

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:40 A.M. on January 9, 2007, in Room 123-S of the Capitol.

All members were present except:

Derek Schmidt arrived 9:42 A.M.  
Julia Lynn arrived 9:45 A.M.  
Phil Journey arrived 9:47 A.M.  
David Haley arrived 9:52 A.M.  
Les Donovan- excused

Committee staff present:

Athena Anadaya, Kansas Legislative Research Department  
Bruce Kinzie, Revisor of Statutes' Office  
Nobuko Folmsbee, Revisor of Statutes' Office  
Karen Clowers, Committee Secretary

Conferees appearing before the committee:

Kathy Porter, Office of Judicial Administration  
Melissa Wangeman, Council, Secretary of States' Office  
Roger Werholtz, Secretary of Corrections

Others attending:

See attached list.

Chairman Vratil welcomed everyone and distributed guidelines for Conferees who wish to appear before the committee. Regular meetings are scheduled Monday through Thursday at 9:30 A.M. in Room 123-S, additional meetings may be scheduled on Fridays later in the session.

Bill Introductions

Kathy Porter requested the introduction of five bills (Attachment 1). The first bill would amend K.S.A. 75-5268 regarding disbursement of money paid to inmates for payment of docket fees, fines, fees and restitution assessed. The second bill would amend K.S.A. 22-2303 to substitute the word "judge" for "clerk" as the person who may sign an arrest warrant. The third bill would amend K.S.A. 8-1560d regarding confidential speeding violations. The fourth bill would amend K.S.A. 60-2403 regarding release of a judgment of record. The fifth bill would amend K.S.A. 65-2422d to require the state registrar to furnish to district courts a list of deceased residents 18 years of age or older in order to eliminate the names from lists potential jurors. Senator Bruce moved, Senator Goodwin seconded, to introduce the bills. Motion carried.

Melissa Wangeman requested the introduction of a bill regarding conversion of one kind of business organization to another, or the merger of two or more business organizations into one organization (Attachment 2). Senator Bruce moved, Senator Goodwin seconded, to introduce the bills. Motion carried.

Senator David Wysong introduced a bill regarding prohibition of the use of tobacco products. Senator Goodwin moved, Senator Allen seconded to have the bill introduced as a committee bill. Motion carried.

Presentation on Residency Restrictions for Sex Offenders

Roger Werholtz presented the committee a summary of the information presented to the 2006 Special Committee on Judiciary regarding residency and proximity restrictions for sex offenders (Attachment 3). The summary included results of studies conducted in Iowa, Arkansas, Florida, and Colorado. It provided statistics on offender recidivism, the role of the media in shaping public and policy maker perceptions, offender compliancy rates, and treatment success rates. Secretary Werholtz also emphasized that the public's need to "feel safe" has influenced policy makers in legislating such restrictions.

The meeting adjourned at 10:26 A.M. The next scheduled meeting is January 10, 2007.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 1-9-07

NAME	REPRESENTING
Tara Olson	Swedish Justice Activist
Katy Dahm	CSG
Kathy Porter	Judicial Branch
Don Jordan	SRS
Frances Breynne	KDOC
Roger Verbeeth	KDOC
Rick Fischer	KS Human Rights Com.
Mindy Baccus	SRS/KDOC re-entry
Star Jones	John Peterson
Julienne Maslin	Gov. office
Ryan Adkins	
Sandy Barnett	KCSOV
Phil Pedding	KSC
Brenda Hammer	KSC
Scott Heidner	KADC
Lance Walsh	OTA
Mike Hein	Hein Law Firm
Sandy Jacquot	LKM



**PLEASE CONTINUE TO ROUTE TO NEXT GUEST**

## SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 1-9-07

[illegible]



State of Kansas

## Office of Judicial Administration

Kansas Judicial Center  
301 SW 10<sup>th</sup>  
Topeka, Kansas 66612-1507

(785) 296-2256

Senate Judiciary Committee  
Tuesday, January 9, 2007  
Kathy Porter, Office of Judicial Administration

### **Requests for Bill Introductions from the Kansas Association of District Court Clerks and Administrators**

Following are summaries of bills that are requested for introduction during the 2007 legislative session by the Kansas Association of District Court Clerks and Administrators (KADCCA). If enacted into law, the requested bills would accomplish the following:

- Amend K.S.A. 75-5268 to provide that, from the balance of money paid to inmates who participate in paid employment or job training, a reasonable amount may be disbursed to the clerk of the district court for the payment of costs, fines, fees, and restitution assessed. Current law provides that "a reasonable amount pursuant to an order of restitution" may be disbursed to the clerk of the district court. Under current law, there have been cases in which the Department of Corrections has forwarded payments to clerks of the district court to pay for restitution that has been ordered, but payments have stopped when the restitution is paid in full. This has left docket fees, fines, and other amounts unpaid.
- Amend K.S.A. 22-2303 to substitute "judge" for "clerk" as the person who may sign an arrest warrant.
- Amend K.S.A. 8-1560d to delete from current law the provision stating that convictions for violating a maximum posted speed limit by not more than ten miles per hour "shall not be a part of the public record." Under current law, if a confidential speeding violation is one of two or more charges on a single traffic ticket, clerks of the district court are placed in the situation in which one portion of the file, the confidential speeding charge, is not open to the public, and another portion of the file, the remaining charge or charges, is open to the public. Whether the public may view the ticket itself, which includes one charge not open to the public and one or more charges that are open to the public, has been an issue.
- Amend K.S.A. 60-2403 to provide that the judge, rather than the clerk, shall have the duty to release a judgment of record if requested to do so when a judgment becomes and remains dormant for a period of two years.
- Amend K.S.A. 65-2422d to require the state registrar (within the Department of Health and Environment) to furnish to the clerk of the district court a monthly list of residents of

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each county who are at least 18 years of age for whom death certificates have been filed during the preceding calendar month. Currently, that list is provided to the county election officer of each county. Clerks would then be able to delete those names from the list of potential jurors. Clerks who summon jurors from the list of licensed drivers have sometimes been placed in the situation of summoning deceased persons for jury service. This is often very upsetting to family members of the deceased. This amendment would allow clerks to remove the names of deceased persons from their list of potential jurors.

KP:mr



## SUMMARY

### Model Entity Transactions Act

The Uniform Law Commissioners have provided unincorporated organization law to the states since the first Uniform Partnership Act in 1914. The current portfolio of uniform acts on unincorporated organizations includes the Uniform Partnership Act (1997), the Uniform Limited Partnership Act (2001), the Uniform Limited Liability Company Act (1996) and the Uniform Unincorporated Nonprofit Organization Act (1996). Corporate law has been the focus of the American Bar Association for at least 50 years. It is responsible for the Model Business Corporation Act and the Model Not-for-Profit Corporation Act. It also prepared a Prototype Limited Liability Company Act. Partnerships, limited partnerships, limited liability partnerships, limited liability limited partnerships, limited liability companies and corporations are the basic entities under American law (business trusts and cooperatives are also growing in importance) that provide the means to aggregate capital, and limit liability where applicable, along with the structure to organize an enterprise, whether it is for profit or nonprofit.

All of this uniform and model act work has made American law particularly efficient for entrepreneurs. Anyone who establishes and develops a business has choices available for the entity that may be chosen to do business. As a business grows, these options also allow for some changes in form and location of the entity chosen. For example, a small enterprise that chooses to be a partnership initially has the opportunity to reorganize as a corporation when the business is big enough to want the advantage of the corporate form. Not-for-profit activities also have a greater array of organizational forms, now including the limited liability company and the limited partnership along with the not-for-profit corporation. American law is particularly flexible and responsive to the needs of both the for-profit and the not-for-profit sectors. American business organization law is the envy of the rest of the world for this reason.

However, more can be done. There is no comprehensive statutory framework for changing entity form, whether for merger of entities, conversion of one entity to another, exchanging interests to merge businesses without merging the entities (called an interest exchange), or for changing the location of the entity (called a domestication). The newest uniform acts on limited liability companies and limited partnerships have limited provisions. The Model Business Corporation Act has been modified to do some of these kinds of transactions. The comprehensive effort had not been done until the **Model Entity Transactions Act (META)**, promulgated by the Uniform Law Commissioners and the American Bar Association in 2004.

The Uniform Law Commissioners and the American Bar Association have a long relationship going back to the founding of the Commissioners. Every drafting committee the Commissioners authorize to work on an act has advisors from the American Bar Association. However, in this instance the need to draw together corporate law with the law of unincorporated organizations, meant a more formal joint relationship was necessary. META is a product of this joint relationship.

The problem with mergers, conversions, interest exchanges and changing the location of entities is that an entity involved may have to be dissolved to accomplish the desired end. This means technically winding down the business, satisfying creditors and interest holders in the winding down, and potentially incurring adverse tax consequences. This is a burden when the objective is not to dissolve the business but to continue it in another form or another location. The hazards of the process are many and very costly. A statute that allows these events to occur without dissolving at least one of the entities involved will increase efficiency and lower costs. A general statute, not limited in scope to less than all of the kinds of entities commonly involved in these transactions, is highly desirable. Cross-entity transactions should be available. That statute should also be one that can be fit with the existing entity law in a state so that it is not necessary to repeal all the existing entity law to accomplish the objective. META is the general statute that is designed to fit in with a state's existing entity law to accomplish the objective.

META governs the course of four kinds of transactions: *merger* of one entity with another, *conversion* of an entity to another kind of entity, an *interest exchange* between two entities so that one of them is controlled

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Attachment 2



by the other without actually merging the two entities and the *domestication* of an entity originally organized in one state in another state. A merger occurs when one entity acquires another entity and the result is a single entity composed of both the original entities. A conversion occurs when one kind of entity converts to another kind, i.e., a limited liability company converts into a business corporation. An interest exchange occurs when interest holders transfer their interests in one entity to another for interests in the second entity. For example, the holders of all interests in a limited partnership transfer their interests to a corporation in return for shares of stock in the corporation. A domestication occurs when an entity formed under the laws of one state becomes an entity formed in another state, extinguishing its entity status in the first state. The articles of META essentially provide the procedures to accomplish each of these transactions.

META authorizes each of these kinds of transactions. It authorizes different entities to merge, i.e., a corporation may merge with a limited partnership. It authorizes a partnership to convert to a limited liability company. An interest swap may occur between a limited partnership and a limited liability company. A corporation may change its place of organization from one state to another. These are examples of the kinds of transactions authorized. They can occur between an entity in one state and a foreign entity formed originally in another state, providing that the law of the foreign state permits such a transaction.

In each kind of transaction, there must be a plan that is approved by the interest holders in the entities. The plan generally describes the transaction and its effect in detail. Approval of the plan proceeds according to the organic statute and rules that govern the pre-existing entities, or if none, by unanimous consent of all interest holders. If, for example, a partnership agreement governing a limited partnership provides for consent of partners to one of the kinds of transactions subject to META, the agreement would be the organic rules that would determine the approval of the plan. Otherwise all the partners would have to consent.

Once a plan is approved, a statement relevant to the transaction must be filed in the office in a state in which entity statements or charters are normally filed. The filing puts the transaction and the identity of the entity that survives in public records. That entity becomes the entity with the capacity to do business and it has the applicable liability shield from that time onward.

The objective in these procedures is to make sure that no interest is extinguished in the process of any of the transactions under META, whether a merger, conversion, interest exchange or domestication. This is true for an interest holder such as a shareholder in a corporation or holder of a partnership interest. It is also true for creditor interests that pre-existed the given transaction. The point of the procedures is to end with an entity that continues the business of those entities it succeeds without extinguishing obligations incurred by these entities in a seamless, nondisruptive transfer.

There are a few exclusions from META. If mergers in a state are already governed by the merger provisions in a state's enactment of a uniform or model act, META will not apply or displace those provisions. The same is true for interest exchanges when a state has the Model Business Corporation Act. Not all entities will necessarily be governed by META. There are special corporations, for example, that should not be included, depending upon their status in a state. META allows for them to be specifically excluded.

META is a model act, not a uniform act, although several of the acts affected are uniform acts. Although there is some uniformity in entity law, i.e., partnership law, it is not true across the full spectrum of entity law. This means that using META from state to state is likely to mean much adaptation of META provisions. The effect of utilizing META may have the impact of introducing more uniformity of law relating to entities from state to state, but use of its language in a uniform way cannot be expected.

Business organization law and the law relating to not-for-profit organizations has been much refurbished, updated and improved in the 30 years preceding 2004, the year of META. Development has been dynamic and good for economic function in the entire United States. META adds another element to this dynamic progression of law relating to these entities. It is good for business and not-for-profit ventures alike. It should be studied, adapted and enacted in every state as soon as practicable.

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Twenty Findings of Research on Residential Restrictions for Sex Offenders and the Iowa Experience with Similar Policies

1. 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.
2. 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
3. The resulting damage to the reliability of the sex offender registry does not serve the interests of public safety. Iowa County Attorneys Association
4. 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
5. 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
6. 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
7. ....the number of sex offenders who are unaccounted for has doubled since the law went into effect. Iowa Coalition Against Sexual Assault
8. 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
9. [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
10. 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
11. ....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
12. 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
  13. ... 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
  14. 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.
  15. 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.
  16. 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
  17. 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
  18. 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

19. 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 . . .

20. 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



## ■ THE GEOGRAPHIC LINK BETWEEN SEX OFFENDERS AND POTENTIAL VICTIMS: A ROUTINE ACTIVITIES APPROACH

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### ■ Abstract

Despite the publicity surrounding several high-profile sex offender incidents in the 1990s, relatively little research has been done on sex offenders themselves. This article reports on a study of sex offenders in one Arkansas county who had children as victims. Specifically, we examined the relationship between where the offenders live and where children congregate to see whether offenders choose to reside in areas with high concentrations of children. We use routine activities theory as a foundation for explaining our results, and conclude with a discussion of the policy implications of the findings.

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Although rapists have drawn the attention of the criminal justice system for many years, the activities of other types of sex offenders were brought to the forefront of public attention in the 1990s, spurred by several high-profile kidnappings, molestations, and murders of children. Legislation such as Megan's Law and the Jacob Wetterling Act propelled sex offenders into the public spotlight by requiring that they register with the state and that the public be notified of their existence and often their whereabouts.

Relatively little research, however, has focused on sex offenders themselves, and most research that has been conducted has used very small samples or has remained relatively obscured in the tables and graphs of state crime publications. This study attempts to overcome some of those limitations. We examined the population of sex offenders who had children as victims in one metropolitan county in Arkansas to see where offenders live in relation to parks, schools, and day cares. Our argument is that child sex offenders are largely incorrigible and they may attempt to live in areas with a high concentration of children. We use routine activities theory to explain our results, and conclude that this theory is capable of explaining this type of crime and may be beneficial to policymakers in controlling sex offenses against children.

### ■ Sex Offenders and Victims

In June 2000, Christopher Reardon was arrested for sexually abusing young boys. Interest in the case increased when it was learned that Reardon used his job as a youth minister and YMCA swim coach to befriend the boys before he molested them. Reardon ultimately pled guilty to 120 counts of sexual abuse of a child. This case is only one example of the many sexual abuse cases in which adults use their physical or geographic relationship to gain access to young children.

The National Clearinghouse on Child Abuse and Neglect (1996, p. 8) reports that the number of cases of sexually abused children increased from about 119,200 in 1986 to 217,000 in 1993, an 83% increase. Hillman and Solek-Tefft (1988, p.1) estimate that at least 25% of all Americans were sexually abused as children. Even though many children are sexually abused each year, little research has focused on offenders who target children (Crewdson, 1988, p. 115).

