

Sexual Offender Residence Restrictions

Approved by the ATSA Executive Board of Directors on August 2, 2014



ATSA supports evidence-based public policy and practice. Research consistently shows that residence restrictions do not reduce sexual reoffending or increase community safety. In fact, these laws often create more problems than they solve, including homelessness, transience, and clustering of disproportionate numbers of offenders in areas outside of restricted zones. Housing instability can exacerbate risk factors for reoffending. Therefore, in the absence of evidence that these laws accomplish goals of child protection, ATSA does not support the use of residence restrictions as a feasible strategy for sex offender management.

Definition

A state law (or local ordinance) restricting where individuals convicted of sexual crimes can live. Examples include 500 to 2,500 feet from places where children/minors might congregate, such as schools, playgrounds, day cares, parks, and recreation centers. Sometimes this restriction also includes bus stops or other areas where children may or may not be present. Some states limit the restriction to only those sexual offenders who are convicted of the most serious offenses, offend against minors, or are identified as high risk for reoffense, while others apply the law more broadly to all sexual offenders.

States also vary in the application of residence restrictions to youth adjudicated for sexual crimes. Adolescents who engage in sexually abusive behavior are not “mini-adults” and a sufficient number of studies now exist that show the majority of these youth do not continue to sexually offend nor are they on a life path for repeat offending. Application of residence restrictions to youth adjudicated for sexual crimes creates a variety of difficulties as these youth are also children – applying broad policies designed to limit their ability to live near and associate with other children unnecessarily restricts their access to normative prosocial and developmental opportunities. Due to the limited research on the application of residence restrictions for youth, the focus of this paper is on adults convicted of sexual crimes.

Background

Beginning in the mid 1990's, the emergence of registration and notification laws and the increased availability of public information on the internet resulted in the general public

becoming more aware of convicted sexual offenders living in their neighborhoods. This led to the notion that laws restricting such persons from living within close proximity to areas where children congregate would increase community safety.

Application

At least 30 states and hundreds of cities have implemented some form of residence restrictions. In some jurisdictions, court challenges to the constitutionality of residence restrictions have resulted in these laws being overturned.

Current Research Highlights

The intent of residence restrictions is to prevent stranger sexual recidivism. However, research has indicated that the majority of sexual abuse is perpetrated by someone known to the victim, such as a family member, acquaintance, teacher, coach or friend. According to the US Bureau of Justice Statistics (Snyder, 2000), 93% of children were sexually abused by someone known to them, such as a family member or acquaintance, with approximately 7% being victimized by a stranger. Sexual abuse also more often occurs in either the victim's home or the home of someone known to the victim - approximately 60% of offenses take place in the victim's home or the home of someone known to them (Bureau of Justice Statistics, 1997). Therefore, policies based on "stranger danger" do not adequately address the reality of sexual abuse. Additionally, for offenders on community supervision or those returning to the community after a period of incarceration, residence restrictions often have the unintended consequence of creating obstacles to community reentry that may actually compromise, rather than promote, public safety.

Research shows that residing close to schools or daycare centers does not increase risk to sexually reoffend. Zandbergen, Levenson and Hart (2010) compared the proximity of recidivists and non-recidivists to schools and daycares (N = 330) in Florida. Those who lived within 1,000, 1,500, or 2,500 feet of schools or daycare centers did not reoffend more frequently than those who lived farther away. The Minnesota Department of Corrections (2007) investigated the characteristics of 224 sexual reoffense crimes and the authors concluded that residence restrictions would not have prevented even one re-offense. Most of the offenses involving children were committed not by strangers, but by sexual offenders who were closely acquainted with their victims, such as parents, caretakers, paramours of the mother, babysitters, or friends of the family. The repeat offender was a neighbor of the victim in only about 4% of the cases. Sexual assaults that occurred within a mile of the offender's residence also typically involved adult victims, and none of the crimes took place in or near a school, daycare center, or park.

Additionally, the Colorado Department of Public Safety (2004), using mapping software, found sexual recidivists were not more likely than non-recidivists to live within 1,000 feet of a school or daycare. In New Jersey it was found that relatively few sexual offenders (4.4%) met victims in the types of locations designated as off-limits by residential restriction laws (Colombino, Mercado, Levenson, & Jeglic, 2011). Policies emphasizing residential proximity to schools and parks may therefore ignore the empirical reality of sexual abuse patterns, specifically that residence restrictions do not reduce recidivism or increase community safety.

What Promotes Effective Sexual Offender Management?

