

MINUTES

JOINT COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE OVERSIGHT

September 23, 2010
Room 546-S—Statehouse

Members Present

Senator Pete Brungardt, Chairperson
Representative Pat Colloton, Vice-chairperson
Senator Karin Brownlee
Senator David Haley
Senator Dick Kelsey
Senator Janis Lee
Senator Tim Owens
Representative Barbara Craft
Representative Doug Gatewood
Representative John Grange
Representative Jerry Henry
Representative Joe Patton
Representative Jim Ward

Members Absent

Senator Terry Bruce

Staff Present

Athena Andaya, Kansas Legislative Research Department
Lauren Douglass, Kansas Legislative Research Department
Jason Thompson, Office of the Revisor of Statutes
Sean Ostrow, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Connie Burns, Committee Assistant

Conferees

Keven Pellant, Kansas Department of Corrections
Sheriff Frank Denning, Kansas Sheriff's Association
Nicole Dekat, Kansas Bureau of Investigation
Sandy Jacquot, Kansas League of Municipalities
Melissa Wangemann, Kansas Association of Counties
Michelle Rich, Citizen
Joanna Daugherty, Citizen
Lesley Ramirez, Citizen
Shane Wood, Citizen

Michell Prothe, Citizen
Roger Werholtz, Kansas Department of Corrections

Others Present

See attached list.

Thursday, September 23 Morning Session

The meeting was called to order by Chairperson Pete Brungardt. The Chairperson provided an overview of the meeting.

Approval of Minutes

Senator Owens made the motion to approve the Committee Minutes of the September 9-10, 2010, meeting. Representative Gatewood seconded the motion. The motion carried.

Review of Registration and Other Control of Sex Offenders in Kansas

Interstate Compact for Adult Offender Supervision

Keven Pellant, Deputy Secretary of Corrections, Kansas Department of Corrections, (KDOC) provided the committee a presentation on the Interstate Compact for Adult Offender Supervision ([Attachment 1](#)). Ms. Pellant stated the compact was born out of a need to promote public safety, protect the right of victims, control movement of offenders, supervision, rehabilitation, and provide for effective tracking. The Compact also ensures an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines. The Compact has established a system of uniform data collection, provides access to information on active cases by authorized criminal justice officials, and coordinates regular reporting of Compact activities to heads of state councils, state executive, judicial, and legislative branches and criminal justice administrators.

Since 1937, the Interstate Compact for the Supervision of Parolees and Probationers provided the sole statutory authority for regulating the transfer of adult parole and probation supervision across state boundaries. The Compact was updated and is now called the Interstate Compact for Adult Offender Supervision. It was enacted on June 19, 2002, and all 50 states are members of this interstate agreement, as are the District of Columbia, Puerto Rico and the U.S. Virgin Islands.

The Compact created a Commission to manage the day-to-day oversight of the compact between the states. Commission has statutory authority to enforce compliance with the rules it promulgates, which has force and effect of federal law. Members of the Compact pay an annual assessment fee to support the Commission. Every state has an Advisory Council which participates with the Commission.

The Commission also monitors compliance with the rules governing interstate movement of offenders and initiate interventions to address and correct noncompliance. The Commission

coordinates training and education regarding regulations of interstate movement of offenders for officials involved in such activity. Every jurisdiction (Courts, Parole Boards, Community corrections) is subject to ICAOS rules. This establishes a uniform system for reporting, collecting, and exchanging data.

The Compact is:

- Web-based application—launched nationwide 10/06/08;
- Allows member states to facilitate the transfer process and other case based activities;
- Paperless system;
- Promotes standardization, real-time tracking of offenders, ease of use, flexibility;
- Cost effective for interstate Compact business;
- Contractual agreements between the states;
- Enacted through legislative means;
- Adopted to resolve a dispute or study a problem; and
- Create an on-going administrative mechanism for managing an interstate affair.

Ms. Pellant provided the rules and terminology that regulates the compact, and offenders who are eligible and non-eligible. There are two types of transfers, (all transfers require justification):

- Mandatory—the receiving state must accept supervision if the offender meets the criteria to transfer:
 - Felon, or meets Misdemeanant Criteria;
 - 90 days of supervision or more; and
 - Valid plan of supervision; and
 - In substantial compliance; and
 - Is a “resident” by compact definition; or
 - Has resident family (by compact definition) other state; and
 - Can obtain employment or has a means of support; or
 - Offender in military; or
 - Residing with military family; or
 - Residing with family member who is employment transferred to receiving state; or
 - Offender who’s employment transferred to receiving state.
- Discretionary—
 - The receiving state has the discretion to accept or reject supervision when the offenders not eligible for mandatory transfer; and
 - The sending state must justify a reason or reasons for transfer:
 - The sending state may request transfer of supervision of an offender who does not meet the mandatory requirement in Rule 3.101;
 - The sending state must provide sufficient documentation to justify the requested transfer; and
 - The receiving state shall have the discretion to accept or reject the transfer of supervision in a manner consistent with the purpose of the compact.

Ms. Pellant provided the number of offenders on Compact Supervision from surrounding states, both sending and receiving.

Kansas' numbers are:

- In Kansas 1,826 (from other states)
- Sent 1,544

As of September 20, 2010 Sex Offenders:

- In Kansas 86
- Sent 72

Ms. Pellant stated that there are additional requirements for the transfer of a sex offender, which include:

- Assessment information, including sex offender specific;
- Social history;
- Information relevant to the offender's criminal sexual behavior;
- The law enforcement report;
- Victim information regarding demographics and victim statement; and
- A current or recommended supervision or treatment plan.

The receiving state may close and cease its supervision of an offender upon:

- Date of discharge (termination) of supervision;
- Notice to sending state of the absconding of the offender in the receiving state;
- Notice to sending state of incarceration of offender for 180 days or longer;
- Notification of death; or
- Return to sending state.

A receiving state shall not terminate supervision while the sending state is in the process of retaking the offender; or at the time a receiving state closes supervision, a case closure notice shall be provided to the sending state which shall include last known address and employment.

The Commission Website: www.interstatecompact.org

Current Practice and Procedure, Issues, and Recommendations

Sheriff Frank Denning, Johnson County Sheriff's Office on behalf of the Kansas Sheriff's Association (KSA), provided testimony on the Interstate Compact, offender registration, and residency restrictions (Attachment 2).

The KSA is working with the Secretary of Corrections and the Compact Administrator of Kansas to develop notification protocols for offenders who fall under the provisions of the Compact and assume residence in Kansas. These protocols will provide sheriffs with the information they need regarding offenders who live in their jurisdictions, but who may not be subject to registration requirement.

Laws and ordinances placing residency or visiting restrictions on sexual offenders have been enacted in several states and other localities, but there remains a lack of empirical data to show the effectiveness of these measures. The KSA suggests that close supervision of sexual offenders by court services personnel who in turn communicate regularly with sheriffs is one solution for the Committee to consider as they study this issue.

Current Law and Recommendations Regarding Offender Registration

Nicole Dekat, Supervisor of the Offender Registration Unit, Kansas Bureau of Investigation, (KBI) provided testimony on residency restrictions ([Attachment 3](#)). Ms. Dekat provided information regarding sex offender residency requirements in other states, and whether neighboring state's policies are pushing sex offenders into Kansas. The information provided indicates that the neighboring state's policies are not causing sex offenders to move to Kansas:

- Neighboring state's residency requirements;
- The number of sex offenders in each state and how many of those offenders are non-compliant;
- The total number of offenders convicted in another state that have moved to Kansas in the past five years; and
- The total number of offenders convicted in Kansas that have moved to another state in the past five years.

Discussion of Zoning

Sandy Jacquot, Director of Law and General Counsel, Kansas League of Municipalities, (LKM) provided testimony on the issue of regulating the residency of individuals on the sex offender registry ([Attachment 4](#)). Ms. Jacquot commented on some concerns LKM hears from cities on this issue. Pursuant to KSA 22-4913, cities are prohibited from adopting residency restrictions for those offenders on the registry. In 2008, however, this restriction was loosened somewhat to not apply to residential licensing or zoning programs for "correctional placement residences" housing offenders.

The restriction is very narrow and likely does not affect most cities in Kansas. She said that 512 cities have populations less than 1,000 and would be unlikely candidates for correctional placement residences. The most common regulation cities want to adopt are distance requirement from schools and parks, although not all offenders are on the list for crimes involving children. Other cities have discussed ways of informing citizens of the presence of a registered sex offender living in the community. Obviously, those persons on the sex offender registry need to be able to live and work in the community needs to be balanced

against the needs of cities to adopt reasonable regulations to enhance the safety of their citizens. LKM supports the ability of cities to adopt reasonable regulations regarding the residency of registered sex offenders.

Discussion of Concerns and Recommendations of Counties

Melissa Wangemann, Legislative Director, Kansas Association of Counties,(KAC) provided testimony on the topic of residency restrictions for sex offenders from the vantage point of Kansas counties (Attachment 5). Ms. Wangemann stated that the topic has not been brought forward by any member in her two years as Legislative Director. The only related item of concern to counties is reimbursement for all of the costs associated with committing sexually violent predators which is assigned in statute to the county even though the Attorney General handles the commitment proceedings.

Fifty-four counties in Kansas have countywide or partial county zoning. Ms. Wangemann stated, as of 2008, twenty-two states had residency restrictions for sex offenders. She provided a copy of a statement on Sex Offender Residency Restrictions from the Iowa County Attorneys Association stating they are working to repeal Iowa's law on sex offender residency restrictions. Finally, Ms. Wangemann provided the Committee charts on county wide zoning in Kansas.

KAC would suggest that the Committee hear from those states that have enacted restrictions to determine the consequences, both good and bad, prior to enacting a Kansas Law. Another point for discussion is whether a categorical restriction for all offenders is too broad and whether restrictions based on the severity of the crime committed should be considered instead.

Afternoon Session

Discussion of Olathe Situation

Senator Karin Brownlee, testified that she asked for this topic to be studied after she heard from a number of constituents about a sex offender, convicted in California, who moved one block from a school in Olathe, Kansas. She reviewed the state policies affecting sex offenders and stated there are two issues to consider in determining if the legislature needs to make policy changes. One area is how the registration process works and interfaces with the Interstate Compact process and the second issue is whether or not we should change our policy on residency restrictions on where sex offenders are allowed to live in Kansas. These restrictions do not necessarily protect children and may in fact, provide a false sense of security.

Senator Brownlee provided "Facts and Fiction about Sex Offenders" by Chris Dornin (Attachment 6). The Senator stated that she is reluctant to pursue residency restrictions based on the information reviewed, but certainly desired to know the opinion of the committee.

Michelle Rich, Olathe, testified about the convicted child sex offender moving into their subdivision directly across from a school (Attachment 7). She and a group of neighbors did research and found that Kansas does not restrict where convicted child sex offenders live, how they interact with children in volunteer capacities, and that there is no active notification of

neighbors. This led to forming a group they call Kansas Rights 4 Kids and taking action to cause this legislative hearing.

Ms. Rich stated a bill is being researched and anticipates it would include the following elements: residency restrictions, safety zones, and active notification. Included with her testimony were letters from Wichita Councilman Jim Skelton; Olathe City Councilman Larry Campbell who wrote a letter and provided a map of schools with buffer zones of 300 feet, 500 feet, and 1000 feet.; and a resolution by Topeka Councilmember Jack Woelfel.

Joanna Daugherty, Olathe, testified in favor of revisiting the issue of placing restrictions of convicted child sex offenders (Attachment 8). Ms. Daugherty responded to some of what she characterized as "the opposition" their group heard in pursuing stricter regulations for child sex offenders in the state of Kansas.

Lesley Ramirez, Olathe, testified in support of child sex offender legislation (Attachment 9). The Olathe situation is a testament to the way Kansas desperately needs laws restricting child sex offenders. She made the point that policing child sex offenders should not fall solely on to citizens who are not given any tools to deal with it.

Shane Wood, Olathe, testified that current Kansas laws would allow such predators be allowed to live within such a short distance to where children go to school and gather to play (Attachment 10). Mr. Wood included letters from the victim in California, her parent, her attacker, and the booking form from Ridgecrest, California.

Michell Prothe, Olathe, thanked the Committee for considering the request of placing tougher restrictions on the access child sex offenders have on children (Attachment 11). Ms. Prothe stated allowing child sex offenders to hang around children (without a court approved adult) and build their trust over time only tempts the offender to re-offend. She stated that the restrictions advocated by the group of parents are the best form of protection for children and for reducing recidivism of child sex offenders.

Lori Bush, Olathe, (Attachment 12) provided information on Missouri Registered Sex Offenders that work or live in Kansas. Christopher J. Thurmond, (Attachment 13) would like to see laws based on Geographic Information System Mapping data. Carol O'Dell, Wichita, (Attachment 14) would like the state to pursue restriction that would benefit and protect the children. Theresa Koehler, Olathe, (Attachment 15) believes having residency restriction, safety zones, and adult advocates for the kids, would provide an avenue to pursue justice and a way to keep children safe. Donna Sibaai, Wichita, (Attachment 16) stated the best recommendations are that the offenders be removed from situations where temptation is present or near. Sara Wood, Olathe, (Attachment 17) wants restrictions on child sex offenders and believes they should be restricted to not be able to anywhere near where children gather or go to school.

The Chairman thanked the conferees for coming and sharing their concerns with the Committee. The Chairman also stated that this is a balancing act between the State acting to protect the public and individual rights. He explained to the group that the Legislature has a responsibility to be able to pass legislation that will accomplish the goal without causing the state to have to defend against a lawsuit.

Comparable State Practices and Statues

Athena Andaya, Kansas Legislative Research Department, provided research on the past studies conducted in Kansas on the topic of residency restrictions for sex offenders

(Attachment 18). Ms. Andaya stated that, during the 2006 Legislative session, Senate Bill 506 was enacted to, among other things, prohibit cities and counties from adopting or enforcing any ordinance, resolution, or regulation establishing residential restrictions for offenders required to register under the Offender Registration Act. The provisions were supposed to expire on June 30, 2008.

During 2006 interim, the Special Committee on Judiciary studied the issue and recommended the 2007 Legislature consider the following with regard to sex offender restrictions:

- Creation of safety zones patterned after the Illinois statutes;
- Development of more complete risk assessment tools;
- Narrowing the scope of application for offenses against children instead of minors;
- Make permanent the prohibition on local ordinances from establishing residency restrictions; and
- Creation of programs that focus on the dangers that lie within a child's family.

On January 8, 2007, the Kansas Sex Offender Policy Board, a Board also studying the issue of sex offender residence restrictions, issued a report on its findings. The Board concluded that sex offender residence restrictions have not demonstrated efficacy as a means of protecting public safety. The Board recommended alternatives such as to make permanent the moratorium prohibiting cities and counties from adopting or enforcing any ordinance, resolution, or regulation establishing residential restrictions for offenders required to register under the Offender Registration Act. However, the moratorium should not interfere with a localities ability to regulate through zoning the location of congregate dwellings for offenders, such as group homes. This recommendation was enacted by the Legislature and remains the law.

Ms. Andaya also provided the Committee the information the Council of State Government compiled on states with sex offender residency restrictions laws. Additionally, she provided copies of the following reports and research:

- Report of the Special Committee on Judiciary;
- Kansas Sex Offender Policy Board – Report on Residence Restrictions for Sex Offenders;
- White Paper on the Use of Residence Restrictions as a Sex Offender Management Strategy by the Colorado Sex Offender Management Board;
- Statement on Sex Offender Residency Restrictions in Iowa by the Iowa County Attorneys Association;
- Residential Proximity and Sex Offense Recidivism in Minnesota by the Minnesota Department of Corrections;
- Sex Offender Residence Restrictions, Public Policy Briefs, Association for the Treatment of Sexual Abusers;

- Residence Restrictions and Their Impact on Sex Offender Reintegration, Rehabilitation, and Recidivism, Jill S. Levenson; and
- The Comprehensive Approach to Sex Offender Management, Publication from the Center for Sex Offender Management.

Roger Werholtz, Secretary of the Kansas Department of Corrections, stated that there was some confusion in the statements of other conferees that KDOC was “the opposition” and he made it very clear that KDOC is not the opposition. He stated that the community’s fear is justifiable in regards to the safety of children, and that KDOC’s responsibility is to do what is best within the Agency’s ability to assure that Kansas kids and families are safe. It is KDOC’s position that residency restrictions are not good policy and that they do not make children more safe but actually make them less safe. He stated research conducted in other states that have sex offender residency restrictions have shown the restrictions actually drive sex offenders “underground”. A lot of the sex offenders who were required to register absconded from supervision because they were losing their places to live. In addition to offenders going underground and no longer reporting where they live, other states have found that residency restrictions can force offenders out of areas where they can get the treatment they need and away from available jobs which causes the sex offender to destabilized. Sex offender residency restrictions draws resources away from programs that are proven to work.

According to Secretary Werholtz, child safety zones are worth further consideration, as is active public notification.

Committee Review for Final Report

The Committee began its discussions with an overview that there remains urgent and critical needs for the Kansas Department of Corrections and the Juvenile Justice Authority despite the inclination to reduce budgets. The needs do not dissipate just because there is not money to pay meet the needs. The Committee is concerned about the cumulative effects of the budget reductions that have been made to these Agencies. The Committee notes that these reductions affect the ability of these Agencies to safely and adequately incarcerate or prepare for the reentry of offenders which negatively affects the public safety of the citizens of Kansas and ultimately costs the state more money.

The reductions have prompted the KDOC to do the following:

- Reduce offender programming from \$12.6 million in FY 2009 to \$5.4million in FY 2011;
- Close the correctional conservation camps at Labette County, suspend operations at Stockton, Osawatomie, and Toronto Correctional Facilities, and the north unit at El Dorado Correctional Facility;
- Reduce funding for the Community Corrections grants;
- Reduce the number of high risk parolees with global positioning system (GPS) tracking devices;

- Increase shrinkage rates by holding open positions at the central office and the correctional facilities;
- Close the day reporting centers in Shawnee and Sedgwick counties; and
- Increase the transfer of funds from the Corrections Industries Fund to offset State General Fund reductions and in FY 2011 transfer \$500,000 from the Correctional Industries Fund to the State General Fund. These actions have reduced the balance of the Correctional Industries fund, which is used to purchase commodities for projects being completed by the Kansas Correctional Industries.

Therefore, for the Department of Corrections the Committee recommends the following:

- Replacement of KDOC core information technology systems known as the Offender Management Information System and the Total Offender Activity and Document System (OMIS/TOADS). OMIS/TOADS is the second oldest inmate computer system in the nation and it is becoming more difficult to maintain and those who are qualified to maintain the system are aging, too. If OMIS/TOADS were to crash, like the Kansas Department of Health and Environment's information system did in August, 2010, the KDOC would lose the ability to obtain inmate information, provide inmate information to other agencies involved with inmates, print escape packets, and all other functions currently operated by OMIS/TOADS. The Committee believes the Legislature and the Governor would be held remiss, and therefore, needs to prevent a potential public safety hazard by replacing these systems. Over the last 4 years (including FY11), KDOC has deferred \$3,000,000 in IT investment and have used approximately \$500,000 in outside grant money and some project funds intended for system replacement to conduct the Enterprise Architecture study required by the Joint Committee on Information Technology; KDOC needs to recover that money and begin to rebuild KDOC's IT environment. IT enhancement requests is \$3 million for first year of a four to five year system replacement plan for OMIS and TOADS; \$845,000 for scheduled replacement of IT assets; and \$235,000 – video conferencing capacity expansion for release planning.
- Replacement of aging vehicle fleet. There are over 164 vehicles already beyond replacement schedule. KDOC contemplated ceasing perimeter patrols because of worn out vehicles and staffing shortages but decided it was too risky. KDOC is requesting to replace 154 cars, light trucks, and vans which would cost \$3,115,000. Additionally, replacement of two buses would be \$420,000.
- Conversion to narrowband radio communications. There is a federal mandate by the Federal Communications Commission to convert to narrowband radio communications by January 1, 2013. To be compliant, KDOC would require lead time to make arrangements for towers, bidding, etc. The current revised estimated cost is \$600,000 (previously \$742,945 but KDOC used some remaining bond funds to purchase security upgrades including radios that will meet these requirements).
- Budgeting for Personnel. Currently, KDOC is holding 34 central office positions open to meet the budget (reentry and parole are in the central office budget). KDOC would need:
 - \$919,000 to reduce the shrinkage rate from 8.1 percent to 3.5 percent;

- \$207,723 to replace federal funding for victims services positions;
- \$224,415 to replace and enhance training staff;
- \$1,205,000 to replace ARRA funding for Special Enforcement Officers and Parole Officers;
- \$1,500,000 in ARRA/Byrne/JAG funding each year to restore Community Corrections funding the community corrections budget relies on;
- \$3,297,000 in enhanced funding for community corrections as recommended by the Kansas Community Corrections Association.
- Placement of parole staff in Corrections KPERS.
- Inclusion of KDOC employees in KP&F or a comparable system.
- Take action to avoid overcrowding in the prisons. According to the available bed space and the population trends, action needs to be taken by the 2011 Legislature in this regard. The Committee also discussed the possible need for a specialty prison for mental illness, for felony DUI's, and for drug offenders not amenable to treatment which could impact the bed space issue. Expansion and planning phases need to be addressed.

For the Juvenile Justice Authority, the Committee recommends the list of budget enhancements and initiatives requested by the Commissioner of the Juvenile Justice Authority (Attachment 19).

- \$57,159 for Kansas Juvenile Correctional Complex (KJCC) and \$56,547 for Larned Juvenile Correctional Facility (LJCF) to fund two classified social work specialists for sex offender treatment and programming. \$65,662 for JJA to fund a master-level psychologist with adolescent sex offender evaluation expertise to provide sex offender evaluations statewide prior to the disposition of juvenile sex offender cases by the court;
- \$378,885 shared between the two juvenile correctional facilities to replace lost RA-JAC funds that currently funds seven (7) Topeka and three (3) Larned juvenile correctional officer positions;
- \$500,000 to replace lost RA-JAG funds in order to maintain the current resource level for juvenile community corrections programs including prevention juvenile intake and assessment, intensive supervision probation and community case management;
- \$192,314 in FY11 and \$228,439 in FY12 to fill five (5) JCOI positions at KJCC. Insufficient funding was provided in the FY11 budget to fully fund the KJCC West Campus operation following the closure of the Beloit Juvenile Correctional Facility. This enhancement will allow KJCC to hire the staff necessary to ensure a safe and secure environment for the female operation and will reduce the need to draw from the KJCC male operation to meet minimum staff requirements for the female operation; and
- A permanent wage increase of 2.5 percent for juvenile correctional officers with a cost of approximately \$160,000.

The Committee was advised by the Commissioner that the modifications to Youth Residential Center II it requested last year are being implemented. Standards were amended to

assure a formal method for classification of youth in double occupancy rooms is used by operators of YRCII. Community based standards (CbS), a formal process for evaluation the conditions within a YRCII, is currently being implemented with the first round of surveys scheduled for October 2010. A work group continues to develop a plan for assignment of youth to a YRCII according to their risk and needs in order to assure at the highest level a proper match between the youth and service provider.

The Commissioner also informed the Committee that JJA, in partnership with a number of counties and the Annie E. Casey Foundation, has commenced an effort to reform juvenile detention practices. The Foundation has targeted the Kansas Juvenile Detention Alternatives Initiative expansion project as a project for their support this year. The Annie E. Casey Foundation is a private charitable organization, dedicated to helping build better futures for disadvantaged children in the United States. It was established in 1948 by Jim Casey, one of the founders of UPS, and his siblings, who named the Foundation in honor of their mother. The primary mission of the Foundation is to foster public policies, human-service reforms, and community supports that more effectively meet the needs of today's vulnerable children and families. In pursuit of this goal, the Foundation makes grants that help states, cities and neighborhoods fashion more innovative, cost-effective responses to these needs.

Finally, the Committee also stated that child safety zones, GPS, and other tools to manage sex offenders maybe good tool to use, when appropriate.

The Committee meeting was adjourned at 3:30 p.m.

Prepared by Connie Burns
Edited by Athena Andaya

Approved by the Committee on:

December 17, 2010

(Date)

JOINT COMMITTEE ON
CORRECTIONS AND JUVENILE JUSTICE OVERSIGHT
GUEST LIST

DATE 9-23-10

NAME	REPRESENTING
Melissa Wangemann	KAC
Ed Klump	KACP/KSA/KPOA
FRANK DENNING	KS SHERIFF ASSOCIATION
Bob Keller	JCSO
Patrick Vogelsberg	Kearney and Associates
Derek Heid	HEIN LAW FIRM
DAVID HUTCHINGS	KBI
Nicole Dekat	KBI
Leslie Moore	KBI
Sandy Taquet	LKM
Cheryl King	Olathe Testimony
Michelle Prothro	Olathe Testimony
Kevin Farrell	KPOC
Sam Leone	SNSO
Jennifer Welch	KDOC
BILL MISKELL	KDOC
Roger Werholtz	KDOC
AL DEATHE	DB SHERIFF'S OFFICE
Travis Love	Little Girl Relations
Jack Jersfel	Concerned Citizens



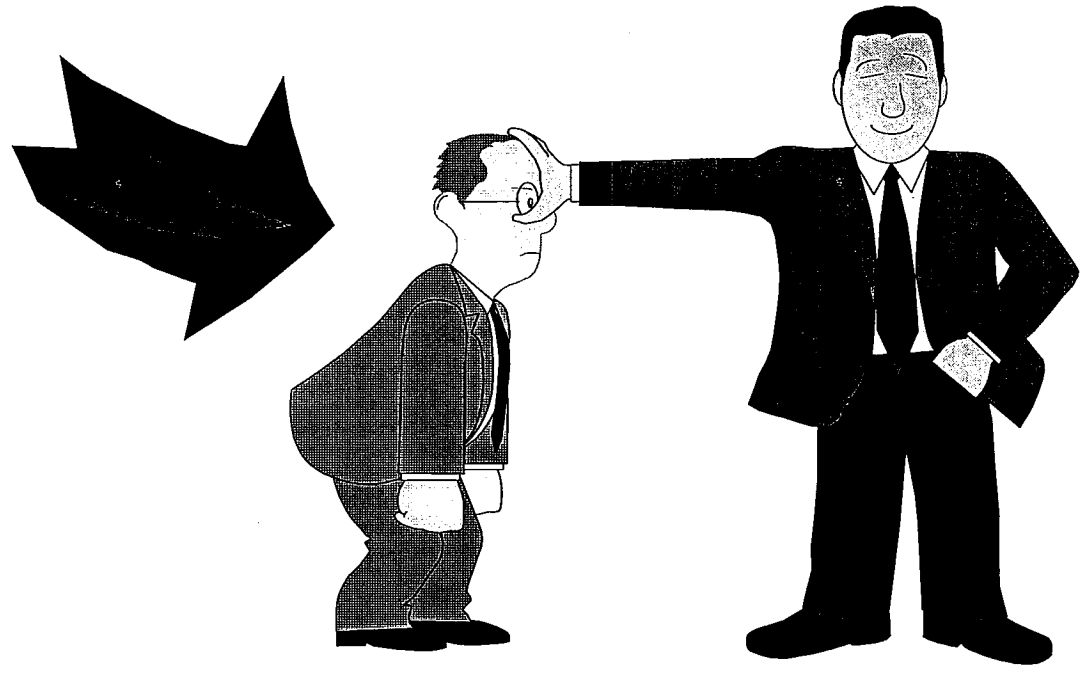
ICAOS Presentation

Presented by: Keven Pellant,
Deputy Secretary
Kansas Department of Corrections

September 23, 2010

The Compact

Was born
out of
a need to
control
offender
movement.



Purpose of ICAOS

- Promote Public Safety
- Protect the Rights of Victims
- Control Movement of Offenders
- Provide for Effective Tracking
- Supervision
- Rehabilitation

Need for Compact

- Lack of compliance
- Inability to enforce
- No continuum of supervision
- States passed conflicting laws
- Resistance to change
- Several notorious cases of offenders moving across state lines without anyone monitoring them

Interstate Compact for Adult Offender Supervision

- Enacted June 19, 2002
- All 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands are members of the Interstate Compact
- Passed state legislation governing participation in ICAOS
- Established a national governing body
- Rule making authority which has force and effect of federal law

- Every jurisdiction (Courts, Parole Boards, Community Corrections) is subject to ICAOS rules
- Commission has statutory authority to enforce compliance
- Members pay an annual assessment fee
- Every state shall establish an Advisory Council
- Establishes uniform system for reporting, collecting & exchanging data



- web-based application – launched nationwide 10/6/08
- allows member states to facilitate the transfer process and other case based activities
- paperless system
- promotes standardization, real-time tracking of offenders, ease of use, flexibility
- cost effective for Interstate Compact business

Interstate Compacts

- Contractual agreements between the states
- Enacted through legislative means
- Adopted to resolve a dispute or study a problem
- Create an on-going administrative mechanism for managing an interstate affair

Authority of the Interstate Compact

- The Crime Control Act of 1934 permitted two or more states to enter into agreements for mutual assistance in the prevention of crime.
 - Cuyler vs. Adams, 449 U.S. 433 (1981).
Compact rules supercede any state laws in conflict with them.

Rules

“Offender”

An adult placed under, or made subject to, supervision as the result of a criminal offense and released to the community under jurisdiction of:

- Courts
- Paroling Authorities
- Corrections
- Other Criminal Justice Agencies

And who meets eligibility requirements of the Interstate Compact for Adult Offender Supervision

“Sex Offender”

- Meets “offender” definition
 - Subject to supervision
 - Meets eligibility requirements
- And is required to register as a sex offender either in the sending or receiving state

“Supervision”

- Supervision has two distinct criteria:
 - Oversight exercised by an authority which includes courts
 - Regulations and conditions, other than monetary conditions (*effective March 1, 2010*), imposed on the offender at the time of release to the community

“Shall”

- Means that a state or other actor is required to perform an act, the non-performance of which may result in the imposition of sanctions as permitted by the Interstate Compact for Adult Offender Supervision, its by-laws and rules.

State Compact Offices

- All formal written, electronic or oral communication regarding an offender shall be made through the state compact office.

- The following activities must be done with the involvement and concurrence of the Compact or Deputy Compact Administrator:
 - Transfers, Acceptances, Rejections, Reporting Instructions
 - Modification or Termination of supervision
 - Violation Reports, Progress Reports

Rule 2.101

Eligibility

Transfer of Offenders

No state shall permit an offender who is eligible for transfer under this compact to relocate to another state except as provided by these rules.

- **“Relocate”** means to remain in another state for **more than 45 consecutive days** in any 12 month period.

An offender who is not eligible for transfer under this compact is not subject to these rules and remains subject to the laws and regulations of the state responsible for the offender’s supervision.

Rule 2.110

Transfer of Offenders

- Advisory Opinion 3-2004
 - Once an application has been made under the Compact an offender may not travel to the Receiving State without the Receiving State's permission.
- Advisory Opinion 9-2006
 - States which allow eligible offenders to transfer to the receiving state prior to the investigation being completed are in violation of the Compact .

Rule 3.102(b) & Rule 2.110

Transfer of Offenders

- An offender who is permitted to relocate in violation of the Compact rules must be directed to return within 15 calendar days (*effective March 1, 2010*)

If offender does not return as ordered, the sending state shall issue a warrant that is effective in all compact member states within 10 calendar days.

Rule 2.110

Who Can Transfer?

- **Eligible Offenders:**

- ALL Felons
- Certain Misdemeanants (*Rule 2.105*)
- Deferred sentences (*Rule 2.106*)
 - *Is there a finding of guilt?*
 - *Has a plea been entered?*
 - *Given up the right to trial?*
- “Unsupervised” Offenders requiring monitoring
 - Bench Probation

- **Non-eligible Offenders:**

- Certain Misdemeanants (*Rule 2.105*)
- Those on work-release (*Rule 2.107*)
- or released under furlough (*Rule 2.107*)
- or on a pre-parole program (*Rule 2.107*)
- Those on a Pre-Trial Release Program
- or offenders released on bail

Misdemeanants

A misdemeanor offender whose sentence includes one year or more of supervision shall be eligible for transfer...and the instant offense includes one or more of the following:

1. An offense in which a person incurred direct or threatened physical or psychological harm;
2. An offense that involves the use or possession of a firearm;
3. A second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol;
4. A sexual offense that requires the offender to register as a sex offender in the sending state

2 Types of Transfers

- **Mandatory** – if the offender meets the criteria to transfer, the receiving state **MUST** accept supervision
- **Discretionary** –
 - Offenders not eligible for mandatory transfer
 - Sending state must justify “WHY”
 - Receiving state has the discretion to accept or reject supervision
- **ALL TRANSFERS REQUIRE JUSTIFICATION**

Mandatory Transfer of Supervision

Decision to transfer is solely at the discretion of the sending state. An Offender shall be eligible and the receiving state **shall** accept transfer, if the offender:

- a) Has more than 90 days of supervision remaining; and
- b) Has a valid plan of supervision; and
- c) Is in substantial compliance in the sending state; and
- d) Is a Resident of the Receiving State; or
- e) (1) has resident family in receiving state who are willing to assist and have the ability to assist. and,
(2) can obtain employment or has means of support

Rule 3.101

(a) Has more than 90 days or an indefinite period of supervision remaining at the time the sending state transmits the transfer request

(b) Has a valid plan of supervision; and

The terms under which an offender will be supervised, including:

- proposed residence
- proposed employment or viable means of support
- terms and conditions of supervision

(c) Is in substantial compliance in the sending state; and

An offender is sufficiently in compliance with the terms and conditions of his or her supervision so as not to result in initiation of revocation of supervision proceedings by the sending state.

(d) Is a Resident of the Receiving State; or

- A person who:
 - Has continuously inhabited a state for at least one year prior to the commission of the offense for which the offender is under supervision; and
 - That such state shall be the person's principle place of residence; and
 - Has not, unless incarcerated, remained in another state or states for a continuous period of six months or more with the intent to establish a new principle place of residence.

(e)(1) has resident family in receiving state who are willing to assist and have the ability to assist. AND,

A parent, grandparent, aunt, uncle, adult child, adult sibling, spouse, legal guardian, or step-parent who;

- Has resided in the receiving state for 180 days or longer as of the date of the transfer request; and
- Indicates willingness and ability to assist the offender as specified in the plan of supervision

(2) can obtain employment or has means of support

Mandatory Transfers for Military

Eligible for Reporting Instructions *(within 2 business days of request)*

(a) Offender in the Military

(b) Offender Living with Military Family Member

Must meet the criteria of 3.101

- (a) Have more than 90 days of supervision remaining
- (b) Have a valid plan of supervision
- (c) Be in substantial compliance
- (e)(2) Can obtain employment in the receiving state or have a means of support

The offender must currently reside with the family member and continue to reside with the family member in the receiving state.

Rule 3.101-1

Mandatory Transfers for Employment

Eligible for Reporting Instructions *(within 2 business days of request)*

(c) Employment Transfer of Family Member*

(d) Employment Transfer of Offender

(New reason for Transfer as of March 1, 2010)

Must meet the criteria of 3.101

- (a) Have more than 90 days of supervision remaining
- (b) Have a valid plan of supervision
- (c) Be in substantial compliance
- (e)(2) Can obtain employment in the receiving state or have a means of support

***The offender must currently reside with the family member and continue to reside with the family member in the receiving state.**

Mandatory Transfer Checklist

- ✓ Felon or meets Misdemeanant Criteria
- ✓ 90 days of supervision or more; AND
- ✓ Valid plan of supervision; AND
- ✓ In substantial compliance; AND
- ✓ Is a “resident” by compact definition; OR
- ✓ has resident family (by compact definition) other state;
AND
- ✓ Can obtain employment or has a means of support; OR
- ✓ Offender in Military; OR
- ✓ Residing with Military Family; OR
- ✓ Residing with family member who’s employment
transferred to receiving state; OR
- ✓ Offender who’s employment transferred to receiving
state

Discretionary Transfer of Supervision

- A sending state MAY request transfer of supervision of an offender who does not meet the mandatory requirements in Rule 3.101.
- The sending state must provide sufficient documentation to justify the requested transfer.
- The receiving state shall have the discretion to accept or reject the transfer of supervision in a manner consistent with the purpose of the compact.

Rule 3.101-2

(Public Safety, Rehabilitation of Offenders)

Offender Shall NOT Travel Until:

- Completed application has been submitted;
- Sending state shall not allow offender to travel to the receiving state until the receiving state has replied to the transfer request.
 - Advisory Opinion 9-2006: If an offender is in a receiving state prior to acceptance, the Receiving State can properly reject the request for transfer.

Rule 3.102

Employment Exception

- Offenders may maintain employment if employed in the receiving state at the time the transfer request is submitted.
 - Travel is limited to performing job and offender must return to sending state daily
 - No travel during non-working hours
 - Transfer request shall include notification to receiving state

Rule 3.102

(effective March 1, 2010)

Transfer of Supervision of Sex Offenders

- Eligibility for Transfer
 - A sex offender shall not be allowed to leave the sending state until the sending state's request for transfer of supervision has been approved, or reporting instructions have been issued, by the receiving state.

Arrival & Departure Notice

- **Departure Notifications:** The sending state shall notify the receiving state of the offender's intended departure date via the ICAOS Departure Notice
- **Arrival Notifications:** The receiving state shall notify the sending state of the offender's arrival or failure to arrive via the ICAOS Arrival Notice
 - Note: The NOA cannot be completed in ICOTS until the sending state submits the NOD in ICOTS

Rule 4.105

Investigation Period

- An investigation shall be completed within 45 calendar days following receipt of a completed transfer request in the receiving state's compact office.
- If a receiving state determines that an offender transfer request is incomplete, the receiving state shall notify the sending state by rejecting the transfer request and include specific reason for rejection.

Rule 3.104

Reporting Instructions

Offenders LIVING in receiving state at time of sentencing

- Sending state shall request RI within 7 calendar days of sentencing or within 7 calendar days of release to probation supervision after incarceration of 6 months or less
 - Ensure offender signs the application-waiver
 - ***Sending state may grant a 7 day travel permit***
 - ***Receiving state must issue RI within 2 business days***
 - Sending State shall transmit Notice of Departure
 - Sending State retains supervision until arrival in Receiving State
 - Receiving State assumes supervision upon offender arrival
 - Receiving State shall submit Notice of Arrival
 - Sending state shall send completed TR – 15 calendar days

Rule 3.103

Transfer of Supervision of Sex Offenders

- Reporting Instructions for **Sex Offenders** Living in the Receiving State at the Time of Sentencing.
 - Rule 3.103 applies except for the following:
 - **5 business days** to respond
 - Invalid residence – may deny Reporting Instructions
 - **Travel permits are NOT permitted w/o approved Reporting Instructions**

Reporting Instructions

EXPEDITED

- **Both states must agree that an emergency exists.**
If the Receiving state does not agree, the offender SHALL NOT proceed until acceptance is received.
 - Response to RFRI – 2 business days
 - Ensure offender signs the application-waiver
 - Sending state will transmit a Notice of Departure
 - Receiving state shall transmit Notice of Arrival
 - Receiving state shall assume supervision of offender upon the offender's arrival and during the investigation
 - Sending state shall send completed TR – 7 calendar days

Return of Offenders

- Direct Offender to Return within 15 calendar days of rejection or failure to submit a transfer request.
 - Receiving state retains authority to supervise until
 - The offender's directed departure date; or
 - Issuance of the sending state's warrant

If offender does not return as ordered, the sending state shall issue a warrant that is effective in all compact member states within 10 calendar days.

Rule 3.103 & Rule 3.106⁴¹

Rejection due to Incomplete Packet after Approved RIs

- For offenders who are in the receiving state via approved reporting instructions, they remain in effect after a rejection due to an incomplete packet provided that the sending state submits a completed transfer request within 15 calendar days following the rejection.

Rule 3.104

(effective March 1, 2010)

Report as Directed

- A receiving state **may** withdraw its reporting instructions if the offender does not report to receiving state as directed and shall immediately notify sending state

Rule 4.105

Complete Transfer Packet – Rule 3.107

- All requests must be submitted via ICOTS & Contain:
 - Copy of signed Application for Transfer
 - Instant Offense DETAILS
 - Photograph
 - Conditions of Supervision
 - Contact Restrictions; if applicable
 - Protection Orders; if applicable
 - Sex Offender Registration Requirements; if applicable
 - PSI; if available
 - Supervision History; if available
 - Financial Obligation information

Additional Document Requests

- Additional documents, such as the Judgment and Commitment, and other information may be requested from the sending state following acceptance of the offender. The sending state shall provide the documents if available.

