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Sex Offender Residence Restrictions

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Sexual violence is a serious social problem and policy-makers continue to wrestle with how to best address the public's concerns about sex offenders. Recent initiatives have included social policies that are designed to prevent sexual abuse by restricting where convicted sex offenders can live, often called "sex offender zoning laws," or "exclusionary zones." As these social policies become more popular, lawmakers and citizens should question whether such policies are evidence-based in their development and implementation, and whether such policies are cost-efficient and effective in reaching their stated goals.

Residence Restrictions

Many states have prohibited sex offenders from residing within close proximity to a school, park, day care center, or school bus stop. In the spring of 2005, after a series of child abductions and murders by convicted sex offenders, hundreds of jurisdictions across the U.S. began initiating housing restrictions with increasingly larger buffer zones, often 2,500 feet, or about one-half mile. These laws have essentially banned sex offenders from living in some cities.

Two major cases have been heard in Iowa courts, both of which ultimately upheld the constitutionality of these laws. In 2003, a district court declared Iowa's restrictions unconstitutional in the case of Seering v. Iowa, resulting in an injunction preventing the enforcement of the state's 2,000 foot buffer zone. However, in July of 2005, the Iowa Supreme Court overturned the lower court's ruling, opining that the infringement on sex offenders' freedom of residency was superseded by the state's compelling interest in protecting its citizens ("State v. Seering," 2005). In a separate but related Iowa case, the Eighth Circuit Court of Appeals also upheld the constitutionality of the law in a class action suit against the state by sex offenders ("Doe v. Miller and White," 2005). The American Civil Liberties Union has asked the U.S. Supreme Court to rule on the issue.

Housing restrictions have been enacted in most localities with little resistance. Child safety is clearly the primary concern when sex offender restrictions are imposed, and these laws are well-intentioned. Decreasing access to potential victims seems, intuitively, to be a reasonable

strategy for preventing sex crimes. However, there is no evidence that housing restrictions achieve this goal. As well, such laws greatly diminish housing options for sex offenders, often forcing them out of metropolitan areas where they are farther away from social support, employment opportunities, treatment centers, and social services. These consequences may inadvertently contribute to dynamic risk factors that ultimately increase danger.

Are sex offender policies evidence-based?

Housing restrictions appear to be based largely on three myths that are propagated by the media: 1) all sex offenders reoffend; 2) treatment does not work; and 3) the concept of "stranger danger." Research does not support these myths, and in fact, there is research to suggest that exclusionary housing policies may ultimately be counterproductive.

All sex offenders reoffend. There is a common belief that the vast majority of sex offenders will repeat their crimes. In fact, several large studies by both the U.S. and Canadian governments have found that sex offense recidivism rates are much lower than commonly believed. The U.S. Department of Justice found that over a three year period after being released from prison, 5.3% of sex offenders were rearrested for a new sex crime (Bureau of Justice Statistics, 2003). Studies by Canadian researchers involving over 29,000 sex offenders found a 14% recidivism rate among all sex offenders, with 13% of child molesters re-arrested, and rapists re-arrested at a slightly higher rate of about 20% (Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2004). Official recidivism data always underestimate true reoffense rates, but it appears that the majority of sexual offenders are unlikely to be rearrested for new sex crimes.

Treatment does not work. The myth that sex offenders can not benefit from psychological treatment has evolved from a study that was unable to detect a significant treatment effect when combining results from treatment outcome research conducted in the 1970's and 1980's (Furby, Weinrott, & Blackshaw, 1989). Recently, however, studies have reported more promising results, suggesting that cognitive-behavioral treatment can reduce sex offense recidivism by nearly 40% (Hanson, Gordon, Harris, Marques, Murphy, Quinsey, & Seto, 2002; Losel & Schmucker, 2005). Again, recidivism rates were lower than commonly believed; 17% for untreated offenders, and

10% for treated offenders (Hanson et al., 2002). Even in studies where significant overall treatment effects were not detected, researchers have found that sex offenders who *successfully complete* a treatment program reoffend less often than those who do not demonstrate that they "got it" (Marques, Miederanders, Day, Nelson, & van Ommeren, 2005).

