



2016

**Arkansas Association for the Treatment of Sexual Abusers
Position Paper on The Adam Walsh Child Protection and Safety Act of 2006**

The Arkansas Association for the Treatment of Sexual Abusers is a multidisciplinary organization committed to eliminating sexual violence. With the passing of the Adam Walsh Child Safety and Protection Act (AWA) in 2006, it is clear that management of sexual offenders is an important issue facing our society. However, within this law are certain provisions aimed toward juvenile and adult offenders, which will not have the intended effect of reducing sexual crimes, and may reduce the effectiveness of rehabilitation and public safety, while significantly increasing financial costs to the criminal justice system.

One of the goals of the AWA is to create a nationwide system that categorizes sexual offenders based on the risk they pose to the community as well as to establish minimum registration periods ranging from 15 years to lifetime. The following information and scientific data should be considered:

- The majority of juvenile offenders do not sexually reoffend at long-term follow up. These rates are reported to be around 8% on average. (Caldwell, 2007, Worling & Langstrom, 2006, Reitzell & Carbonell, 2006, Zimring, 2004, ATSA, 2000, Alexander, 1999).
- Juveniles who commit sexual offenses are significantly different from adult offenders in that they are more responsive to treatment and have fewer victims. Very few fit the criteria for pedophilia or could be rightfully classified as sexual predators (National Center on Sexual Behavior of Youth, 2003). In Arkansas there are mechanisms currently in place that are successfully used to identify and manage these dangerous juveniles.
- The Adam Walsh Act departs from longstanding traditions about how society treats juveniles who violate the law and subjects them to the same penalty as adults who violate the law. The American Bar Association (ABA) notes that the goals of the juvenile correction system should be pursued through means that are fair and just, and that recognize the unique characteristics of juveniles as well as giving juveniles access to opportunities for personal and social growth (2007). We support legal sanctions against youthful offenders and agree with the ABA that these should vary in restrictiveness and intensity, and be developmentally appropriate and limited in duration. Lifetime registration for a crime committed at age 14, which is possible under the AWA, does not take individual differences into account.



- There is no scientific evidence to support the use of universal juvenile registration as a deterrent to sexual abuse re-offending.
- Under the AWA any juvenile 14 and older who commits an offense against a child under 12 years of age, may qualify for tier three registration, which carries a lifetime mandate. Most youth who offend are noted to be fourteen and their victim age seven (Ryan & Lane, 1991). This would place a disproportionately large number of youth into tier three who may not pose the risk such designation suggests.
- The impact on the legal system will shift again once prosecutions begin to operate under the AWA. There is a very real risk that there will be a decrease in parental willingness to report sexual abuse or seek mental health services when they see that the result will be lifetime public registration. This could increase the secrecy of sexual abuse which evidence already indicates is underreported in part due to the stigma associated with sex crimes.
- Further, there will likely be an increase in plea bargains to non-sexual crimes, contested proceedings, and less delinquency adjudications resulting in far fewer juveniles getting referred for needed treatment or facing reasonable legal sanctions. This would in effect make our communities less safe as those who are not receiving treatment have higher rates of re-offending than those who are referred to and receive appropriate treatment.
- Residence restrictions near schools, parks, daycares, et cetera, are also associated with registration in Arkansas, and we anticipate that many youth on registries will be prevented from living with their families due to proximity to these restricted locations or due to having siblings or other children living in the same home. This would interfere with successful treatment efforts to reunify families who have endured sexual abuse, and may further damage the family's ability to heal and stigmatize the entire family.
- The AWA preempts state laws by imposing broad registration requirements. It also supersedes the states' juvenile court system thereby removing state jurisdiction over youth who are entitled to state protection. Case by case analysis by juvenile judges will be replaced with a poorly conceived "one size fits all" approach.
- The AWA has also been criticized by the National Conference of State Legislatures for its lack of appropriations, making it an unfunded mandate. Estimates of costs of AWA implementation to the criminal justice system have far exceeded the financial reward of being deemed substantially compliant with



AWA. The estimate for Arkansas was a \$4 million dollar cost to implement AWA versus \$400,000 award from the U.S. Government for being deemed in compliance with AWA (Justice Policy Institute, 2008).

- The AWA attempts to enforce a floor of a crude attempt at offender categorization based on the title of sex offense conviction. Best practice stresses a thorough, individualized assessment based on numerous components of a person's history and assessment of static and dynamic risk factors. Arkansas far exceeds the AWA standard and is one of the few states to routinely implement best practice for all offenders.
- Implementation of AWA sets sex offender management for juveniles and adults in Arkansas back 20 years.
- The risk-needs-responsivity model dictates the majority of resources for sex offenders allocated for law enforcement, tracking, and treatment be directed to the smaller high risk sex offender population. Directing a high level of these services toward low risk sex offenders can actually make them worse and waste resources..
- The only study of the AWA effectiveness sponsored by the DOJ (Zgoba, 2015) showed no effect in 3 states and an inverse effect in 1 state (i.e., AWA tiered high risk offenders had lower rates of recidivism whereas those tiered as low risk had higher rates of recidivism.
- Since AWA implementation in 2006, only 17 states have adopted AWA and some are now trying to opt out.
- AWA tiering of offenders has been found to place a disproportionate number of offenders in the highest tier. This can oversaturate the public with information about offenders who may not truly be high risk. It also places a larger number of people on the registry, who must register more frequently, and for a longer duration. The unintended consequences of this is a bloating of the already saturated criminal justice system. This can increase time, resources, and costs for local law enforcement, prosecutors, and state probation/parole officers and the prison system.
- The current system in place in Arkansas for the past 16 years for both juvenile and adult assessments calls for an individual assessment by experienced mental health professionals and criminal justice experts with built-in due process at a judicial level that has withheld judicial scrutiny up to the U.S. Supreme Court.



As stakeholders in the fight to eliminate sexual abuse we consider it necessary to ensure all involved parties have accurate information upon which to make an informed decision. We argue that the AWA proposes counterproductive and non-evidence based measures to combat sexual abuse. We hope that we can assist in drafting public policy that is based on the best available scientific evidence and addresses issues for both the adult sex offender and the developing youth within a corrections and rehabilitation context. The current approach to sex offender management in Arkansas with both adult sex offenders and youth who have sexually abused is consistent with the current best practices in the field. Adult sex offenders are required to have a Community Notification Assessment and juveniles who have sexually offended are required to have a Registration Risk Assessment. For juveniles the results of this thorough assessment are factored into the juvenile judges' decisions regarding registration and notification. Currently, the decision lies with the judge, who has access to the results of an extensive individualized assessment so that the juveniles that pose significant risk to the community are required to register and those who are more likely to develop pro-social adult behaviors are not. We urge policy makers to thoughtfully consider the full impact of all these issues when considering any adjustment to the current sex offender management model in Arkansas, particularly with respect towards steps of implementing components of AWA.

Respectfully Submitted,

Members of the Arkansas Association for the Treatment of Sexual Abusers



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