Rule 3.107

Transfer Packet-Sex Offender Requirements

- Additional Requirements for Sex Offenders; if available
 - Assessment Information, including sex offender specific
 - Social History
 - Information relevant to the offender’s criminal sexual behavior
 - Law Enforcement Report
 - Victim Information
 - Demographics
 - Statement
 - Supervision/Treatment plan - *current or recommended*

Rule 3.101-346

Transfer of Paroling Offender

- Request shall be submitted no earlier than 120 days prior to release
- Sending state shall notify receiving state of
 - the offender's date of release from prison
 - or if release date has been withdrawn
- Receiving state may withdraw acceptance
 - if offender does not report by the 5th calendar day following notification of departure
 - and shall immediately notify sending state
- Following receiving state withdrawal of acceptance, and if the sending state still desires for the offender to transfer, they must resubmit the request for transfer.

Rule 3.105

Acceptance of Offender

- Upon Acceptance:
 - The receiving state shall include reporting instructions in the acceptance
 - Upon notice, the sending state shall issue a travel permit to the offender and send a Departure Notice
- An acceptance by the receiving state shall be valid for 120 calendar days.

Rule 3.104-1

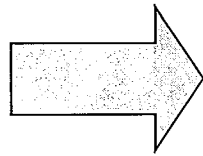
- Receiving State shall submit an Arrival Notice to the sending state when an offender reports in the receiving state. At this time the receiving state assumes responsibility for supervision.

Rule 4.105

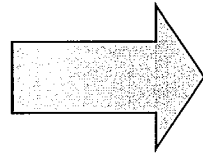
Offender Request to Return to Sending State

- The receiving state shall request reporting instructions, unless offender is under active criminal investigation or is charged with a new criminal offense.
 - *The offender shall remain in the receiving state until receipt of reporting instructions.*
- The sending state shall grant the request and provide reporting instructions no later than two business days
 - *In victim sensitive case, provisions of Rule 3.108-1 (Victim notification) must be followed prior to granting reporting instructions.*
- A receiving state shall notify the sending state as required.

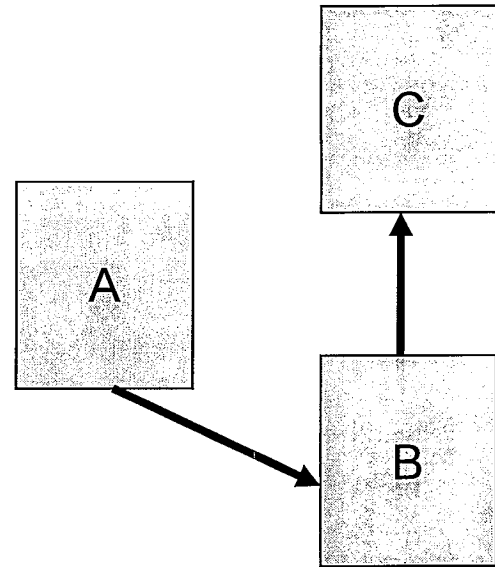
Offender's supervision is transferred from State A to State B



Offender currently supervised in State B, requests transfer to State C



State A=Sending State
State B=Receiving State #1
State C=Receiving State #2



Questions?

Notification to Victims

Both states shall notify known victims in their respective states in accordance with their own laws or procedures. The receiving state is responsible for reporting information to the sending state when an offender:

1. Commits a significant violation.
2. Changes address.
3. Returns to the sending state where victim resides.
4. Departs receiving state under approved plan in subsequent receiving state.
5. Issued a temporary travel permit in a victim sensitive case.

The receiving state shall respond to requests for offender information from the sending state no later than the 5th business day following the request.

Rule 3.108(b)

Victim Rules

- Victim's Right to be Heard (Rule 3.108-1)
 - Sending state's compact office can be contacted.
 - Victim's have 10 business days to respond to sending state's notification to give input.
 - Receiving state shall continue to investigate.
- Victim Comment Confidentiality

Rule 3.108

Supervision

- Receiving state shall supervise an interstate offender consistent with the supervision of other similar offenders sentenced in the receiving state:
 - Special Conditions
 - Violations
- Duration of supervision is determined by the sending state.

Rule 4.101 & 4.102

Offenders with Disabilities

- A receiving state SHALL continue to supervise offenders who become mentally ill or exhibit signs of mental illness or who develop a physical disability while supervised in the receiving state.

Special Conditions

- At the time of Acceptance or during supervision the Compact Administrator or supervising authority in receiving state may impose special conditions.
 - Must be consistent with what they would impose on one of their own offenders.
 - Receiving state shall notify sending state that it intends to impose a special condition, its nature and purpose.
- Sending state shall inform receiving state of special conditions imposed in sending state at the time of request for transfer or at any time thereafter.
- Receiving state shall inform sending state of special conditions they cannot enforce at the time of transfer.

Special Conditions

- *Advisory Opinion 8-2006:*
 - The mandatory criteria in 3.101 prevents a receiving state from adding special conditions or requirements prior to the acceptance of a transfer.
 - Special conditions for the return of the offender can be added for discretionary transfers.
 - Examples
 - Residential Programs
 - College

Effect of Special Conditions or Requirements

- For purposes of revocation or other punitive action against an offender, the probation or paroling authority of a sending state shall give the same effect to a violation of special conditions or requirement imposed by a receiving state as if those conditions or requirement had been imposed by the sending state.

Progress Reports

- A Receiving state shall provide to the sending state a progress report annually or within 30 days of a request (*March 1, 2010*) from the sending state.
- A progress Report shall include:
 - Offender's name
 - Offender's residence address;
 - Offender's telephone number and electronic mail address;
 - Name and address of offender's employer;
 - Supervising officer's summary of offender's conduct, progress, attitude and compliance.
 - Programs of treatment attempted and completed
 - Sanctions imposed by sending state
 - Recommendation
 - Any other information requested by sending state that is available.

Violation Reports

- A receiving state shall notify sending state of significant violations within 30 calendar days using the approved ICAOS form.

Significant Violation

An offender's failure to comply with the terms or conditions of supervision that, if occurring in the receiving state, would result in a request for revocation of supervision.

- Supporting documentation shall be included
 - Police reports
 - Toxicology reports
 - Preliminary findings

Response to Violation

- A sending state shall respond no later than 10 business days
- Response shall include:
 - action to be taken
 - date action will begin
 - estimated completion date

Rule 4.109

Violation Reports-Absconders

- Most recent status information on offender
- Details regarding how offender was determined to be an absconder
- Case Closure Notice
- Upon receipt of VR, sending state shall issue a warrant effective in all states
 - *If offender is apprehended on the warrant in the receiving state, upon the request of a sending state, a probable cause hearing shall be conducted as provided by Rule 5.108.*

Authority to Arrest and Detain

- An offender in violation of the terms and conditions of supervision may be taken into custody or continued in custody by the receiving state.
 - ***(Only if you have the authority to arrest in-state offenders without a warrant from the Court.)***

Rule 4.109-1

“Retaking” vs. “Extradition”

- Offender Application for Transfer (Waiver of Extradition)
 - Prior to an offender transferring or leaving the state under the compact, they shall sign a waiver of extradition.
 - States party to this compact waive all legal requirements to extradition of offenders who are fugitives from justice.

Rule 3.109

- *Retaking Example*
 - The only way an offender can be returned to the sending state under the Compact is if he originally left the sending state through a transfer under the compact.
- *Extradition Example*
 - Fugitives are to be returned under the extradition clause of the constitution. (Article VI Section 2)

ICAOS Opinion 2-2004

Retaking

- Except as required in Rules 5.102,5.103, at its sole discretion, a sending state may retake an offender unless charged with a new criminal offense in receiving state.
- If offender has been charged with new offense in receiving state, the offender shall not be retaken:
 - without the consent of receiving state
 - until charges have been dismissed
 - sentence has been satisfied
 - offender released to supervision for new offense



Mandatory Retaking

Rule 5.102 & 5.103

- Upon a request from the receiving state, a sending state shall retake or order the return of an offender from the receiving state or a subsequent receiving state upon the offender's conviction for a new felony offense and
 - completion of a term of incarceration for that conviction; or
 - placement under supervision for that felony offense.
- Upon a request by the receiving state and a showing that the offender has committed three or more significant violations arising from separate incidents that establish a pattern of non-compliance of the conditions of supervision, a sending state shall retake or order the return of an offender from the receiving state or a subsequent receiving state

If offender does not return as ordered, the sending state shall issue a warrant that is effective in all compact member states within 10 calendar days.

- **Sending state shall be responsible for the cost of retaking the offender** (Rule 5.104)
- **Sending state shall retake an offender within 30 calendar days** after the decision to retake or offender has been released from incarceration in the receiving state (Rule 5.105)
- **Receiving state shall be responsible for the cost of detaining the offender** (Rule 5.106)
- **Officers of the sending state may enter a state where the offender is found and apprehend & retake the offender** subject to this compact and due process requirements
- The sending state shall be required:
 - to establish the authority of the officers
 - and the identity of the offender to be retaken (Rule 5.107)

Probable Cause Hearings

- Morrisey vs. Brewer 408 U.S. 471 (1972)
- Gagnon vs. Scarpelli 411 U.S. 778 (1973)

U.S. Supreme Court cases associated with probable cause hearings and probation/parole violations.

- **Offenders are entitled to a probable cause hearing:**
 - Close proximity to where the violations occurred
 - An “administrative” hearing – not to determine guilt/innocence and level of due process is less than that of a revocation hearing
 - Conducted by a “neutral and detached” person

- **Offenders rights at the hearing:**
 - Written notice of the alleged violation(s)
 - Disclosure of non-privileged or non-confidential evidence
 - The opportunity to be heard in person, present witnesses and evidence
 - The opportunity to confront and cross-examine adverse witnesses, unless the hearing officer determines that a risk of harm to a witness exists

Rule 5.108

- No waiver of a PC Hearing shall be accepted unless accompanied by an admission to one or more significant violations.
- A copy of the conviction of a new felony offense shall be proof that an offender may be retaken by a sending state without the need for a PC Hearing.
- A written report of the PC Hearing must be sent to the sending state within 10 business days of the hearing.

After the PC Hearing...

- If probable cause is established,
 - Receiving state SHALL continue to hold the offender in custody
 - Sending state SHALL notify the receiving state of the decision to retake within 15 business days of receipt of the report
 - Sending state SHALL retake offender within 30 calendar days from determination to retake

- If probable cause is NOT established, the receiving state SHALL:
 - Continue Supervision
 - Notify the sending state to vacate the warrant and continue supervision upon release if the offender is in custody
 - Vacate the receiving state's warrant and release the offender back to supervision within 24 hours of the hearing if the offender is in custody

Retaking Offenders from Correctional Facilities

Officers of a sending state may take custody of an offender from a local, state or federal correctional facility at the expiration of sentence provided that:

1. No detainer has been placed against the offender by the state in which the facility lies
2. No extradition proceedings have been initiated by a third-party state

Rule 5.110

Denial of Bail or other Release Conditions

An offender against whom retaking procedures have been instituted by a sending or receiving state **shall not** be admitted bail or other release conditions in any state.

Rule 5.111

Closing Supervision by Receiving State

Receiving state may close and cease its supervision of an offender upon:

1. Date of discharge (termination) of supervision
2. Notice to sending state of the absconding of the offender in the receiving state
3. Notice to sending state of incarceration of offender for 180 days or longer; include:
 - a) Judgment and sentencing documents
 - b) Information about the offender's location
4. Notification of death
5. Return to sending state

- A receiving state SHALL NOT terminate supervision while sending state is in the process of retaking the offender.
- At the time a receiving state closes supervision, a case closure notice shall be provided to the sending state which shall include last known address and employment.

Rule 4.112

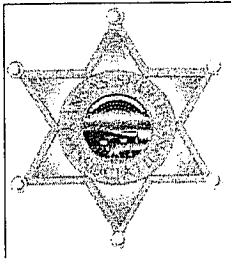
Contact

- Interstate Commission for
Adult Offender Supervision
PO Box 11910
Lexington KY 40578-1910
(859) 244-8008 Phone
(859) 244-8001 Fax
- Commission Website
www.interstatecompact.org

Offenders on Compact Supervision

- In Kansas 1,826 (from other states)
- Sent 1,544

- As of September 20, 2010 Sex Offenders:
- In Kansas 86
- Sent 72



Kansas Sheriffs Association

PO Box 1853
Salina, KS 67402
(785)827-2222

To: Chairperson Brungardt, Vice-chairperson Colloton, and distinguished members of Joint Committee on Corrections and Juvenile Justice Oversight.

From: Frank P. Denning, Johnson County Sheriff

Date: September 23, 2010

Chairperson Brungardt, and Committee Members,

My name is Frank Denning and I'm the Johnson County Sheriff, but I appear this morning representing the Kansas Sheriff's Association (KSA) to offer testimony on the interstate compact, offender registration, and residency restrictions.

Earlier this year, a convicted sexual offender from California was found to be living in Olathe without the proper pre-authorization as dictated by the interstate compact. The offender did register with the Johnson County Sheriff's Office as required by statute, but the Compact Administrator for California failed to involve the Compact Administrator for Kansas as required by the interstate compact. The Office of Sheriff has no statutory authority related to the interstate compact, and it is the position of the KSA that public safety is best served with the compact remaining at the state level.

The KSA is working with the Secretary of Corrections and the Compact Administrator of Kansas to develop notification protocols for offenders who fall under the provisions of the compact and assume residence in Kansas. These protocols will provide Sheriffs with the information they need regarding offenders who live in their jurisdictions, but who may not be subject to registration requirements.

In the case of the sexual offender living in Olathe, the public was made aware of the offender's presence and the nature of his crime when he registered with the Sheriff. The KSA has no recommendations for modifying the existing registration statute.

Finally, laws and ordinances placing residency and/or visiting restrictions on sexual offenders have been enacted in several states and localities, but there remains a lack of empirical data to show the effectiveness of these measures. The KSA suggests that close supervision of sexual offenders by court services personnel who in turn communicate regularly with Sheriffs' is one solution for the committee to consider as they study this issue.

Respectfully,

Sheriff Frank Denning
Kansas Sheriff's Association
Chairman of the Legislative Committee

C&JJ Oversight
Attachment 2
9-23-10



Kansas Bureau of Investigation

Robert E. Blecha
Director

Steve Six
Attorney General

TESTIMONY
Before the Joint Committee on Corrections and Juvenile Justice Oversight
To provide information on residency restrictions
Nicole Dekat
Public Service Administrator II
Kansas Bureau of Investigation
September 23, 2010

Chairman Senator Pete Burngardt and Members of the Committee:

I appear here today to provide information regarding sex offender residency requirements in other states, and whether those neighboring state's policies are pushing sex offenders into Kansas. The information below provides you with: 1) Our neighboring state's residency requirements, 2) The number of sex offenders in each state and how many of those offenders are non-compliant, 3) The total number of offenders convicted in another state that have moved to Kansas in the past five years, and 4) The total number of offenders convicted in Kansas that have moved to another state in the past five years.

All information has been obtained from each state's public websites as well as personal correspondence with representatives from each state.

1) Neighboring state's residency requirements:

Missouri:

On 8/28/2004, statute 566.147 was enacted and it states that certain sex offenders may not reside within 1,000 feet of any public or private school up to the 12th grade, or childcare facility which is in existence at the time the offender establishes his or her residency.

On 8/28/2006, statute 566.149 was enacted and it states that certain sex offenders may not loiter within 500 feet of any school when a person younger than 18 is present without the permission from the School Superintendent or School Board or Principal of a private school.

C&JJ Oversight
Attachment 3
9-23-10

On 8/28/2009, statute 566.148 was enacted and it states that certain sexual offenders are prohibited from knowingly being physically present in or loitering within 500 feet of any child care facility building unless the offender is the parent, guardian, or custodian of the child.

On 8/28/2009, statute 566.150 was enacted and it states that certain sexual offenders are prohibited from knowingly being present in or loitering within 500 feet of any public park with playground equipment or a public swimming pool.

Oklahoma

On 11/1/2003, statute 57 O.S. 590 was enacted. It states that it is unlawful for any person registered pursuant to the Sex Offenders Registration Act to reside, either temporarily or permanently, within 2,000 feet of any public or private school site, educational institution, a playground or park that is established, or licensed child care center. Establishment of a day care center or park will not require the relocation of the sex offender. Nothing in this provision shall require any person to sell or otherwise dispose of any real estate or home acquired or owned prior to the conviction of the person as a sex offender.

Colorado

There is no state-wide law that restricts where sex offenders can live. Several cities have enacted residency restrictions, such as Englewood, Greenwood Village, and Greeley.

Nebraska

In July 2006, legislation was enacted to set guidelines for those cities who wished to adopt living restriction ordinances. It is not a state-wide law. The city ordinances only apply to schools and day care facilities and only apply to sexual predators that moved to the reported address after July 2006.

Kansas

On July 1, 2006 statute 22-4913 was enacted and it states cities and counties shall be prohibited from adopting or enforcing any ordinance, resolution, or regulation establishing residential restrictions for offenders.

2) The total number of sex offenders in each state and how many of those offenders are non-compliant (as of 9/15/2010):

Missouri:

Total number of offenders: 12,172

Total number of non-compliant offenders: 832

Percent non-compliant: 6.8%

Oklahoma:

Total number of offenders: 7,798

Total number of non-compliant offenders: 815

Percent non-compliant: 10.5%

Colorado:

Total number of offenders: 13,807

Total number of non-compliant offenders: 793

Percent non-compliant: 5.7%

Nebraska:

Total number of offenders: 3,258

Total number of non-compliant offenders: 302

Percent non-compliant: 9.3%

Kansas:

Total number of offenders: 5,695

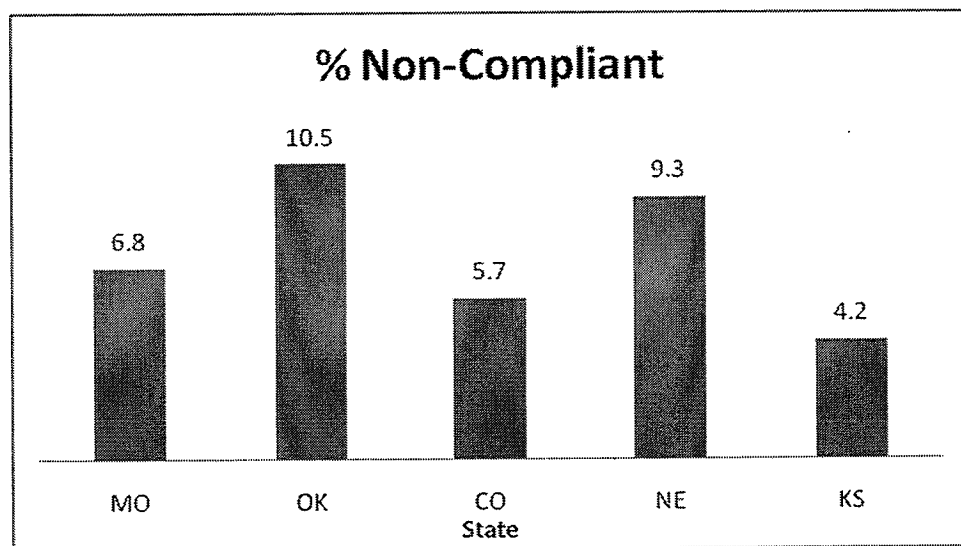
Total number of non-compliant offenders: 239

Percent non-compliant: 4.2%

The chart below compares the numbers of each state for easier viewing:

	Missouri	Oklahoma	Colorado	Nebraska	Kansas
Total Number of Offenders	12,172	7,798	13,807	3,258	5,695
Total Number of Non-Compliant Offenders	832	815	793	302	239
Percent Non-Compliant	6.8	10.5	5.7	9.3	4.2

The chart below shows the percentage of non-compliant sex offenders per state:



3) The total number of sex offenders who were convicted in another state and are/were living in Kansas in 2005 through 2010:

2005

In calendar year 2005, there were a total of 229 sex offenders who were convicted in another state and have since moved to Kansas. Listed below are the number of offenders for each neighboring state:

Missouri = 75
Oklahoma = 17
Colorado = 15
Nebraska = 5

2006

In calendar year 2006, there were a total of 236 sex offenders who were convicted in another state and have since moved to Kansas. Listed below are the number of offenders for each neighboring state:

Missouri = 53
Oklahoma = 22
Colorado = 23
Nebraska = 6

2007

In calendar year 2007, there were a total of 219 sex offenders who were convicted in another state and have since moved to Kansas. Listed below are the number of offenders for each neighboring state:

Missouri = 52
Oklahoma = 20
Colorado = 12
Nebraska = 11

2008

In calendar year 2008, there were a total of 298 sex offenders who were convicted in another state and have since moved to Kansas. Listed below are the number of offenders for each neighboring state:

Missouri = 72
Oklahoma = 22
Colorado = 23
Nebraska = 16

2009

In calendar year 2009, there were a total of 278 sex offenders who were convicted in another state and have since moved to Kansas. Listed below are the number of offenders for each neighboring state:

Missouri = 78

Oklahoma = 15

Colorado = 20

Nebraska = 11

2010

In calendar year 2010 (as of 9/15/2010), there have been a total of 184 sex offenders who were convicted in another state that have moved to Kansas. Listed below are the number of offenders for each neighboring state:

Missouri = 41

Oklahoma = 17

Colorado = 10

Nebraska = 12

The estimated total numbers for calendar year 2010 are a total of 260 sex offenders who were convicted in another state that will move to Kansas. Listed below are the projected number of offenders for each neighboring state:

Missouri = 58

Oklahoma = 24

Colorado = 14

Nebraska = 17

4) The total number of sex offenders who were convicted in Kansas and are/were living in another state in 2005 through 2010:

2005

In calendar year 2005, there were a total of 205 sex offenders who were convicted in Kansas and moved to another state.

2006

In calendar year 2006, there were a total of 244 sex offenders who were convicted in Kansas and moved to another state.

2007

In calendar year 2007, there were a total of 251 sex offenders who were convicted in Kansas and moved to another state.

2008

In calendar year 2008, there were a total of 251 sex offenders who were convicted in Kansas and moved to another state.

2009

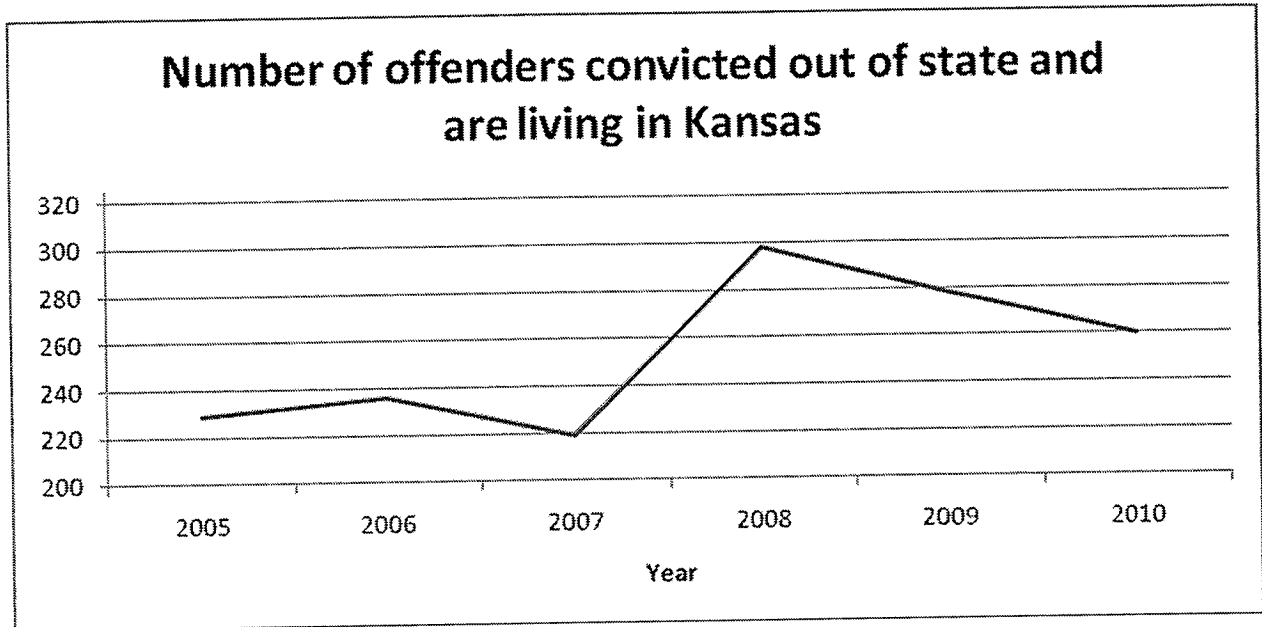
In calendar year 2009, there were a total of 299 sex offenders who were convicted in Kansas and moved to another state.

2010

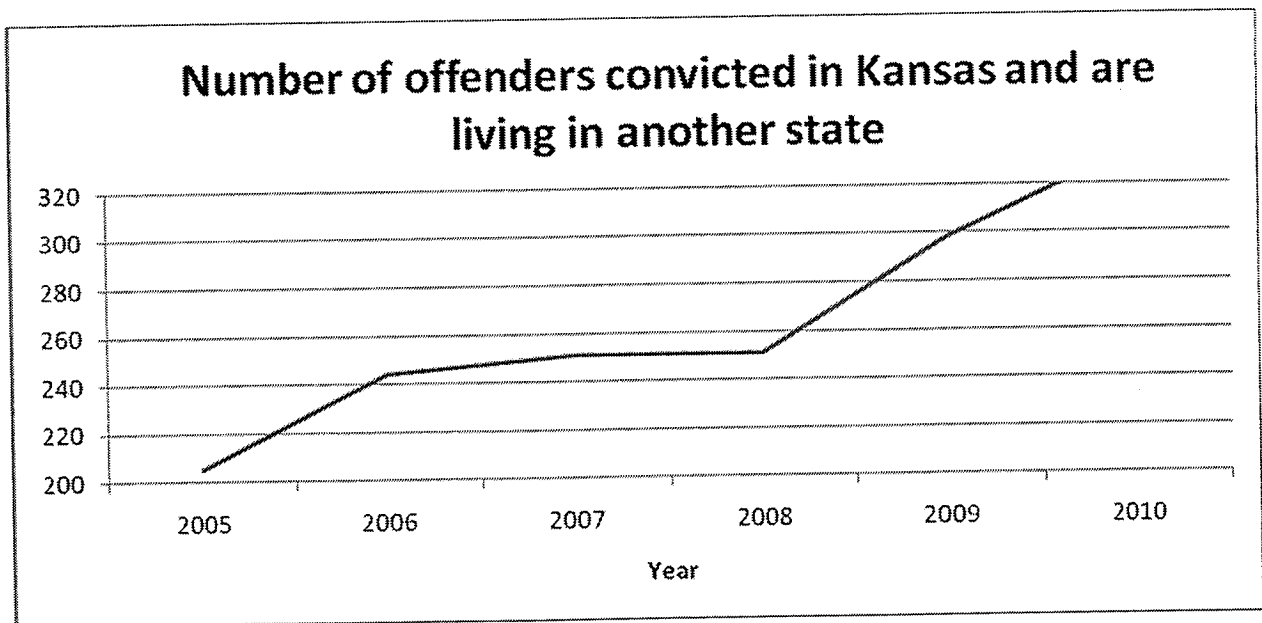
In calendar year 2010 (as of 9/15/2010), there have been a total of 237 sex offenders who were convicted in Kansas and moved to another state.

The estimated total numbers for calendar year 2010 are a total of 335 sex offenders who were convicted in Kansas and expected to move to another state.

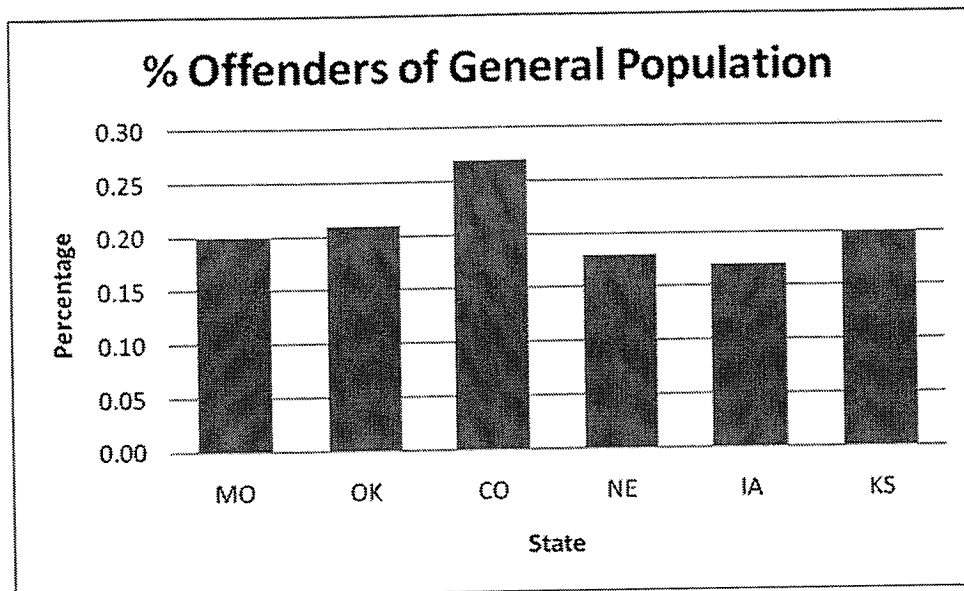
The chart below compares the number of offenders who were convicted in another state and are now living in Kansas for easier viewing:



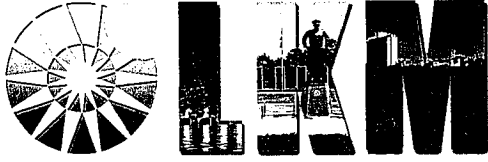
The chart below compares the number of offenders who were convicted in Kansas and are now living in another state for easier viewing:



The chart below shows the percentage of sex offenders per state compared to the general population:



Thank you for the opportunity to provide you with testimony and information today.



TO: Joint Committee on Corrections and Juvenile Justice Oversight
FROM: Sandy Jacquot, Director of Law/ General Counsel
DATE: September 22, 2010
RE: Sex Offenders and Zoning

Thank you for allowing the League of Kansas Municipalities to testify on the issue of regulating the residency of individuals on the sex offender registry. While I was assigned to specifically discuss zoning, I will also comment on some concerns LKM hears from cities on this issue. Currently, pursuant to K.S.A. 22-4913, cities are prohibited from adopting residency restrictions for those offenders on the registry. In 2008, however, this restriction was loosened somewhat to not apply to residential licensing or zoning programs for "correctional placement residences" housing offenders.

The above-restriction, however, is very narrow and likely does not affect most cities in Kansas, because of our demographics. 512 cities in Kansas have populations less than 1,000 and would be unlikely candidates for correctional placement residences. In addition, many of those cities would not be zoned. Thus, only the larger cities Kansas would have residential licensing programs or zoning regulations. In addition, cities may not prohibit, through zoning regulations, persons with disabilities from living in single family residential neighborhoods. K.S.A. 12-736. This includes both physical and mental disabilities. Thus, any group home falling under this classification in which an offender might live would not be subject to much zoning regulation. The conclusion, therefore, is that zoning is not much of an issue in the discussion regarding sex offender residency.

Cities, however, do express concern about individuals on the sex offender list moving into their small communities. The most common regulation cities want to adopt are distance requirements from schools and parks, although not all offenders are on the list for crimes involving children. Because of the small geographic area of many cities, any meaningful distance requirement could prohibit the offender from living within the jurisdictional boundaries of the city. Other cities have discussed ways of informing citizens of the presence of a registered sex offender living in the community. Obviously the needs of those persons on the sex offender registry to have the ability to live and work in our communities need to be balanced against the needs of cities to adopt reasonable regulations to enhance the safety of their citizens. LKM supports the ability of cities to adopt reasonable regulations regarding the residency of registered sex offenders.



KANSAS
ASSOCIATION OF
COUNTIES

TESTIMONY TO THE COMMITTEE
ON CORRECTIONS AND JUVENILE JUSTICE
SEPTEMBER 23, 2010

Mr. Chairman and Members of the Committee:

I was asked to present to the committee on the topic of residency restrictions for sex offenders from the vantage point of Kansas counties.

In my two years at KAC, this topic has not been brought forward to me by any member county. It is not presently a topic on our legislative platform. The only related item of concern to my counties is reimbursement for the costs of committing sexually violent predators, as all investigation costs and court costs, including expert witnesses, are assigned in statute to the county even though the Attorney General handles the commitment proceedings.

I found two Kansas laws relating to municipal involvement with sex offenders:

1. K.S.A. 59-29a12 relates to committed sexually violent predators who are in conditional or transitional release. Transitional and conditional release facilities are subject to all regulations applicable to other properties and buildings located in the zone that are imposed by the municipality. Also, that statute restricts SRS from placing more than eight sexually violent predators in any one county on transitional or conditional release.
2. K.S.A. 22-4913 prohibits a city or county from adopting or enforcing any ordinance, resolution, or regulation establishing residential restrictions for sex offenders. This provision does not apply to correctional placement housing.

As you are aware, Kansas was one of the first states to enact laws for civil commitment of sexually violent predators. The Kansas law was upheld by the U.S. Supreme Court in *Kansas v. Hendricks* in 1997. Aside from civil commitments of the most violent sex offenders, Kansas and other states have established registration programs to help track the whereabouts of sex offenders. States also have enacted community notification programs, where people are alerted that sex offenders have moved into their neighborhoods.

Failure to register as a sex offender became a federal crime in 2006 with passage of the Adam Walsh Child Protection and Safety Act.

From these programs, additional residency restrictions have emerged as the next step in protecting the public from sex offenders.

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C&JJ Oversight
Attachment 5
9-23-10

As of 2008, twenty-two states had residency restrictions for sex offenders.¹ Generally, these laws restrict residency near public locations or areas involving children. Most states create a buffer zone of so many feet around areas attracting children. Georgia, for example, established a 1,000 foot radius exclusionary zone around churches, bus stops, parks, playgrounds, gymnasiums, swimming pools, and other areas where minors congregate.² Iowa's law pushes the exclusion zone radius to 2,000 feet away from any school or registered child care facility. Iowa's restrictions are limited to offenders whose crimes were committed against minors. Arkansas is worth mentioning because it uses a tiered system, based on a determination of the offender's dangerousness.³ Minnesota, Oregon and Texas allow their Parole Board to determine whether residency restrictions should apply to individuals.⁴

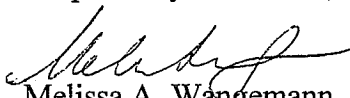
Those arguing against residency restrictions say that residency restrictions push sex offenders to disappear altogether by failing to register or follow state laws.⁵ The law review article cited below notes that local police and probation officers in Iowa reported a 100% increase in sex offenders failing to report since the enactment of the residency restrictions in the state.⁶ I am attaching a handout from the Iowa County Attorneys Association that advocates for amendments to the Iowa law.

Fifty-four counties in Kansas have countywide or partial county zoning. The only comment I received relating to this hearing was from a large urban county that suggested that a state uniform rule would be best, to prevent differing standards from locality to locality. The KAC does not generally defer zoning issues to the state, but prefers home rule authority. However, residency restrictions may be one area where uniformity creates consistent and known rules for the person trying to abide by the rules, thus encouraging compliance.

KAC would suggest that the committee hear from those states that have enacted restrictions to determine the consequences, both good and bad, prior to enacting a Kansas law. Another point for discussion is whether a categorical restriction for all offenders is too broad and whether restrictions based on the severity of the crime committed should be considered instead.

I appreciate the opportunity to be here today and will answer questions.

Respectfully Submitted,



Melissa A. Wangemann
General Counsel and Director of Legislative Services

¹ *How to Stop a Predator: The Rush to Enact Mandatory Sex Offender Residency Restrictions and Why States Should Abstain*, Justin H. Boyd, University of Oregon School of Law, 2008.

² OCGA § 42-1-15.

³ Ark. Code Ann. 5-14-128a.

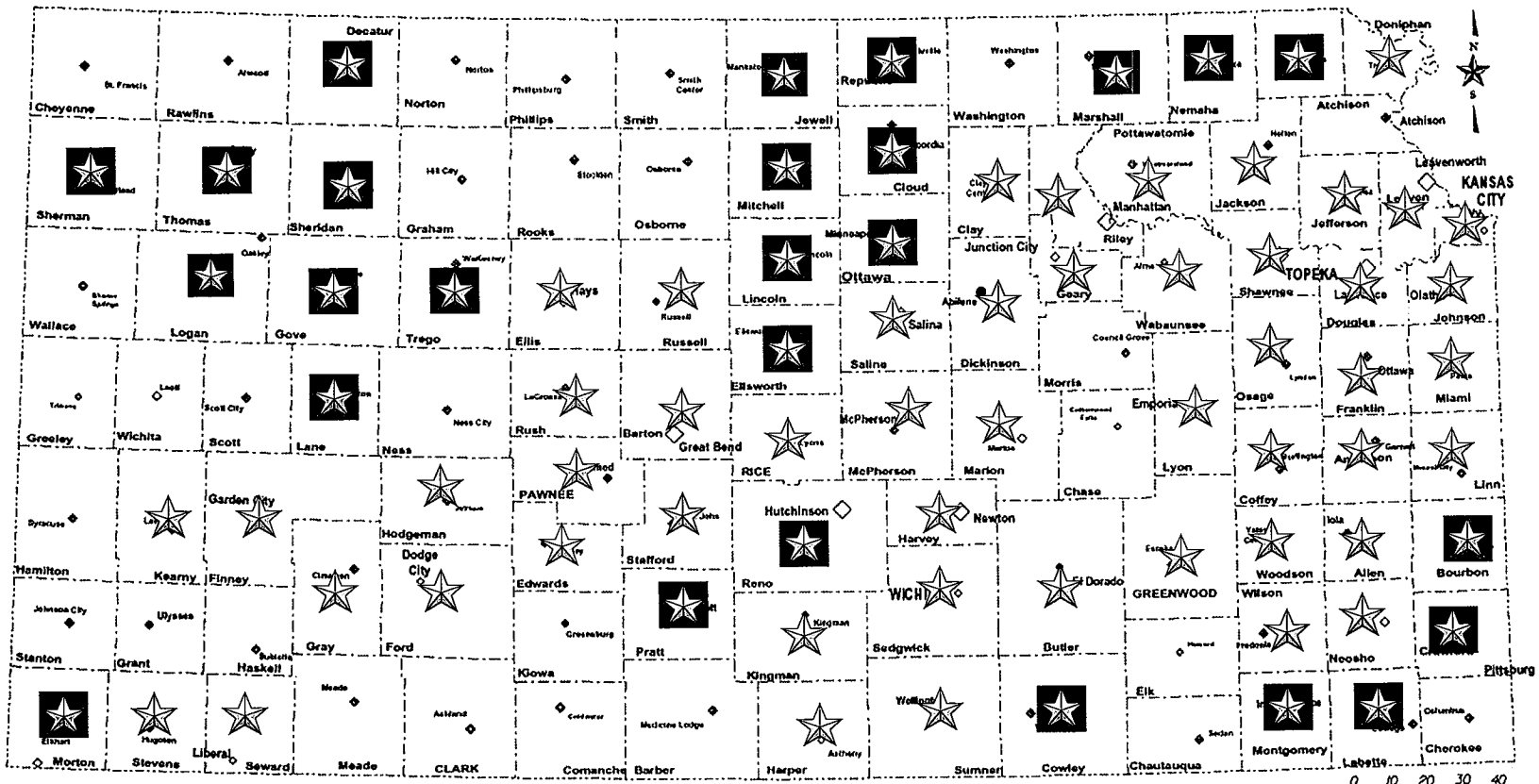
⁴ Minn. Stat. Ann. 244-.542; Or. Rev. Stat. 144.642; Tex. Gov't Code Ann. 508.187.

