

**Forced Conditions and False Security: The Problems with Sex Offender
Residency Restrictions**

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Forced Conditions and False Security: The Problems with Sex Offender
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Abstract

Forced Conditions and False Security: The Problems with Sex Offender Residency Restrictions

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Statement of the Problem

Over the past few years, there has been a dramatic increase in the number of states and municipalities that have enacted sex offender residency restrictions, which are laws and ordinances created to limit where sex offenders can reside in communities. Currently, approximately 29 states have enacted laws restricting where sex offenders can live (Council of State Governments Staff, 2007). In addition, hundreds of cities, towns, and counties throughout the nation have passed sex offender zoning ordinances (Levenson, 2007). Most of these residency restriction laws and ordinances create buffer zones ranging from 1,000 to 2,500 feet around schools, parks, daycare centers, playgrounds, bus stops, and other places where children typically congregate (Levenson, 2007).

The purpose of sex offender residency restrictions is two-fold: protect the public, more specifically children, from sex offenders, and reduce the recidivism rates among this criminal population. However, research has shown residency restrictions do not serve their intended purposes and ultimately have adverse effects, both on the communities that implement them and the sex offenders they are meant to exclude or prohibit.

Methods of Approach

Using secondary research and data, as well as case studies, a review of the empirical and theoretical findings will be analyzed to determine why sex offender residency restrictions are created and eventually enacted into law, what goals they are intended to have and why these goals are not met, and what adverse effects they have on sex offenders and communities. Information on sex offender residency restrictions will be obtained from scholarly journals, credible Internet sources, and articles from reputable newspapers across the nation. Conclusions and recommendations in regards to these restrictions will be based on the collective information examined and presented.

Results of the Study

Despite their popularity among politicians, policymakers, and concerned community members, empirical and theoretical research supports the conclusions that sex offender residency restrictions do not serve their intended purposes and have adverse effects on the communities that implement them and the sex offenders they are meant to exclude. The adverse effects on communities include providing a false sense of security and promoting the myths that all sex offenders reoffend, strangers are responsible for a large majority of child sexual assault cases, sex offender treatment does not work, and all sex offenders are the same. The adverse effects on sex offenders include: decreased housing options; increased distances to employment, treatment, education, and social services; separation from families and/or children; complete relocation; homelessness or transience, which can lead to difficulties in tracking and monitoring for

supervising authorities; increased financial and emotional hardship; and an increased risk of re-offending.

Recommendations have been made to address the problems with sex offender residency restrictions. These include: elimination of current residency restriction laws and ordinances; use of individualized risk assessment for sex offenders and application of appropriate restrictions based on the assessed risk level; creation of child safety zones, or zones that prohibit sex offenders from entering places where children typically congregate; and increased public education about sex offenders.

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I. INTRODUCTION

On October 22, 1989, Jacob Wetterling, his brother, and a friend, were riding their bikes home from a convenience store in their hometown of St. Charles, Minnesota. At one point, a masked gunman appeared from a driveway and ordered the three boys to drop their bicycles and lay on the ground. The gunman asked each boy his age. He then told Jacob's brother and friend to run toward a nearby wooded area and not look back or they would be shot. After a short run, both boys looked back and saw the gunman grab Jacob by his elbow and walk away. The whereabouts of Jacob and the gunman remain unknown to this day (Jacob Wetterling, 2007, August 20).

In 1994, approximately five years after Jacob Wetterling's abduction, The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, otherwise known as the Jacob Wetterling Act, was passed. This law, through its various revisions, requires states to form online registries of offenders convicted of sexually violent offenses and offenses against children, and enact more rigorous registration requirements for all sex offenders. It also requires states to verify the addresses of sex offenders on an annual or quarterly basis, depending on the severity of the convicted sexual offense (Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, 2007, April 11).

On July 29, 1994, Jesse Timmendequas, a convicted sex offender, lured his neighbor, seven-year-old Megan Kanka, over to his home by offering to show her a puppy. Once at his house, he sexually assaulted her, slammed her head

against a dresser, put two plastic bags over her head, and strangled her to death with a belt. He then moved her body to his truck and sexually assaulted her one more time before placing her in a wooden toy chest and dumping her in a nearby park. Jesse Timmendequas was eventually convicted of kidnapping, aggravated sexual assault, and murder; he was sentenced to the death penalty (Jesse Timmendequas, 2007, September 26).

Megan Kanka's death resulted in the passing of Megan's Law in New Jersey and other states. Megan's Law requires law enforcement authorities to notify the public when a sex offender moves into a community. It also requires those subject to the law to notify local police authorities of any changes in address upon being released from prison. This requirement may be imposed permanently or for a fixed period of time, depending on the state and sometimes on the nature and gravity of the sexual offense (Megan's Law, 2007, October 1).

In February 2005, John Couey, a convicted sex offender, entered nine-year-old Jessica Lunsford's home in Homosassa, Florida, awakened her, and told her to follow him. He then took her to his trailer home, which was approximately 100 yards away from her home, and sexually assaulted her on at least two occasions. Approximately three days after he abducted her, Couey bound Jessica's wrists together with speaker wire, placed her in two garbage bags, and buried her alive; she eventually suffocated to death. John Couey was arrested and eventually convicted of first-degree murder, kidnapping, and sexual battery; he was sentenced to the death penalty (Jessica Lunsford, 2007, October 2).

