

Registration and Community Notification: Does Including Adolescents Make Us Safer?

Introduction

In 2019, Massachusetts made the bold decision to decriminalize sexual behaviors in children under the age of 12.¹ This decision is part of a growing trend to provide resources for children and families when problems emerge. However, Massachusetts still does not make a distinction between adolescents as young as 12 and adults in terms of sex offender registration requirements (Justice Policy Institute, 2008). The continued use of this policy is notable, given the growing movement in the United States to clarify the distinction between adults who sexually offend and children or adolescents who engage in sexually abusive behaviors. Further, there is a convincing body of research that shows how damaging such laws can be to the still-developing youth.

It is time for Massachusetts to end juvenile registration and prioritize sound, research-based, and age-appropriate approaches when dealing with youth who sexually abuse. These changes have the potential to reduce recidivism, minimize the number of sexual abuse victims, change

the developmental trajectory of our children's lives and ultimately, create safer communities. In support of that effort, this position paper outlines the general policy context of registration, reviews current law in Massachusetts, summarizes the relevant research, and suggests an informed, evidence-based path forward.

Registration Policy

Beginning in the mid-1990s there was a rise in media coverage of horrific sexual abuse cases and increased public fear related to crime committed by children and adolescents (Letourneau, 2017). Many state laws and a few key national laws were created to address the issue of sexual offenders living in the community (Association for the Treatment of Sexual Abusers, 2012; Justice Policy Institute, 2008). These laws generally have two components: registration and public notification. When the Adam Walsh Child Protection and Safety Act of 2006 was signed into law, states were required to maintain a public database of registered sex offenders,

¹ Massachusetts no longer considers sexual behaviors exhibited by children under the age 12 to be a criminal offense.

including adults, children, and adolescents (Adam Walsh Child Protection and Safety Act; Caldwell, 2010). In 2016, subsequent regulations were released to offer states greater flexibility in implementing the Sex Offender Registration and Notification Act (SORNA) regarding adolescents (Federal Register, 2016). However, Massachusetts did not revise its regulations and continues to include any adolescent on the sex offender registry, although juvenile court judges have the option of releasing juveniles from the obligation to register.

This “one-size-fits-all” practice is in direct contrast to the developmental underpinnings of our juvenile justice system: that children, adolescents, and adults are different. Our statutes often do not recognize that children and adolescents who commit sexual crimes are different from adults in several significant ways. Problematic sexual behavior in childhood may develop because of family violence, abusive and/or neglectful home environments, sexual reactivity, or exposure to sexualized adults or media at a young age (Association for the Treatment of Sexual Abusers, 2020). Children who commit sexual offenses are often motivated by impulsivity and sexual curiosity and typically do not exhibit predatory, paraphilic, or psychopathic characteristics. As children mature, they develop a better understanding of sexuality, and this understanding taken together with decreased impulsivity, results in the stopping of these behaviors (Caldwell, 2007; Caldwell, 2010; Caldwell et al., 2008; Zimring, et al., 2007; Caldwell, 2002; Letourneau & Miner, 2005; Becker & Hicks, 2003; Letourneau & Armstrong, 2008).

A small percentage of adolescents may use violence and/or drugs to facilitate sexual offending but the vast majority of youth do not. For that small percentage of higher risk adolescent sexual offenders, experts agree that they may need to be held accountable in a manner similar to adults. This may include facilities-based supervision and intensive specialized intervention. However, there is a growing consensus among experts that rehabilitative approaches are more effective than punitive approaches to effectively address problematic sexual behaviors by adolescents. Youth have relatively low sexual recidivism rates (Caldwell, 2016), and these rates drop even lower for adolescents who participated in specialized treatment (Worling et al., 2010). Studies have shown that adolescents who engage in specialized treatment are less likely to

reoffend even after 20 years (Przybylski, 2015). In fact, responses which unnecessarily remove youth from their families and communities for facilities-based care may actually increase rather than decrease risk of sexual reoffense (Letourneau et al., 2018). In determining whether current approaches support or undermine public safety, communities must consider the safety, risk management and financial implications of requiring youth to register with the SORB as well as the ultimate ethical consequences of labeling youth as sex offenders.

Current Registration Law in Massachusetts

Currently, Massachusetts recognizes the significant developmental differences between young children and adults. As of 2018, Massachusetts has decriminalized behavior for children under the age of 12 years (Gordon, 2018). However, even with the growing consensus about the effectiveness of treating adolescents differently from adults, Massachusetts is one of the few states that does not make a clear distinction between adolescents as young as 12 and their adult counterparts in terms of the Sexual Offender Registry Board (SORB). In fact, Massachusetts is one of only 15 states that will place adolescents on the sex offender registry and allow for public notification for these teenagers (Beitsch, 2015).

In Massachusetts, registration requires adults and adolescents convicted and adjudicated of certain sexual offenses, to register their home, work, and school address, and confirm other personal information on a regular basis with the Sexual Offender Registry Board (SORB). Notification levels are determined by SORB, and notification laws require that the public be notified of sexual offenders, including youth living in the community, through means such as public websites, police bulletins, and/or community flyers depending on assigned level.

