

**AFFIDAVIT OF**  
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I, Elizabeth J. Letourneau, verify that the statements made in this Affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

My name is Dr. Elizabeth J. Letourneau and I am a leading researcher and national expert on sex offender policy and intervention particularly as applied to juvenile offenders. My research efforts include five federally funded research projects specifically designed to examine the effects of sex offender registration and related policies.

**As detailed below, strong and empirically rigorous evidence indicates:**

- (A) Sexual recidivism rates for youth who sexually offend are low.**
- (B) Sexual recidivism risk for youth who sexually offend is similar to that of other delinquent youth.**
- (C) Registration of juveniles fails, in any way, to improve community safety.**
- (D) Registration is associated with unintended and impactful consequences on the adjudication of youth.**

**A. Sexual Recidivism Rates for Youth who Sexually Offend are Low**

There are now more than 30 published studies evaluating the recidivism rates of youth who have sexually offended. The findings are remarkably consistent across studies, across time, and across populations: sexual recidivism rates are low. In our research utilizing data on more than 1,200 male juvenile offenders adjudicated for sex crimes in South Carolina, the rate of new convictions for new sex crimes was just 2.5%. Recidivism risk varies for individual youth but it is also highly relevant to note that risk changes and risk is “front loaded”. That is, when rare sexual recidivism events do occur, it is nearly always within the first few years following the original adjudication. Moreover, even youth initially evaluated as “high risk” are unlikely to reoffend, particularly if they remain free of offending within this relatively brief period of time following initial adjudication.

**B. Sexual Recidivism Risk is Similar for Youth who Sexually Offend and Other Delinquent Youth**

In our research we compared the sexual recidivism rates of youth who sexually offended with youth who committed nonsexual violent offenses and youth who committed robbery offenses. The sexual recidivism rates of these three groups did not differ in a meaningful or statistically significant manner. Other researchers have reported similar findings. For example, one study indicated that the risk of sexual recidivism was statistically equal for youth treated in a residential facility for either sexual or nonsexual delinquent offenses (Caldwell, 2007). Thus, distinguishing between youth likely to sexually reoffend or not involves more than simply knowing that a youth has a history of such offending.

### **C. Registration Policies Fail to Improve Community Safety**

There are two principal ways in which registration policies might influence community safety. First, these policies should be associated with reduced sexual recidivism (re-offense) rates. Second, these policies could be associated with deterrence of first-time sex crimes. They are not.

#### **C1. Registration Fails to Reduce Juvenile Sexual or Violent Recidivism Rates**

Using data from South Carolina, my colleagues and I have completed several evaluations of registration policy effects on juveniles. As detailed in two publications, registration failed to influence sexual and nonsexual violent recidivism rates in both studies.

- i.** In the first study (See Ref # 1) registered and nonregistered male youth were matched on year of index sex offense, age at index sex offense, race, prior person offenses, prior nonperson offenses, and type of index sex offense (111 matched pairs). Recidivism was assessed across an average 4-year follow-up. **The sexual offense reconviction rate was less than 1%** (just two events for 222 youth). The nonsexual violent offense reconviction rates also did not differ between registered and nonregistered juveniles.
- ii.** In the second study (see Ref # 2) recidivism rates of all male youth with sex crime adjudications ( $N = 1,275$ ) were examined across an average 9-year follow-up period. Survival analyses examined the influence of factors that might have influenced recidivism rates, including registration status (registered or not). Results indicated that registration had no influence on nonsexual violent recidivism. Results also indicated that registration increased the risk of youth being *charged* but not convicted of new sex offenses and being *charged* but not convicted new nonviolent offenses. **Thus, not only does registration fail to reduce recidivism, it appears to be associated with increased risk of new charges that do not result in new convictions—possibly indicating a surveillance or “scarlet letter” effect of registration.**
- iii.** **Other investigators examining registration effects on juvenile recidivism rates also failed to find any support for these policies.** Other researchers have demonstrated that federal standards for juvenile sex offender registration fail to distinguish between youth who will reoffend or not (Batastini, Hunt, Present-Koller, & DeMatteo, 2011; Caldwell, Ziemke, & Vittacco, 2008) as do state-specific standards for establishing juvenile registration requirements in New Jersey, Texas, and Wisconsin (Caldwell & Dickinson, 2009; Caldwell et al., 2008). The basis for these federal and state policy failures might lie, in part, with the low sexual

recidivism rate of youth adjudicated for sex offenses (Caldwell, 2002; Vandiver, 2006) and policy failures to correctly distinguish between youth risk levels.

More specifically, Dr. Caldwell and his colleagues have completed several studies examining different aspects of juvenile sex offending. Recently, they examined whether registration tier designations as defined in the Sex Offender Registration and Notification Act within the Adam Walsh Act correctly distinguished between lower and higher risk youth. Each Tier designation is based on a youth's adjudication offense and past adjudications (if any). Tiers I-III are associated with increasingly longer registration duration and should correspond with increasingly higher recidivism risk, such that youth assigned to Tier I should reoffend at a lower rate than youth assigned to Tier II or Tier III (see Ref # 3). Analyses examined recidivism across an average 72-month follow-up period for 91 juvenile sex offenders and 174 juvenile nonsexual violent offenders. **Results indicated no significant differences in the sexual recidivism rates of youth in Tiers I-III.** Thus, basing tier designations on youth offense and offense history is an ineffective method for identifying the small minority of higher risk youth. **Moreover, youth classified in the highest (Tier III) designation had the lowest nonsexual violent recidivism rate.** As noted previously, the sexual recidivism rates were the same for the juvenile sex offenders and the juvenile nonsex offenders, suggesting that distinctions between these two groups of youth are misplaced.