⁵ *Banishment by a Thousand Laws: Residency Restrictions on Sex Offenders*, Corey Raburn Yung, John Marshall Law School, (2007).

⁶ Id. citing Brandon Bain, *What If There's No Space?* Newsday, Nov. 23, 2006.




Kansas County Zoning Status - 2010

KANSAS



Kansas Department of Transportation
 Bureau of Transportation Planning
 KANEX11.DOC MAY 2009

MILES 0 10 20 30 40
 KILOMETERS 0 20 40 60

-  Countywide Zoning
-  County Zoning for Part of County Only
-  City Extraterritorial Zoning Only

Kansas Counties: Planning & Zoning Status – September, 2010

COUNTY NAME (COUNTY SEAT)	COUNTYWIDE ZONING	PARTIAL COUNTY ZONING	CITY ETJ ONLY	NO KNOWN ZONING IN COUNTY
Allen (Iola)	Yes			
Anderson (Garnett)	Yes			
Atchison (Atchison)				√
Barber (Medicine Lodge)				√
Barton (Great Bend)	Yes			
Bourbon (Fort Scott)			√	
Brown (Hiawatha)			√	
Butler (El Dorado)	Yes			
Chase (Cottonwood Falls)				√
Chautauqua (Sedan)				√
Cherokee (Columbus)				√
Cheyenne (St Francis)				√
Clark (Ashland)				√
Clay (Clay Center)	Yes			
Cloud (Concordia)			√	
Coffey (Burlington)	Yes			
Comanche (Coldwater)				√
Cowley (Winfield)		Yes		
Crawford (Girard)		Yes		
Decatur (Oberlin)			√	
Dickinson (Abilene)	Yes			
Doniphan (Troy)	Yes			
Douglas (Lawrence)	Yes			
Edwards (Kinsley)	Yes			
Elk (Howard)				√
Ellis (Hays)	Yes			
Ellsworth (Ellsworth)			√	
Finney (Garden City)	Yes			
Ford (Dodge City)	Yes			
Franklin (Ottawa)	Yes			
Geary (Junction City)	Yes			

COUNTY NAME (COUNTY SEAT)	COUNTYWIDE ZONING	PARTIAL COUNTY ZONING	CITY ETJ ONLY	NO KNOWN ZONING IN COUNTY
Gove (Gove)			√	
Graham (Hill City)				√
Grant (Ulysses)				√
Gray (Cimarron)	Yes			
Greeley (Tribune)				√
Greenwood (Eureka)	Yes			
Hamilton (Syracuse)				√
Harper (Anthony)	Yes			
Harvey (Newton)	Yes			
Haskell (Sublette)				√
Hodgeman (Jetmore)	Yes			
Jackson (Holton)	Yes			
Jefferson (Oskaloosa)	Yes			
Jewell (Mankato)			√	
Johnson (Olathe)	Yes			
Kearny (Lakin)	Yes			
Kingman (Kingman)	Yes			
Kiowa (Greensburg)				√
Labette (Oswego)			√	
Lane (Dighton)			√	
Leavenworth (Lansing)	Yes			
Lincoln (Lincoln)			√	
Linn (Mound City)	Yes			
Logan (Oakley)			√	
Lyon (Emporia)	Yes			
Marion (Marion)	Yes			
Marshall (Marysville)			√	
McPherson (McPherson)	Yes			
Meade (Meade)				√
Miami (Paola)	Yes			
Mitchell (Beloit)			√	
Montgomery (Independence)		Yes		
Morris (Council Grove)				√
Morton (Elkhart)			√	

COUNTY NAME (COUNTY SEAT)	COUNTYWIDE ZONING	PARTIAL COUNTY ZONING	CITY ETJ ONLY	NO KNOWN ZONING IN COUNTY
Nemaha (Seneca)			√	
Neosho (Erie)	Yes			
Ness (Ness City)				√
Norton (Norton)				√
Osage (Lyndon)	Yes			
Osborne (Osborne)				√
Ottawa (Minneapolis)			√	
Pawnee (Larned)	Yes			
Phillips (Phillipsburg)				√
Pottawatomie (Westmoreland)	Yes			
Pratt (Pratt)			√	
Rawlins (Atwood)				√
Reno (South Hutchinson)		Yes		
Republic (Belleville)			√	
Rice (Lyons)	Yes			
Riley (Grandview Plaza)	Yes			
Rooks (Stockton)				√
Rush (LaCrosse)	Yes			
Russell (Russell)	Yes			
Saline (Salina)	Yes			
Scott (Scott City)				√
Sedgwick (Derby)	Yes			
Seward (Liberal)	Yes			
Shawnee (Topeka)	Yes			
Sheridan (Hoxie)			√	
Sherman (Goodland)			√	
Smith (Smith Center)				√
Stafford (St John)	Yes			
Stanton (Johnson City)				√
Stevens (Hugoton)	Yes			
Sumner (Wellington)	Yes			
Thomas (Colby)			√	
Trego (Wakeeney)			√	
Wabaunsee (Alma)	Yes			

COUNTY NAME (COUNTY SEAT)	COUNTYWIDE ZONING	PARTIAL COUNTY ZONING	CITY ETJ ONLY	NO KNOWN ZONING IN COUNTY
Wallace (Sharon Springs)				√
Washington (Washington)				√
Wichita (Leoti)				√
Wilson (Fredonia)	Yes			
Woodson (Yates Center)	Yes			
Wyandotte (Kansas City)	Yes			

Iowa County Attorneys Association

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STATEMENT ON SEX OFFENDER RESIDENCY RESTRICTIONS IN IOWA

December 11, 2006

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

The ICAA has the following observations concerning the current restriction:

1. Research shows that there is no correlation between residency restrictions and reducing sex offenses against children or improving the safety of children.
2. Research does not support the belief that children are more likely to be victimized by strangers at the covered locations than at other places.
3. Residency restrictions were intended to reduce sex crimes against children by strangers who seek access to children at the covered locations. Those crimes are tragic, but very rare. In fact, 80 to 90 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. There is no demonstrated protective effect of the residency requirement that justifies the huge draining of scarce law enforcement resources in the effort to enforce the restriction.
6. The categories of crimes included in the restriction are too broad, imposing the restriction on many offenders who present no known risk to children in the covered locations.
7. A significant number of offenders have married or have been reunited with their victims; and, in those cases, the residency restriction is imposed on the victims as well as the offenders.
8. Many offenders have families whose lives are unfairly and unnecessarily disrupted by the restriction, causing children to be pulled out of school and away from friends, and causing spouses to lose jobs and community connections.
9. Many offenders are physically or mentally disabled but are prohibited from living with family members or others on whom they rely for assistance with daily needs.
10. The geographic areas included in the prohibited 2,000 foot zones are so extensive that realistic opportunities to find affordable housing are virtually eliminated in most communities. The lack of transportation in areas not covered by the restriction limits employment opportunities. The adoption of even more restrictive ordinances by cities and counties exacerbates the shortage of housing possibilities.
11. The residency restriction has no time limit; and, for many offenders, the restriction lasts beyond the requirement that they be listed on the sex offender

registry. For this reason, there are many offenders who are subject to the residency restriction but who are not required to inform law enforcement of their place of residence, making enforcement nearly impossible.

12. There is no accommodation in the current statute for persons on parole or probation supervision. These offenders are already monitored and their living arrangements approved. The restriction causes many supervised residential placements to be unavailable even though they may be the most appropriate and safest locations for offenders to live.
13. Many prosecutors have observed that the numerous negative consequences of the lifetime residency restriction has caused a reduction in the number of confessions made by offenders in cases where defendants usually confess after disclosure of the offense by the child. In addition, there are more refusals by defendants charged with sex offenses to enter into plea agreements. Plea agreements are necessary in many cases involving child victims in order to protect the children from the trauma of the trial process. This unforeseen result seriously jeopardizes the welfare of child victims and decreases the number of convictions of sex offenders to accurate charges. Consequently, many offenders will not be made fully accountable for their acts and will not be required to complete appropriate treatment or other rehabilitative measures that would enhance the safety of children. Similar unintended negative effects often accompany well-intended efforts to increase prison sentences with mandatory provisions.
14. The drastic reduction in the availability of appropriate housing, along with the forced removal of many offenders from established residences, is contrary to well-established principles of treatment and rehabilitation of sex offenders. Efforts to rehabilitate offenders and to minimize the rate of reoffending are much

more successful when offenders are employed, have family and community connections, and have a stable residence. These goals are severely impaired by the residency restriction, compromising the safety of children by obstructing the use of the best known corrections practices.

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

- A statute creating defined protected areas (“child safe zones”) that sex offenders would be prohibited from entering except in limited and safe circumstances. Such areas might include schools and childcare facilities.
- Entrance into the protected areas would be allowed only for activities involving an offender’s own child and only with advance notice and approval from those in charge of the location.
- The restriction should cover offenses against “children” (under age 14), rather than “minors” (under 18).
- The statute should specifically preempt local ordinances that attempt to create additional restrictions on sex offenders. Such ordinances result in a variety of inconsistent rules and promote apprehension among local authorities that they must act to defend themselves from the perceived effects of the actions of other communities.
- Most important, any restriction that carries the expectation that it can be effectively enforced must be applied to a more limited group of offenders than is covered by the current residency restriction. This group should be

identified by a competent assessment performed by trained persons acting on behalf of the state. The assessment should be directed at applying the statutory restriction only to those offenders that present an actual risk in public areas to children with whom the offender has no prior relationship

- Children will be safer with clarification and strengthening of certain child sex abuse laws, including, sex abuse by deception, sexual exploitation of a person “reasonably believed to be a minor,” using a position of authority to cause children to engage in a sex act, and requiring admission at trial of a defendant’s prior acts of sexual abuse.
- Sex offender treatment both inside and outside of prison should be fully funded and improved.
- Measures should be enacted that aim at keeping all young people safe from all offenders. This should include programs that focus on the danger of abuse that may lie within the child’s family and circle of acquaintances. It is important to help children and parents recognize the signs and dangers of sex abuse by persons with ordinary access to children.
- Recognize that child safety from sex offenses is not amendable to simple solutions by creating a Sex Offender Treatment and Supervision Task Force to identify effective strategies to reduce child sex offenses.

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

The Iowa County Attorneys Association strongly urges the General Assembly and the Governor to act promptly to address the problems created by the 2,000 foot residency restriction by replacing the restriction with measures that more effectively protect children, that reduce the unintended unfairness to innocent persons and that make more prudent use of law enforcement resources, and strengthen the child sex abuse laws and prosecution. The ICAA stands ready to assist in any way with this effort.

Contact Information:

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6

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SENATOR KARIN BROWNLEE
23RD DISTRICT

Testimony to Joint Committee on Corrections and JJA

September 23, 2010

Sex Offenders

Thank you Mr. Chairman for agreeing to bring the committee together today to review our policies affecting sex offenders. This issue came to light early in the summer when I heard from a number of constituents in the Scarborough neighborhood because a sex offender, Mr. James Delgado, had moved in from California one block from the school. These neighbors sounded the alarm with the city of Olathe, school board members, legislators and others. This drove me to review the literature on residency restrictions.

I think there are two issues to consider when determining if we need to make policy changes. One area is how the registration process works and interfaces with the Interstate Compact process. We covered this information this morning. It might be wise to instruct the KBI to confer with the Department of Corrections when an offender from out of state registers with a local sheriff. Conversely, the Department of Corrections should forward information on offenders coming from out of state to the appropriate local sheriff. We need to determine if either of these requires a statute change should the committee develop consensus on these ideas.

The second issue is whether or not we should change our policy on residency restrictions on where sex offenders are allowed to live in Kansas. I have read several studies on this topic this summer and they all seem to come to the same conclusion: These restrictions do not necessarily protect children and may in fact, provide a false sense of security. As elected officials we may have our differences but none of us takes lightly our role in protecting the children of our state. We clearly want the best policy we can possibly have.

"Facts and Fiction about Sex Offenders" by Chris Dornin provided good information on this topic. The key statistic is that about 90% of child victims are molested by family members or close friends trusted by the child. Mr. Delgado was in this category of someone trusted by his victim.

Dr. David Finkelhor of the University of New Hampshire at the Crimes Against Children Research Center does a good deal of research in this area. Here is the website: <http://www.unh.edu/ccrc/about/index.html>. I spoke with Dr. Finkelhor yesterday and he added these points: 1) about 90% of sex offenders have not been convicted previously; 2) sex offenders do not tend to offend strictly in their neighborhood; and 3) when reviewing the literature, about three-fourths of the sex offenders generally are child sex offenders. This last

point was of concern to the Scarborough neighbors as they wanted to know if we were considering information about *child* sex offenders rather than sex offenders in general.

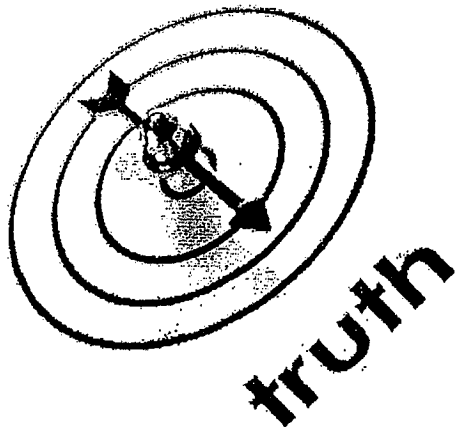
It is important for our constituents to have the sense that we are carefully tracking those things which are a threat to our families. The Scarborough neighbors were concerned that Kansas had become a desirable location for sex offenders. I hope the numbers we heard this morning give them some comfort that we are not.

I am reluctant to pursue residency restrictions based on the information I have reviewed but certainly desire to know the opinion of the committee. The best protection for our children may be that which parents have to provide home by home and this is possibly more challenging than passing a law.

Facts and Fiction about Sex Offenders

By Chris Dornin, Retired Statehouse reporter

Published: 05/24/2010



The political outlash against sex offenders is immense, irrational, and hard for legislators to reverse.
Sarah Agudo in the Northwestern University Law Review, 2008

Myth: Sex offenders are dirty old strangers who steal kids from playgrounds

An Ohio prison intake report on sex offenders imprisoned in 1992 revealed that 2.2 percent of child molesters were strangers to their victims, and 89 percent of perpetrators had never been convicted before.

In their 1993 textbook, *The Juvenile Sex Offender*, Howard Barbaree and colleagues estimated that teenagers

perpetrated 20 percent of all rapes and half of all child molestations.

A 2006 report for the Ohio Sentencing Commission said 93 percent of molestation victims were well known to their perpetrators, over half the offenders victimized close relatives, and 93 percent of molesters had never been arrested for a previous sex crime.

A December 2009 study by David Finkelhor of UNH and colleagues for the US Justice Department analyzed national sex crime data from 2004. That year the estimated population of underage sex offenders was 89,000, and they had committed 35.8 percent of all sex crimes reported to police. One in eight juvenile sex offenders was under age 12. The study said that between 85 and 95 percent of young offenders would never face another sex charge.

Myth: Residency restrictions are harmless to sex offenders and protect kids

A 2005 survey of 135 Florida sex offenders by researchers Jill Levenson and Leo Cotter found that residency restrictions had forced 22 percent of this group to move out of homes they already owned. 25 percent were unable to return to their homes after release from prison. Respondents agreed in varying degrees with these statements about the impact of residency restrictions on their lives:

- I cannot live with supportive family members. 30%
- I find it difficult to find affordable housing. 57%
- I have suffered financially. 48%
- I have suffered emotionally. 60%
- I have had to move out of an apartment that I rented. 28%

The Iowa County Attorneys Association issued a position paper in 2006 opposing a 2,000 foot residency restriction against sex offenders from places where kids congregate. Among many criticisms, the prosecutors said, "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."

A 2007 report by the Minnesota Department of Corrections tracked 224 sex offenders released from prison between 1999 and 2002 who committed new sex crimes prior to 2006. The first contact between victim and offender never happened near a school, daycare center or other place where children congregate. The report concluded, "Not one of the 224 sex offenses would likely have been deterred by a residency restrictions law." The study warned that these laws isolate offenders in rural areas with little

social and treatment support, with poor transportation access and with few job opportunities. The resulting increase in homelessness makes them harder to track and supervise. "Rather than lowering sexual recidivism," the report said, "housing restrictions may work against this goal by fostering conditions that exacerbate sex offenders' reintegration into society."

A position paper on the current website of the Iowa Association of Social Workers says that concentrations of Iowa sex offenders are living in motels, trailer parks, interstate highway rest stops, parking lots and tents. The site notes many other unintended consequences:

- Families of offenders who attempt to remain together are effectively subjected to the same restrictions, meaning that they too are forced to move, and may have to leave jobs, de-link from community ties, and remove their children from schools and friends.
- Physically or mentally impaired offenders who depend on family for regular support are prevented from living with those on whom they rely for help.
- Threat of family disruption may leave victims of familial sexual abuse reluctant to report the abuse to authorities, thereby undermining the intention of the law.
- Threat of being subjected to the residency restriction has led to a significant decrease in the number of offenders who, as part of the trial process, disclose their sexual offenses; consequently, fewer offenders are being held accountable for their actions.
- Loss of residential stability, disconnection from family, and social isolation run contrary to the "best practice" approaches for treatment of sex offenders and thus put offenders at higher risk of re-offense.
- No distinction is made between those offenders who pose a real risk to children and those who pose no known threat.

Myth: Treatment is a waste of money on sex offenders

The New Hampshire Prison sex offender treatment program compiled recidivism data in 1999 for a national survey by the Colorado Department of Corrections. Lance Messenger, the New Hampshire program director at the time, reported a 6.2% sex crime re-arrest rate after an average of 4.8 years on parole for 204 men who completed the Intensive Sex Offender Treatment Program. The recidivism rate was 12.4% for 435 sex offenders who received no treatment and had spent an average of 8.6 years in the community. Messenger is now in private practice and recently told this writer his report did not constitute a rigorous scientific study.

A study in 2000 by the Vermont Corrections Department tracked 190 sex offenders released a decade earlier. The arrest rate over 10 years for new sex offenses was 3.8 percent for people who had completed the sex offender treatment program. It was 22.4 percent for those who started the program, but dropped out or got kicked out. Those who never attended had a 27 percent recidivism rate.

A 2003 New Zealand study led by Ian Labie entitled, "Paedophile programmes work," found that 175 offenders who completed treatment while on parole had an average sexual recidivism rate of 5 per cent over four years. Two control groups without treatment attained rates of 21 and 25 percent.

A Colorado recidivism study in 2003 led by Kerry Lowden tracked 3338 sex offenders released from prison between 1993 and 2002. After three years in the community, 5.3 percent had been arrested for a new sex crime. Each month an inmate took part in the intensive therapeutic community for sex offenders behind the walls reduced by 1 percent his risk of committing a later sex crime. The report said these treatment programs "profoundly improve public safety as measured by officially recorded recidivism."

Vermont corrections personnel tracked 195 adult male sex offenders over a six-year period ending in 2006. Those who completed sex offender treatment had a sex-offense recidivism rate of 5.4 percent, compared with 30 percent for people who never took that treatment.

Lorraine R. Reitzel and Joyce L. Carbonell published a meta-analysis in 2006 of nine studies of recidivism among juvenile sex offenders with a combined sample of 2,986 kids. The sex crime recidivism rate was 12.5 percent for young offenders tracked for an average of 59 months. The rate was 7.37 percent for kids who had taken a sex offender treatment program and 18.9 percent for those who had not.

A 2009 report by Robin Goldman of the Minnesota Department of Corrections compared two samples of 1,020 sex offenders released between 1999 and 2003. One group had taken an intensive sex offender treatment program and the other had not. The treated group had a 27 percent lower sex crime recidivism rate. The report concluded, "These findings are consistent with the growing body of research supporting the effectiveness of cognitive-behavioral treatment for sex offenders."

Myth: Sex offenders have a 94 percent recidivism rate

Proponents of tough sanctions against sex offenders often cite a Canadian study published in 2004, "Lifetime Sex Offender Recidivism: A 25 year Follow-Up Study," led by Canadian researcher Ron Langevin. The authors looked at 320 Canadian sex offenders referred to a single clinic for psychiatric evaluations between 1966 and 1974, when treatment programs for this group were uncommon. The report used an unusual definition of a recidivist as someone who had committed two or more sex crimes in their lifetime, even crimes they did before researchers began to follow them.

Langevin reported a 61.1 percent sex crime recidivism rate, including 51.1 percent for incest. The researchers also tabulated confessions the offenders made during counseling and new arrests that failed to bring convictions. Adding those presumed crimes to actual convictions increased the overall sexual recidivism rate to 88.3 percent, including 84.2 percent for incest. Measured this way, molesters of young children outside their own family had an even higher rate, 94.1 sex crime recidivism over 25 years. To this writer's knowledge, that is the highest reported rate in any of the hundreds of existing recidivism studies. It underlies much of the widespread belief that all sex offenders are incurable and unrepentant.

Critics of Langevin claim his cohort was the worst of the worst offenders. Canadian researcher Karl Hanson has called it a nonrandom sample chosen for evaluations in connection with major prosecutions, civil commitment proceedings or insanity defense cases. This group also came under scrutiny in a different era when sex offender treatment programs were rare and experimental. The ensuing revolution in child protection and sex abuse prosecution over half a century has swollen American prison populations of sex offenders by fifty- and a hundred-fold. The group in prison now is arguably less prone to recidivism than members of the Langevin study.

Canadian researcher Cheryl Webster and colleagues have called the Langevin study so flawed it lacks any scientific integrity. In a rebuttal entitled "Results by Design: The Artefactual Construction of High Recidivism Rates for Sex Offenders," Webster said more than half the individuals in the sample were already recidivists by Langevin's definition at the time of their evaluations, thus ensuring at least a 50 percent recidivism rate. In the rest of the literature on criminology and in the popular press, recidivism generally means a new crime committed after release from prison.

Webster noted the Langevin sample was much larger at first. His team removed any people from the study whose criminal records had been lost or purged from the justice system after 15 years for lack of new crimes or charges. In effect, the scientists deleted most of the non-recidivists and thereby skewed the recidivism rate. In a reply to his critics, Langevin cautioned against making claims about all sex offenders based on this sample. He defended his definition of recidivism as one of many legitimate ways to measure it.

Those promoting tough sex offender laws rely as well on a 1997 study led by Robert Prentky. His group looked at 136 rapists and 115 child molesters released from the Bridgewater sex offender civil commitment center in Massachusetts between 1959 and 1986. The sexual recidivism rates based on new sexual charges were 32 percent for molesters and 25 percent for rapists. But the length of time the men were free in the community varied widely. If all had been at large the full 25 years covered in the study, the authors estimated the sexual recidivism rates would have been 52 percent for molesters and 39 percent for rapists.

This research dates from the same period as the Langevin findings and looked at a narrow sample of men already adjudicated to be an acute risk to reoffend. The average rapist had 2.5 sex crimes on his record before the crime that sent him to Bridgewater. The child molesters averaged 3.6 sex offenses prior to the crime that triggered civil commitment. Using Langevin's method, the recidivism rates for both groups would have been nearly 100 percent. The Prentky researchers concluded, "The obvious, marked heterogeneity of sexual offenders precludes automatic generalization of the rates reported here to other samples."

Fact: Most types of sex offenders have low sex-crime recidivism

A report to the Ohio Sentencing Commission in 1989 said 8 percent of sex offenders were convicted of a new sex crime within a decade. The 10-year Ohio recidivism rate for incest was 7.4 percent.

A 1998 Canadian Government study by Karl Hanson and Monique Bussiere, entitled "Predicting Relapse: A meta-Analysis of Sexual Offender Recidivism Studies," examined 61 research efforts between 1943 and 1995 with a combined sample of 28,972 sex offenders. The overall recidivism rate for new sex offenses was 13.4 percent during the average follow-up period of four to five years. Of the 9,603 child molesters in the combined cohort, the rate was 12.7 percent. Some of these studies dated back to the period when only stereotype serial sex offenders went to prison, thus weighting the results toward greater recidivism.

Roger Hood and three British colleagues followed 162 released sex offenders for four years and tracked 62 others for six years.

Their report in 2002, entitled "Sex offenders emerging from long-term imprisonment; A Study of Their Long-term Reconviction Rates and of Parole Board Members' Judgements of Their Risk," found 1.2 percent were re-imprisoned for a new sex crime after two years. The report concluded, "These facts need to be more widely recognized and disseminated if there is to be rational debate on this emotive subject."

A 2000 Iowa Corrections study tracked 233 sex offenders released in 1995 and 1996 under a new sex offender registry law. That group had a 3 percent sex crime recidivism rate after 4.3 years in the community. A similar control group of 201 sex offenders released before the registry law took effect had a 3.5 percent sex recidivism rate in the same length of time. The group supervised under the registry had a somewhat lower average recidivism risk score to begin with, and it had a higher proportion of people on probation as opposed to parole. The difference in recidivism rates was statistically insignificant.

A U.S. Justice Department report in 2003 tracked 9,691 sex offenders released from prisons in New York, California, Ohio and 12 other large states in 1994. Their recidivism rate for new sex arrests and convictions after three years on parole was 5.3 percent. 7.3 percent of child molesters with two or more prior arrests for that crime were charged anew for molesting. That compares with a 2.4 percent sexual recidivism rate for child molesters with only one prior arrest for that crime.

Karl Hanson and Andrew Harris published a 2004 report on 4,724 sex offenders in 10 Canadian and American samples ranging from 191 to 1,138 subjects. The average follow-up period was seven years after release. The overall sexual recidivism rates were 14 percent after five years, 20 percent after 10 years and 24 percent after 15 years. Incest offenders had corresponding rates of 6, 9 and 13 percent. Recidivism was defined as a new sex crime arrest or a new conviction. Counting only new convictions, the recidivism rates were generally half as high.

Karl Hanson and Morton-Bourgon published a similar meta-analysis in 2005 of 73 recidivism studies with a combined cohort of 19,267 sex offenders. After an average of nearly six years in the community they had a new sex crimes recidivism rate of 14.3 percent.

A 2005 report by Robert Barnoski of the Washington State Institute for Public Policy tracked the five-year sexual recidivism rates for 8,359 sex offenders released from Washington prisons between 1986 and 1999. Here are the results by year of release, showing the rate decreased over time.

Year	5-Year Rate	Year	5-Year Rate
1986	6%	1993	8%
1987	7.5%	1994	6%
1988	7.5%	1995	4.4%
1989	6%	1996	3%
1990	7%	1997	2%
1991	8%	1998	3%
1992	6%	1999	3.7%

A 2006 New York study analyzed the recidivism patterns for 19,827 sex offenders. The rate for new sex offenses after one year in the community was 2 percent. The cumulative rate increased to 3 percent after two years, 6 percent after five years, and 8 percent after 8 years.

A 2006 California study followed 93 adjudicated high-risk sexually violent predators released from civil commitment at the Atascadero State Hospital. Only 4.3 percent of these worst-of-the-worst offenders had committed new sex offenses after six years on the street.

A 2007 study by the Missouri Department of Corrections tracked 3,166 sex offenders released between 1990 and 2002. Twelve percent had been re-arrested for a new sex crime in those 12 years, and 10 percent had been reconvicted. The report also looked at sex offenders released in 2002. In the first three years on parole their sex crime recidivism rate was 3 percent. The report concluded, "Due to the dramatic decrease in sexual recidivism since the early 1990s, recent sexual re-offense rates have been very low, thus significantly limiting the extent to which sexual reoffending can be further reduced."

An Alaska Judicial Council report in 2007 said 3 percent of sex offenders had committed a new sex crime in their first three years after release from prison.

A 2007 report by the Tennessee Department of Safety found that 4.7 percent of 504 sex offenders released from prison in 2001 were arrested for a new sex offense after three years. The sex crime recidivism rate was zero for offenders whose original crime was incest.

A 2007 Minnesota Department of Corrections study tracked 3,166 sex offenders released from Minnesota prisons between 1990

and 2002. After an average of 8.4 years in the community, 10 percent had been convicted of a new sex offense. Those released in the beginning of the study period were much more likely to reoffend within three years than those released later -- 17 percent in 1990 as opposed to 3 percent in 2002.

A 2007 report by Jared Bauer of the West Virginia Division of Corrections tracked 325 sex offenders for three years after release from prison in 2001, 2002 and 2003. The recidivism rate for any return to prison, not just for sex crimes, was 9.5 percent. Only six parolees returned for new sex related crimes, including three for failing to properly register as a sex offender. The sex crime recidivism rate was slightly less than 2 percent. Only 1 percent had an actual sex crime victim.

A 2008 report by the California Department of Corrections and Rehabilitation tracked 4,280 sex offenders paroled in 2003. In the first year 2.43 percent had been arrested for new sex crimes. The cumulative totals were 3.27 percent at the end of the second year and 3.55 percent after three years.

A 2008 study by California's Sex Offender Management Board reported on 4,204 sex offenders released in 1997 and 1998. 3.38 percent were convicted of new sex offenses in the next decade.

Utah criminologist Larry Bench tracked 389 Utah sex offenders for up to 25 years after release. His 2008 report disclosed that 7.2 percent had been arrested for a new sex crime.

An Indiana Corrections report in the spring of 2009 found that sex offenders released in 2005 had compiled a 1.05 percent sex crime re-conviction rate in three years. The study said this rate was "extremely low" and showed "a great deal of promise."

Stan Orchowsky and Janice Iwama authored a 2009 study for the U.S. Justice Research and Statistics Association which showed similar low sex crime re-arrest rates after three years for sex offenders released from prison in 2001. The rates by state were as follows: Alaska 3.4%, Arizona 2.3%, Delaware 3.8%, Illinois 2.4%, Iowa 3.9%, New Mexico 1.8%, South Carolina 4.0%, and Utah 9.0%. The comparison three-year national rate was 5.3 percent noted previously for inmates released in 1994.

Chris Dornin is a retired newspaper journalist and volunteer into NH Prison who watched the New Hampshire legislature enact its recent sex offender laws. He can be reached at 603-228-9610 or clordornin@aol.com [mailto:clordornin@aol.com].

[Other articles by Dornin \[http://www.corrections.com/news/result?keyword=&from=05%2F18%2F2000&to=05%2F18%2F2024&name\[id\]=99\]](http://www.corrections.com/news/result?keyword=&from=05%2F18%2F2000&to=05%2F18%2F2024&name[id]=99)

Thank you Chairperson Brungardt for allowing us to speak today, Senator Karin Brownlee for walking us through the process of how to present a bill and affect change, and the committee for allowing us the time in this final legislative session to present our concerns and suggestions to you.

Briefly, I'll explain how we, Kansas Rights 4 Kids, came about:

This summer, James Delgado, a convicted child sex offender, moved to the Scarborough subdivision. He moved to a cul-de-sac a mere 208 feet from the Scarborough Elementary playground, where all of our children go to or have gone to school. Mr. Delgado moved directly across the street from testimony participants Joanna Daughtery, Sara and Shane Wood, and Lori Bush; a block from Lesley and Greg Ramirez, and within eyesight of the playground where other panelists' children attend school. Mr. Delgado is where this controversy started, but it is not where it ends. He served as a spark to illuminate a problem that affects every neighborhood and every school and every child in Kansas.

I will only spend a minute on Mr. Delgado to help paint a picture of our story and at the end of the presentation you will hear from his victim and victim's mother via letter. James Delgado was a community volunteer and a youth coach in the state of California. In January of 2010, he was convicted of molesting his 13 year old daughter's best friend when she spent the night at his house. He is a real deal child sex offender. He pled down to sexual battery of a child and annoying/molesting a child and served 120 days in jail in California. Upon release, he moved directly to Kansas, to a cul-de-sac across from a school. Parents were outraged and sat in disbelief that he could be allowed to live so close to a school playground and interact with a new set of children where his crime was unknown to most neighbors. We weren't actively notified that he was even an offender. Lori Bush, a single mom who lives across from him, researched her new neighbor through the Family Watch Dog website and learned of his convictions.

What unfolded over the weeks that followed was research by a group of neighbors. We found that Kansas does not restrict where convicted child sex offenders live, how they interact with children in volunteer capacities, and that there is no active notification of neighbors. As we talked to other neighbors and friends, the initial reaction was almost always the same. Nearly everyone falsely assumed that Kansas restricted where and how child sex offenders interact with the community children. We formed a group and began to take action.

We spoke to community leaders and political figures. We wrote letters to the media asking if they were aware that Kansas did not impose restrictions. The community responded and through the incredible support of Representative Rob Olson, Olathe Councilman Larry Campbell, Wichita Councilmember Jim Skelton, Topeka Councilmember Jack Woelfel, as well as the Topeka City Council, a proposed bill began to take shape that would protect our communities from child sex offenders freely accessing potential victims, our children and your children.

The bill is still in the research and revision stage, but we anticipate it including the following elements:

1. Residency Restriction- A majority of other states impose restrictions to not allow sex offenders to live within a boundary of footages ranging from 300 feet to 2,000 feet around the perimeter of schools, day care centers, parks, and where children gather.
2. Safety Zones- Other states have imposed boundary restrictions on sex offenders to keep them from freely accessing kids while attending school functions, church functions, school buses, park playgrounds, and from holding certain jobs where there is a high contact rate with children under 18.
3. Active Notification- Some states have implemented a system to notify residents of a neighborhood when a sex offender moves into the area, so that parents can also help share the responsibility of keeping track of the offender's whereabouts and activities.



September 10, 2010

Ms. Carol O'Dell
9468 E Skinner
Wichita KS 67207

Dear Carol,

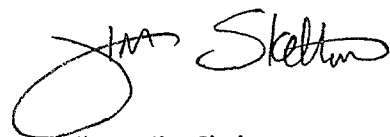
I wish to express my thanks for enlightening me about the issues regarding child sex offender laws and the work that *Kansas Rights 4 Kids* is undertaking. Our free society requires active citizens, and I wish to commend you and others involved in *Kansas Rights 4 Kids* for your time and effort to bring change within the scope of child sex offender residency laws. I am in full support of you and *Kansas Rights 4 Kids* bringing this issue to the State Legislature for review and action.

In my opinion it is very wrong for the State of Kansas to allow child sex offenders to live in close proximity to schools. This, in my view helps enable them to perpetrate their perversion. I believe the State of Kansas should conduct new research in the states surrounding Kansas to determine the effectiveness of such residency restrictions enacted since 2006. I am also highly concerned that Kansas is surrounded by states with child sex offender residency restrictions, and that the lack of restrictions here in Kansas could lend to a huge influx of child sex offenders from other states.

Events like in Olathe, when neighborhood parents had to notify the police that a child sex offender, who moved to Kansas from another state, was preying on youth at Scarborough Elementary, gave me great concern. This situation shows me that the State needs to ensure that a comprehensive system is in place to monitor child sex offenders. Allowing child sex offenders to live in close proximity to schools does not provide the margin of safety required by the public.

Please feel free to contact me anytime if there is an opportunity for me to show support to *Kansas Rights 4 Kids* as it would be an honor.

With Sincere Thanks,



Councilman Jim Skelton

JS:bf

City Council Office

City Hall • 1st Floor • 455 N. Main • Wichita, Kansas 67202-1698



August 31, 2010

Dear Fellow Concerned Olatheans:

As you know, registered sexual predators living in our neighborhoods and near our schools is an issue I take extremely seriously. I have shared these concerns with my colleagues in the City Council, our delegation, and I have already visited with the Olathe Police Chief.

In the coming weeks, we will be discussing the City's position relative to the state law when we address our State Legislative platform. The following language will be considered.

The City of Olathe supports efforts to strengthen and enhance Kansas state law with respect to registered sexual offenders. That would include strengthening provisions designed to keep children as safe as possible, especially in neighborhoods and near schools. In addition, enhancements should ensure both state and local governments have improved abilities to monitor offenders and ensure adequate community awareness of offenders' whereabouts.

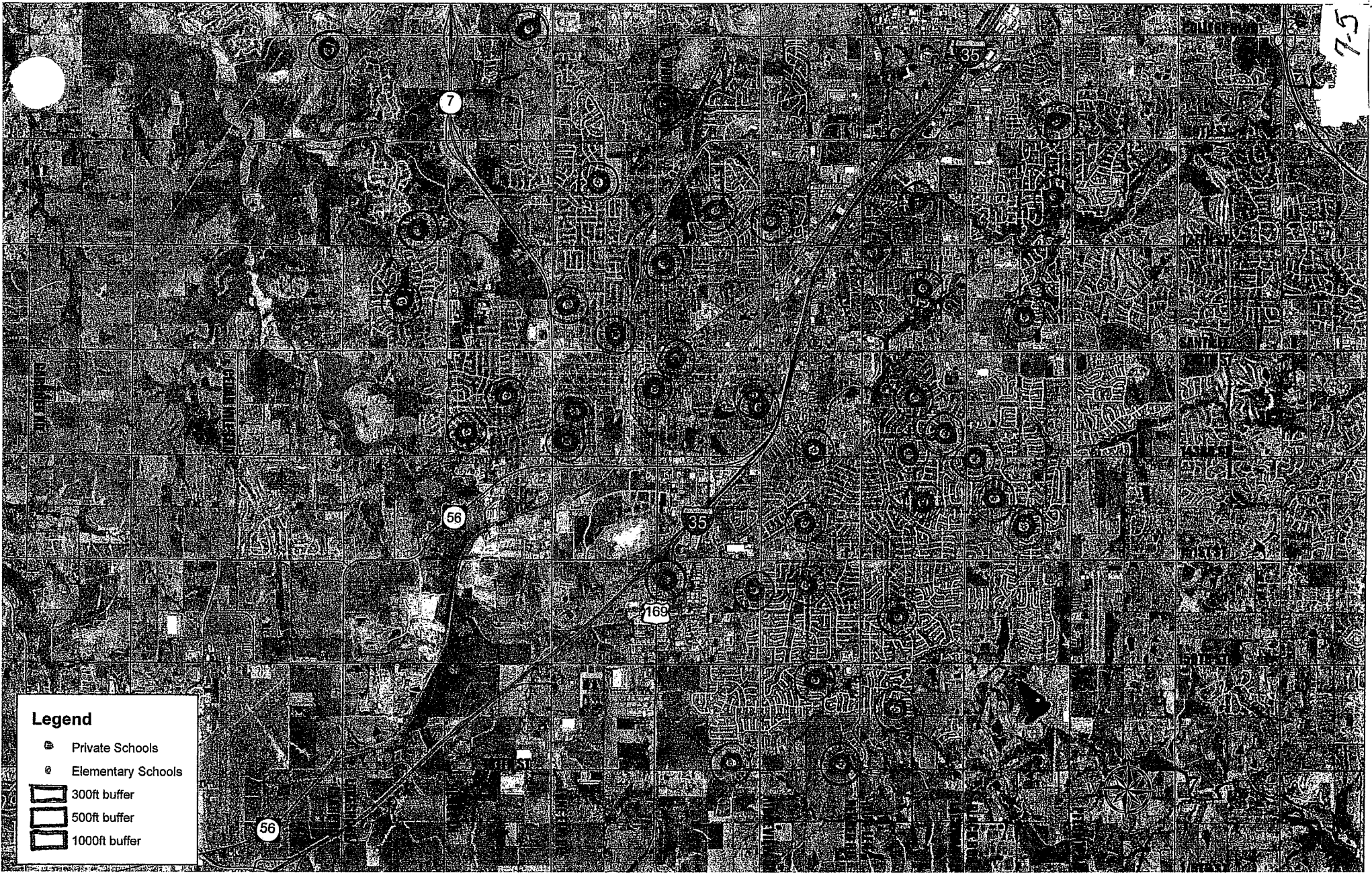
I will keep you updated as we move forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Campbell", with a long horizontal line extending to the right.

Larry Campbell
Olathe City Council Ward 1

7-5



Legend

- Private Schools
- ⊙ Elementary Schools
- ▭ 300ft buffer
- ▭ 500ft buffer
- ▭ 1000ft buffer

RESOLUTION NO. 8289

1
2
3 A RESOLUTION introduced by Councilmember Jack Woelfel supporting efforts to
4 strengthen and enhance Kansas state law with respect to registered
5 sexual offenders.
6

7 NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
8 TOPEKA, KANSAS, that the City of Topeka strongly supports efforts to strengthen and
9 enhance Kansas state laws with respect to registered sex offenders. Education,
10 monitoring and enhanced community awareness to keep children as safe as possible at
11 home, in neighborhoods and at school should be the goal of government, parents and all
12 citizens. Effective and efficient provisions should be supported to better protect our
13 children.

