

# Hidden challenges: Sex offenders legislated into homelessness

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## Abstract

- *Summary:* Zoning laws that prevent sex offenders from living within close proximity to schools and other places where children congregate have proliferated over the past 10 years. In many communities, few dwellings are compliant with these laws, causing sex offenders to become homeless. First, a brief history of residence restriction laws will be provided and then the research around their impact and effectiveness will be summarized, followed by empirically supported recommendations for reform.
- *Findings:* Legislating individuals into homelessness is not sound social policy, nor is it humane. These laws do not conform to what is known about patterns of sexual perpetration and victimization, and thus do little to prevent recidivistic sexual violence. In fact, these policies may undermine the very factors shown by research to be associated with positive reentry and reduced recidivism.
- *Applications:* The grand challenge of social justice requires social workers to advocate on behalf of those who are marginalized in our communities including criminal offenders. Research-based policy reform can result in improved public safety outcomes and social justice in our communities.

## Keywords

Social work, sex offender, homelessness, grand challenge, residence restrictions, policy

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The Julia Tuttle Causeway is picturesque over the sparkling gentle waves of South Florida's Intercoastal Waterway against the backdrop of Miami's skyline. Underneath the bridge, however, in 2009, were as many as 140 homeless individuals living in exile. Ironically, some of these men owned homes of their own. Others had families who were willing to take them in. Many had jobs and could pay rent. But they were sex offenders, forced into homelessness by a complex web of zoning

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ordinances prohibiting them from living within 2500 ft of a school, park, playground, daycare, or school bus stop. In Miami's densely populated metropolitan area, few residential dwellings were compliant with the law. What began with good intentions quickly escalated into a crisis that continues today.

Social work leaders have proposed a set of "Grand Challenges" for the profession (Barth, Gilmore, Flynn, Fraser, & Brekke, 2014; Uehara et al., 2013) to address a range of complex and inter-related social problems that deeply impact American society. Among these grand challenges for social workers is the goal of ending homelessness through collaborative research, resources, community organization, and advocacy across micro, mezzo, and macro levels (Henwood et al., 2015). Criminal offenders are a hidden group vulnerable to homelessness as they face reentry challenges finding safe and affordable housing after incarceration (Roman & Travis, 2004). It is estimated that 10–30% of homeless individuals have recently been released from incarceration or have a criminal record of some sort (Cortes, Rogers, & Center, 2010). Among those criminal offenders most at risk for homelessness are sexual offenders who are subject to strict laws prohibiting them from living near places where children congregate.

## **History of sex offender residence restrictions (SORRs) and evidence of their impact**

There are perhaps no crimes that evoke as much anger and fear as sexual offenses. Over the past several decades, in response to a series of highly publicized heinous sexual crimes, lawmakers have responded swiftly and decisively to the public's demand for protective legislation (Levenson, 2015). The most sweeping of these initiatives has been the establishment of publicly accessible registries which alert the community about sex offenders living among us so that citizens can take protective actions to prevent victimization (Anderson & Sample, 2008; Kernsmith, Comartin, Craun, & Kernsmith, 2009). As awareness of sex offenders living in our midst has grown, so has concern about where they live in relation to places where children congregate. As a result, 30 states and thousands of municipalities have passed laws restricting where sex offenders can reside (Levenson, Ackerman, Socia, & Harris, 2015; Meloy, Miller, & Curtis, 2008). First enacted in Miami Beach in June 2005 by mimicking zoning codes that prohibit sexually oriented businesses (e.g. strip clubs or adult bookstores) from operating near schools, local ordinances can be found in most states and often set restricted buffer zones of up to 2500 ft surrounding venues that cater to children (Levenson et al., 2015). When a city or county enacts a SORR law, a domino effect can quickly result when neighboring towns pass comparable legislation in order to prevent exiled sex offenders from migrating to their neighborhoods (Levenson et al., 2015). As Commissioner Peter Bober, from Hollywood, Florida told the South Florida *Sun Sentinel* in May 2007: "Other cities already have them and if we fail to act, then we put a big target on ourselves as being a desirable place for sex offenders to reside."

