“Jack and Jill sitting in a tree K I S S I N G, first comes love, then comes marriage, then comes a baby in a baby carriage.” This is a familiar childhood rhyme which used to speak to our sense of innocence. Boy meets girl, they fall in love, then get married, and have kids. Unfortunately, that is not the order in which young peoples’ relationships develop in modern times. We are seeing kids that are younger and younger experimenting with sex and there has been an awareness of kids who not only experiment but also sexually abuse others.

Over the last decade there have been numerous cases in the public involving sexual abuse and especially crimes associated with the sexual abuse of children. Almost once a weekend there is a headline of a child being sexually assaulted, molested, abducted, and even murdered. The public has gotten front row seats to some of the most tragic cases involving sexual predators. This has lead to public outcry and demands for ways of stopping the abuse and punishing the abuser. Communities have spoken out for justice and safety. They have looked to their states and the federal government to enact laws that not only prosecute offenders but to make the public aware of who they are, what they did, where they live and work, what they look like, and more.

There has been this growing sense that information can help stop these predators that commit acts that are so unthinkable. This belief makes the public feel that we have a right to know as much about them as possible in order to safe guard ourselves and our children. This information and safeguard has come in the form of sex offender registries. It is a system by which those convicted of sex crimes can be tracked and monitored for as long as their natural life.
But what happens when it’s our children that are hurting and sexually abusing one another. Do we apply the same laws to them? Do we monitor them and make them register for the rest of their lives for an act they committed at 14?

Take the case of Brandon:

“Brandon was a senior in high school when he met a 14-year-old girl on a church youth trip. With her parents’ blessing, they began to date, and openly saw each other romantically for almost a year. When it was disclosed that consensual sexual contact had occurred, her parents pressed charges against Brandon and he was convicted of sexual assault and placed on the sex offender registry in his state. As a result, Brandon was fired from his job. He will be on the registry and publicly branded as a sex offender for the rest of his life. In his mother’s words, “I break down in tears several times a week. I know there are violent sexual predators that need to be punished, but this seems like punishment far beyond reasonable for what my son did.”1

Is it counterproductive to brand people like Brandon as a sex offender for life or is this a necessary development of the criminal justice system in response to a growing problem? The need for public safety and laws insuring that are valid but they must be viewed in light of the purpose of the juvenile justice system, the unique potential of the juvenile offender for rehabilitation and re-integration back in society, and the unintended consequences of registration.

**Purpose of juvenile Justice System *Parens Patriae* to punishment:**

It has been a long road towards the development of the juvenile justice system of modern day America. “Until the late nineteenth century, Juveniles who committed crimes were dealt with

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1 Sander N. Rothchild, *Beyond Incarceration: Juvenile Sex Offender Treatment Programs Offer Youths a Second Chance*, 4 J.L. 
& POL’Y 719, 721 (1996)
through the same criminal justice system that addressed the offenses of adults.”² Because they were not dealt with separately there was no way of addressing the special needs of juvenile offenders. Over time the legislators realized that there needed to be a court devoted to the issues of juvenile offenders.

“Traditionally, juvenile courts operated with very different goals than the criminal courts that handle adult offenders. Juvenile courts tended to focus less on a “guilty” or “innocent” approach and more on a parens patriae model, which enabled society to exercise an authority over juveniles akin to that exercised by parents over their children. This approach was intended to enhance the likelihood of a productive and stable future for each juvenile offender.”³

With the creation of separate courts the justice system was able to make laws that were better suited for juveniles. It took the focus off punishment and retribution and focused more on rehabilitation. “The fundamental concern of juvenile courts towards child offenders was with ‘what he is, how has he become what he is, and what had best be done in his interest and in the interest of the state to save him from a downward career.’”⁴

To be able to answer these questions courts realized that they would need to utilize professionals from different fields such as: social workers, therapist, and doctors.⁵ This additional perspectives as well as the laws of the courts worked together to create plans of actions for juveniles that were aimed at helping to fix the under lying problems that caused the unlawful behavior.⁶ “The conceptual underpinning of the juvenile court movement