14 ADOPTED and APPROVED by the City Council September 14, 2010.

15 CITY OF TOPEKA, KANSAS



22
23
24
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27

William W. Bunten

William W. Bunten, Mayor

ATTEST:

Brenda Younger

Brenda Younger, City Clerk

Joanna Daugherty- Verbal testimony

1839 E. 153rd Circle
Olathe KS, 66062

Subject: Kansas' Lack of Restriction on Child Sex Offenders

I would like to thank the Joint Committee on Corrections and Juvenile Justice for taking the time to listen to us today. We all appreciate your willingness to revisit the issue of placing restrictions of convicted child sex offenders. I am going to respond to some of the opposition we have heard as we have pursued stricter regulations for child sex offenders in the state of Kansas.

Our opposition says it's too expensive; Kansas doesn't have the finances to support this change.

Kansas taxpayers overall state/local taxes are ranked at 21st highest nationally. Kansas is one of the few states who collect property taxes on both the state and local levels which puts Kansas 19th highest for property taxes nationally. Kansas is well within the top half regarding tax rates. If other states in the US have figured out how to manage these kinds of restrictions financially, so can we.

Kansas could consider placing the financial burden on the criminal. The convicted child sex offenders can pay for their own monitoring device, as well as take responsibility for notifying neighbors themselves.

Our opposition says residency restrictions will push the convicted child sex offenders into rural areas. They feel restrictions will impede their ability to successfully reintegrate into society.

If you will take a look at the map you have been given it shows that even with the outer ring of 1000 feet away from schools, the majority of Olathe is still left for someone to live. We don't aim to prevent people from finding a place to live. However, we would like to see a healthy buffer zone put into place between child sex offenders and our children.

Restrictions will make child sex offenders less likely to register and push them "underground".

With the amazing technological systems that are available, there is no way these people will be able to go under the radar if Kansas makes it a priority to make sure they don't. Again, this can all be done at the child sex offenders expense, the way repeat DUI offenders pay for breathalyzers that are installed in their cars.

Kansas says child sex offenders registering is what has been shown to keep the community safe, and residency restrictions are what cause them not to register.

Our question is: does the fact that there is not one single restriction placed on these child sex offenders aside from registering sound out of balance? Why did the state of Kansas not put one single measure in place to counterbalance giving child sex offenders the privilege to live anywhere they'd like? I haven't heard one word from either side saying that safety zones would make it more difficult for these people to live and work. Safety zones were recommended by the Special Committee on Judiciary. Kansas failed to put any in place though, and we want to know why?

Actively notifying local residences would not impede on a child sex offenders ability to work or live, but the state of Kansas chose "passive notification", which is another way of saying, it's up to the community to figure it out for themselves.

Why was nothing put into place to empower community members? Why has Kansas failed to attempt a higher level of awareness for parents, and protection for potential victims?

Harsher punishments and stronger restrictions make the young victims, who may be relatives or close friends, less likely to tell about the abuse. Young victims are afraid to tell because "They don't want grandpa to go to jail for a long time."

This argument doesn't deal with residency restrictions. It was based on mandatory jail sentencing, which is different. Yet, this argument keeps being directed at us. The molester/victim relationship is built on lies and manipulation on the part of the child molester. With the web of lies, threats, and manipulations that a molester tangles their victim in, it is a stretch to say that residential restrictions and safety zones are going to be the factor that will prevent a victim from telling. If you're going to follow that line of logic, you would have to conclude that child sex offenders shouldn't face consequences at all so that their victims won't worry about the punishment their molester will receive if they tell.

Sexually deviant people (child sex offenders) can be rehabilitated.

Studies show there is absolutely no cure for deviant sexual tendencies. They can only be managed, at best. There is also absolutely no way to determine which child sex offenders are going to be able to effectively manage their deviant tendencies. If a person views a child as a sexual object, that person should not be allowed the privilege of spending time near children. Since there is no way to tell who is truly rehabilitated and who is not, Kansas owes it to the children who live here to err on the side of their safety. If Kansas continues to choose to err on the side of trusting convicted child molesters to manage their deviant tendencies to sexually victimize children, then Kansas is choosing to play "Russian roulette" with the lives of the its children.

Most victims of child molestation are victimized by an acquaintance, family friend or relative. Residency restrictions and safety zones will just create a false sense of security.

Someone who lives near to, and is frequently seen at a school or park becomes a familiar face. People will not view this person as a stranger, and be less likely to go on alert. This is especially true if the convicted child molester is seen supervising neighborhood children that may be his own children, nieces or nephews. The children the child molester is frequently seen with will be the friends or classmates of our own children. In a case like this, the child molester would be viewed by parents and children at very least as an acquaintance. This removes this person from the "stranger danger" category. This also puts all of our children into the acquaintance or friend category that accounts for 59% of the victims that are chosen by child sex offenders.

Parents realize that having residency restrictions and safety zones in place does not protect their children. Parents know that it is their job to supervise their children and to know who their children are with. What parents want is some restrictions to empower them to help supervise child sex offenders. When a child sexual offender crosses the line, parents want to do something about it. Parents are not in search a false sense of security. Parents will remain just as vigilant concerning children's safety. They just want to have some help carrying the burden of keeping child sex offenders away from their children.

Our opposition has sent us some studies to try and counter our views on child sex offenders. There are several reasons more long term studies need to be done in order to better apply to the situation in Kansas.

Studies we received were not all child sex offender specific.

Studies should address that 80-90% of sexual crimes go unreported.

Most studies we received were done before most states passed legislation in 2006.

None of the studies were done in Kansas.

The length of time these studies were conducted was not long enough to gain reliable results.

To conclude I would like to tell you, children are not data, statistics or percentages. They are precious, irreplaceable, innocent human beings. There is not a percentage low enough to make parents feel comfortable with letting their child be anywhere near a known child sex offender. ONE child coming into harm's way, is one child too many. Please consider doing more to help parents keep their children safe in Kansas. Thank you for your time and attention.

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Verbal Testimony: Lesley Ramirez
1831 E. 152nd St
Olathe, KS 66062

Subject: Kansas may become a child sex offender safe haven
Kansas cut funding to sex offender treatment
There is support for child sex offender legislation

Thank you for taking the time to listen to our concerns regarding child sex offenders as it pertains to convicted adult offenders. While I know residency restrictions are controversial for some I would like to talk about what may happen if it hasn't already, if we do not pass child sex offender legislation. You have to consider that Kansas is in a unique position, all of our surrounding states, except Colorado; have legislation preventing access child sex offenders have to their children. 30 other states including Missouri 1000 feet from schools and child care facilities, Oklahoma 2000 feet from schools and child care facilities, Nebraska 500 feet from schools and child care facilities, Arkansas 2000 feet from schools and daycares, and Iowa 2000 feet from schools and parks for violent offenders and 300 feet "child safe zones." If you were a convicted child sex offender fresh out of jail looking for a place to make new roots out of all these states which one looks most appealing? We need this legislation not only to help us protect our kids; we need it so we don't invite child sex offenders in to our border in droves. I know that there have been issues in Iowa in regards to tracking sex offenders, we are not asking for an extreme form of legislation such as Iowa had before they made revisions. We are asking for a law that gives us options when we see a child sex offender doing something that is clearly inappropriate.

Recently Kansas cut funding to sex offender treatment services. Some site these cuts as the reason why repeat child sex offender George Dudley was able to leisurely walk out of the Wyandotte County Courthouse on August 30th. Not only had he been incorrectly deemed safe enough not to be restrained he was not properly being monitored by his Larned State Hospital escorts. Cuts have forced Larned to cut staff so much that they cannot adequately monitor offenders. If they can't even be monitored effectively I can only imagine what kind of "rehabilitation" treatment they must be getting. Especially after a predator was deemed safe enough not to be restrained and as soon as given the opportunity he escapes. Funding to Correct Care Services which evaluates an offender's danger level has also been cut. Attorney General Steve Six has publically stated that these cuts in funding put the public in danger and it needs to be reinstated.

In 2006 when residency restrictions were studied by Kansas they were deemed not best for us based off of what we consider inconclusive research that wasn't even specific to Kansas or in some cases not necessarily even child sex offenders. During this time the Judiciary on Committee recommended with a representative from the Des Moines, Iowa Attorney General Office that Kansas adopts "safety zone" legislation and the recommendation was ignored. The Iowa County Attorney Association (who is quoted all over the Kansas Department of Corrections website) has supported "child safe zones" since 2006. Iowa passed "safe zone" legislation this past year in addition to their 2,000

foot rule for violent predators. "Safety Zones" as far as I can tell weren't even discussed in Kansas and haven't been since.

You may or may not have heard our group, Kansas Rights 4 Kids, has been in contact with a number of City Council's in Kansas. Included in your packet is a letter of support for child sex offender legislation from Wichita Councilmember (Sedgwick County Commissioner Candidate) Jim Skelton, a letter from Olathe's former Mayor, former State Representative, and current City Councilmember Larry Campbell with the language Olathe is considering for their legislative platform, as well as a Resolution of Support from the Topeka City Council. This Resolution of Support for child sex offender legislation was passed unanimously on September 14th by the Council. Topeka Councilmember Jack Woelfel who introduced the Resolution is sitting in the audience as we speak showing his support for this kind of legislation.

Whether or not you will agree with all of what Representative Rob Olson will be putting in his bill that will be introduced the next legislative session. Kansas is way overdue to pass serious child sex offender legislation. The experience in my neighborhood should have never happened. Had there been laws in place restricting where child sex offenders can live and visit, the Olathe child sex offender would not have been able to engage parents and children alike in mass quantities. Because of the lack of restrictions we don't know if he offended again. The Olathe situation is a testament to why Kansas desperately needs laws restricting child sex offenders. Policing child sex offenders should not fall solely on to citizens who are not given any tools to deal with it. We are appealing to you to make the right decision and support legislation that would limit access child sex offenders have to our children. Do not wait for a child to die before acting.

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http://www.nbcactionnews.com/dpp/news/region_kansas/wyandotte_county/convicted-sex-offender-escapes-custody-during-hearing-at-wyandotte-county-courthouse
2. **Judiciary On Committee Report Recommending "Safety Zones"**
<http://skyways.lib.ks.us/ksleg/KLRD/2006CommRpts/judiciary.pdf> starts at page 15
3. **Kansas Attorney General Tries to Save Sex Offender Program**
http://blogs.kansascity.com/crime_scene/2010/04/kan-ag-tries-to-save-sexoffender-program.html
4. **Attorney General: Sex Offender Efforts In Jeopardy**
http://www.hutchnews.com/Todaystop/BC-KS--AG-Sexual-Pred_Hixs--1
5. **Vera Institute The Pursuit of Safety: Responses to Sex Offenders in the U.S.:**
Sites 30 states have sex offender restriction laws 2008
http://www.vera.org/download?file=1799/Sex_offender_policy_no_appendices_final.pdf
6. **List of states with restrictions. More have been added since this was written.**
<http://www.csg.org/knowledgecenter/docs/pubsafety/OutOfBoundsArticle.pdf>
7. **Iowa County Attorney Association statement on supporting "child safe zones"**
<http://www.iowa-icaa.com/>

My name is Shane Wood. I have been a proud Kansan for most of my life. I'm a former law enforcement officer, a current business owner and more importantly, a proud father of two.

In May of this year I found out that a new neighbor, James Delgado, moved in two doors down from my family in the cul-de-sac we've lived in for the last ten years. We chose this house due to the fact that it was directly across the street from the school that my kids would attend.

The relevance that Mr. Delgado has to my story is that he is a convicted child sex offender. He moved to my neighborhood days after being released from a California prison without the permission of the Ca. Dept of Corrections.

Throughout our efforts to gather information about the current Kansas laws and to try to understand why such predators are allowed to live within such a short distance to where our children go to school and gather to play, we were contacted by the mother of Delgado's victim, Mrs. Tammy Khalifeh.

Due to time constraints, I would like to paraphrase her letter to us. Tammy told us a story about how Delgado, who was a respected youth coach and member of their small Lawrence sized community, stepped in to offer support when Tammy's husband passed away from blood related cancer. Since Tammy's daughter and Delgado's daughter were best friends it seemed like a natural fit. Considering Delgado had coached his daughter's teams for years and Rana had been on most of them, no one thought anything of it. Tammy's letter goes on to say how, on the night of the assault, Rana spent the night with Delgado's daughter at the Delgado house. And, without giving all the details of the assault, goes on to say that, not only did the assault take place, but he texted his victim to not only ask for her silence but to further ask if she liked it.

Now, a letter coming from the victim's mother may not have the weight needed in a forum such as this. So, I'd like to read a note from Rana herself.

"Hi. My name is Rana Khalifeh and I was molested by James Delgado. I do understand that Kansas is working on a law to make sure molesters do not live near schools. I think you should enforce that law. James Delgado was like a father to me, he made me lose a best friend and a second family that I loved. If James lives near a school he may be able to do the same thing to another child as he did to me. I am working on forgiving him but it is hard. James was a man I trusted and a man I loved as a father, for him to do this was wrong! He should have no right to get close to another child again. I believe that enforcing this law Kansas would be saving kids from getting molested.

Sincerely,

Rana Khalifeh

And, if this isn't enough, I'd like to read a letter from James Delgado himself to Rana.

"Honey, I'm so sorry for what I did to you. You are a beautiful person with a good heart. You have a wonderful family and friends. I want you to know that none of this was your fault and I will get help. I love you kid and your whole family. I hope that this will pass and someday the Khalifehs will forgive me.

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Love,

James

While being interviewed by police in regards to the incident, Delgado stated, and I quote: "I'm sick and I need help".

Please understand that this is bigger than James Delgado. This is about protecting our children the best we can.

One thing I failed to mention at the beginning of my story is that the day I found out that our new neighbor James Delgado, a man I had yet to meet and a man who is a convicted child sex offender, had earlier in the day taken my twelve year old daughter and her best friend, who happens to be Delgado's cousin, to a swimming pool without my knowledge or consent. I believed that the mother of my daughter's friend was to be the chaperone. This happened only days after his release. Although he did register in Kansas, his probation states that he is not to be in contact with children unless supervised by a court approved adult. And yet he shows up to the softball fields every night to watch our team play ball under the false pretense that he is watching his cousin.

If this were a poker game, please tell me which of you are willing to gamble your child's innocence?

Thank you.

Tammy Khalifeh's Letter

My name is Tamara Khalifeh and I am the mother of Rana Khalifeh, now fourteen, who was molested by James Delgado at the age of thirteen. Having been in contact with residents of Kansas and especially among those involved with the association "Kansa rights 4 Kids", I feel compelled to share our story with you.

My husband became ill in 2003 with Multiple Myeloma, a blood related cancer, which also led to end stage renal failure requiring Dialysis 3 days a week. My daughter, Rana was friends with James Delgado's daughter Tristin, and as my husband's health continued to fail, the Delgado's became close friends to my entire family. James encouraged Rana to join a local soccer team he coached for. As time passed Rana also played basketball and softball, again on teams coached by James Delgado. As the girls aged, some of the sports were being coached by more experienced men, however James was always present at the practices and continued to have hands on drills with the girls. By girls I refer Rana and his two daughters, as well as other girls he had originally coached.

When Rana lost her father in April of 2003 James stepped in and offered love and support to Rana, She and Tristin became best friends and spent days at a time together, usually at the Delgado's home, including the night she was molested. This man whom my family loved and trusted, betrayed us in such a way that I find it hard to trust anyone again, especially with my children.

In July of 2009, Rana stayed the night with Tristin. The Delgado family had been under preparation for their move to Olathe, Kansas. Rana stated her and Tristin were laying on mattresses in the living room and James Delgado was laying on a sofa in the same room. He texted Rana asking if she wanted a back rub or massage. Rana refused, texting back to James that she was too tired to get up and was going to sleep. He texted back telling her there was always room on the couch next to him if she changed her mind. Rana then said she woke during the night finding James Delgado laying next to her on the mattress and rubbing her back and moving his hands down to her buttocks, inside her clothing. She moved away, turned over and tried to go to sleep again. She woke a second time to James hands on her stomach, then pushing inside her panties to rub her vagina. Rana pushed him away and told him to stop. He continued to grope her, touching her as Rana continued to push him away. When asked if said anything during this molestation, Rana stated he said her name over and over again, and told her to come closer to him. Eventually he stopped and after a time got up and walked to his room.

James Delgado's defense was that he was drunk and thought he was in bed with his wife, however there was absolutely no evidence to show that he was intoxicated, rather, as I have mentioned, that he was able to text Rana just prior to the incident. Rana testified that the following morning she received a text message from James asking if she "liked it", when she responded asking what he meant, he texted "last night".

My daughter stayed in their home until picked up by the mother of another friend for soccer practice. Only then did Rana find the courage to speak of her abuse with another friend. That evening, Rana called me and told me what had happened. She had also attempted to tell Tristin who called her a "liar". Picking Rana up that evening I found James wife there as well. She had brought Tristin to talk to Rana. Tristin told Rana her dad told them the truth, that what Rana said was true, and she was sorry she hadn't believed her.

Once James Delgado was arrested, he admitted everything to the police, however claimed "not guilty" at the pretrial. The following six months was frustrating as he and his lawyer filed continuations, until February of 2010 when the trial finally took place. All Rana and I ever wanted was some jail time, determined by the courts, and for him to have to register as a sexual offender.

To paraphrase what was required of the jury they had to find four elements to be true, he had to have done the act (he admitted to that on tape), the victim must be under fourteen years old (she was thirteen), he had to have shown an unusual sexual interest in her (texts, back massages), and he had to be consciously aware of what he was doing (not intoxicated). Twelve jurors found all four elements to be true.

As you can see the emotional betrayal of a friend and father figure has left us more wounded then the actual physical abuse. In Rana's "Vicim Impact Statement", she commented that she felt like she had lost her father for a second time. That this man has been watching my daughter, grooming her, sickens me. How as a mother could I not see what he wanted. Rana is a quiet and shy little girl. I believe James Delgado was counting on her trust in him to

continue to do what he attempted that night. His family were to be in Kansas during the summer, while he remained here in Ridgecrest. He would have had access to Rana without his family around. That is so frightening to me.

Now that I have told you our story, and I know it could have been so much worse, I would like to address the issue Kansas is now addressing. Should child molesters be allowed to live anywhere they choose, unrestricted? I think of it as a recovering alcoholic living across the street from a liquor store. He gets the urge to drink, walks across the street and when in minutes, has a drink. Suppose he lived many miles away. He would need to find his keys, get in his car, drive towards the store. Stopping at traffic signals and stop signs all the while having an inner battle to resist the temptation. That man, he may be able to turn around and head home, not buying and not drinking. Had that been a man fighting the urge to molest a child, a little boy or little girl would be free from assault. We may never know how many "close calls" there are. But to allow molesters to have easy access to children shows not only irresponsibility towards protecting our children, but also a lack of moral values. Politics should have no place in providing the safety of children from known molesters. As the parent of a very "close call", knowing things could have been so much worse, I cringe at the thought of men living close enough to watch children on a regular basis. Allowing them to be near schools, parks, and sports events is like handing that recovering alcoholic a drink, and telling him he can look at it, but not drink it.

My plea to you today, is to imagine that child is yours, and that man is watching her, he is holding her hand, offering a smile, bewitching her with his charm and sincerity. Because that is what they do. They bewitch us, they are getting close to us and all the while waiting, waiting for the right moment. Or for some, they are strangers who grab our children, without a thought, without remorse. Please look deep within yourself, for I do not seek to continue to punish the man who molested my daughter, but rather to ensure no other child is left in his care, where he can once again have the opportunity to follow through on an urge as he did with Rana.

Could your child be at risk? Should your political view override what your heart tells you? Please protect your children. That is all I ask.

Sincerely,

Tamara Khalifeh

Rana's Letter

Hi. My name is Rana Khalifeh and I was molested by James Delgado. I do understand that Kansas is working on a law to make sure molesters do not live near schools. I think you should enforce that law. James Delgado was like a second dad to me, when he did that to me he made me lose a best friend and second family that I loved. If James lives near a school he may be able to do the same thing to another child as he did to me. I am working on forgiving him but it is too hard. James was a man I trusted and a man that I loved as a father, for him to do this was wrong! He should have no right to get close to another child again. I believe by enforcing this law Kansas would be saving kids from getting molested.

Sincerely,
Rana Khalifeh

Honey I'm so sorry for what I
did to you. You are a beautiful person
with a good heart. You have a
wonderful family and friends. I
want you to know that none of this
is your fault and I will get help.
I love you, kid and your whole family.
I hope that this all passes and
someday the Kodyfoks will forgive me.

Love,

James



RIDGECREST POLICE DEPARTMENT

100 W CALIFORNIA AVE RIDGECREST, CA 93555 760 499-5100

Page

09-2385

NARRATIVE

ATTACHMENTS:

- KCSO Booking Form.
- Victim name and address deletion form (CV 1)
- Copy of CPS Referral.
- Delgado's Apology Letter to CV-1.

NARRATIVE:

On 07-16-2009, at about 0800 hours, I received a CPS Referral from dispatch regarding sexual abuse on CV-1 by her friends father James Delgado.

At about 1230 hours, I responded to the Women's Center to obtain a statement from CV-1. Present at the Women's center was Karen Stone, who is a member of SART. CPS Worker Trina Brown, Intern Counselor Lorraine Beeson and CV-1's mother Tamara Khalifea. CV-1 told me the following:

CV-1 told me on 07/14/2009 she was staying the night at her friends house (633 E. Church Av.). She fell asleep with her friend on two mattresses pushed together in the living room of the house at about 0100 hours. CV-1 stated she was awakened by her friends father, James Delgado rubbing her back. At this time he began to rub her vagina and buttocks underneath her clothing. CV-1 told Delgado to stop however, he continued. She told him to stop again and this time Delgado stopped and left the living room.

CV-1 stated that Delgado had been drinking because she could smell it on his breath during the incident. I asked CV-1 if Delgado penetrated her vagina or buttocks. She said, "No." I asked her if Delgado's daughter was awakened during the incident. She said, "No." I asked CV-1 how close she was to Delgado's daughter during the incident. She said, "I was able to touch her."

CV-1 stated she woke up at about 0930 hours, in the morning and noticed there was a text message on her phone that was sent at 0700 hours, from Delgado. The message said "Have a nice day." CV-1 received another text message from Delgado at about 0930 hours. The message said, "I am sorry and to not say anything." CV-1 received a third text message from Delgado. The message said "Do you sort of like it" referring to the incident. I asked CV-1 if she saved the text messages from Delgado. She said, "I deleted them." CV-1 told me she left Delgado's house at about 1500 hours later that day.

CV-1 told Delgado's daughter about the incident. CV-1 told another friend about the incident. The friend contacted Delgado's daughter and told her again. CV-1 stated that Delgado's daughter confronted her father about the incident. Delgado put his head down and started to shake it.

CV-1 stated that she has known Delgado since she was in second grade and is really good friend's with his daughter. She told me she considers Delgado as a father figure because her father passed away. She has also stayed the night at Delgado's house on several occasions and nothing like this has happened before. CV-1 had no further information.

At about 1400 hours, Officer Gillette, Trina Brown and I responded to Delgado's residence (633 E.

Prepared By: 9905 HAMILTON, EDDIE	Date: 07/16/2009	Approved By: 6026 OBERGFELL, ROBERT	Date: 07/18/2009
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RIDGECREST POLICE DEPARTMENT

100 W CALIFORNIA AVE RIDGECREST, CA 93555 760 499-5100

NARRATIVE

P.

09-2385

Church) to obtain a statement. I contacted Delgado's wife who told me that Delgado was working in the field. I advised her that I needed to speak to Delgado regarding an incident and asked if he would meet us at the station. She told me she would call him and he would meet us at the police station.

At about 1500 hours, Delgado arrived at RPD. I walked Delgado to interview room A. Officer Gillette and I conducted the interview.

I asked Delgado if he knew why I wanted to talk to him. He said, "Because of the inappropriate touching of CV-1." I asked Delgado to tell us what happened. Delgado told us the following:

Delgado had received a "chilling" phone call from his daughter's friend regarding the incident involving CV-1. I asked Delgado to tell us about the incident. Delgado stated that CV-1 was staying the night with his daughter at his house. Delgado had been drinking and doing work around his house. He passed out on the couch and later woke up.

At this time he went and laid down on the mattress in the living room next to CV-1. He stated he was "spooning" with CV-1. I asked Delgado what spooning meant. He said, "I put my chest against her back and my arm around CV-1 chest area."

Delgado told me the next thing he knew he was in bed with his wife. Officer Gillette asked Delgado if he rubbed CV-1's breast's, vagina and buttocks. Delgado hesitated and said, "I don't know, I hope not." Delgado stated after he has been drinking he gets in bed with his wife. She tells him he starts putting his hands all over her. Delgado stated he doesn't know he's doing it.

We asked Delgado about text messesing CV-1 the day after the incident. Delgado said he was text messaging CV-1 about the incident. Delgado said he deleted the messages but said CV-1 told him about "Feeling wierd about the night before" Delgado would not go into details about the conversation he had with her.

Delgado continued to say he could not remember if he touched CV-1 in the manner as alleged. We told Delgado that we did not believe his story. At this time Delgado started crying and said, "I'am sick and I need help." I asked Delgado what kind of help he needs. He said, "Mental help and talk to a counselor.

We asked Delgado to tell us what really happened. Delgado stated he got into the bed next to CV-1 and put his arm around CV-1 and started to rub her. Delgado said he was rubbing "Everything in arms reach." We asked him what he meant by everything in arms reach. He said, "Her breasts, crotch and buttocks.

We asked if Delgado if he rubbed CV-1's viginia inside the clothing. He stated he did rub her viginia but did not penetrate. We asked if he was testing the waters by touching CV-1. Delgado said he was testing the waters but the "the second the wierd thing was brought up" he was done.

At this time Delgado was Mirandized and taken into custody. Delgado invoked his right's and no further questions were asked.

Prepared By:

9905 HAMILTON, EDDIE

Date:

07/16/2009

Approved By:

6026 OBERGFELL, ROBERT

Date:

07/18/2009

Michell Prothe
Kansas Rights 4 Kids
Olathe, KS

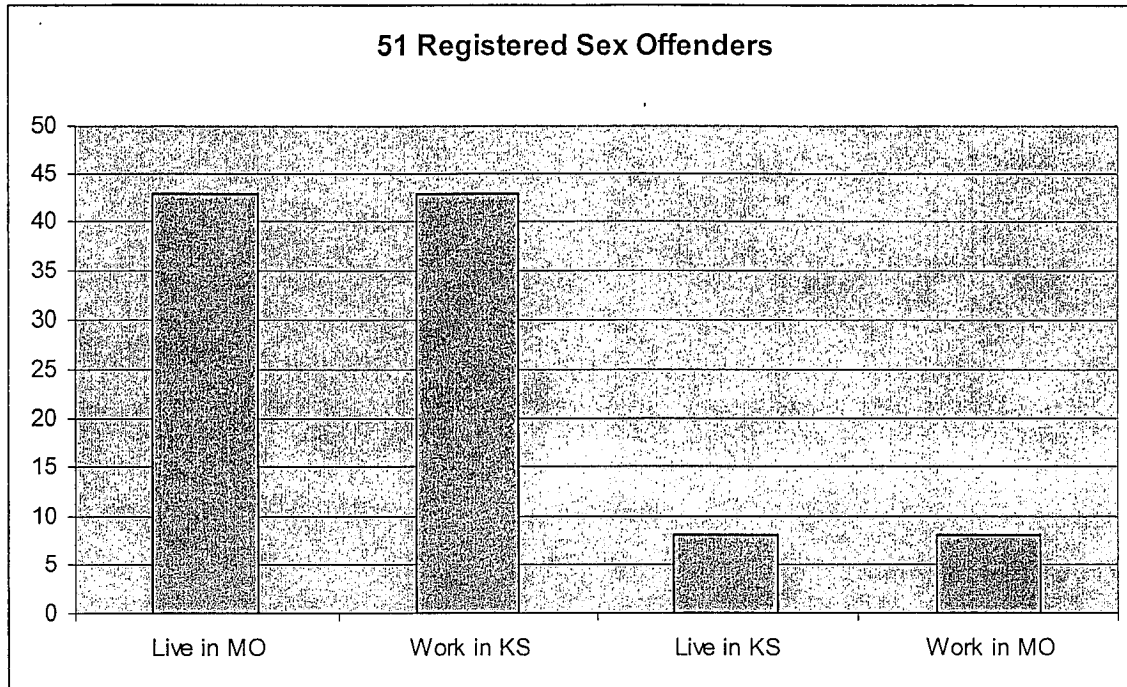
Verbal Testimony - Educating our children

Thank you for taking the time to consider our request of placing tougher restrictions on the access child sex offenders have to our children. By considering these types of restrictions you are making Kansas a safer place for our children. Allowing child sex offenders to hang around children (without a court approved adult) and build their trust over time only temps the offender to re-offend, these types restrictions are the best form of protection for our children and reducing recidivism of child sex offenders.

Informing parents about the sex offender registry and the current law is significant to keeping our children safe. Educating parents is important but unless a parent can memorize every face on the registry what are the chances they are going to be able to identify a repeat child sex offender on behavior alone.

The parents involved in the writing of this bill have educated their children on this type of crime for years and we will continue to educate them. It is more than good touch/bad touch. Children who are educated with how to differentiate inappropriate touching are usually the children that come forward and face their assailant. The education of children by parents does not stop the offender. A child that has been educated on this topic is *just as likely* to be molested as a child whose parents have never spoken to them about inappropriate touching. **Educating the child does not STOP the sex offender it only encourages the child to tell a trusted adult.** When it is a trusted adult that does the molesting then what? Teaching a child to tell when they have been touched inappropriately is only the first step, keeping these repeat offenders from having access to our children is the next step.

Table 1.1 – Missouri Registered Sex Offenders that work or live in Kansas



(Table 1.1)

I have located 51 registered sex offenders that work or live in Missouri that cross the state line everyday who many are not properly registered in the State of Kansas. Here is a list of these discrepancies:

Sex Offenders NOT registered on a particular registry (out of 51)

- KBI – 26
- JOCO – 29
- MO – 1

Discrepancies located on the KBI, JOCO, and Mo Registry - (out of 51)

1. Home / School address discrepancy and/or missing information – 6
2. Same picture posted on KBI / JOCO dated several months apart – 7
3. Employer’s work address discrepancy and/or missing information – 8
4. Offender’s work address not listed on KS but on MO – 25
5. No picture listed in JOCO – 1
6. Complaint / Noncomplaint discrepancy – 3
7. Offenders not listed on JOCOs registry only – 4
8. Offenders not listed on KBIs registry only - 1

NOTE: Pictures need to be updated more often and not be able to use the same picture repeatedly.

(Information verified on or before 9/09/2010)

Works Cited

Family Watchdog - <http://www.familywatchdog.us/>

Johnson County Sheriff's Dept – Registered Offenders -
<http://www.jocosheriff.org/Index.asp?incl=omap>

KBI – Offender Registry - http://www.accesskansas.org/kbi/offender_registry/

MSHP – Missouri Sex Offender Registry -
<http://www.msdp.dps.mo.gov/CJ38/searchRegistry.jsp>

Kansas Legislature
JOINT COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE OVERSIGHT
Kansas State Capitol - 300 SW 10th St. - Topeka, Kansas 66612

Testimony of Mr. Christopher J. Thurmond

Kansan, Furloughed Airline Pilot, Contract Military Pilot, Commander U.S. Navy Reserve, Father of four

13 September 2010

Thank you, Mr. Chairman, for the opportunity to testify today on behalf of my concerned family, friends and people of Kansas.

Kansas is a great state and is rich in its' diverse combination of city and rural partnerships forged of many races, religions and political persuasions. During our current fiscal strained period, I appreciate and believe the efforts of our Kansas Legislature today transcend political and regional differences and are a clear sign that we all share the desire to continue the advancement towards protecting our future: Kansas Children.

History

A convicted California child molester, James S. Delgado, moved into our Olathe middle class neighborhood across the street from Scarborough Elementary School. After James Delgado registered as a sex offender with local law enforcement, I called Mr. Bill Miskell, Kansas Department of Corrections Public Information Officer, and enquired about this man. I received a return call from Mr. Miskell and was informed that James Delgado was in Kansas illegally and had to return to California due to failing to adhere to the Interstate Compact procedures. The neighbors began to organize and share information including educating ourselves on Kansas' laws regarding residency restrictions laws and a lack of zone exclusion laws for child molesters. After corresponding with Secretary Werholtz and my state Senator over why the Kansas Department of Corrections and Legislature pursued the current law on Sex Offender Residence restrictions, I better understand their rationale and associated studies. Mr. Delgado was convicted on a misdemeanor since there was no penetration of the 13 year old girl he sexual assaulted. The state of California took a report from his Olathe neighbors that children were routinely solely in his care. The California Kern County overseeing his probation and interstate compact case passed to our neighbor that this would in-fact be a violation of his probation but didn't have money to send Kansan's to California to testify. Last information we had on Mr. Delgado is that he is applying to come back to Olathe.

Proposal on Municipalities' Right to protect

After speaking with the Secretary of Corrections for Kansas, I viewed their website and went through each of the twenty findings and associated studies used to justify not having laws restricting residence of sex offenders. I want to note that I was able to find many other states and studies that have opposing views to include most of our mid-western neighboring states.

One of the common themes in the studies is noted on the Kansas Department of Corrections website from Level Three Sex Offenders Residential Placement Issues, 2003 Report to the Legislature, Minnesota Department of Corrections which states, "such restrictions in the cities of Minneapolis and St. Paul would likely force level three offenders to move to more rural areas that would not contain nearby schools and parks but would pose other problems." I definitely do not want any form of regulation that would force child molesters to the rural areas, but I have questioned my legislator and the Department

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of corrections as to whether or not any data or Geographic Information System (GIS) mapping was done for Kansas cities and towns that show an excessive amount of residence would be unavailable to child molesters with offender residence restrictions.

At a local meeting I asked Mr. Larry Campbell, Olathe City Councilman, if he knew of any data or mapping products that could verify the true availability effects of residence restrictions for Olathe. He did not but offered to have a GIS map compiled that showed 3 sample rings around Olathe Schools. To the best of our abilities, it appears that ninety percent of the city is still available with 1000ft restrictions around Schools. This map will be provided to your committee by one of my neighbors and I believe provides a significant sample justification to study the reconsideration of legislation that prevents individual municipalities from having residence restrictions for child molesters. Cities and towns are all unique and planned with different goals that makes cities like Olathe different in many ways than the one in the study; Minneapolis-St. Paul. I believe that if a city can produce GIS mapping or another surveying product that displays a significant majority of the city is available to child molesters to reside; each city capable of such should be able to produce ordinances restricting them from living near schools. I am not producing statistics that show it would make children safer but I believe it would provide an environment where parents can watch their kids play in the schoolyard or walk to school without being monitored by a child predator. This also serves to place the concern for the emotional stress of victims and their family and friend over the primary focal point in so many of these studies, the emotional stress of a child molester. Some believe that restricting a child molesters access to a school zone as unconstitutional, but I believe that would be highly debatable in our courts and also equate it to felons losing their constitutional right to bear arms. I did find a few cases in which courts ruled against the constitutionality of some state's sex offender residence restriction laws, but I propose that these were not put together well as they did not only target child molesters and they did not do the residence mapping survey I am suggesting. Also, there are over 30 states that have laws that are withstanding constitutional law.

Zone Exclusion

To accompany the requested residency restrictions for child molesters, I believe sex offenders that have molested a child should be barred from child gathering areas such as parks, pools and playgrounds. As noted in the 2009 minutes of your committee, Kansas lost 100 treatment slots for sex offenders. I believe this may create an increased risk of repeat offenses and would like to see zone restrictions as a way to counter the risk by giving our neighbors an evidentiary leg to stand on with law enforcement when a child molester is spotted in one of our child gathering areas. This is independent from the residency restriction change I requested and have not been able to find any studies or published view that opposes zone exclusions for child molesters in child gathering areas. In fact, when I spoke to Mr. Werholtz in August 2010 he stated that the Kansas Department of Corrections would not be against such a law.

Conclusion

Mr. Chairman, I would like to see the Kansas law that prevents municipalities from making laws or ordinances restricting child molester sex offender residences and zone exclusion areas either repealed or modified to allow cities the right to legislate a law provided they can demonstrate proposed restrictions will still allow a great deal of residence opportunities, thus preventing an exodus to the rural areas. The laws would then be based on GIS Mapping data, local desires and not speculation that each city is the same and restrictions will 'likely' force them to mobile and rural residences. I am asking for a political

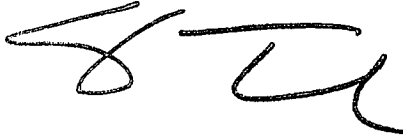
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and financial investment in our most precious product, our children, but believe that much of the enforcement can be accomplished by caring and concerned parents. As displayed in returning James Delgado to California, citizens of our state can inexpensively assist in keeping our child gathering areas safer by giving us the legislative tools I am proposing.

Thank you.

A handwritten signature in black ink, appearing to be the initials 'STU' with a stylized flourish.

LETTER OF TESTIMONY

By Carol O'Dell

September 9, 2010

Re: Restriction Law for Child Sex Offenders in the State of Kansas

Attn: Chairperson Brungardt and Joint Committee on Corrections and Juvenile Justice

Thank you for taking the time to read my letter. I am a grandmother of 13 grandchildren and 3 great grandchildren. I live in Wichita, Sedgwick County, Kansas. Nine of my grandchildren are residents of the State of Kansas. Six of my grandchildren live in Sedgwick County and three in Johnson County. My other grandchildren reside in the State of Missouri where there is a Child Sex Offender Restriction Law.

I was appalled to find out that James Delgado a convicted Child Sex Offender from the State of California was residing one block from where my grandchildren live, and was within 200 feet in plain view of the elementary school and park where children attend and play. What further disturbed me was that this man was unemployed and sitting outside the home he was living in visiting with young children on their way to and from school. He was also attending 12-13 year old girls softball league games and driving several girls to swim at a local pool. How ironic is that? This man is a Convicted Child Sex Offender from California, whose law forbade him to live within 2000 feet or a quarter mile of a school or park where children congregate, but was able to do in Kansas what he was ordered not to do in the State of California. He had a conviction, served jail time, was fined and had a five-year probation in the State of California, which seems to mean nothing in the State of Kansas. California law was revised November 2006 as a result of voter approved Proposition 83 (also known as Jessica's Law) and bans sex offenders from living within 2,000 ft. or a quarter mile of a school or park where children congregate.

I understand that the same type situation may also be occurring in the community of Prairie Village, Kansas and probably in many other communities in this state. This is wrong and intolerable. In Sedgwick County and in the City of Wichita the Sex Offender map is so dense you can't see the street names where they live. There is not a voter or resident in the State of Kansas that wouldn't demand change when it becomes public throughout the State that Kansas has no restrictions for Child Sex Offenders. The people I have talked to including neighbors and city elected officials were sure we had such a law. They were very surprised when they were informed we don't.

We want Child Sex Offenders restricted from loitering/living or attending activities where children are, with some type of law requiring certain conditions that have to be met. We do not want these people living in the backyard of our children. Why do we have to wait until a child is abducted, sexually assaulted or killed before a law can be written? The Olathe parents have shown responsibility for their children by uncovering Child Sex Offenders living in their neighborhood. Now it is the responsibility of all lawmakers in the Kansas Congress to do their part by passing a Restriction Law for Child Sex Offenders and quit worrying about where they will live, if they will register, or how

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it will be paid for. You cannot put a price on a child's life! If the only way law enforcement and Kansas Department of Corrections can track or find these Child Sex Offenders is by letting them reside near schools, parks or where children play that is pathetic! We do not want to wait for something to happen to one of our children before a law is passed. You can educate a child all you want about what to do if the big bad man tries to do something inappropriate. But at the time it happens that child has no defense against a Child Sex Offender looking to score. We know we cannot protect all children from Child Sex Predators, but we do have the ability to pass laws preventing **Convicted Child Sex Offenders** from living in the backyard of Kansas's children.