These laws have created a problematic phenomenon: homeless sex offenders. Based on an analysis of data downloaded from public registries, it was determined that about 2–3% of registered sex offenders nationwide have been designated as homeless or transient (Ackerman, Harris, Levenson, & Zgoba, 2011; Harris, Levenson, & Ackerman, 2012). These numbers are considerably elevated, however, in localities with extensive prohibitions on living within close proximity to places where children gather, such as in California and Florida (California Sex Offender Management Board, 2011; Socia, Levenson, Ackerman, & Harris, 2015). Research shows that residential instability and transience of sex offenders increase after the passage of these types of laws (Rydberg, Grommon, Huebner, & Bynum, 2014).

The challenges of reintegration after a criminal conviction are even more pronounced for registered sex offenders. The legacy of any felony conviction often includes employment obstacles, denial of public benefits (including housing), decreased educational opportunities, estrangement from family and friends, and disenfranchisement (Maruna, LeBel, Mitchell, & Naples, 2004; Petersilia, 2003; Uggen, Manza, & Behrens, 2004). The unique stigma of the registered sex offender (RSO) status, however, coupled with residence restrictions, can obstruct community re-entry even more profoundly (Levenson, 2008; Levenson et al., 2015).

These laws may sound like common sense: keep known child abusers far from vulnerable youngsters. Child-oriented venues are ubiquitous, however, and thus residence restriction laws in major metropolitan areas zone out immense geographical areas, significantly diminishing housing options and leaving few dwellings compliant for RSOs (Red Bird, 2009; Zandbergen & Hart, 2006, 2009; Zgoba, Levenson, & McKee, 2009). SORR laws frequently force sex offenders to relocate, prevent them from returning to their own homes after incarceration, and preclude them from living with family members (Levenson, 2008; Levenson & Cotter, 2005; Levenson & Hern, 2007; Mercado, Alvarez, & Levenson, 2008; Tewksbury & Mustaine, 2009). Many report that affordable housing is difficult to find, that landlords refuse to rent to them or to renew a lease, and that they find themselves living farther from employment hubs, public transportation systems, social service agencies, and mental health facilities (Levenson, 2008; Levenson & Hern, 2007). Young adults are particularly impacted by these laws if they are barred from living with family yet are unprepared to live independently due to financial limitations or developmental immaturity. In densely populated communities, the combination of extensive buffer zones and high rental prices creates a “perfect storm” for sex offender homelessness and displacement (Levenson et al., 2015, p. 20; Socia et al., 2015).

Ironically, housing instability is known to increase risk for criminal recidivism and absconding (Schulenberg, 2007), and so the goal of reducing homelessness among offender populations is crucial for enhancing public safety. When offenders live with supportive family or peers, they are less apt to recidivate, and those who move frequently are more likely to engage in future crimes, so the situational context and life circumstances of offenders are important influences on their likelihood of reoffending (Steiner, Makarios, & Travis, 2015). Policies that legislate

offenders into homelessness undermine community safety by diminishing the chance for a successful reintegration. Moreover, transient sex offenders are more likely to abscond from registration, suggesting that housing restrictions may undermine the very purpose of registries (Levenson, Ackerman, & Harris, 2013). SORR laws can also cause sex offenders to cluster in the few locations where compliant housing is available, resulting in a disproportionate number of sex offenders in a small geographical area and leading to heightened concerns for the welfare of children living in such neighborhoods (Broward County Commission, 2009; FATSA, 2015; Socia, 2013).

Several examples highlight the extent of this problem. In Florida, over one hundred sex offenders living under the causeway connecting Miami Beach to the mainland received national attention (Miami Herald, 2008; Skipp & Campo-Flores, 2009), and there is even a Wikipedia page describing this homeless colony under the Julia Tuttle bridge. Homeless sex offenders remain a significant problem in South Florida in 2015; 7% of RSOs across the entire state are without a permanent residence and 45% of the state's homeless sex offenders reside in the greater Miami and Fort Lauderdale metropolitan areas, where about one in five RSOs are listed as transient (FATSA, 2015). In California, the number of homeless RSOs rose dramatically after the 2006 passage of "Jessica's Law," a 2000 ft state-wide restriction zone. In 2011, the California Sex Offender Management Board reported that nearly one-third of sex offenders on parole were homeless due to Jessica's Law (California Sex Offender Management Board, 2011). The buffer zone, coupled with already limited housing availability and affordability, rendered much of the major metropolitan areas noncompliant throughout the state. The Management Board raised concerns that these conditions obstructed offenders' prospects for employment, stability, and support systems. As well, they reported that SORR laws interfered with parole agents' efforts to effectively supervise sex offenders who did not have a permanent residence (California Sex Offender Management Board, 2008, 2011).