## **C2. Registration Fails to Deter First-Time Juvenile Sex Crimes**

We have completed the only study, to date, evaluating the effects of registration on the prevention or deterrence of initial sex crimes (see Ref # 4). Examining more than 3,000 juvenile sex offense cases from 1991 through 2004, trend analyses modeled the effects of South Carolina's initial registration law (which did not include online registration) and subsequent revision (that permitted online registration of registered youth). If either the original or amended policy deterred first-time offenders, then rates of first-time sex crimes should have declined following enactment of South Carolina's SORN policies. **Results indicated no significant deterrent effect for the original registration policy or for the revised policy. Thus, registration was not associated with deterrence of first-time juvenile sex crimes.**

## **D. Registration is Associated with Unintended and Impactful Consequences on Youth Adjudication**

### **D1. Registration Increases Juveniles' Risk of Sustaining New Nonviolent Charges**

We have found that South Carolina's registration policy is associated with increased risk of new charges but not new convictions, particularly for nonviolent offenses. Specifically, registered youth were significantly more likely than nonregistered youth to be charged with relatively minor, misdemeanor offenses (e.g., public order offenses). While it is possible that the burdens related to registration actually increase youth misbehavior, we believe it is more likely that these findings reflect a surveillance effect. That is, youth who are required to register with law enforcement agencies and who are known as "registered sex offenders" are likely to be viewed (inaccurately) as more dangerous than youth with the same history of

sex offending but without the registration label. This perception may cause law enforcement agents to arrest registered youth for behaviors that do not trigger the arrest of nonregistered youth and that ultimately do not result in new convictions (see Ref # 2). **Requiring youth to register multiple times per year with law enforcement has significant negative consequences for youth and is not merely inconvenient.** The process of identifying oneself as a registered sex offender multiple times per year, and of being arrested and possibly charged for new offenses due in part to this label seems likely to cause registered youth to view themselves as “delinquent” even when they are law-abiding. Ample evidence indicates that youth who view themselves as delinquent or outside the mainstream are less likely to change patterns of offending. Policies that promote youths’ concepts of themselves as lifetime sex offenders will likely interrupt the development of a positive self-identity (See Ref # 5).

## **D2. Registration Influence Judicial Processing of Juvenile Sex Offense Cases**

We have completed two studies examining the influence of South Carolina’s registration policy on case processing. Both studies revealed evidence that this policy dramatically influenced whether and how juvenile sex offense cases were addressed in family court.

- i.** In our first study (see Ref # 6) we examined the effects of registration on the likelihood that prosecutors would choose to move forward on versus drop or dismiss juvenile sex offense cases. Prosecutor decisions and final dispositions were examined for more than 5,500 juvenile sex offense cases across a 15-year time period. Results indicated that prosecutors were significantly less likely to move forward on serious sexual offense charges after registration policy implementation. **Specifically, there was a 41% decline in moving forward on juvenile sex offense cases following enactment of registration.** We interpreted this finding as evidence that prosecutors altered their decision-making procedures in order to “protect” many juveniles from long term registration requirements.
- ii.** In our second study (see Ref # 7) we examined the effects of registration on the likelihood that juvenile sex offense charges would be pled down to lesser, non-sex offense charges. Examining data from nearly 3,000 youth initially charged with sex offenses, we identified dramatic and significant increases in plea bargains corresponding with enactment of South Carolina’s registration policy. **Specifically, there was a 124% increase in plea bargains to non-sex offense charges from the period predating registration to the period following initial enactment of registration** and another 50% increase in plea bargains following enactment of online registration notification. These results indicate that prosecutors amended initial sex offense charges to non-sex offense (typically assault) charges to help youth avoid registration and notification.

## **D3. Unintended Effects of Registration on the Prosecution of Juvenile Sex Offense Cases Might Reduce Community Safety**

That prosecutors alter their behavior in response to harsh policies is not surprising, particularly when those policies target juveniles and treat juveniles as if they culpable to the same degree as adults, as in the case of lifetime registration. Moreover, because registration fails to improve community safety, it might seem that community safety is not harmed when prosecutors choose to dismiss, divert, or change the charges for juvenile sex offense cases.

This perception is misleading. For example, juveniles who have actually committed sex offenses but whose charges were dismissed or amended to non-sex offense charges are unlikely to receive appropriate clinical services or supervision. Moreover, youth demographic factors including age and race also influenced prosecutors' decisions, thus introducing the possibility of inequity. Finally, the underlying message to victims—that the harm caused by their offenders did not warrant a sex offense adjudication—might negatively impact victims. Thus, **rather than relying upon prosecutors to selectively protect some youth from ineffective and harmful policies, a more just and equitable solution would be to avoid such policies altogether.**

In closing, juveniles who have sexually offended should not be subjected to registration. Long-term registration based on a youth's adjudication offense fails to identify high-risk youth, fails to reduce sexual or violent recidivism, fails to deter first-time juvenile sex crimes, and influences judicial case processing in ways that might actually impair community safety. Moreover, youth who are labeled for life as sex offenders will face innumerable barriers to successful prosocial development and might face public notification and other collateral consequences such as residency restrictions and restrictions on attending public schools if they move to a new state, based solely on their registration status in PA. These consequences will create barriers to the prosocial development and ultimate success of these youth, without improving community safety.

#### References

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DATED this 22<sup>nd</sup> day of April, 2013.

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Signature

SUBSCRIBED AND SWORN to before me  
This \_\_\_\_\_ day of April, 2013.

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NOTARY PUBLIC in and for said COUNTY and STATE