Stranger danger. Sexual offender policies are also driven by the myth of "stranger danger," despite the fact that most sexual perpetrators are well known to their victims. The Department of Justice reported that perpetrators and their victims were strangers in less than 30% of rapes and 15% of sexual assaults (Bureau of Justice Statistics, 1997). A study reviewing sex crimes as reported to police revealed that 93% of child sexual abuse victims knew their abuser; 34.2% were family members and 58.7% were acquaintances (Bureau of Justice Statistics, 2000). Only seven percent of child victims reported that they were abused by strangers. About 40% of sexual assaults take place in the victim's own home, and 20% take place in the home of a friend, neighbor or relative (Bureau of Justice Statistics, 1997).

Heartbreaking cases of child abduction and murder receive significant media attention, which leads citizens and lawmakers to react with panic and urgency. In reality, such cases are extremely rare; it is estimated that about 100 such incidents occur in the United States each year (National Center for Missing and Exploited Children, 2005). About .7% of all murders involve sexual assault, and in fact, the prevalence of sexual murders declined by about half between the late 1970's and the mid 1990's (Bureau of Justice Statistics, 1997). Less than one-quarter of sexually motivated murders involve child victims (Bureau of Justice Statistics, 1997).

Do housing restrictions work?

Advocates of residence restrictions believe that such laws will diminish the likelihood that sex offenders will come in contact with children whom they might potentially victimize. However, in Colorado it was found that molesters who reoffended while under supervision did not seem to live closer than non-recidivists to schools or child care centers (Colorado Department of Public Safety, 2004). In Minnesota, sex offenders' proximity to schools or parks was not associated with recidivism (Minnesota Department of Corrections, 2003). In Arkansas, it was found that child molesters appeared to live in closer proximity to schools, day care centers, or parks, than did

rapists of adults, although the authors could not establish an empirical relationship between sex offender housing and recidivism (Walker, Golden, & VanHouten, 2001).

A survey of sex offenders in Florida indicated that housing restrictions increased isolation, created financial and emotional stress, and led to decreased stability (Levenson & Cotter, 2005a). Half of those surveyed reported that they had to move from a home or apartment due to housing restrictions, and 44% were unable to live with family members. Sex offenders also indicated that they did not perceive residence restrictions as helpful in risk management, and in fact, reported that such restrictions may inadvertently increase psychosocial stressors which can lead to recidivism (Levenson & Cotter, 2005a). It should be noted that these data were collected in Florida in 2004. At that time, housing restrictions in Florida were enforced by special conditions of sex offender probation with a restriction zone of 1,000 feet. It is likely that hardships related to housing increase with larger exclusionary zones.

Residence restrictions create a shortage of housing options for sex offenders and force them to move to rural areas where they are likely to become increasingly isolated with few employment opportunities, a lack of social support, and limited availability of social services and mental health treatment (Minnesota Department of Corrections, 2003). Such restrictions can lead to homelessness and transience, which interfere with effective tracking, monitoring, and close probationary supervision. Researchers in Colorado concluded: "Placing restrictions on the location of ... supervised sex offender residences may not deter the sex offender from re-offending and should not be considered as a method to control sexual offending recidivism" (Colorado Department of Public Safety, 2004, p. 5). Housing restrictions were not implemented in Minnesota due to the speculation that negative consequences, such as limiting housing availability and subsequent transience, would outweigh any potential benefit to community safety. In other states, however, buffer zones of 2,500 feet (about one-half mile) are becoming increasingly popular, as some legislators promise their constituents that they will essentially ban sex offenders from their communities.

The contagious effect of "Not In My Backyard" has led some neighboring towns to pass progressively exclusionary measures to keep sex offenders from migrating to their communities.

