



Illinois Voices for Reform

“Speaking Out for Those Without a Voice.”

Studies of Residency Restriction Laws for Managing Sex Offenders

This document contains summaries of a number of recent reports having to do with the effectiveness of sex offender management and residency restriction laws. Links to the full reports for each of these summaries can be found on our website: www.ilvoices.com.

Does the Jacob Wetterling Resource Center Support Laws that Prohibit Sex Offenders from Living within a Certain Distance from Schools, Parks, or Daycare Centers? (*Statement from the Jacob Wetterling Resource Center Website*)

Paul A. Zandbergen, Jill Levenson, and Timothy C. Hart: *Residential Proximity to Schools and Daycares: An Empirical Analysis of Sex Offense Recidivism (Criminal Justice and Behavior, May 2010)*

New York State Senate: *Standing Committee on Crime Victims, Crime, and Corrections (2009-2010 Report)*

California Department of Corrections and Rehabilitation (October 2010)

Broward County, Florida: *Final Report: Sexual Offender & Sexual Predator Residence Task Force (August 2009)*

Ron Wilson: Mapping and Analysis for Public Safety Program and Data Resources, National Institute of Justice: *Geographic Research Suggests Sex Offender Residency Laws May Not Work (May 2009)*

Geography & Public Safety: *A Quarterly Bulletin of Applied Geography for the Study of Crime & Public Safety (May 2009)*

Association for the Treatment of Sexual Abusers: *Sex Offender Residence Restrictions (Public Policy Briefs, 2008)*

Paul S. Appelbaum, M.D., Psychiatric Services: Law & Psychiatry: Sex Offenders in the Community: Are Current Approaches Counterproductive?

Richard Tewksbury and Jill Levenson: *When Evidence is Ignored: Residential Restrictions for Sex Offenders*

Sex Offender Management Policy in the States: Strengthening Policy & Practice

The Pay-Off of Jobs and Programs and the Negative Influence of Residential Instability: Enhancing Parole Decision-Making Through the Automation of Risk Assessment (Submitted to the Georgia Board of Pardons, April 2003)

Jill Levenson, Ph.D.: *Collateral Consequences of Sex Offender Residence Restrictions*

Constitutional Challenges to Residency Restrictions

Human Rights Watch: *No Easy Answers*

Iowa County Attorneys Association: *Statement on Sex Offender Residency Restrictions in Iowa (December, 2006)*

Does the Jacob Wetterling Resource Center Support Laws that Prohibit Sex Offenders from Living within a Certain Distance from Schools, Parks, or Daycare Centers? (Statement from the Jacob Wetterling Resource Center Website)

At first glance these types of exclusionary zoning laws, known as “sex offender residency restrictions,” seem like a good idea that should help keep kids safe. Why would anyone want to allow sex offenders to be anywhere near children? **The problem is these laws may do more harm than good, if they work at all.** In spite of good intentions, these laws have unintended consequences that can actually make it harder to track sex offenders.

These laws make it illegal for a sex offender to live within some set distance, usually 1,000 to 3,000 feet, of places where children tend to be. Think about drawing a circle that big around every school, park, daycare center, playground, library, and public building. Those circles would probably cover most, if not all, of most cities and towns, and would leave very few places for sex offenders to live. The sex offenders we’re talking about can no longer be kept locked up and the system has to let them out, and so they have to live somewhere. These sex offenders have two basic choices; follow the rules and live in the few places allowed, or break the rules by trying to keep their sex offender status secret.

The offenders that follow the rules end up concentrated in the few small areas that are not restricted, or they move out beyond the city or town. With the limitations on where they can live come practical limitations on their opportunities to find work. **To successfully rejoin a safe and peaceful society, these offenders, like anyone else, have to be able to make a living.** A sex offender who cannot support himself is at risk of becoming homeless, and this can make it much harder for authorities to keep track of him.

When sex offenders break the rules by not reporting where they live, law enforcement loses the ability to keep track of them, and so instead of being sure that an area is clear, it becomes an unknown. Residency restrictions aren’t force fields and they can’t keep out the sex offenders that you didn’t even know were there in the first place.

But just because these laws can make it harder to keep track of ALL sex offenders, doesn’t it help to keep at least SOME of them away from schools, playgrounds, and the like? While it might feel like that would be the case, the statistics do not show it. The Minnesota Department of Corrections released a report in April, 2007 that tracked the recidivism (re-offense rates) of 224 sex offenders who had been released between 1999 and 2002, and were then sent back to jail for another sexual offense before 2006. Of these 224 offenders, only 79 (35%) involved direct contact between offender and victim, and of those, only in 28 cases was that contact initiated within one mile of the offender’s home (the offender’s home being where a residency restriction would apply). Of those 28 cases, only 16 involved juvenile victims.