After Jessica Lunsford's death, Florida enacted Jessica's Law, which created mandatory minimum sentences and lifetime electronic monitoring provisions for adults convicted of sexual offenses against children. Approximately 42 other states have introduced similar legislation (Jessica's Law, 2007, October 9). A federal law, entitled The Jessica Lunsford Act, has also been proposed. This law, if passed, would require sex offenders, who are convicted more than twice for failing to properly register, to wear Global Positioning System (GPS) devices for five years following their release from prison, or ten years for those deemed sexually violent predators. It would also require states to mail registration letters to offenders at least twice per year, on a random basis, to verify their addresses. Offenders who do not respond to these letters within 10 days would be considered non-compliant with the sex offender registry (Jessica Lunsford Act, 2007, September 29).

Horrific instances of child abduction, sexual assault, and/or murder, such as those involving Jacob Wetterling, Megan Kanka, and Jessica Lunsford, receive significant media and political attention. As previously noted, new, tougher sex offender laws were passed as a result of each case. However, cases like these are extremely rare, with an estimated 100 child abduction murders per year occurring in the United States (Levenson, 2005). Nevertheless, policymakers and community members alike react to child abduction and sexual assault cases with panic and urgency. In 2005, following the tragic sexual assault and murder of Jessica Lunsford, a new type of restriction on sex offenders gained enormous popularity, as politicians and their constituents became deeply concerned with the

seemingly growing problem of sex offender recidivism rates (Levenson, 2007).

These restrictions, sex offender residency restriction laws and ordinances, can now be found in approximately 29 states (see Table 1) and hundreds of municipalities throughout the nation (Council of State Governments Staff, 2007; Levenson, 2007).

| <p style="text-align: center;">TABLE 1 States with Sex Offender Residency Restriction Laws</p> | | |
|--|--|-----------------|
| State | Restriction Distance/Location | Year Enacted |
| Alabama | 2,000 feet; Schools, Child Care Facilities | 2005 |
| Arizona | 1,000 feet; Schools, Child Care Facilities – Level 3 Offenders and Dangerous Crimes Against Children | 2007 |
| Arkansas | 2,000 feet; Schools, Daycare Centers | 2003 |
| California | 2,000 feet; Schools, Parks, Where Children Gather | 2006 |
| Florida | 1,000 feet; Where Children Gather | 2003 |
| Georgia | 1,000 feet; Where Children Gather | 2006 |
| Idaho | 500 feet; Schools w/Children Under 18 | 2006 |
| Illinois | 500 feet; Schools | 2000 |
| Indiana | 1,000 feet; Schools, Parks, Youth Program Centers | 2006 |
| Iowa | 2,000 feet; Schools, Child Care Facilities | 2002 |
| Kentucky | 1,000 feet; Schools, Child Care Facilities, Playgrounds, Ball Fields | 2006 |
| Louisiana | 1,000 feet; Schools, Related Activities, School Buses | 2006 |
| Maryland | Parole Commissions Restricts Where Feasible | 2006 |
| Michigan | 1,000 feet; Schools (Student Safety Zones) | 2006 |
| Minnesota | End-of-Confinement Review Committee Decides | 1996 |
| Mississippi | 1,500 feet; Schools, Child Care Facilities | 2006 |
| Missouri | 1,000 feet; Schools, Child Care Facilities | 2006 |
| Montana | Judge Decides | 2001 |
| Nebraska | 500 feet; Schools, Child Care Facilities | 2006 |
| New Mexico | Schools/Day Centers Within One Mile Notified | 2000 |
| Ohio | 1,000 feet; Schools, Child Care Facilities, Where Children Gather | 2003 |
| Oklahoma | 2,000 feet; Schools, Daycare Centers, Parks | 2006 |

| | | |
|---------------|--|------|
| Oregon | Department of Corrections Decides | 2001 |
| South Dakota | 500 feet; Community Safe Zones | 2006 |
| Tennessee | 1,000 feet; Schools, Child Care Facilities, Victim | 2004 |
| Texas | Distance Specified by Parole Board | 1997 |
| Virginia | 100 feet; Schools, Child Care Centers | 2000 |
| Washington | 880 feet; Schools, Daycare Centers | 2006 |
| West Virginia | 1000 feet; Schools, Child Care Facilities | 2006 |

Sources: Council of State Governments Staff, 2007; Durling, 2006; Koch, 2007, February 25

The purpose of this research is to: demonstrate that current sex offender residency restrictions do not protect the public, increase public safety, or reduce recidivism rates among sex offenders; address the numerous adverse effects of residency restrictions; and propose recommendations or alternatives to these restrictions. Using secondary research and data, as well as case studies, a review of the empirical and theoretical findings will be analyzed to determine why sex offender residency restrictions are created and eventually enacted into law, what goals they are intended to have and why these goals are not met, and what adverse effects these restrictions have. Conclusions and recommendations will be based on the collective information examined and presented.

II. LITERATURE REVIEW – SEX OFFENDER RESIDENCY RESTRICTION LAWS

Sex offender residency restrictions are state laws and municipal ordinances created in order to limit where sex offenders can reside in communities. Most of these residency restrictions produce buffer zones ranging from 1,000 to 2,500 feet around schools, parks, daycare centers, playgrounds, bus stops, and other places where children typically congregate (Levenson, 2007).

