

Joint Committee on Corrections and Juvenile Justice Oversight
Rep. J. Russell Jennings, Chair
Kansas State Capitol
300 SW 10th St.
Topeka, KS 66612

RE: Testimony in Support of Registration Reform

October 26, 2021

Dear Chairman Jennings and Committee Members:

Thank you for the opportunity to appear before you today. My name is Seth Wescott. I am a Licensed Master's Level Psychologist and have worked with individuals convicted of sexual crimes since 2002. From June 2019 – December 2020 I had the privilege of serving as a member of the Advisory Committee on Sex Offenses and Registration for the Kansas Judicial Council. My role on the Advisory Committee was to provide a clinical perspective on registration and substantive sexual offenses, and it is from that perspective that I appear before you today.

During my career, I have worked in maximum security prisons for adults and adolescents as well as outpatient locations across Kansas. I have evaluated hundreds of individuals adjudicated or convicted of a sexual crime throughout the state at the request of defense attorneys, county attorneys, and district courts as well as probation and parole officers. Many of your constituents are my clients. I've provided expert witness testimony in State and Federal court, and have presented at numerous international conferences throughout my career, including on the topic of sex offender registration and notification. I am a clinical member of the Association for the Treatment of Sexual Abusers (ATSA), co-chair of the ATSA Public Policy Committee, and a member of the ATSA Adult Clinical Practice Committee.

Recently, the ATSA Public Policy Committee authored two documents related to sex offender registration and notification (2020), and the need to reform registration requirements for both adults and adolescents. Those documents, as well as shorter, executive summaries of each, are publicly available from the ATSA website. They are the result of a years-plus effort on behalf of the most learned experts in the field, most of whom have published articles in refereed journals on sex offender registration and its effects. While I do not speak for ATSA today, my views expressed here are consistent with the recommendations of ATSA.

For many years, sex offender treatment was based on the assumption that most, if not all sexual offenders are high risk and likely to recidivate. Likewise, many laws about sex offenders were based on the same assumption. Indeed, some courts across the land still refer to the once-believed "frightening and high" rates of recidivism for this population. Too many laws have emanated from this unfounded and unsupported assumption. Researchers have repeatedly rejected the notion that individuals convicted of a sexual crime possess high rates of

recidivism. Once we began to understand and follow the evidence, our approach to the treatment and management of this population began to change.

ASSUMPTIONS HAVE LED TO POLICY

The Kansas Offender Registration Act (KORA) is based on the assumptions that:

- Most individuals who commit sexual crimes will re-offend; and
- Most offend against strangers.

The primary goals of KORA are to prevent sexual abuse, protect society, and manage the risk of individuals within the community who are convicted of sexual crimes. However, the current version of KORA does not take into account evidence-based practices regarding individuals convicted of a sexual crime, nor does it incorporate the latest research surrounding adolescents who have committed a sexual offense.

Once a sex offender, not always a sex offender

Contrary to perception, the average individual who commits a sexual offense is not “high risk” and, the risk that person does have decreases over time. Yet the myth that those who commit sexual crimes have a high likelihood of recidivism persists throughout the community. Levenson and colleagues (2007) found that the public believes that nearly three-quarters of individuals convicted of sexual crimes will reoffend. This, despite evidence which puts actual recidivism rates much lower.

Research has indicated the risk for sexual re-offense significantly reduces when the person remains offense-free in the community, with the risk of sexual re-offense being cut in half after just five years, followed by continued decrease in risk potential over time (Hanson et al., 2017). To put it another way, the longer an individual remains offense-free in the community, the less likely he is to commit another offense.

“Desistance” is defined as the cessation of offending behaviors. An individual’s desistance point can be calculated according to his risk and time-free in the community. Once an individual reaches a point of desistance, that individual no longer represents a perceptibly higher risk to sexually offend than the general public (Hanson et al., 2017).

Virtually all offenders eventually reach a point of desistance (Thornton et al., 2021). In light of that, policies such as lifetime registration appear to have been designed for a category of individuals that may not actually exist.

The desistance research is perhaps the most significant development in the field since the concept of risk assessment more than 20 years ago. This research has changed our

understanding of risk and has influenced our clinical interventions. Accordingly, policies should be altered to account for the decrease in risk over time.