Sexual abuse has been defined in a variety of ways. McGrath (1991, p. 341), for example, describes it as an act that takes advantage of a "weaker, more vulnerable person." He suggests that offenders often choose victims who are unable to fight back, such as children and those who suffer from a mental illness or mental retardation. Colton and Vanstone (1996, p. 2) define child sexual abuse as the "carrying out of sexual acts by adults with children below the age of

consent." While definitions of child sexual abuse may vary, the actions they describe are ultimately the same: An adult takes advantage of a child for the purpose of sexual gratification.

### ■ Targeting Children

One of the most important characteristics of child sex offenders is that they generally have a method of gaining access to children. Goldstein (1987, p. 91) argues that there are three ways in which sexual offenders gain access to children: marriage, neighborhood, and occupation. These methods are not mutually exclusive. Offenders may molest their own child, molest the children on the ball team that they coach, and work in a business that targets children.

Goldstein (1987, p. 83) proposes that it is not uncommon for an individual to marry for the sole purpose of gaining access to children. Perpetrators who use marriage as an access technique often seek out women who already have children who meet their age and gender preferences. The marriage often lasts only as long as the children are in the victim target range. Offenders also might marry and take in foster children or adopt children. They will rarely produce their own children for this purpose, however, since there is no guarantee that they will be the preferred gender (Goldstein, p. 83). Hillman and Solek-Tefft (1988, p. 27) argue that offenders might also have a relationship with the family of a child victim.

A second way sex offenders might gain access to a child is by searching for neighborhoods with children. Goldstein (1987, p. 98) insists that many pedophilic activities are premeditated. Goldstein conducted part of his research by examining publications used by pedophiles. In these publications, he found several articles and other material suggesting that offenders target places such as arcades, schools, and playgrounds. Offenders have also been known to use particular activities to entice children. For example, 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 (Goldstein, p. 106). When a pedophile chooses to target a victim, age preference is the key factor. Abusers who prefer adolescents are more likely to become scout leaders and coaches, while those attracted to younger children may seek employment in day care centers (Crewdson, 1988, p. 117).

Lanning (1992, p. 18) describes sex offenders as frequently associating with young people. The sex offender may hang around schoolyards, arcades, shopping centers, or anywhere else that children are present. He suggests that child sex offenders have well-developed techniques for obtaining victims (Lanning,

p.19). He or she may also have hobbies and interests that specifically appeal to children, such as collecting specific toys or dolls.

A third way in which sex offenders might target victims is by choosing occupations allowing access to children. Goldstein (1987, p. 108) argues that offenders often become involved with programs catering to the children in their target group, or they may become employed at a business that caters to children. Goldstein further notes that if offenders are unable to get into a business that caters to children, they might start one of their own.

Colton and Vanstone (1996) profiled seven men who were convicted of sexually abusing children. In this study, all of the subjects' occupations gave them access to children. These occupations included working as a schoolteacher, youth worker, church employee, and as a volunteer for various activities with youth organizations.

Kelley, Brant, and Waterman (1993) argue that sexual abuse can occur in any setting where children can be found and that sexual abuse perpetrators purposely work to know the locations of concentrations of children. One place that caters to children is day care centers. Several studies have been conducted to determine the incidence of sexual abuse in the day care setting

Approximately 1 child in 10 is cared for outside the home (Crewdson, 1988, p. 117). There is a consensus that children in day care are at a higher risk for sexual abuse (Kelley et al., 1993, p. 71). Sexual abuse data indicate that an average of 5.5 children per 10,000 enrolled in day care are sexually abused (Murray, 2000, p. 213). Kelley et al. (p. 71) report that many of the cases involving multiple or serial sexual abuse involve day care centers. In one of the most notorious cases, Virginia McMartin, her daughter, her grandson, and many of the preschool's employees were charged with sexually abusing the children in their care (Crewdson, p. 134). This case was even more tragic given the evidence that the daycare employees and other people in the community were involved in an elaborate child sexual abuse ring, and that the day care had been set up for the sole purpose of using children for sex (Crewdson, p. 135).

Finkelhor, Williams, and Burns (1988) examined 500 day care facilities in an attempt to determine if day cares were high-risk environments for sexual abuse. They found 2,500 cases of child sexual abuse in the 500 facilities. Of the perpetrators, 16% were the day care's owner or director. In one case a man with a previous conviction for child molestation convinced his wife to start a babysitting service, illustrating the importance of the relationship between convicted child sex offenders and day care centers (Finkelhor et al.). Investigators in the case concluded that since all children at the day care were abused, the perpetrator's sole purpose in establishing the day care was to obtain access to children to sexually abuse.



### ■ Routine Activities and Crime

In 1979, Cohen and Felson presented a theory that took a different view of criminal behavior. Instead of only examining the activities of offenders or victims, Cohen and Felson proposed that criminal behavior is a union of criminal, victim, time, and place. This became known as routine activities theory.

The focus of routine activities theory is the natural activity patterns of people. Cohen and Felson (1979, p. 593) define routine activities as "any recurrent and prevalent activities which provide for basic population and individual needs." They argue that criminal activities follow patterns similar to those of "everyday sustenance activities," meaning that criminals go about their lives in the same kinds of movement and behavior patterns as those who go to work, school, shop, and undertake hobbies. It is when the "routine activities" of a criminal overlap the "routine activities" of a victim that the potential for a criminal violation occurs. According to Cohen and Felson, routine activities bring people together in both criminal and non-criminal behaviors. "Hence the timing of work, schooling, and leisure may be of central importance for explaining crime rates" (Cohen & Felson, p. 591). It is this convergence of victims and offenders in time and place that is central to routine activities theory, and to the research at hand.

Cohen and Felson (1979) propose that their theory is most applicable to "direct-contact predatory violations," that is, when an offender has direct physical contact with a victim. They believe that routine activity patterns are affected by three elements: motivated offenders, suitable targets, and the absence of capable guardians against a violation. A change in any one of these could increase or decrease the crime rate. While it has been popularly held that an increase in the number of offenders could increase the crime rate regardless of the number of victims, it may also be true that an increase in the number of suitable targets in an area could increase the crime rate, even without an increase in the number of offenders.

In a follow-up study published in 1987, Felson extended the original theory by focusing on urban characteristics, including locations that attract both potential offenders and victims. In this research, Felson proposes that criminals often position themselves to naturally come into contact with potential victims: "Just as lions look for deer near their watering hole, criminal offenders disproportionately find victims in certain settings . . ." (1987, p. 914). He goes on to suggest that certain areas of the city bring offenders and targets together so effectively that they almost draw the people to the area, they make it easy for offenders to find suitable victims, and they create areas of the city that are very high crime risk areas.

Public facilities such as parks and schools were among the areas mentioned. As such, routine activities theory was expanded to show that not only do offenders and

victims often come together as a result of their everyday activities (and by extension, criminals could increase their odds of coming into such contact by manipulating their activities), but places in the city could also promote such interaction.

Following the work by Felson, much of the research related to routine activities theory began to examine more specific locations and/or offender types (see, for example, Sherman, Gartin, and Buerger, 1989, and Smith, Frazee, and Davison, 2000). While this line of research is related to the research at hand (for example, Roncek and Maier [1991] found that increases in potential targets [in their case bars and taverns] in residential areas can significantly increase the amount of crime), no literature currently applies routine activities theory to child sex offenders. This study attempts to begin to fill that void by arguing that child sex offenders may put themselves in a position to come into contact with potential victims and that some places may draw offenders and targets together.

## ■ Methods

This research was spawned from a larger project that examined the characteristics of all sex offenders in the state of Arkansas. For that project, the records of all sex offenders registered with the state on February 1, 1999, (a total of 1,646) were collected. These data were augmented by the criminal history records of the offenders.

For the project at hand, all the sex offenders in that database who had a residency address in one metropolitan county (Pulaski County) were selected. This county was chosen because it had the largest number of sex offenders of any county in the state and, for the purposes of this project, it was the only county that had been mapped sufficiently to be able to relate sex offender residences with potential targets. Of the 1,646 sex offenders in the database, 252 were from this county. Because of the nature of the targets selected for this analysis (areas where a concentration of children were likely), this data set was further broken down into offenders who had a child as a victim and those who did not. A total of 170 offenders had a child as a victim.

The second set of data to be collected was the locations of the potential target areas. We selected day cares, schools, and parks as the potential targets based on legislation at the state and federal level that specifically identify schools, playgrounds (parks), and day cares as areas of concern for criminal activities such as gun possession, drug use, rehabilitation centers, and sex offenders. Furthermore, we decided to use these targets because they represent areas where typically there is a concentration of potential victims.

School districts within the county supplied the address of each primary and secondary school. A total of 83 schools were identified in the county. The loca-

tion of parks in the county (a total of 43 parks) was obtained from the Parks and Recreation Department. Phone records were used to obtain a listing of all day cares in the county. After identifying all day cares, we confirmed the addresses by contacting the day care by telephone. A total of 171 day cares were identified.

After all of the addresses for the sex offenders and targets were obtained, they were geocoded and mapped using ArcView. A number of geocoding problems had to be overcome to proceed with the project. These problems resulted from changes in street names and streets that had been added in the county after release of the maps used in the analysis. Ultimately 90% of the addresses for offenders, 88% of the addresses for schools, 95% of the addresses for parks, and 85% of the addresses for day cares were included in the analysis. We do not see this as a problem, however, because of the nature of the project. The analyses here are mapping the relationship of the location of targets to where child sex offenders live. Problems with the geocoding resulted from inadequate mapping points for geocoding the addresses. As a result, if a sex offender could not be properly mapped to a particular street segment, then neither could the potential target (if there was no street segment mapped to geocode an offender, then there would be no street segment mapped for any of the targets). About the same percentage of each of the data sets could not be geocoded (from 5% to 15% of addresses). Again, since neither target nor sex offender could be mapped, a report of the relationship between the two should not be affected.

After the data on offenders were broken down into those who offended against children and those who did not, three sets of analyses were conducted. The first was a point location analysis whereby the point locations of all child sex offenders and all of the potential targets were geocoded. The maps were then examined for any concentrations or abnormalities that might be important in determining the spatial relationship between child sex offenders and potential victims.

In the second analysis, 1,000-foot buffer zones were drawn around each of the targets in the county. Each of the buffered potential targets was then examined to determine how many child sex offenders lived within them. In addition, the number and percentage of child sex offenders living in the buffer zones were compared to the number and percentage of non-child sex offenders living in those buffer zones.

The concept of a 1,000-foot buffer zone came from examining federal regulations and the Arkansas code, which prohibit certain activities near schools. For example, drug-free zones are established by 21 U.S.C. § 860, which enhances penalties for distributing illicit substances within 1,000 feet of any school, university, or playground (park). Arkansas Code 5-64-411 provides for a 1,000-foot drug-free zone around schools. Furthermore, 18 U.S.C. § 921 defines a "school zone" as any place "in or on the ground of a public, parochial, or private

school or within a distance of 1,000 feet of a public, parochial, or private school."

In the third analysis, Spatial Analyst, a tool that measures the physical distance between objects and how densely they are concentrated, was used to examine the relationship between each of the target types and where the offenders lived.

### ■ Study Limitations

As with any research, this study has certain limitations. The primary limitation is the assumption that child sex offenders are choosing to live within close proximity to potential targets. The premise going into this research was that if there was a predominance of child sex offenders living close to potential victims, at least part of the reason was to take advantage of these potential targets. This initial premise was supported by our findings, but as with any research, rejection of the null hypothesis (that there is no relationship between where child sex offenders live and the geographic location of potential targets) does not imply absolute acceptance of the research hypothesis (that sex offenders choose to reside in close proximity to potential targets). Alternative hypotheses are also possible. For example, as discussed below, sex offenders could be residing in these areas because of a social or political inability to exclude undesirable residents from living there; or sex offenders may choose to live in these areas because they are more affordable. It may be more accurate to say, then, that there is a relationship between where child sex offenders live and the geographical location of potential targets irrespective of choice. Since most people do make choices about where they live, however, it is also plausible (and is supported by the co-location of child sex offenders and targets in this research) that sex offenders are choosing to live in close proximity to potential victims.

A second and related limitation of the study is that it does not make comparisons with residents in these areas who had not been convicted of a sex offense. As one reviewer suggested, information should have been collected on the relative similarity of age, race, and income between sex offenders and other residents. While this kind of information would have been helpful, we do not believe that it substantially changes the conclusions herein. First of all, this kind of information was not available for the sex offenders in this research (and neither was information we desired, such as whether the offender had children or not). Additionally, this information is not particularly accurate for the general population. The 2000 Census was not out at the time of this research, and we believed that 1990 Census data were probably inaccurate given the changes in the characteristics of neighborhoods. Finally, we argue that it makes little difference to policymakers whether sex offenders are overrepresented on mean income in an



area or whether one area has 1.7 sex offenders per 1,000 population while another has 1.5 sex offenders per 1,000 population. We believe that what is important is how many child sex offenders are living within 1,000 feet of a potential target.

### ■ Analyses

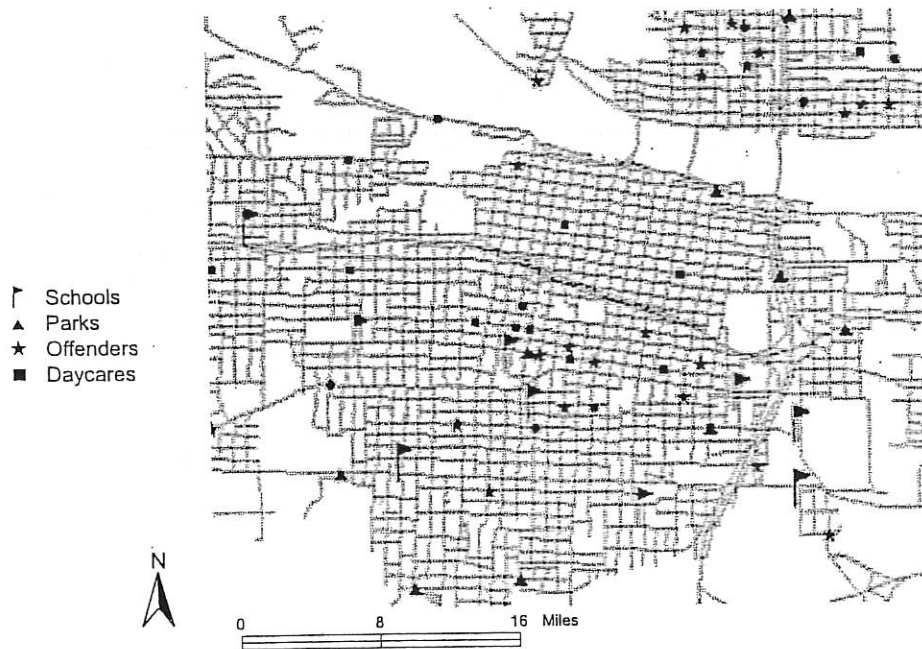
The analyses for this project were broken into three parts: The first was an examination of the point locations of child sex offenders and targets within the county, the second was an examination of buffer areas around the potential targets as they related to where sex offenders lived, and the third was an examination of the spatial density of the relationship between the child sex offenders and potential targets.