⁴ Gardner, supra note 23, at 166.
⁵ Gardner, supra, at 166.
assumes…that children are malleable and thus prime subjects for rehabilitation.” 7 During this period in the history of juvenile jurisprudence we considered our child offenders capable of change. 8 As an extension of that thinking the dispositions of many juvenile proceeding and records were sealed off and the juvenile was given a clean slate at the age of 18. 9

But in the twentieth century there was a movement away from a rehabilitative model towards a more punitive approach. In the 1990’s America saw a rise in crime in by both adults and juveniles. 10 These high rates of violent and highly publicized crimes lead the courts to shift the focus of juvenile law from rehabilitation to community protection. 11 Gone were the days of assuming that because juveniles are less cognitively developed than adults and therefore not as culpable. 12

“This shift in theoretical principles can be accounted for through a variety of converging factors including: loss of faith in the juvenile justice systems ability to rehabilitate; the Supreme Court’s “criminalization” of juvenile court proceeding; a general rebirth of retributive theories of punishment throughout the legal system; and expanded view of children’s capacity for responsibility; and a perceived increase in the rate of serious crime committed by juveniles.” 13

This combination of factors has lead to the trends we see in the juvenile justice system today which seems to view juveniles as mini-adults and not children. The punitive focus can be seen in the types and lengths of sentences that are being handed down in juvenile court and the number

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7 Gardner, supra, at 167.
8 Carla J. Stovall, Justice and Juveniles in Kansas: Where We Have Been and Where We Are Headed, 47 U. KAN. L. REV. 1021, 1023 (1999).
9 Id.
10 Pamela S. Richardson, Mandatory Juvenile Sex Offender Registration and Community Notification: The Only Viable Option to Protect All the Nation’s Children, 52 CATH. U. L. REV. 237, 241-42 (2002).
of juveniles that are being waived directly into adult criminal court. Additionally, way in which juvenile sex offender laws have developed especially those dealing with sex offender registration further illuminates the move toward a punitive approach.

The History of the Sex Offender Registry:

After a series of high profile cases involving the rape and murder of children the courts began to create laws that would ensure public safety and thus the registry was born. Most of these laws remained at a state level until the abduction and murder 11-year-old Jacob Wetterling in 1989. Jacob was never found but his parents lobbied for laws that would make every state develop sex offender registries.

In 1994 these laws were know as the Jacob Wetterling Crimes Against Children and Sex Offender Registration Act. The provisions in the Jacob Wetterling act were incorporated into the Federal Violent Crime Control and Law Enforcement Act of 1994. That act not only set up sex offender registries in all states but it mandated that offender’s register their addresses

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15 Nabha, supr, at1570.
16 Id.
18 Id.
19 Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program, 42 U.S.C.A. § 14071 (West 1996). The act defined sexual offense as:

   [A]ny criminal offense in a range of offenses specified by State law which is comparable to or which exceeds the range of offenses encompassed by aggravated sexual abuse or sexual abuse or an offense that has as its elements engaging in physical contact with another person with intent to commit aggravated sexual abuse or sexual abuse.


   [A] person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

everyear for ten years.\textsuperscript{21} Additionally, those states that did not comply with requirement to create registries were punished with financial sanctions.\textsuperscript{22}

The next tragedy to spawn legislation was that of 7-year-old Megan Nichole Kanka. In 1994 a repeat sex offender lured Megan to his home and violently raped and murdered her.\textsuperscript{23} Megan’s parents contended that they should have been notified that a sex offender lived in their neighborhood.\textsuperscript{24} In 1996 Megan’s Law went into effect which amended the Wetterling act and required that all 50 states release relevant information as necessary to protect the public which is also known as community notification. “This public notification requirement is designed to facilitate public access to the offender information that the police have in their registry.”\textsuperscript{25}

Additionally, in 1996 with the passing of the Pam Lyncher Act, congress added a requirement of lifetime registration for people who have been convicted of aggravated sex offenses or multiple sex offenses that require registration. \textsuperscript{26}“Furthermore, the Lyncher amendment required the U.S. Attorney General to establish a database at the Federal Bureau of Investigation (FBI) to track the whereabouts and movements of certain convicted sex offenders.”