I was asked by Kansas Rights 4 Kids to contact elected officials here in Wichita, Sedgwick County asking for their support in our efforts to bring forth a law dealing with Child Sex Offenders. I have sent out hundreds of emails and talked personally with my State Representative Raj Goyle and Jim Skelton member of Wichita City Council. They certainly support this issue and have helped in providing contact information to other elected officials and written support. I have submitted a Letter of Support from Jim Skelton, Wichita City Council (Sedgwick County Commission Candidate) for Kansas Rights 4 Kids. I have had feedback from Jean Hays with Wichita Eagle, other members of the Wichita City Council, Janet Miller and Lavonta Williams, Barb Fuller with Wichita BOE and initiated contact with the Topeka City Council and Jack Woelfel that resulted in a presentation from Kansas Rights 4 Kids. I intend to continue to contact other cities' elected officials and get information out that **Kansas does not have a Child Sex Offender Restriction Law** while Oklahoma, Nebraska, Missouri, Arkansas, Iowa and many other states do. I know many statistics researched from other states do not apply to just Child Sex Offenders but include all sex offenders, and are not reliable studies. Statistics will not keep a child safe in their neighborhoods but this new law would be a start. The issue that a new law would be a crutch or likened to a security blanket for the community is just bunk! It is for the protection of children! There are some parents already doing their job keeping their children safe, policing their neighborhoods, schools, and areas where children play and congregate. Now they want congress and the law enforcement community to do their job and support a Restriction Bill for Child Sex Offenders and enforcing the law when it is passed.

Instead of saying no to the possibility of a **Child Sex Offender Law**, how about pursuing what kind of restrictions can be done that would benefit the children of this state, their parents, grandparents, extended families, neighbors, communities, law enforcement agencies, the Department of Corrections and Congress. If we work together it can be done. Thank you for your time.

Carol O'Dell
Rental Property Owner/Retired
9468 E Skinner St
Wichita, Ks 67207
Phone: 316-243-1260/
Email: codell9468@att.net

September 14, 2010

To whom it may concern,

"Children are one-third of our population and ALL of our future." -*Select Panel for the promotion of Child Health*. I am writing you today as a concerned mother of four, a nurse and a proud, active member of my community. Earlier this summer, I was disturbed to learn a convicted child molester had moved into our neighborhood, a mere 208 feet from our local elementary school and neighborhood park. I was shocked to discover that Kansas did not have any residency restrictions for convicted child molesters. For the sake of all Kansan children, I urge you to consider your position and support residency restrictions for convicted child sexual offenders, or minimally safety zones, around schools, parks and other places children congregate.

Residency restrictions would require child molesters to live outside a defined perimeter around schools and parks. As of 2008, 30 states have some form of residency restrictions for sex offenders (Velazquez, 2008). There have been several studies stating that residency restrictions do not work and have little to no effect on recidivism rates. However, I will argue that these studies have limitations: Many studies target sex offenders as a group, not just child sexual offenders, and recidivism rates are solely dependent on reported, convicted re-offenders.

"Sex offenders risk can fluctuate according to environmental and psychosocial conditions. Not surprisingly, access to victims has been found to increase the likelihood of sexual reoffense" (Levenson & Hern, 2007). The victims of these child molesters are CHILDREN. Children congregate at schools and parks. There is little research done, specifically focusing on the child molester and his/her residence in relation to a school or park. "An Arkansas study involving 170 sex offenders found that 48% of child molesters lived in close proximity to schools, day care centers, or parks, compared with 26% of perpetrators convicted of sex crimes against adults" (Levenson & Hern, 2007). Generally child sexual offenders have a method to getting to children (Walker & Golden, 2001). It is "argued that there are three ways in which sexual offenders gain access to children: marriage, neighborhood, and occupation.... Offenders have also been known to use particular activities to entice children...a perpetrator might approach children at bus stops, schools, and playgrounds and perform magic tricks. After gaining their trust, the offender may trick them into performing sex acts. When a pedophile chooses a victim, age preference is a key factor" (Walker & Golden, 2001). A child molester needs to develop a relationship and trust with the victim. Where would be better to find that 'specific' child than at places where children congregate, such as schools and parks. In the Walker & Golden (2001) study, it was noted that some child molesters will seek an area that has one or more schools, parks, and daycares and choose to live near the area. Are all sex offenders targeting places where children congregate? No, but as stated above - child molesters may.

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Another limitation to residency restriction opposition studies is the way recidivism rates are calculated. Many studies have quoted low recidivism rates for sex offenders and in general, find that rates are not higher for those living in close proximity to parks and schools. I would argue that recidivism rates are highly constrained. In one article, "Recidivism: How often do child molesters go on to reoffend?" (Leadership Council, 2005), they found that the statistics are conservative at best. Not all offenses are detected or reported. The author went on to say,

"In fact, a careful review of the scientific and legal literature shows that determining true recidivism rates are next to impossible as recidivism rates only count the number of sex offenders released into the community who are caught and convicted" (Leadership Council, 2005).

A large number of sexual offenses are not reported, and of those that are reported not all lead to a conviction. In my opinion, one child is too many!

Safety zones are another type of restriction that limits a sexual offender's access to children. An argument against residency restrictions is that the imposed restrictions only determine where the perpetrator sleeps, not where he spends his day or loiters. Safety zones or exclusionary zones would prohibit offenders from working or visiting restricted areas without permission. According to The Iowa Independent (4/24/09), Iowa passed a bill that prohibited sex offenders "from loitering within 300 feet of an elementary or secondary school; being at an elementary school or daycare without permission; working at a school or childcare facility; or loitering within 300 feet of anyplace intended primarily for use by children, such as playground or sports field." Safety zones would be another way to keep our kids safe and help to empower parents and other adults to be aware and vigilant of sex offenders.

Neither residency restrictions nor safety zone restrictions should give parents a sense of security. It is our job, as parents and guardians, to protect our children from the dangers in our society, including child molesters. By having these restrictions, adults as advocates for the kids have a legal 'foot to stand on'; an avenue to pursue justice; and a way to help keep our children safe.

"There are no seven wonders of the world in the eyes of a child. There are seven million" - *Walt Streightiff*. Let's give our children every chance to see every wonder in our world. Our children are the future.

Thank you for your consideration.

Sincerely,



Teresa Koehler, RN, BSN (and mom)

15540 S Kenwood St
Olathe, KS 66062

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September 13th, 2010

To Chairman Brungardt and Joint Committee on Corrections and Juvenile Justice:

As a parent and almost lifelong resident of Wichita, KS, I can tell you that I was deeply disturbed, after hearing about Kansas Rights 4 Kids, to find out that a registered sex offender lives in the house right across the street from my 12 year old daughter's bus stop and this had never been brought to my attention. This stop is also a bus stop for several other elementary students. We live in a very suburban residential neighborhood on the outskirts of Wichita; there are several registered sex offenders within a few miles of my home. One lives across from the neighborhood pool.

The simple fact is this, when it comes to children and sexual predators, the caution needs to lie on the side of the child. Many other cities and states obviously this issue was important enough to include laws on their books to protect children from these predators. If you look at the Sedgwick County website of registered sex offenders, you will see that we have many registered here from other states where there are more restrictions on where they might live.

My daughter's school informed me when I called, that they had already had calls from three other parents who were concerned about registered sex offenders living near their child's bus stop. This is ONE small middle school, imagine how many more there must be.

Prevention of crimes against children should be a high priority for our citizens and legislators. I was shocked to find out how many of my friends, clients and colleagues were under the assumption that Kansas already had laws preventing sex offender from residing, working or being near places where children congregate. I have been a practicing licensed Real Estate Agent in Wichita for twelve years now and can tell you that this is a very important issue for my clients, most of whom have children.

I have read some of the studies that are being used to downplay the need for restrictions on sex offenders in Kansas, it was clear to me, as it was to others that read it, that the department of corrections clearly had a mandate to discourage laws that would provide "safe zones" or residency restrictions for offenders due to their lack of willingness to enforce the laws. The situation with the neighborhood in Olathe shows that the oversight and tracking that is supposed to be taking place is clearly insufficient and being conducted incompetently. The study also uses arguments against restrictions based on inconvenience to the offender. Not too many law abiding citizens are inclined to feel sorry for anyone who has been convicted of crimes against children. We should not have to put our children at risk because of a hardship or inconvenience to the offender. There are many flaws in the study, too numerous to mention here, not the least that the tracking of offenders in the study was minimal, the ability to know only of crimes which were reported, when statistics show that offenders often commit numerous acts before they are ever caught (if ever), the definition of stranger, which no longer pertains to your neighbor you might have met while hanging out at the local playground, church, etc. The study is not limited to sex offenders who committed crimes against children. There are also many studies available that show that those who molest children or have been defined as pedophiles are rarely if ever cured of their desires, the best recommendations are that the offenders be removed from situations where temptation is present or near, offenders in states with strict restrictions often leave the state in search of places to live with less or no restriction.

Best Regards,

Donna Sibai
Realtor, A.B.R.
Realty World Alliance
14321 Spring Valley
Wichita, Kansas 67230

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Hello, my name is Sara Wood and I am a proud mother of 2. My step-daughter, Veronica, is 12 and my son, Trystan, is 2. We live in a quiet, fun filled cul-de-sac in Olathe KS, or should I say did. Up until a few months ago, it was like driving through an obstacle course just to get into my driveway. Neighbor kids were always playing in the street and leaving their toys behind. Our cul-de-sac is far from that now.

This last May, James Delgado and his family moved here from California, two houses down from mine and my family's. He is a self confessed, convicted child molester of a 13 year old girl. I am outraged that he was able to move so close to my kids, considering we live across the street from Scarborough elementary school. We, along with every person I have spoken to about this, thought it was illegal for any sex offender to live so close to a school.

Unfortunately, we live under a false sense of security here in the state of Kansas. It was a hard lesson learned, but once we realized he was living here we found out that there are NO restrictions on child sex offenders in the state of Kansas. He was not only living here, but he did it illegally. Even though he registered as a sex offender once he came to Kansas, no other authorities knew he was here. He had absolutely no supervision and could come and go as he pleased.

The day I found out that he was a child molester; my daughter was at the pool with her friend. Her friend is related to this man and her friend's mother allowed Delgado to drive my daughter to the swimming pool and back without my consent. Not only did he drive her to the pool, but he would also come out to the girls' softball games and watch them play. She was put in extreme danger!

I think it is so sad that we have to wait for a child to get hurt or murdered for a law to get changed. We are trying to be proactive and not reactive. I want restrictions on child sex offenders. They should not be allowed to go anywhere near where children go to school or gather. We have to protect our most precious resources, our children. As parents we always have to be aware of our children's comings and goings and who we allow them to be around. I understand that there are predators everywhere but it is a completely different feeling when he lives next door. Your time is appreciated, thank you.

Sincerely,

Sara and Shane Wood

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September 22, 2010

To: Joint Committee on Corrections and Juvenile Justice Oversight
From: Athena Andaya, Principal Analyst
Re: Comparable State Practices and Statutes on Sex Offender Residency Restrictions

Background

During the 2006 Legislative Session, SB 506 became effective upon publication in the *Kansas Register*. The bill, among other things, prohibited cities and counties from adopting or enforcing any ordinance, resolution, or regulation establishing residential restrictions for offenders required to register under the Offender Registration Act. The provisions were to expire on June 30, 2008.

The bill also authorized the creation of the Sex Offender Policy Board (SOPB) under the auspices of the Kansas Criminal Justice Coordinating Council (KCJCC). The SOPB was created to consult and advise the KCJCC on issues and policies relating to the treatment, sentencing, rehabilitation, reintegration, and supervision of sex offenders and to report its findings to the KCJCC, Governor, Attorney General, Chief Justice of the Supreme Court, Chief Clerk of the House of Representatives, and Secretary of the Senate.

During the 2006 Interim, the Special Committee on Judiciary was charged by the Legislative Coordinating Council with the responsibility to study actions by other states and local jurisdictions regarding residency and proximity restrictions for sex offenders to discover any serious unintended consequences of such restriction, and identify actions Kansas might take that actually achieve the intended outcome of increasing public safety. The Committee held a joint hearing with the Sex Offender Policy Board to take testimony from experts in the field. The Committee recommended the Legislature wait to receive the report from the Sex Offender Policy Board on the topic before any legislative action was taken (Attachment 1). The Special Committee did recommend the 2007 Legislature consider the following:

- Creation of safety zones patterned after the Illinois statutes;
- Development of more complete risk assessment tools;
- Narrowing the scope of application for offenses against children instead of minors;
- Preemption of local ordinances from establishing residency restrictions; and
- Creation of programs that focus on the dangers that lie within a child's family.

On January 8, 2007, the Kansas Sex Offender Policy Board issued a report on its findings regarding sex offender residence restrictions (Attachment 2). The Board concluded that sex

offender residence restrictions have no demonstrated efficacy as a means of protecting public safety. The Board recommended the following alternatives:

- Although resident restrictions appear to have strong public support, the Board found no evidence to support its efficacy. It is imperative that policy makers enact laws that will actually make the public safe and not laws giving the public a false sense of security;
- It is recommended that the Legislature make permanent the moratorium on residential restrictions. However, the moratorium should not be intended to interfere with a locality's ability to regulate through zoning the location of congregate dwellings for offenders, such as group homes;
- Residency restrictions should be determined based on individually identified risk factors;
- The most effective alternative for protecting children is a comprehensive education program. It is recommended that the necessary resources be provided to an agency determined appropriate by the Legislature to educate Kansas parents, children, and communities regarding effective ways to prevent and respond to sexual abuse. Such an education program should include all victims and potential victims of child sexual abuse; and
- In order for an effective model policy to be developed, the issue of sex offender residence restrictions should be referred to the Council of State Governments, the National Governor's Association, and similar organizations to prevent states and localities from shifting the population and potential problems of managing sex offenders back and forth among states.

During the 2008 Legislative Session, SB 536 was enacted to:

- Eliminate the sunset provision on the prohibition on cities and counties from adopting or enforcing any ordinance, resolution, or regulation establishing residential restrictions for offenders;
- Add a provision to exempt any city or county residential licensing or zoning program for correctional placement residences that regulates housing for such offenders from the prohibition from adopting or enforcing offender residency restrictions;
- Add a provision which defines "correctional placement residence" to mean a facility that provides residential services for offenders who reside or have been placed in the facility as part of a criminal sentence or for voluntary treatment services for alcohol or drug abuse; and
- Clarify that a correctional placement residence does not include a single or multifamily dwelling or commercial residential building that provides residence to persons other than those placed in the facility as part of a criminal sentence or for voluntary treatment services for alcohol or drug abuse.

Comparable State Practices and Statutes

The Council of State Governments compiled a list of states with sex offender residency restriction laws which references the statutory citation and provides a brief description of the restriction (Attachment 3). Additionally, I have attached the following state reports and other research on sex offender residency restrictions:

- White Paper on the Use of Residence Restrictions as a Sex Offender Management Strategy by the Colorado Sex Offender Management Board (Attachment 4);
- Statement on Sex Offender Residency Restrictions in Iowa by the Iowa County Attorneys Association (Attachment 5);
- Residential Proximity and Sex Offense Recidivism in Minnesota by the Minnesota Department of Corrections (Attachment 6);
- Sex Offender Residence Restrictions, Public Policy Briefs, Association for the Treatment of Sexual Abusers (Attachment 7);
- Residence Restrictions and Their Impact on Sex Offender Reintegration, Rehabilitation, and Recidivism, Jill S. Levenson (Attachment 8); and
- The Comprehensive Approach to Sex Offender Management, Publication from the Center for Sex Offender Management (Attachment 9).

Special Committee on Judiciary

RESIDENCY AND PROXIMITY RESTRICTIONS FOR SEX OFFENDERS

CONCLUSIONS AND RECOMMENDATIONS

After extensive testimony on the issues surrounding residency requirements for sex offenders, the Committee expressed an awareness that the Sex Offender Policy Board, created by the 2006 Legislature, is charged with studying these issues and reporting back to the Legislature in 2008.

As a consequence, the Committee:

- Encourages the Legislature to wait and receive the report from the Sex Offender Policy Board before any action is taken on residency requirements;
- Suggests the 2007 Legislature consider the following:
 - Creation of safety zones patterned after the Illinois statutes;
 - Development of more complete risk assessment tools;
 - Narrowing the scope of application for offenses against children instead of minors;
 - Preemption of local ordinances from establishing residency restrictions; and
 - Creation of programs that focus on the dangers that lie within a child's family.

The Committee encourages the Sex Offender Policy Board to explore the classifications of sex offenders by risk levels, reclassification of the sex offender registry, and to research whether sex offenders would be allowed to go into safety zones if such a statute as the Washington law were enacted.

Proposed Legislation:

BACKGROUND

The Special Committee was charged to study actions by other states and local jurisdictions regarding residency and proximity restrictions for sex offenders to discover any serious unintended consequences and identify actions Kansas might take that actually achieve the intended outcome of increasing public safety.

COMMITTEE ACTIVITIES

The Committee held a hearing on November 15, 2006, on sex offender restrictions. This interim committee topic was heard in conjunction with the Sex Offender Policy Board, which was created by a provision in 2006 SB 506. Members of the Sex Offender Policy Board include the following: Commissioner Don Jordan, Chair, Juvenile Justice Authority; Secretary Roger Werholtz, Department of Corrections; Secretary Gary Daniels, Social and Rehabilitation Services; Director Larry Welch, Kansas Bureau of Investigation; Justice Tyler Lockett, Retired, Designee for

Chief Justice of the Supreme Court; Scott Jackson, Executive Director, Family Life Center, Inc.; and Sandra Barnett, Executive Director, Kansas Coalition Against Sexual and Domestic Violence.

Conferees included Professor Jeffrey T. Walker, University of Arkansas who presented information about a 1997-1998 study he conducted that found:

- Forty eight percent of child sex offenders lived within the one buffer zone and over one-third lived within multiple buffer zones;
- Sex offenders acquire their victims from their family or close friends;
- Governments cannot control the locations for potential targets;
- There is a definite convergence of potentially motivated child sex offenders living in close proximity to concentrations of potential victims;
- There is no evidence that attempts to limit where sex offenders live has been successful;
- Government and police must work together to increase the effectiveness of sex offender registration and notification;
- Efforts must be made to increase the successful registration and tracking of sex offenders so that their living arrangements are always known;
- Residency requirements are not effective;
- Cities need to look for capable guardians to prevent child sex crimes from happening; and
- The study did uncover that sex offenders who offend against children are more likely to offend against children again and only two percent of those who offend against adults will offend against a child.

Pamela Dettman, County Attorney's Office, Des Moines County, Iowa, informed the Committee about concerns with the Iowa Sex Offender Residency Law that went into effect in July 2002. A few of the concerns were:

- The statute uses the word "committed" rather than "convicted";
- There are not guidelines as to how 2,000 feet would be measured; and
- If the offender has already established residency before a school, daycare center, or park is built or opened, does that offender have to move?

The number one priority of the Iowa County Attorneys Association is to have the statute repealed. Their research shows that there is no direct correlation between residency restrictions and reducing sex offenses against children. They believe it creates a false sense of security because 80-90 percent of sex crimes against children are committed by a relative or acquaintance.

Ms. Dettman proposed the following solutions:

- Create safety zones patterned after Illinois statutes;
- Do more complete risk assessments;
- Narrow the scope of application to offenses against children not minors;
- Preempt local ordinances; and
- Create programs that focus on dangers that lie within a child's family.

Mary Richards, Iowa Coalition Against Sexual Assault, provided the Committee with a statement sheet from the Iowa County Attorneys' Association reiterating the above testimony. Ms. Richards also provided a report entitled National Trends in Sex Offender Legislation and written testimony from Elizabeth Barnhill, Executive Director of the Iowa Coalition Against Sexual Assault.

Christopher Lobanov-Rostovsky, Program Director, Colorado Department of Public Safety reviewed a report on safety issues raised by living arrangements call "shared living arrangement" (SLA) in which two or three sex offenders live together in one residence with no supervision on the premises, although there is supervision with

home visits, tracking, schedule monitoring and phone call check in. Mr. Lobanov-Rostovsky's study recommended the following:

- All living arrangements need appropriate supervision;
- Court service officers should make individualized case decisions on the offenders' living arrangements;
- Positive, informed support is a key aspect of offenders' living arrangements;
- SLA's can be a beneficial sex offender management strategy for high risk sex offenders; and
- Residency restrictions may not deter sex offender recidivism.

Dr. Jill Levenson, Lynn University, testified via conference call to indicate that legislatures need to look at the most feasible ways to protect citizens such as the following:

- Create a risk assessment tool that allows screening of offenders into relative risk categories and applies the most restrictive and intensive interventions to the most dangerous sex offenders;
- Approach and evaluate individual offender's risks and needs, reinforce their strengths, and facilitate support systems;
- Adapt global positioning monitoring (GPS) that can be a useful tracking tool for high risk or predatory offenders, even though it is only able to detect where someone is, not what they are doing;
- Educate parents, teachers, and child care workers so they are aware of the signs and symptoms of child sexual abuse, and the common types of grooming patterns used by perpetrators who gain access to victims via their positions of trust or authority; and
- Reallocate money spent on residency requirements, which takes money away from funding for victim services. Investing in treatment and social services for abused children is the best strategy for preventing potential victims

in the future.

Representative Nile Dillmore indicated the City of Wichita will ask the 2007 Legislature, to ban child sex offenders from property where children congregate by giving the child sex offenders a written notice to leave. If the offender returns after receiving a written notice to leave, he or she could be charged with criminal trespass against a child, sentenced up to a year and fined \$10,000.

Doug Vance, Executive Director, Kansas Recreation and Parks Association, expressed support for the City of Wichita's proposed measures.

Melissa Alley, citizen, related her story about a convicted sex offender living across the street from her five-year-old son's school. She supports residency restrictions.

CONCLUSIONS AND RECOMMENDATIONS

After extensive testimony on the issues surrounding residency requirements for sex offenders, the Committee expressed an awareness that the Sex Offender Policy Board, created by the 2006 Legislature, is charged with studying these issues and reporting back to the Legislature in 2008.

As a consequence, the Committee:

- Encourages the Legislature to wait and receive the report from the Sex Offender Policy Board before any action is taken on residency requirements;
- Suggests the 2007 Legislature consider the following:
 - Creation of safety zones patterned after the Illinois statutes;
 - Development of more complete risk assessment tools;
 - Narrowing the scope of application for offenses against children instead of minors;
 - Preemption of local ordinances from

- establishing residency restrictions; and
- o Creation of programs that focus on the dangers that lie within a child's family.

The Committee encourages the Sex Offender Policy Board to explore the classifications of sex offenders by risk levels, reclassification of the sex offender registry, and to research whether sex offenders would be allowed to go into safety zones if such a statute as the Washington law were enacted.

KANSAS SEX OFFENDER POLICY BOARD

Report on Residence Restrictions for Sex Offenders

Introduction

The Kansas Sex Offender Policy Board met with the Special Committee on Judiciary on November 15, 2006 to discuss the issue of residence restrictions for sex offenders. The Board heard testimony on the subject from two Kansas community representatives as well as five researchers and subject matter experts from across the country.

In its analysis of this topic, the Board chose to focus on available research and the experiences of other states. While available research on this topic is limited, that which is available is consistent.

Information presented to Sex Offender Policy Board members included research studies from Arkansas, Colorado, Minnesota and Florida, as well as statements and position papers to the Iowa legislature from the Iowa County Attorneys Association and the Iowa Coalition Against Sexual Abuse. The Board also received a variety of news items collected starting in January of 2006 which discussed the experiences of other states that have dealt with the issue of residence restrictions.

Sex offender residence restrictions, or buffer zones, typically mandate a legally determined barrier around places where children congregate, such as parks, playgrounds and schools. These barriers have been known to range from 500 to 2,500 feet and exclude sex offenders from living within these areas. Proponents of residence restrictions often argue that the further away sex offenders are from potential victims, the less likely they are to re-offend against those victims.

Testimony provided indicated that residency restrictions are extremely popular with the general public, thus making policy makers' decision on this issue a difficult one. In 2004, 14 states had residence restrictions, commonly from 500-1,000 feet. In 2006, a total of 21 states had residence restrictions. In addition, hundreds of local jurisdictions have passed zoning laws, restricting sex offenders from living near 2,500 feet (about ½ mile).

The appeal of residence restrictions is to protect public safety, and more specifically, the safety of children. The fundamental issues to consider are whether residence restrictions for sex offenders have been proven to protect public safety, whether the theory behind residence restrictions is consistent with research and best practices in the fields of corrections and law enforcement, the viability of enforcing the restrictions, and whether the resources utilized for such an effort would be best directed toward alternative measures that would protect a larger

segment of the population and/or one that is at a higher risk of victimization.

Research on Public Safety and Limitations

Residency restrictions are extremely popular and have received overwhelming public and political support. It is important to acknowledge that the public believes they are safer with residency restrictions, when in fact, they are not. Of the research studies available to the Sex Offender Policy Board on the issue of residence restrictions for sex offenders, none found a positive correlation between residence restrictions and preventing re-offending behavior.

One presenter noted during his presentation to legislators and the Board that governments cannot control the location of potential targets (day cares, schools, and parks) and there is no evidence that attempts to limit where sex offenders live have been successful. Meanwhile, a second presenter emphasized that research shows no correlation between residency restrictions and reducing sex offenses against children or improving the safety of children. A third conferee noted there is no evidence that proximity to schools increases recidivism, or, conversely, that housing restrictions reduces re-offending or increases community safety.

Dr. Jill Levenson provided the Board with an overview of the research on whether offender proximity to schools/child care centers, increased recidivism. Levenson referred to a 2004 study of 130 Colorado sex offenders on probation who were tracked for 15 months. Though 15 (12 percent) of the offenders were rearrested for new sex crimes, they were all "hands off" offenses, such as peeping, voyeurism, or indecent exposure. The 15 recidivists were scattered randomly throughout the study area and appeared to live no closer than non-recidivists to schools or child care centers. The study concluded that residence restrictions are unlikely to deter sex offenders from committing new sex crimes, further stating that such policies should not be considered viable strategies for protecting communities.

In a 2003 study, 329 sex offenders considered at highest risk to re-offend were tracked for three to six years. (Appendix C—Reference #14) Of the 13 cases of sexual re-offending (four percent of the study group), none of the offenses occurred in or near schools. While two of the offenses did take place near parks, those areas were several miles from the offenders' homes and were arrived at by car. Researchers concluded that sex offenders' residential proximity to schools or parks was not a factor in recidivism, nor did it enhance public safety. The study added that blanket policies restricting where sex offenders are allowed to live are unlikely to benefit community safety.

Another concern presented included the issue of available housing for sex offenders. A 2003 report to the Minnesota legislature observed that residency restrictions "would likely force level three sex offenders to move to more rural areas that would not contain nearby schools and parks but would pose other problems, such as a high concentration of offenders with no ties to the community; isolation; lack of work, education and treatment options; and an

increase in the distance traveled by agents who supervise offenders.”

This was supported by Levenson’s presentation, citing her 2005 report to the Florida legislature. In it she stated “such laws aggravate the scarcity of housing options for sex offenders, forcing them out of metropolitan areas and farther away from the social support, employment opportunities and social services that are known to aid offenders in successful community re-entry.”

The Association for the Treatment of Sexual Abusers (ATSA) is well-recognized for its progress in the field of treating sex offenders. ATSA was “founded to foster research, facilitate information exchange, further professional education and provide for the advancement of professional standards and practices in the field of sex offender evaluation and treatment.”

One of the presenters shared an ATSA position paper entitled *Facts About Adult Sex Offenders*. In it, ATSA makes recommendations for the effective treatment of sex offenders.* Those recommendations include:

1. *Lifestyle circumstances can affect the chances of new offenses. Stable housing and employment, healthy social and leisure activities, a vigilant and pro-social support system and ongoing treatment are all important to ensure success.*
2. *Despite its effectiveness, treatment is only one component of an effective strategy to protect the community from sex offenders. Monitoring and support by community corrections agents, other professionals, the offender's social support system and the entire community play a crucial role.*

The above ATSA precepts are broadly accepted by professionals who manage, supervise and treat sex offenders, and offer insight into a crucial drawback to the imposition of residence restrictions.

Enforcement of Residence Restrictions

The State of Iowa implemented a 2,000-foot residence restriction, prompting the Iowa County Attorneys Association to issue a statement in January 2006. In it, the Association specifically concluded that Iowa’s residence restriction policy was, “contrary to well-established principles of treatment and rehabilitation of sex offenders” and that its goals are “severely impaired by the residency restriction, compromising the safety of children by obstructing the use of the best known corrections practice.”

*This and other ATSA position papers can be found on its website at <http://www.atsa.com>

Furthermore, the Iowa County Attorneys Association voiced concern with the observations of law enforcement that residency restrictions are causing offenders in Iowa to become homeless, to change residences without notifying authorities of their new locations, to register false addresses or to simply disappear.

Information presented by the Iowa Coalition Against Sexual Assault also addressed concern with residency restrictions' impact on homelessness and its impact on public safety. They stated Iowa sex offenders are absconding in large numbers for the first time, interfering with probation and parole supervisors' ability to effectively monitor and treat offenders who are living under bridges, in parking lots, in tents at parks, or at interstate truck stops.

Information from law enforcement has provided similar statements. The Iowa residence restriction law causes more sex offenders to be deceptive and lie about their whereabouts, making tracking them much more difficult. The result of this is damage to the reliability of the sex offender registry, along with a decrease in public safety.

Testimony from Pamela Dettmann with the Des Moines County Attorney's Office voiced concern about ever-changing mapping due to the opening of new schools or day cares and the closing of existing schools or day cares, the ability to verify and enforce the statute on individuals no longer required to be on sex offender supervision and the enactment of local ordinances which create issues of banishment and exodus to other communities.

Alternative Measures

Testimony to the Special Committee on Judiciary and the Board referenced Bureau of Justice Statistics research that found the, "vast majority (80 to 90 percent) of sex crimes against children are committed by a relative or acquaintance who has a prior relationship or access to the child." This research finding is accepted by all of the experts who testified, as well as victims' advocates, law enforcement officials and treatment providers nationwide.

The Iowa Coalition Against Sexual Assault, referenced a 2006 study where only 10.8 percent of female, and 15.7 percent of male adults sexually victimized before the age of 12 reported being sexually violated by a stranger, stated, "the sad reality is that most of the time children know, and often have trusted, the person who sexually abuses them."

Of the long-held theory of teaching children to stay away from strangers as a means to protect them from victimization, the Center for Missing and Exploited Children notes on its website, "The National Center for Missing & Exploited Children (NCMEC) has never supported the 'stranger-danger' message, especially because experience has shown that most children are actually taken by someone they know or are familiar with."

Given the fact that the vast majority of children are sexually victimized by people who are

known to them and have relationships to their families, residence restrictions do not address the major source of child sexual victimization. As a result, it is the Board's belief that broadly applied residency restrictions should not be considered and their usage should be defined strictly on an individualized basis.

The question then becomes how best to protect *all* children from victimization. On this, experts from every field are abundantly clear. The most viable alternative for protecting children is a wholesale comprehensive education program for children, their families and the community.

In its January 2006 statement on the issue, the Iowa County Attorneys Association supported the replacement of residence restrictions with more viable alternatives, such as educational programs for young children aimed at keeping them safe from *all* offenders. Both the Jacob Wetterling Foundation and the Center for Missing and Exploited Children underscore the need for widespread, comprehensive, community and family education, especially prior to the occurrence of a tragic event. The Jacob Wetterling Foundation has staff available to provide such training and the Center for Missing and Exploited Children provides a framework, guidance and support for communities to develop their own such training.

The theory of community education is consistent with Dr. Jeffery Walker's presentation. He stated in his 2001 study, that while the enforcement of residency restrictions is difficult, "what the police can do, however, is make as many people in the neighborhood (especially those who are the guardians of potential victims or may be potential victims themselves) aware of the presence of a potentially motivated offender."

This education program could be broadly applied through public education that would be intended to reach all victims and potential victims of child sexual abuse rather than just a select few. Such an education program could be augmented by community involvement in the already existing system of sex offender management, supervision and treatment. It is recommended that necessary resources be provided to an agency determined appropriate by the legislature to educate Kansas parents, children, and communities regarding effective ways to prevent the sexual abuse of children and to respond to it when it occurs.

In addition to community education, the Colorado Sex Offender Management Board has developed "Community Supervision Teams" for the management, supervision and treatment of sex offenders on probation, parole and community corrections programs. Though the protocols for the teams include many of the fundamentals of current Kansas sex offender supervision, they also formalize the element of multidisciplinary involvement in the supervision process.

Each Colorado community supervision team is charged with making many of the pivotal

decisions about the ongoing management and supervision of sex offenders. The teams consist of the supervising officer, the treatment provider, and a polygrapher. In the true spirit of community involvement, this team could be expanded in non-confidential settings to include, for instance, a member of local law enforcement and perhaps a volunteer from a local neighborhood watch organization. Similar groups, known as Community Accountability Panels, currently are being used in the supervision of other Kansas offenders.

Conclusion

A wealth of information is available to indicate that sex offender residence restrictions have not reduced the risk of re-offending behavior. In fact, research supports the likelihood that these types of restrictions often cause alienation, destabilization and isolation that lead to re-offending behavior.

Research and best practices in the field of corrections, law enforcement, sex offender treatment and more particularly, victims' advocacy groups, equally discount residence restrictions as a useful means to manage, supervise and treat sex offenders.

With regard to enforcement, the overwhelming experience of states such as Iowa that have been vocal enough to share their experiences in attempting to enforce residence restrictions underscores the theory that normally compliant offenders will take desperate measures to either comply with or circumvent residence restrictions. This increases the time law enforcement must spend on locating offenders, decreases the time they are able to spend on protecting the majority of potential child sexual abuse victims and subverts the usefulness of offender registries.

For these reasons, sex offender residence restrictions have no demonstrated efficacy as a means of protecting public safety.

Recommendations

- Although resident restrictions appear to have strong public support, the Board found no evidence to support its efficacy. It is imperative that policy makers enact laws that will actually make the public safe and not laws giving the public a false sense of security.
- It is recommended that the legislature make permanent the moratorium on residential restrictions. However, the moratorium should not be intended to interfere with a locality's ability to regulate through zoning the location of congregate dwellings for offenders such as group homes.
- Residency restrictions should be determined based on individually identified risk factors.

- The most effective alternative for protecting children is a comprehensive education program. It is recommended that the necessary resources be provided to an agency determined appropriate by the legislature to educate Kansas parents, children and communities regarding effective ways to prevent and respond to sexual abuse. Such an education program should include all victims and potential victims of child sexual abuse.
- In order for an effective model policy to be developed, the issue of sex offender residence restrictions should be referred to the Council of State Governments, the National Governor's Association and similar organizations to prevent states and localities from shifting the population and potential problems of managing sex offenders back and forth among states.

Residency Restriction Zones

	State	Distance/Location	Citation	Year Enacted
1	Alabama	2,000 ft/school, child care facility	Ala. Code § 15-20-26	2005
2	Arizona	1,000 ft/ school, childcare facility for level 3 offenders/dangerous crimes against children	A.R.S. §13-3727	2007
3	Arkansas	2,000 ft/school, day care center	Ark. Code Ann § 5-14-128	2003
4	California	2,000 ft/school, park, where children gather	Cal. Penal Code § 3003.5	2006
5	Florida	1,000 ft/where children gather	Fla. Stat. 948.30	2003
6	Georgia	1,000 ft/where children gather	Ga. Code Ann. § 42-1-15	2006
7	Idaho	500 ft/ school with children under 18	Idaho Code § 18-8329	2006
8	Illinois	500 ft/school	720 Ill. Comp. Stat. 5/11-94	2006
9	Indiana	1,000 ft/school, park, youth program center	Ind. Code § 35-42-4-11	2006
10	Iowa	2,000 ft/school, child care facility	Iowa Code § 692A.2A	2002
11	Kentucky	1,000 ft/school, child care facility, playground, ball field	Ky. Rev. Stat. § 17.545	2006
12	Louisiana	1,000 ft/school, related activities, school buses	La. Rev. Stat. Ann. § 14:91.1	2001
13	Maryland	Parole Commission restricts where feasible	Md. Code Ann., Crim. Pro. § 11-724	2006
14	Michigan	1,000 ft/school (student safety zone)	Mich. Comp. Laws §§ 28.733-735	2006
15	Minnesota	End-of-Confinement Review Committee decides	Minn. Stat. Ann. § 244.052	1996
16	Mississippi	1,500 ft/school, child care facility	Miss. Code Ann. § 45-33-25	2006
17	Missouri	1,000 ft/school, child care facility	Mo. Rev. Stat. § 566.147	2006
18	Montana	Judge decides	Mont. Code Ann. § 46-18-255	2001
19	Nebraska	500 ft/school, child care facility	Neb. Rev. Stat. § 29-4017	2006
20	New Mexico	School/day care center in 1 mile radius contacted	N.M. Stat. Ann. § 29-11A-5.1	2000
21	Ohio	1,000 ft/school, child care facility, where children gather	Ohio Rev. Code Ann. § 2950.031	2003
22	Oklahoma	2,000 ft/school, day care center, park	Okla. Stat. 57 § 590	2003
23	Oregon	Department of Corrections decides	Or. Rev. Stat. §§ 144.642, 144.644	2001
24	South Carolina	1,000 ft/school, day care, childrens recreation facility, park, playground	S.C. Code Ann. § 23-3-535	2008
25	Tennessee	1,000 ft/school, child care facility, victim	Tenn. Code Ann. § 40-39-211	2004
26	Texas	Distance specified by Parole Board	Tex. Gov't Code Ann. § 508.187	1997
27	Virginia	100 ft/school, child care center	Va. Code Ann. § 18.2-370.2	2000
28	Washington	880 ft/school, day care center	Wash. Rev. Code §§ 9.94A.712(6)(a)(ii), 9.95.425-430	2006
29	West Virginia	1,000 ft/school, child care facility	W. Va. Code § 62-12-26	2006

Source: The Council of State Governments

August 2008

Attachment 3

18-15

Colorado Sex Offender Management Board

WHITE PAPER ON THE USE OF RESIDENCE RESTRICTIONS AS A SEX OFFENDER MANAGEMENT STRATEGY



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The United States has witnessed an increase in sex offender management policy beginning in the 1990's and continuing through as recently as 2006 at the Federal, State, and local level. As a result, laws have been enacted with the intention of protecting the community from sex offenders including the recent Adam Walsh Child Protection and Safety Act of 2006. Part of this movement has included the passing of zoning and residence restrictions, which prohibit convicted sex offenders from residing within a certain distance of areas where children typically congregate or from living in the same residence with another convicted sex offender. Currently, approximately 30 of the states in the U.S. have enacted statewide residence restrictions (Koch 2007). Although well intentioned and with the safety of the community in mind, these ordinances are often passed without consideration of the research and are typically ineffective for a number of reasons. Consequently, there is an emerging and escalating necessity to address these laws, which may seem appealing to the community, legislature, and policy makers despite growing concerns regarding their actual effectiveness.

A number of years ago Colorado experienced several jurisdictions contemplating such policies after a concerned citizen notified the media of a Shared Living Arrangement (SLA) in her neighborhood. (SLA's are residences where more than one convicted sex offender resides while receiving intensive correctional and treatment services). At the time there was a lack of knowledge and research regarding the use of SLA's and their effectiveness in managing high risk sex offenders. This, coupled with negative media exposure, led to the passing of several local zoning restrictions which prevented more than one sex offender per residence from being housed in the jurisdiction. When the Colorado Legislature became aware of what local jurisdictions were doing and received a request to pass a state law, they requested that the Sex Offender Management Board (SOMB) conduct a formal study on the safety issues pertinent to SLA's and residence/zoning restrictions.

The SOMB is a legislatively created board administered by the Division of Criminal Justice, Colorado Department of Public Safety. The SOMB has been mandated to develop Standards for the treatment and supervision of sex offenders. The SOMB's philosophy is to support research based community and victim safety policy development through a collaborative approach. As requested, a research study was conducted in 2004 in reference to the proximity of sex offender residences to schools and childcare centers and the related impact on community safety. This study utilized information on 130 sex offenders from the Denver metropolitan area in conjunction with plotting the subjects' residences on maps.