#### *Point Location Analysis*

Although the map in Figure 1 is quite crowded, it is easy to see the substantial overlap between where child sex offenders live and the locations of potential targets. Obviously, a more detailed analysis was needed. Through a visual ex-

### ■ Figure 1

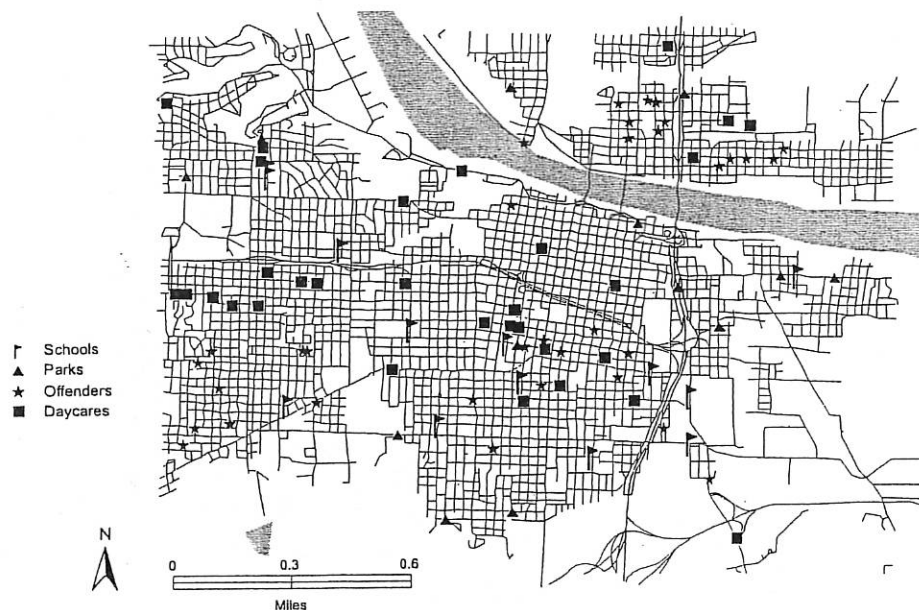
Pulaski County Sex Offenders - Overview  
(Portion enlarged to show detail)



amination of the maps, we identified 36 areas where a number of child sex offenders were living in close proximity to one or more potential targets—areas where there appeared to be a higher concentration of child sex offenders, or where the physical relationship between child sex offenders and targets seemed to be abnormal.

Figure 2 details one of the 36 areas identified as containing a concentration of child sex offenders in close proximity to potential targets. The map has two particular areas of interest. The first is in the upper right-hand corner, where there were twelve child sex offenders living within a few blocks of four day cares and a park. Also interesting is the area in the map's center, which shows a close interspersing of sex offenders around a number of day cares, schools, and parks. In one of these cases, three child sex offenders lived within five blocks of a school, day care, and park, and one of the sex offenders lived on the same block as the park and only two blocks from a school and day care. The three sex offenders essentially surrounded one day care, and one of the sex offenders lived on the same block as a day care. Only a short distance away, three other child sex offenders surrounded another day care, and in another place, one child sex offender lived one block away and between a school and a day care.

Figure 2  
Pulaski County Sex Offenders - Cluster of Offenders and Targets



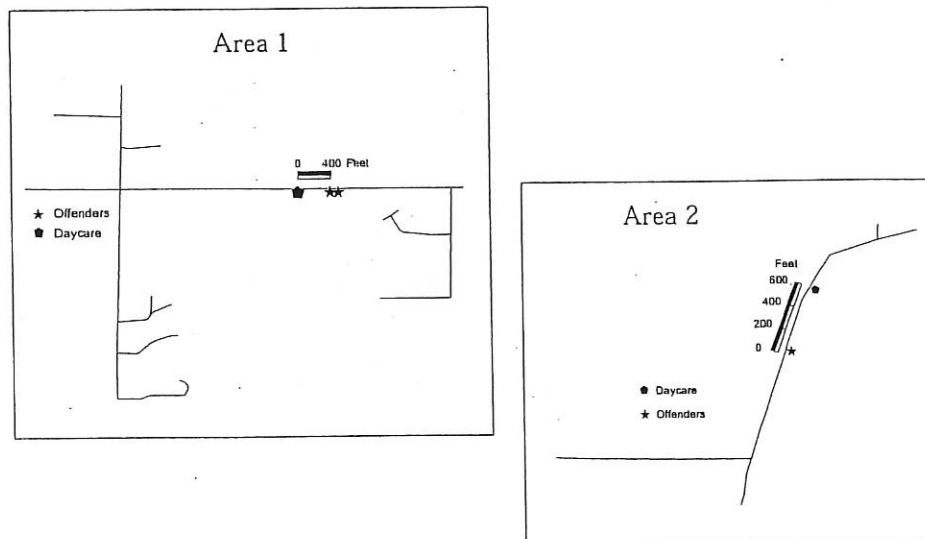
Each of the other areas within the 36 identified as concentrations exhibited patterns similar to that shown in Figure 2. Some areas had a greater concentration of child sex offenders around day cares and schools than the area shown in Figure 2, but the latter area was used as an example because the multiple sites within the concentration area demonstrated the likelihood of several concentrations even within a single area.

Figure 3 also illustrates the co-location of child sex offenders and targets. In both areas the sex offenders were living in very close proximity to the day care. What is particularly interesting, though, is that each day care was in a relatively rural area, not particularly close to anything, and yet a child sex offender (or in one case two child sex offenders) lived in very close proximity.

What we determined from analyzing the 36 concentration areas is that in some areas of the city, a large number of child sex offenders lived in close proximity to concentrations of children that may serve as potential targets. The point location relationship between child sex offenders and potential targets supports the argument that at least some child sex offenders are selecting where they live based on potential targets in the area. This was particularly clear when the maps and relationships were examined in detail, especially when the child sex offender and target were not co-located with other people. What must be avoided, however, is assigning a purposeful nexus between offenders and targets simply

Figure 3

Pulaski County Sex Offenders - Proximity of Offender and Daycare



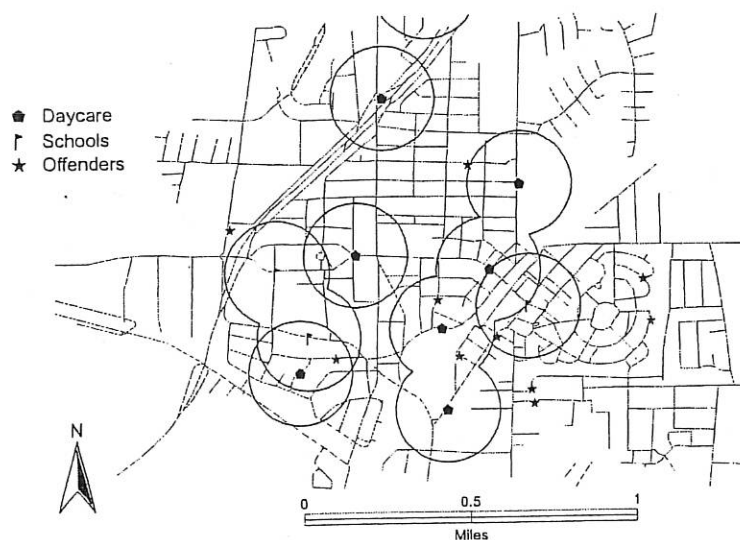
because of their co-location. This relationship may exist because these areas are more accepting of others, or because the residents do not have the social or political power to prevent sex offenders from living in the area. When these conditions exist in areas where there are a number of potential targets, however, the likelihood of child sex offenders choosing to live close to potential targets appears to increase. Visual examination of a map does not represent a complete analysis of this relationship, however. A second analysis was undertaken, therefore, that used buffer zones around the potential targets to see how many child sex offenders were living in those areas.

#### *Buffer Areas*

By counting the number of sex offenders living in the 1,000-foot buffer zones around potential targets, an estimation of the relationship between the sex offenders and targets could be made. We found that just under half (48%; 82 of 170) of all sex offenders in the data set who had children as victims lived within the buffer zone of one of the potential targets, and over one third lived within the buffer zones of multiple targets.

An example of the analysis and results of buffering potential targets is shown in Figure 4. Here, several of the schools and day cares did not have a child sex offender living within the buffer zone. Two areas are illustrative, however. The first is in the center left of the map, where two day cares and two schools heavily

Figure 4  
Pulaski County Sex Offenders - Offenders and Buffer Areas



overlapped one another. Also in this buffered area was a child sex offender who lived immediately adjacent to a day care. A more explicit example of child sex offenders living in close proximity to potential targets is the area just to the right. Four day cares and a school were all buffered together. There were also four child sex offenders living within this buffered area, and four more who lived just outside the buffered area.

As a part of this analysis, sex offenders in the data set who had children as victims were mapped against sex offenders in the data set who did not have children as victims to determine if there were differences in their residence patterns. As discussed above, 48% of all child sex offenders lived within the buffer zones. In comparison, 26% (19) of non-child sex offenders lived in these buffer zones. This lends support to the argument that child sex offenders are choosing to live in areas where there are concentrations of potential victims. At the very least, this finding is troubling for the criminal justice system and families alike: that there is a larger percentage and number of sex offenders who had children as victims living in close proximity to concentrations of children than there are sex offenders who did not have children as victims.

The analysis of 1,000-foot buffers around potential targets provides some quantification for the argument that child sex offenders are choosing to live in areas where they have access to potential victims. In this analysis, almost half of all child sex offenders lived within 1,000 feet of a day care, school, or park, and a substantially higher percentage of child sex offenders were living in these areas than offenders who did not have children as their victims. Certainly some of the variation can be attributed to the distribution of residential areas within the county. This is not a total explanation, however, and the assumption must be made that some of the child sex offenders were choosing to live in areas where they had access to potential victims. This relationship was further explored in the final analysis of this research, which examined the spatial density of child sex offenders and targets.

### *Spatial Relationships*

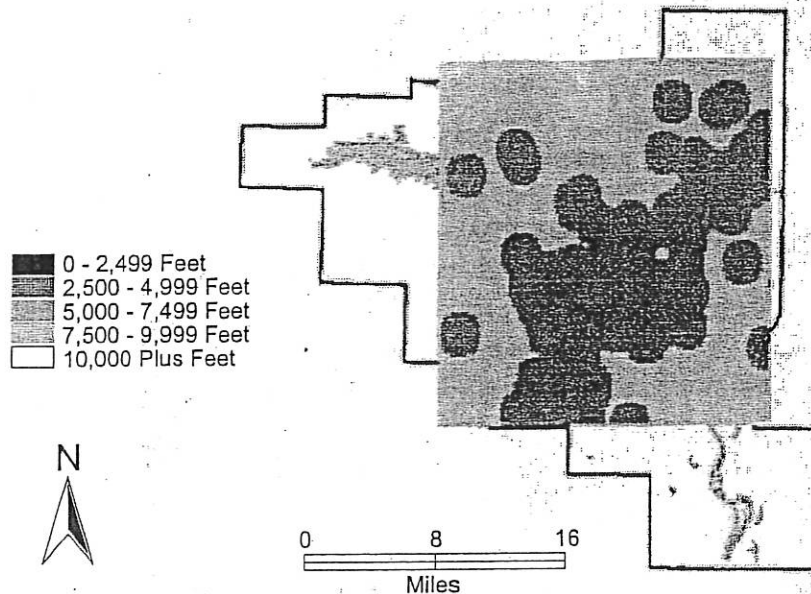
In the third and final analysis, Spatial Analyst was used to examine the relationship between each of the target types and where the offenders lived. Although this is a qualitative measure, it does provide additional evidence that can be used to evaluate the assumptions of this research.

As shown in Figure 5, there was a substantial relationship between where the child sex offenders lived and the locations of schools. The light area throughout this graph indicates a high co-location, with at least one sex offender living within one mile of at least one potential target throughout the area. There were a few areas with a lesser amount of overlap between the two, as indicated by the



Figure 5

Pulaski County Sex Offenders - Spatial Density, Offenders to Schools



darker spots in the map. Only a small portion of the graph was darker, however, which is the least amount of overlap, where sex offenders live more than two miles from a potential target.

Contrast this with the map showing the relationship between offenders and parks (Figure 6), where there is obviously a lesser amount of co-location. Part of the reason for this pattern is that there were fewer parks and they were more spread out (73 schools were geocoded in the analysis, and only 41 parks). Much of the difference, however, is that there did not seem to be the attraction between child sex offenders and parks that there was with schools (discussed above) and day cares (which follows).

The relationship between day cares and child sex offenders is similar to the relationship between schools and child sex offenders (see Figure 7). There was not as large an area that had the highest co-location between child sex offenders and potential targets; however, as Figure 7 shows, there was a fairly substantial relationship between these two, especially given that there were no darker areas (showing a more dispersed relationship) within the area of highest concentration. This supports the argument that density is not just related to high residential areas, and, conversely, that the relationship between child sex offenders and potential targets is not solely based on the density of the targets.

Figure 6

Pulaski County Sex Offenders - Spatial Density, Offenders to Parks

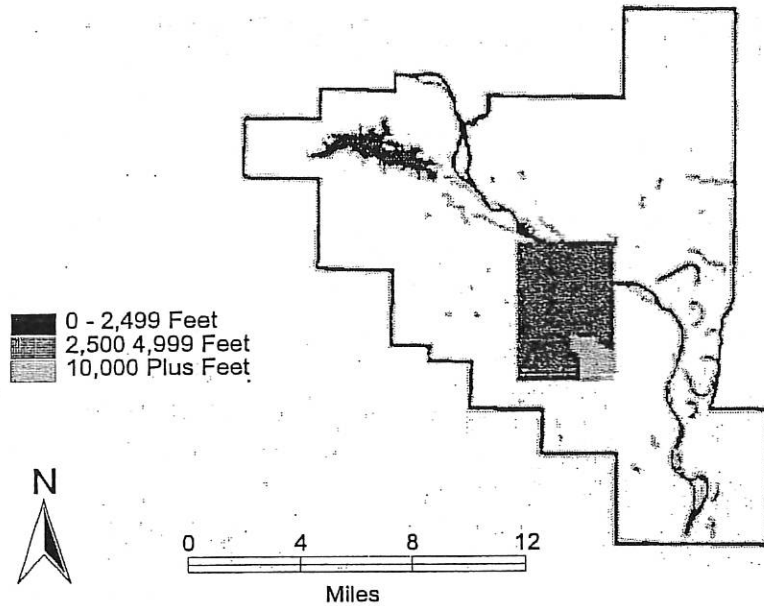
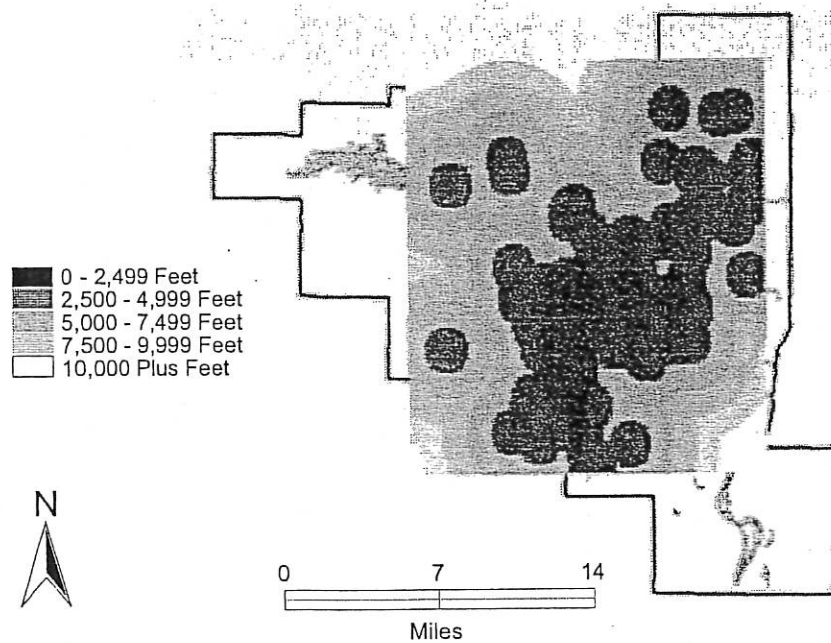


Figure 7

Pulaski County Sex Offenders - Spatial Density, Offenders to Daycares



## ■ Discussion

Routine activities theory proposes that crime occurs when motivated offenders, potential victims, and the absence of capable guardians merge in time and space. Our analysis of sex offenders and their potential targets in one Arkansas county showed a substantial overlap between those convicted of sex offenses (motivated offenders) and children who may be likely targets (potential victims). Some of the reason for this overlap is no doubt the purposeful actions of the offenders. Our results can be explained using the analogy of a regression model. Certainly not all child sex offenders purposefully move to be close to a school or day care. Part of the variation in where child sex offenders choose to live, therefore, is explained in terms of market conditions, in the inability or apathy on the part of the neighborhood to keep the sex offenders out, and for other reasons. Part of the variation in the residency patterns of child sex offenders, though, is no doubt attributable to them putting themselves in close proximity to potential targets, perhaps in hopes that their routine activities will overlap with the routine activities of potential victims.