\textsuperscript{21} Frierson, supra, at 2.  
\textsuperscript{22} 42 U.S.C.A. § 14071 (West 1996). There was 100 million dollars of federal funding that was made available to states the complied.  
\textsuperscript{23} Timothy E. Wind, The Quandary of Megan's Law: When the Child Sex Offender Is a Child, 37 J. MARSHALL L. REV. 73, 90 (2003). Megan’s attacker Jesse Timmendequas, had sent seven years in prison for two prior sex offenses against minors. He lived near Megan for over a year before murdering her.  
\textsuperscript{24} Id.  
\textsuperscript{25} Wind, supra note 16, at 93.  
\textsuperscript{26} Pam Lyncher Sexual Offender Tracking and Identification Act, 42 U.S.C.A. § 14072 (West 1996).  
(d) Length of registration  
A person described in subsection (b) of this section who is required to register under subsection (c) of this section shall, except during ensuing periods of incarceration, continue to comply with this section--  
(1) until 10 years after the date on which the person was released from prison or placed on parole, supervised release, or probation; or  
(2) for the life of the person, if that person--  
(A) has 2 or more convictions for an offense described in subsection (b) of this section;  
(B) has been convicted of aggravated sexual abuse, as defined in section 2241 of Title 18 or in a comparable provision of State law; or  
(C) has been determined to be a sexually violent predator.
None of these laws specifically mandate the inclusion of juveniles. “The federal legislation did not require states to include juvenile offenders, but most states chose to do so.”

In 2006, Congress passed the Adam Walsh Child Protection and Safety Act. This law came about after the abduction and murder of Adam Walsh from a mall. This was the first federal act to require juveniles to register as sex offenders. This act mandated a national registry for the purpose of “expand[ing] the National Sex Offender Registry by integrating the information in State sex offender registry systems and ensuring that law enforcement has access to the same information across the United States.”

Title I of the Adam Walsh Act is the Sex Offender Registration and Notification Act (SORNA). SORNA is comprised of a three tier system with each tier specifying a type of offense and the length of registration required when convicted of that offense.

Tier I- “a residual class that includes all sex offenders who do not satisfy the criteria for tier II or tier III.” These offenders are required to register for 15 years and must appear in person once a year to verify their information.

Tier II- Offense must be punishable by imprisonment for at least one year. These offenders have to stay on the registry for 25 years and must appear in person every six months to verify their information.

31 Id.
32 Sex Offender Registration and Notification Act § 111(2)-(4), 42 U.S.C.A. § 16911(2)-(4).
34 Id at § 115(a)(2), 42 U.S.C.A. § 16915(a)(2); Id. § 116(2), 42 U.S.C.A. § 16916(2).
Tier III- Offenders that are convicted of aggravated sexual offenses that are punishable by imprisonment for 1 year or more. They may remain on the registry for life and must appear in person every three months.  

“SORNA requires that a juvenile adjudicated delinquent of aggravated sexual abuse, who was fourteen years of age or older at the time of the offense, must register as a sex offender and submit to community notification to the same extent as an adult offender.”

The act defines aggravated sex abuse in terms of three categories of offenders:

1. A sexual act that involves the use of threat of force.
2. A sexual act that involves the drugging or rendering of the victim unconscious.
3. A sexual act involving children under the age of 12.

Juveniles that are over the age of 14 and are convicted of a tier three offenses can be made to registrar for life and have the information put on a public national registry. The of list information that the juvenile are made to supply to the registry extensive and includes:

“the offender's name, address, and Social Security number; the name and address of his employer and/or school; “[t]he license plate number and a description of any vehicle” the offender owns or operates; a physical description of the offender; “[t]he text of the provision of law defining the criminal offense for which the sex offender is registered”; the offender's entire criminal history; a current photograph of the offender along with fingerprints, palm prints, and a DNA sample; and a copy of his driver's license or identification card.”

