

# Thinking on Transformative Justice & the Sex Offense Registry

## Transformative Justice and Child Sexual Abuse

Transformative justice seeks to build community responses that can prevent and intervene in situations of violence without relying on state systems like policing, courts, incarceration, foster care, probation, parole, and surveillance. Interventions by these state institutions are violent and abusive themselves. They contribute to systems of oppression, community destabilization, and structural violence, conditions in which abuse and violence thrive. To effectively prevent violence, we must transform these conditions.

The Bay Area Transformative Justice Collective is working to build and support transformative justice responses to child sexual abuse (CSA). Many people are first exposed to violence, and to inadequate and oppressive state responses to violence, through CSA. Out of necessity, many are already responding to CSA without relying on the state. While we're building new responses, it's important to recognize the ways that CSA and people who cause CSA are used to justify and expand systems that are inadequate for addressing CSA, create additional harm, and exacerbate conditions that foster violence.

## The Sex Offense Registry

Individual states' implementation of sex offense registration laws grew throughout the 80s and 90s. This coincided with the rise in incarceration and state-driven responses to intimate and sexual violence, as well as the increased public fear of sexual violence perpetrated by strangers, more colloquially referred to as "stranger danger". In 1994, the first federal law regarding sex offense registration came into effect and, by 1996, Megan's Law required information that was previously held by law enforcement to be made accessible to the general public nationwide. Throughout the 21st century, registry laws have continued to increase and are among other punitive responses to interpersonal and sexual harm that allow the state to maintain a higher level of surveillance and control within our communities.

The existence of the sex offense registry hides the realities of CSA—most commonly, the people who sexually abuse children are family members or someone close to the child, not a stranger on a list. Under the pretense of preventing future CSA and other forms of sexual violence, the sex offense registry creates the illusion of safety without actually preventing or addressing the root causes of violence, all while enacting violence against survivors, people who have caused harm, and our communities. In circumstances where a family member or close community member is listed on the registry, survivors and their families can become targets of state and vigilante violence. The restrictions the registry imposes severely reduce peoples' access to resources that could aid their own and survivor healing by supporting them in doing the important work of accountability and personal transformation. These resources could include access to community or familial support, secure housing, or employment.

As with other kinds of state violence, the registry disproportionately targets marginalized communities, including disabled people, people of color, low-income people, houseless people, and queer people. People, including children, in communities that are already overpoliced and criminalized, are often placed on the registry for actions the state would not interpret as criminal for white, wealthier, able-bodied, housed, straight, and/or cisgender people. Furthermore, fears around the impact of state interventions—police contact, incarceration, and the possibility of registration—can prevent survivors from sharing their experiences out of fears for their own safety, the safety of their families, and sometimes the safety of the person who has caused them or their children harm. The mandatory nature of the registry and its looming lifelong consequences can serve to strip survivors of the right to determine their own path towards justice. This is particularly true for people whose identities or circumstances already lie at the nexus of oppression, who rarely see justice from a system that is dependent upon their criminalization and incarceration.

We hope this resource can provide basic information as to how the sex offense registry functions and resources that expand upon frames that complicate what it means to have a sex offense registry in an era of rampant violence, surveillance, criminalization, and incarceration. It is meant to serve as a tool for families and communities working to prevent or intervene in instances of CSA.

## DEDICATION

*This resource was put together out of deep love and care for all those impacted by CSA, sexual violence, the criminal legal system more broadly and, more specifically, by the sex offense registry. We recognize that the state's simplistic narratives of "victim" and "perpetrator" fail to account for the complex realities of harm and violence within our communities, especially around CSA. We are committed to working towards a world free of CSA and all forms of sexual and state violence. A world that is rooted in principles of accountability, transformation, and healing for those who have experienced and/or caused interpersonal harm and those who have experienced harm at the hands of the state.*

# California Sex Offense Registry Basics

In 1947, California became the first state to have a registry for people charged with sex offenses. Today, there are over 120,000 people on California's list, making it the largest registry in the country. In California, the registry is a life sentence, though a recent law change may make it so that some people convicted of a certain group offenses can get off of the list in their lifetimes.

## WHO IS ON IT?

People on the registry can be convicted for a range of different offenses including public exposure, child sexual abuse, sexual assault, etc. People can be placed on the registry for things they're convicted of when they're children, youth, or adults.