Like the work of Cohen and Felson (1979), this research was particularly concerned with direct-contact predatory violations. A primary reason for the seriousness of sex crimes is that they represent physical attacks on the person. If, as Cohen and Felson (p. 595) argue, "target suitability influences the occurrence of direct-contact predatory violations," then the location of potential targets and the proximity of potential offenders is of interest. Any changes in the environment or activities of criminal behavior that can control predatory behavior should certainly be a concern for policymakers.

Cohen and Felson (1979) also argue that increases in one of the three elements that change routine activity patterns can increase the crime rate, regardless of changes in the other elements. Furthermore, an increase may have a multiplicative rather than an additive affect—that is, a small increase in the number of offenders who are seeking to target potential victims may produce an increase in the crime rate much larger than the increase in the number of offenders. If that is true, then a change in the number of child sex offenders living in close proximity to potential targets deserves attention.

In this research, we have attempted to establish that two of the elements of routine activities theory may be present in direct-contact predatory violations of child sex offenders. We argue that some child sex offenders will seek out suitable targets. When they find areas with one or more day cares, schools, or parks, they may seek residence there. A high number of child sex offenders living in a particular area may signal that they are purposefully living there because of easy access to potential victims.

What remains to be addressed is the third element of routine activities: the presence of capable guardians. Routine activities theory states that the presence of capable guardians should reduce the likelihood of direct-contact predatory violations. According to the theory, the actions taken by police officers and others to make day cares, schools, and residents of these areas aware of the presence of child sex offenders should increase the number of and/or effectiveness of capable guardians. The relationship between the presence of police and their notification of residents and inhabitants of an area was not explored by this research. It can be argued, however, that their actions could have a important impact on the potential level of sex offenses in an area. The police cannot serve as the sole source of capable guardianship in controlling sex offenses, however. They are too few in number, and they cannot always be present when motivated offenders and potential victims converge in time and space. What the police can do, however, is to make as many people in the neighborhood (especially those who are guardians of potential victims or may be potential victims themselves) aware of the presence of a potentially motivated offender. This can be done by the very actions that are being taken—registering sex offenders and notifying the community of their presence. If it can be determined that these actions are having the desired effect, then the tripartite relationship central to routine activities theory is supported.

## ■ Conclusion

The goal of this research was to examine the possibility of a link between where child sex offenders choose to live and potential targets. We believe that we have found this link. Our findings support the argument that there is a definite convergence of potentially motivated child sex offenders living in close proximity to concentrations of potential victims.

The policy implications of this research directly relate to the resources and efforts of sex offender registration and notification. It is not possible for governments or other entities to control the locations of potential targets (day cares, schools, and parks). Furthermore, despite governmental efforts, there is no evidence that attempts to limit where sex offenders live have been successful. Routine activities theory argues that crime increases when there is a convergence of motivated offenders and potential targets in the absence of capable guardians. This research has shown that there appears to be a convergence of offenders and potential targets in the county we studied. Even if the argument that child sex offenders are choosing to live in these areas because of potential targets is rejected, the fact remains that there is a substantial number of child sex offenders living in close proximity to potential targets.

Since an increase in one or both of these populations may occur, thus potentially increasing the rate of sex offenses multiplicatively, and since it appears that neither of these elements can be controlled, the focus must shift to the third element of routine activities theory—capable guardians. In the present instance, this means that governments and the police must work to increase the effectiveness of sex offender registration and notification. Furthermore, it appears imperative that more attention be given to community notification of the presence of sex offenders. In this way, all who live and work in these areas have the potential to become capable guardians. As stated above, the police alone cannot provide effective guardianship against sex offenses because they cannot be in all places at all times. It is important, then, that the community be enlisted to assist them. Additionally, routine activities theory argues that the more capable guardians there are, the greater the corresponding decrease in potential crime should be. If notification and subsequent community involvement is undertaken effectively, there may even be the multiplicative reduction in the rate of sex offenses, which has been the goal of sex offender registration and notification from its inception.

A crucial next step in this line of research, then, is to further examine these findings in relation to potential guardians. Research should examine whether proper notification concerning sex offenders increases the effectiveness of capable guardians in neighborhoods, i.e., whether neighborhoods that are aware of child sex offenders use that knowledge to increase guardianship at times and places where the convergence of motivated offenders and potential victims is likely to occur. If it is true that an increase in capable guardians can reduce crime, and if it is true that community notification concerning sex offenders can increase the number of guardians, then two substantial findings could result. First, routine activities theory would be given its strongest support to date, and second, and perhaps more importantly, the effectiveness of community notification of sex offenders, which has only been supported through belief and opinion to this point, could be validated.



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LEVEL THREE SEX OFFENDERS  
RESIDENTIAL PLACEMENT ISSUES

*2003 Report to the Legislature*

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Level Three Sex Offenders  
Residential Placement Issues  
*2003 Report to the Legislature*

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## Introduction

The Minnesota Legislature requested a report from the commissioner of corrections to address issues regarding residential locations of level three sex offenders (see Appendix A: Minnesota Session Laws 2002, Chapter 385, Sec. 10).

## Offender Characteristics

As of December 31, 2002, there are 329 designated level three offenders in Minnesota. Of those, 97 are in residential settings in a Minnesota community. All are male. Fifty of those live in Hennepin County, 14 in Ramsey County, six in Olmsted County, and four in St. Louis County. Twenty-three live elsewhere, with no county having more than two.

## Issues

Legislation mandating this report directed the commissioner of corrections to report on eight issues concerning level three sex offenders. This section of the report responds to that directive.

1. *How level three offenders re-enter the community, including how housing and jobs are found and the role that corrections agents play in helping an offender find housing and jobs.*

The specific resource for offenders is the institutional caseworker at each Minnesota correctional facility (MCF). While level three offenders may be released from any correctional facility, the majority of releases are done from the MCF-Lino Lakes. The MCF-Moose Lake, MCF-Rush City, and MCF-Stillwater are the release institutions for the greatest number of remaining releasees.

In anticipation of release, the caseworker will work with the offender on transition plans. This may include a three-day workshop on effective transition from incarceration. Topics covered include residential and job issues. In addition, the transitions program will cover related areas of identification, money management, education, health and life skills, family/friend reunification and relationships, and living under supervision. For those leaving to a supervised release status, the caseworker will coordinate with the prospective supervising agent on a re-entry plan. That re-entry plan must include an acceptable residence. At that time, special conditions may be applied to the supervision plan. Special conditions may include restrictions on proximity to victims, minors, or vulnerable adults. Special conditions are applied on an individual basis to each offender. Common conditions subject to agent approval may be:

- a) No residence in a building where children are present;
- b) No direct or indirect contact with minors;
- c) No direct or indirect contact with vulnerable adults;
- d) No direct or indirect contact with victims;
- e) No membership in groups or organizations;

- f) Must not be in any location where children or minors tend to congregate; or
- g) Other variations as determined by the supervising agent.

Residential placement is dependent on the offender's personal and financial resources in the community. The caseworker and agent may be able to help the offender find placement, but limited opportunities exist if an acceptable supervision location is not provided by the offender.

Halfway house placement is one of the most common first steps in the transition, but there are a limited number of beds available at those placements. St. Paul, Minneapolis, Golden Valley, and Duluth each provide a halfway house facility but fall far short in meeting the housing needs of all sex offenders in need of transitional housing. These halfway houses provide not only for level three offenders but also level two and one offenders as well as non-sex offenders in need of such transition (primarily person offenders convicted of such crimes as Assault, Aggravated Robbery, Murder, etc.). Approximately 60 percent of level three predatory offenders are first released to a halfway house placement.

Transition services for offenders leaving prison at expiration of sentence are even more limited. These offenders leave an MCF without supervision. They are required to register an address with the Bureau of Criminal Apprehension (BCA) but receive no assistance other than that provided by a caseworker prior to release. Keeping track of these offenders is difficult due to their often transient housing options. Anecdotally, it appears that a small number (at least 12) of level three offenders have left Minnesota once their sentences expired, and several other level three offenders have come out of compliance with registration after the expiration of their sentences (although it appears they have stayed in Minnesota).

Generally, the housing options available to offenders are limited and well known to supervising agents. Specific properties and landlords are amenable to providing housing for level three offenders. In Minneapolis, certain landlords appear to have developed a specialty in renting to level three offenders. This has resulted in a concentration of level three offenders in some areas of the city. According to corrections agents, when a landlord rents one unit of a duplex to a level three offender, occupants of the other unit feel uncomfortable and seek other housing. The resulting vacancy is likely to be filled by another level three (or lower level) sex offender. Subsequent vacancies are also filled by sex offenders. The landlords then post information about vacancies at halfway houses, and level three offenders learn about potential openings through word of mouth. Such housing is a limited and finite resource in Minneapolis but can be even scarcer in other counties where the placement of level two offenders causes as much of a problem.

Job search is another topic covered in the transition program but, again, the offender bears most of the responsibility for finding employment. Halfway house placement provides the best transition period for job search. Without connections to a previous employer or family assistance, most employment tends to be in low-pay, non-public service jobs. Knowledge of the offender's level three status is an impediment to seeking employment. Fear of liability if re-offense occurs is a common roadblock to employer willingness to hire offenders. A common release condition is that offenders must maintain 40 hours per week of work or other productive activity. Corrections agents become aware of employers who are willing to hire ex-inmates, including sex offenders. If an offender has difficulty obtaining employment on his or her own, the agent will refer the offender to one of these employers.



In meetings and discussions with community corrections agents working throughout Minnesota, the common issue expressed was the ever-increasing difficulty in procuring residences and employment by level three offenders. The close connection between residence and job means that limiting residential options concurrently limits job options. For example, if offenders are required because of residential restrictions to live in largely unpopulated areas, it is likely that they will have difficulty securing employment as many do not own automobiles (and even have release conditions prohibiting ownership).

Expansion of halfway house beds and expansion of emergency housing funds were most commonly cited as needs when planning for level three releases and moves. Landlords willing to rent to a level three offender are non-existent in many communities, according to corrections agents.

*Recent release plans for selected level three offenders:*

a) Offender A

Released in early 2002 (expiration of sentence). Release address was his parent's home in St. Paul. Maintained that address until mid 2002. This initial placement with a family member is often the ideal placement for transition. Upon leaving that residence, he has been in a transient stage to this date. Registered address was in an outer-ring suburb for one day, the Minneapolis Salvation Army for 18 days, a Bloomington apartment for 19 days, another metro address for 11 days, South Minneapolis for 16 days, an inner ring suburban motel for seven days, and at a downtown St. Paul boarding house for the last 30 days. He has spoken with local law enforcement about living under a bridge. He has made numerous complaints about inability to find acceptable housing of any kind. He has done a fairly good job of maintaining his registration, but constant moving makes tracking difficult.

b) Offender B

Released in mid 2002 (intensive supervised release). His release was to a halfway house from which he absconded in late 2002. He was apprehended and returned to the MCF-Lino Lakes in the same month. He was then released in one month later (expiration of sentence). He was unable to provide a release address prior to release and has no support network. His responsibility for registration was explained to him. He did provide notice of a shelter address in Minneapolis for the first night. He moved to a second shelter the second night and is now officially registered with the BCA as "homeless."

c) Offender C

Released in late 2002 (intensive supervised release). Initial release plan was to a friend's house in rural Minnesota. Due to neighborhood pressure, the invitation was rescinded. His release address then became a transitional motel in a southeastern Minnesota city. His plan is to move into a house he owns in southeastern Minnesota as soon as the current tenant vacates the property. His ownership of property has solved this housing issue.

d) Offender D

Released in mid 2000 (intensive supervised release). His release was to a halfway house. He then moved to South Minneapolis in early 2001. He moved to a trailer park in an outer-ring suburb two months later. He then purchased rural property in an outstate

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county. He was returned to prison for violating a release condition and was released again in late 2002, to his rural property. With financial resources available, he has been able to provide his own housing.

e) Offender E

Released in mid 2000 (intensive supervised release) to a halfway house. Two months later, he moved into the community in North Minneapolis. This is one of the limited number of rental properties available to level three offenders. In early 2001 he registered his address as his father's home but was infrequently there. His release was revoked two months later, due to use of chemicals. He was again released in mid 2001, to his father's home in Minneapolis. He left his father's home two months later. He registered in St. Paul for two weeks before returning to a North Minneapolis residence and then eventually registered at his father's house once again in early 2002. That same month, his sentence expired and he was no longer on supervision. Since that time, while he has been registered at his father's address, most contacts with police have pointed to a status as homeless.

2. *Statewide locations and concentrations of the level three offenders.*

As of December 31, 2002, there were 97 level three offenders in residential locations in Minnesota. Of these, 50 were in Hennepin County, 14 were in Ramsey County, and 33 others were scattered in other counties. Olmsted County had six level three offenders and St. Louis County had four; they were the only counties other than Hennepin and Ramsey with more than two level three offenders (see maps for locations, Appendices B-1 to B-4).

3. *Effects of having the offenders live in close proximity to one another.*

There have been 13 level three offenders released in 1997, 1998, or 1999 who are known to have been re-arrested for a new sex offense by March 2002. Each case has been reviewed to determine the offender's circumstances at the time of the new sex offense. This includes examining whether the re-offense was related to the offender's proximity to a school or park, and whether the offender was living with another sex offender at the time that he re-offended. Each case is summarized below.