35 Id. at § 115(a)(3), 42 U.S.C.A. § 16915(a)(3); Id. § 116(3), 42 U.S.C.A. § 16916(3).
36 Sex Offender Registration and Notification Act § 111(1), (8), 42 U.S.C.A. § 16911(1), (8) (West Supp. 2007).
37 Convicted as including certain juvenile adjudications: The term “convicted” or a variant thereof, used with respect to a sex offense, includes adjudicated delinquent as a juvenile for that offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in section 2241 of Title 18), or was an attempt or conspiracy to commit such an offense.
38 18 U.S.C.A. § 2241. (d) The Government need not prove that the defendant knew that the other person engaging in the sexual act had not attained the age of 12 years.
39 Id.
Not all of the information given is made available to the public.\textsuperscript{40} The authorities are not allowed to release the victim’s identity or the Social Security number, criminal history, and travel and immigration document numbers of the offender.\textsuperscript{41} Although the government tries to shield the juvenile and the victims from some information being made public, for the juvenile offender the community notification aspect of the act insure that many people from his school teachers, to employer will be made aware of their past. For example the story of Alan Groome,

“After being convicted at the age of eighteen, juvenile sex offender Alan Groome was released from a Washington prison in 1994 when he finished serving a three year sentence for raping two boys. He moved into his mother’s apartment in Olympia, Washington. But Alan Groome’s crime followed him to Olympia. He was listed on a state sex offender registry that made public his residential information and criminal record. Local police officers personally delivered fliers to 700 of his new neighbors, informing them that Groome, a “registered sex offender,” had recently moved to the neighborhood. Shortly after the fliers were distributed, Groome and his mother were evicted from their apartment by her landlord. They moved in with Groome's grandmother, who consequently also faced eviction when her neighbors discovered her grandson was living with her. Ultimately, Groome left the home of his grandmother and moved into a homeless shelter”.\textsuperscript{42}

In this case after serving his sentence and receiving treatment this young man was not given a chance at rehabilitation. The community notification requirement led to him being ostracized. The modern approach to these problems has been to place more emphasis on protection of the public than rehabilitation of the minor.\textsuperscript{43} In light of these laws it seems that

\begin{footnotesize}
\begin{itemize}
\item\textsuperscript{40} Id. at § 118(b)-(c), 42 U.S.C.A. § 16918(b)-(c)
\item\textsuperscript{41} National Guidelines for Sex Offender Registration and Notification, 72 Fed. Reg. at 30,223-24.
\item\textsuperscript{43} WASH. REV. CODE ANN. § 13.40.010(2)(a).
\end{itemize}
\end{footnotesize}
society and the government have become very comfortable with treating juveniles like adults, but should we be?

**Are Adult and Juvenile Sex Offenders the Same?**

There are many differences between the juvenile sex offender and an adult offender. One difference is the reason behind why they offend. Research has suggested that there are four types of juvenile offenders:

1) an offender with a true pedophilia

2) an antisocial youth whose sex offending is merely one facet of the exploitation of others.

3) a juvenile compromised by a psychiatric or neurobiological disorder who has poor impulse control as a result of his/her condition.

4) a youth with impaired social and interpersonal skills who turns to younger children for sexual gratification.

Juvenile offenders are “less likely to commit the more egregious, socially repulsive sexual offenses.” It is rare that a juvenile sex offender will meet the criteria to be classified in category one as a pedophile. A pedophile is “an individual who fantasizes about, is sexually aroused by, or experiences sexual urges toward prepubescent children (generally less than thirteen years of age) for a period of at least six months. Pedophiles are either severely distressed by these sexual urges, experience interpersonal difficulties because of them, or act on them.”

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45 Id at 50-54.


