
- assuage public fears:
 - * limited research on if and how public uses the information available

IV. Negative Impact of Registries and Notification:

- vigilantism and discrimination against individuals on the registry
- overbreadth (by types of offense; length of registration):
 - * California DA lobbied for restriction of database to allow for focus on high-risk offenders
 - * recidivism decreases over time and with age; recidivism tied to type of offense
- may registration and notification laws turn into self-fulfilling prophecy, i.e., increase overall recidivism?
- reclassification of offenses from sexual to non-sexual during plea negotiations; possible use of sex offender registration as threat to coerce pleas
- impact on individuals whose offenses had long been in the past or whose crimes were committed in jurisdictions that no longer/never required them to register

V. Reform Proposals:

- categorical limitations:
 - * restrict types of offenses on the registry to the most serious
 - * restrict lengths of registration

- * create different levels of registration and notification, by crime, lengths of registration, type of notification and automatically remove individuals from registry at lower levels of recidivism risk after a set duration
- * registration requirement should not apply for non-sex crimes solely because the individual had committed a sex offense at an earlier point in time
- * no public notification for juveniles/young adults because of stigma and substantial changes occurring during that time
- * no registration for misdemeanor offenders and those not sentenced to imprisonment
- * prevent notification, which is an outlier internationally, and restrict database access to law enforcement and select employers and school officials
- individual/discretionary mechanisms:
 - * provide a petition-based judicial or administrative mechanism for removal, available once an individual meets certain markers
 - * consider use of sex offender risk assessment (combined with availability of evidence-based treatment) in determining removal
 - * consider use of sex offender treatment as a reason for removal from the registry or shortening length (rewards)
 - * alternative: presumptive removal from registry after x number of years unless judicial ruling to the contrary
 - * consider creating specialized courts that deal with sex offender sentencing and would be able to learn about validated recidivism research and evidence-based treatment

VI. Broader picture

- Treatment of sex crimes as a category of offenses that includes some very serious and some not so serious crimes. Remove *sui generis* categorization of these offenses.
- Registration and especially notification statutes are stigmatizing but constitute only one aspect of collateral sanctions imposed on sex offenders (see housing limitations).
- Reconsider legislative attitude towards individuals with a sex crime conviction: Persons with rights, including right to privacy. That right cannot be restricted merely because of criminal conviction unless person constitutes a public safety risk.
- View registration and notification statutes as one step removed from sex offender commitment rather than as just another collateral sanction. Requirement to register should be based on individual information and collective data, informed by solid research.

VII. Conclusion