*Level three offenders released from January 1, 1997, through December 31, 1999, who have been rearrested for a new sex offense:*

a) Offender F

Released in early 1997 (he was previously released in mid 1994, prior to notification, but was re-incarcerated for a serious release violation and served an additional two years). He had been referred for civil commitment, but Hennepin County chose not to pursue the case. He was re-released twice and re-incarcerated both times before he was released at the expiration of his sentence in late 1997. He re-offended in early 1998, against his live-in girlfriend. He was intoxicated and demanded that she have sex with him. When she refused, he slapped her in the face and raped her. He was registered as living at an address in Minneapolis, and the offense occurred at that location. He was not living with

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another sex offender at the time of the offense. He was sentenced to 90 months in prison and was identified as a Minnesota Sex Offender Program-DOC (MSOP-DOC) referral. He has been in treatment at the MSOP-DOC site since late 2001.

b) Offender G

Released in early 1997 to the custody of a southwestern Minnesota county and placed in the county jail. He had been referred for civil commitment, and the county attorney was deliberating on whether to pursue commitment. This offender sexually assaulted a fellow inmate at the jail the following month. He pled guilty to 4<sup>th</sup> Degree Criminal Sexual Conduct (CSC) and received a sentence of 60 months. He has since stipulated to being a Sexually Dangerous Person and has been released to the custody of the Department of Human Services (DHS). He was incarcerated at the time of the offense, but it is unclear if any of his fellow inmates at the time were sex offenders.

c) Offender H

Released in early 1997, at the expiration of his sentence. He sought to have his risk level reduced by administrative review but was denied. He had been referred for civil commitment, but Hennepin County determined it was unlikely they could prove that he met commitment criteria. He was rearrested and charged with 5<sup>th</sup> Degree CSC for an offense that occurred in the following month. At the time, this offender had two addresses registered with the BCA: in South Minneapolis and a rural route address in a small town in the southeastern region of the state. It appears that he was not living with another sex offender. His re-offense was committed in downtown Minneapolis. He was in a bookstore where he harassed two separate victims – a juvenile female and an adult female. He was intoxicated. In both cases he grabbed the breast of the victim, but the victims were able to escape. The offender was arrested at the scene, ironically by the lieutenant in charge of Minneapolis' community notification at the time. He received a sentence to the county workhouse. He was re-incarcerated for Possession of Controlled Substance, 5<sup>th</sup> Degree, in mid 2000 and was again referred to Hennepin County for civil commitment. Again, Hennepin County determined it was unlikely they could prove that he met commitment criteria. He is reportedly now living in Chicago.

d) Offender I

Released in mid 1997 to a halfway house. He had been referred for civil commitment, but Hennepin County determined it was unlikely they could prove that he met commitment criteria. While at the halfway house during the following month, this offender fondled the genitals of a fellow resident. There were other level three offender residents at the halfway house at the time of his re-offense. He was convicted of 4<sup>th</sup> Degree CSC and received a sentence of 36 months. At the same time there were allegations that he had fondled the genitals of a 13-year-old family member, but he was not convicted of this. He has since been re-released to the community in mid 1999 and has apparently not been arrested for a new sex offense since that time.

e) Offender J

Released in mid 1997, but detained until early 1998 at the Minnesota Security Hospital while he was undergoing a civil commitment trial. He was found not to meet the criteria for commitment and was released to a South Minneapolis address (his sentence had expired in late 1997). He left Minneapolis in early 1998 and lived in New Mexico for six

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months. He then relocated to Nebraska where he was arrested for molesting children (reports are that it was in a Greyhound Bus Station). He was not known to be living with another sex offender at the time of this offense. He was convicted of Sexual Assault on a Child and received a sentence of one year, eight months to five years. He was imprisoned in Nebraska from late 1998 until his mandatory release date in late 2000. He is currently registered as living in Nebraska.

f) Offender K

Released in early 1998. Absconded from supervision in early 1999 and reincarcerated within 30 days. Not referred for civil commitment either time. Released again in late 2000. In early 2001, found to be in possession of child pornography involving children as young as three to five years old. Supervising agent made unannounced visit to his residence and found a videotape containing child pornography. Offender had subscribed to a Web TV service (without permission of agent) and recorded the videotape. He was living with a level two sex offender at the time. This roommate provided information to his therapist, who passed it along to his supervising agent, which led to discovery of the sexually-explicit material. He absconded again but was apprehended within two weeks. He pled guilty to three counts of Possession of Pornographic Work Involving Minors and received a sentence of 36 months. He is currently incarcerated with an expected release date of early 2004. He is currently involved in treatment at the MSOP-DOC site.

g) Offender L

Released in early 1998 (expiration of sentence). Referred for civil commitment, but Ramsey County determined it was unlikely they could prove he met commitment criteria. Rearrested in late 1998 and convicted of False Imprisonment in early 1999. Registered as living in southwestern Minnesota at the time of the offense. He was not living with another sex offender. The offense occurred in his house. The victim (an adult female acquaintance) voluntarily entered his apartment after they had been out drinking. She lay down on the bed where the offender coerced her to take off her clothes, after which she fell asleep. She awoke to find he had tied her hands and legs to the bed. He threatened to rape her but didn't. He did slap the victim across the face and struck her breast. He was sentenced to 19 months but was civilly committed upon his release from prison.

h) Offender M

Released in late 1998; sentence expired two months later. Referred for civil commitment to Hennepin County, but they determined it was unlikely they could prove he met commitment criteria. Rearrested in late 1999, after exposing himself to four female children (ages four to eight). He called the children over to his truck and identified himself as a policeman, saying he was looking for a suspect. He opened the door and exposed himself to the children. He had reportedly been driving around the neighborhood during the summer and fall months watching children. Offenses were committed in Northeast Minneapolis; he was living in South Minneapolis at the time. Unknown if he was living with another sex offender at time of the offense. Convicted of felony-level 5<sup>th</sup> Degree CSC and sentenced to 43 months in prison. Reincarcerated in early 2000, and released 26 months later in early 2002, when his release date was reached. Currently on intensive supervised release and living in North Minneapolis. Again referred for civil commitment to Hennepin County, but they determined it was unlikely they could prove he met commitment criteria.

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- i) **Offender N**  
Released in late 1999 and returned to prison twice on technical violations. He was not referred for civil commitment and sought by administrative review to have his risk level lowered, but his request was denied. He was most recently released in late 2000 to intensive supervised release. Three months later, in early 2001, he abducted a 17-year-old female stranger and sexually assaulted her. He was registered as living in South Minneapolis. He was not living with another sex offender. The offense occurred in a neighborhood a couple of miles south of the offender's residence. He has been convicted of 1<sup>st</sup> Degree CSC and recently received the statutory maximum sentence of 30 years.
- j) **Offender O**  
Released in late 1998 but immediately placed at the MSOP after being civilly committed. He was arrested for 3<sup>rd</sup> Degree CSC in mid 2001 for sexually assaulting a fellow resident of the MSOP. It appears that he was never convicted of this offense but instead was returned to MSOP where he remains today. He was incarcerated with other sex offenders at the time of his offense.
- k) **Offender P**  
Released in late 1998 at expiration of sentence. He was not referred for civil commitment. In mid 2000 he requested that his risk level be lowered but withdrew this request after finding out that the End of Confinement Review Committee (ECRC) had received a recommendation from a sex offender treatment professional that his risk level not be lowered. He was rearrested in early 2001 and convicted of 1<sup>st</sup> Degree CSC in 2001. He was registered as living in outstate Minnesota at the time of the offense. He was not living with another sex offender. The offense occurred in his house. He was allowed access to the victims by the victims' parent/family. He was sentenced to 144 months in prison and is currently at the MSOP-DOC site.
- l) **Offender Q**  
Released in late 1999. He had been referred for civil commitment, but Hennepin County determined it was unlikely they could prove that he met commitment criteria. He was reincarcerated on three occasions after violating the conditions of his release. His most recent release was in early 2002, and his sentence expired the following month. Later that same month he was arrested after having accosted a female stranger and attempted to kidnap and possibly sexually assault her. The offense occurred near downtown Minneapolis; he was registered as living in North Minneapolis at the time of the offense. He has been convicted of 4<sup>th</sup> Degree CSC but has not yet been sentenced. The Hennepin County Attorney is preparing to ask the judge to sentence this offender to more than the 10-year statutory maximum sentence for 4<sup>th</sup> Degree CSC by recommending that he be sentenced under the Patterned Sex Offender statute.
- m) **Offender R**  
Released as a level two offender in late 1999, but due to his extensive history (more than 20 sex offense convictions, all for indecent exposure, mostly misdemeanors and gross misdemeanors), he was warned by the ECRC that any violation, especially for a new sex-related offense, would likely result in an increase in his risk level. He was not referred for civil commitment, as courts have on more than one occasion rejected commitment of offenders whose history is exclusively "hands-off" sex offending. His sentence expired

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in late December, but he had already been arrested five months earlier for another Indecent Exposure offense against children. At the time he was registered as residing in Northeast Minneapolis. He was not living with another sex offender at the time of the offense. The offense occurred in Fridley, approximately four miles from his residence. He was sentenced to 16 months in prison for Attempted 5<sup>th</sup> Degree CSC and was assigned risk level three in early 2001. He was released in mid 2001. He was going to appeal his risk level but was again arrested for a gross misdemeanor exposure and was confined in the Hennepin County Workhouse until late 2002. Since that time he has returned to his Northeast Minneapolis address.

This examination of level three re-offenders does not reveal a negative effect related to a level three offender living with another sex offender. In fact, supervision agents in both Hennepin and Ramsey County have noted benefits from having more than one level three offender living in one location. Closer supervision is possible because travel time between offenders is reduced. Also, level three offenders who live with other level three offenders experience more visits from a supervising agent because agents for both offenders visit the same property. Finally, offenders tend to inform on each other when supervision restrictions are violated or crimes are committed. There is one case described above of an offender who re-offended by downloading child pornography from a Web TV service that was discovered only after the offender's roommate (a sex offender) told his therapist about the existence of the unapproved Web TV equipment in the house.

Voluntary relocations of neighborhood residents have not been evident, but real estate agents report that sale of properties are limited by any negative information about a neighborhood. This may involve the perception of a high concentration of level three offenders but can also include information that suggests a neighborhood is, in general, a high-crime area in which gang activities are prevalent and drug dealing takes place on street. Discussions with real estate agents indicated that the presence of level three sex offenders tends to have the greatest effect on prospective buyers with young children.

At a December 2002 community meeting, residents of the Phillips neighborhood in South Minneapolis expressed frustration with the concentration of sex offenders in their neighborhood. Many stated that their neighborhood is always first to get treatment centers and housing for social problems. The concentration of sex offenders is just one of many concentration issues for these residents. An additional problem expressed was that once a neighborhood develops a reputation for being a focus area for this type of housing and treatment, it is difficult to maintain housing and economic stability.

This meeting was attended by residents of both the Phillips and Jordan neighborhoods as well as members of the Minneapolis City Council and Minnesota Legislature. Representatives from the Department of Corrections (DOC), Hennepin County Community Corrections, and

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the Minneapolis Police Department were present to explain the roles of their organizations in fulfilling responsibilities under the community notification law and to listen to the concerns of residents. A map was produced detailing residency patterns of all offenders on probation and supervised release in Minneapolis that revealed a similarity to the residency patterns of level three offenders as displayed in Appendix B-3.

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 above. Enhanced safety due to proximity restrictions may be a comfort factor for the general public, but it does not have any basis in fact. The two level three offenders described above whose re-offenses took place near parks both drove from their residences to park areas that were several miles away. Because neither was under supervision, there were no supervision conditions that would prohibit them from driving near parks. Based on these cases, it appears that a sex offender attracted to such locations for purposes of committing a crime is more likely to travel to another neighborhood in order to act in secret rather than in a neighborhood where his or her picture is well known.

4. *Efforts to mitigate the concentration of the offenders, especially with regard to proximity to schools.*

According to Minnesota Statute §244.052, subdivision 4a, "the agency responsible for the offender's supervision shall take into consideration the proximity of the offender's residence to that of other level three offenders and proximity to schools and, to the greatest extent feasible, shall mitigate the concentration of level three offenders and concentration of level three offenders near schools." Because of limited placement options, rarely does a supervising agency have a choice between two separate placements for an offender that would allow mitigation of the concentration of level three offenders near schools or other level three offenders to be taken into consideration. Mitigation of concentration of and proximity to schools can be a factor if two essentially equal placement options are available. If on an individual basis supervision restrictions preclude location near schools, then that is taken into account as a high priority factor. So far, there has not been one example of a level three offender re-offending at a nearby school.

5. *Likely effects of a policy requiring that offenders live a certain distance from schools.*

Residential choices are already limited under current statutes that do not prohibit level three offenders from living near schools. Additional restrictions would severely affect already meager placement choices. Minneapolis and St. Paul have a well-disbursed system of neighborhood schools that would create a restriction on the majority of residential property in both cities. (See Appendices C-1 and C-2 for a map of Minneapolis that indicates areas in which residence of level three offenders would be prohibited if a 1,500-foot restriction were to become law.) 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 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. Again, no evidence points to any effect on offense rates of school proximity residential restrictions.

6. *Likely effects of a policy requiring that offenders not live within a certain distance of each other.*

In Minneapolis, St. Paul, and Rochester there are some concentrated areas where offenders live together or in the same building. Of the 50 level three offenders living in Hennepin County as of December 31, 2002, 30 lived in just three zip codes. A proximity restriction would mean that 15 to 20 of these offenders would have to relocate or face being sanctioned under the law. Given the current difficulty that a single offender has in finding placement, it is highly likely that many of these offenders would become transient, which would severely restrict an agent's ability to closely supervise their activities.

7. *Restricted zones that would result if a 1,500-foot proximity restriction were adopted in relation to schools, parks, and other offenders.*

Adoption of a 1,500-foot restriction would exclude every residential area of Minneapolis and St. Paul with minor exceptions. (See map of Minneapolis school and park zones, Appendices C-1, C-2, and C-3). Again, the well-disbursed location of schools and parks in both cities would lead to overlapping restriction zones that essentially forbid any residential options in either city.

8. *Policies adopted by other states relating to the mitigating concentration of sex offenders.*

Iowa and Alabama are two states with general proximity restrictions on the location of sex offenders (see Appendices E and F).

Alabama originally set a 2,000-foot proximity restriction from schools. This was amended in 2001 to a 1,000-foot restriction, as of July 1, 2002. It appears that this law has not yet been enforced.

Iowa adopted Senate File 2197 in May 2002 with an effective date of July 1, 2002. The law includes a 2,000-foot proximity restriction from schools and child care facilities for any offender who offended against a minor. This has severely restricted residential options, especially in urban areas. In October 2002, the first charge under this law was made. The offender was living within 2,000 feet of a school and several registered child care centers.

Additional information on Minneapolis child care centers is attached (Appendix D).

Other states have held to the position that, except for court-ordered restrictions, the state has no authority to impose residency or proximity restrictions.

## Findings

1. Proximity restrictions have been adopted in other states, but there has been little experience with actual implementation of these laws. Two states, Alabama and Iowa, recently enacted or revised proximity restrictions. In October 2002, Iowa had the first charge against an offender for violating their law. This is considered a test case for the restrictions.
2. Proximity restrictions would severely limit already scarce residential options for level three offenders.
3. There is no evidence in Minnesota that *residential* proximity to schools or parks affects re-offense. Thirteen level three offenders released between 1997 and 1999 have been rearrested for a new sex offense since their release from prison, and in none of the cases has residential proximity to schools or parks been a factor in the re-offense.
4. There is no evidence that concentration of level three sex offenders increases the likelihood of reoffense within the community. Four of the 13 level three reoffenders were living with other sex offenders at the time of their re-arrest. However, in three of these cases, the sex offenders were living together while in county jail, civilly committed, or in a halfway house. In the fourth instance, a level three offender re-offended while he was living with a level two sex offender. This offender provided information to his therapist, which eventually led to the re-arrest of the level three offender for a child pornography offense.
5. Information on sex offenders has a negative effect on the perception of safety in a neighborhood. Increased information on sex offenders has a negative effect on property values. Increased residential concentration of level three offenders – in addition to other negative neighborhood issues such as crime, housing deterioration, environmental hazards, and traffic problems – expands that negative effect.
6. Proximity restrictions will have the effect of restricting level three offenders to less populated areas, with fewer supervising agents and fewer services for offenders (i.e., employment, education, and treatment). The result of proximity restrictions would be to limit most level three offenders to rural, suburban, or industrial areas.

## Recommendations

1. 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 of an individual offender, serve as a valuable supervision tool. Continued use – through extension of conditional release and specific release conditions and restrictions – is appropriate. 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.
2. Public notification of residential locations of level three offenders serves a valuable service and should continue. Community residents with this knowledge are able to determine what level of interaction they feel is acceptable for their family safety. The information raises awareness, dispels rumors, and allows greater knowledge of safety issues.