## **Rationale for reform of residence restrictions laws**

There is a collective belief that the vast majority of sex offenders inevitably repeat their crimes, inspiring laws that mandate special types of social control. But research has repeatedly determined that sex offense recidivism rates are lower than generally assumed, averaging between 5 and 15% across studies (Bureau of Justice Statistics, 2003; Hanson & Bussiere, 1998; Hanson, Harris, Helmus, & Thornton, 2014; Hanson & Morton-Bourgon, 2005; Helmus, Hanson, Thornton, Babchishin, & Harris, 2012). Sex offenders are rearrested less often for a new crime than are assault, property, and drug offenders (Durose, Cooper, & Snyder, 2014; Sample & Bray, 2006). It is often argued that low recidivism rates obscure the high number of sex crimes that go undetected, and of course it is true that many are not reported. It is well established, however, that it is a small group of serial predators and pedophilic offenders with a high volume of victims that creates the impression

that all sex offenders are prolific recidivists. In reality, the broad range of behaviors that now qualify someone for RSO status exists across a spectrum of risk for recidivism, and the vast majority of convicted sex criminals are not arrested for repeat sex offenses over time (Abel et al., 1987; Harris & Hanson, 2004; Helmus et al., 2012).

Importantly, new longitudinal research has found that sex offense recidivism risk declines significantly over the years that individuals remain in the community sex offense-free. In fact, low-risk sex offenders commit new sex crimes at rates *below* general criminal offenders; in other words, criminals with no sex crime history are rearrested for a subsequent sexual offense *more often* than low-risk convicted sex offenders. Compared to general offenders, high-risk RSOs have the same chance of being arrested for a new sex offense after 16.5 years with no new arrest, and moderate risk offenders cross that threshold after about 10 years (Hanson et al., 2014; Harris & Hanson, 2012). While some sex offenders certainly pose a long-term and serious danger to community members, most do not.

SORR laws have been passed in many jurisdictions with little regard for research or risk assessment. There is no evidence that residence restrictions prevent sex crimes, or that RSOs who live closer to child-oriented locations are more likely to reoffend than those who live farther away (Colorado Department of Public Safety, 2004; Duwe, Donnay, & Tewksbury, 2008; Nobles, Levenson, & Youstin, 2012; Socia, 2012; Zandbergen, Levenson, & Hart, 2010). Residing within a restricted buffer zone does not contribute to victim selection, and the reputed offense patterns that SORR laws ostensibly seek to address by restricting access to certain venues apply to only 1–4% of cases (Colombino, Mercado, Levenson, & Jeglic, 2011; Mogavero & Kennedy, 2015). Though the goal of these restrictions is to decrease opportunities for pedophiles to prey upon vulnerable children, very few sex offenders first encounter child victims in the types of public settings identified in these laws. In fact, youngsters are most likely to be molested by a trusted person who is acquainted with them and their families (Bureau of Justice Statistics, 2000; Colombino et al., 2011). All sex offenders do not pose the same degree of risk, and even among those with minor victims, less than half meet criteria for the diagnosis of pedophilia, which requires an enduring primary or exclusive sexual interest in prepubescent children (Ackerman et al., 2011; American Psychiatric Association, 2013; Kingston, Firestone, Moulden, & Bradford, 2007; Seto, 2008).

Sex offender management laws have been passed with little forethought or anticipation of the collateral consequences they might bring, and those who advocate for a more measured approach tend to be viewed as placing the rights of offenders above those of victims. Sociologist Robert Merton warned nearly a century ago that when well-intended policies are passed hastily in response to a perceived threat, their adverse consequences may outweigh their benefits (Merton, 1936). At the same time, socially constructed moral panics can build collective solidarity and send important messages about what will not be tolerated in a civilized society (Goode & Ben-Yehuda, 1994; Roots, 2004). Indeed, the response to sex offenders over the past 20 years has sent an important message of zero

tolerance for sexual assault. But the best laws are those grounded in research evidence.