The findings of the research revealed that among sex offenders who reoffended, there were not a greater number of sex offenders living within proximity to schools and childcare centers than those who did not live in proximity locations. In addition, sex offenders who received positive support (i.e. family, friends, treatment, SLA's, and employers who were aware of the sex offender's issues and held the offender accountable in a supportive fashion) had significantly lower numbers of probation violations and re-offenses than those with no support or negative support (Colorado Department of Public Safety 2004). It should be noted that this finding has been supported by numerous other research studies related to residence restrictions and recidivism rates regarding the reintegration of sex offenders (Minnesota Department of Corrections 2003 & 2007; Ohio State University 2009; Levenson, Zandbergen, & Hart 2008).

Minnesota Department of Corrections conducted two important studies in 2003 and 2007 regarding the impact of residence restrictions. The first study focused on residential placement issues of high risk offenders and found that there was no evidence that residential proximity to schools or parks affected recidivism. This was replicated by Levenson, Zandbergen, & Hart in 2008. Furthermore, the Minnesota study revealed that residence restrictions were limiting most high risk sex offenders to residing in rural, suburban, or industrial areas resulting in fewer supervising agents and less available services (Minnesota Department of Corrections 2003). The latter study conducted in 2007 was about residential proximity and recidivism and revealed that none of the 224 sexual recidivists studied would have been affected by residency restrictions. It was also learned that even when offenders made direct contact with juvenile victims, the offenders were unlikely to do so close to where they lived because they were attempting to maintain anonymity. One of the most compelling factors discovered in this research was that in 16 years of discharging sex offenders from the prison, *none* of the recidivists who returned due to a new sex offense resulted from contact with a juvenile victim near a school, park, or daycare (Minnesota Department of Corrections 2007).

There has recently been a considerable amount of research focusing on the successful reintegration of sex offenders. As a result, common themes have been discovered that significantly impact recidivism, which are stable housing or living accommodations, secure employment, and positive support systems/resources. States that have enacted residence restrictions have conducted empirical studies showing that the laws have actually proven counterproductive to these factors because they often cause destabilization to sex offenders (Iowa, California, Florida, and Ohio). Consequently, there has been discussion that the ordinances may in fact inadvertently exacerbate the factors correlated with recidivism (Ohio State University 2009).

A recommendation was made by the SOMB in 2004 indicating that placing restrictions on the location of correctionally supervised sex offender residences may not deter sex offender re-offense and should not be used as a universal sex offense management strategy. Such decisions should be made on an individualized basis by the sex offender's Community Supervision Team. Furthermore, it was suggested that the imposition of residence restrictions may increase the risk of re-offense by forcing sex offenders to live in communities where positive support systems may not exist, and they may be removed from accessible resources or live in remote areas providing them with high degrees of anonymity. This has been further supported by the Association for the Treatment of Sexual Abusers (ATSA 2005).

More recently, in 2008, the Colorado SOMB conducted a statewide survey of varying law enforcement jurisdictions regarding their sex offender residency restriction policies, if any. Twenty-eight (28) jurisdictions across Colorado participated in this on-line survey. Approximately 20% of participants had sex offender residence restrictions in place. Most of the jurisdictions that had the restrictions limited housing for registered sex offenders to at least 1,000 feet from any schools or daycare settings.

This study compared data from jurisdictions that did *not* have residence restriction ordinances (n=22) to jurisdictions that did have them in place (n=6). The average population of the jurisdictions that did *not* have residence restrictions in place was twice as high as the average population in the jurisdictions that did have them in place; however, the average number of registered sex offenders was higher in the jurisdictions with residence restrictions in place. Additionally, the average number of sex crime arrests in jurisdictions with residence restrictions in place was twice as much as the average number of sex

crime arrests in jurisdictions that did *not* have them. There did not appear to be any differences in the number of offenders who failed to register, by sex offender population, in both types of jurisdictions.

Out of the six (6) jurisdictions that had residence restrictions in place, two (2) reported data regarding sex offender population, sex crimes, and failure to register information prior to when the ordinances were imposed. Of these two (2), there were no significant changes in the number of registered sex offenders or number of sex crimes after residence restrictions were enacted. However, the number of registered sex offenders who failed to register, perhaps going underground, seemed to increase after the ordinances were enacted.

On a national level, research from the U. S. Department of Justice conducted in 2000 indicated that 93% of child sexual abuse victims knew their abusers (Bureau of Justice Statistics 2000). This information has been confirmed through subsequent research and may in fact be a conservative number. Studies have also shown that most sexual offenses are committed in the offender's or the victim's home (Greenfeld 1997; Bureau of Justice Statistics 2000; Smallbone and Wortley 2000; Colombino and Mercado 2009). Research conducted in other states, including Iowa and California, indicate that homelessness, absconding from supervision, and not registering for tracking purposes all appeared to be significant byproducts of residence restrictions (Davey and Rood 2006, Thompson 2007). Additional research has revealed that residence restrictions have negatively impacted the risk for recidivism with sex offenders due to increased isolation, financial hardship, decreased stability, and lack of support (Levenson and Cotter 2005).

The national legislation that began in the 1990's in this country were purportedly enacted to better track sex offenders in an effort to increase public safety, which appears at odds with proximity restrictions as many sex offenders end up going underground and/or providing false or inaccurate address information. This renders registration databases incomplete and unreliable, making tracking ineffective. Many of the states that originally enacted residence restrictions have expressed regret due to aforementioned issues, along with enforcement difficulties and legal dilemmas regarding constitutional rights. Many constituents in Iowa have been actively working to repeal their residence restriction law and victim centered programs have begun publicly expressing disagreement with such laws due the negative impact they have on treatment and monitoring efforts of sex offenders (Iowa County Attorney's Association, California Coalition on Sexual Offending & New Hampshire Coalition Against Domestic Violence and Sexual Violence). One of the most concerning aspects of the implementation of residence restrictions, locally or nationally, is the passing of policy and law without consideration for research, best practice, and effective methodology. This often results in unintended, counterproductive consequences which negatively impact community safety.

An additional important factor to note is the false sense of security that can result from these types of ordinances. The concept of limiting where a sex offender sleeps at night versus where he/she spends time during the day if not supervised through the criminal justice system seems ineffective. Many residence restrictions are worded so that the prohibited party is able to frequent any place, but is excluded from residing near areas where children commonly gather. There are sex offenders living in all communities because nationwide the minority of convicted sex offenders are sentenced to imprisonment or incarceration. Accordingly, housing has become a near epidemic issue, especially for those labeled

high risk. Legally, these offenders have the right to secure a residence and as previously stated they are most likely to succeed in the community if they are afforded that right.

Politically speaking, a government official does not typically want a reputation of being soft on sex offenders. This is likely the perception of a political figure opposing residence or zoning restrictions if the community as a whole is not sufficiently educated, regardless of the ineffectiveness of such laws. Society often relies on sensationalized media accounts to educate them about sex offenders, policy, and laws. Thus, creating effective and responsible community safety policy and laws on a local and national level are cumbersome and complicated.

Communities are obviously concerned with their overall safety and as a result sex offenders have become a common topic of debate and controversy. This is evident in the legislature, the justice system, and in the media. Representatives of such systems have tended to focus on extreme cases and as a result, myths have been perpetuated and led to emotional reactions of sort. The Federal laws driving sex offender policy (Wetterling, Megan's Law, and the Adam Walsh Act) are all a result of tragic crimes that received media and legislative attention. Ironically, they are in fact, the rarest types of sex offenses and represent less than 1% of sexual assault convictions in the nation (Levenson and D'Amora 2007). As a result, implementation of these policies has been problematic because once a law is enacted, it becomes difficult to reverse. Furthermore, to date there is no research indicating that residence restrictions are correlated with reduced recidivism or increased community safety.

Colorado has historically been proactive with regard to the management of sex offenders. The state has a Board, standards for treatment providers, and has conducted valuable research. Thus, the following resources, alternatives, and suggestions are provided for governmental agencies and advocacy groups involved in policy-making and legislative activity. They include, but are not limited to: implementing policy based on relevant research; funding relevant research; identifying and promoting effective methods of community education; educating law enforcement, policy makers and legislators; encouraging the use of Shared Living Arrangements (SLA's) as utilized in Colorado; promoting the containment model; and multi-disciplinary collaboration among agencies in sex offender management.

In conclusion, the ethical and responsible choices with regard to the management of sex offenders are not always the most popular. This is especially true in the current socio-political environment that emphasizes accountability, and many times, has a punitive tone with regard to sex offenders. However, the long lasting impact on sex offenders, communities, and victims require thoughtful research based policies and laws. There is much to learn from the states that have enacted such laws and research conducted thereafter. It appears counterproductive to endorse and/or institute policy and law based on fear, ignorance, and politics when it causes more problems than it solves. Community safety is paramount and should be the common goal when considering any policy or law regarding sex offenders. Residence restrictions and zoning laws as a whole are clearly counterproductive to this goal.

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STATEMENT ON SEX OFFENDER RESIDENCY RESTRICTIONS IN IOWA

December 11, 2006

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

The ICAA has the following observations concerning the current restriction:

1. Research shows that there is no correlation between residency restrictions and reducing sex offenses against children or improving the safety of children.
2. Research does not support the belief that children are more likely to be victimized by strangers at the covered locations than at other places.
3. Residency restrictions were intended to reduce sex crimes against children by strangers who seek access to children at the covered locations. Those crimes are tragic, but very rare. In fact, 80 to 90 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. There is no demonstrated protective effect of the residency requirement that justifies the huge draining of scarce law enforcement resources in the effort to enforce the restriction.
6. The categories of crimes included in the restriction are too broad, imposing the restriction on many offenders who present no known risk to children in the covered locations.
7. A significant number of offenders have married or have been reunited with their victims; and, in those cases, the residency restriction is imposed on the victims as well as the offenders.
8. Many offenders have families whose lives are unfairly and unnecessarily disrupted by the restriction, causing children to be pulled out of school and away from friends, and causing spouses to lose jobs and community connections.
9. Many offenders are physically or mentally disabled but are prohibited from living with family members or others on whom they rely for assistance with daily needs.
10. The geographic areas included in the prohibited 2,000 foot zones are so extensive that realistic opportunities to find affordable housing are virtually eliminated in most communities. The lack of transportation in areas not covered by the restriction limits employment opportunities. The adoption of even more restrictive ordinances by cities and counties exacerbates the shortage of housing possibilities.
11. The residency restriction has no time limit; and, for many offenders, the restriction lasts beyond the requirement that they be listed on the sex offender

registry. For this reason, there are many offenders who are subject to the residency restriction but who are not required to inform law enforcement of their place of residence, making enforcement nearly impossible.

12. There is no accommodation in the current statute for persons on parole or probation supervision. These offenders are already monitored and their living arrangements approved. The restriction causes many supervised residential placements to be unavailable even though they may be the most appropriate and safest locations for offenders to live.
13. Many prosecutors have observed that the numerous negative consequences of the lifetime residency restriction has caused a reduction in the number of confessions made by offenders in cases where defendants usually confess after disclosure of the offense by the child. In addition, there are more refusals by defendants charged with sex offenses to enter into plea agreements. Plea agreements are necessary in many cases involving child victims in order to protect the children from the trauma of the trial process. This unforeseen result seriously jeopardizes the welfare of child victims and decreases the number of convictions of sex offenders to accurate charges. Consequently, many offenders will not be made fully accountable for their acts and will not be required to complete appropriate treatment or other rehabilitative measures that would enhance the safety of children. Similar unintended negative effects often accompany well-intended efforts to increase prison sentences with mandatory provisions.
14. The drastic reduction in the availability of appropriate housing, along with the forced removal of many offenders from established residences, is contrary to well-established principles of treatment and rehabilitation of sex offenders. Efforts to rehabilitate offenders and to minimize the rate of reoffending are much

more successful when offenders are employed, have family and community connections, and have a stable residence. These goals are severely impaired by the residency restriction, compromising the safety of children by obstructing the use of the best known corrections practices.

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

- A statute creating defined protected areas (“child safe zones”) that sex offenders would be prohibited from entering except in limited and safe circumstances. Such areas might include schools and childcare facilities.
- Entrance into the protected areas would be allowed only for activities involving an offender’s own child and only with advance notice and approval from those in charge of the location.
- The restriction should cover offenses against “children” (under age 14), rather than “minors” (under 18).
- The statute should specifically preempt local ordinances that attempt to create additional restrictions on sex offenders. Such ordinances result in a variety of inconsistent rules and promote apprehension among local authorities that they must act to defend themselves from the perceived effects of the actions of other communities.
- Most important, any restriction that carries the expectation that it can be effectively enforced must be applied to a more limited group of offenders than is covered by the current residency restriction. This group should be

identified by a competent assessment performed by trained persons acting on behalf of the state. The assessment should be directed at applying the statutory restriction only to those offenders that present an actual risk in public areas to children with whom the offender has no prior relationship

- Children will be safer with clarification and strengthening of certain child sex abuse laws, including, sex abuse by deception, sexual exploitation of a person “reasonably believed to be a minor,” using a position of authority to cause children to engage in a sex act, and requiring admission at trial of a defendant’s prior acts of sexual abuse.
- Sex offender treatment both inside and outside of prison should be fully funded and improved.
- Measures should be enacted that aim at keeping all young people safe from all offenders. This should include programs that focus on the danger of abuse that may lie within the child’s family and circle of acquaintances. It is important to help children and parents recognize the signs and dangers of sex abuse by persons with ordinary access to children.
- Recognize that child safety from sex offenses is not amendable to simple solutions by creating a Sex Offender Treatment and Supervision Task Force to identify effective strategies to reduce child sex offenses.

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

The Iowa County Attorneys Association strongly urges the General Assembly and the Governor to act promptly to address the problems created by the 2,000 foot residency restriction by replacing the restriction with measures that more effectively protect children, that reduce the unintended unfairness to innocent persons and that make more prudent use of law enforcement resources, and strengthen the child sex abuse laws and prosecution. The ICAA stands ready to assist in any way with this effort.

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**Residential Proximity &
Sex Offense Recidivism
in Minnesota
April 2007**



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Attachment 6

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EXECUTIVE SUMMARY

In an effort to curb the incidence of sexual recidivism, state and local governments across the country have passed residency restriction laws. Designed to enhance public safety by protecting children, residency restrictions prohibit sex offenders and, in particular, child molesters from living within a certain distance (500 to 2,500 feet) of a school, park, playground or other location where children are known to congregate. Given that existing research has yet to fully investigate whether housing restrictions reduce sexual recidivism, the present study examines the potential deterrent effect of residency restrictions by analyzing the sexual reoffense patterns of the 224 recidivists released between 1990 and 2002 who were reincarcerated for a sex crime prior to 2006.

In order to determine whether the 224 cases might have been affected by residency restrictions, four basic criteria were used.

1. Because housing restrictions are geared primarily towards deterring sex offenders—namely, child molesters—from initiating contact with potential victims, offenders had to establish direct contact with the victims, as opposed to gaining access to their victims through another person they know such as a significant other (e.g. wife, fiancée, girlfriend, etc.), friend, co-worker, or acquaintance.
2. The contact had to have occurred within at least one mile of the offender's residence at the time of the offense.
3. The first contact location had to have been near a school, park, daycare center, or other prohibited area.
4. The victim had to have been under the age of 18 at the time of the offense.

Data on the most recent sex offense for the 224 recidivists were derived from the criminal complaint, the pre-sentence investigation (PSI) report, the Statewide Supervision (SSS) database, and the Minnesota Department of Corrections' (DOC) Correctional Operations Management System (COMS) database.

Results

Not one of the 224 sex offenses would likely have been deterred by a residency restrictions law. Only 79 (35 percent) of the cases involved offenders who established direct contact with their victims. Of these, 28 initiated victim contact within one mile of their own residence, 21 within 0.5 miles (2,500 feet), and 16 within 0.2 miles (1,000 feet). A juvenile was the victim in 16 of the 28 cases. But none of the 16 cases involved offenders who established victim contact near a school, park, or other prohibited area. Instead, the 16 offenders typically used a ruse to gain access to their victims, who were most often their neighbors.

Residential proximity had very little impact on the 224 sex offenses examined here for several reasons. First, the results clearly indicated that what matters with respect to sexual recidivism is not residential proximity, but rather social or relationship proximity. A little more than half (N = 113) of the 224 cases were “collateral contact” offenses in that they involved offenders who gained access to their victims through another person, typically an adult. For example, one of the most common victim-offender relationships found in this study was that of a male offender developing a romantic relationship with a woman who has children. The sex offender recidivists examined here used their relationships with these women to gain access to their victims—the women’s children. Likewise, it was relatively common for offenders to gain access to victims through babysitting for an acquaintance or co-worker, or living with friends who had children.

Second, even when offenders established direct contact with victims, they were unlikely to do so close to where they lived. This may be due mostly to the fact that offenders are more likely to be recognized within their own neighborhoods. As a result, when direct contact offenders look for a victim, they are more likely to go to an area relatively close to home (i.e. within 20 miles of their residence), but still far enough away (i.e. more than one mile) to decrease the chances of being recognized.

Additional Key Findings

- Of the 224 sex offenses, 85 percent occurred in a residential location such as the offender's home, while the remaining 15 percent took place in a public location.
- The vast majority (79 percent) of the 224 offenders victimized someone they knew.
- When the offender victimized a stranger, 28 percent committed the offense in their own residence, 23 percent within one mile of their home, and 49 percent committed the crime more than one mile from their residence.
- Whereas only 35 percent established contact directly with their victims, half (50 percent) of the sex offender recidivists gained access to their victims through a form of collateral contact such as a girlfriend, wife, co-worker, friend, or acquaintance. For the remaining 14 percent, the offenders were biologically related to their victims.
- Compared to the other 145 recidivists, the 79 direct contact offenders were more likely to use alcohol and/or drugs prior to the offense, to use physical force during the offense, and to have a history of victimizing adult strangers. These offenders were the least likely to victimize children in either their previous or current offense.
- The 113 collateral contact offenders were more likely to have longer criminal histories and a history of victimizing female acquaintances under the age of 18. In their reoffense, more than half (53 percent) victimized a female acquaintance under the age of 18.
- The 32 recidivists who offended against a biological family member were more likely to be older white males who had a history of victimizing family members and children under the age of 13.

Policy Implications

A statewide residency restrictions law would likely have, at best, only a marginal effect on sexual recidivism. Although it is possible that a residency restrictions law could avert a sex offender from recidivating sexually, the chances that it would have a deterrent effect are slim because the types of offenses it is designed to prevent are exceptionally

rare and, in the case of Minnesota, virtually non-existent over the last 16 years. Rather than lowering sexual recidivism, housing restrictions may work against this goal by fostering conditions that exacerbate sex offenders' reintegration into society.

INTRODUCTION

In light of the perception that sex offenders pose a major threat to their communities because they are highly incorrigible, local and state governments have recently enacted policies that restrict where sex offenders are allowed to live. For example, at least 18 states have passed legislation that bars sex offenders from living near schools, daycare centers, parks and other areas where potential vulnerable victims may be present (Nieto and Jung, 2006).¹ And in Minnesota, local governments in Taylors Falls and Wyoming have passed ordinances restricting the placement of sex offenders.

Designed to enhance the safety of children, residency restrictions are targeted mainly towards child molesters, who often gain access to their victims through (1) marriage, (2) occupation, or (3) the neighborhood in which they live. Because residency restrictions are intended to prevent child molesters from making direct contact with children, they are primarily applicable with the third type of access—neighborhood (Walker, Golden, and VanHouten, 2001). But are such policy measures consistent with the reality of sexual recidivism? That is, are sex offenders highly likely to recidivate? And when they do reoffend, are they likely to directly establish contact with victims in close proximity to their own residence?

Existing research clearly indicates that sex offenders are, compared to other offenders, among the least likely to reoffend (Langan and Levin, 2002). Moreover, when sex offenders recidivate, they are much more likely to do so with a non-sexual offense. Examining recidivism among 9,691 sex offenders released from prison in 1994, Langan and colleagues (2003) found that only 12 percent of the rearrests in the three-year post-release period

¹ Nieto and Jung (2006) identified 22 states (Alabama, Arkansas, California, Florida, Georgia, Illinois, Iowa, Kentucky, Indiana, Louisiana, Missouri, Minnesota, New Mexico, Michigan, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Washington, and West Virginia) with sex offender residency restriction laws. Of these, however, four (Minnesota, New Mexico, Oregon, and Texas) do not have statutory language specifically prohibiting sex offenders from living within a certain distance of a child congregation location. In New Mexico, for example, schools must be notified of sex offenders living within a one-mile radius, but the law does not restrict where they can live. In the other three states, a government body (e.g. Department of Corrections or the Parole Board) is responsible for determining where and how close a sex offender can live to a child congregation location. As a result, there are 18 states with legislation that automatically restricts where sex offenders can live.

involved a sex offense. When sex offenders recidivate sexually, at least 75 percent victimize individuals (both adults and children) they already know (Greenfield, 1997; Snyder, 2000).

Prior research has had relatively little to say, however, about **where** sex offenders recidivate. In 2001, Walker, Golden, and VanHouten examined the geographical relationship between sex offenders' residences and areas likely to contain potential victims in one Arkansas county. They found that child molesters were more likely to live in close proximity to schools, daycare centers or parks compared to offenders convicted of sex crimes involving adult victims. In 2004, however, the Colorado Division of Criminal Justice examined 130 sex offenders under probation supervision and found that those who reoffended sexually were no more likely than non-recidivists to live closer to schools and childcare centers (Colorado Department of Public Safety, 2004). Instead, the recidivists were randomly scattered throughout the Denver metropolitan area. Moreover, in a report to the legislature on residential placement for Level 3 offenders, the DOC found that residential proximity to a park, school, or daycare center did not appear to be a factor contributing to sexual recidivism (Minnesota Department of Corrections, 2003). These results are not necessarily generalizable to all sex offenders, however, since the sample was very small (N = 13) and limited only to Level 3 recidivist offenders (i.e., those considered highest risk to reoffend sexually) who were released between 1997 and 1999.

The Impact of Residency Restrictions on Sex Offenders

While these studies explored the potential effects of housing restrictions on recidivism, other research has examined the impact on the offenders themselves. As Mustaine, Tewksbury and Stengel (2006) point out, sex offenders are frequently relegated to neighborhoods and communities marked by social disorganization. Furthermore, residency restrictions often force offenders to move from their residences. For example, Levenson and Cotter (2005) surveyed 135 sex offenders in Florida who were subject to residency restrictions that prohibited them from living within 1,000 feet of a school, daycare center, park, playground, or other place where children regularly congregate. Levenson and Cotter found that 50 percent of the 135 offenders, of whom 97 percent were child molesters, reported being forced to move on account of the 1,000 foot rule. In addition, the results indicated that the housing

restrictions also led to increased isolation, decreased stability, and greater emotional and financial stress.

The Present Report

Because Minnesota has not enacted a residency restrictions law, it is not possible to precisely determine the actual impact of such a law on sexual recidivism. It is possible, however, to identify the cases that might have been affected by residency restrictions. Of the 3,166 sex offenders released between 1990 and 2002, there were 224, all of whom were male, who were reincarcerated for a sex offense following their initial release from prison. This study examines the reoffense patterns for these 224 offenders in an effort to determine whether any might have been affected by residency restrictions. In doing so, this study focuses on several key questions. First, where did offenders initially establish contact with their victims, and where did they commit the offense? Second, what were the physical distances between an offender's residence and both the offense and first contact locations? Finally, were other factors such as victim-offender relationship, supervision status, use of alcohol/drugs, and use of force associated with both residential proximity and the sexual reoffense?

DATA AND METHODS

To address these questions, data were gathered on the 224 sex offender recidivists released from a MCF between 1990 and 2002; all sample members were reincarcerated in a MCF for a sex offense prior to January 1, 2006. The measure of recidivism used—reincarceration—is employed due to the greater availability of data on the offenders who returned to prison for a new sex crime.

Measures

Several different sources of data were used to examine proximity: the criminal complaint for the sexual reoffense, the pre-sentence investigation (PSI) report, the Statewide Supervision System (SSS), the Minnesota Bureau of Criminal Apprehension (BCA) offender registry, and the Correctional Operations Management System (COMS)—the database maintained by the Minnesota Department of Corrections. These sources were reviewed for each of the 224 recidivists, and data were recorded for each of the following items: (the sources used for each item are included in parentheses):

- Offender's address at the time of the re-offense (criminal complaint, PSI report, SSS, and BCA offender registry)
- The address of the location where the new offense occurred (criminal complaint)
- The location/address where the offender first established contact with the victim (criminal complaint and PSI report)
- The type of location where the offense took place; e.g. offender's residence, victim's residence, public building, etc. (criminal complaint)
- The type of location where the offender first established contact with the victim; e.g. offender's residence, victim's residence, bar/nightclub, etc. (criminal complaint)
- The relationship between the offender and victim; e.g. stranger, girlfriend's daughter, babysitter, etc. (criminal complaint)
- The amount of force used; e.g. no force, force with injury, etc. (criminal complaint)
- The presence of alcohol and/or drug use by the offender and/or the victim around the time of the offense (criminal complaint and PSI report)

Additional offender and victim data were also collected from COMS. The variables derived from COMS include supervision status at the time of the offense, prison-based treatment outcome, prior criminal history, age at release, sentencing county, institutional discipline history during the 12 months prior to release, length of stay, length of supervision, supervision type, number of supervised release violations, and victim characteristics of their prior sex offense.

Analysis

Once all data were collected, the physical distances between the offender's residence and both the offense and first contact locations were calculated, using Google Earth. For example, using the "Directions" feature, the offender's address was entered in the first address location (i.e. "From"), whereas the offense or first contact location was entered in the second address location (i.e. "To"). The "Ruler" feature in Google Earth was then used to determine the straight-line distance (in both feet and miles) between the first and second address locations.

Four criteria were used to determine whether residency restrictions might have prevented a sex crime from occurring. As noted above, housing restrictions are geared primarily towards deterring sex offenders—namely, child molesters—from initiating contact with potential victims by prohibiting them from living within a certain distance of a school, park, daycare center or other area where children might be present. The first criterion, then, concerns the means by which the offenders established contact with their victims. Therefore, the analyses focus on direct contact offenders, who typically initiated contact with their victims by approaching them on the street, meeting them in a bar, or breaking into the victim's home. Additionally, the analyses also assess offenders who gained access through indirect means (e.g. girlfriend's daughter, babysitter, friend's son or daughter, etc.) in order to provide a more complete picture of the patterns of sexual reoffending.

The second criterion concerns the distance between an offender's residence and where he (all 224 offenders were male) first established contact with the victim. There is no clear consensus on the distance requirement across jurisdictions that have implemented housing

restrictions; statutes range from 500 to 2,500 feet. The distances in most states, however, are often between 1,000 to 2,500 feet (Levenson and Cotter, 2005). This study therefore determines residential proximity on the basis of a 1,000 foot zone (0.2 miles) as well as a 2,500 foot zone (0.5 miles). To ensure that neither distance is overly restrictive, residential proximity is also determined on the basis of a one mile zone (5,280 feet). As a result, three distances are used in this study to determine residential proximity: 1,000 feet, 2,500 feet, and 5,280 feet (one mile).

The third criterion concerns the type of location where the offender established contact with the victim. In order for a case to be considered one that might have been prevented by a residency restrictions law, the offender had to have established victim contact in or near one of the prohibited areas: a school, park, playground, daycare center, or other location where children are known to congregate.

The fourth criterion concerns the age of the victim. Because housing restrictions focus on the protection of children, the victim(s) had to have been under the age of 18 at the time of the offense in order for it to be considered a case where a residency restriction law might have made a difference.

All four of the criteria outlined above had to be met in order for an offense to be classified as one that might have been prevented by housing restrictions. If, for example, an offender established direct contact with a juvenile victim 0.3 miles (1,584 feet) away from his residence at a park and committed the offense in the same location, residential proximity would be relevant for both the 0.5 mile (2,500 feet) and 1.0 mile distances, but not for the 0.2 mile (1,000 feet) distance. Similarly, if an offender broke into a neighbor's home 0.1 miles (500 feet) away from his own residence and victimized a juvenile female victim, the case would not meet the criteria for classification because the first contact location was the victim's home.

Other criteria could also be included such as the offender's sexual criminal history. The objective here, however, is to identify whether residency restrictions might have deterred any

of the 224 cases from occurring, regardless of whether the offender had a history of victimizing children. Nevertheless, offender's sexual criminal history is included in the analyses presented later.

RESULTS

The results show that 85 percent of the offenses occurred in a residential location (see Table 1). The other 15 percent took place in a public location, of which most were an exterior location such as a street, alley, or park. A little more than half (53 percent) of the recidivists committed the offense in their own residence. Of these 118 reoffenses, the offender shared the residence with the victim in 34 percent of the cases. A little more than 41 percent of the offenses took place in the victim's home. In 57 percent of these cases, the victim did not share the residence with the offender.

Table 1. Location of Sex Reoffenses

<i>Location of Offense</i>	<i>Number</i>	<i>Percent</i>
Offender's Residence	78	34.8
Victim's Residence	53	23.7
Shared Residence	40	17.9
Residence of Acquaintance/Family Member	14	6.3
Other Residence (e.g. hotel room)	5	2.2
Exterior Public Location	28	12.5
Interior Public Location	6	2.6
Total	224	100.0

For 27 of the 224 cases, it was not possible to estimate the distance between the offender's residence and the location where the offense took place due to the absence of specific address information for either one. This was especially true for the older cases, primarily those that took place in the early to mid-1990s.

Offender Residence-Offense Location Distance

Of the 197 cases where specific address information was available, nearly two-thirds (63 percent) took place inside the offender's residence (see Table 2). Of that 63 percent, the victim shared the residence with the offender in 36 percent of the offenses. These results suggest that offenders were most likely to commit offenses in or near their place of residence. More specifically, as the distance between the offender's residence and the offense location increased, the number of offenses decreased. For example, 18 percent of the offenses took place within five miles of the offender's residence, 7 percent from 6-10 miles, 4 percent from

11-15 miles, and 2 percent for 16-20 miles and 21-25 miles, respectively. However, relatively few of the offenses (9 percent) took place within one mile of the offender's residence.

Table 2. Distance between Offender's Residence and Offense Location

<i>Distance</i>	<i>Number</i>	<i>Percent</i>
Offender's Residence	79	40.5
Offender/Victim Shared Residence	45	22.8
Less than 1 mile	17	8.6
1-5 miles	19	9.6
6-10 miles	14	7.1
11-15 miles	8	4.2
16-20 miles	4	2.1
21-25 miles	3	1.5
26-50 miles	5	2.5
Over 50 miles	3	1.5
Total	197	100.0

Compared to the offender residence-offense location distance, estimating the distance between the offender's residence and the first contact location was more difficult for several reasons. First, the address information regarding the specific location where offenders first established contact with their victims was frequently unavailable in the criminal complaint. Second, for some cases, geographic distance was irrelevant in that several offenders first established contact over the telephone or the internet (i.e. dating personals). Finally, and perhaps most important, the majority of the offenders knew their victims at the time of the offense, often for some time before the crime took place. For example, determining the specific location where an offender first met his stepdaughter (his victim) is largely irrelevant to the issue of residential proximity. Consequently, the findings regarding the offender residence-first contact distance will focus only on the direct contact offenders, and will be presented later in this report.

Victim-Offender Relationship

As shown below in Table 3, 21 percent of the offenders victimized someone they did not know. This percentage is higher than that normally seen in sex offender populations because

Table 3. Victim-Offender Relationship of Sex Reoffenses

<i>Victim-Offender Relationship</i>	<i>Number</i>	<i>Percent</i>
Stranger	48	21.4
Acquaintance/Other Known	51	22.8
Babysitter	13	5.8
Neighbor	8	3.6
"Romantic/Dating"	13	5.8
Friend of Family	20	8.9
Significant Other's Son/Daughter	39	17.4
Family/Biological	32	14.3
Total	224	100.0

this is a sample of recidivists, who are more likely to victimize strangers. Consistent with research on sex offenders in general, the vast majority (79 percent) of offenders, however, victimized someone they knew. Acquaintance/Other Known was the most common victim-offender relationship (23 percent), followed closely by offenders who victimized the daughter or son of the woman with whom they had developed a romantic relationship (17 percent). This category includes men who molested their stepdaughters or stepsons. In 14 percent of the cases, offenders victimized family members such as their own daughter, niece, or granddaughter.

When the offenders victimized a stranger, 28 percent committed the offense in their own residence (see Table 4). When they committed the offense outside their residence, however, most did so more than one mile away from their home; fully 49 percent of the stranger-on-stranger reoffenses took place more than one mile from the offender's residence. In contrast,

Table 4. Offense Location-Offender Residence Distance by Victim-Offender Relationship

<i>Distance</i>	<i>Stranger</i>	<i>Acquaintance/ Other Known</i>	<i>Babysitter</i>	<i>Neighbor</i>	<i>Romantic</i>	<i>Friend of Family</i>	<i>Significant Other's Son/ Daughter</i>	<i>Other Family</i>	<i>Total</i>
Offender's Residence	27.9	73.8	76.9	37.5	41.7	58.8	88.8	80.8	62.9
< 1 mile	23.3	0.0	7.7	62.5	8.3	0.0	0.0	0.0	8.6
1-5 miles	18.6	7.1	0.0	0.0	16.7	23.5	2.8	3.8	9.6
6-10 miles	11.6	2.4	15.4	0.0	16.7	0.0	5.6	7.7	7.1
11-20 miles	14.0	7.1	0.0	0.0	8.3	5.9	2.8	0.0	6.1
21-50 miles	2.3	9.5	0.0	0.0	8.3	5.9	0.0	3.8	4.1
> 50 miles	2.3	0.0	0.0	0.0	0.0	5.9	0.0	3.8	1.5
N	43	42	13	8	12	17	36	26	197

23 percent occurred within one mile of the offender's residence. Of the 17 offenses that took place within one mile of the offender's residence, ten involved strangers, five involved neighbors, one involved a babysitter, and one involved a "consensual," romantic relationship.

Alcohol/Drug Use

Of the 224 reoffenses, the available evidence indicated that 69 percent did not involve the use of either alcohol or drugs on the part of the victim or the offender. The use of alcohol was

Table 5. Reoffense Characteristics by Use of Alcohol and/or Drugs

<i>Characteristics</i>	<i>None</i>	<i>Alcohol</i>	<i>Drugs</i>	<i>Both</i>	<i>Total</i>
<u>Distance</u>					
Offender's Residence	65.1	65.1	77.8	37.5	62.9
Less than 1 mile	8.8	11.6	0.0	0.0	8.6
1-5 miles	10.9	4.7	0.0	25.0	9.6
6-10 miles	5.4	9.3	22.2	0.0	6.9
11-20 miles	5.4	7.0	0.0	25.0	6.3
21-50 miles	4.7	2.3	0.0	12.5	4.2
Over 50 miles	2.3	0.0	0.0	0.0	1.5
N	137	43	9	8	197
<u>Victim-Offender Relationship</u>					
Stranger	21.3	18.4	40.0	20.0	21.4
Acquaintance/Other	15.5	40.8	20.0	50.0	22.8
<u>Known</u>					
Babysitter	5.8	6.1	0.0	10.0	5.8
Neighbor	3.2	6.1	0.0	0.0	3.6
"Romantic/Dating"	6.5	6.1	0.0	0.0	5.8
Friend of Family	11.0	4.1	0.0	10.0	8.9
Significant Other's	20.0	12.2	20.0	0.0	17.4
<u>Son/Daughter</u>					
Family/Biological	16.8	6.1	20.0	10.0	14.3
N	155	49	10	10	224
<u>Force</u>					
None	65.8	44.9	40.0	50.0	59.4
<u>Physical Force</u>					
Force w/Weapon	1.9	6.1	10.0	10.0	3.6
Force w/Injury	8.4	6.1	10.0	0.0	7.6
Force w/Weapon & Injury	3.2	2.0	20.0	20.0	4.5
N (percent)	155 (69.2)	49 (21.8)	10 (4.5)	10 (4.5)	224

present in 22 percent of the offenses, while the remaining nine percent were evenly split between the use of drugs and both alcohol and drugs (see Table 5). Although the use of alcohol and/or drugs appears to be unrelated to distance, the findings suggest that offenses in which the offender was an acquaintance to the victim were more likely to involve the use of substances, particularly alcohol. In addition, offenses in which the offender used physical force against the victim were slightly more likely to involve the use of alcohol and/or drugs.

Physical Force

The data show that 91 offenders (41 percent) used physical force in their reoffense (see Table 6). More specifically, 17 offenders inflicted injury to the victim without a weapon, 10 caused

Table 6. Reoffense Characteristics by Use of Physical Force

<i>Characteristics</i>	<i>None</i>	<i>Force</i>	<i>Force w/ Weapon</i>	<i>Force w/ Injury</i>	<i>Force w/ Weapon & Injury</i>	<i>Total</i>
<u>Distance</u>						
Offender's Residence	73.5	51.1	25.0	53.3	40.0	62.9
Less than 1 mile	4.3	14.9	12.5	6.7	30.0	8.6
1-5 miles	6.8	10.6	12.5	20.0	20.0	9.6
6-10 miles	7.7	6.4	12.5	6.7	0.0	7.1
11-20 miles	2.6	12.8	0.0	13.3	10.0	6.1
21-50 miles	4.3	0.0	37.5	0.0	0.0	4.1
Over 50 miles	0.9	4.3	0.0	0.0	0.0	1.6
N	117	47	8	15	10	197
<u>Victim-Offender Relationship</u>						
Stranger	9.0	35.7	37.5	41.2	60.0	21.4
Acquaintance/Other Known	21.1	21.4	50.0	29.4	20.0	22.8
Babysitter	6.8	7.1	0.0	0.0	0.0	5.8
Neighbor	3.8	3.6	12.5	0.0	0.0	3.6
"Romantic/Dating"	6.0	3.6	0.0	11.8	10.0	5.8
Friend of Family	9.8	12.5	0.0	0.0	0.0	8.9
Significant Other's Son/Daughter	25.6	7.1	0.0	5.9	0.0	17.4
Family/Biological	18.0	8.9	0.0	11.8	10.0	14.3
N	133	56	8	17	10	224
<u>Alcohol/Drug</u>						
None	76.7	57.1	37.5	76.5	50.0	69.2
Alcohol	16.5	35.7	37.5	17.6	10.0	21.9
Drugs	3.0	3.6	12.5	5.9	20.0	4.5
Both	3.8	3.6	12.5	0.0	20.0	4.5
N (percent)	133 (59.4)	56 (25.0)	8 (3.6)	17 (7.6)	10 (4.4)	224

injuries with a weapon, and eight used force with a weapon but did not inflict injuries. The remaining 56 offenders used physical force that involved neither weapons nor injuries. Stranger-on-stranger offenses were more likely to involve the use of physical force than all other types of offender-victim relationships. Conversely, offenders who victimized the daughter or son of their significant other (e.g. girlfriend, fiancée, etc.) were less likely to use physical force. Regarding distance, offenses occurring outside the offender's home were more likely to involve the use of physical force. In particular, offenses taking place within 20 miles of the offender's residence (except for those between 6-10 miles) were most likely to involve the use of physical force.

Type of Victim Contact

As noted above, determining the location where offenders first established contact with their victims was often difficult, particularly for offenders who had known their victims for some time. More important, however, the data show that residential proximity had only modest relevance in a majority of the 224 reoffenses. More specifically, 79 offenders (35 percent) directly established contact with the victim. For these "direct contact" offenders, they met their victims by approaching them on the street, meeting them in a bar, or breaking into the victim's home. For the remaining 65 percent, however, the offenders were biologically related to their victims (14 percent), or they gained access to their victims through a form of collateral contact such as a girlfriend, wife, co-worker, friend, or acquaintance (50 percent). Thus, for the "biological contact" and "collateral contact" offenders, residential proximity was not nearly as important as social or relationship proximity.

As shown in Table 7, direct contact offenders were, compared to the other recidivists (i.e. collateral and biological contact offenders), more likely to be minorities from the Minneapolis/St. Paul Metro area. Although they were less likely to have a felony conviction prior to their initial prison commitment, they had, on average, more than twice as many institutional disciplinary convictions as the other recidivists. In their sex reoffense, where they established direct contact with their victims, all of the offenders victimized acquaintances and strangers. In particular, it was almost evenly split between the two, although nearly one-third assaulted a stranger adult female victim. Consistent with earlier

findings, which showed a connection between stranger victims, physical force, and the use of alcohol/drugs, direct contact offenders were more likely to use physical force and alcohol/drugs.