Residency restrictions appear to be fundamentally based on four common myths about sex offenders, which are often propagated by the media. The first myth is all sex offenders reoffend. Levenson (2005) indicates it is a commonly held belief most sex offenders will repeat their crimes. However, several large-scale studies have found sex offender recidivism rates are much lower than believed.

In one study involving over 29,000 sex offenders, researchers found a 14% recidivism rate among all sex offenders, with 13% of child molesters and 20% of rapists arrested and convicted of a new sexual offense (Hanson and Bussiere, 1998; Hanson & Morton-Bourgon, 2004). Furthermore, the U.S. Department of Justice conducted a study involving approximately 9,700 sex offender parolees. They found only 5.3% were arrested for a new sexual crime and only 3.3% were arrested for a sexual crime against a child over a three-year time period (Bureau of Justice Statistics, 2003).

The second myth about sex offenders is strangers tend to commit most sexual assaults. According to the Center for Sex Offender Management (2000), sexual assaults are typically committed by someone known to the victim or the

victim's family, regardless of the victim's age. In fact, in as many as 90% of child sexual assault cases, the child knows and trusts the abuser (Stop It Now!, 2005).

The third myth is sex offender treatment is not effective. According to Levenson (2005), recent studies have suggested cognitive-behavioral treatment can reduce sex offender recidivism rates by nearly 40%. In addition, the Center for Sex Offender Management (2000) indicates those who attend and cooperate with treatment conditions are less likely to reoffend than those who reject intervention. Lastly, Hanson and Bussiere (1998) found sex offenders who fail to successfully complete sex offender treatment are at an increased risk for sexual re-offending.

The fourth myth is all sex offenders are the same, and should therefore be subject to the same restrictions. As noted by the Center for Sex Offender Management (2000), people who commit sexual offenses are not a homogenous group. Rather, they are a heterogeneous group and include child molesters, adult rapists, voyeurs, exhibitionists, and young adults who have had "consensual" sex with slightly younger teens (Elton, 2006, May 6).

Sex offender residency restrictions have good intentions. They are implemented in order to protect the public, more specifically children, from sex offenders, and reduce the recidivism rates among this criminal population. The perceived need for these public safety measures has led to a dramatic increase in the number of states and municipalities that have enacted them. However, research has consistently shown sex offender residency restriction laws and

ordinances do not serve their intended purposes and ultimately have adverse effects, both on the communities that implement them and the sex offenders they are meant to exclude or prohibit (Colorado Department of Public Safety, March 2004; Durling, 2006; Levenson, 2005; Levenson, 2007; Levenson & Cotter, 2005b; Minnesota Department of Corrections, 2007; Nieto & Jung, 2006; Stromberg, 2007; Troia, 2004-05).

A. Research Studies

Levenson (2007) indicates no research to date has specifically evaluated the impact of sex offender residency restrictions on sex offender recidivism. However, some related research questions have been addressed in recent studies. In 2002, the Minnesota legislature mandated the Department of Corrections to conduct several studies on issues concerning level three sex offenders, or offenders who are deemed to be the highest risk to sexually reoffend. Some of these issues included: level three sex offenders' community reintegration, including how housing and employment are found; level three sex offenders who were released from prison between 1997 and 1999 and ultimately arrested for a new sexual offense; the likely effects of a policy requiring sex offenders to live a certain distance away from schools; and the likely result if a 1,500-foot proximity restriction was adopted in relation to schools, parks, and other sex offenders. The Department tracked approximately 329 level three sex offenders for their studies (Minnesota Department of Corrections, 2003).

After completing the research, the Minnesota Department of Corrections (2003) noted two of the most challenging issues facing level three sex offenders

are obtaining stable housing and employment. For example, according to many corrections agents in Minnesota, finding landlords willing to rent to level three sex offenders is virtually impossible. Furthermore, if offenders are required to live in largely unpopulated areas due to housing restrictions, it is likely they would have difficulty finding and securing employment, as many do not have reliable transportation.

Minnesota (2003) also found residential proximity to schools or parks was not a contributing factor in any of the sexual reoffenses studied. Between 1997 and 1999, 13 level three sex offenders were arrested for a new sexual offense since their release from prison. Sex offender residency restrictions would not have prevented the new sexual offense in any of these cases. Two of the 13 individuals re-offended near parks, but both drove several miles from their residences to the park areas. Thus, it appears sex offenders attracted to such locations as school and parks are more likely to travel to a different neighborhood to reoffend than to do so in a neighborhood where they may be well known.

Finally, Minnesota (2003) determined policies requiring level three sex offenders to live a certain distance away from schools, parks, and other offenders would create a restriction on the majority of residential areas in Minneapolis and St. Paul. These offenders would then be required to move to more rural areas that would be free from parks and schools, but would lead to other problems, such as isolation; lack of employment, education, and treatment options; a high concentration of offenders with no ties to the community; and increased distances traveled by both supervising agents and offenders.

In 2004, the Colorado Department of Public Safety, Division of Criminal Justice, Sex Offender Management Board sought to determine whether or not sex offender residences, specifically in proximity to schools and childcare centers, have an impact on community safety. To answer this, they reviewed probation files on a random sample of 130 sex offenders under supervision in the Denver metropolitan area. Data was extracted from the first 15 months of supervision for each offender (Colorado Department of Public Safety, March 2004).

Colorado (2004) found sex offenders who committed a new criminal offense (both sexual and non-sexual) while under supervision appeared to be randomly scattered throughout the study areas. In other words, recidivists did not seem to live any closer to schools or childcare centers than non-recidivists.