47 Id.

Pedophilia donates a deep seeded psychological problem that leads to a compulsion to reoffend.  

The motivation behind juvenile offenses seem to fit with category 2 in that it is, “more exploratory in nature than those committed by adults and to not signify permanent sexual deviance. Generally, juvenile sex offenders (as well as juvenile offenders in general) are still learning and developing interpersonal and social skills and therefore are more receptive to treatment programs that help them develop more appropriate interactive and social behavior.”  

Many opponents of juvenile sex offender registries are concerned about adjudication for offenders that fall into category 4. The offenders who victims are under the age of 12 will be classified as a tier III offender and required to registrar for life. One mother, as she looked back on the years her son had spent on the state's sex offender registry, “admitted she wished she had never reported her eleven-year-old son's sexual offense involving his younger sister. She doubted that the long-run net loss to her family warranted the reporting of the offense.”  

Juveniles however victimize, on average, fewer individuals than adult sex offenders.  

The misconception that has fueled many of the registration and notification laws are based on the idea that juveniles have a high rate of recidivism. A study conducted by Margaret Alexander found that, the adult sex offender recidivism rate is 14.4% for rapists and 20.1% for child molesters, while her review found a 7.1% recidivism rate for juvenile sex

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52 Id.  
53 Robert E. Shepherd, *Advocating for the Juvenile Sex Offender, Part 1*, 21 CRIM. JUST. 53 (2006). Recidivism is defined as the number of subjects who were rearrested for a new sexual offense.
offenders.\textsuperscript{54} When a juvenile is placed in a treatment programs specifically developed for sexually offending youths, juvenile sex offenders showed lower recidivism rates than both treated adult sex offenders and untreated juvenile sex offenders.\textsuperscript{55} In the few studies that have tracked juvenile sex offenders for an extended period of time beyond their release, “their average recidivism rate fell well below the average adult offender recidivism rate.”\textsuperscript{56} These findings make a strong case for the concept of focusing more on rehabilitation that punishment.

“There is a growing consensus that juvenile sex offenders have more potential for rehabilitation than adult sex offenders. First, the patterns of sexual offending of juveniles seem to be less embedded than those found in adults. The criminal sexual behaviors of adult sex offenders appear to be more “the result of deeply ingrained and long-standing pathology.”\textsuperscript{57}

Since adult and juvenile sex offenders have so many differences it would seem to mandate that Federal and State law should treat them differently. The Adam Walsh act has not taken this approach but what about the states.

\textsuperscript{54} Margaret A. Alexander, \textit{Sexual Offender Treatment Efficacy Revisited}, 11 SEXUAL ABUSE: J. RES. & TREATMENT 2 (1999), available at http://www.helping-people.info/articles/alexander.htm. See also U.S. Department of Justice, \textit{Criminal Offenders Statistics}, at http://www.ojp.usdoj.gov/bjs/crimoff.htm #recidivism (finding that sex offenders were less likely than non-sex offenders to be rearrested for any offense: 43% of sex offenders versus 68% of non-sex offenders; although sex offenders were about four times more likely than non-sex offenders to be arrested for another sex crime after their discharge from prison: 5.3% of sex offenders versus 1.3% of non-sex offenders).


\textsuperscript{56} Id.

How Have State Dealt with These Issues?

The federal government laid out the guidelines in the 2006 Adam Walsh Act. But some state sex offender statutes are in flux due to state legislatures' attempts to come into compliance with the Adam Walsh Act.58

39 States have registration Laws for Juveniles under the age of 1859-Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Virginia, Washington, and Wisconsin.60

Of those 39 six states have separate registration for juvenile and adult offenders-Arkansas, Missouri, Montana, North Carolina, Oklahoma, and Wisconsin.61

13 jurisdictions have statutes or case law specifically requiring juveniles tried and convicted in criminal court to register: Alaska, Delaware, the District of Columbia, Florida, Iowa, Kentucky, Louisiana, Maine, Missouri, New Hampshire, North Carolina, Oklahoma, and Virginia.62