Table 7. Recidivist Characteristics by Type of Victim Contact

<i>Characteristics</i>	<i>Direct Contact</i>	<i>Collateral Contact</i>	<i>Biological Contact</i>	<i>Total</i>
<u>Demographics</u>				
White Offenders (percent)	60.8	66.4	78.1	66.1
Average Age at Release (years)	32.8	32.3	36.7	33.1
Metro (percent)	57.7	54.5	46.9	54.5
<u>Criminal History</u>				
Prior Sex Crime (percent)	30.4	38.1	21.9	33.0
Prior Felony (percent)	53.2	64.6	56.3	59.4
<u>Institutional</u>				
Recent Discipline Convictions	5.6	2.5	2.4	3.5
Length of Stay (months)	29.8	26.2	27.5	27.6
Completed Treatment (percent)	9.0	8.9	12.5	9.5
Treatment Dropout (percent)	6.4	9.8	6.3	8.1
<u>Post-Release</u>				
Length of Supervision (months)	25.2	20.9	17.2	21.9
ISR (percent)	21.5	8.0	6.3	12.5
SRVs (number)	0.56	0.46	0.66	0.53
<u>Reoffense</u>				
Alcohol/Drugs (percent)	36.7	30.1	18.7	30.8
Physical Force (percent)	59.5	31.9	25.0	40.6
Supervised at Time of Offense (percent)	34.2	24.8	31.3	29.0
Time Unsupervised (months)	34.8	42.5	32.9	38.7
<u>Prior Victim Characteristics</u>				
Female (percent)	82.7	85.0	90.3	85.0
Child (percent)	24.1	49.6	59.4	42.0
Adolescent (percent)	33.6	40.5	31.3	35.7
Adult (percent)	35.4	16.8	9.4	22.3
Family (percent)	8.9	22.1	50.0	21.4
Acquaintance (percent)	57.0	72.6	40.6	62.5
Stranger (percent)	34.2	5.3	9.4	16.1
<u>Reoffense Victim Characteristics</u>				
Female (percent)	83.5	88.5	87.5	86.6
Child (percent)	19.0	52.2	62.5	42.0
Adolescent (percent)	27.8	33.6	28.1	30.8
Adult (percent)	53.5	14.2	9.4	27.2
Family (percent)	0.0	18.6	100.0	23.7
Acquaintance (percent)	45.6	74.3	0.0	53.6
Stranger (percent)	54.4	7.1	0.0	22.8
N (percent)	79 (35.3)	113 (50.4)	32 (14.3)	224

Unlike collateral and biological contact offenders, direct contact offenders were much less likely to victimize those under the age of 13 (i.e. "Child") in either their previous or current offense. Instead, they were much more likely to victimize adults. Indeed, adults were the victims in 54 percent of their reoffenses, which is more than four times greater than for the other recidivists. Further, these offenders were more likely to have a history of victimizing adult strangers. For example, in their previous sex offense, 35 percent had victimized adults, whereas 34 percent had victimized strangers.

Compared to the other recidivists, collateral contact offenders had more significant criminal histories, as they were most likely to have both a prior felony conviction and a previous sex crime conviction. However, they had, on average, the fewest number of supervised release violations (SRVs). In their reoffense, 74 percent victimized acquaintances, 19 percent family members (e.g. stepdaughter), and 7 percent strangers (see Table 7). Approximately 53 percent of the acquaintance victims were females under the age of 18. Collateral contact offenders were more likely to have a prior history of offending against female acquaintances under the age of 18—the same group that comprised 53 percent of their reoffense victims; thus, they had a relatively high rate of specialization. At 75 percent, collateral contact offenders were least likely to be under supervision at the time of the offense. Moreover, the average amount of time between the end of their post-release supervision and the offense date (43 months) was nearly a year longer than the other recidivists.

The 32 recidivists who offended against a biological family member were more likely to be older (by an average of about four years) white males who had, on average, the most supervised release violations (SRVs) compared to the other recidivists. In their reoffenses, which were least likely to involve alcohol and/or drugs, females under the age of 18 were the victims in 78 percent of the cases. Half (N = 16) of the 32 offenders had a history of victimizing family members. Moreover, these offenders were most likely to have previously victimized children under the age of 13.

Offender Residence-First Contact Distance for Direct Contact Offenders

In assessing the extent to which residential proximity had an impact on sexual reoffending, it is, as noted earlier, necessary to focus on the 79 direct-contact cases. As shown in Table 8, it was not possible to estimate the offender residence-first contact distance for 13 of the cases due to unavailable address information for either the offender's residence or the first contact location. However, even if it was possible to estimate the first contact distance, none of the cases would have likely been affected by residency restrictions according to the criteria outlined above. For example, in 10 of the 13 cases, the victim was an adult. In the three cases involving juvenile victims, one offender met the victim through his occupation. In the other two cases, the offenders established romantic, "consensual" relationships with the victims, both of whom were 14-years-old. One of the offenders, who was 24 at the time, met the victim at a party attended by mutual friends, while the other offender, who was 19-years-old, "picked up" the victim as she was taking a walk from her home.

Table 8. Offender Residence-First Contact Distances for Direct Contact Offenders

<i>Distance</i>	<i>Number</i>	<i>Percent</i>
Less than 1,000 ft. (0.19 miles)	18	22.8
1,000-2,500 ft. (0.20-0.47 miles)	5	6.3
2,501-5,280 ft. (0.48-0.99 miles)	7	8.8
1-2 miles	6	7.6
3-5 miles	10	12.7
6-10 miles	4	5.1
11-20 miles	4	5.1
Greater than 20 miles	7	8.8
Telephone	4	5.1
Internet	1	1.2
Unknown	13	16.5
Total	79	100.0

Given that four offenders established contact over the telephone and one offender initiated contact via the internet, there were 61 direct-contact cases in which address information was available. Of the 61 cases, more than half (N = 31) contacted their victims beyond a mile from where they were residing at the time of the offense. In 30 cases, the offenders met their victims less than a mile away from their home. However, one of these offenders victimized an inmate while he was incarcerated at a county jail, whereas another offender molested his roommate at a halfway house following his release from prison. Because residency

restrictions would not apply in either situation, both cases were excluded, lowering the total to 28. Of the 28 cases, 21 would qualify under a 2,500 foot (less than 0.5 miles) zone, whereas this number would drop to 16 for a 1,000 foot (less than 0.2 miles) zone.

Residential Proximity for Direct Contact Offenders

The 28 offenders who established direct victim contact within a mile of their residence were, compared to the other recidivists, more likely to be minorities who were slightly older at the time of release (see Table 9). They had lengthier institutional discipline histories and were much less likely to have completed prison-based sex offender treatment (in fact, no direct contact offenders successfully completed treatment). In their reoffense, they were most likely to target an adult female stranger. Indeed, 43 percent of the victims were adults, 79 percent were females, and 68 percent were strangers. Not surprisingly, these offenders were, compared to other recidivists, much more likely to have a history of victimizing strangers and, to a lesser extent, adults. In addition, they were more likely to have been under supervision at the time of the offense and to have used physical force during the sex crime.

But how many of the 28 cases might have been prevented by a law barring sex offenders from living near prohibited areas such as schools, daycare centers, or parks? Twelve cases would be eliminated from consideration because they involved adult victims. Of the remaining 16 cases with juvenile victims, 12 involved offenders who established direct contact within 1,000 feet while two additional cases involved an offender who initiated contact within 2,500 feet. Not one of the 16 cases, however, was facilitated by close proximity to a school, daycare, or park. Instead, the offenders in these 16 cases victimized neighbors, or they made contact with victims near their own property. For example, in eight of the cases, the victim was a neighbor to the offender in that they lived in the same residential block, trailer park, or apartment building. In four of the cases, the offenders made contact with the victims just outside their own property. In one incident, the offender met the victim, a 17-year-old male runaway, at a nearby fast food restaurant. One of the offenders molested a child who lived in the same apartment building of an acquaintance he was visiting. In another incident, the offender lived near a shopping mall, which is where he initiated contact with a juvenile victim. And in the final case, the offender gained entrance

Table 9. A Comparison of Residential Proximity Offenders

<i>Characteristics</i>	<i>Residential Proximity</i>	<i>Non-Residential Proximity</i>	<i>Total</i>
<u>Demographic</u>			
White Offenders (percent)	57.1	67.3	66.1
Average Age at Release (years)	35.2	32.9	33.1
Metro (percent)	50.0	55.2	54.5
<u>Criminal History</u>			
Prior Sex Crime (percent)	28.6	33.7	33.0
Prior Felony (percent)	57.1	60.0	59.4
<u>Institutional</u>			
Recent Discipline Convictions	5.50	3.26	3.55
Length of Stay (months)	32.2	27.0	27.6
Completed Treatment (percent)	0.0	10.8	9.5
Treatment Dropout (percent)	7.1	8.3	8.1
<u>Post-Release</u>			
ISR (percent)	17.9	11.7	12.5
Length of Supervision (months)	28.1	21.0	21.9
Supervised at Time of Offense (percent)	42.9	27.0	29.0
Time Unsupervised (months)	40.9	38.4	38.7
SRVs (number)	0.46	0.54	0.53
<u>Reoffense</u>			
Alcohol/Drugs (percent)	32.1	30.6	30.8
Physical Force (percent)	60.7	37.8	40.6
<u>Prior Victim</u>			
Female (percent)	75.0	86.8	85.3
Child (percent)	32.1	43.4	42.0
Adolescent (percent)	39.3	35.2	35.7
Adult (percent)	28.6	21.4	22.3
Family (percent)	10.7	23.0	21.4
Acquaintance (percent)	46.4	64.8	62.5
Stranger (percent)	42.9	12.2	16.1
<u>Reoffense Victim</u>			
Female (percent)	78.6	87.8	86.6
Child (percent)	28.6	43.9	42.0
Adolescent (percent)	28.6	31.1	30.8
Adult (percent)	42.8	25.0	27.2
Family (percent)	0.0	27.0	23.7
Acquaintance (percent)	32.1	56.6	54.0
Stranger (percent)	67.9	16.4	22.3
N	28	196	224

by breaking into the victim's home. In general, though, the offenders typically gained access to the victims by enticing them with a ruse; e.g. an offer to use the offender's phone or paying the victim money to clean the offender's residence.

Of the 224 cases, there were only three in which the offender established contact with the victim at a possible prohibited area where children are known to be present. The location was a park in two of the incidents, and a school in the other incident. In two of the cases, however, the offender lived more than 10 miles away from the first contact location, whereas the victim in the other case was an adult. Therefore, none of the 224 incidents of sex offender recidivism fit the criteria of a known offender making contact with a child victim at a location within any of the distances typically covered by residential restriction laws.

CONCLUSION

Only a minority of the 224 sex offender recidivists directly established contact with their victims. For those that did, they were much more likely to initiate contact with an adult. But even when offenders contacted juvenile victims directly, it was often more than a mile away from where they lived. Of the few offenders who directly contacted a juvenile victim within close proximity of their residence, none did so near a school, park, playground or other location where children are normally present. Thus, not one of the 224 offenses would likely have been affected by residency restrictions.

It is important to emphasize, however, that this study did not encompass every sex reoffense committed by the sex offenders released from an MCF between 1990 and 2002. For example, there were 80 additional offenders (N = 304) who were reconvicted of a sex offense, and 70 more (N = 374) on top of that who were rearrested. Still, regardless of the way in which recidivism is measured, the total number of sexual reoffenses committed by the offenders examined here constituted a very small fraction of the total number of sex crimes committed in Minnesota between 1990 and 2005. Indeed, given there were a little more than 10,600 criminal sexual conduct sentences during the 1990-2005 period, the sex offender recidivists in this study were responsible for approximately two percent (224 sex crime reconvictions) of the sex offenses in Minnesota that resulted in a conviction. Furthermore, recent data reveal that recidivists account for a relatively small portion of the total number of sex offenses. Of the 591 criminal sexual conduct sentences during 2004, only 10 percent (N = 58) involved offenders who had a previous sex crime conviction.

In general, the results presented here provide very little support for the notion that residency restriction laws would lower the incidence of sexual recidivism, particularly among child molesters. Why, then, does residential proximity appear to matter so little with regard to sexual reoffending? Much of it has to do with the patterns of sexual offending in general. Sex offenders are much more likely to victimize someone they know. For example, one of the most common victim-offender relationships found in this study was that of a male offender developing a romantic relationship with a woman who has children. The sex offender recidivists examined here used their relationships with these women to gain access

to their victims—the women’s children. Similarly, it was relatively common for offenders to gain access to victims through babysitting for an acquaintance or co-worker, or living with friends who had children. Thus, in half the cases, the offenders established contact with their victims through their relationship or acquaintance with another person, almost invariably an adult.

Even when offenders established direct contact with victims, they were unlikely to do so close to where they lived. This may be largely due to the fact that offenders are more likely to be recognized within their own neighborhoods. Indeed, many of the child molesters Levenson and Cotter (2005) interviewed for their study indicated that they were careful not to reoffend close to their own home. As a result, when direct contact offenders look for a victim, they are more likely to go to an area relatively close to home (i.e. less than 20 miles), but still far enough away (i.e. greater than one mile) to decrease the chances of being recognized.

A residency restrictions law would likely offer, at best, a marginal impact on the incidence of sexual recidivism. This is not to say, however, that housing restrictions would never prevent a sex offender from reoffending sexually. Based on the results presented here, however, the chances that it would have a deterrent effect are slim. Indeed, over the last 16 years, not one sex offender released from a MCF has been reincarcerated for a sex offense in which he made contact with a juvenile victim near a school, park, or daycare center close to his home. In short, it is unlikely that residency restrictions would have a deterrent effect because the types of offenses such a law are designed to prevent are exceptionally rare and, in the case of Minnesota, virtually non-existent over the last 16 years.

It is still possible, however, that a housing restrictions law could have an impact because laws sometimes have unintended consequences. It is debatable, though, whether the impact would be a positive one. In 2002, Iowa passed a residency restrictions law, prohibiting sex offenders from living within 2,000 feet of a child congregation location. Although there are no hard data on the impact of the law, anecdotal evidence suggests that residency restrictions have limited offender employment prospects, reduced suitable housing opportunities, and

threatened the reliability of the sex offender registry by causing more offenders to become homeless, change residences without notifying the authorities, or register false addresses. Moreover, the forced removal of offenders from established residences also appears to have had an adverse impact on family members, causing children to be pulled out of school and away from friends, and resulting in the loss of jobs and community connections for spouses. Finally, prosecutors have claimed the prospect of lifetime residency restrictions has reduced the number of offender confessions and led to more plea agreement refusals (Iowa County Attorneys Association, 2006). Therefore, by making it more difficult for sex offenders to successfully re-enter society, housing restrictions might promote conditions that work against the goal of reducing the extent to which they recidivate sexually.

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Sex Offender Residence Restrictions

Definition

A state law (or local ordinance) restricting where sexual offenders can live. Examples include 500 to 2500 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. Some states limit the restriction to only those sexual offenders who are convicted of the most serious offenses, offend against minors, or are judged highly likely to reoffend, while others apply the law more broadly to all sex offenders.

Background

Beginning in the mid 1990's, due to the emergence of registration and notification laws, residents became more aware of sexual offenders living in their neighborhoods. This led to the notion that laws could restrict sexual offenders from living within close proximity to areas where children congregate.

Application

At least 30 states and many cities have implemented some form of residence restriction, including Alabama, Arizona, Arkansas, California, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, and West Virginia. In some of these states, the constitutionality of residence restrictions is under review.

Current Research Highlights

Residence restrictions attempt to prevent predatory sexual recidivism, despite the fact that approximately 93% of all sex crimes are perpetrated by offenders known to the victim prior to the offense (Bureau of Justice Statistics, 2002). The majority of sexually abused children are victimized by someone well known to them and approximately 60% of offenses take place in the victim's home or the home of someone they know (Bureau of Justice Statistics, 1997).

Currently, only one study (Minnesota Department of Corrections, 2007) has investigated the potential effectiveness of sexual offender residence restrictions to reduce recidivism. The authors examined the offense patterns of 224 sexual offenders released between 1990 and 2005. The results demonstrated that residence restrictions would not have prevented any re-offenses. Of the 224 offenders, only 27 (12%) established contact with their victim(s) within one mile of the offenders' home and not one established contact near a school, park, or playground.

The Colorado Department of Public Safety (2004) used mapping software to examine the residential proximity to school and daycare centers of 13 sexual offenders who sexually recidivated in a study of 130 sexual offenders over a 15-month follow-up period (15 offenses by 13 offenders). The results demonstrated that recidivists were randomly located and were not significantly more likely than non-recidivists to live within 1,000 feet of a school or daycare.

What Promotes Effective Sex Offender Management?

Current research regarding treatment effectiveness suggests (in brief):

- Studies suggest sexual offenders can benefit from treatment and that sex offender therapy can help reduce recidivism.
- Sexual offenders require supportive environments that focus on addressing mental health, developmental, and behavioral issues in order to reduce the likelihood of recidivism. Support includes access to housing, employment opportunities, and transportation.
- Social stability and support increases the likelihood of successful reintegration.

Do Residence Restrictions Help or Hinder Treatment?

The unintended consequences of residence restrictions include transience, homelessness, and instability. Offenders are often pushed to areas that are more rural (the higher the population density the more likely neighborhoods include schools, parks, etc.). These conditions can lead to:

- diminished access to specialized treatment and probationary supervision,
- employment and housing disruption, and
- separation from supportive and/or dependent family members.

These factors can hinder effective treatment and may interfere with the overall goal of reducing recidivism and re-victimization. In fact, unemployment, unstable housing, and lack of support are associated with increased criminal recidivism. Thus, residence restrictions, aimed at improving community safety, may inadvertently create an environment in which offenders are more at risk to reoffend.

Alternatives

Rather than applying a blanket policy that treats all sexual offenders the same, regardless of offense behavior or victimization patterns, a subset of sex offenders, considered high-risk to re-offend, require more intensive supervision and management strategies. Risk management should be commensurate with the level and type of risk presented by a given sexual offender. Strategies to limit victim access, including housing restrictions, can be applied by a supervising officer and treatment provider on an individual basis. Risk assessment and evidence-based application of residence restrictions, close monitoring, and social support systems incorporating community engagement and responsibility are viable alternatives.

Conclusions

Studies suggest that sexual recidivism is more likely to be result from a pre-existing relationship between the sexual offender and the victim rather than residential proximity to schools. There is no research to support the effectiveness of residence restrictions in reducing sex offender recidivism. It is recommended, therefore, that states (and local jurisdictions) seek out other, more effective methods to limit the risk to the community from convicted sexual offenders.

Additional Resources

- <http://www.cga.ct.gov/2007/rpt/2007-R-0380.htm>
- <http://www.csom.org/>
- <http://www.csom.org/ref/residencerestrictions.pdf>
- <http://www.dc.state.ks.us/publications/sex-offender-housing-restrictions>
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Residence Restrictions and their impact on sex offender
reintegration, rehabilitation, and recidivism

Jill S. Levenson

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Sex offender registration and notification have led to increased public awareness of sex offenders living among us. Fearing that predators living in residential communities might cause harm to children and other vulnerable individuals, citizens and politicians have lobbied for laws which prohibit convicted sex offenders from living near schools, parks, and other places frequented by children. The purpose of these laws is purportedly to decrease opportunities for sex offenders to have contact with children, ultimately reducing the risk of child sexual abuse. This paper will review the history of residence restrictions policies, their effectiveness, and their observed and potential unintended consequences.

Background

The first statewide residence restriction policy was passed in Florida in 1995, and prevents sex offenders on probation from living within 1,000 feet of a school, park, playground, daycare center, or other place where children congregate. By 2004, 14 states had similar laws. In 2005, following the tragic murder of Jessica Lunsford by a convicted sex offender in Florida, residence restrictions gained enormous popularity as politicians and their constituents grappled with the seemingly growing problem of recidivistic sexual violence. After the 2006 legislative session, 22 states had passed or modified sex offender residence requirements (National Conference of State Legislatures, 2006; Nieto & Jung, 2006).

Hundreds of cities, towns, and counties across the nation have also passed municipal sex offender zoning ordinances. Local housing laws were inspired by zoning regulations prohibiting adult establishments (e.g. strip clubs, adult bookstores) from operating within a certain distance from schools. The first sex offender ordinance was passed in Miami Beach, Florida in June 2005, and other cities soon followed. Local laws tend to create a "domino effect" whereby neighboring towns quickly pass similar or even more restrictive legislation in an effort to prevent exiled sex offenders from migrating to their communities.

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Most residence laws create buffer zones of 1,000 to 2,500 feet around schools, parks, playgrounds, and daycare centers. Some jurisdictions have added school bus stops to the list of prohibited venues, and others have included libraries, places of worship, or recreational centers. Some cities have made it a crime for landlords to rent to registered sex offenders, and some land developers boast about new "sex offender-free" communities.

Legal and constitutional issues

In 2002, Iowa enacted one of the most restrictive sex offender residence laws in the nation, outlawing sex offenders from living within 2,000 feet of schools and daycare centers. The law was challenged and declared unconstitutional ("Doe v. Miller and White," 2004). However, this ruling was later overturned by the 8th Circuit Court of Appeals ("Doe v. Miller," 2005), and was upheld as well by the Iowa Supreme Court ("State v. Seering," 2005). Most courts have agreed that residence restrictions do not violate the constitutional rights of sex offenders and that such laws are reasonable because states have a compelling interest in protecting its citizens. In New Jersey, however, a Superior Court Judge in December 2006 declared a township's local ordinance illegal because it conflicted with the state's "Megan's Law" which precludes sex offender registration status from being used to deny housing or other accommodations ("Elwell v. Lower Township," 2006). Injunctions have been issued in Georgia and California, where recently enacted state laws intended to apply to all registered sex offenders, even those who established residency before the laws were passed. The Georgia law is still pending, but in California a judge recently ruled that Proposition 83 would only apply to newly convicted sex offenders.

Effectiveness

Since residence restrictions are a relatively recent phenomenon, no research has evaluated their impact on sex offense recidivism. Some related research questions have been

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investigated. Arkansas researchers found that child molesters were significantly more likely than rapists to live within close proximity to a school (Walker, Golden, & VanHouten, 2001). The Arkansas study did not track recidivism, however, and though the authors speculated that child molesters might be motivated to live within easy access to potential victims, the factors contributing to sex offenders' housing choices were not investigated. Other scholars believe that economic factors, not proximity to potential victims, are what appear to most strongly influence sex offenders' selection of housing (Tewksbury & Mustaine, 2006). There is some evidence that rapists who target adult victims tend to commit sex crimes within close proximity to their homes (Warren, Reboussin, Hazelwood, Cummings, Gibbs, & Trumbetta, 1998).

Thus far, there is no empirically established link between where convicted sex offenders live and whether or not they reoffend. The states of Colorado and Minnesota elected to study this issue prior to enacting zoning laws. In Colorado it was found that recidivists were randomly located and were not more likely to live near schools than those who did not reoffend (Colorado Department of Public Safety, 2004). In Minnesota, cases of repeat sex offenders were carefully studied; none of the reoffenses occurred on the grounds of a school. Two offenses occurred near parks, but the parks were located several miles from the offenders' homes (Minnesota Department of Corrections, 2003). Researchers in both states concluded that residence restrictions laws were not a feasible strategy for preventing sex crimes, though probation officers' discretion in developing individualized restrictions on a case-by-case basis might be appropriate.

Collateral Consequences

There have yet to be any empirical investigations examining the efficacy of residence restrictions on reducing recidivism. There is, however, an emerging body of research that identifies many unintended consequences of such laws. In a Florida survey involving 135 sex offenders on probation in Tampa and Fort Lauderdale, it was found that about one quarter of the

18-69

participants reported having to relocate as a result of the state's 1,000-foot buffer zone (Levenson & Cotter, 2005). Nearly half said that they were unable to live with family members, 57% said that affordable housing was less accessible, and many reported an increase in isolation and stress. Levenson and Cotter (2005) collected their data in 2004, prior to the explosion of municipal ordinances throughout Florida in 2005. Since that time, for example, 23 of the 30 independent cities in Broward County, FL (the greater Fort Lauderdale metropolitan area) have passed local sex offender zoning laws (Broward Sheriff's Office, 2006). A more recent study of 109 sex offenders in Broward found that 39% reported becoming homeless or living with someone else for two or more days, and 22% said they were forced to relocate two or more times (Levenson, 2007). Almost half reported that a landlord refused to rent to them, and 13% said they had spent time in jail due to a residence violation.

In Indiana, more than a quarter of sex offenders surveyed were unable to return to their homes after being released from prison, 37% could not live with family members, and almost one-third reported that a landlord refused to rent to them or to renew a lease (Levenson & Hern, 2006). Many (38%) said that affordable housing was less available as a result of boundaries on where they could live, and that they were forced to live farther away from employment, social services, and mental health treatment. Young adults were particularly affected, and age was significantly inversely correlated with being unable to live with family and having difficulties securing affordable housing (Levenson & Hern, 2006).

Geographical information system (GIS) mapping research confirms that residence restrictions greatly diminish housing availability. In Orange County, Florida (Orlando) researchers found that of the properties zoned for residential use, 64% are located within 2,500 feet of schools (Zandbergen & Hart, 2006). Mapping the locations of dwellings located within 2,500 feet of multiple types of restrictions (schools, parks, daycare centers, and bus stops) revealed the virtual absence of housing; only 37 residential properties existed outside of 2,500-foot buffer zones. Bus stops were found by far to be the most problematic type of restriction

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(93% of residences fell within 1,000 feet of a bus stop and 99.6% were within 2,500 feet). It is probable that the results documented by Zandbergen and Hart (2006) would be similar in comparable metropolises.

Within six months of the implementation of Iowa's 2,000-foot law, thousands of sex offenders became homeless or transient, making them more difficult to track and monitor. The number of registered sex offenders in Iowa who could not be located more than doubled, damaging the reliability and validity of the sex offender registry (Rood, 2006). Iowa prosecutors and victim advocates have publicly denounced residence restrictions, asserting that they create more problems than they solve (Iowa County Attorneys Association, 2006; NAESV, 2006). Prosecutors observed that the number of plea bargains dropped, causing some cases to go unadjudicated, leaving victims at risk and perpetrators without treatment or punishment (Iowa County Attorneys Association, 2006).

Some states are beginning to consider alternatives to residence restrictions. Notably, Iowa legislators are considering replacing the state's 2,000 housing law with "child safety zones" or "loitering zones." Likewise, in Kansas and in Tampa, Florida, lawmakers recently decided against establishing residence laws in favor of child safety zones. Rather than restricting where sex offenders reside, such initiatives prohibit them from hanging around in places where they can easily cultivate relationships with children and engage in grooming tactics. In some cases these loitering laws are supplemented with GPS monitoring systems which alert officials when a sex offender ventures into a forbidden area without legitimate reason. These types of laws seem better equipped to manage the daily activities of sex offenders at risk for abusing children than housing laws which dictate primarily where sex offenders sleep.

Implications for policy and practice

Because residence restrictions are designed to prevent recidivistic predatory offenses, they target only a fraction of sex crimes. The assumption that children are at great risk posed by sex offenders lurking in schoolyards or playgrounds is misleading and can create a false sense of security for parents. Most sexually abused children are victimized by someone they know and trust, and only about 7% of sex crimes against minors appear to be perpetrated by strangers (Bureau of Justice Statistics, 2002). About 40% of sexual assaults take place in a victim's own home, and 20% take place in the home of a friend, neighbor or relative (Bureau of Justice Statistics, 1997). Most child sexual abuse is perpetrated by family members or close acquaintances. Since the majority of sex offenders do not go on to be rearrested for new sex crimes (Bureau of Justice Statistics, 2003; Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2005; Harris & Hanson, 2004), assessing risk and applying restrictive policies to those offenders most likely to pose a threat to children would be more efficient.

Residence restrictions disrupt stability and create obstacles to successful community reintegration. They tend to isolate offenders by pushing them into either rural areas or socially disorganized, economically deprived neighborhoods with fewer resources by which to facilitate crime-prevention strategies (Mustaine, Tewksbury, & Stengel, 2006; Tewksbury & Mustaine, 2006; Zevitz, 2004;2006). They tend to isolate sex offenders from their supportive and dependent family members, move them farther away from employment opportunities and public transportation, and create financial hardship and psychosocial stress (Levenson & Cotter, 2005; Levenson & Hern, 2006; Levenson, 2007). Young adult sex offenders are most at risk for housing instability (Levenson & Hern, 2006). These conditions are likely to exacerbate dynamic risk factors associated with reoffense, such as lifestyle instability, negative moods, and lack of social support (Hanson & Harris, 1998;2001).

18-72

Public policies that interfere with community re-entry are unlikely to be in the public's best interest. Research indicates that sex offenders with positive support systems are less likely to reoffend and violate probation than those who have negative or no support (Colorado Department of Public Safety, 2004). Stable employment and relationships with family and significant others are factors associated with lower recidivism rates among sex offenders (Kruttschnitt, Uggen, & Shelton, 2000). Social stigma and restrictive policies can preclude engagement in various prosocial roles and activities, including employment, education, parenting, and property ownership (Uggen, Manza, & Behrens, 2004). Employment and housing are essential in facilitating a smooth transition for sex offenders returning to the community after incarceration (Zevitz & Farkas, 2000). Uggen et al. (2004) emphasized that self-concept, civic participation, and social resources are related to criminal offenders' desistance from crime by virtue of their perceived identities as conforming and invested citizens.

Residence restrictions and their consequences are likely to challenge the coping skills of many sex offenders when they face transience, instability, and losses as a result of such laws. Treatment providers should be aware of the stress created by housing problems and related issues and be prepared to assist offenders with coping strategies as well as referrals for concrete services. Attention to dynamic risk factors, which fluctuate according to environmental conditions, should be an integral part of ongoing assessment and treatment planning.

Politicians and citizens are unlikely to be sympathetic to the challenges these restrictions create for sex offenders, and rightly so. Some sex offenders do indeed pose a serious threat to communities, and neighborhood residents have a legitimate and valid interest in protecting children from sexual violence. From a public safety standpoint, however, it is more efficient to establish policies that do not inadvertently contribute, even indirectly, to the risk for reoffense. Professionals and policymakers alike are encouraged to consider a range of available options for creating safer communities and to endorse those that are most likely to achieve their stated goals while minimizing collateral consequences.

You can make a difference!

Research shows that the public and lawmakers are often misinformed about sex offenders, citing myths of alarmingly high recidivism rates, stranger danger, and the futility of treatment (Levenson, Brannon, Fortney, & Baker, 2007; Sample & Kadleck, 2006). ATSA members are encouraged to advocate for evidence based community protection policies that are more likely to achieve their intended goals of enhancing public safety. Members can educate the public via the media by providing factual information to journalists regarding sex offender risk and recidivism. As well, members can contact lawmakers, testify at public hearings, write letters to the editors of newspapers, and provide information packets to stakeholders. Such efforts can be effective in shaping social policy. You can make a difference! For instance, after hearing a full day of testimony from researchers, law enforcement agents, and victim advocates (none of whom were in favor of residence restrictions), Kansas legislators recently decided not to enact statewide residence restrictions laws and in fact issued a moratorium on the passage of local zoning ordinances.

Risk assessment using empirically derived tools should be recommended to classify offenders into relative risk categories with concordant restrictions and interventions. Treatment should be encouraged as part of any comprehensive strategy for preventing repeat sexual violence. Collaborative approaches such as containment models, in which treatment providers, supervising officers, and polygraph examiners work together to manage the risk of registered sex offenders, should be emphasized as a paradigm for community protection. And always remind your audience that we are all on the same side, with the common goal of preventing sexual violence and creating safer communities.

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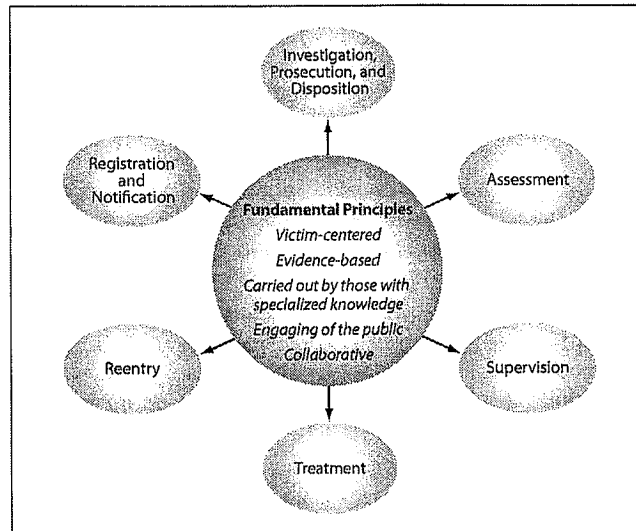
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The Comprehensive Approach to Sex Offender Management

What can be done to create an effective system for managing adult and juvenile sex offenders?

Employ a deliberate, strategic model. The Comprehensive Approach to Sex Offender Management is an integrated framework for managing and reducing recidivism risk strategically and collaboratively. Policymakers and practitioners are striving to advance this model at the state and local levels in communities throughout the country.



Adopt a values-driven strategy. The Comprehensive Approach is built on a set of fundamental principles to guide decisions at both the policy and practice levels. These principles indicate that sex offender management should be:

- **Victim-centered.** When developing and implementing strategies to address sex offenders, policymakers and practitioners must always take into account the safety, interests, and needs of victims. Victim advocates play a key role by supporting victims and their families at all stages of the process, and are pivotal in helping other stakeholders adopt a victim-centered philosophy systemwide.¹²
- **Evidence-based.** A large body of "what works" research shows that recidivism can be reduced if evidence-based principles and practices are implemented effectively.¹³ Policymakers and practitioners alike should rely on this literature to inform sex offender management efforts, support additional research on sex offender-specific strategies for which evidence is limited, and evaluate the effectiveness and impact of the strategies in their jurisdictions.
- **Carried out by those with specialized knowledge.** This is a specialized field that continues to evolve. Specialized knowledge ensures that laws and policies are well-informed. Specialized training and ongoing professional development equip practitioners with the knowledge and skills needed to manage these cases effectively.
- **Engaging of the public.** Citizens play important roles in shaping the laws and policies that define a given jurisdiction's sex offender management system and in contributing to sexual abuse prevention efforts. The public should be viewed as a key stakeholder, provided with accurate information, and informed about the steps they can take to support effective management and prevention efforts in their communities.
- **Collaborative.** Preventing sexual victimization and enhancing public safety cannot be accomplished by any individual or entity alone. Stakeholders within and across disciplines must build meaningful partnerships at policy and practice levels, create a shared community safety vision, and ensure that their resources and approaches are strategically aligned.

Involve a wide range of disciplines and agencies. Because adult and juvenile sex offender management cross a continuum of justice system processes, a systemwide response requires engaging:

- law enforcement;
- victim advocacy;
- judiciary, prosecution, and defense;
- clinical professions;
- health, human, and social services;
- institutional and community corrections;
- releasing authorities; and
- community supervision.

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Attachment 9

Integrate key management activities into a seamless and cohesive model. The Comprehensive Approach recognizes the interrelatedness of multiple system components and the importance of adopting research-supported and promising strategies in the areas of:

- **Investigation, prosecution, and disposition:** Sound policies and practices at these early phases in the process set the stage for successful risk management and risk reduction efforts, and include investigations that are conducted by specially trained and highly skilled officials, charging decisions that reflect the nature and seriousness of the allegations, and individualized disposition and sentencing decisions that are informed by assessed level of risk.
- **Assessment:** Given the diversity of individuals who commit sex offenses, assessments provide the necessary foundation for case management decisions systemwide, including sentencing, institutional management and release, treatment, and community supervision. Key elements of sound assessment processes include the use of specialized, research-supported tools, multiple sources of data, and ongoing assessments to identify changes in risk, gauge treatment progress, and adjust strategies accordingly.
- **Supervision:** Hallmarks of effective supervision approaches include specialized interviewing skills, assessment-driven case management decisions, individualized conditions, quality contacts that promote accountability and long-term change, timely and proportional responses to noncompliance, and collaboration with other professionals to enhance accountability, victim protection, offender success, and public safety.
- **Treatment:** Sex offender-specific treatment helps individuals develop the skills needed to prevent them from engaging in sexually abusive behavior and to lead successful, nonabusive lives. Necessary elements include research-supported models and intervention targets, programs of varied intensity and dose matched appropriately to individuals' levels of risk and intervention needs, assessment-driven treatment planning, and quality assurance mechanisms.
- **Reentry:** Because most sex offenders in facilities are eventually released, proactive steps are needed to promote successful community reintegration well before release. Examples include providing risk-reducing programming, ensuring continuity of services post-release, identifying suitable housing, and fostering positive community supports. Reentry efforts must take into account the specific risk factors for sex offenders and the unique barriers that make reentry particularly challenging.
- **Registration and notification:** These laws are largely designed to provide law enforcement and other officials with a mechanism to track sex offenders within and across jurisdictions and to support prevention by providing the public with information about sex offenders in their communities. Like the other components of the Comprehensive Approach, policies and practices should take into account the diversity of adult and juvenile sex offenders, and be guided by research about effectiveness and impact.

Visit www.csom.org for a list of jurisdictions that have adopted the Comprehensive Approach as their sex offender management model and for further information on its elements and implementation.

Preventing Sexual Violence

One day, a fisherman was fishing from a river bank when he saw someone being swept downstream, struggling to keep their head above water. The fisherman jumped in, grabbed the person, and helped them to shore. The survivor thanked the fisherman and left, and the hero dried himself off and continued fishing. Soon he heard another cry for help and saw someone else being swept downstream. He immediately jumped into the river again and saved that person as well. This scenario continued all afternoon. As soon as the fisherman returned to fishing, he would hear another cry for help and would wade in to rescue another wet and drowning person. Finally, the fisherman said to himself, "I can't go on like this. I'd better go upstream and find out what is happening."

CDC, Beginning the Dialogue, 2004

What can be done to prevent sexual violence?

Although sexual violence has permeated the fabric of society for centuries, to date, efforts to reduce sexual victimization and perpetration have been primarily focused "downstream" – managing and reducing the risk posed by sex offenders after someone has been sexually abused. While laudable and important, these efforts are only one part of the solution to ending sexual violence.

National and international experts have advanced a variety of theoretical models that seek to explain the root causes of sexual violence and focus attention on prevention and intervention strategies. Common among these models is a deep understanding for the complex nature of sexual violence and the attendant need for a multi-faceted strategy to prevent future victimization. Sexual violence can and will be prevented when the range of conditions that support it are addressed directly. These conditions include:

- Lack of understanding about unhealthy sexual behavior and relationships;
- Attitudes and norms supportive of sexual violence;
- Lack of effective management of sexually abusive behavior; and
- Silence and secrecy.

The use of research-supported strategies from the fields of public health and violence prevention should serve as the foundation of this fundamentally important work. Similar efforts to address widespread social and behavioral problems, such as reducing the incidence of cigarette smoking, traffic fatalities resulting from a failure to use safety restraints, the spread of infectious diseases, and various violence reduction efforts, have demonstrated the efficacy of these models. Effective prevention strategies should be paired with evidence-based approaches to sex offender management. Taken together, these approaches hold considerable promise in combating sexual violence. Such a holistic approach would employ the following:

Strategies to address lack of understanding about unhealthy sexual behavior and relationships

- Educate young children about healthy sexual behaviors, respect of sexual boundaries, and healthy, age-appropriate relationships.
- Educate older children about healthy social and emotional development, relationships, and choices, and inappropriate, coercive, abusive, and illegal sexual behaviors.

- Assist schools and other youth-serving organizations to strengthen policies and procedures designed to protect children from sexual abuse.
- Educate parents and professionals who work with children/youth about social and sexual development; how to reinforce in an ongoing way healthy sexual behaviors and respect of sexual boundaries; and how to recognize and respond to potential sexual behavior problems.
- Educate community members about how to recognize problematic or concerning sexual behaviors.
- Develop skills among community members to intervene appropriately when problematic or concerning sexual behaviors are identified.
- Evaluate programs designed to increase awareness and promote healthy, safe, consensual, and age-appropriate sexual behavior.