But wouldn’t at least those 16 crimes have been prevented? The report found that “[n]ot one of the 224 sex offenses would likely have been deterred by a residency restrictions law.” The report found that none of the 16 cases involving a juvenile victim involved contact initiated near a school, park, or other prohibited area. The study concluded that “A statewide residency restrictions law would likely have, at best, only a marginal effect on sexual recidivism. Although it is possible that a residency restrictions law could avert a sex offender from recidivating sexually, the chances that it would have a deterrent effect are slim because the types of offenses it is designed to prevent are exceptionally rare and, in the case of Minnesota, virtually non-existent over the last 16 years. **Rather than lowering sexual recidivism, housing restrictions may work against this goal by fostering conditions that exacerbate sex offenders’ reintegration into society.**”

Because residency restrictions have been shown to be ineffective at preventing harm to children, and may indeed actually increase the risks to kids, the Jacob Wetterling Resource Center does not support residency restriction laws. Such laws can give a false sense of security while sapping resources that could produce better results used elsewhere.

Paul A. Zandbergen, Jill Levenson, and Timothy C. Hart: Residential Proximity to Schools and Daycares: An Empirical Analysis of Sex Offense Recidivism (Criminal Justice and Behavior, May 2010)

Residential restrictions for sex offenders have become increasingly popular, despite the lack of empirical data suggesting that offenders’ proximity to schools or daycares contributes to recidivism. Using a matched sample of recidivists and nonrecidivists from Florida ($n = 330$) for the period from 2004 through 2006, the authors investigated whether sex offenders who lived closer to schools or daycares were more likely to re-offend sexually against children than those who lived farther away. No significant differences were found between the distances that recidivists and nonrecidivists lived from schools and daycares. There was no significant relationship between re-offending and proximity to schools or daycares. **The results indicate that proximity to schools and daycares, with other risk factors being comparable, does not appear to contribute to sexual recidivism. These data do not support the widespread enactment of residential restrictions for sexual offenders.**

New York State Senate: *Standing Committee on Crime Victims, Crime, and Corrections (2009-2010 Report)*

- After 14 years of sex offender registries and a growing list of restrictions in place in New York, **there is little evidence that any of these measures have contributed to a decrease in sexual assault.** There is, however, a growing body of research suggesting that some laws relating to registration, notification, and overly harsh laws restricting where sex offenders can be and how they can engage with their communities may exacerbate the risk that they will re-offend.
- New York's Risk Assessment Guidelines were developed more than 15 years ago, at a time when experts in the state knew far less about how to measure the risk that someone once convicted of a sex crime would re-offend. It is our belief — one shared by many experts — that there are far too many people in New York who are misclassified in the higher levels of risk, and therefore unnecessarily diverting limited resources away from likely re-offenders.
- **Reject additional further residency restriction proposals** and instead **reinforce the ability of individual probation and parole officers to assess whether there are residences that are inappropriate for certain individuals** such that they would pose an unacceptable risk of re-offense.
- **Community notification has been found to have no demonstrable impact on sexual recidivism.** In fact, some studies suggest that community notification may aggravate stressors that lead to increased recidivism, and requiring broad community notification via the Internet may discourage some victims of sexual abuse from reporting incidents to the authorities.
- Each year, New York adds another restriction on those already convicted of sex offenses as a means to prevent sexual violence against children. However, **the overwhelming majority (around 95%) of sex offenses, including rape and child molestation, are committed by those who have never before been convicted of an offense.** This means that New York concentrates all of its legislative efforts on preventing only 5% of all sex crimes against children, and completely ignores the threat posed by first-time offenders.

California Department of Corrections and Rehabilitation (October 2010)

The Sex Offender Supervision and GPS Monitoring Task Force was a multi-disciplinary collaboration composed of CDCR staff including representatives from adult and juvenile parole and the Board of Parole Hearings, law enforcement representatives, victim advocates, the Office of the Inspector General, the National Institute of Justice, treatment providers, probation representatives, and industry experts. The Task Force said its nine interrelated recommendations should be viewed as a package because they would be most effective if implemented together.

- **Targeted Residence Restrictions:** A comprehensive public policy protection strategy for the control of sex offender parolees requires that Parole Agents have the authority to review and approve where parolees reside. Blanket residence restrictions have not improved public safety and have compromised the effective monitoring and supervision of sex offender parolees. Therefore, residence restrictions as set forth in Penal Code Section 3003.5(b) should be repealed in favor of targeted residence restrictions.

Comment: **There is no evidence that residence restrictions for sex offenders make the community any safer.** Since the passage of Proposition 83, residence restrictions have expanded significantly with an unintended consequence. Transient sex offender parolees have increased by approximately 24 times. Presently, more than 1/3 of all sex offenders on parole have become transient. Before the passage of Proposition 83, residence restrictions were already in place. Penal Code Section 3003(g) prohibited high-risk sex offenders with child victims from residing within 1/2 mile from schools. Additionally, Parole Agents used discretion to prevent parolees from residing in any housing location that would increase their risk of re-offense. Repealing the blanket residence restrictions imposed by Proposition 83 will provide adequate housing options for sex offenders while continuing to provide public safety.