Colorado (2004) also noted a large number of schools and childcare centers are located within the Denver metropolitan area, which would leave very few areas for sex offenders to reside if residency restrictions were implemented. As such, it was suggested housing restrictions may actually increase sex offenders' risk of re-offending by forcing them to live in communities where safe supports systems may be non-existent, or in rural areas, which can provide them with a higher degree of anonymity. In addition, these restrictions may also lead to increased distances to and from employment, treatment, and other necessary engagements.

Levenson and Cotter (2005b) conducted a study to determine the impact of sex offender residency restriction laws on sex offender reintegration and better understand sex offenders' perceptions of these laws. They used a nonrandom

sample of 135 sex offenders, gathered from a pool of offenders who were attending sex offender treatment at one of two outpatient counseling centers in Florida. Florida was chosen for this study due to the state's 1,000-foot restriction, which prohibits sex offenders from living within 1,000 feet of schools, daycare centers, parks, playgrounds, and any other place where children regularly congregate. The offenders included in the research were asked to complete a survey about the impact of current sex offender policies on their community reintegration.

Levenson and Cotter (2005b) indicated approximately half of all respondents reported the residency restriction forced them to move from their current residences and prevented them from living with supportive family members. About 25% stated they were unable to return to their residences after their conviction. Furthermore, a considerable proportion (48-60%) reported the restriction created some kind of financial or emotional hardship.

Levenson and Cotter (2005b) further noted the majority of respondents claimed the 1,000-foot restriction would have no effect on their risk of re-offending. They pointed out the need for internal motivation, stating if an individual wants to reoffend, the rule will not stop him. The respondents also disclosed they have typically been careful not to reoffend near their homes, so geographical restrictions would provide little deterrence.

The Minnesota Department of Corrections (2007) conducted another study, this time to specifically determine what impact sex offender residency restrictions might have on sex offenders had they been implemented in

Minnesota. They used a sample of 224 sex offenders who were released from prison between 1990 and 2002 and consequently incarcerated for a new sexual offense. Minnesota used four criterion to determine whether residency restrictions might have prevented a sexual crime from occurring, including: (1) the means by which the offender established contact with the victim, (2) the distance between an offender's residence and where he first established contact with the victim; three benchmarks were used for this – 1,000 feet, 2,500 feet, and 5,280 feet, (3) the type of location (i.e. school, park, daycare center, or other location where children are known to congregate) where the offender established contact with the victim, and (4) the age of the victim involved.

Minnesota (2007) found a number of important results from this study.

- 35% of the offenders studied established direct contact with the victim; whereas, 65% were either biologically related to the victim or gained access to him or her through a collateral contact.
- Of the 79 (35%) offenders who established direct contact with the victim, 28 initiated contact within one mile of their own residence, 21 within 0.5 miles (approximately 2,500 feet), and 16 within 0.2 miles (approximately 1,000 feet). A juvenile was the victim in 16 of the 28 cases. However, none of the cases involved offenders who established contact within close proximity to a park, school, or other prohibited area.

- Direct contact offenders were less likely to victimize individuals less than 13 years of age in either their previous or present conviction; they were more likely to victimize adults.
- Of the 224 new sexual offenses, 85% occurred in a residential location and 15% took place in a public location.
- Of the 224 sex offenders, only three established contact with the victim at a prohibited location; two established contact at parks and the other occurred at a school. However, in two of the three cases, the offender lived more than 10 miles away from where the contact occurred. In the other case, the victim was an adult.
- 79% of offenders victimized someone they knew.

These results led Minnesota to conclude residency restrictions would likely have, at best, only a marginal effect on sex offender recidivism rates. They also concluded when direct contact offenders seek out a victim, they are more likely to go to an area relatively close to their home (i.e. within 20 miles), but still far enough away in order to decrease their chances of being recognized (Minnesota Department of Corrections, 2007).

B. Case Studies

As stated previously, no research to date has specifically evaluated the impact of sex offender residency restrictions on sex offender recidivism rates. Nevertheless, there have been a number of documented cases studies, which have examined the impact of residency restrictions on sex offenders and the states and municipalities that have implemented them.

Patrick Leroy is a 37-year-old male who has lived with his mother in Illinois for most of his life. When he was 18, Mr. Leroy was convicted of a sexual offense and sentenced to six years in prison. He was also required to register on the state's sex offender registry and pay the mandatory registration fee. After being released from prison, Mr. Leroy lived in his mother's home and was not convicted of any new sexual offenses (Durling, 2006).

In 2000, Illinois adopted a sex offender residency restriction law that forbids anyone convicted of a sexual offense from living within 500 feet of schools, daycare centers, and playgrounds. The law was applied retrospectively and prospectively, exempting only those who owned a home prior to the adoption of the law from having to move. Those found in violation of the law would be charged with a felony, punishable by one to three years in prison. Mr. Leroy's mother's home was located within 500 feet of an elementary school. He was consequently charged in 2002 with violating the residency restriction law, convicted, and sentenced to a term in prison. He is no longer allowed to live in his mother's home (Durling, 2006).

