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Raised on the Registry

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Summary

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Jacob C. was 11 years old and living in Michigan when he was tried in juvenile court for touching, without penetrating, his sister's genitals. Found guilty of one count of criminal sexual conduct,^[1] Jacob was placed on Michigan's sex offender registry and prevented by residency restriction laws from living near other children.

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This posed a problem for his family— Jacob's parents were separated, his father lived in Florida, and Jacob could not live in the same house as his little sister. As a result, he was placed in a juvenile home. When Jacob was 14—and still unable to return home—he became the foster child of a pastor and his wife. According to Jacob, the couple helped him to “deal with the trauma” of growing up on the registry.



Since his offense fell under juvenile court jurisdiction, Jacob was placed on a non-public registry. But that changed when he turned 18 during his senior year in high school, and his status as a sex offender became public. Parents of his schoolmates tried to get him expelled and he had to “fight to walk across the stage” at graduation. Jacob attended a local university in Big Rapids, Michigan, but ended up dropping out. “[I was] harassed for being on the registry,” he said. “The campus police followed me everywhere.”

ABOUT THIS REPORT

In February 2005, at age 18, Jacob left Michigan to start a new life in Florida and reconnect with his father living there. Jacob worked for his father's company for a few months. He soon fell in love, married, and had a daughter. A year later, he and his wife divorced, and Jacob was awarded joint custody of his daughter. During this time, Jacob tried to follow Florida's sex offender laws, but continually ran afoul of residency restrictions that required him to check-in with police on a daily basis and provide them with a home address. At one point, for example, Jacob's home was too close to a school and he had to move. Another time, he failed to register a new address after a period of homelessness and was arrested and convicted of the felony of failure to register.



Raised on the Registry
The Irreparable Harm of Placing Children on Sex Offender Registries in the US

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While court documents describe Jacob as a doting parent to his daughter, Jacob's wife came under investigation by Florida's Department of Children's Services in 2009 for not having electricity in the house. However, when the court in that case learned of Jacob's felony conviction for failure to register, the judge denied him custody of his daughter, citing Florida's Keeping Children Safe Act and the fact that Jacob had a criminal felony conviction for failure to register. Jacob continues to fight for custody and visitation but cannot afford a lawyer because he has been unable to find a job. Now age 26, Jacob was removed from the registry in Michigan in 2011, but remains on the registry in Florida, and his life continues to be defined by an offense he committed at age 11.

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Jacob's story is not unique. Throughout the United States, people who commit sex offenses as children (also referred to in this report as “youth sex offenders”) must comply with a complex array of legal requirements that apply to all sex offenders, regardless of age.

Upon release from juvenile detention or prison, youth sex offenders are subject to *registration laws* that require them to disclose continually updated information including a current photograph, height, weight, age,

current address, school attendance, and place of employment. Registrants must periodically update this information so that it remains current in each jurisdiction in which they reside, work, or attend school. Often, the requirement to register lasts for decades and even a lifetime. Although the details about some youth offenders prosecuted in juvenile courts are disclosed only to law enforcement, most states provide these details to the public, often over the Internet, because of *community notification laws*. *Residency restriction laws* impose another layer of control, subjecting people convicted of sexual offenses as children to a range of rules about where they may live. Failure to adhere to registration, community notification, or residency restriction laws can lead to a felony conviction for failure to register, with lasting consequences for a young person's life.

This report challenges the view that registration laws and related restrictions are an appropriate response to sex offenses committed by children. Even acknowledging the considerable harm that youth offenders can cause, these requirements operate as, in effect, continued punishment of the offender. While the law does not formally recognize registration as a punishment, Jacob's case and those of many other youth sex offenders detailed below illustrate the often devastating impact it has on the youth offenders and their families. And contrary to common public perceptions, the empirical evidence suggests that putting youth offenders on registries does not advance community safety—including because it overburdens law enforcement with large numbers of people to monitor, undifferentiated by their dangerousness.

Human Rights Watch undertook this investigation because we believe the time is right to better understand what it means to be a youth offender raised on the registry. Sex offender laws that trigger registration requirements for children began proliferating in the United States during the late 1980s and early 1990s. They subject youth offenders to registration for crimes ranging from public nudity and touching another child's genitalia over clothing to very serious violent crimes like rape. Since some of these state laws have been in place for nearly two decades, and the federal law on sex offender registration is coming up on its eighth anniversary, their effects have been reverberating for years.