The registration period for a sex offender in Massachusetts can range from 20 years to life. Those who are categorized as Level 2 (after July 12, 2013) or Level 3 sex offenders will have their identifying information available for public viewing through police departments or the online sex offender registry. This information can include: current photograph, age, race, sex, height, hair color, eye color, and work/school/home address. When adolescents are adjudicated on a sex offense, they are automatically subject to registry and the notification requirements will depend upon their

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level. However, the judge can make the determination to relieve them from these requirements. The judge must make the decision to release an adolescent from the obligation to register within 14 days after the case is decided.

The juvenile justice system was created in recognition of the developmental differences between children, adolescents, and adults. Yet, this developmentally appropriate, research-based understanding of youth within the juvenile justice system is not reflected in the current sex offender laws in Massachusetts.

The Effect of Registration and Notification—Research Findings

Over the past 25 years, researchers have studied the impact of registration and notification laws and highlighted their unintended consequences. Studies have shown that registration laws have made implementation more consistent across the states and may have some value for law enforcement and tracking of adult sex offenders (Harris, et al., 2020). However, to date, no research has shown any compelling evidence that placing adolescents on the registry will result in making our families or communities safer. On the contrary, there are indications that registration may do active harm to adolescents placed on the registry including increased exposure to violence and solicitation for sex, increased stress, shame, stigma, and isolation which result in the development of clinical disorders, and harm to both the adolescent and their families. These findings are discussed briefly below.

Public safety: While sex offender registration and notification laws were implemented in an effort to keep the public safe from sexual offenders, there is no study that shows the benefit of placing adolescents on the registry. Adolescents who have sexually abused

and are placed on the sex offender registry show no different risk for sexual re-offense than non-registered adolescents (Letourneau, et al, 2008, Sandler et.al., 2017, Letourneau, et.al, 2018).

Race and registration: To date, there are only a few studies that explore the impact of race on registration. Although there is limited research looking at race and registration for youth specifically, one study examined criminal justice processing of youth (in Alabama) and found that race/ethnicity did not predict sex offender tiering, but race impacted other criminal justice decisions (Fix et al., 2017). Another study showed that there are higher rates of registration for Black individuals in every state (including Massachusetts) except for Michigan and Maine (Maine was excluded from the study) (Ackerman & Sacks, 2008). There are numerous studies which explore the criminal justice system more generally and its disproportional impact on Black men and Black youth (for a review, see Hinton et al., 2018). Given the early indications of disproportionality with regards to registration, further research is needed.

Harm to kids and families: Requiring youth to register as sex offenders can not only subject them to public humiliation, but also create obstacles for more pro-social development, positive peer relationships, positive connections to school, and lower family stress. Social, emotional, and psychological consequences of registration include increased stress, shame, stigma, and isolation which increases the likelihood of developing clinical disorders such as depression and anxiety as well as increased suicidality when compared to nonregistered children (Letourneau, 2017; Mercado et al., 2008). These factors are all associated with increased risk for recidivism (Worling & Langstrom, 2006). These negative consequences are suggestive

that registration and notification of adolescents are truly punitive practices (Letourneau et al., 2017). Notably, children and adolescents who are placed on the registry are more likely to be solicited for sex, are more likely to have attempted suicide, and be sexually abused or physically harmed by others (Letourneau, 2017). Additionally, because teens are most likely to sexually abuse children or other teens in their families and those close to them, any public notification may unintentionally cause harm to the victim and their family (Comartin et al., 2010). Unfortunately, all these consequences further weaken the protective factors that prevent reoffending (Tewksbury & Zgoba, 2010).

Treatment efficacy: Studies have clearly shown that children and adolescents are amenable to treatment, especially if the intervention is early in their sexually abusive behaviors. Research has also shown that with treatment, the likelihood of an adolescent re-engaging in future sexually abusive behavior is extremely low (Reitzel, 2006; Worling et al., 2012). The most promising treatment approach includes developmentally sensitive, targeted short-term (cognitive-behavioral) interventions that include the adolescent, families/caregivers, and other community supports through family and group therapy (multi-systemic) (Caldwell, 2010; Przybylski, 2015). Research consistently shows that with the appropriate intervention children and adolescents are more amenable to change.

Recommendations

Given research that suggests that sexual recidivism in adolescents is rare, the potential short term and long-term harmful impact of registration on adolescents and their families, and that most adolescents will be able to live

safe healthy lives with the right intervention, we strongly recommend that Massachusetts discontinues placing youth on the registry or subjecting them to public notification. Young people who engage in harmful sexual behavior can still be charged and held accountable for their crimes, but the registry is an ineffective and harmful way to do so.

Massachusetts made the landmark decision to decriminalize sexual behaviors for children under the age of 12. As a result, families are able to reach out for help and professionals are getting trained across the Commonwealth to work with these children. We need to rethink the way we treat our adolescents as well. The young person who commits a sexual offense at 14, will change dramatically over his or her next few years. It is time for Massachusetts to enact laws that not only clearly differentiate adult sex offenders from adolescents who have sexually abused but also remove adolescents from the registry altogether. These changes will have the potential to align our response to sexually abusive behaviors more closely with other juvenile justice practices, and to ultimately reduce recidivism, minimize the number of sexual abuse victims, lessen the impact on victims within the same families, intervene earlier with adolescents who need help, and ultimately create a safer community.

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references are available upon request