Interviews with legislators shed light on the political rationale for sponsoring sex crime prevention bills, and research evidence was not identified as a high priority (Meloy, Boatwright, & Curtis, 2013; Sample & Kadleck, 2008). Several common themes have been noted (Meloy et al., 2013; Sample & Kadleck, 2008): Sex offenders were repetitively described by lawmakers as perverted, sick, habitual, uncontrollable, and not amenable to treatment, with over two-thirds of the politicians opining that sex criminals will almost inevitably reoffend. They expressed skepticism about the value of rehabilitation programs and often spoke of rape and murder simultaneously, implying that these were the types of crimes they hoped to prevent by enacting legislation. Though we would expect lawmakers to consult with experts when developing policy, the politicians acknowledged that their perceptions about sex offenders emanated predominantly from the media. Many actually admitted that they were unconvinced that the sex offender laws they were supporting would achieve goals of public protection, but they viewed themselves as having a duty to respond to their constituents' demands for action (Meloy et al., 2013; Sample & Kadleck, 2008). Surveys of citizens have concurred that most people are supportive of these laws even when confirmation of their effectiveness is absent (Levenson, Brannon, Fortney, & Baker, 2007).

Fueled by myths of stranger danger, assumptions of alarmingly high recidivism rates, and revulsion for perpetrators of sexual crimes, SORR laws seem immune to evidence. The *Columbus Dispatch*, in October 2007 (Lane, 2007), quoted Delaware County Prosecutor David Yost describing his support for residence restrictions as

just an obvious thing to do . . . I'm concerned that a lot of people in public policy are being put off by the argument that there's no evidence that these kinds of restrictions help. There are times we have laws and there is not empirical proof that they help something, yet we don't throw common sense out.

Similarly, in a recent Reuter's article appearing in the *Bangor Daily News*, Ronald Book, a prominent Florida lobbyist and vociferous proponent of these laws, declared:

I don't want those people living near children. If you put young children in the faces of people prone to commit sexually deviant behaviors on children, there is a greater chance than not that they'll act out. They'll do their thing. (Goldberg, 2015)

Though enacted with good intentions, SORR laws are intensely misguided. Sex offenders do not abuse children because they live near playgrounds or schools (FATSA, 2015). They cultivate opportunities for sexual molestation by grooming children and their families, and they use positions of trust, familiarity, or authority to do so (Duwe et al., 2008). Research suggests that over 90% of sexually abused children were victimized by someone well known to their families (Bureau of



Justice Statistics, 2000, 2010), and that sexually motivated stranger abductions of youngsters are rare, occurring on average about 115 times per year (Finkelhor, Hammer, & Sedlack, 2002; National Center for Missing and Exploited Children, 2015). Policies controlling where sex offenders live, rather than where they go and what they do, discount empirical realities and misdirect efforts to prevent child sex abuse (Colombino et al., 2011). Though they seem logical, they regulate only where sex offenders sleep at night and do nothing to prevent pedophilic predators from patronizing child-oriented sites during daytime hours (FATSA, 2015). Alternatives such as child safety zones, which prohibit RSOs from loitering in places where children tend to be present, are better suited to achieve the objective of reducing sex offenders' access to children without compromising their housing needs (Colombino et al., 2011; FATSA, 2015).

### **The grand challenge of research-informed sex offender management policies**

Sexual abuse of children is egregious, and protecting children from harm is a vital objective. However, in the absence of empirical evidence that residence restrictions are successful at protecting children, preventing sexual abuse, or reducing recidivism, such laws hinder rather than advance efforts toward these goals (FATSA, 2015). SORR laws in metropolitan areas deplete housing availability and increase the potential for sex offender homelessness, undermining the very purpose of the registries by elevating the number of offenders who fail to register, abscond, or become more challenging to track and monitor. There is ample evidence that sex offender polices as currently implemented are in desperate need of reform, including better risk assessment to meaningfully guide case management decisions that are individually tailored to offenders' risk and needs (FATSA, 2015; Huebner et al., 2014; Zgoba et al., 2015).