Broward County, Florida: *Final Report: Sexual Offender & Sexual Predator Residence Task Force (August 2009)*

Purpose: *to review, research, and make recommendations to the board of county commissioners regarding the issues involved with the residence restrictions of sexual offenders and predators convicted of certain sex offenses.*

Excerpts from the final report:

- In an effort to protect children from predatory sexual abuse, city commissioners throughout Broward County have passed municipal ordinances prohibiting sex offenders from residing within close proximity to places where children commonly congregate. **Despite their best intentions, these laws have resulted in an array of unintended consequences.**
- We reviewed available research about the effectiveness of residence restrictions and **found no empirical evidence to indicate that these laws achieve their intended goals** of preventing abuse, protecting children, or reducing re-offending.
- In addition to the lack of research supporting the effectiveness of these laws in preventing abuse, there is mounting evidence that these laws diminish housing availability and increase transience, homelessness and instability for offenders.

- Residence restrictions and their resulting transience create burdens for law enforcement officials as well. The BSO representative noted that these laws require officers to identify subjects affected by the ordinance, monitor their leases, identify violators and complete investigative packets for prosecution. The DOC representative reported that probation officers spend time assisting offenders with housing problems and often check dozens of addresses for compliance for a single offender.
- We found that many victim advocates remain unconvinced that residential restrictions achieve improved protection from sexual abuse. The National Alliance to End Sexual Violence (NAESV), the umbrella organization of rape crisis centers throughout the United States, issued a public position opposing residence restrictions, stating that **“sex offenders who continually move or become homeless as a result of residency restrictions are more difficult to supervise and monitor, thereby increasing the risk of re-offense.”**
- We recommend that in any ordinance that is passed, an exception be made for offenders who established their residence prior to the passage of the ordinance (a “grandfather” clause). Such clauses are commonly found in other municipal ordinances. Because housing throughout the county is so limited, such a clause will reduce the probability of homelessness and transience for RSOs who are already living in unincorporated areas. The proposed end-of-lease grandfather clause simply delays housing instability rather than prevents it. Grandfathering homeowners but not lease holders represents differential treatment based on financial resources. **Since there is no reason to believe that current lease holders present a greater threat to the safety of children than homeowners, this differential treatment seems not only unfair, but illogical.**
- We recommend that an exception be made (referred to as a Romeo & Juliet clause in Florida statutes) for young adults with a single victim and who, at the time of the offense, were under the age of 22 and committed a “statutory” offense with a teenage victim no more than 4 years younger than the offender. While we recognize that such behavior is unlawful, and that minors cannot legally consent to sexual activity with an adult, we also recognize that such offenders are not typically diagnosed as pedophiles and probably do not pose a significant danger to commit future sexually violent crimes.
- We recommend that commissioners strongly urge our elected state senators and representatives to enact a statewide solution to sex offender management. ...We recommend that the county commissioners adopt a resolution asking the legislature to create a statewide residence solution, which should include a Romeo & Juliet clause as well as a grandfather clause. The recommendation to the legislature should also urge the adoption of a uniform statewide child safety zone provision preventing RSOs from loitering within 300-500 feet of a school, park, daycare, designated school bus stop, or other place where children regularly congregate. **We also recommend that the legislature review the crimes that require registration and that Florida create a more refined, risk-based classification and tier system of offenders that might, in some circumstances, lead to individuals eventually being deleted from the registry but only upon meeting criteria established by statute and requiring judicial review.**

Ron Wilson: Mapping and Analysis for Public Safety Program and Data Resources National Institute of Justice: Geographic Research Suggests Sex Offender Residency Laws May Not Work (May 2009)

States across the country have been adopting residency restriction laws to keep sex offenders away from children, but recent geographic research from a special journal edition of *Criminal Justice Policy Review* suggests **these laws may do more harm than good**. Although restrictions keep sex offenders away from schools, playgrounds, and daycare facilities, theoretically they make little sense because they limit residence locations so severely that they force offenders to move to places where they cannot get jobs, find acceptable places to live, reach treatment programs, or gain the basic necessities they need for a healthy re-entry.

- **Restrictions are Not Supported by Crime Theory.** Theorists and researchers have a number of insights into why sex offenses occur, and why residency restrictions make little sense. **Research indicates no relationship between sex offending and residential proximity to locations where children congregate.** Offenders pick their residence by what they can afford, and generally find victims through a child’s family member or acquaintance, or victimize children in their own family.

Even if sex offenders live near schools or daycare facilities, routine activity theory posits that a crime occurs only when a motivated offender finds a target who is not cared for by a capable guardian. Schools, parks, and daycare centers generally have numerous capable guardians, so offenses are unlikely to occur in those settings.