Several states have made policy changes which include a provision that allows for an exit mechanism. Such mechanism is designed to account for decreases in risk over time. It allows registrants to apply for relief provided they have maintained an offense-free lifestyle for a significant period of time. If Kansas were to adopt such a measure, the policy would make clear the steps that the individual must complete and place the burden on the registrant to demonstrate his/her justification for requesting relief. In other words, such a measure would not guarantee that a registrant would be granted relief simply based on the passage of time; the registrant must demonstrate that he/she has maintained a reduced risk in the community.

The myth of 'stranger danger'

U.S. SORN laws have been enacted in response to heinous acts of violence against children.

Jacob Wetterling, Megan Kanka, and Adam Walsh are three children whose assaults led to legislation in their memory. All three of those child victims have several things in common: 1) they were all abducted, 2) by strangers, and 3) murdered.

Their crimes, although severe, are outliers. Yet the particulars of their crimes strike such a chord with the public that laws are enacted in response. Most of these laws are created without a substantive base in research.

It is important to note that Patty Wetterling, Jacob's mother, has questioned the effectiveness of broad-based public sex offender registration and notification systems, and now strongly advocates for returning these laws to their original purpose as a non-public law enforcement tool for adult offenders (Wetterling, 2017).

FACTS ABOUT ADULTS WHO COMMIT SEXUAL CRIMES

Most sex offenses are committed by acquaintances and family members, not by strangers.

93% of all sexual offenses involving a child victim was perpetrated by someone known to the victim. (Bureau of Justice Statistics [BJS], 2000).

A report on Domestic Violence and Rape Statistics in Kansas (2016) revealed that 91% of all sexual offenses involve a victim known to their offender.

Most adults who commit sexual offenses are not rearrested for another sexual offense.

7.7% of adults convicted of a sexual offense were rearrested for a new sex offense after 9 years (BJS, 2019).

There are risk assessment tools that can accurately assess future risk of sexual reoffending.

Research-supported risk assessment instruments can accurately determine the risk for future sexual reoffending for an adult convicted of a sexual crime (Hanson & Morton-Bourgon, 2009). This allows the criminal justice system to use resources to monitor those most at risk.

Specialized treatment is effective for reducing future risk of sexual re-offense.

Participation in research-supported sexual-abuse-specific treatment has been shown to reduce the risk of re-offense by approximately 30% for adult males convicted of a sexual crime (Gannon et al., 2019).

Most adults who are convicted of a sexual offense do not have a history of a previous conviction for the same crime.

95% of adults arrested for sexual offenses do not have a prior conviction for a sexual crime (Sandler et al., 2008).

The impacts of registration and community notification on adults

Research has shown that registration:

- Does not deter first-time offending
- Does not prevent subsequent reoffending by registrants
- Is one-size-fits all, does not account for individual differences
- Makes it difficult to find jobs and housing
- Has a negative impact on family members

Law enforcement agencies have identified the benefits of the registry for criminal investigation purposes. However, they are less sure of the benefits of community notification for the public (Harris et al., 2016).

FACTS ABOUT JUVENILES WHO COMMIT SEXUAL CRIMES

The Kansas Offender Registration Act includes a provision for the registration of juveniles who are adjudicated of sexual offenses. According to the KBI, there are currently over 900 individuals required to register due to a juvenile adjudication.

Most children and adolescents adjudicated of a sexual offense are not rearrested for the same behavior.

95% of youth adjudicated of a sexual crime do not do it again (Caldwell, 2016). Children and teens who commit sexual abuse almost never do it again with the right treatment interventions.

Nearly all children and adolescents who commit sexual crimes know their victims.

Only 2.5% of adjudicated youth committed a sexual offense against a stranger (Finkelhor, et al., 2009).

Specialized treatment is effective for reducing the future risk of a sexual re-offense.

Children and teens are very responsive to treatment interventions. Participation in research-supported treatment has been shown to further reduce the already low risk of re-offense for children and teens convicted of a sexual crime (Worling et al, 2010).

Children and teens are not mini-adults.