3. A legislative hearing on the expansion of housing options should be held. Appropriate housing is the key to dispersal and successful placement of the sex offender population. A legislative hearing to address all the issues related to housing of released level three sex offenders would prove valuable. The DOC is currently conducting an interagency work group on offender housing. Included in this group's study are the unique challenges of finding housing options for level three offenders. Options under exploration are public/private partnerships, charitable and nonprofit efforts, changes in policy, and other outreach programs
4. Explore various housing options. The interagency work group on offender housing sponsored by the DOC is approaching the need for offender housing through several methods. These methods include identifying ways to assist offenders in becoming more attractive tenants, as well as identifying ways to encourage and assist landlords in providing housing to offenders. Also, the work group is identifying various models of existing housing programs that may be adaptable to address the housing needs of offenders as they transition from prison to the community. Approaches such as master leases and "three-quarter way" houses seem appropriate for the offender population for several reasons – among them the flexibility to expect many offenders to reach and maintain housing self-sufficiency fairly soon after release.

The population that presents the most daunting housing issues is sex offenders who are identified as levels two and three through the community notification process. At present, no special solutions have been identified for this population.

Although the work group has not completed its task the time of this report, the following recommendations are offered:

- a) Increase the number and capacity of halfway houses. In some cases the needs of the offender and public safety are best served when the offender transitions to the community through the highly structured environment of a halfway house. Current halfway house resources are inadequate to meet the number of offenders who need services. Also, there are regions of the state that have no halfway house resources.
- b) Provide funding to establish "three-quarter way" houses. These houses provide another step in a continuum of housing options. Three-quarter way houses provide affordable housing for offenders and a positive supportive community within the house. There is no staff on the premises, but some degree of monitoring of the house is done by off-site staff. Such a facility also allows for an increased level of community supervision by agents, law enforcement, and the public. Most often these houses are expected to be nearly financially self-sufficient after an initial start-up period.
- c) Provide funding for scattered site lease programs. Housing for offenders can be economically provided by contracting with housing programs. Housing programs can lease properties from owners and sublease to offenders. Included in this plan is the expectation that the offender is assessed payment on a sliding fee schedule. It is also an expectation that the offender will assume responsibility for all housing expenses soon after release.

- d) Increase funding of the emergency housing fund. Some offenders are released to regions of the state in which there is no housing program available. Increased funds in this account will allow the DOC to provide assistance to an offender in meeting housing expenses during transition. Repayment would be assessed on a sliding fee schedule.
- e) Evaluate the feasibility of building and operating regional correctional centers. These centers would provide a comprehensive set of correctional services. The services may range from probationary supervision, an alternative to incarceration for short-term offenders, and supervision services for offenders on release from state correctional facilities. The services would include housing for some offenders.



## Appendix A

Minnesota Sessions Laws 2002

CHAPTER 385-S.F.No. 3172

Sec. 10. [REPORT.]

(a) By January 1, 2003, the commissioner of corrections must report to the chairs and ranking minority members of the house and senate committees with jurisdiction over criminal justice policy and finance on the issues outlined in paragraph (b). In developing the report, the commissioner must consult with representatives of local corrections agencies in noncommunity corrections act counties, community corrections act counties, and county probation officer counties. The commissioner may also consult other interested parties.

(b) The commissioner of corrections must report on the following issues involving level III sex offenders:

(1) a detailed explanation of how offenders re-enter the community after being released from prison, specifically focusing on how housing and jobs are found and the role that state and local corrections agents play in helping an offender find housing and jobs, including anecdotal evidence;

(2) the statewide locations and concentrations of the offenders;

(3) the effects of having the offenders living in close proximity to one another, specifically including the effects of offenders living within 1,500 feet of one another, including the effect on offense rates and voluntary relocation of neighborhood residents;

(4) efforts under Minnesota Statutes, section 244.052, subdivision 4a, that have been undertaken by local and state corrections agencies to mitigate the concentration of the offenders, especially with regard to the proximity of the offenders to schools;

(5) the likely effects of a policy requiring that offenders live a certain distance from schools;

(6) the likely effects of a policy requiring that offenders not live within a certain distance of each other;

(7) the restricted zones that would result in the cities of Minneapolis and St. Paul if a 1,500 foot proximity restriction was adopted in relation to schools, parks, and other offenders, with detailed maps; and

(8) policies adopted by other states relating to mitigating the concentration of sex offenders.

Minnesota Statutes, Section 244.052

Subd. 4a. Level III offenders; location of residence.

(a) When an offender assigned to risk level III is released from confinement or a residential facility to reside in the community or changes residence while on supervised or conditional release, the agency responsible for the offender's supervision shall take into consideration the proximity of the offender's residence to that of other level III offenders and proximity to schools and, to the greatest extent feasible, shall mitigate the concentration of level III offenders and concentration of level III offenders near schools.

# Appendix B-1

## County Locations of Level Three Offenders (see attached maps)

December 31, 2002

County	Number of Level Three Offenders
Hennepin	50 (45 in Minneapolis)
Ramsey	14 (12 in St. Paul)
Becker	2
Chippewa	2
Chisago	1
Clearwater	1
Douglas	2
Fillmore	2
Freeborn	1
Goodhue	2
Itasca	1
Kanabec	1
Lake	1
Mille Lacs	1
Morrison	1
Olmsted	6
Pipestone	1
St. Louis	4
Stearns	1
Steele	1
Wabasha	1
Wright	1
Total	97

The following Minnesota map shows the location of each level three offender living in a residential setting. Each small dot denotes one level three offender. The larger dots in Minneapolis and St. Paul refer to larger populations of level three offenders. Detailed maps of each location within those two cities are attached.

## Appendix B-2

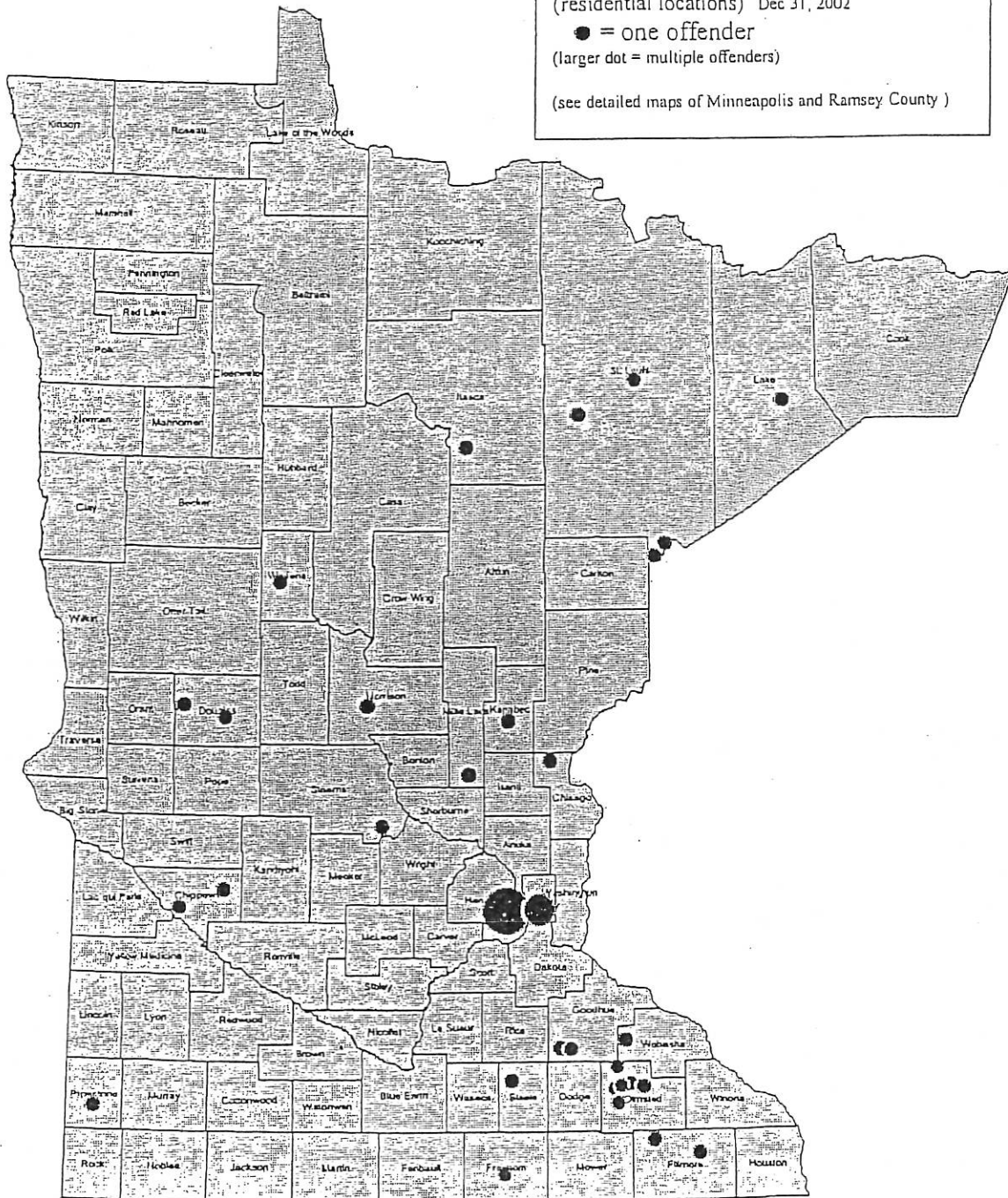
### Location of Level Three Offenders in Minnesota

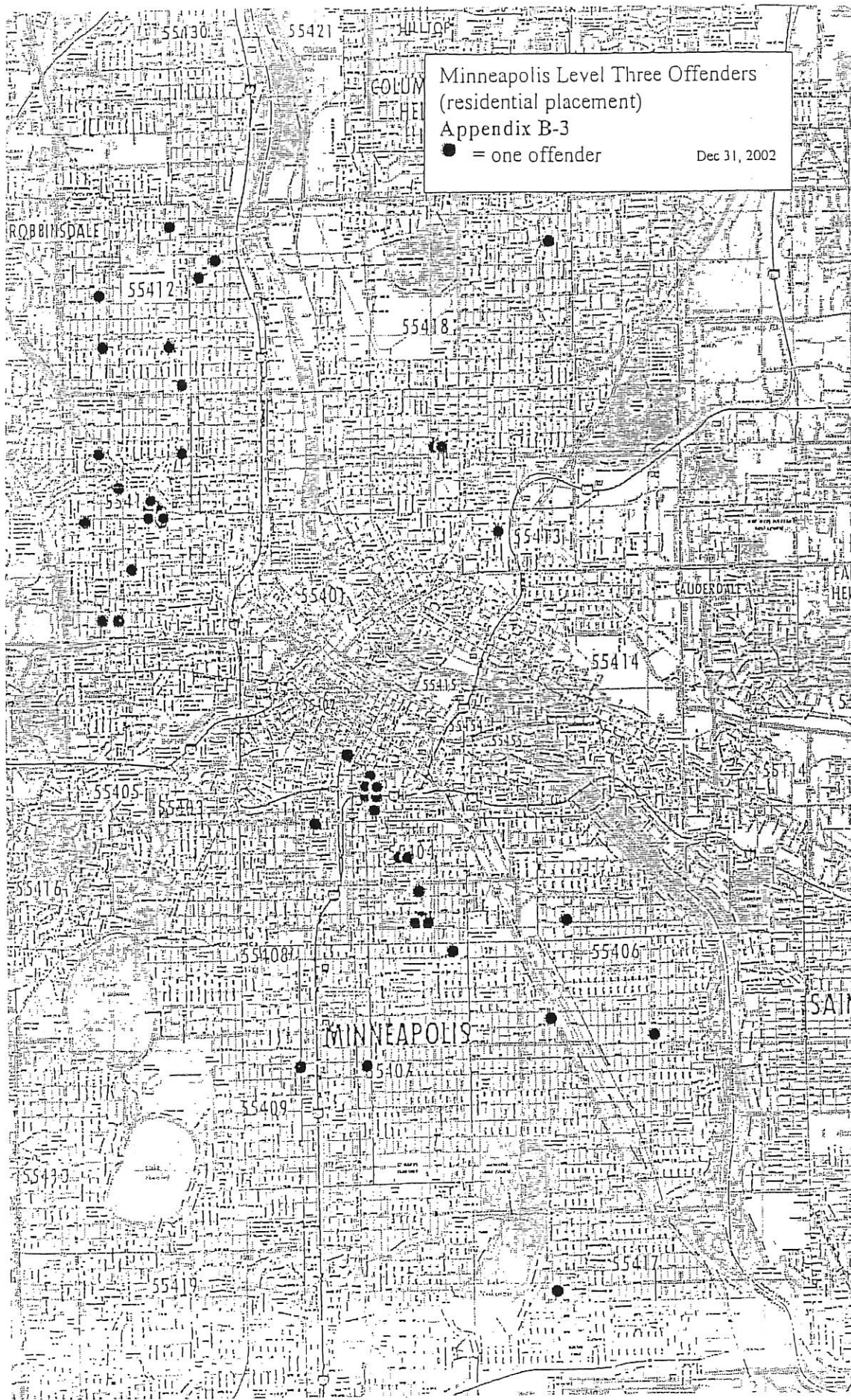
(residential locations) Dec 31, 2002

● = one offender

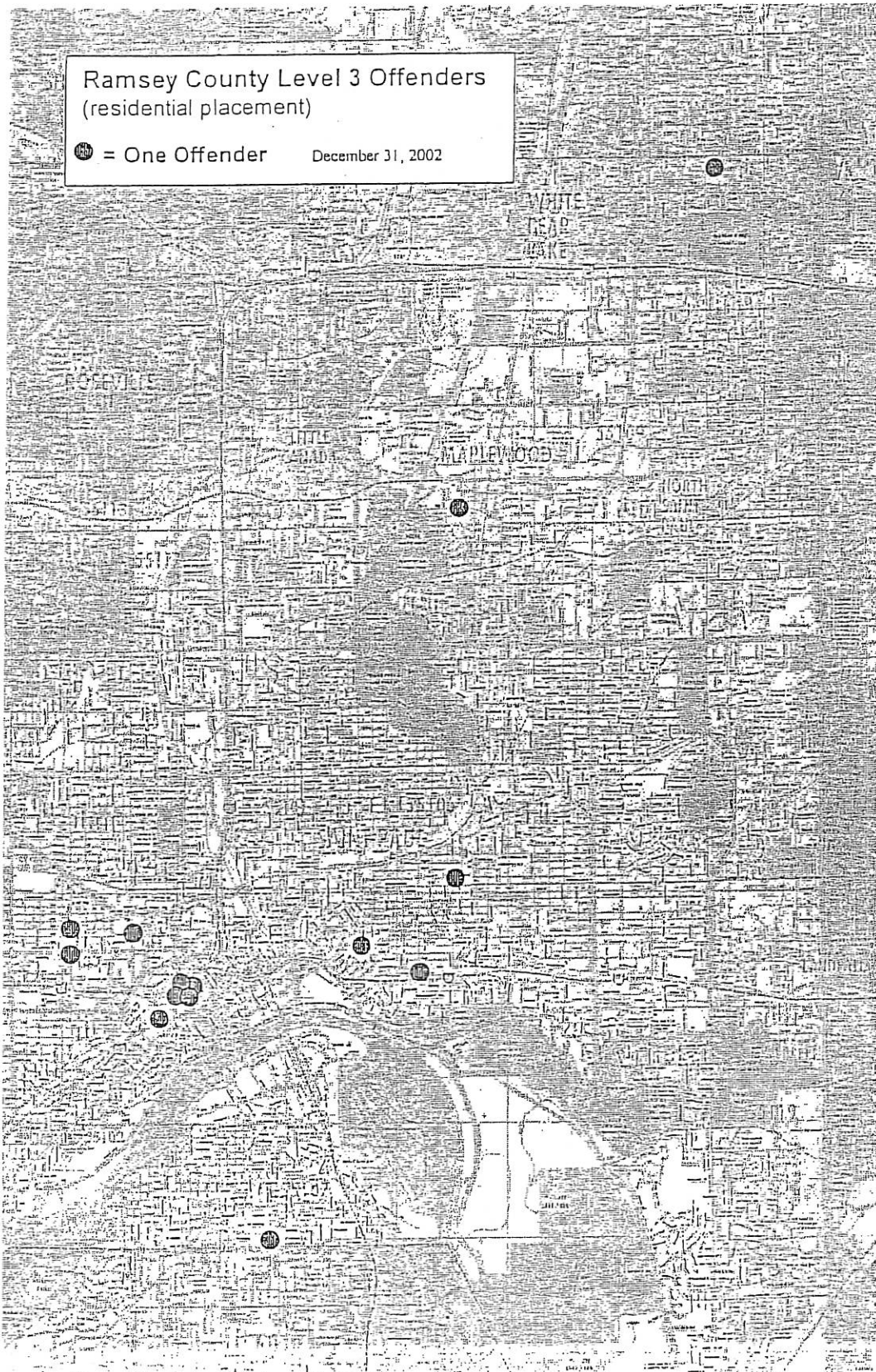
(larger dot = multiple offenders)

(see detailed maps of Minneapolis and Ramsey County)









## 1,500' Restricted Proximity Zones around Minneapolis Public and Private Schools

The attached map (Appendix C-2) shows those areas that would be restricted from level three residence under a 1500' proximity restriction. A clear definition of what constitutes the beginning of the zone is necessary for further detail. Proximity to the school could be the actual building, school property, or a further defined "school zone" similar to that used in defining a "drug-free school." The zones on this map are based on distance from the school property, although surveys would be necessary to precisely define the zone for each individual school.