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58 National Guidelines for Sex Offender Registration and Notification, 72 Fed. Reg. at 30,213 (“Jurisdictions are free to require registration for broader classes of sex offenders with convictions that predate SORNA or the jurisdiction's implementation of the SORNA standards in its program.”).
61 NCSBY, Sex Offender Registration Laws, http:// www.ncsby.org/pages/registry.htm-The states that have separate provisions for juveniles tend to shorten the time that a juvenile stays on the sex offender registry or make it easier for juveniles to have their name removed from the registry.
62 National Center for Juvenile Justice, Supra.
Hawaii and Georgia and specifically excludes adjudicated juveniles from the sex offender registration requirement. 63

For states that do treat juvenile and adult sex offenders differently adults found guilty are listed on the registry while it is at the judge’s discretion whether or not to list juveniles. 64

This is the case in Virginia. The Virginia Code stated in pertinent part that

[j]uveniles adjudicated delinquent shall not be required to register; however, where the offender is a juvenile over the age of 13 at the time of the offense who is tried as a juvenile and is adjudicated delinquent of any offense [for which registration is required] ..., the court may, in its discretion and upon motion of the attorney for the Commonwealth, find that the circumstances of the offense require offender registration. 65

In Virginia judges are supposed to consider factors such as:

(1) the degree to which the delinquent act was committed with the use of force, threat, or intimidation, (2) the age and maturity of the complaining witness, (3) the age and maturity of the offender, (4) the difference in the ages of the complaining witness and the offender, (5) the nature of the relationship between the complaining witness and the offender, (6) the offender's prior criminal history, and (7) any other aggravating or mitigating factors relevant to the case. 66

This approach may allow for a more individualized punishment and a better chance of rehabilitating the offender. This approach can reflect a greater sensitivity to the stigma and other adverse consequences that can attach to the inclusion of a juvenile in the publicly accessible sex

63 Id.
64 VA. CODE ANN. § 9.1-902. Some states, such as Virginia, apply registration laws to juvenile sex offenders but allow the court to exercise its discretion in deciding whether or not to include a juvenile on the registry.
65 VA. CODE ANN. § 9.1-902(a)
offender registry and seeks to balance the state's concerns for the community's safety with the state's concern for the well-being of the juvenile.\textsuperscript{67}

**In regards to termination of registration:**

In 26 of these 39 states adjudicated juveniles face the possibility of lifetime sex offender registration for specified serious sex offenses: Arkansas, California, Colorado, Connecticut, Delaware, Florida, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Dakota, Ohio, Pennsylvania, South Carolina, Virginia, and Wisconsin.\textsuperscript{68}

Currently, 4 states set an age limit on juvenile sex offender registration. In North Carolina this duty terminates at age 18 if certain conditions are met. In both Idaho and Oklahoma the duty terminates at age 21, but a juvenile can be transferred to the adult sex offender registry under specified conditions. In Arizona the duty terminates for adjudicated juveniles at age 25.\textsuperscript{69}

The remaining 9 states set a time limit on juvenile sex offender registration, such as a specified number of years from the date of release from custody. Other states within this group of 9 permit the juvenile to petition the court for relief from registration within a specified number of years. States that set time limits are: Alabama, Illinois, Kansas, Oregon, Rhode Island, South Dakota, Texas, Utah, and Washington.\textsuperscript{70}

Under the Adam Walsh Act an offenders time of the registry may be reduced is the maintain clean record. But the length of time for this is still very long.

In the case of--

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\textsuperscript{68} National Center for Juvenile Justice, Supra.  \\
\textsuperscript{69} Id.  \\
\textsuperscript{70} Id.
\end{flushleft}
(A) a tier I sex offender, the period during which the clean record shall be maintained is 10 years; and

(B) a tier III sex offender adjudicated delinquent for the offense which required registration in a sex registry under this subchapter, the period during which the clean record shall be maintained is 25 years. 71

States are supposed to comply with the Federal laws and make most aspects of registration and community notification uniform by July 201072 or risk losing 10 percent of their federal funding. 73

Cases and Constitutional Challenges:
Due to the harsh requirements of the act there have been cases in state courts and the U.S Supreme Court that have challenged aspects of the act.