A coordinated system for the management of adult sexual offenders can enhance the safety of the community by facilitating successful offender reintegration, protecting victims, and preventing future incidents of sexual violence. Multi-disciplinary collaboration is integral to the effective management of adults convicted of sexual crimes and should include not only the community supervising officer and sexual offense specific treatment provider, but also other collaborative partners such as community support persons, victim advocates, and other involved professionals.

Current research regarding treatment effectiveness suggests (in brief):

- Sexual offense specific treatment is an important component of a comprehensive system to prevent sexual reoffending, and treatment programs that follow the Risk, Need, and Responsivity principles are associated with lower rates of recidivism than programs that do not, or no treatment at all.
- Sexual offenders require supportive environments that focus on improving psychosocial functioning in order to reduce the likelihood of recidivism. Support services should include access to housing, employment opportunities, prosocial support persons, mental health treatment, and transportation.

Do Residence Restrictions Help or Hinder Offender Reintegration?

The unintended consequences of residence restrictions include transience, homelessness, instability, and other obstacles to community reentry that may actually compromise, rather than promote, public safety. Offenders are often pushed to areas that are more rural (the higher the population density, the more likely neighborhoods include schools, parks, etc.) which often leads to diminished access to specialized treatment and close monitoring by law enforcement professionals, as well as disproportionally clustering offenders in areas with more compliant housing.

Employment and housing disruption, as well as separation from supportive and/or dependent family members, 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 at an increased risk to reoffend.

Alternatives

Sexual offenders are a diverse group of individuals who engage in sexually abusive behavior at differing frequencies and for varying reasons. They present with different levels of risk for future sexually abusive behavior. Rather than applying a blanket policy that treats all sexual offenders the same, regardless of offense behavior, risk level, or victimization patterns, the subset of sexual offenders who have been identified as high risk to reoffend 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 individualized case management plans, close monitoring, and social support systems

incorporating community engagement and responsibility are viable alternative components of an effective management system.

Conclusions

ATSA does not support the use of residence restriction laws as a sex offender management strategy. Sexual abuse is most likely to occur within a pre-existing relationship between the sexual offender and the victim, and there is no evidence that residential proximity to schools, playgrounds, day cares, parks, and recreation centers increases sexual reoffending. There is no research to support the effectiveness of residence restrictions in reducing sexual recidivism and these types of policies often have the unintended consequence that may compromise, rather than promote, public safety. The prevention of sexual abuse requires a well-planned, comprehensive, interdisciplinary response founded on evidence based strategies and policies that both protect communities and support the rehabilitation of offenders. It is therefore recommended that states and local jurisdictions seek effective methods to manage sexual offender risk while providing services that facilitate successful reintegration.

Additional Resources

<https://www.doc.ks.gov/publications/kdoc-community-field-services-publications/sex-offender-housing-restrictions>
<http://www.library.ca.gov/crb/06/08/06-008.pdf>

Sexual Offender Residence Restrictions

An Abridged Bibliography*



History and implementation of residence restrictions in the United States

Bain, C. (2007). Next-Generation Sex Offender Statutes: Constitutional Challenges to Residency, Work, and Loitering Restrictions. *Harvard Civil Rights-Civil Liberties Law Review*, 42, 483-501.

CALCASA. (2006). *Opposition to California's Jessica Lunsford Act*, from www.calcasa.org

Doe v. Miller, 405 F. 3d 700 (8th Circuit 2005).

Doe v. Miller and White (U.S. District Court, Southern District of Iowa 2004).

Kansas Sex Offender Policy Board. (2007). *Annual report*. Topeka: Kansas Criminal Justice Coordinating Council.

Levenson, J. S., Zgoba, K., & Tewksbury, R. (2007). Sex offender residence restrictions: Sensible crime policy or flawed logic? *Federal Probation*, 71, 2-9.

Mann v. Georgia Department of Corrections et al. (Supreme Court of Georgia 2007).

Meloy, M. L., Miller, S. L., & Curtis, K. M. (2008). Making Sense Out of Nonsense: The Deconstruction of State-Level Sex Offender Residence Restrictions. *American Journal of Criminal Justice*, 33(2), 209-222.

NAESV. (2006). Community management of convicted sex offenders: Registration, electronic monitoring, civil commitment, mandatory minimums, and residency restrictions. Retrieved 4/2/06, from www.endsexualviolence.org

Nieto, M., & Jung, D. (2006). The impact of residency restrictions on sex offenders and correctional management practices: A literature review. Sacramento, CA: California Research Bureau.

State v. Seering, No. 34 / 03-0776 (Iowa Supreme Court 2005).