There is growing public criticism of SORR laws as their negative consequences to offenders and communities become more apparent. Recent court decisions declaring residence restrictions unconstitutional in California, Massachusetts, and New York seem to indicate a changing tide in the support for these laws. Even early on, however, some prosecutors and victim advocates publicly questioned the wisdom of residential restrictions, admonishing that these laws would accelerate the growing problem of sex offender homelessness and compromise the efficiency of tracking and supervision by law enforcement agents (Iowa County Attorneys Association, 2006; NAESV, 2006). Their forewarnings turned out to be correct. In July 2015, the U.S. Department of Justice released a report summarizing the research on the effectiveness of sex offender management systems (Lobanov-Rostovsky, 2015). The conclusions regarding residence restrictions were unequivocal, stating that residence restrictions are not effective, and that they may actually increase offender risk by undermining offender stability and the ability of the offender to obtain housing, work, and family support. The report concluded that no evidence exists to support the use of these policies at this time. Perhaps this DOJ

report, along with the bipartisan momentum currently underway for criminal justice reform, paves the way for social workers to advocate for empirically driven policies to prevent recidivistic sexual violence.

Residential restrictions are a failed social experiment. There is no evidence that they protect children or prevent recidivism, and in fact they create many more problems than they solve. They contradict decades of research demonstrating that when criminal offenders return to communities they are much more likely to reintegrate successfully when they have meaningful employment, stable housing, and the support of law-abiding family and peers (Steiner, Makarios, & Travis, 2015). Instead, SORR laws disrupt stability, create barriers to steady employment, and banish individuals far from their most helpful social support systems. Treatment professionals and law enforcement officers concur that housing problems interfere with offender stability and aggravate the risk factors that stimulate criminal behavior and noncompliance (FATSA, 2015). Displacement precludes family support and access to treatment services, and often relocates offenders to high crime and impoverished areas where drugs, prostitution, and vulnerable families tend to be prevalent. Factors such as substance abuse, negative moods, hostility, depression, and anxiety all exacerbate reoffense risk, and psychosocial stressors challenge the already deficient coping strategies of many offenders. When people believe they have nothing to lose, they act accordingly.

Social policies should be based on scientific data and are most likely to succeed when their development and implementation is informed by research. One-size-fits-all approaches to sex offender management result in an inefficient distribution of resources and impede successful reintegration. Many scholars (e.g. Huebner et al., 2013; Socia et al., 2015; Zgoba et al., 2015) have highlighted the utility of empirically driven risk assessment protocols and classification procedures to focus surveillance efforts on sex offenders posing the highest threat. Huebner et al. also recommended that probation and law enforcement efforts would be enhanced if there were greater emphasis on prerelease planning and improving the prison-to-community transition process. Thus, a more effective approach to sex offender management would apply individualized restrictions based on offense patterns and risk factors. Refinements in these laws would allow for management systems to more appropriately identify and target high-risk offenders, allocate resources more efficiently, minimize the collateral consequences that impede reintegration, and enable sex offenders to adopt a law-abiding and pro-social lifestyle. Most sex offenders will eventually return to the community, and when they do, an approach that relies on empirically supported reintegration strategies will likely be more effective in reducing recidivism and protecting communities.

Specifically, recommendations for reform include:

1. Residential restriction laws should be abolished in their current form though individualized case management plans developed by supervision officers and treatment providers might call for specific housing restrictions depending on an offender's risks and circumstances.



2. SORR laws can be replaced with what are sometimes referred to as Loitering Laws or Child Safety Zones, which prohibit known sex offenders from loitering in places where children tend to be present without a legitimate reason or prior permission. Such laws would better target the goals of preventing predatory pedophilic individuals from preying on vulnerable children in public places.
3. Programs like Circles of Support and Accountability have shown empirical support in reducing recidivism by creating networks of support systems that enable sex offenders to reintegrate more fluidly, establish prosocial relationships, and foster a sense of inclusion rather than ostracization (Wilson, Cortoni, & McWhinnie, 2009).