## WHAT IMPACT DOES IT HAVE?

Being on the registry means not only having one's name on a list. Being on the registry means complying on a regular basis with a maze of rules and restrictions, for life. Missing, forgetting about, or not following any of these rules could mean a new felony charge and jail or prison time.

## 3 TYPES OF REGULATION & THEIR IMPACTS<sup>1</sup>

### REGISTRATION

“Registration refers to a set of procedures that offenders must follow to disclose information to law enforcement authorities and to periodically update or ‘register’ that information so that it remains current.”

- Must go to a law enforcement agency within five days of a new residence, becoming houseless, or release from prison or jail, to register.
- Must go to law enforcement before every birthday to re-register or more frequently if something changes, if they are houseless, or if they are on the registry for certain offenses. For example, people charged with “sexually violent offenses” are required to report once a month.
- May have to sign up for another state’s registry if they travel to that state for any period of time.
- Must provide notification to law enforcement for international travel and may be denied entry internationally.

### COMMUNITY NOTIFICATION

“Community notification refers to systems by which information about registrants is transmitted to the public or portions of the public.”

- Have their names and other personal information, including home address for many, on a searchable public website. There are a few offenses for which people can petition for exemption from the public website but for the most part people’s names are placed online.
- While information technically cannot be used to impact services such as health insurance, employment, housing, and benefits, information is public and searchable.

### RESIDENCY RESTRICTIONS

“Residency restriction laws refer to mostly state and local ordinances that limit registrants’ ability to live in or spend any time in specific locations (such as near a school).”

- May be subject to restrictions on where they can spend time, live, work, or travel.
- Often, cannot reside within a certain distance of a school or area where children gather. Sometimes this can bar people from living in entire neighborhoods and cities, exacerbating issues like homelessness and access to resources, family, or support.
- Some of these restrictions have been challenged in particular cities and counties in California.

### COMMUNITY NOTIFICATION FOR YOUTH: ←

Youth adjudicated in juvenile court are not placed on the public registry website but law enforcement may notify the community that the person is on the registry if they believe the person is a threat. Information about someone’s registration status can also become public if they forget to properly report a change that they’re supposed to report to law enforcement, like moving, and are convicted of failure to register.

<sup>1</sup>Definitions in quotations below are excerpted from: Pittman, N. (2013). Raised on the Registry: The Irreparable Harm of Placing Children on Sex Offender Registries in the U.S. Human Rights Watch. This report and Pittman’s other work have helped inform our content and framing and we hold deep appreciation for her work.

# How Does One Get on the Registry?

## YOUTH & ADULTS

A person is required to register on the sex offense registry in California if:

- They were tried as an adult in California adult court and convicted of any one of over 30 offenses including actions classified as public exposure, sexual assault, child sexual abuse and a range of other convictions.
- They were convicted in another state of an offense that is considered equivalent to an offense that would require them to register in California, even if they are not required to register in the state where the conviction occurred.

## YOUTH

Under California law, a young person (under 18) is required to register in California if:

- They have been found guilty in juvenile court of any of the same offenses that require an adult to register and they have been sent to the state's youth prison system (Department of Juvenile Justice, DJJ). If the young person never goes to the state's youth prison system, they are not required to register regardless of the offense.

If a young person goes to DJJ for a non-sexual/non-registrable offense, and they had previously been found guilty of one of the list of registrable offenses, they can be put on the registry even though they didn't go to DJJ for the sex offense.<sup>2</sup>

↳ This only happens if a particular legal procedure happens in the case (the petitions are aggregated). Courts get to decide whether or not to do this but sometimes lawyers and courts may not realize the lifelong registration consequences.<sup>3</sup>

## REGISTERABLE OFFENSES:

A number of the offenses that require registration are crimes only because of the age of the victim/survivor. Current laws allow young people engaging in consensual sexual acts together to be prosecuted for such behaviors. So, youth can be put on the registry for doing something consensual with another young person, or even sharing a picture of themselves. For example, it is a registrable offense to share or distribute a sexual image of a minor under 18, even if the person sharing it is a teenager themselves.

<sup>2</sup> Ruelas v. Superior Court, 235 Cal. App. 4th 374

<sup>3</sup> Cal Wel & Inst Code § 726; First District Appellate Project - Basic Juvenile Criminal Law and Procedure.