James Hill [his real name was not used to protect his identity] was to be released from prison in the summer of 2005. He had arranged for post-release housing at a local homeless shelter, but on the day of his release, was told he could not live there. Mr. Hill is a convicted child molester and subject to his state's sex offender residency restriction law, which prohibits him from living within 1,000 feet of schools, parks, playgrounds, and other places where children congregate. His family happened to live within 1,000 feet of a school, so he was

not allowed to live with them either. His only options were to find other, more appropriate housing immediately or be transferred to another prison until he could do so (Stromberg, 2007).

Rather than serve more time in prison, Mr. Hill temporarily moved into an overpriced trailer in the middle of nowhere and away from his family. When asked about his state's residency restriction law, he stated, "...my crime had nothing to do with where I live. Putting those restrictions on people like me doesn't help keep the community safe. In fact, they give people a false sense of security." Mr. Hill's family eventually moved to an area where he was not restricted from residing. He indicated he is fortunate to have a supportive family (Stromberg, 2007).

Steven Elwell is a 35-year-old registered sex offender who resides in South New Jersey. Mr. Elwell used to teach at a local high school. However, approximately eight years ago, he had an affair with a 16-year-old female student of his and was convicted of sexual assault. Due to a sex offender residency restriction ordinance adopted in Lower Township (Cape May County) in 2006, he is not allowed to be near schools, parks, playgrounds, and daycare centers. Mr. Elwell is a tier-one sex offender, which means he is believed to be a low risk to reoffend. Nevertheless, Lower Township, like many other municipalities, does not make any distinctions among sex offenders when implementing its residency restriction (Guenther, 2007, January 12).

Mr. Elwell contends the residency restriction is preventing him from rebuilding his life. He is currently married and has two children, a daughter who

is two and a half years old, and a son who is one year old. He indicates he cannot take his own children to the park or the beach. In addition, as of October 2006, he is not allowed to pass out candy to children on Halloween or go trick-or-treating with his children (Guenther, 2007, January 12).

Larry Moore Jr., who was convicted of indecent liberty with a child, a felony, in 1994, may face life in prison in Georgia for being homeless. Mr. Moore is subject to Georgia's sex offender laws, which, among other things, require sex offenders to register their addresses and prohibit them from living and working within 1,000 feet of schools, daycare centers, churches, swimming pools, and school bus stops. He was unable to register an address with state officials due to being homeless and was recently convicted for the second time of violating this requirement. Under a new Georgia law, failing to register for a second time carries an automatic life sentence in prison. Mr. Moore and his attorney have planned to appeal this law (Dewan, 2007, August 3).

According to documents gathered for a lawsuit by the Southern Center for Human Rights and the American Civil Liberties Union, Georgia's laws leave sex offenders with almost nowhere to live. A lawyer for the Southern Center for Human Rights indicated she surveyed the state for homeless shelters that would accept male sex offenders and could only find one, which happened to be full at the time (Dewan, 2007, August 3).

Iowa currently has a residency restriction law, which was enacted in 2002 and forbids offenders convicted of sexual crimes against children from living within 2,000 feet of schools and daycare centers. Because of these restrictions,

cities like Des Moines and Dubuque are virtually off limits to sex offenders. This, in turn, has caused many offenders to live in rural areas away from their families or even become homeless. Furthermore, some offenders have simply stopped reporting their addresses or given false addresses to avoid any violations of the 2,000-foot restriction. Of the more than 6,000 registered sex offenders in Iowa in 2006, over 400 were listed as either “whereabouts unconfirmed” or living in “non-structure locations” like tents, parking lots, or rest areas. In 2005, the number of those whose whereabouts were unconfirmed or who were living in non-structure locations was approximately 140. According to one Iowa county sheriff, he once knew where about 90% of all registered sex offenders in his county were living; today, he knows where slightly more than half live (Davey, 2006, March 15).

Tulsa, as well as the rest of Oklahoma, adopted a residency restriction law in 2006 that prohibits sex offenders from living within 2,000 feet of schools, parks, and childcare facilities. According to Tulsa law enforcement officials, 90% of the city is now off limits to sex offenders, which makes it very difficult for them to find places to live legally. In addition, the residency restriction has caused some offenders to resort to living in areas that are prohibited (because they do not have anywhere else to go) or stop registering their residences with law enforcement. As noted by the supervisor of Tulsa Police Department’s Sex Crimes Unit, approximately two years ago, the number of registered sex offenders in Tulsa was approximately 540; today, there are about 370 registrants. He did

not believe this was due to approximately 170 sex offenders leaving the Tulsa area to live somewhere else (Marshall, 2007, May 14).

Suffolk County, New York's residency restriction ordinance forbids sex offenders from living within 1,000 feet of schools, churches, daycare centers, and nursing homes. In an attempt to "solve" any community acceptance problems with their sex offenders, Suffolk County is using trailer or mobile homes to accommodate and house this "unwelcomed" population. The plan is to move the homes every week or so from one undisclosed location to another, which is typically on county-owned land and often at the border of commercial or industrial zones. The purpose of this constant moving is to avoid conflicts with concerned parents and community members and eliminate clusters of sex offenders. Critics of this approach indicate constant moving could dissuade offenders from registering their addresses, which they are required to do every time they move. Furthermore, continued uprooting could obstruct their attempts to better reintegrate into the community, including reconnecting with relatives and other supportive relationships (Myers, 2007).

In Cherry Hill, New Jersey, sex offenders are not allowed to reside within 2,500 feet of schools, parks, playgrounds, public libraries, and daycare centers. This has left nearly the entire township off limits to sex offenders. The only living options available to this population include an upscale neighborhood where homes are typically assessed around \$500,000 and an open field (Myers, 2007).