A Policy Based on a Misconception

Sexual assault is a significant problem in the United States and takes a huge toll on survivors, including children. According to the US Department of Justice (DOJ), there were an estimated 125,910 rapes and sexual assaults in 2009 (the most recent year for which data is available). In an estimated 24,930 of these cases, the victims were between the ages of 12 and 19. The DOJ study did not examine how many of these incidents involved an adult or youth offender. Thus, we do not know how many were similar to the vast majority of the cases investigated for this report—that is, cases of sexual offenses committed by children against another child. Nevertheless, the public and lawmakers have understandable concern, even understandable outrage, about sex crimes. Sex offender registration laws have been put in place to respond to those concerns.

The overlapping systems of sex offender registration, community notification, and residency restrictions were initially designed to help police monitor the "usual suspects"; in other words, to capture the names and addresses of previously convicted adult sex offenders on a list, which could be referred to whenever a new offense was committed. In theory, this was a well-intentioned method to protect children and communities from further instances of sexual assault.

In reality, however, this policy was based on a misconception: that those found guilty of a sex offense are likely to commit new sex offenses. Available research indicates that sex offenders, and particularly people who commit sex offenses as children, are among the least likely to reoffend.

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In 2011, the national recidivism rate for all offenses (non-sexual and sexual combined) was 40 percent, whereas the rate was 13 percent for adult sex offenders. Several studies—including one study of a cohort that included 77 percent youth convicted of violent sex offenses—have found a recidivism rate for youth sex offenders of between four and ten percent, and one study in 2010 found the rate to be as low as one percent. These rates are

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so low that they do not differ significantly from the sex crime rates found among many other (and much larger) groups of children, or even the general public.

A 2006 study of approximately 250 Philadelphia youth sex offenders stated, “[s]ex offending as a juvenile does almost nothing to assist in predicting adult sexual offending.” The study concludes that if the goal of registration is to identify likely future sex offenders, it would be more effective to register youth with five or more contacts with law enforcement for non-sexual offenses than to register youth found guilty or delinquent of a sex offense.

Long-Term Impact on Youth Sex Offenders and Their Families

When first adopted, registration laws neither required nor prohibited inclusion of youth sex offenders. However, by the mid-1990s, many state sex offender registration laws were amended to include children adjudicated delinquent of sex offenses, as well as children tried and convicted of sex offenses in adult court. The resulting policies swept children into a system created to regulate the post-conviction lives of adult sex offenders.

Children accused of sexual offenses were caught at the convergence of two increasingly harsh “tough on crime” policy agendas: one targeting youth accused of violent crimes and the other targeting persons convicted of sexual offenses. In an effort to protect children from sexual assault and hold sex offenders accountable, lawmakers failed to consider that some of the sex offenders they were subjecting to registration were themselves children, in need of policy responses tailored to their specific needs and circumstances.

The harm befalling youth sex offenders can be severe. Youth sex offenders on the registry experience severe psychological harm. They are stigmatized, isolated, often depressed. Many consider suicide, and some succeed. They and their families have experienced harassment and physical violence. They are sometimes shot at, beaten, even murdered; many are repeatedly threatened with violence. Some young people have to post signs stating “sex offender lives here” in the windows of their homes; others have to carry drivers’ licenses with “sex offender” printed on them in bright orange capital letters. Youth sex offenders on the registry are sometimes denied access to education because residency restriction laws prevent them from being in or near a school. Youth sex offender registrants despair of ever finding employment, even while they are burdened with mandatory fees that can reach into the hundreds of dollars on an annual basis.

Youth sex offender registrants often cannot find housing that meets residency restriction rules, meaning that they and their families struggle to house themselves and often experience periods of homelessness. Families of youth offenders also confront enormous obstacles in living together as a family—often because registrants are prohibited from living with other children.

Finally, the impacts of being a youth offender subject to registration are multi-generational—affecting the parents, and also the children, of former offenders. The children of youth sex offenders often cannot be dropped off at school by their parent. They may be banned by law from hosting a birthday party involving other children at their home; and they are often harassed and ridiculed by their peers for their parents’ long-past transgressions.

Onerous Restrictions

Some restrictions imposed on the lives of registrants are so onerous and labyrinthine, it is surprising that registrants actually manage to adhere to them. Many do not. The consequences of running afoul of sex offender registration laws can be severe. The crime of “failure to register” is a felony in many states, carrying lengthy prison sentences. The complex rules and regulations that govern the lives of sex offenders on the registry are particularly difficult to navigate when youth offenders, like the majority of those interviewed for this report, first begin registering when they are still children.