November 1, 2002

Number of Minneapolis public schools.....	136
Number of Minneapolis non-public schools.....	30

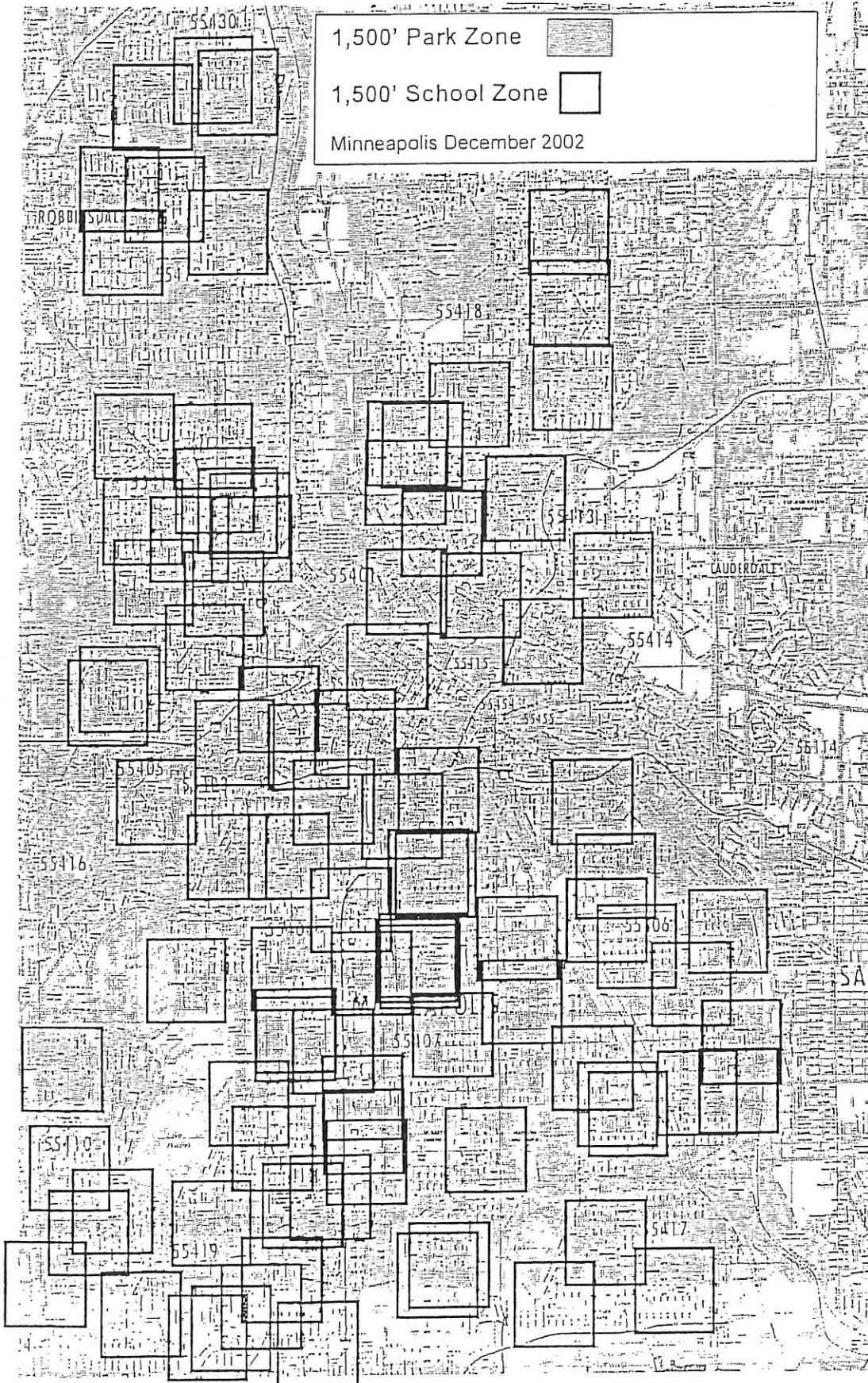
## 1,500' Restricted Proximity Zones around Minneapolis parks

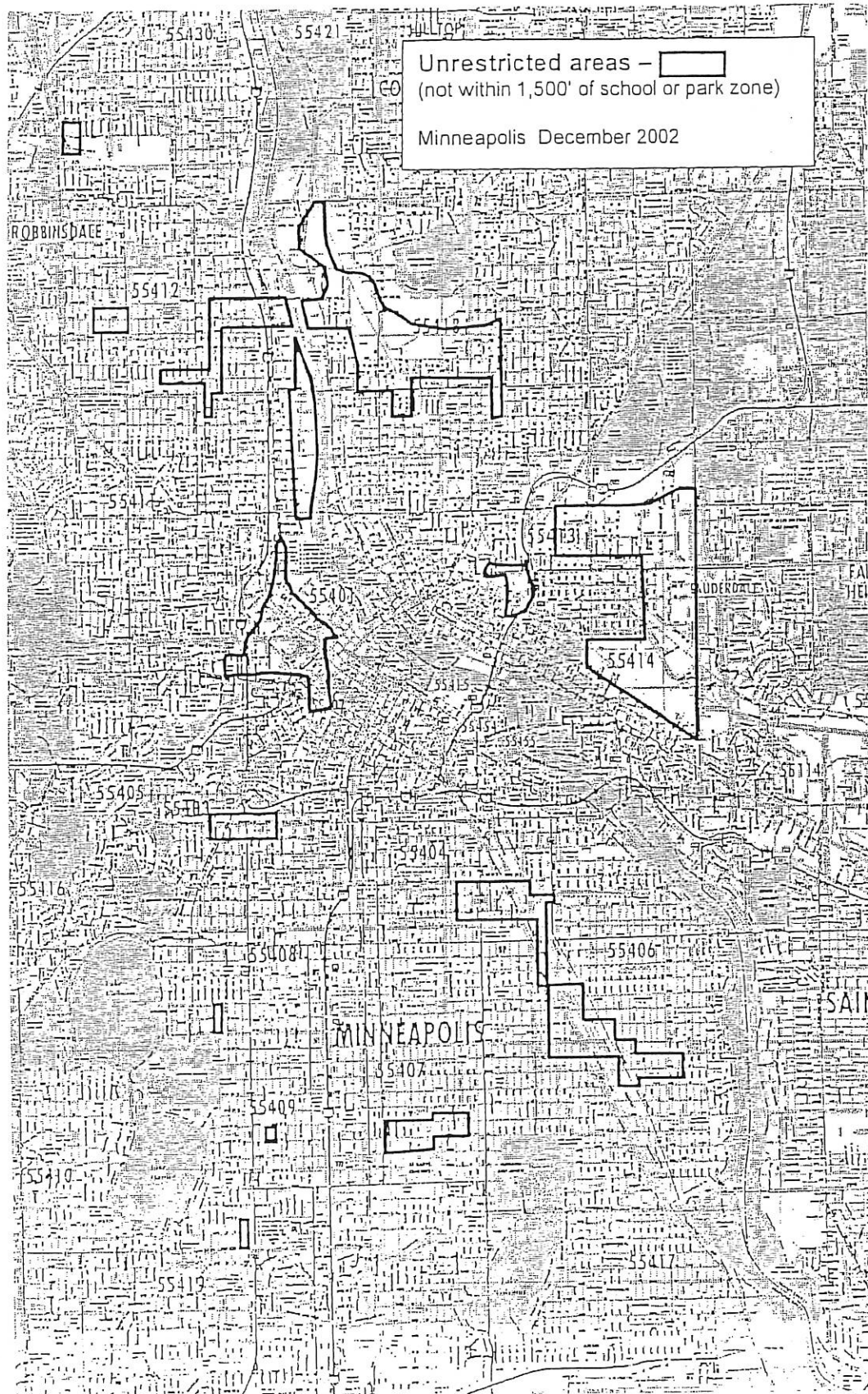
Park zones are shaded (Appendix C-2).

## Unrestricted Zones

Appendix C-3 shows those areas that do not fall within either a school or a park zone. These would be areas eligible for residency by level three offenders.







## 1,500' Restricted Proximity Zones around Minneapolis Day Care Facilities

Child Care Center Facilities registered with the Minnesota Department of Human Services as of November 1, 2002

Minneapolis.....132

These facilities are spread throughout the city. Restriction zones would be similar in number and extent as those around schools. Many of the zones would overlap each other and those surrounding schools and parks. Additional areas would also fall under restriction, solely based on proximity to a child care facility. In addition, there are 527 licensed in-home day cares. Not included in this number are legally unlicensed in-home day cares (those not required to be licensed or registered).

## Appendix E

Code of Alabama § 15-20-26. >Adult criminal sex offender -- Prohibited residence locations, etc.

(a) Unless otherwise exempted by law, no adult criminal sex offender shall be allowed to establish a residence or accept employment within 1,000 feet of the property on which any school or child care facility is located.

(b) Unless otherwise exempted by law, no adult criminal sex offender shall be allowed to establish a residence or any other living accommodation within 1,000 feet of the property on which any of his or her former victims, or the victims' immediate family members reside.

(c) No adult criminal sex offender shall be allowed to establish a residence or any other living accommodation where a minor resides. Notwithstanding the foregoing, an adult criminal sex offender may reside with a minor if the adult criminal sex offender is the parent of the minor, unless one of the following conditions applies:

(1) The adult criminal sex offender's parental rights have been or are in the process of being terminated as provided by law.

(2) Any minor or adult child of the adult criminal sex offender was a victim of a criminal sex offense committed by the adult criminal sex offender.

(d) No adult criminal sex offender shall be permitted to willfully or knowingly come within 100 feet of any of his or her former victims, except as elsewhere provided by law, or make any visual or audible sexually suggestive or obscene gesture, sound, or communication at or to a former victim.

(e) Changes to property within 1,000 feet of an adult criminal sex offender's registered address which occur after an adult criminal sex offender establishes residency or accepts employment shall not form the basis for finding that a criminal sex offender is in violation of the residence or employment restrictions of this article.

(f) An adult criminal sex offender who knowingly violates the provisions of this section shall be guilty of a Class C felony.

Effective July 1, 2002

## Appendix F

SENATE FILE 2197      STATE OF IOWA   Effective July 1, 2002  
AN ACT  
PROHIBITING A REGISTERED SEX OFFENDER FROM RESIDING NEAR A  
SCHOOL OR CHILD CARE FACILITY, AND PROVIDING A PENALTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 692A.1, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. "Child care facility" means as defined in section 237A.1.

Sec. 2. Section 692A.5, subsection 1, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Inform the person, if the person's residency is restricted under section 692A.2A, that the person shall not reside within two thousand feet of the real property comprising a public or nonpublic elementary or secondary school, or a child care facility.

Sec. 3. NEW SECTION. 692A.2A RESIDENCY RESTRICTIONS – CHILD CARE FACILITIES AND SCHOOLS.

1. For purposes of this section, "person" means a person who has committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor.
2. A person shall not reside within two thousand feet of the real property comprising a public or nonpublic elementary or secondary school or a child care facility.
3. A person who resides within two thousand feet of the real property comprising a public or nonpublic elementary or secondary school, or a child care facility, commits an aggravated misdemeanor.
4. A person residing within two thousand feet of the real property comprising a public or nonpublic elementary or secondary school or a child care facility does not commit a violation of this section if any of the following apply:
  - a. The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility.
  - b. The person is subject to an order of commitment under chapter 229A.
  - c. The person has established a residence prior to the effective date of this Act or a school or child care facility is newly located on or after the effective date of this Act.
  - d. The person is a minor or a ward under a guardianship.



From The Gazette, Cedar Rapids, Iowa  
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Offender charged for living by Coralville school, By Erin Jordan

Wednesday, October 02, 2002, 11:39:08 PM

CORALVILLE -- A 21-year-old Coralville man is the first person in Iowa to be charged under a new Iowa law that prohibits convicted sex offenders from living within 2,000 feet of a school or day-care center.

Michael James Roe Jr., convicted of sex offenses in 1998 and 2000, was accused Wednesday of living in a residence prohibited for a convicted sex offender and tampering with records.

A law signed May 9 says sex offenders may be charged with an aggravated misdemeanor if found living within the 2,000-foot radius of a school or day-care provider.

Johnson County Attorney J. Patrick White said charges filed against Roe may become a test case for defense attorneys who want to challenge the law, which, when implemented July 1, made most of Iowa City and Coralville off limits to sex offenders.

"Even if we think it's a bad law, we can't ignore what the Legislature has done," White said about filing the charge.

Roe, convicted of assault with intent to commit sexual abuse in 1998 and indecent contact with a child in 2000, is accused of living at 406 Third Ave., which is within blocks of Coralville Central Elementary School and several registered day-care centers, said Coralville police Lt. Ron Wenman.

"After he registered, we made him aware he was living in a prohibited area," Wenman said. So Roe re-registered at 210 E. Ninth St., Apt. 14, police said. However, he kept living at the Third Avenue home, the Johnson County District Court criminal complaint filed against Roe states.

Police learned Roe was still living at the Third Avenue home while investigating other matters, Wenman said. Roe's father, Michael Roe Sr., 45, was charged with assault last week, and Roe's mother, Sara Roe, 44, was charged with drug possession Monday.

Coralville police talked with White before filing charges against the younger Roe, Wenman said. White said Roe's case is one of several he has discussed with local law enforcement, but the first to result in charges.

Bob Brammer, spokesman for the Iowa Attorney General's Office, said he is not aware of any other charges in Iowa under the new sex offender law.