Monmouth and Ocean Counties in New Jersey contain approximately 86 municipalities, over half (45) of which have adopted some sort of restriction on

where sex offenders can live. These restrictions range from 500 to 2,500 feet and prohibit sex offenders from living near schools, churches, parks, bus stops, and sometimes even recreational buildings or bowling alleys. However, there are many inconsistencies among the 45 municipalities in regards to what restrictions are placed on sex offenders. For example, in 15 communities, renters must move if they live within the exclusion zones, but homeowners may stay. In 29 municipalities, sex offenders who lived in their residences prior to the adoption of the local rules may stay. Lastly, in 28 communities, only sex offenders whose victim was a child face restrictions (Sahn & Prado Roberts, 2007, January 12).

Ohio's residency restriction law, enacted in 2003, forbids registered sex offenders from living in any residence (including nursing homes, adult care facilities, residential group homes, homeless shelters, hotels and motels, boarding homes, or facilities operated by independent housing agencies) located within 1,000 feet of schools, daycare centers, or other places where children congregate. The restriction applies for the duration of the offender's life, regardless of whether he or she is under some type of correctional supervision. It also applies to all registered sex offenders, regardless of the severity and circumstances of the crime and the age of the victim (Troia, 2004-05).

III. FINDINGS

Despite their popularity among politicians, policymakers, and concerned community members, empirical and theoretical research supports the conclusion that sex offender residency restrictions do not serve their intended purposes of protecting the public from sex offenders and reducing the recidivism rates among this criminal population. The Minnesota Department of Corrections (2003) determined residency restrictions would not have prevented the sexual offense that occurred in any of the cases they studied. In addition, the Colorado Department of Public Safety (2004) indicated sex offender recidivists did not appear to live any closer to schools or parks than non-recidivists, thereby suggesting residency restrictions are arbitrary and unnecessary.

In a separate study, the Minnesota Department of Corrections (2007) found most sex offenders knew their victims, as they were either related to them or gained access to them through a collateral contact. Of those offenders who established direct contact with their victims, fewer than 30% initiated contact within 2,500 feet (a distance greater than typical residency restrictions today) of their residences. Overall, only three of the 224 sex offenders studied established contact at a prohibited location, i.e. a park or school. In one case, the victim was an adult, and in the other two cases, contact was made over 10 miles away from the offender's residence.

Even sex offenders themselves reported residency restrictions would have little to no effect on their risk of re-offending. They pointed out the need for internal motivation, stating if an individual wants to reoffend, the rule will not

stop him. They also disclosed they have typically been careful not to reoffend near their homes, alluding to the fact that residency restrictions would provide little deterrence to them (Levenson and Cotter, 2005b).

Sex offender residency restrictions also have adverse effects on the communities that implement them and the sex offenders they are meant to exclude or prohibit. The adverse effects on communities consist of providing a false sense of security and promoting the myths that all sex offenders reoffend, strangers are responsible for a large majority of child sexual assault cases, sex offender treatment does not work, and all sex offenders are the same. The adverse effects on sex offenders include: decreased housing options; increased distances to employment, treatment, education, and social services; separation from families and/or children; complete relocation; homelessness or transience, which can lead to difficulties in tracking and monitoring for supervising authorities; increased financial and emotional hardship; and an increased risk of re-offending.

Residency restrictions severely limit the housing options, specifically in urban areas, available to sex offenders (Minnesota Department of Corrections, 2003; Colorado Department of Public Safety, 2004; Davey, 2006, March 15; Marshall, 2007, May 14; Myers, 2007). Because of this, offenders are forced to move to more rural areas, which can lead to problems such as isolation; lack of employment, education, and treatment options; a high concentration of offenders with no ties to the community; increased distances traveled by both supervising agents and offenders; and a higher degree of anonymity (Minnesota Department of Corrections, 2003; Colorado Department of Public Safety, 2004).

Sex offender residency restrictions also prevent offenders from living with positive support systems (i.e. children, spouses, parents, and other relatives), as was the case with Patrick Leroy and James Hill (Levenson and Cotter, 2005b; Durling, 2006; Davey, 2006, March 15; Myers, 2007; Stromberg, 2007). Research has shown offenders with stability and positive support systems in their lives are less likely to reoffend sexually and violate the terms and conditions of their supervision (Levenson, 2007). Furthermore, stability and positive support increase the chances for successful reintegration (Levenson, 2005).

Residency restrictions create financial and emotional hardships on sex offenders. These restrictions sometimes separate offenders from their families (Durling, 2006; Stromberg, 2007), substantially limit the housing and employment opportunities available to them (Stromberg, 2007), and require them to completely relocate or continually move from place to place (Levenson and Cotter, 2005b; Myers, 2007). In Steven Elwell's case, he is no longer allowed to take his children to parks, schools, or beaches; go trick-or-treating with them on Halloween; or pass out candy to other children (Guenther, 2007, January 12).

Finally, residency restrictions can create difficulties for law enforcement and other supervising authorities in tracking and monitoring sex offenders. For example, some offenders have simply stopped reporting their addresses or have given false addresses to avoid any violations of the residency restriction (Davey, 2006, March 15; Marshall, 2007, May 14). Other offenders, like Larry Moore, Jr., have become homeless, leaving their whereabouts largely unknown (Davey, 2006, March 15; Dewan, 2007, August 13; Marshall, 2007, May 14).