### Implications for social workers

Social workers have taken a leading role in child protection, victim advocacy, rape prevention, and sexual abuse research, and many sex offender treatment providers are social workers. However, sex offender management policy has rarely been discussed in academic social work circles. Over the past century, the social work profession has advanced in its grassroots mission to serve poor, vulnerable, and oppressed populations, and developed into a scientist-practitioner model for empirically supported practice and policy. American crime prevention policies over the past 30 years have relied heavily on incarceration, and the United States now leads the world in imprisonment rates. Our criminal justice system fuels a range of unintended consequences including excessive costs for American taxpayers, systemic inequities for the poor and minorities, and woefully inept strategies for safely rehabilitating and reintegrating offenders into communities (Petersilia & Cullen, 2015; Pettus-Davis & Epperson, 2015). The grand challenge of social justice relies on the integration of collaborative leadership, science, and public dialog to enable innovative and transformative solutions (Uehara et al., 2013).

Social workers have a long history of working with clients involved in the criminal justice system, as there is a salient link between crime and other types of social problems attended to by social workers (Maschi & Killian, 2011; Scheyett, Pettus-Davis, McCarter, & Brigham, 2012; Sheehan, 2012). There has been a call for social work education programs to provide students with specialized training in assessment, treatment, clinical, and case management services for offenders (Epperson, Roberts, Ivanoff, Tripodi, & Gilmer, 2013; Grady & Abramson, 2011; Robbins, Vaughan-Eden, & Maschi, 2015). Social workers are well positioned to use their skills and knowledge in the context of the biopsychosocial and environmental frameworks to provide forensic services and to advocate for evidence-informed sexual violence prevention policies (Guin, Noble, & Merrill, 2003; Sheehan, 2012).

SORRs that result in homelessness are a bad idea for several reasons. They utilize resources (shelters, soup kitchens, etc.) that should be reserved for individuals who are truly in need. For sex offenders who could reside with family members or on their own if not for these laws, the use of these services is unnecessary and wasteful.

Furthermore, they trigger other costs to taxpayers, such as expenses associated with law enforcement, courts, and reincarceration for those whose residential instability results in supervision violations, and the victimization costs when instability leads offenders to resume a life of crime. These laws undermine the HUD's strategic efforts to end homelessness (United States Interagency Council on Homelessness, 2010) by creating a new class of individuals susceptible to housing instability and thereby erecting a new obstacle for the already overburdened safety net. SORR laws contradict the United Nations Declaration on Human Rights, which proclaimed housing as a fundamental right that all persons should be able to access.

Within the strengths-based and integrative environmental context of social work practice, we have an ethical duty to promote social justice and protection of human rights for all, including those who have committed crimes, in an effort to promote individual and societal well-being (Maschi & Killian, 2011; National Association of Social Workers, 2008; Pettus-Davis & Epperson, 2015; Saleebey, 2011; Sheehan, 2012). In order to halt the cycle of interpersonal violence in communities, it is critical that the mental health, child protective, and criminal justice systems deprioritize incarceration as the primary means of crime control and invest in a comprehensive set of prevention services for high-risk families, trauma-informed interventions for victims, and rehabilitative reentry programs for offenders (Larkin, Felitti, & Anda, 2014; Pettus-Davis & Epperson, 2015). Social workers are trained to consider macro and policy issues as well as micro and clinical issues. As such, social workers should advocate for evidence-based clinical programs and public policies.

If social workers believe in social justice, we cannot pick and choose who it applies to. As a society, we need to be honest about our intentions: if SORR laws seem justifiable simply because of our outrage about sexual crimes and our revulsion toward offenders, then our motivations are punitive. If we pass them to manage risk for reoffense, then perhaps the motivation is more authentic, but the reality is that no evidence exists that they achieve this goal. The grand challenge of social justice requires us to step forward and speak on behalf of those without a voice, especially those most marginalized in our communities – including criminal offenders. Legislating individuals into homelessness is not sound social policy, nor is it humane. Most citizens and politicians have little sympathy for the plight of sex offenders, but social workers recognize the need to promote research-informed forensic services and policies to ensure the best outcomes for individuals and society.

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