Additionally, when sex offenders are restricted from these areas, they are also forced to live far from jobs, treatment services, and basic necessities, which make the re-entry process more difficult. Research shows that many find themselves living in rural areas or neighborhoods that have high levels of social disorganization — meaning greater economic disadvantage, lower social cohesion, and greater residential mobility. These neighborhoods often cannot afford the social services that offenders need. Without treatment, offenders are more likely to commit new crimes.

Also, offenders can become frustrated and angry when they believe that their punishment is excessive or unfair. Carrie Mulford, Ronald Wilson, and Angela Moore Parmley conjecture that strain theory may explain this idea — if offenders feel they are being punished more than a crime warrants, it may cause undue stress and lead to re-offending. Offenders’ stress levels increase when forced to live in disadvantaged communities, denied opportunities to engage in everyday activities, and cannot access treatment or gain employment. Consequently, they may recidivate.

- **Geographic Analysis Shows how Restrictions can Hamper Offenders' Recovery.** The use of geographic information systems (GIS) and spatial analysis has helped researchers provide visual and statistical information about the problems with residency restrictions. These geographic analysis tools allow geographers to create accurate maps of human behavior and analyze databases of location information with statistical software. Recent analyses of residency restrictions have shown their potential effects on offenders and communities and may help inform better policy decisions.

In 2006, Paul Zandbergen and Timothy Hart, of the Universities of New Mexico and Nevada, used GIS to show that expanding a buffer to 2,500 feet would leave only 29% of all properties available for sex offender residence in Orange County, Florida. If bus stops were also included in the buffer, less than 5% of properties would be available. A related study of potential restrictions in New Jersey suggested that residency restrictions of 2,500 feet would leave only 54% of rural territory, 37% of suburban territory, and 7% of urban territory available for offender residence. If enacted, almost all offenders would need to relocate.

But more important than the effect of these restrictions on current relocation is the distance that offenders would be forced to live from social service programs. Sex offenders recidivate at lower rates when they receive treatment. **Geographic studies suggest that if residency restrictions remain in place, the effects may be costly for society.** A South Carolina study showed that offenders with 2,500-foot buffer zones would have to live farther from treatment centers. This means they may not receive necessary treatment, may have more trouble with re-entry, may recidivate, and may cause strife in their communities.

The papers in this special journal edition demonstrate just how vital studying the effects of residency restrictions can be when determining whether new laws and policies are a good idea. Police Chief Tom Casady of Lincoln, Nebraska, says that policymakers will not repeal or defeat residency restrictions unless the message is recast by focusing on how these laws make neighborhoods less safe. Future geographic studies will give these dissenting voices the statistics they need to show the long-term consequences of these restrictions and the harm they may cause communities.

This news article is based on the following editorial in *Criminal Justice Policy Review*: Mulford, C.F., R.E. Wilson, and A.M. Parmley. "The Geographical Aspects of Sex Offender Residency Restrictions: An Introduction to a Special Edition of *Criminal Justice Policy Review*." *Criminal Justice Policy Review* 20(1)(2009): 3–12.

Geography & Public Safety: A Quarterly Bulletin of Applied Geography for the Study of Crime & Public Safety (May 2009)

- **California Cuts Back on Funding for Sex Offender Housing.** California stopped paying to house thousands of paroled sex offenders in mid-February 2009, according to orders from corrections officials. California paid more than \$20 million a month to house sex offenders in lieu of Proposition 83, a law that bans them from living within 2,000 feet of playgrounds or parks where children congregate. Some parolees have depended on these funds for more than two years. The new corrections order gives them a 60-day transition period before they are required to be self-sufficient.

Critics of Proposition 83 suggest that the money would be better spent by removing the 2,000-foot residency restriction and using the funds to help parolees make the transition back into society. Funds used to pay for housing for sex offenders might be better spent on job training, treatment programs, and personal aid.

- **Should Sex Offenders Have Rights?** Proposed sex offender restriction laws in Illinois to monitor offenders by using GPS are meeting with some opposition. **Although some restrictions make sense, such as banning offenders from jobs where they have direct contact with children, other restrictions, like GPS monitoring, can be expensive and do not statistically reduce the number of offenses.**

New suggested restrictions include banning offenders from Internet dating sites, nursing homes, and parts of public libraries. Editors of the Illinois State University's *Daily Vidette* suggest that these restrictions may be unconstitutional because they take away offenders' civil liberties. They argue that **sex crimes vary widely and should be approached on a case-by-case basis rather than through a statewide law or mandate.**

- **Manitowoc, Wisconsin, Defeats Residency Restriction Proposal.** The Manitowoc, Wisconsin, city council failed to pass a recent proposal to keep sex offenders from living within 2,000 feet of certain areas where children commonly congregate. **The ordinance failed to pass because council members said that they had no proof these measures would actually keep children safer.**

Council alderman Rick Sieracki told the local newspaper, the *Herald Times*, that he thought passing the ordinance would have done more harm than good. "I can't believe anyone would vote for this. All the groups have said the same thing," he said, "If we're creating safe zones then we're creating danger zones. Our energy would be better spent on promoting safe behaviors."