Public and Legislator Perceptions

- Bain, C. (2007). Next-Generation Sex Offender Statutes: Constitutional Challenges to Residency, Work, and Loitering Restrictions. *Harvard Civil Rights-Civil Liberties Law Review*, 42, 483-501.
- Fortney, T., Levenson, J. S., Brannon, Y., & Baker, J. (2007). Myths and Facts about sex offenders: Implications for practice and public policy. *Sex Offender Treatment*, 2, 1-17.
- Levenson, J. S., Brannon, Y., Fortney, T., & Baker, J. (2007). Public perceptions about sex offenders and community protection policies. *Analyses of Social Issues and Public Policy*, 7, 1-25.
- Sample, L. L., & Kadleck, C. (2008). Sex Offender Laws: Legislators' Accounts of the Need for Policy. *Criminal Justice Policy Review*, 19, 40-62.

Effectiveness of Residence Restrictions

- Colorado Department of Public Safety. (2004). Report on safety issues raised by living arrangements for and location of sex offenders in the community. Denver, CO: Sex Offender Management Board.
- Duwe, G., Donnay, W., & Tewksbury, R. (2008). Does residential proximity matter? A geographic analysis of sex offense recidivism. *Criminal Justice and Behavior*, 35, 484-504.
- Minnesota Department of Corrections. (2003). *Level three sex offenders residential placement issues*. St. Paul: author.
- Minnesota Department of Corrections. (2007). *Residential proximity and sex offense recidivism in Minnesota*. St. Paul, MN: MN Department of Corrections.
- Nobles, M. R., Levenson, J. S., & Youstin, T. J. (2012). Effectiveness of Residence Restrictions in Preventing Sex Offense Recidivism. *Crime and Delinquency*, 58(4), 491-513.
- Zandbergen, P., Levenson, J. S., & Hart, T. (2010). Residential proximity to schools and daycares: An empirical analysis of sex offense recidivism. *Criminal Justice and Behavior*, 37(5), 482-502.

Housing Availability and Placement of Sex Offenders

- Barnes, J. C., Dukes, T., Tewksbury, R., & De Troye, T. (2008). Predicting the Impact of a Statewide Residence Restriction Law on South Carolina Sex Offenders. *Criminal Justice Policy Review*, Online First (doi:10.1177/0887403408320842).
- Chajewski, M., & Mercardo, C. C. (2008). An analysis of sex offender residency restrictions in Newark, New Jersey. *Sex offender law report*, 9, 1-6.

- Colombino, N., Mercado, C. C., Levenson, J. S., & Jeglic, E. L. (2011). Preventing sexual violence: Can examination of offense location inform sex crime policy? *International Journal of Psychiatry and Law*, doi:10.1016/j.ijlp.2011.04.002.
- Levenson, J. S., Ackerman, A. R., Socia, K. M., & Harris, A. J. (2013). Where for Art Thou? Transient Sex Offenders and Residence Restrictions. *Criminal Justice Policy Review*, 0887403413512326.
- Mustaine, E. E., Tewksbury, R., & Stengel, K. M. (2006). Residential location and mobility of registered sex offenders. *American Journal of Criminal Justice*, 30, 177-192.
- Socia, K. M., Levenson, J. S., Ackerman, A. R., & Harris, A. J. (2014). " Brothers Under the Bridge": Factors Influencing the Transience of Registered Sex Offenders in Florida. *Sexual abuse: a journal of research and treatment*, 1079063214521472.
- Tewksbury, R., & Mustaine, E. (2008). Where Registered Sex Offenders Live: Community Characteristics and Proximity to Possible Victims. *Victims and Offenders*, 3, 86-98.
- Tewksbury, R., Mustaine, E., & Stengel, K. M. (2008). Examining Rates of Sexual Offenses from a Routine Activities Perspective *Victims and Offenders*, 3, 75-85.
- Tewksbury, R., & Mustaine, E. E. (2006). Where to find sex offenders: An examination of residential locations and neighborhood conditions. *Criminal Justice Studies*, 19, 61-75.
- Walker, J. T., Golden, J. W., & VanHouten, A. C. (2001). The Geographic Link Between Sex Offenders and Potential Victims: A Routine Activities Approach. *Justice Research and Policy*, 3, 15-33.
- Zandbergen, P. A., & Hart, T. C. (2006). Reducing housing options for convicted sex offenders: Investigating the impact of residency restriction laws using GIS. *Justice Research and Policy*, 8, 1-24.
- Zgoba, K., Levenson, J. S., & McKee, T. (2008). Examining the Impact of Sex Offender Residence Restrictions on Housing Availability. *Criminal Justice Policy Review*, Online First (DOI 10.1177/0887403408322119).