Strategies to address attitudes and norms supportive of sexual violence

- Support and expand public awareness campaigns about the scope and causes of sexual violence.
- Establish and promote a set of guiding principles reflecting a lack of tolerance for materials, messages, and behaviors that support sexual violence.
- Support and establish programs that address bystander intervention.
- Engage stakeholders in every community to support violence prevention initiatives.
- Engage the media in a strategic, proactive effort to promote healthy sexual behavior.

Strategies to address lack of effective management of sexually abusive behavior

- Expand research initiatives designed to understand and interrupt the pathways to sexually violent behavior.
- Support interventions specifically targeted to interrupt pathways to sexually violent behavior.
- Engage stakeholders in every community to implement the Comprehensive Approach to Sex Offender Management.
- Provide funding support for strategies demonstrated through research to decrease reoffense among known sex offenders.

Strategies to address silence and secrecy

- Support strategies that counter the normalization of sexual violence.
- Provide safe and anonymous local resources to support victims of sexual violence and their families.
- Provide safe and anonymous local resources for perpetrators of sexual violence who voluntarily seek assistance to end their abusive behaviors.

WHAT YOU CAN DO

- ✓ Identify and partner with local rape crisis centers and state sexual assault coalitions, researchers, academics, policymakers, service providers, and others to determine how best to expand prevention efforts in your community.
- ✓ Support research to determine the most efficacious prevention strategies.
- ✓ Effectively address the management of known sex offenders in your community by supporting the adoption of the Comprehensive Approach to Sex Offender Management model.
- ✓ Recognize that while sex offender management efforts are essential to stopping sexual violence, strategies to encourage interventions before harm occurs are crucial for protecting children and other vulnerable populations.

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National Public Opinion Survey on Sex Offender Management

What does the public say about sex offenders and management strategies?

Public policy is, at least in part, driven by citizens' views about a particular topic. With this in mind, and with funding support from the U.S. Department of Justice's Bureau of Justice Assistance, the Center for Sex Offender Management (CSOM) conducted a national public opinion survey in February 2010 to better understand the public's level of knowledge about sex offenders and their views about strategies to manage this population.ⁱ

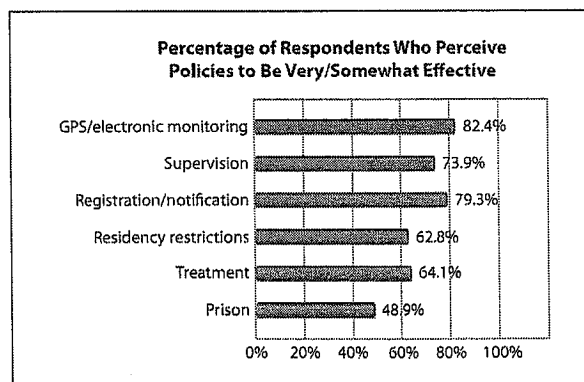
KEY FINDINGS:ⁱⁱ

The public overestimates the rate at which adult and juvenile sex offenders reoffend.

- 91% of the respondents provided estimates of adult sex offender recidivism above 25%. As a frame of reference, observed recidivism rates of 15–25% are commonly noted in the research.⁵²
- 33% of the respondents estimated that more than 75% of adult sex offenders will commit new sex crimes in the future.
- 66% estimated recidivism rates for juvenile sex offenders to be greater than 25%. This far exceeds the 5–15% figures commonly cited by researchers.⁵³

Citizens believe that common strategies to monitor and track sex offenders in the community are effective in reducing recidivism.

- 82% of the respondents perceived GPS/electronic monitoring as effective, although studies do not show systematic reductions in sex offenders' recidivism.⁵⁴
- 79% viewed sex offender registration and notification as effective, yet the research findings are inconclusive.⁵⁵
- 74% indicated a belief that supervision effectively reduces recidivism. Research shows that effectiveness varies; approaches that are primarily monitoring- and sanctions-focused tend not to reduce recidivism.⁵⁶



Many have confidence in sex offender treatment, and most are willing to support it, if research shows its effectiveness.

- 64% of the respondents believed that sex offender treatment effectively reduces recidivism.
- 74% indicated that they would support treatment if studies demonstrate it prevents reoffending. Current research shows that sex offender treatment is linked to significant recidivism reductions.

ⁱZogby International was commissioned to conduct a telephone survey of likely voters. The sample size was 1,005, with approximately 50 questions asked per respondent. Samples were drawn randomly from a national listed sample. Zogby employs sampling strategies in which selection probabilities are proportional to population size within area codes and exchanges. Industry-standard sampling strategies and analysis methodologies were employed. The margin of error is ± 3.2 percentage points.

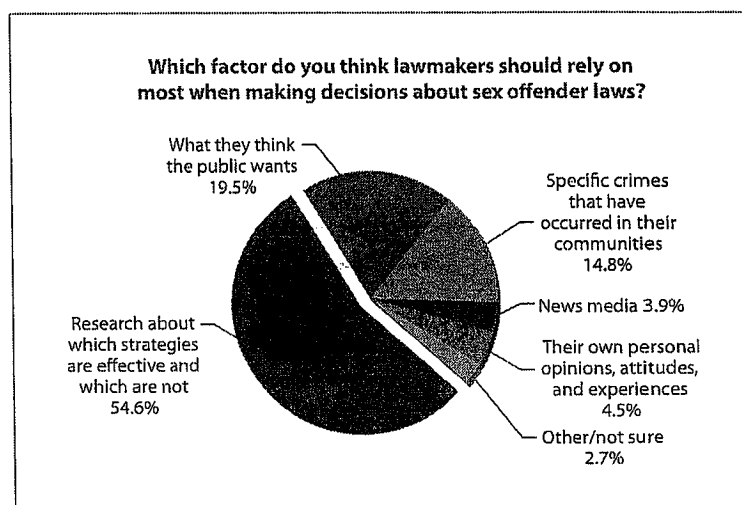
ⁱⁱA full report summarizing the survey findings can be accessed at www.csom.org.

Community members are split in their support for strict sanctions.

- Roughly 50% of survey respondents believed that prison is not effective in decreasing recidivism, which is consistent with the research. Yet 43% also indicated that if research shows alternatives to prison are more effective, this research would not affect their support for such alternatives.
- 63% believed that restricting sex offenders from living near schools, parks, or other places where children might gather decreases recidivism, yet current research does not indicate that this is true. More than half (56%) indicated that even if research shows that these restrictions lead to unintended consequences (e.g., making offenders harder to monitor, removing them from positive social supports), they still support such restrictions.
- Nearly half (47%) indicated that all sex offenders should be supervised intensively, even though research shows that intensive supervision is effective for higher risk, but not lower risk, sex offenders.

Members of the public expect laws to be informed by the research about sex offenders.

- 55% indicated that research about “what works” should be the factor lawmakers rely upon most when making decisions about sex offender-specific laws. Only 17% believed that this is what lawmakers currently rely upon most.
- 60% of respondents believed that sex offender-specific laws should take into account the identified differences between adults and juveniles who commit these offenses.



The public tends to receive more of their knowledge about sex offenders from the media than from any other source.

- 73% of the respondents indicated that the source from which they receive most of their knowledge about sex offenders is the news media, yet their responses indicated that they do not believe it should be a primary information source to guide lawmakers' decisions.
- Additional sources – albeit limited – were as follows: Internet searches (8%), sex offender registry (7%), professionals in the field (6%), community members (2%), and family members (1%).

Citizens want more information about how to prevent sexual victimization in their communities.

- 83% of the respondents expressed a desire to have more information than they currently have about preventing sex offending in their communities.

What is known about contemporary supervision and treatment practices for adult sex offenders?

When considering how to deploy resources to manage adult sex offenders, public officials are presented with many options – some of which are more promising than others. Specialized sex offender supervision, coupled with specialized treatment, are the most well-established and hold the greatest promise for increasing public safety.



Specialization is key. To address the unique dynamics and risk factors involved in sex offense cases, agencies nationwide have adopted specialized supervision models that include:¹⁴

- Specialized risk assessments to differentiate higher from lower risk sex offenders and to guide case management decisions;
- Specialized officers with advanced training, skills, and experience;
- Specialized conditions to promote accountability, minimize risk, and increase prosocial activities; and
- Specialized partnerships with law enforcement, victim advocates, treatment providers, and others to support their collective efforts.

Popular technologies are supplementary tools, not stand-alone strategies. Specialized technologies are increasingly common for supervising sex offenders, with many states using the following:¹⁵

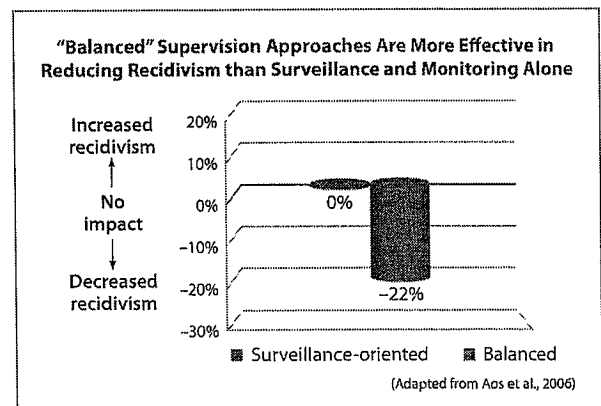
- Electronic monitoring and GPS to track sex offenders' whereabouts and to deter them from entering restricted zones or locations;
- Computer content-restriction and monitoring software to prevent or deter access to Internet websites, chat rooms, and social networking sites that may be related to increased risk for some – but not all – sex offenders; and
- Post-conviction polygraph examinations to encourage disclosures about offense patterns and sexual histories, gauge compliance with supervision or treatment expectations, and deter offenders from engaging in problem behaviors for fear of detection.

Although these technologies can offer additional accountability measures, risk management techniques, and information sources to augment sex offender management efforts, there are several caveats:¹⁶

- Empirical evidence is lacking regarding the reliability of such tools, their effectiveness in reducing recidivism among sex offenders, and their impact on public safety overall;
- The potential for misuse and overreliance exists when professionals lack proper training, fail to appreciate the limitations of these technologies, and view them as failsafe or as "silver bullets;"
- Equipment and operating costs are high, chiefly for GPS monitoring, and these costs increase exponentially when required for all sex offenders – regardless of risk – and for extended supervision periods; and
- Workload and manpower demands increase in order to fulfill new agency mandates and to respond effectively to the information collected from these tools. This is exacerbated when mandates do not take into account sex offenders' varied levels of risk.

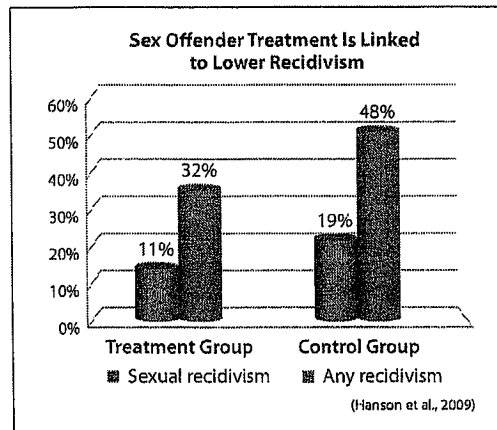
Restricting, monitoring, and sanctioning are only part of the equation. Risk management activities are important – but not sufficient – for supporting public safety efforts, as they tend to result only in short-term compliance, not long-term change. Research shows that a "balanced" supervision approach is more effective.¹⁷ With this approach, in addition to "traditional" supervision activities, officers:

- Assist offenders with learning new skills through quality interactions and field contacts that increase internal motivation, decrease resistance, and model prosocial attitudes and behaviors;



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- Assess changeable risk factors routinely and adjust case management plans accordingly. For sex offenders, examples of these risk factors include access to victims, sexual preoccupations, substance abuse, and relationship difficulties; and
- Link offenders to risk-reducing programs and services, such as housing and employment assistance, positive support networks, substance abuse interventions, and sex offender treatment.



Investing in specialized treatment can yield significant public safety dividends. Prison- and community-based sex offender-specific treatment is designed to assist individuals with developing the skills needed to prevent reoffending and lead successful, nonabusive lives. The value of sex offender treatment is shown through research.

- Recidivism rates are 25–40% lower for sex offenders who receive specialized treatment than for those who do not. This holds true for new arrests or convictions for sex crimes, other violent crimes, and nonviolent, nonsexual crimes.¹⁸
- The tangible and intangible benefits far outweigh the costs. Studies show that overall costs to the justice system, victims, and taxpayers are reduced substantially by the crime-reducing benefits of sex offender treatment programs.¹⁹

To be most effective, sex offender treatment must be:

- Grounded in the “right” model. The cognitive-behavioral model, designed to change unhealthy thoughts and enhance prosocial skills, is evidence-based.²⁰
- Focused on the “right” issues. Changeable factors linked to recidivism – such as deviant sexual interests, intimacy deficits, antisocial attitudes, and lifestyle instability – must be prioritized.²¹
- Provided in the “right” amount to the “right” offenders. Not all sex offenders benefit equally from the same level and type of treatment. Higher risk, higher need offenders require a greater dose than lower risk, lower need offenders.²²
- Delivered in the “right” manner by the “right” providers. Treatment outcomes are affected by the skills and styles of providers. Appropriate training and experience, clinical supervision, and quality assurance mechanisms are essential.²³

One size does not fit all. Adult sex offenders vary in many ways, including their risk to reoffend and the interventions that are needed to manage and reduce their risk. Research shows that supervision and treatment are most effective when these differences are taken into account.²⁴ Policies that support assessment-driven practices – whereby more intensive interventions are reserved for higher risk, higher need sex offenders – can maximize resources and public safety.

WHAT YOU CAN DO

- ✓ Craft laws that support risk- and need-based supervision and monitoring strategies
- ✓ Provide support for prison- and community-based sex offender treatment programs
- ✓ Create expectations for agencies to employ research-supported supervision and treatment strategies and to evaluate their outcomes
- ✓ Charge a multidisciplinary policy team with establishing “best practice” guidelines for sex offender management

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Juveniles Who Commit Sex Offenses

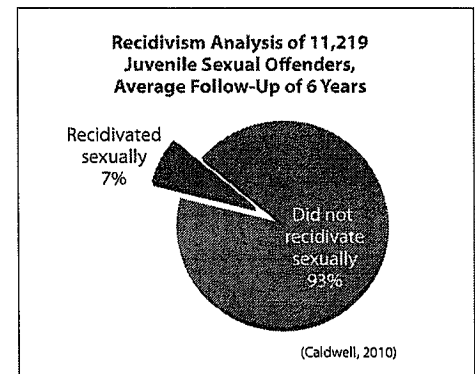
What should be considered when developing policies specific to juveniles?

Persons under age 18 are responsible for about 20% of arrests nationwide for sex offenses.²⁵ Initial approaches for developing policies for this population were based on the belief that juveniles who commit sex offenses are essentially the same as adult sex offenders. A growing body of literature challenges this assumption and has implications for guiding current policy and practice decisions.

Juveniles who commit sex offenses are not simply younger versions of adult sex offenders. Although their crimes may be similar, juvenile sex offenders differ from adult sex offenders in several important ways, including having lower rates of sexual recidivism.²⁶ As adolescents, their cognitive, emotional, social, moral, and sexual development tends to be in flux – which can impact their level of sophistication, motivations, and competency. Juveniles are less likely to have fixed sexually deviant interests and entrenched antisocial attitudes, which tends to make them more amenable to treatment.²⁷ Studies show that juvenile sex offenders are more like other delinquent youth than adult sex offenders.

Observed sexual recidivism rates are very low. Follow-up studies of juvenile sex offenders reveal that sexual recidivism rates often range from 5–15%,²⁸ generally falling at the lower end of that range. Research also indicates that juvenile sex offenders are unlikely to continue offending sexually into adulthood.²⁹ They are more prone to recidivate with nonsexual crimes, at a rate that is similar to other delinquent youth.³⁰

Interventions are needed along a continuum of care. Juvenile sex offenders can differ from one another in many ways. Variations include the nature and extent of their problem sexual behaviors, family circumstances, developmental experiences, peer and social adjustment, maturity and cognitive functioning, mental health, and histories of delinquency or aggression. Because these variations can affect their level of risk and intervention needs, a range of services should be in place, from community-based options to residential or correctional placements.

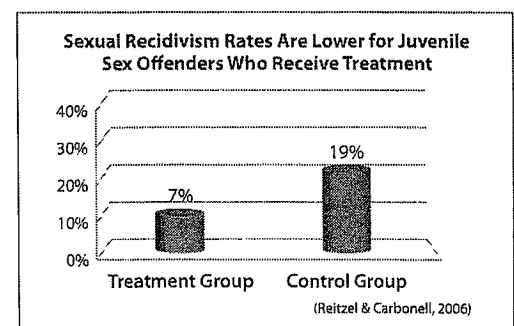


The over-placement of juvenile sex offenders in residential and correctional facilities may increase – rather than decrease – their risk to reoffend. Although such placements are necessary for some juvenile sex offenders, namely those with higher risk and intervention needs, juvenile sex offenders as a group are disproportionately placed in public and private facilities nationwide.³¹ This likely results from a combination of factors, such as faulty assumptions about their risk, limited community-based treatment capacity, and few housing alternatives for juveniles who victimize children within the family.

- Research does not indicate that such placements are more effective than less restrictive settings in reducing recidivism among juvenile sex offenders.³²
- Studies show that when delinquent youth are placed together in facilities for intervention, negative peer influences are linked to increased recidivism, particularly when lower risk youth are mixed with higher risk youth.³³

Managing juvenile sex offenders in the community is a viable and cost-effective option. Cost-benefit analyses of various juvenile justice interventions show that community-based options are more effective in reducing recidivism and much less costly than residential or institutional programs.³⁴ The already low recidivism rates and demonstrated effectiveness of community-based treatment options suggest that many juvenile sex offenders can be effectively managed in the community. Experts commonly recommend a combination of supervision and treatment.

Treatment for juvenile sex offenders is linked to lower rates of sexual and nonsexual recidivism. Evidence-based models from the broader juvenile justice field have been adapted for use with juvenile sex offenders and their families, and studies show positive outcomes.³⁵ These treatment models include:



- Cognitive-behavioral treatment, which helps individuals change unhealthy thinking patterns and learn new skills to enhance problem-solving, communication, emotional management, and relationships; and
- Multi-systemic, community-based interventions, which seek to improve functioning across the multiple domains linked to delinquency, such as peer relationships, parenting and family issues, school functioning, and community influences.

Supervision strategies for juvenile sex offenders should complement risk-reduction efforts. Studies show that intensive supervision and punishment are ineffective in reducing recidivism among delinquent youth, whereas balanced approaches that combine supervision and treatment services are more effective.³⁶ To that end, contemporary trends for supervising sexually abusive youth are characterized by the following:³⁷

- Caseload specialization, in which specially trained juvenile officers work closely with these youth and their families;
- Specialized conditions designed to increase prosocial activities while minimizing potential risk factors in the home, at school, and in extracurricular and community settings;
- Multi-agency partnerships with treatment providers, family therapists, school officials, victim advocates, and child welfare professionals to make collaborative case management decisions; and
- Networks of “informed supervisors and supports,” such as parents, caregivers, school personnel, and mentors, who serve as positive models and who support safety.

Specialized, juvenile-specific risk assessment tools should inform decision-making. Research-supported risk assessment tools designed specifically for juvenile sex offenders are a key advancement in the field.³⁸ These tools have gained widespread acceptance for assisting juvenile court judges, supervision officers, case managers, treatment providers, and other professionals systemwide with:

- Determining the appropriate level of care and intensity of supervision;
- Identifying the most effective targets of intervention;
- Assessing changes in risk over time; and
- Gauging the impact of interventions.

More research is needed about the impact of sex offender registration laws as applied to juveniles. Current evidence, albeit very limited, does not show that juvenile registration increases public safety.³⁹ However, experts have identified potential collateral consequences – such as hesitance of family members to report instances of juvenile sex offending within the family, charge and plea decisions that eliminate the sexual nature of the crime, and stigma and social rejection that interrupt healthy development.⁴⁰ These may impact the system’s ability to identify and effectively respond to victims, juveniles, and their families. Lawmakers can tailor policies to minimize this potential by:

- Allowing judicial discretion regarding registration requirements, based on comprehensive assessment data;
- Maintaining juvenile registries within the juvenile courts;
- Restricting access to juvenile registration information to professionals on a need-to-know basis;
- Limiting the identifying information about juveniles that is posted on publicly accessible registries; and
- Creating mechanisms that allow for terminating registration requirements under prescribed conditions, such as successfully meeting supervision and treatment goals.

Laws and policies about juvenile sex offenders should be guided by the same tenets that drive juvenile justice systems. Important differences between juveniles and adults are reflected in the separation of juvenile and adult justice systems. Efforts to address juvenile sex offenders should be rooted in the same philosophies, rather than being grounded in strategies used for adult sex offenders.⁴¹ Indeed, in a recent national public opinion poll, citizens expressed support for sex offender management laws that recognize the differences between juveniles and adults who have committed these crimes.⁴²

WHAT YOU CAN DO

- ✓ Ensure that laws take into account the differences between juveniles and adults.
- ✓ Support policies that promote specialized, assessment-driven decisionmaking.
- ✓ Dedicate resources to increasing community-based treatment capacity for juveniles and their families.

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There is no “typical” sex offender. The “sex offender” label implies that all individuals who commit sex offenses are alike, but research shows that they vary in many ways. Variations include basic demographics, the nature and extent of their sexual behavior problems, their development and functioning, intervention needs, and their risk to reoffend. These and other differences underscore the need to resist the tendency to craft “one size fits all” policies and practices.

The pathways leading to sex offending are complex. No single factor explains why individuals engage in sexually abusive behavior. Current theories and research indicate that it is a combination of interacting elements, such as individual characteristics, developmental experiences, situational factors, biological traits, and sociocultural influences.¹ Appreciating these complexities can better guide sex offender management strategies and broader sexual abuse prevention efforts.

Being sexually abused does not cause sex offending. A common misperception is that all persons who commit sex offenses have been sexually abused, and that victimization must, therefore, lead to offending. Studies show otherwise.² Sexually abusive experiences can affect individuals in various ways, but in and of itself, sexual abuse does not “cause” individuals to become sex offenders. Most people who have been sexually abused do not sexually abuse others.

Not all sexual abusers of children are pedophiles. The “pedophile” label is commonly misused to describe anyone who has sexually abused a child. In actuality, it refers to a much narrower group of individuals formally diagnosed with pedophilia – a disorder defined by the extended presence of intense, recurring sexual urges, fantasies, or behaviors involving sexual activity with prepubescent children. Many people whose sex crimes involve children do not meet the established criteria for pedophilia. Because deviant arousal and preferences are linked to a higher risk of reoffending, misuse of the term “pedophile” can send an inaccurate message about the risk posed by a given individual.

Juveniles who commit sex offenses differ from adult sex offenders. Research on juvenile sex offenders shows that they have very low recidivism rates, are highly amenable to interventions, and are more similar to other justice-involved youth than to adult sex offenders.³ These findings – coupled with the fact that adolescence is a period of developmental fluidity – suggest that responses to juvenile sex offenders should be rooted in the tenets that drive the juvenile justice system, rather than mirroring strategies for adult sex offenders.

Sexual recidivism rates for adult and juvenile sex offenders are lower than often believed. A common myth is that all or most sex offenders will reoffend, but research indicates this is not the case. Recidivism rates vary based on a number of factors, reflecting the diversity of the population. Follow-up studies of adult sex offenders often show that, as a group, less than 25% are rearrested or reconvicted for new sex crimes.⁴ Observed sexual recidivism rates for juvenile sex offenders as a group are much lower, often ranging from 5–15%.⁵ It should be noted that these figures are underestimates, because sex crimes – like other crimes against persons – are underreported.

A comprehensive, collaborative approach is needed to support successful outcomes for victims, offenders, and communities. Working to ensure community safety calls for involvement from a wide range of disciplines and agencies, including – but not limited to – law enforcement, victim advocacy, the courts, evaluation and treatment, corrections, and community supervision. Ongoing collaboration among these key stakeholders at the policy and practice levels is important for establishing an integrated, seamless, and effective sex offender management system.⁶

The combination of supervision and treatment is more effective than restrictions, surveillance, and sanctions alone. Traditional supervision activities have a key role in supporting public safety efforts. However, studies show that better results are achieved through balanced approaches in which treatment interventions are also implemented.⁷ Because specialized sex offender treatment – both for adults and juveniles – lowers recidivism,⁸ it is an essential complement to supervision.

Sex offender management strategies should be tailored to address the specific risk level and intervention needs of a given individual. Research shows that staff time and agency resources should be prioritized for individuals assessed to be at higher risk for recidivism and to have greater intervention needs, rather than responding in a “one size fits all” manner.⁹ Specialized sex offender-specific risk assessment tools for adults and juveniles can assist professionals systemwide in making more informed decisions that will maximize resources and outcomes.

18-88

More research on sex offender-specific laws is needed to ensure that these strategies are in the best interest of public safety. Many states have passed laws to implement mandatory minimum sentences, registration, community notification, residence restrictions, civil commitment, and the use of global positioning systems. Research on these laws is limited and the findings are mixed. Some studies reveal the potential for unintended consequences that may increase – rather than decrease – public safety.¹⁰ More research is needed.

“People want a silver bullet that will protect their children, [but] there is no silver bullet. There is no simple cure to the very complex problem of sexual violence.”

Patty Wetterling, 2007

Primary prevention is an essential part of the solution. Sex offender management strategies contribute to public safety efforts by addressing people who have already engaged in sexually abusive behavior. These approaches should occur in tandem with primary prevention strategies, which are designed to stop sexual abuse from occurring in the first place. Sexual abuse can and will be prevented when the range of conditions that support and contribute to it are addressed directly – at individual, family, community, and broad societal levels.¹¹

For more information about the issues covered in this fact sheet, including promising strategies that have been implemented throughout the country, please visit www.csom.org.

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Sex Offender-Specific Laws: A Quick Reference

What is the status of sex offender-specific legislative trends?

Sex offender management ranks among the top public policy priorities in the United States.⁴³ In recent years, many sex offender-specific laws have been proposed and enacted nationwide as policymakers strive to prevent sexual victimization, hold sex offenders accountable, and enhance public safety.⁴⁴ New federal laws and guidelines, heightened media attention, and ongoing public concerns are a few of the factors that continue to make sex offender management a pressing legislative issue.

The public expects sex offender management laws that not only “get tough,” but also “get results.” Citizens support a wide range of sex offender management and other crime policies, but also desire strategies with proven effectiveness.⁴⁵ Recent national polls indicate that the public expects lawmakers and criminal justice system professionals to make policy decisions that are guided by research about what works – and what does not work – to increase public safety.⁴⁶

The impact and effectiveness of many sex offender-specific laws need to be studied further. The public safety goals of laws such as mandatory minimum sentences, civil commitment, GPS monitoring, registration, community notification, and residence restrictions are well intended. Research about these laws is relatively limited, and findings are mixed (see table on reverse).⁴⁷

- Some analyses identify potential benefits.
- Other studies reveal unintended collateral consequences that may paradoxically undermine public safety efforts.

Maximizing public safety is contingent upon strategically crafted, well-informed policies. Media attention in extreme but rare cases, such as abductions and sexual-murders, often leads to community outcry and places pressure on lawmakers to respond swiftly and decisively. Understandably, such circumstances are not ideal for crafting new laws strategically. Leading authorities agree that these laws should be developed proactively within the context of the “what works” research and a broader, comprehensive sex offender management system.⁴⁸

Public officials are taking proactive steps to advance sound sex offender management policies. Recognizing that there are no panaceas, lawmakers are exploring ways to promote well-informed sex offender management policies.⁴⁹ Examples include engaging local and national experts in educational events designed specifically for policymakers, establishing multi-disciplinary, policy-level advisory groups to develop statewide guidelines, and commissioning cost-benefit analyses of existing laws.

WHAT YOU CAN DO

- ✓ Convene educational forums for public officials about research-supported and promising sex offender management strategies.
- ✓ Commission systemwide reviews and cost-benefit analyses of existing policies.
- ✓ Evaluate pilot initiatives of new policies before considering large-scale implementation.
- ✓ Ensure that policies and resource deployment are aligned with contemporary research, including risk-based decision-making.
- ✓ Establish a multi-disciplinary sex offender management policy advisory group or board.
- ✓ Partner with key stakeholders and the media to enhance public education about sex offender management and prevention.

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SUMMARY OF KEY SEX OFFENDER-SPECIFIC LAWS

Policy Initiative	Explicit and Implicit Goals	Benefits Reported in Limited Studies and Policy Analyses ⁵⁰	Concerns Identified through Limited Studies and Policy Analyses ⁵¹
Registration	<ul style="list-style-type: none"> To provide an investigative and tracking mechanism for law enforcement To deter sex offenders and others 	<ul style="list-style-type: none"> Increased consistency in registry data nationwide Increased capacity for information-sharing across law enforcement and other stakeholders Enhanced tracking within and across jurisdictions Perception by some citizens of reduced recidivism and increased public safety 	<ul style="list-style-type: none"> Increased agency workload demands, particularly as laws become broader in terms of who is required to register and as longer periods of registration are required Monitoring efforts undermined and public confidence reduced because of inaccuracies in registry data Negative impact on juveniles and families when registry information is posted or otherwise publicly accessible No research evidence to indicate that recidivism is reduced or deterrence is increased systematically
Community Notification	<ul style="list-style-type: none"> To increase public awareness and heighten visibility of local sex offenders To empower citizens to take preventative measures To deter sex offenders and others 	<ul style="list-style-type: none"> Increased visibility and public awareness of sex offenders Perception by some citizens of reduced recidivism and increased public safety Protective, preventative action taken by some citizens, including discussions with children about safety 	<ul style="list-style-type: none"> Potential for false sense of security because laws imply that the greatest risk of victimization comes from strangers and that most sexually abusive individuals have been apprehended Risk of inadvertently exposing victims' identities, particularly in intrafamilial cases Possibility that oversaturation will result in public indifference or confusion about how to use or respond to this information Possibility that "scarlet letter" phenomenon will lead to risk-increasing effects such as employment and housing instability, disruption of positive social supports Potential for citizens to engage in harassment and vigilantism toward sex offenders No research evidence to indicate that recidivism is reduced or deterrence is increased systematically
Residence Restrictions	<ul style="list-style-type: none"> To prevent victimization by prohibiting sex offenders from living near "at-risk" locations 	<ul style="list-style-type: none"> Perception by some citizens of reduced recidivism and increased public safety Sense of security or protection experienced by some members of the public and other stakeholders 	<ul style="list-style-type: none"> Possibility of sex offenders being displaced from locations in which specialized risk-reducing services and risk management strategies were in place to outlying jurisdictions with less capacity to effectively manage offenders Potential for risk-increasing effects such as employment and housing instability, disruption of positive social supports Supervision and monitoring efforts potentially undermined when offenders become homeless or transient Employs a "one size fits all" approach and may undermine ability of specialized sex offender management professionals to make individualized decisions about suitability of residence Potential for false sense of security because laws imply that the greatest risk of victimization comes from strangers No research evidence to indicate that recidivism is reduced or deterrence is increased systematically
Mandatory Minimum Sentences	<ul style="list-style-type: none"> To provide strict penalties To reduce sentence disparities To incapacitate To deter sex offenders and others 	<ul style="list-style-type: none"> Longer periods of incapacitation for sex offenders Strong message sent regarding intolerance for sexual victimization Retributive/punitive goals of sentencing are supported Perception by some citizens of reduced recidivism and increased public safety 	<ul style="list-style-type: none"> Potential decrease in victim disclosures in family/acquaintance cases because of concerns about stringent legal consequences and impact on family Potential increase in plea bargaining that eliminates sexual nature of charge to avoid harsh penalties Possibility that high costs of long-term incarceration may divert limited resources from interventions that are known to be effective Exacerbated reentry barriers because of prolonged detachment from prosocial community supports and activities No research evidence to indicate that recidivism is reduced or deterrence is increased systematically
Civil Commitment	<ul style="list-style-type: none"> To incapacitate a narrow, presumably highest risk class of sex offenders To provide treatment to reduce recidivism risk 	<ul style="list-style-type: none"> Extended periods of incapacitation for high risk sex offenders Opportunities for intensive treatment that otherwise may not have been available Often requires demonstration of reduced risk prior to being granted release 	<ul style="list-style-type: none"> High costs of long-term placement in commitment facilities compared to costs of incarceration and prison-based treatment Strains on system capacity because of few releases May divert mental health agencies' resources from clients with "traditional" psychiatric needs No research evidence to indicate that recidivism is reduced systematically
Mandatory GPS, Electronic Monitoring	<ul style="list-style-type: none"> To provide law enforcement and supervision officers with a tracking tool To deter sex offenders from entering at-risk locations 	<ul style="list-style-type: none"> Increased tracking capabilities Perception by some citizens of reduced recidivism and increased public safety Can potentially rule in or rule out an offender's presence at a particular location in criminal investigations 	<ul style="list-style-type: none"> High equipment and daily service costs Increased workload demands and resource challenges for law enforcement and probation/parole officers, particularly as laws become broader in terms of who is required to register and as longer periods of monitoring are required Potential false sense of security because these technologies fail to take into account that many sex offenders victimize familiar victims in "non-prohibited" locations Reliability factors such as service interruptions and equipment failures No research evidence to indicate that recidivism is reduced or deterrence is increased systematically

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Center for Sex Offender Management Resources (available at no cost at www.csom.org)

The Center for Sex Offender Management (CSOM) is a national clearinghouse that provides information, training, and technical assistance to state and local policymakers and practitioners. CSOM's goal is to enhance public safety by preventing further victimization through improving the management of adult and juvenile sex offenders who are in the community.

The CSOM website, www.csom.org, provides policy papers, practitioner tools and professional training curricula, as well as informational resources for the public, at no cost. Links to other organizations with expertise in sex offender management, including resources and services for victims, are also provided.

Basic Facts About Sex Offenders and Sex Offender Management

- The Comprehensive Approach to Sex Offender Management (2009)
- Fact Sheet: What You Need to Know About Sex Offenders (2008)
- Myths and Facts About Sex Offenders (2000)

Resources for Policymakers

- Legislative Trends in Sex Offender Management (2008)
- Twenty Strategies for Advancing Sex Offender Management in Your Jurisdiction (2008)
- The Comprehensive Assessment Protocol: A Systemwide Review of Adult and Juvenile Sex Offender Management Strategies (2008)
- Enhancing the Management of Adult and Juvenile Sex Offenders: A Handbook for Policymakers and Practitioners (2007)

Assessment, Treatment, and Supervision

- The Importance of Assessment in Sex Offender Management: An Overview of Key Principles and Practices (2007)
- Understanding Treatment for Adults and Juveniles Who Have Committed Sex Offenses (2006)
- Community Supervision of the Sex Offender: An Overview of Current and Promising Practices (2000)

Special Populations

- Female Sex Offenders (2007)
- Understanding Juvenile Sexual Offending Behavior: Emerging Research, Treatment Approaches and Management Practices (1999)

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September 22, 2010

Senator Pete Brungardt, Chairman
Joint Committee on Corrections and Juvenile Justice Oversight

Re: Committee Report

Senator Brungardt,

Near the end of your committee meeting on September 10th you asked for some bullet points to consider for inclusion in your report. I have listed below the most critical items to the Juvenile Justice Authority (JJA) in the upcoming year for your consideration.

Budget Enhancements

- \$57,159 for Kansas Juvenile Correctional Complex (KJCC) and \$56,547 for Larned Juvenile Correctional Facility (LJCF) to fund two classified social work specialists for sex offender treatment and programming. \$65,662 for JJA to fund a master-level psychologist with adolescent sex offender evaluation expertise to provide sex offender evaluations statewide prior to the disposition of juvenile sex offender cases by the court.
- \$378,885 shared between the two juvenile correctional facilities to replace lost RA-JAG funds that currently funds seven (7) Topeka and three (3) Larned juvenile correctional officer positions.
- \$500,000 to replace lost RA-JAG funds in order to maintain the current resource level for juvenile community corrections programs including prevention, juvenile intake and assessment, intensive supervision probation and community case management.
- \$192,314 in FY11 and \$228,439 in FY12 to fill five (5) JCOI positions at KJCC. Insufficient funding was provided in the FY11 budget to fully fund the KJCC West Campus operation following the closure of the Beloit Juvenile Correctional Facility. This enhancement will allow KJCC to hire the staff necessary to ensure a safe and secure environment for the female operation and will reduce the need to draw from the KJCC male operation to meet minimum staff requirements for the female operation.

Our testimony also included a permanent wage increase of 2.5% for juvenile correctional officers with a cost of approximately \$160,000. We are committed to gaining parity in compensation for our staff; however, the items listed above are the most critical in maintaining the progress made during the past several years.

Initiatives

YRCII Modifications

Last year there was some concern among committee members regarding operations at Youth Residential Center II's (YRCII's). At that time, the committee was provided with the agency plan to address these concerns. JJA has done exactly what was presented and expected by the committee. Standards were amended to assure a formal method for classification of youth in double occupancy rooms is used by operators. Community based Standards (CbS), a formal process for evaluating the conditions within a YRCII, is currently being implemented with the first round of surveys scheduled for October 2010. A work group continues to develop a plan for assignment of youth to a YRCII according to their risk and needs in order to assure at the highest level a proper match between the youth and service provider.

Juvenile Detention Alternatives Initiative (JDAI)


Annie E. Casey Foundation

JJA, in partnership with a number of counties and the Annie E. Casey Foundation, has commenced an effort to reform juvenile detention practices. JDAI will bring national experts in detention reform to Kansas in an effort to evaluate and improve upon detention practices. The effort will review formal and informal processes in making the decision to detain or not detain, evaluate data to determine who is being detained and why, identify service gaps that could serve as an alternative to detention placement and aid in developing structured decision making instruments that are evidence-based to aid in making the determination to detain a youth or not.

I hope you find this information helpful as you go about developing a committee report. I very much appreciate the relationship we have established with you and the committee during the past several years. Thank you for your time and concern regarding juvenile justice in Kansas.

MEMORANDUM

To: Administrative Contacts
Community Supervision Agency Directors
Juvenile Detention Center Directors
Juvenile Corrections Advisory Board Chairpersons
Kansas Advisory Group on Juvenile Justice and Delinquency Prevention
Joint Committee on Corrections and Juvenile Justice Oversight

From: J. Russell Jennings, Commissioner 

Date: September 14, 2010

Subject: Annie E. Casey Foundation - Juvenile Detention Alternatives Initiative

Several months ago, we began discussions with the Annie E. Casey Foundation regarding Kansas becoming a Juvenile Detention Alternatives Initiative (JDAI) participating state. We are pleased that the Foundation has honored our request and that the Office of Juvenile Justice and Delinquency Prevention (OJJDP) have included our JDAI expansion project as one of their targeted projects for their support this year.

JDAI will provide our state the opportunity to evaluate and improve detention practices. Data evaluation, decision making processes, court processes, alternatives to detention and conditions of confinement are all issues that will be examined through the JDAI process.

At this point, jurisdictions representing nearly 80% of the juvenile detention beds available within the state have made a commitment to participate. We are hopeful that those locations/districts who have not yet decided whether or not to participate will consider doing so.

An informational session is scheduled for November 17th in Johnson County. There will be two work sessions with Annie E. Casey Foundation staff on this date. A morning session for state level leaders will provide an overview of the initiative to build a foundation of state level support and commitment. This session will include Juvenile Justice Authority agency staff, legislators and other invited state level leaders. The afternoon session will be for community level teams to learn about the initiative generally, identify expectations for community level activity and establish clear roles and responsibilities. In the days following the session, communities will be expected to make a final decision regarding participation.

Please mark your calendar for the November 17th meeting. Further details regarding registration and location will be provided in early October. If your detention center or district has not yet made a decision regarding participation, please consider this as an opportunity to learn more about the initiative to be in a position of making an informed decision about participation. This initiative is a real opportunity for communities to benefit from the knowledge and experience of nationally recognized experts in juvenile detention reform. More information regarding JDAI can be found at:

<http://www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativesInitiative.aspx>