Sieracki was not alone in his opinion. Only one member of the committee voted in favor of the new residency restrictions. The committee's chairman said the council would prefer to focus on notifying community members about a sex offender's presence in their neighborhood and educating communities about safety hazards.

Association for the Treatment of Sexual Abusers: *Sex Offender Residence Restrictions (Public Policy Briefs, 2008)*

- **Current Research Highlights.** Residence restrictions attempt to prevent predatory sexual recidivism, despite the fact that approximately 93% of all sex crimes are perpetrated by offenders known to the victim prior to the offense (*Bureau of Justice Statistics, 2002*). The majority of sexually abused children are victimized by someone well known to them and approximately 60% of offenses take place in the victim's home or the home of someone they know (*Bureau of Justice Statistics, 1997*). Currently, only one study (*Minnesota Department of Corrections, 2007*) has investigated the potential effectiveness of sexual offender residence restrictions to reduce recidivism. The authors examined the offense patterns of 224 sexual offenders released between 1990 and 2005. **The results demonstrated that residence restrictions would not have prevented any re-offenses.** Of the 224 offenders, only 27 (12%) established contact with their victim(s) within one mile of the offenders' home and not one established contact near a school, park, or playground. The Colorado Department of Public Safety (2004) used mapping software to examine the residential proximity to school and daycare centers of 13 sexual offenders who sexually recidivated in a study of 130 sexual offenders over a 15-month follow-up period (15 offenses by 13 offenders). The results demonstrated that recidivists were randomly located and were not significantly more likely than non-recidivists to live within 1,000 feet of a school or daycare.
- **What Promotes Effective Sex Offender Management?** Current research regarding treatment effectiveness suggests (in brief):
 - Studies suggest sexual offenders can benefit from treatment and that sex offender therapy can help reduce recidivism.
 - Sexual offenders require supportive environments that focus on addressing mental health, developmental, and behavioral issues in order to reduce the likelihood of recidivism. Support includes access to housing, employment opportunities, and transportation.
 - Social stability and support increases the likelihood of successful reintegration.
- **Do Residence Restrictions Help or Hinder Treatment?** The unintended consequences of residence restrictions include transience, homelessness, and instability. Offenders are often pushed to areas that are more rural (the higher the population density the more likely neighborhoods include schools, parks, etc.). These conditions can lead to:
 - diminished access to specialized treatment and probationary supervision,
 - employment and housing disruption, and
 - separation from supportive and/or dependent family members.These factors can hinder effective treatment and may interfere with the overall goal of reducing recidivism and re-victimization. In fact, **unemployment, unstable housing, and lack of support are associated with increased criminal recidivism. Thus, residence restrictions, aimed at improving community safety, may inadvertently create an environment in which offenders are more at risk to re-offend.**
- **Alternatives.** Rather than applying a blanket policy that treats all sexual offenders the same, regardless of offense behavior or victimization patterns, a subset of sex offenders, considered high-risk to re-offend, require more intensive supervision and management strategies. Risk management should be commensurate with the level and type of risk presented by a given sexual offender. Strategies to limit victim access, including housing restrictions, can be applied by a supervising officer and treatment provider on an individual basis. Risk assessment and evidence-based application of residence restrictions, close monitoring, and social support systems incorporating community engagement and responsibility are viable alternatives.
- **Conclusions.** Studies suggest that sexual recidivism is more likely to be result from a pre-existing relationship between the sexual offender and the victim rather than residential proximity to schools. **There is no research to support the effectiveness of residence restrictions in reducing sex offender recidivism. It is recommended, therefore, that states (and local jurisdictions) seek out other, more effective methods to limit the risk to the community from convicted sexual offenders.**

Paul S. Appelbaum, M.D., *Psychiatric Services: Law & Psychiatry: Sex Offenders in the Community: Are Current Approaches Counterproductive?*

Most identified sex offenders reside in the community, having completed their prison terms or having been placed directly on probation without incarceration. An even larger body of legislation focuses on this group. Registration requirements and community notification statutes exist in every state, and a growing number of jurisdictions are enacting restrictions on where sex offenders can live and work. Although each of these policy approaches could be useful when targeted appropriately, they are now frequently designed in ways that are wasteful of resources at best and are often frankly counterproductive.

Information disseminated typically includes an offender's name, address, criminal offense, and photograph. Given the consternation aroused by sex offenders, it can hardly be unexpected that the typical consequences of such disclosure are loss of housing, jobs, and friends. Yet these are just the kind of supports that can anchor a released offender in a community and reduce recidivism. Numerous reports have surfaced of offenders being threatened, harassed, and in rare cases killed after community notification. Suicide also

has been reported. Perhaps most disturbing is the large number of states that fail to limit disclosures to predatory offenders, instead extending the process to everyone convicted of a sexually related offense. Swept up in this net are people who have committed non-contact crimes, such as exhibitionism or peeping, those whose only offense occurred as children, and persons who engaged in consensual sex with a somewhat younger girlfriend or boyfriend and were convicted of statutory rape.