Many youth sex offenders never learn that they will have to register until after they accept a plea deal and often after they serve their time in prison or juvenile detention. This is especially likely to be true of children in the juvenile system, where there is no clear legal obligation that they be informed of the consequences of their admissions of guilt. Youth sex offenders are also sometimes subjected to retroactive registration requirements

for offenses committed decades in the past—even after years of living safely in the community. Recent laws, like the Adam Walsh Act, reserve the harshest punishments for those who target children. Yet this means that it is often children themselves who experience these harsher penalties, because their crimes almost always involve other kids.

It is unknown how many persons are subject to registration laws in the United States for crimes committed as children. However, in 2011, there were 747,408 sex offender registrants (adult and youth offenders) in the country. What proportion of these people committed sexual offenses as children is impossible to determine from publicly available national data.

Human Rights Watch tried in various ways to obtain this information, but to no avail. We requested data on offenders registered for crimes committed as children from all 50 states. Two states responded with aggregate counts but we were unable to determine the percentage of total registrants these individuals represent. Our attempts to use public registries to obtain counts were stymied by the fact that states and the federal government do not independently track the age of registrants at offense; moreover, state data may undercount the reality. Since the family members of youth sex offenders often must abide by residency restriction laws if they want to live together, the numbers of people in the US affected by these laws is significant.

Faulty Assumptions About Youth Sex Offenders

Faulty assumptions about youth sex offenders' tendency to recidivate are but one set of flawed assumptions underpinning registration laws. Registering sex offenders and publicizing information about them is predicated on the idea that sex crimes are committed by strangers. However, evidence suggests that about 86 percent 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. Registration will not protect a victim from a family member.

Moreover, 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, more recent clinical models emphasize that this retrospective logic has obscured important motivational, behavioral, and prognostic differences between youth sex offenders and adult sex offenders and has therefore overestimated the role of deviant sexual tendencies in people convicted of sex offenses as children. More current models emphasize the diversity among children who commit sexual offenses, who in the great majority of cases have a favorable prognosis for never reoffending sexually.

Registering youth sex offenders is bad public policy for other reasons, including the fact it overburdens law enforcement with large numbers of people to monitor, undifferentiated by their dangerousness. With thousands of new registrants added each year, law enforcement is stymied in their attempt to focus on the most dangerous offenders. Sex offender registries treat very different types of offenses and offenders in the same way. Instead of using available tools to assess the dangerousness of particular people who commit sex offenses as children, most sex offender laws paint them all with the same brush, irrespective of the variety of offenses they may have committed and in total denial of their profound differences from adults.

Not all states apply sex offender registration law indiscriminately to youth offenders. In Oklahoma, for example, children adjudicated delinquent of sex offenses are treated in a manner more consistent with juvenile sexual offending behavior. There, a child accused of committing a registerable sex offense undergoes a risk evaluation process reviewed by a panel of experts and a juvenile court judge. The preference is for treatment, not registration, and most high-risk youth are placed in treatment programs with registration decisions deferred until they are released, at which point they may no longer be deemed high-risk. The programs and attention provided by the state to high-risk youth means that very few youth are ultimately registered. The few children that are placed on the registry have their information disclosed only to law enforcement, and youth offenders are removed once they reach the age of 21.

Accountability That Fits

The harm that people convicted of sex offenses as children have caused to victims of sexual assault must be acknowledged, and justice often requires punishment. As a human rights organization, Human Rights Watch seeks to prevent sexual violence and to ensure accountability for sexual assaults.

But accountability achieved through punishment should fit both the offense and the offender. Good public policy should deliver measurable protection to the community and measurable benefit to victims. There is little reason to believe that registering people who commit sexual offenses as children delivers either. Under human rights law, youth sex offenders should be treated in a manner that reflects their age and capacity for rehabilitation and respects their rights to family unity, to education, and to be protected from violence. Protecting the community and limiting unnecessary harm to youth sex offenders are not mutually incompatible goals. Instead, they can enhance and reinforce each other.

Human Rights Watch believes that unless and until evidence-based research shows that sex offender registration schemes or other means of monitoring youth sex offenders have real benefits for public safety, persons convicted of sex offenses committed as children should not be subject to registration, community notification, or residency restriction requirements. If some youth offenders are subject to these laws, they should never be automatically placed on registries without undergoing an individualized assessment of their particular needs for treatment and rehabilitation, including a periodic review of the necessity of registration. Society's goal should be returning them to the community, not ostracizing them to the point that they and their families are banished from any semblance of a normal life.

[1] For readability, this summary avoids the term "adjudicated delinquent" to describe a finding of guilt in a juvenile court judgment. However, this phrase is used in the remainder of this report because juvenile court judgments are not considered convictions.

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