In 2006, in an effort to persuade Iowa legislators and the Governor of Iowa to repeal the 2000-foot sex offender residency restriction law, the Iowa County Attorney's Association made several observations. These observations strongly support the aforementioned findings about residency restrictions, and include [verbatim]:

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 percent 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. 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.
6. 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...spouses to lose jobs and community connections.
7. 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.
8. 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.
9. 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 (Iowa County Attorneys Association, 2006, December 11).

IV. RECOMMENDATIONS

Sex offender residency restriction laws and ordinances do not increase public safety, prevent sexual assaults against children, or reduce recidivism rates among sex offenders. In fact, research has shown they are likely to disrupt offenders' stability and social bonds, which can lead to an increased risk of re-offending, thereby decreasing public safety. The following recommendations are presented in an attempt to alleviate the problems with current sex offender residency restrictions.

A. Elimination of Sex Offender Residency Restrictions

States and municipalities that presently have sex offender residency restrictions should eliminate them from practice as soon as possible. Residency restrictions have been and continue to be created and enacted solely on the common misconceptions and myths about sex offenders, with absolute disregard for the empirical and theoretical research.

The Colorado Department of Public Safety, Division of Criminal Justice, Sex Offender Management Board (2004) and the Minnesota Department of Corrections (2007) sought to determine what impact sex offender residency restriction laws might have on sex offenders and the communities that implement them. Colorado (2004) found housing restrictions may actually increase offenders' risk of re-offending by forcing them to live in communities where safe supports systems may be non-existent, or in rural areas, which can provide them with a higher degree of anonymity. Furthermore, sex offenders who committed a new criminal offense (both sexual and non-sexual) while under supervision

appeared to be randomly scattered throughout the study areas. In other words, recidivists did not seem to live any closer to schools or parks than non-recidivists. These results led Colorado to conclude placing restrictions on where sex offenders live may not deter them from re-offending sexually and should not be used as a method to decrease sex offender recidivism rates.

Likewise, Minnesota (2007) found residency restriction laws likely would not have deterred any of the 224 sexual offenses studied. They concluded residency restrictions (1) would have, at best, only a marginal effect on sex offender recidivism rates; (2) would make it more difficult for sex offenders to successfully re-enter society, thereby promoting conditions that work against the goal of reducing recidivism rates; and (3) when direct contact sex offenders seek out a victim, they are more likely to go to an area relatively close to their home (i.e. within 20 miles), but still far enough away in order to decrease their chances of being recognized.

Upon completion of their studies, both Colorado and Minnesota chose not to adopt sex offender residency restrictions laws. Other states should follow suit.

B. Use of Individualized Risk Assessment for Sex Offenders

The Minnesota Department of Corrections (2003), Levenson (2005), Levenson and Cotter (2005b), and Durling (2006) suggest using individualized risk assessment for sex offenders and applying appropriate restrictions based on assessed risk level. Minnesota (2003) found placing blanket residency restrictions on level-three sex offenders does not enhance public safety and recommended utilizing restrictions on a case-by-case basis. Likewise, Levenson and Cotter

(2005b) noted restrictions must be feasible and sensible and should be based on a thorough assessment of static and dynamic risk factors. A more individualized approach to sex offenders, they indicated, can enhance public safety and still promote successful reintegration for offenders.

Levenson (2005) reports broad strategies to manage sex offenders, such as residency restrictions, may dilute the ability to truly identify those offenders who pose the greatest risk to children and overall public safety. Research has identified several factors associated with sex offender recidivism, and risk assessment tools have been developed to estimate the likelihood of sexual re-offending. Therefore, it is possible to classify offenders based on assessed risk level and apply the most restrictive interventions (i.e. residency restrictions) to the most dangerous offenders. Levenson notes risk assessment instruments allow limited resources to be used more cost-effectively to treat, monitor, and restrict dangerous and/or high-risk sex offenders, without disrupting the stability and social bonds of lower-risk offenders.

Durling (2006) indicates states and municipalities should implement well-founded risk assessment criteria to categorize sex offenders and assign restrictive measures based on the assessed risk level. In doing this, policymakers would better protect communities by identifying offenders who pose the greatest risk of re-offending. For example, states could imprison or harshly restrict those sex offenders deemed to be high risk, while allowing low and moderate risk offenders to live in the community with appropriate restrictions and conditions. Durling states the use of risk assessment tools, while not foolproof, would be a

considerable improvement over assigning the same restrictions to all offenders, regardless of risk.

C. Creation of Child Safety Zones

Some states and municipalities are shifting their focus from sex offender residency restrictions to child safety zones, or zones that prohibit sex offenders from entering places where children typically congregate. “Whereas residency restrictions prohibit sex offenders from living within a certain distance of child-oriented locations, child safety zones are designed to prevent sex offenders from loitering within designated areas or within property bounds of schools, day care facilities, parks, and playgrounds” (Council of State Governments Staff, 2007). According to Levenson (2007), child safety zones seem better equipped to manage the whereabouts of sex offenders at risk of abusing children versus laws dictating where they can and cannot live. In some cases, these zones can be complemented with Global Positioning System (GPS) devices, which would alert officials when sex offenders enter a forbidden area without permission or a legitimate reason.