Public notification requirements are flawed in another way as well. The assumptions underlying the statutes are that sex offenders are particularly likely to re-offend, which is why they are singled out from all other categories of criminals for registration and notification, and that informing the community will better enable potential victims to take precautions. According to the best available data, however, **sex offenders are less likely to commit a sex crime in the future than almost all other categories of criminals are to recidivate** — though the problem of accounting for unreported offenses always must be taken into account. A large meta-analysis showed sexual offense recidivism rates of 13.4%, ranging from 12.7% for child molesters to 18.8% for rapists, over an average follow-up period of four to five years. A major federal follow-up study of sex offenders in 15 states who were released in 1994 found reconviction rates for sexual offenses of 5.3% over the subsequent three years, with 40% of arrests coming in the first year. Moreover, **most sex offenses are committed by family members and friends well known to victims**, not by strangers about whom warnings might be helpful.

Richard Tewksbury and Jill Levenson: *When Evidence is Ignored: Residential Restrictions for Sex Offenders*

No empirical data exist to support the belief that residence restrictions reduce sex offense recidivism. A 2004 Colorado study found that sex offense re-offenders were randomly located and did not live closer to schools and parks than those who did not re-offend. In Minnesota, a 2003 study failed to find a relationship between proximity to schools and re-offending. A subsequent Minnesota study concluded that **“there is very little support for the notion that residency restriction laws would lower the incidence of sexual recidivism, particularly among child molesters,”** and that “rather than lowering sexual recidivism, housing restrictions may work against this goal by fostering conditions that exacerbate [problems with] sex offenders’ reintegration.” Reinforcing this view, a California Research Bureau report, prepared for the Assembly Public Safety Committee, determined that “there is little research regarding the effectiveness of restricting the housing locations available to sex offenders, but the few studies available find they have no impact on re-offense rates.”

An emerging body of research is uncovering many unintended consequences of residential restrictions. Florida researchers found that the state’s requirement that child molesters on probation live 1,000 feet from a school, park, playground, daycare center, or other place where children congregate led to displacement and transience for many sex offenders. About one-half were unable to live with family and found affordable housing less accessible.

Sex Offender Management Policy in the States: *Strengthening Policy & Practice*

The Council of State Governments, in partnership with the Association of Paroling Authorities International, the American Probation and Parole Association, and the Center for Sex Offender Management, was awarded the Policy Training on Sex Offender Initiatives for State Legislators grant through the Bureau of Justice Assistance to provide educational opportunities to state policymakers on innovative policy options for the management of sexual offenders.

The Center for Sex Offender Management recommends that jurisdictions establish a comprehensive and ongoing assessment process to take into account the many differences between sex offenders. **One-size-fits-all strategies are not effective**, and strategies must be tailored to the individual sex offender. This makes assessment tools that predict recidivism a crucial component of sex offender management.

The Center for Sex Offender Management also recommends policymakers work to ensure that sex offenders re-entering communities have appropriate and sustainable housing options. Residency restrictions enacted by states and localities have severely limited housing options for sex offenders, including making many shelters and residential treatment facilities off-limits. **Research has shown that stabilization in the community contributes to decreases in re-offense rates among sex offenders.**

In addition, the Center for Sex Offender Management encourages legislators to promote informed policies and engage the public to counter incorrect perceptions about sex offenders. “With the heightened concerns about sex offenders and sexual victimization and the public’s demand for legislative responses, sex offense-specific laws have been passed at unprecedented rates... Enactment of [such] laws is typically reactive, in response to high-profile cases that fuel citizens’ fears about their safety.”

The Center for Sex Offender Management concludes that the resulting policies, which are often costly and far-reaching, have not necessarily been developed with a thorough understanding of sex offenders, victims, and effective management strategies, leading to an absence of evidence-based policies that reduce recidivism and prevent sexual victimization. Many in the public continue to believe that sex offenders cannot be treated or successfully managed in the community, and that they are very likely to re-offend. They call on their legislators to increase punishment and provide longer sentences, which is becoming financially unfeasible for many states. Most sex offenders, however, will eventually be released back into communities, and it is therefore **in the best interest of public safety to employ practices that have proved successful.** Public acceptance of sex offender management strategies employed by a jurisdiction is a key to its success.

The Pay-Off of Jobs and Programs and the Negative Influence of Residential Instability: *Enhancing Parole Decision-Making Through the Automation of Risk Assessment (Submitted to the Georgia Board of Pardons, April 2003)*

The Parole Board's current emphasis on employment and treatment programs is soundly justified. The analysis of Georgia parolees indicates that the pay-off for each day of employment during parole is a 1% reduction in the likelihood of arrest. That translates into a 30% decrease in the likelihood of arrest for only one month (30 days) of employment. Similarly, each month of attending programs during parole results in a reduction of 2% in the likelihood of arrest. That translates into a 24% decrease in the likelihood of arrest for one year (12 months) of programming. Finally, there is a 25% increase in the likelihood of arrest each time a parolee changes address. That translates into doubling the odds of arrest by simply moving three times while on parole (having four residences).

