



## Residency Restrictions for Sexual Offenders in Minnesota: False Perceptions for Community Safety

### Introduction

Residency or zone restrictions for individuals with sexual offenses have become increasingly popular in recent years, but such restrictions tend to be rooted in fear and anger, rather than informed public policy. “There is no research to support residence restrictions as effective in reducing sexual recidivism.”<sup>1</sup> The Minnesota Department of Corrections concluded in one study that, “during the past 16 years, not one sex offender released from a MCF (Minnesota Correctional Facility) 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.”<sup>2</sup> Because people typically choose to live close to family, friends, or employment, and establishing social stability for offenders reduces recidivism, residency restrictions may be counterproductive.<sup>1</sup> “Research on residency restrictions demonstrate no deterrence effect.”<sup>3</sup>

**By Richard Weinberger, M.S.E., L.P.**

Sexuality includes our sexual orientation, our preferences, our gender, and our identity. It affects the way we express ourselves and how and with whom we interact. It is because of these realities that sex crimes strike powerfully at our core and elicit such revulsion. This emotional reaction motivates political leaders to create and pass laws that have the intent to protect individuals, especially women and children, from such potentially devastating crimes.

Sex offender residency restriction ordinances are one such type of law. They impose artificial distances that individuals convicted of sex crimes or who are on a predatory offender registry must live from a designated location. Nationwide, designated locations include parks, daycares, playgrounds, schools, recreation centers, bus stops or school bus stops, and anyplace where minors congregate; distances range from 500 to 2500 feet. Sometimes, these laws are limited to those individuals deemed most likely to reoffend. Sometimes, they are broad sweeping and affect anyone convicted of a sex crime. The rationale for residency restriction laws is to prevent or lessen the chance of a previously convicted offender from reoffending by increasing distance between the offender and a possible victim.

Unfortunately, sometimes what first appears to be a rational safeguard is not only ineffective, but might actually serve to defeat the objective it is intended to achieve.



On February 13, 2006, the city of Taylors Falls in Chisago County became the first community in Minnesota to implement a sex offender residency restriction ordinance.\*

Between 2006 and 2015, 33 additional Minnesota communities followed suit and implemented sex offender residency restrictions laws (most with similar language to that of Taylors Falls). The following cities (and one county) have ordinances that, to some degree, restrict where certain registered sex offenders may live in proximity to designated locations. Some only apply to Level 3 offenders (regardless of the offense) and some to those with a minor victim:

Albertville	Eagle Lake	Minnesota Lake
Askov	Elysian	Moose Lake
Birchwood (T)	Grand Rapids	Morristown
Brainerd	Grasston	North Mankato
Brooklyn Center (T)	Kilkenny	Otsego
Chisago City	Lake Crystal	Pine Island
Chisago County	Le Center	Proctor
Cleveland	Lindstrom	Rochester
Cloquet	Linwood Township	Taylors Falls
Cohasset	Mahtomedi (T)	Wyoming
Cuyuna	Mankato	
Duluth	Mapleton	<b>(as of 12/14/2015)</b>

Communities above marked with a (T) have temporary residency restrictions pending further study of the efficacy of promulgating such ordinances.

From the 1990’s through the present, individuals who have committed sex crimes have been the subject of countless psychological, sociological, criminal justice and governmental agency studies. Consequently, there is large body of research on these individuals that demonstrates that a number of commonly held beliefs (myths) regarding recidivism are not true. The fact is, current research indicates that:

- A) Sex offenders, as a group, reoffend much less than other criminal offenders.<sup>4</sup>
- B) 95% of sex offenses are committed by first-time offenders.<sup>5</sup>
- C) 93% of sex crimes are committed by offenders known to the victim, in a place familiar to the victim.<sup>6</sup>

In 2015, the Minnesota Sentencing Guidelines Commission published a report stating that the number of individuals convicted of sexual crimes in 2014 who had “true prior CSC [Criminal Sexual Conduct] offenses was 5%. This means that in 2014, 95% of all sex crimes were committed by first time offenders.<sup>7</sup> The report also indicated that a salient offense factor related to stranger on stranger offending was the use of force. Of the 491 adjudicated cases in 2014, 70 offenses were against strangers and were placed in the



category of “Provision Force/Other.” Of these 70 offenses, eight were against children. These eight releases represent 1.6% of the 491 people released in 2014. These results contradict the need and efficacy of the Taylors Falls’ ordinance as well as the ordinances in the other communities who followed suit.