For instance, some rural municipalities in Iowa with widely dispersed schools have passed ordinances prohibiting sex offenders from living near parks, playgrounds, libraries, or other places where children congregate, in an effort to keep sex offenders from moving into the area. In Florida, some localities have made it a crime for landlords to knowingly rent to sex offenders within buffer zones, making it all the more difficult for sex offenders to secure rental properties. These obstacles leave many offenders no choice but to reside with family members, but when family members are located within restricted zones, sex offenders are left with literally no where to go.

Decades of criminological research have concluded that stability and support increase the likelihood of successful reintegration for offenders, and public policies that make it more difficult for offenders to succeed may jeopardize public safety (Petersilia, 2003). In Colorado, it was found that sex offenders who had a positive support system in their lives had significantly lower recidivism and less rule violations than those who had negative or no support (Colorado Department of Public Safety, 2004). Sex offenders who maintain social bonds to communities through stable employment and family relationships have lower recidivism rates than those without jobs or significant others (Kruttschnitt, Uggen, & Shelton, 2000). "Offenders can do quite well in the community within the confines of supervision, treatment, and stable employment" (Kruttschnitt et al., 2000, p. 83).

Another unintended consequence of these laws is that they can permanently separate offenders from their families and children who depend on them, or force entire families to relocate, creating psychological and financial hardship to innocent family members. Fearing family disruption, children or their parents may be less likely to report sexual abuse perpetrated by members of the household, preventing children from receiving protection and therapeutic services.

Despite widespread popularity, there is no evidence that sex offender residence restrictions prevent sex crimes or increase public safety. In fact, disrupting offenders' stability and social bonds is unlikely to be in the public's best interest if it exacerbates the psychosocial stressors that can contribute to reoffending. Such stressors, referred to as dynamic risk factors,

have been associated with increased recidivism (Hanson & Harris, 1998; Hanson & Morton-Bourgon, 2004). Sex offenders rouse little public sympathy, but exiling them may ultimately increase their danger.

Recommendations for evidence-based social policy

1. Risk assessment should be used to classify offenders into categories, with increased restrictions and more aggressive notification implemented for high risk offenders.

Research has identified factors associated with sex offense recidivism, and as a result, risk assessment instruments have been developed that can be very useful in estimating the likelihood that a sex offender will reoffend (Epperson, Kaul, Huot, Hesselton, Alexander, & Goldman, 1999; Hanson, 1997; Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2004; Hanson & Thornton, 1999;2000; Petersilia, 2003; Quinsey, Harris, Rice, & Cormier, 1998). It is possible, therefore, to classify sex offenders into risk categories, and apply the most restrictive interventions and the most aggressive community notification for the most dangerous offenders. All sex offenders are not the same, and it has been found that pedophiles who molest boys, and rapists of adult women, are among those most likely to recidivate (Doren, 1998; Harris & Hanson, 2004; Prentky, Lee, Knight, & Cerce, 1997). There is also substantial evidence that sex offenders commit many undetected offenses, so a thorough assessment, including polygraph examinations, can be useful in determining offense patterns and risk factors (Ahlmeyer, Heil, McKee, & English, 2000; English, Jones, Pasini-Hill, Patrick, & Cooley-Towell, 2000; Heil, Ahlmeyer, & Simons, 2003). Broad strategies may, by lumping all sex offenders together, dilute the public's ability to truly identify those who pose the greatest threat to public safety. At the same time, classification systems allow limited resources to be used more cost-efficiently to monitor, treat, and restrict highly dangerous offenders, without unnecessarily disrupting the stability of lower risk offenders.