Jill Levenson, Ph.D.: *Collateral Consequences of Sex Offender Residence Restrictions*

Sex offender residence restrictions have become a popular means of ostensibly protecting communities from the threat of recidivistic sexual violence. **Virtually no evidence exists, however, to support the effectiveness of these laws.** In fact, a growing body of research is highlighting the potential for these laws to destabilize offenders, increase transience, and interfere with the efficiency of sex offender registries, perhaps increasing rather than reducing the threat posed by sex offenders.

Residence restrictions appear to interfere with social support and stability for most registered sex offenders. Many reported transience as a result of housing restrictions, including multiple moves and homelessness. Residence restrictions were especially detrimental for younger offenders. They experienced more transience and homelessness, probably as a result of being unable to live with their families in residential neighborhoods near places where children gather.

Because most young adults are still dependent on their parents financially and psychologically, housing laws may be uniquely problematic for this subgroup. Youth is a risk factor for sexual and general recidivism, and lifestyle instability also increases risk. Residence restrictions, therefore, might aggravate rather than mitigate the likelihood of recidivism for younger offenders.

Data indicated that residence restrictions push sex offenders farther away from social services, employment, and public transportation. They also appear to increase transience and homelessness, as evidenced by the number of moves reported and the amount of time spent living in locations other than one's own home. This instability is unlikely to be in the best interest of public safety, and may undermine monitoring the whereabouts of sex offenders. Furthermore, instability, lack of social support, and unemployment are associated with higher recidivism rates for criminal offenders in general and sex offenders specifically.

Prosecutors, police, and victim advocates have publicly denounced residence restrictions, asserting that they cause more problems than they solve. Alternative community protection strategies are recommended.

Constitutional Challenges to Residency Restrictions

First, to the extent that these residency restrictions are criminal sanctions imposed to punish the offender — as opposed to civil, safety regulations — **they may be unconstitutional as a form of *ex post facto* law or double jeopardy** when they are applied to offenders whose convictions are already final. When applied to new and prior offenders alike, residency restrictions might **constitute a form of cruel and unusual punishment that violates the Eighth Amendment to the United States Constitution.** Second, if residency restrictions are regulatory, and not punitive in nature, they may be challenged as depriving offenders of a basic right secured by the federal or state constitution — the right to travel within or among the states, for example, or the right to live where one chooses.

Finally, even if residency restrictions do not deprive offenders of a constitutionally protected right, they may be unconstitutional if they do not rationally advance a legitimate state interest. Challenges to residency restrictions in other states on these three grounds have so far been unsuccessful. A federal district court in Ohio, a state appellate court in Illinois, a federal court of appeals in Iowa, and the Iowa Supreme Court have upheld sex offender residency statutes against all three types of constitutional challenges.

Human Rights Watch: *No Easy Answers*

The inability of convicted sex offenders to find housing when they are released from prison has become a significant barrier to their successful reintegration into society. This is particularly problematic for registrants who have limited resources, or for those who because of work, community, or family obligations want to live in particular locations. Residency restrictions prevent offenders from living in the areas closest to jobs and public transit, since schools, daycare centers, and parks are often built in the center of main residential areas of cities and towns.

Iowa County Attorneys Association: *Statement on Sex Offender Residency Restrictions in Iowa (December, 2006)*

The Iowa County Attorneys Association believes that the 2,000-foot residency restriction for persons who have been convicted of sex offenses involving minors does not provide the protection that was originally intended and that the cost of enforcing the requirement and the unintended effects on families of offenders warrant replacing the restriction with more effective protective measures.

The ICAA has the following observations concerning the current restriction:

1. **Research shows that there is no correlation between residency restrictions and reducing sex offenses against children or improving the safety of children.**
2. Research **does not support** the belief that children are more likely to be victimized by strangers at the covered locations than at other places.
3. Residency restrictions were intended to reduce sex crimes against children by strangers who seek access to children at the covered locations. Those crimes are tragic, but very rare. In fact, 80 to 90% of sex crimes against children are committed by a relative or acquaintance who has some prior relationship with the child and access to the child that is not impeded by residency restrictions. Only parents and caretakers can effectively impede that kind of access.
4. Law enforcement has observed that the residency restriction is causing offenders to become homeless, to change residences without notifying authorities of their new locations, to register false addresses, or to simply disappear. If they do not register, law enforcement and the public do not know where they are living. **The resulting damage to the reliability of the sex offender registry does not serve the interests of public safety.**
5. There is **no demonstrated protective effect** of the residency requirement that justifies the huge draining of scarce law enforcement resources in the effort to enforce the restriction.
6. **The categories of crimes included in the restriction are too broad**, imposing the restriction on many offenders who present no known risk to children in the covered locations.
7. A significant number of offenders have married or have been reunited with their victims; and, in those cases, the residency restriction is imposed on the victims as well as the offenders.
8. **Many offenders have families whose lives are unfairly and unnecessarily disrupted by the restriction**, causing children to be pulled out of school and away from friends, and causing spouses to lose jobs and community connections.
9. Many offenders are physically or mentally disabled but are prohibited from living with family members or others on whom they rely for assistance with daily needs.
10. The geographic areas included in the prohibited 2,000-foot zones are so extensive that realistic opportunities to find affordable housing are virtually eliminated in most communities. The lack of transportation in areas not covered by the restriction limits employment opportunities. The adoption of even more restrictive ordinances by cities and counties exacerbates the shortage of housing possibilities.
11. The residency restriction has no time limit; and, for many offenders, the restriction lasts beyond the requirement that they be listed on the sex offender registry. For this reason, there are many offenders who are subject to the residency restriction but who are not required to inform law enforcement of their place of residence, making enforcement nearly impossible.
12. There is no accommodation in the current statute for persons on parole or probation supervision. These offenders are already monitored and their living arrangements approved. The restriction causes many supervised residential placements to be unavailable even though they may be the most appropriate and safest locations for offenders to live.
13. Many prosecutors have observed that **the numerous negative consequences of the lifetime residency restriction has caused a reduction in the number of confessions made by offenders** in cases where defendants usually confess after disclosure of the offense by the child. In addition, there are more refusals by defendants charged with sex offenses to enter into plea agreements. Plea agreements are necessary in many cases involving child victims in order to protect the children from the trauma of the trial process. This unforeseen result seriously jeopardizes the welfare of child victims and decreases the number of convictions of sex offenders to accurate charges. Consequently, many offenders will not be made fully accountable for their acts and will not be required to complete appropriate treatment or other rehabilitative measures that would enhance the safety of children. Similar unintended negative effects often accompany well-intended efforts to increase prison sentences with mandatory provisions.
14. The drastic reduction in the availability of appropriate housing, along with the forced removal of many offenders from established residences, is contrary to well-established principles of treatment and rehabilitation of sex offenders.

Efforts to rehabilitate offenders and to minimize the rate of re-offending are much more successful when offenders are employed, have family and community connections, and have a stable residence. These goals are severely impaired by the residency restriction, compromising the safety of children by obstructing the use of the best-known corrections practices.

For these reasons, the Iowa County Attorneys Association supports the **replacement of the residency restriction with more-effective measures that do not produce the negative consequences** that have attended the current statute. For example, the ICAA would support a measure that includes the following:

- A statute creating defined protected areas (“child safe zones”) that sex offenders would be prohibited from entering except in limited and safe circumstances. Such areas might include schools and childcare facilities.
- Entrance into the protected areas would be allowed only for activities involving an offender’s own child and only with advance notice and approval from those in charge of the location.
- The restriction should cover offenses against “children” (under age 14), rather than “minors” (under 18).
- The statute should specifically preempt local ordinances that attempt to create additional restrictions on sex offenders. Such ordinances result in a variety of inconsistent rules and promote apprehension among local authorities that they must act to defend themselves from the perceived effects of the actions of other communities.
- **Most important, any restriction that carries the expectation that it can be effectively enforced must be applied to a more limited group of offenders than is covered by the current residency restriction.** This group should be identified by a competent assessment performed by trained persons acting on behalf of the state. The assessment should be directed at applying the statutory restriction only to those offenders that present an actual risk in public areas to children with whom the offender has no prior relationship.
- Children will be safer with clarification and strengthening of certain child sex abuse laws, including, sex abuse by deception, sexual exploitation of a person “reasonably believed to be a minor,” using a position of authority to cause children to engage in a sex act, and requiring admission at trial of a defendant’s prior acts of sexual abuse.
- **Sex offender treatment both inside and outside of prison should be fully funded and improved.**
- Measures should be enacted that aim at keeping all young people safe from all offenders. **This should include programs that focus on the danger of abuse that may lie within the child’s family and circle of acquaintances.** It is important to help children and parents recognize the signs and dangers of sex abuse by persons with ordinary access to children.
- Recognize that child safety from sex offenses is not amendable to simple solutions by creating a Sex Offender Treatment and Supervision Task Force to identify effective strategies to reduce child sex offenses.

These observations of Iowa prosecutors are not motivated by sympathy for those committing sex offenses against children, but by our concern that **legislative proposals designed to protect children must be both effective and enforceable.**

Anything else lets our children down.



Illinois Voices for Reform
P.O. Box 4016
Fairview Heights, IL 62208
IllinoisVoices@hotmail.com
www.ilvoices.com

“Speaking Out for Those Without a Voice.”