In April 2007, the Minnesota Department of Corrections released a study entitled: Residential Proximity & Sex Offense Recidivism.<sup>8</sup> The study examined “the potential deterrent effect of residency restrictions by analyzing the sexual reoffense patterns of the 224 recidivists released between 1990 and 2002 who were re-incarcerated for a sex crime prior to 2006” (p. 1). The 244 recidivists represented 7% of the 3,166 offenders who were actually released during this period. This means that 93% did not commit any new sexual crimes. The study concluded:

“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” (p. 24).

Moreover, of the 7% who reoffended, 79% victimized someone they knew. Consequently, the study also stated,

“The results clearly indicated that what matters with respect to sexual recidivism is not residential proximity, but rather social or relationship proximity...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.”

Similarly, Zandbergen, Levenson, and Hart (2010)<sup>9</sup> examined a sample of 330 sex offenders in Florida. They compared recidivists and non-recidivists who lived close to schools or daycare centers. They found that those who lived within 1,000, 1,500, or 2,500 feet of schools or daycare centers did not reoffend more frequently than those who lived farther away.

On June 21, 2013, The Kansas Department of Corrections published a report entitled: Sex Offender Housing Restrictions.<sup>10</sup> The report lists 20 findings of research from reviewing implementation of housing restrictions for sex offenders in multiple states. Briefly, findings include: 1) research demonstrates that there is no correlation between residency restrictions and sex offenses against children; 2) residency restrictions have a damaging effect on the offender registry; 3) the lack of protective efficacy does not justify the cost of enforcement, and 4) the number of offenders unaccounted for doubled after the law went into effect.

Current research indicates that communities in Minnesota and throughout the country are spending money and diverting human resources to create and enforce laws that are not only ineffective, but may result in serious unintended negative consequences. To enhance the safety of our children and all community members, evidenced-based and effective laws need to be promulgated. For this to occur, “a



research-based understanding of individuals who commit sex crimes must be accepted. In part, this means accepting that sex offenders are a heterogeneous population and that many of them do not pose a grave risk to the public.”<sup>11</sup>

Between 2011 and 2015, residency restrictions were struck down by courts in Pennsylvania, New York, Massachusetts, and California.<sup>12</sup>

## **Conclusion**

ATSA does not support the use of residence restriction laws as a sex offender management strategy.<sup>1</sup> There is no research to support the effectiveness of residence restrictions in reducing sexual offense recidivism, and these types of policies often have the unintended consequences that may compromise, rather than promote, public safety.<sup>1</sup>

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### **\* In part, the Taylors Falls, Minnesota residency ordinance reads as follows:**

“The Taylors Falls Code of Ordinances, Chapter 5, Nuisances and Offenses, shall be amended by adding Section 540, Sexual Offenders and Sexual Predators (italicization added for further discussion) :

540.001 Findings and intent.

Subd. 1 Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. *Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.*

Subd. 2 It is the intent of this article to serve the City's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.

540.003 Sexual offender and Sexual Predator Residence Prohibition; Penalties; Exceptions.

Subd. 1 Prohibited location of residence. It is unlawful for any designated offender to establish a permanent residence or temporary residence: a) within 2,000 feet of any school, licensed day care center, park, or playground; or b) within 1,000 feet of any designated public school bus stop, place of worship which provides regular educational programs (i.e. Sunday school), or other places where children are known to congregate.



Subd. 2 Prohibited activity. It is unlawful for any designated offender to participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, or wearing an Easter Bunny costume on or preceding Easter. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this paragraph.”

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## Notes - References - Bibliography