Children and teens do not commit sexual abuse for the same reasons as adults. They are still developing, both physically and mentally. Most importantly, their brains are not fully developed. This can cause difficulties controlling impulses or recognizing how their actions affect others over the long-term. These are things they can learn as they grow up and mature, as well as with the right type of treatment interventions.

Because children and teens are not mini-adults, they should not be treated like adults by the court system. Many children and teens who commit sex abuse have mental health problems, are developmentally delayed, or have low IQs. Many are victims of abuse themselves. To prevent further sexual abuse, interventions are more effective than punishment.

Education is vital to promoting healthy lives

Many children and adolescents are also not educated about issues such as consent, physical/emotional/sexual boundaries, and healthy outlets for emerging sexual interests, all factors related to harmful or illegal behavior.

The impacts of registration and community notification on juveniles

Laws that require children and teens to register as a sexual offender do not make society safer. Being on the registry does not reduce the already low rates of sexual recidivism for children and

youth convicted of a sexual crime. It does, however, lead to instances of harassment and threats. Being on the registry also has a negative impact on family members, particularly caregivers, due to concerns for their child's safety and the essential "registration" of a child's family, friends, neighborhood, and school.

In addition, juveniles required to register are:

- Four times as likely to report having attempted suicide in the past 30 days;
- Five times as likely to report having been approached by an adult for sex in the past year; and
- Twice as likely to report having been sexually victimized in the past year (Letourneau, et al., 2018).

In effect, registration of adolescents may actually increase sexual abuse rather than prevent it. This runs counter to the objectives of KORA. Given the low base-rates of reoffending, the "label" that is attached to an adolescent who has acted out sexually almost certainly outlasts the problematic behavior. Imagine being branded for the rest of your life based on poor choices made while a teenager.

As a clinician who has evaluated hundreds of youth accused or adjudicated of sexual offenses, I have seen firsthand the unintended negative consequences of registration of youth. I therefore support an end to juvenile registration in Kansas. This is consistent with the recommendations put forth in the 2020 ATSA position paper, and with 16 other states who do not register juveniles. This measure, while seemingly abrupt, is based on the realization that policies need to incorporate evidence if they are to be useful.

SUMMARY

Evidence-based assessment, treatment, management, and policy strategies enhance community safety, reduce sexual abuse recidivism, and prevent sexual abuse. However, too often the data surrounding public policy interventions is discounted or ignored, especially when the conclusions of the research cause discomfort among policy-makers and their constituents. Although the Kansas Offender Registration Act was created to protect the public from potentially dangerous offenders, given the research and all that is known about the negative effects of such policies, we are now faced with the need to protect children and adolescents from these poor policy decisions. It is my position that sex offender registration and notification laws are not appropriate for children and adolescents convicted of a sexual crime and this practice should be eliminated.

Additionally, policy makers are now faced with the necessity to modify these laws in keeping with their goals. The Kansas Offender Registration Act as currently applied is not evidenced-based, does not enhance community safety or prevent sexual abuse. Given all that is known about desistance, the Kansas Offender Registration Act should include an exit mechanism in order to account for the reduction in risk based on time-free.

Registration reform is a significant step in the direction of evidence-based decision-making. Certainly, more can be done, by educators, therapists, and families. Legislation alone cannot address all our problems; however, this legislation in particular is a step forward. More work is needed if we are to prevent abuse and make society safer.

As such, I recommend:

- Discontinue the use of one-size-fits-all approaches for the registration and notification of adults convicted of sexual crimes;
- Individualize registration and notification requirements based on the use of validated risk assessment instruments;
- Develop avenues and criteria to allow adults convicted of sexual offenses to no longer have to register based on the research related to future risk for sexual offending and how that risk potentially decreases over time;
- Use registration as part of a larger system for adults convicted of sexual crimes that includes treatment;
- End policies that subject children or adolescents to sex offender registration and notification laws;
- Prevent sexual abuse through early and consistent education in schools that teach children and teens about consent, healthy sexuality, and boundaries;
- Identify and help children and teens who are struggling before anyone is sexually harmed; and
- Provide specialized treatment in ways that match the child's age and developmental levels

Thank you for your consideration,



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