2. Treatment programs should be a mandatory component of legislation designed to combat sexual violence.

Several studies have shown that treatment reduces sex offense recidivism (Hanson et al., 2002; Losel & Schmucker, 2005) and that sex offenders who successfully complete treatment reoffend less often than those who do not (Marques et al., 2005). Although treatment does not

guarantee success in every case, it should be considered a vital part of any public policy effort to control sex offenders. The widespread acceptance of initiatives such as drug courts and mental health courts indicates that politicians recognize the need for an inter-disciplinary response to crime. Notably, however, sex offender legislative initiatives rarely include treatment requirements. Resources should be allocated for sex offender assessment and treatment programs that take a collaborative approach to community supervision and rehabilitation. Research shows that such "containment" approaches can be successful in reducing sex offense recidivism (English, Pullen, & Jones, 1996).

3. Public education should focus on sexual abuse prevention and the steps that parents can take to enhance child safety.

Recent high-profile cases do not represent the "typical" sex offender. Sexually motivated abduction and murder are rare events, and such cases should not become the impetus for broad public policies affecting the heterogeneous group of sexual offenders. It is well-established that most sexual abuse victims are molested by someone they know and trust, not by strangers lurking near playgrounds or schools (Bureau of Justice Statistics, 1997;2000;2004). Public education should focus on providing factual information to parents about the realities of sexual abuse rather than promoting the false sense of security that is reinforced through exclusionary housing legislation. Parents should become aware of the signs and symptoms of sexual abuse as well as the common patterns of grooming used by perpetrators who gain access to victims by using their positions of trust and authority.

4. States should provide a mechanism for low risk offenders to be removed from public registries and be freed from the restrictions imposed on registered sex offenders.

Lifetime registration may not be necessary for all sex offenders and may in fact interfere with the stability of low-risk offenders by limiting their employment and housing opportunities, unnecessarily isolating them, and leading to harassment and ostracism (Levenson & Cotter, 2005b; Tewksbury, 2005). Sex offenders represent a wide range of offense patterns and future risk. Research has found that treatment decreases recidivism and treatment failure is associated with increased risk. It also appears that as the length of time living in the community offense-free

increases, recidivism decreases, and as offenders get older, they tend to recidivate at lower rates (Hanson, 2002; Harris & Hanson, 2004). So, some sex offenders should be allowed to petition for release from registration if deemed to pose a low risk to the community AND the offender has successfully completed a sex offender treatment program AND the offender has been living in the community offense-free for at least five years. Such a policy would provide an incentive for law-abiding behavior, and would afford rehabilitated offenders improved opportunities for successful community reintegrataion.

Conclusions

The goal of sex offender policies is to prevent future victimization. To that end, the Center for Sex Offender Management, operated under a grant by the U.S. Department of Justice, recommends thorough and research-based evaluations and risk assessments of sex offenders, specialized treatment, and the development of an appropriate monitoring plan that addresses the offenders specific risk factors and supervision needs (Center for Sex Offender Management, 2000). Housing restrictions are not a feasible strategy for preventing sexual violence. Society should be protected from violent and repeat sexual predators, and stricter sentencing guidelines will help keep dangerous sex offenders away. But when offenders are released into communities, it behooves us to provide an infrastructure that facilitates successful re-entry rather than contributes to the obstacles known to increase recidivism.

Though laudable in their intent, there is little evidence that recently enacted sex offender policies achieve their stated goals of reducing recidivistic sexual violence. Furthermore, exclusionary housing policies are not evidence-based in their development, as they tend to capture the widely heterogeneous group of sex offenders rather than utilize risk assessment technology to identify those who pose a high risk to public safety. There is emerging research suggesting that residence restrictions lead to serious unintended collateral consequences for offenders, such as limiting their opportunities for employment, housing, education, treatment services, and prosocial support systems. As a result, current social policies may contribute to dynamic risk factors for offenders in the community, ultimately becoming counter-productive. Emotionally reactive legislation based on fear and anger rather than research and data will not be

effective in keeping our communities safe. "It does not help the child maltreatment field or the public and policymakers to see child molesters as simply incorrigibly compulsive fiends who cannot be stopped" (Finkelhor, 2003, p. 1227). Scientists and clinicians can assist politicians to respond to the problem of sexual violence by informing the development of evidence-based policies that can better protect the public while rehabilitating perpetrators.

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