Wisconsin recently introduced legislation favoring child safety zones over a statewide sex offender residency restriction law. The Special Committee on Placement of Sex Offenders, the group assigned to investigate and complete such a proposal, had concerns about creating restrictions on where sex offenders can reside. They believed these restrictions may not be appropriate for every sex offender and may lead to offenders being placed primarily in rural areas. The proposal, if passed, would require the Department of Corrections to prohibit any

person convicted of and placed on supervision for 1st or 2nd degree sexual assault, or engaging in repeated acts of sexual assault against the same child, from going to places or entering zones where children typically congregate (Wisconsin Legislative Council, 2007, May 21).

D. Increased Public Education about Sex Offenders

The Council of State Governments Staff (2007) reports some experts and practitioners have advocated for increased community education in order to prevent sexual abuse. As stated previously, residency restrictions are based largely on four common myths about sex offenders: all sex offenders reoffend, strangers are responsible for a large majority of child sexual assault cases, sex offender treatment does not work, and all sex offenders are the same.

We know sex offender recidivism rates are much lower than commonly believed, ranging anywhere from 3.3% to 20% (Bureau of Justice Statistics, 2003; Hanson and Bussiere, 1998; Hanson & Morton-Bourgon, 2004). We also know a vast majority of sexual assaults are committed by someone known to the victim or the victim's family (Center for Sex Offender Management, 2000). As noted by Levenson and Cotter (2005a), even sex offenders themselves realize the threat of strangers as offenders is exaggerated. They stressed the need for education to help the public become more aware of the dangers sometimes posed by those we trust.

Furthermore, we know sex offender treatment is effective. Sex offenders who attend and cooperate with treatment are less likely to reoffend; whereas, those who fail to successfully complete sex offender treatment are at an increased

risk for sexual re-offending (Center for Sex Offender Management, 2000; Hanson and Bussiere, 1998). Finally, we know sex offenders are not a homogeneous group (Center for Sex Offender Management, 2000). Each type of sex offender, i.e. child molesters, adult rapists, voyeurs, exhibitionists, and young adults who have “consensual” sex with slightly younger teens, poses different risks and should therefore be subject to different restrictions. We know all of these things about sex offenders. It is now time to educate policymakers and the general public.

V. SUMMARY AND CONCLUSIONS

Sex offender residency restrictions are a fairly recent phenomenon, as most of the laws and ordinances have been implemented within the past few years. Thus, this examination of residency restrictions is limited by the fact that no research to date has specifically evaluated the impact of these laws and ordinances on sex offender recidivism rates. The Minnesota Department of Corrections (2003; 2007) and the Colorado Department of Public Safety (2004) conducted studies to determine the possible impact of residency restrictions on recidivism rates had they been enacted in their respective states. They found sex offender residency restrictions would generally not have prevented any of the new sexual offenses studied and would only marginally effect recidivism rates among sex offenders. Nevertheless, existing research has not addressed the states and municipalities that currently have residency restrictions and what impact they have had on those jurisdictions. Future research should include these states and municipalities to determine the actual impact of sex offender residency restrictions on sex offender recidivism rates.

What is known about sex offender residency restrictions is they can create substantial barriers regarding where sex offenders can live and the type of activities in which they can become involved. These barriers include: decreased housing options; increased distances to employment, treatment, education, and social services; separation from families and/or children; complete relocation; homelessness or transience, which can lead to difficulties in tracking and monitoring for supervising authorities; increased financial and emotional

hardship; and an increased risk of re-offending. Research has shown sex offenders with stability and positive support systems in their lives are less likely to reoffend sexually (Levenson, 2007) and are more likely to successfully reintegrate back into society (Levenson, 2005). Residency restrictions diminish the possibility of sex offenders having stability and positive support systems, which can lead to offenders who are at an increased risk of re-offending and communities that are far less safe.

Sex offender residency restrictions also provide a false sense of security to the communities that implement them and promote the myths that all sex offenders reoffend, strangers are responsible for a large majority of child sexual assault cases, sex offender treatment does not work, and all sex offenders are the same. From the research, it is known sex offender recidivism rates are much lower than commonly believed, a large majority of sexual assaults are committed by someone known to the victim or the victim's family, sex offender treatment is effective, and sex offenders are not a homogeneous group. Unfortunately, this information is not always presented to the general public and those who are charged with creating laws.

Recommendations were made with regard to sex offender residency restrictions. These included: elimination of current residency restriction laws and ordinances; use of individualized risk assessment for sex offenders and application of appropriate restrictions based on the assessed risk level; creation of child safety zones; and increased public education about sex offenders. Residency restrictions should be eliminated in favor of sex offender risk

assessments and child safety zones. Risk assessments allow limited resources to be used more cost-effectively to treat, monitor, and restrict dangerous and/or high-risk sex offenders, without disrupting the stability and social bonds of lower-risk offenders. In addition, child safety zones, or zones that prohibit sex offenders from entering places where children typically congregate, seem better equipped to manage the whereabouts and activities of sex offenders at risk of abusing children versus laws dictating where they are allowed to live.

Ultimately, the major goal of any law or ordinance is to better protect the community in which it is implemented. Education can serve this purpose as well. Parents and lawmakers need to be better educated about the realities of sexual abuse. It is a crime commonly blamed on strangers, but typically committed by a family member, friend, or acquaintance. It is a crime that can also be prevented. Regrettably, sex offender residency restrictions are not the answer.

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