- 1) Sexual Offender Residence Restrictions, ATSA Policy Statement, August 2014. Retrieved 2/12/2016. <http://www.atsa.com/pdfs/Policy/2014SOResidenceRestrictions.pdf>
- 2) Duwe, G., Donnay, W. & Tewksbury, R. (2008) Does Residential Proximity Matter? A Geographic Analysis of Sex Offense Recidivism, *Criminal Justice and Behavior*, vol. 35 no. 484-504. Retrieved 2/12/2016. <http://ibis.geog.ubc.ca/courses/geob479/classof10/aykwok/files/Duwe%20Donnay%20Tewksbury.pdf>
- 3) *Review of Policies Relating to the Release and Housing of Sex Offenders in the Community*, State of Washington Sex Offender Policy Board, Office of Financial Management. December, 2014. Retrieved 2/12/2016. [http://www.ofm.wa.gov/sgc/sopb/meetings/board/2014/20141210/housing\\_workgroup\\_leg\\_report\\_draft\\_20141201.pdf](http://www.ofm.wa.gov/sgc/sopb/meetings/board/2014/20141210/housing_workgroup_leg_report_draft_20141201.pdf)
- 4) U.S. Department of Justice, Bureau of Justice Statistics, *Recidivism of Sex Offenders Released from Prison in 1994* (2002) (after three years, 5.3% of sex offenders were rearrested for a new sex crime and 3.5% were convicted of a new sex crime); *Comprehensive Recidivism Study*, Massachusetts Sentencing Commission, June 1, 2002, pg. 38 (“Of the major offense categories, recidivism rates were lowest for sex offenders (20.8%) and highest for property offenders (56.5%)”); Hanson, K.R.; Bussière, M.T., *Predicting relapse: A meta-analysis of sexual offender recidivism studies*, *Journal of Consulting and Clinical Psychology*, 66(2), Apr, 348-362, (1998)(13.4% sexual recidivism for all offenders in meta-analysis of 61 studies and 23,400 offenders); Hanson, K.R.; Morton-Bourgon, K., *The Characteristics of Persistent Sexual Offenders: A Meta-Analysis of Recidivism Studies*, *Journal of Consulting and Clinical Psychology*, 73(6), 1154-1163 (Dec 2005)(13.7% sexual recidivism in meta-analysis of 95 studies with over 31,000 sexual offenders over five year follow-up period).
- 5) *Fact Sheet: What you need to know about Sex Offenders*, Center for Sex Offender Management, December 2008 (estimating about 12-24% of all offenses are repeat offenders); *A Better Path to Community Safety*, California Sex Offender Management Board, (about 95% of all offenses are first time offenders);
- 6) *Bureau of Justice Statistics (2000)*: Approximately 93% of all sex crimes are perpetrated by offenders known to the victim prior to the offense. The majority of sexually abused children are victimized by someone well know to them and approximately 60% of offenses take place in the victim’s home or the home of someone the victim knows *Bureau of Justice statistics (1997)*.
- 7) Minnesota Sentencing Guidelines Commission: Sentencing Practices – *Criminal Sexual Conduct Offenses Sentenced in 2014* (Published December, 2015).
- 8) Minnesota Department of Corrections released a study entitled: *Residential Proximity & Sex Offense Recidivism*. (2007). [http://www.csom.org/pubs/MN%20Residence%20Restrictions\\_04-07SexOffenderReport-Proximity%20MN.pdf](http://www.csom.org/pubs/MN%20Residence%20Restrictions_04-07SexOffenderReport-Proximity%20MN.pdf)



9) Zandbergen, P. A., Levenson, J. A., & Hart, T. C. (2010) Residential Proximity to Schools and Daycares: An Empirical Analysis of Sex Offense Recidivism. *Criminal Justice and Behavior*, 37, 482. Retrieved 2/12/2016. <http://themediareport.com/wp-content/uploads/2013/11/Residential-Proximity-to-Schools-and-Daycare-study-2010.pdf>

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

10) *Sex Offender Housing Restrictions*, (2013) The Kansas Department of Corrections. Retrieved 2/12/2016. <http://www.doc.ks.gov/publications/CFS/sex-offender-housing-restrictions>.

- A. “Housing restrictions appear to be based largely on three myths that are repeatedly propagated by the media: 1) all sex offenders reoffend; 2) treatment does not work; and 3) the concept of “stranger danger.” Research does not support these myths, but there is research to suggest that such policies may ultimately be counterproductive. Sex offender residence restrictions. A Report to the Florida Legislature, October 2005, Jill S. Levinson, Ph.D.
- B. Research shows that there is no correlation between residency restrictions and reducing sex offenses against children or improving the safety of children. Iowa County Attorneys Association
- C. The resulting damage to the reliability of the sex offender registry does not serve the interests of public safety. Iowa County Attorneys Association
- D. 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. Iowa County Attorneys Association
- E. 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 plea agreements. Plea agreements are necessary in many cases involving child victims in order to protect the children from trauma of the trial process. Iowa County Attorneys Association
- F. Recommendation 1: Shared Living Arrangements appear to be a frequently successful mode of containment and treatment for higher risk sex offenders and should be considered a viable living situation for higher risk sex offenders in the community.... Recommendation 2: Placing restrictions on the location of correctionally supervised sex offender residences may not deter the sex offender from re-offending and should not be considered as a method to control sexual offending recidivism. Report on Safety Issues Raised by Living Arrangements for and Location of Sex Offenders in the Community; Colorado Department of Public Safety, Division of Criminal justice, Sex Offender Management Board