The retroactive requirement:
SORNA’s requirements apply to all sex offenders, both prospectively and retroactively. 74

In Smith v. Doe, the Supreme Court held that Alaska's retroactive application of its sex offender registration law to individuals convicted of sex offenses prior to the passage of this law did not violate the ex post facto clause because it was a non-punitive measure. 75 The ex post facto clause bars legislatures from criminalizing conduct that was not a crime when it was committed and from increasing the punishment for a crime beyond what it was at the time the act was committed. 76 Because sex offender registries are passed with the intention of protecting the

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72 National Center for Juvenile Justice, Supra.
73 42 U.S.C. § 14071- Any State that did not comply with the Megan's Law requirements would not receive ten percent of the funds that would otherwise be allocated to the State by the Omnibus Crime Control and Safe Streets Act of 1968.
public rather than inflicting further punishment on sex offenders, the Supreme Court held that they do not violate the *ex post facto* clause.\textsuperscript{77}

Iowa Supreme Court in *In re S.M.M.*, upheld a statute that afforded judges broad discretion in determining whether to place juveniles on the state's sex offender registry.\textsuperscript{78} The registration statute required juvenile sex offenders to register unless the juvenile court determined that the juvenile should not be required to register.\textsuperscript{79} Although no specific factors were provided for the court to consider in its determination the statute withstood both an *ex post facto* and a void for vagueness challenge.\textsuperscript{80}

Similarly, the Supreme Court of Massachusetts upheld that state's sex offender registry, which provided that juveniles may be placed on the registry only after a determination was made as to the juvenile's risk to the public.\textsuperscript{81}

In 2009 there was *In re: Adrian R., Delinquent Child* - a case being heard in the Ohio Supreme Court. This case has not yet been decided but it deals with “The retroactive application of Senate Bill 10 to juveniles whose offense was committed prior to the enactment of Senate Bill 10 violates the juvenile’s right to Due Process as guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, Section 16 of the Ohio Constitution.”\textsuperscript{82}

There are likely to be many more cases in the future that are dealing with these issues as states rush to comply with the Federal Guideline are risk losing their funding.

\textsuperscript{77} Smith v. Doe, 538 U.S. 84 (2002).
\textsuperscript{78} *In re S.M.M.* 558 N.W.2d 405 (Iowa 1997).
\textsuperscript{79} Id.
\textsuperscript{80} Id.
\textsuperscript{81} Roe v. Attorney General, 750 N.E.2d 897 (Mass. 2001).
\textsuperscript{82} *In re: Adrian R., Delinquent Child*, Ohio (2009).
My Recommendation:

1. Only juveniles who have been adjudicated delinquent of crimes that amount to aggravated sexual assault as defined by the Adam Walsh Act of 2006 should be considered eligible for the National registry.

2. All other juvenile sex offenders should only be required to registrar with authorities and no community notification shall be applied to their information. In Addition, their registration requirements will terminate at age 18 after being cleared through a psychological evaluation and a risk assessment.

3. If they are not clear by said test when they turn 18 their registration requirements will transfer to the adult system. Where upon a showing of clearance by evaluation and risk assessment they can be removed from the registry at any time.

4. Of the juveniles convicted of aggravated sexual assault they will not automatically be put on the registry.

5. Judges should be given discretion to decide whether or not to put these juveniles on the registry. The factors that the state of Virginia uses are good guideline to assist judges in their decision. This way the facts of each case can be relevant in the decision.

6. But if it is determined that they should be on the registry the rules according to the Adam Walsh Act will apply except that it will not be a lifetime registration. They will be able to show through an evaluation and risk assessment that they can be removed after 1 year. This determination will be at the judge’s discretion.