# Registry State to State

## ADULTS

A person convicted of a sexual offense in California that does not require registration in this state may still be required to register in another state if they move or spend an extended period of time in a state in which their offense is registrable. If they don't know the law and don't register, they could be charged with failure to register, a felony in most states.

## YOUTH

If a person who didn't go to DJJ was found guilty of something in a California juvenile court and moves or travels to a state where youth have to register for that offense, they may have to register in that other state. These laws vary state-to-state and consulting a lawyer in that state before moving is a good idea. If a young person didn't have to register in their home state but was sent to that state's youth prison system for a crime they would have to register for in California, if they ever move to California, they may have to register.

### LIFETIME REGISTRY:

Before 2021, everyone on the registry in California was required to register for life.<sup>4</sup> As of January 1, 2021, the registry became "tiered." Some adults, and youth prosecuted in adult court, may be able to petition for removal from the registry after 10 years or after 20 years. Many, or most, depending on how the new law is implemented, will continue to have to register for the rest of their lives unless further changes are made to the law.

Youth prosecuted in juvenile court were previously required to register for life unless their records were sealed by the court. With the tiered registry as of January 2021, most youth who were placed on the registry after being prosecuted in juvenile court will have to remain on the registry for life unless the laws change but some may be able to petition for removal after 5 years or 10 years.

## ADDENDUM

*For more information about registrable offenses and requirements and restrictions placed on people on the registry, contact Bay Area Transformative Justice Collective directly at [BATJCinfo@gmail.com](mailto:BATJCinfo@gmail.com).*

*This resource was produced alongside other Bay Area Transformative Justice Collective toolkit resources on topics including: information on child sexual abuse, laws in Alameda County related to child sexual abuse, mandated reporting, and resources to talk about sex and sexual abuse with children. These resources are online and available at [BATJC.wordpress.com](http://BATJC.wordpress.com).*

*For legal guidance regarding the registry, you can contact the Alliance for Constitutional Sex Offense Laws at [all4consolaws.org](http://all4consolaws.org).*

<sup>4</sup> In a narrow set of circumstances, a person may be able to go through a process to obtain a Certificate of Rehabilitation through the courts and be removed from the registry.

# Life on the Registry: Stories & Resources

*All resources offered below are clickable links.*

## STORIES

The following articles include stories from people who are on the registry sharing about their experiences.

- [Simon Liu isn't a Sex Offender. But He's Still on the Registry for Life](#) (The Appeal, 2019)
- [Shawna, a Life on the Sex Offender Registry](#) (David Feige, The Marshall Project, 2017)
- [Untouchable](#) (David Feige, Documentary)
- [The House Where They Live](#) (Jennifer Gonnerman, New York Magazine, 2007)
- [The Registry](#) (Josh Gravens - AUDIO: Snap Judgment, Episode 417)
- [Banished](#) (The Marshall Project, 2018)
- [Black Men Disproportionately Represented on Sex Offender Registries](#) (Debbie Nathan, The Appeal, 2018)
- [Raised on the Registry](#) (Nicole Pittman, Human Rights Watch, 2014)
- [Raised on the Sex Offender Registry](#) (Video)
- [The List](#) (Sarah Stillman, The New Yorker, 2016)
- [How Sex Offender Registries Impact Youth](#) (Teen Vogue, 2017)

## ADDITIONAL READING & RESOURCES

The following links and articles offer a variety of critical frames on the registry. We do not necessarily agree with all of the perspectives offered but believe that the frameworks are useful to consider.

- [Internal Exile](#) (ACLU-FL, Video, 2018)
- [Case of Intellectually Disabled Teen Falsely Accused of Sex Offense Reveals Registry Flaws](#) (Joseph Darius Jaafari The Appeal, 2018)
- [The Carceral Problem Is Getting Worse](#) (Roger Lancaster, Jacobin, 2018)
- [Worst of the Worst? Queer Investments in Challenging Sex Offender Registries](#) (Erica Meiners, et.al., Upping the Anti: A Journal of Theory and Action, 2012)
- [A Snapshot of Juvenile Sex Offender Registration and Notification Laws: A Survey of the United States](#) (Nicole Pittman and Quyen Nguyen, Defender Association of Philadelphia, 2011)
- [Miami-Dade Sex Offenders 'Forced to Be Homeless'](#) (Elizabeth Weill-Greenberg, The Crime Report, 2019)