Criminal Re-entry, Housing Instability, and Recidivism

- Andrews, D. A., & Bonta, J. (2003). *The psychology of criminal conduct* (3rd ed.). Cincinnati, OH: Anderson Publishing.
- Blandford, A.M. & Osher, F. (2013). *Transition of People with Behavioral Health Disorders from Jail and Prison*. Delmar, NY: SAMHSA'S GAINS Center for Behavioral Health and Justice Transformation.
- Council of State Governments. (2010). *Sex Offender Management Policy in the States*. New York: Author.
- Daly, R. (2008). *Treatment and Reentry Practices for Sex Offenders: An Overview of States*. New York: Vera Institute of Justice.

- Hanson, R. K., & Harris, A. J. R. (1998). *Dynamic predictors of sexual recidivism* (No. 1998- 01). Ottawa: Department of the Solicitor General of Canada.
- La Vigne, N., Visser, C., & Castro, J. (2004). *Chicago Prisoners' Experiences Returning Home*. Washington, DC: Urban Institute.
- Laub, J. H., & Sampson, R. J. (2001). Understanding desistance from crime. *Crime and Justice*, 28, 1-69.
- Lutze, F.E., Rosky, J.W., & Hamilton, Z.K. (2014). Homelessness and reentry: A multisite outcome evaluation of Washington state's reentry housing program for high risk offenders. *Criminal Justice & Behavior*, 41(4), 471-491.
- Meredith, T., Speir, J., Johnson, S., & Hull, H. (2003). *Enhancing Parole Decision-Making through the Automation of Risk Assessment*. Atlanta: Applied Research Services, Inc.
- Nelson, M., Deess, P., & Allen, C. (1999). *The First Month Out: Post-Incarceration Experiences in New York City*. New York: Vera Institute of Justice.
- Petersilia, J. (2003). *When Prisoners Come Home: Parole and prisoner reentry*. New York, NY: Oxford University Press.
- Schulenberg, J. L. (2007). Predicting noncompliant behavior: Disparities in the social locations of male and female probationers. *Justice Research and Policy*, 9, 25-57.
- Travis, J. (2005). *But the all come back: Facing the challenges of prisoner reentry*. Washington, D.C.: Urban Institute Press.
- Velaquez, T. (2008). *The Pursuit of Safety: Sex Offender Policy in the United States*. New York: Vera Institute of Justice.
- Williams, F. P., McShane, M. D., & Dolny, M. H. (2000). Predicting parole absconders. *Prison Journal*, 80, 24-38.

Unintended consequences

- Iowa County Attorneys Association. (2006). *Statement on sex offender residency restrictions in Iowa*. Des Moines: Author.
- Levenson, J. S. (2008). Collateral consequences of sex offender residence restrictions. *Criminal Justice Studies*, 21(2), 153-166.
- Levenson, J. S., & Cotter, L. P. (2005). The impact of sex offender residence restrictions: 1,000 feet from danger or one step from absurd? *International Journal of Offender Therapy and Comparative Criminology*, 49, 168-178.
- Levenson, J. S. & D'Amora, D. (2007). Social policies designed to prevent sexual violence: The emperor's new clothes? *Criminal Justice Policy Review*, 18, 168-199.

- Levenson, J. S., & Hern, A. (2007). Sex offender residence restrictions: Unintended consequences and community re-entry. *Justice Research and Policy*, 9, 59-73.
- Mercardo, C. C., Alvarez, S., & Levenson, J. S. (2008). The impact of specialized sex offender legislation on community re-entry. *Sexual Abuse: A Journal of Research & Treatment*.
- NAESV. (2006). Community management of convicted sex offenders: Registration, electronic monitoring, civil commitment, mandatory minimums, and residency restrictions. Retrieved 4/2/06, from www.endsexualviolence.org
- Tewksbury, R. (2007). Exile at home: The unintended collateral consequences of sex offender residency restrictions. *Harvard Civil Rights-Civil Liberties Law Review*, 42, 531-541.

Recommended Reading:

- Duwe, G., Donnay, W., & Tewksbury, R. (2008). Does residential proximity matter? A geographic analysis of sex offense recidivism. *Criminal Justice and Behavior*, 35, 484-504.
<http://cjb.sagepub.com/cgi/reprint/35/4/484?ijkey=ONL.WYYZbhMfU&keytype=ref&siteid=spcjb>
- Iowa County Attorneys Association. (2006). *Statement on sex offender residency restrictions in Iowa*. Des Moines: Author.
- Levenson, J. S., Zgoba, K., & Tewksbury, R. (2007). Sex offender residence restrictions: Sensible crime policy or flawed logic? *Federal Probation*, 71(3), 2-9.