- G. ....the number of sex offenders who are unaccounted for has doubled since the law went into effect. Iowa Coalition Against Sexual Assault
- H. 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. Iowa County Attorneys Association
- I. [This policy] is contrary to well-established principles of treatment and rehabilitation of sex offenders....These goals are severely impaired by the residency restriction, compromising the safety of children by obstructing the use of the best known corrections practice. Iowa County Attorneys Association
- J. The sex offender residency restriction was a very well intentioned effort to keep the children of our communities safe from sex offenders. It has, however, had unintended consequences that effectively decrease community safety. Iowa Coalition Against Sexual Assault
- K. ....some offenders are attempting to comply by providing descriptions of where they are actually living..."under the 7<sup>th</sup> street bridge," "truck near river," "rest area mile marker 149," "Flying J, in truck," "in tent, S side of I-80," "RV in old K-Mart parking lot," "I-35 rest area," ....Two listed Quick Trips.... For the first time, sex offender treatment providers tell us, sex offenders are absconding in larger numbers. Iowa Coalition Against Sexual Assault
- L. When a brutal sexually violent crime occurs, such as the one that occurred in Iowa last year, our societal tendency is to focus all our resources and energy on stopping offenders. The long-term solutions to eradicating sexual violence from our society, however, do not lie in measures taken to stop re-offense, but rather in preventing sexual violence from happening in the first place. Iowa Coalition Against Sexual Assault
- M. ... the Board of the Iowa Coalition Against Sexual Assault joined the Iowa County Attorneys Association in stating that these unintended consequences warrant replacing the residency restriction with more effective measures. Iowa Coalition Against Sexual Assault
- N. Housing restrictions have passed in most localities with little resistance. Child safety is rightly the primary concern when sex offender restrictions are imposed. It seems to make sense that decreasing access to potential victims would be a feasible strategy to preventing sex crimes. There is no evidence, however, that such laws are effective in reducing recidivistic sexual violence. On the other hand, 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. Sex offender residence restrictions. A Report to the Florida Legislature, October 2005, Jill S. Levinson, Ph.D.
- O. Despite overwhelming public and political support, there is no evidence that proximity to schools increases recidivism, or, conversely, that housing restrictions reduce reoffending or increase community safety. Sex offender residence restrictions. A Report to the Florida Legislature, October 2005, Jill S. Levinson, Ph.D.
- P. Based on the examination of level three re-offenders, there were no examples that residential proximity to a park or school was a contributing factor in any of the sexual re-offenses noted... Enhanced safety due to proximity restrictions may be a comfort factor for the general public, but it does not have any basis in fact...it appears that a sex offender attracted to such locations for purposes of committing a crime is more likely to travel to another neighborhood on order to in secret rather than in a neighborhood where his or her picture is well known. Level Three Sex Offenders Residential Placement Issues, 2003 Report to the Legislature, Minnesota Department of Corrections
- Q. Having 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, such as 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. Again, no evidence points to any effect on offense rates of school proximity residential restrictions. Level Three Sex Offenders Residential Placement Issues, 2003 Report to the Legislature, Minnesota Department of Corrections

- R. Since blanket proximity restrictions on residential locations of level three offenders do not enhance community safety, the current offender-by-offender restrictions should be retained. Proximity restrictions, based on circumstances on an individual offender, serve as a valuable supervision tool... Most of these supervision proximity restrictions address the issue of the offender associating or interacting with children or minors, rather than where the offender resides. Level Three Sex Offenders Residential Placement Issues, 2003 Report to the Legislature, Minnesota Department of Corrections
- S. 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. Iowa County Attorneys Association...
- T. A tight web of supervision, treatment and surveillance may be more important in maintaining community safety than where a sex offender resides. Report on Safety Issues Raised by Living Arrangements for and Location of Sex Offenders in the Community; Colorado Department of Public Safety, Division of Criminal justice, Sex Offender Management Board."

11) Tennen, E. (2014) Risky Policies: How Effective Are Restrictions on Sex Offenders in Reducing Reoffending? *Boston Bar Journal*, 58, 4, <http://bostonbarjournal.com/?s=tennen%2C+e>

12) [http://texasvoices.org/wordpress/wp-content/uploads/2016/01/Residency\\_Restrictions\\_Packet1.pdf](http://texasvoices.org/wordpress/wp-content/uploads/2016/01/Residency_Restrictions_Packet1.pdf)



Rick Weinberger is a licensed psychologist, a Clinical Member of ATSA, and at the time of this writing, the Inpatient Clinical Director at Alpha Human Services, [www.alphaservices.org](http://www.alphaservices.org). Much appreciation to the Minnesota Sex Offender and Reentry Project (MNSORP) for their help in writing this paper. [www.mnsorp.org](http://www.mnsorp.org)

ATSA is an international, non-profit, interdisciplinary organization, with nearly 3,000 clinicians, scientists, and allied professional members. ATSA is dedicated to the prevention of sexual abuse through the advancement of research, professional knowledge, best practices, and support for public education. MnATSA is the state chapter of ATSA.

**This is one in a series of educational papers written by MnATSA colleagues to provide research, facts, and information to help educate the public and inform policymakers.**

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