Amending law White fears the law may be unconstitutional and has talked with legislators, as recently as last week, about amending the law or shortening the 2,000-foot no-reside zone.

"The disappointing part of this is some legislators knew it (the law) was flawed and that someone would challenge it, but they voted for it anyway," White said.

Lawmakers have also told White it may be tough to amend the law because legislators will not want to be labeled "soft on sex offenders," White said.

"This is a very disappointing approach to legislating," he said.

White said law enforcement agencies have discretion in enforcing laws. But local agency heads agree, he said, they do not want someone to be injured by a convicted sex offender because the offender is living in a forbidden area.

"In the meantime, it is law under the state of Iowa."

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# REPORT ON SAFETY ISSUES RAISED BY LIVING ARRANGEMENTS FOR AND LOCATION OF SEX OFFENDERS IN THE COMMUNITY

AS PREPARED FOR  
THE COLORADO STATE JUDICIARY COMMITTEES,  
SENATE AND HOUSE OF REPRESENTATIVES  
(Pursuant to Section 16,11.17-103(4)(j),C.R.S.)



March 15, 2004

Colorado Department of Public Safety  
Division of Criminal Justice  
Sex Offender Management Board  
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## ACKNOWLEDGEMENTS

The Office of Domestic Violence and Sex Offender Management would like to thank all those who assisted in this research effort. Above all, we would like to thank the Sex Offender Management Board Research Workgroup for all of their hard work on this project. We are especially grateful for the assistance of Suzanne Pullen of the Division of Probation Services and the probation officers who participated in this study. Equally important were the treatment providers who spent many hours answering questions and surveys regarding sex offender living arrangements. We would also like to thank the Sex Offender Management Board for their valuable input. In addition, we would like to thank Kim English and the Office of Research and Statistics, especially Elisa Di Trollo for her work on mapping for this project and Linda Harrison for her assistance in managing the data for analysis. Finally, we would like to thank Raymond Slaughter, Director of the Division of Criminal Justice, and Carol Poole, Deputy Director of the Division of Criminal Justice for their support of this research effort.

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## EXECUTIVE SUMMARY

The Colorado Division of Criminal Justice, Office of Domestic Violence and Sex Offender Management, conducted research on the safety issues raised by living arrangements of sex offenders in the community. This research primarily focused on two questions:

- (1) Do the living arrangements of sex offenders, including Shared Living Arrangements, have an impact on community safety?
- (2) Do the location of sex offender residences, specifically in proximity to schools and childcare centers, have an impact on community safety?

To answer these questions, probation files were reviewed on both a random sample of sex offenders under probation supervision in the Denver metropolitan area and an all-inclusive sample of sex offenders under probation supervision in the Denver metropolitan area living in a Shared Living Arrangement ( $n = 130$  for the combined sample). Data were extracted from the first 15 months of supervision for the sex offenders selected for this study.

The findings and subsequent recommendations are presented below.

- (1) High-risk sex offenders living in Shared Living Arrangements had significantly fewer violations than those living in other living arrangements. In addition, the average overall number of violations was low in Shared Living Arrangements, which is surprising, given that this was the only residence type that had significantly more high-risk sex offenders. Shared Living Arrangements also had one of the shortest amounts of time between when a sex offender committed a violation and when the probation officer or treatment provider found out about the violation. In addition, the roommates

of sex offenders living in Shared Living Arrangements called in violations of probation and treatment requirements to the sex offender's treatment provider and probation officer more times than roommates in any other living arrangement. This leads back to the conclusion that a positive support system, which 100% of the Shared Living Arrangements provided, is an important component of being successful in treatment.

*Recommendation:* *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 living in the community.*

- (2) Although residences' proximity to schools and childcare centers was not *specifically* analyzed; two things could be inferred from maps created for this project. One, in urban areas, a large number of schools and childcare centers are located within various neighborhoods, leaving extremely limited areas for sex offenders to reside if restrictions were implemented. Second, sex offenders who have committed a criminal offense (both sexual and non-sexual) while under criminal justice supervision appear to be randomly scattered throughout the study areas -- there does not seem to be a greater number of these offenders living within proximity to schools and childcare centers than other types of offenders. In addition to the maps, the state of Iowa's legal challenge to their law provides some insight into the constitutionality of restricting sex offender residences.

*Recommendation:* *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.*

- (3) The research findings indicated that sex offenders on probation living with their families in the Denver metropolitan area were more likely to have a criminal and technical violation than those living in other types of residences. Support was another component related to the number of criminal and technical violations. Those who had support in their lives had significantly lower numbers of violations than those who had negative or no support. When support was examined for high-risk offenders, those with no support and living with a family member or friends had the highest numbers of violations (criminal, technical, and total). These findings suggest that although a high-risk sex offender may be living with a family member or friends, it does not necessarily mean that he or she is living in a supportive or healthy environment.

*Recommendation:* *Efforts should be made to ensure that the sex offender's support in the home is positive in order to aid in his or her treatment.*

*Recommendation:* *While the findings in this report suggest a link between a sex offender's support in the home and performance in the community, more research in this area should be conducted to further inform this important finding.*

- (4) *General Recommendation:* *The Sex Offender Management Board should consider the findings from this report when revising the Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders.*



## INTRODUCTION

The Office of Domestic Violence and Sex Offender Management, Division of Criminal Justice, Colorado Department of Public Safety, on behalf of the Sex Offender Management Board submit this report pursuant to section 16-11.7-103(4)(j), C.R.S.:

*"The board shall research and analyze the safety issues raised by living arrangements for and the location of sex offenders within the community, including but not limited to shared or structured living arrangements. At a minimum, the board shall consider the issues raised by the location of sex offender residences, especially in proximity to public or private schools and childcare facilities, and public notification of the location of sex offender residences. On or before March 15, 2004 the board shall prepare and submit a report concerning the research and analysis conducted pursuant to this paragraph (j) and any related legislative recommendations."*

Presented in this report are findings from a study of issues related to public safety among probationers convicted of a sex offense who reside in a range of living situations. The study was designed to review and analyze the various types of housing in which supervised sex offenders in the community reside and whether or not there is a correlation between housing type and number and types of violations. The following findings may be utilized by the Colorado Sex Offender Management Board to create guidelines regarding the living arrangements for persons convicted of offenses involving unlawful sexual behavior.

## BACKGROUND

Sexual offending behavior and the management of sexual offenders has been an issue of concern for the state of Colorado and across the country for many years. During the past decade, legislation and policy development directed at the management and treatment of these offenders has proliferated. Federal mandates, such as Megan's Law, The Jacob Wetterling Act, The Campus Sex Crimes Act, and The Pam Lychner Act were passed with the expectation that these would make it easier for law enforcement agencies across the country to identify and track convicted sex offenders. In Colorado, the creation of the Sex Offender Management Board allowed for the establishment of standards and guidelines for working with sex offenders. In addition, the passage of laws such as sex offender registration, genetic testing of sex offenders, lifetime supervision for certain sexual offenders and the creation of the Sex Offender Intensive Supervision Probation help illustrate policy makers' concerns regarding this population.

Despite these and other efforts to decrease the risk sex offenders pose to public safety, concerns remain. Approximately 60% of convicted sex offenders in Colorado are sentenced to community placement with the remainder being sentenced to incarceration at the Department of Corrections or the county jail (Colorado State Court Administrator's Office, 2003). Most of those incarcerated offenders will eventually be returned to their communities of origin, with or without the benefit of parole supervision. In short, most convicted sex offenders either will never leave the community upon conviction or will return to the community at a later date.

The question arises, since convicted sex offenders in Colorado are managed with a combination of supervision, treatment and incarceration, does this population still pose an undue risk to the public? Studies show that persons who are convicted of offenses involving unlawful sexual behavior demonstrate a high likelihood of recidivism, thereby representing a risk to the

public. A meta-analysis of 61 research studies conducted by Hanson and Bussiere<sup>1</sup> in 1998 indicated that sexual recidivism was 18.9% for rapists and 12.7% for child molesters over a four to five year period. Study results comparing recidivism among sex offenders who have participated in specialized treatment with those who have not vary, but generally indicate that offenders who participate in offense specific treatment are less likely to recidivate than those who do not<sup>2</sup>.

In Colorado, limitations are imposed on convicted sex offenders who are under criminal justice supervision in the community. These include limits regarding contact with victims and potential victims and the requirement to reside in a location that has been approved by the supervising probation or parole officer. If the offender is living in a halfway house, the residence is, by definition, monitored (Colorado Sex Offender Management Board Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders, 2002). In many cases, convicted sex offenders are required to move away from their families to limit their contact with potential child victims<sup>3</sup>. Living options available to these offenders include, but are not limited to, homeless shelters, motels, apartments, residential homes, and therapeutic communities. The officer ultimately decides where the offender lives, taking into consideration the offender's finances, travel needs and recommendations from treatment providers<sup>4</sup>. Any one of these options available to the offender may be located within close proximity to schools, day care centers,

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<sup>1</sup> Hanson, R.K. & Bussiere. (1998). Predictors of Sexual Offender Recidivism: A Meta-Analysis. Department of the Solicitor General Canada.

<sup>2</sup> Schweitzer & Dwyer, 2003; Hanson, Gordon, Harris, Marques, Murphy, Quinsey, et al., 2002; Nicholaicuk, Gordon, Gu and Wong, 2000.

<sup>3</sup> Research has indicated that sex offenders crossover in the types of offenses they had committed, the age of victims, and the gender of the victims (English, K. 1998).

<sup>4</sup> Colorado Probation's Guidelines for Adult Sex Offender Management (SOISP, Non-SOISP and Presentence) clearly state that the supervising officer has the final authority to approve residence, employment or school (p. 17).

and playgrounds, however, supervising officers work hard to prohibit these situations<sup>5</sup>. However, in urban areas, there are numerous schools and childcare centers spread throughout various neighborhoods, making it difficult to find areas that are not near a school or childcare center. Please see Maps 1a-1h and Maps 2a – 2h for pictorial descriptions of the livable areas in several cities and counties in Colorado that remain after 1000-foot and 2000-foot buffers around schools and licensed childcare centers are blocked off. These maps clearly depict the difficulty of finding safe residences that do not fall within predefined distances of places where children reside in densely populated areas.

Currently, there are no state statutory restrictions that apply to the living arrangements and locations for persons convicted of offenses involving unlawful sexual behavior. Some municipalities and counties throughout the state have implemented local ordinances that prohibit more than one registered sex offender from living in a household, family, or group home (please See Map 3). While such ordinances are designed to limit options available to sexual offenders, in many cases, it is nearly impossible for these offenders to find appropriate housing away from schools, parks and/or childcare centers throughout metropolitan areas. Ironically, this situation may increase their risk of re-offending by forcing them to live in communities where safe support systems<sup>6</sup> may not exist or in remote areas providing them with high degrees of anonymity. This

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<sup>5</sup> Childcare centers can be especially difficult to identify in a residential neighborhood, given that they are frequently located inside a home, with no apparent indication of their presence. Additionally, childcare centers may be opened after an offender has taken up residence and their presence may go unnoticed by all parties involved. While officers are diligent in their attempts to ensure that offenders do not reside in locations where children are present, sometimes this proves to be impossible.

<sup>6</sup> Sex offender treatment providers and supervising officers encourage sex offenders to utilize or identify people in their lives that will act in the capacity of a support system. These people are asked to hold offenders accountable for behaving in compliance with the terms and conditions of their community placement and to abide by their pro-social treatment contracts. These "support systems" are an important component of sexual offenders' community management process.

may also require more travel to and from work, treatment and other necessary appointments.

Some housing options provide little to no supervision outside of regular community monitoring, while others are designed to provide relatively high levels of monitoring and supervision (please see Continuum of Housing on Page 39). Several factors contribute to an offender's risk of re-offending while living in the community. These include, but are not limited to, their assessed level of risk based on individual factors, the amount of free time available to the offender, the degree to which they are progressing in their treatment program and the amount of monitoring and supervision that they are subject to. For example, a high-risk sex offender on probation or parole might be monitored via global positioning satellite (GPS) technology or an electronic monitoring device (EHM). This allows the supervising officer to either closely monitor the offender's whereabouts (with GPS) or to ensure that the offender is at home (with EHM). These technologies are used in conjunction with regular home visits and curfew checks. Lower risk offenders may only be subject to random home visits or curfew checks as a method of community monitoring. Offenders residing in a shared living environment might be subject to regular and multiple daily call-ins to the treatment provider as well as being accountable to house-mates in addition to the random home visits and curfew checks conducted by the supervising officer.

#### SEX OFFENDER REGISTRATION/COMMUNITY NOTIFICATION

The sex offender registry provides the public with certain information on the whereabouts of sex offenders so that members of local communities may better protect themselves and their children from these known sex offenders. Law enforcement agencies are required to release the following information regarding registered sex offenders: name, address, aliases of the registrant, photograph (if available), and a history of the convictions resulting in the registrant being required to register, and any other convictions he or she may have.

Registry information can be accessed by either visiting the local law enforcement agency and requesting the sex offender registry list or by checking the Colorado Bureau of Investigation website which contains a statewide list of only certain high-risk registered sex offenders. All citizens have the right to request registry information from their local law enforcement agency.

In certain cases, if a convicted sex offender meets the criteria in the Sexual Predator Risk Assessment and is found by the court to be a Sexually Violent Predator (SVP), the court may also find that the SVP is subject to Community Notification. The law enforcement agency would conduct a local community notification through a community meeting, in accordance with the Colorado Sex Offender Management Board's *Criteria, Protocols and Procedures for Community Notification Regarding Sexually Violent Predators*. Specific groups, such as schools, senior centers, and recreation facilities, would be invited to the meeting, as well as residents of the SVP's immediate neighborhood, as determined by the law enforcement agency. The meeting would consist of an educational presentation followed by the SVP notification. Residents who do not attend the meeting may request the SVP information at the law enforcement agency. All residents who receive the SVP information may report their name and address, so that the law enforcement agency may contact them if the SVP changes residences or leaves the community.

#### NATIONAL INFORMATION

Currently, eleven states in the United States have laws that address sex offenders' residences in regard to proximity to schools or childcare centers; however, none of these address the living arrangement type (please see Map 4). In 1992, the Iowa legislature passed a law that prohibited offenders convicted of a sex offense against a minor or a sexually violent offense from living within 2000 feet of a school or childcare center, but the law was deemed unconstitutional by the Iowa



Supreme Court (February, 2004). The judge who ruled on this case cited several ways in which this law violated the rights of sex offenders: it was wrongly applied retroactively to those convicted before July 1, 2002; it required sex offenders to provide incriminating testimony against themselves; and it infringed on their due process rights. In addition, there was no research study to empirically support whether proximity to schools is a factor in recidivism rates of sex offenders<sup>7</sup>.

Seven of the eleven states with such laws were contacted to obtain a better understanding of their statute and to ascertain whether their statutes were based on research conducted specifically regarding the issue<sup>8</sup>. Of the four states that responded to the inquiry, none of the laws were based on research specifically done on sex offender residences' proximity to schools or childcare centers<sup>9</sup>. During the inquiry, a representative from one state expanded on the issue, stating that enforcing the residency restriction law was very challenging to enforce and, in fact, were having trouble doing so.

### SHARED LIVING ARRANGEMENTS

Shared Living Arrangements (SLAs) are a modality of treatment utilized by three sex offender treatment programs in the state of Colorado<sup>10</sup>. There are slight variations in the philosophies that drive the use of the SLAs among these programs; however, all contribute to the desire to improve sex offenders' social skills, their accountability to self and others, and the need for both treatment providers and the criminal justice system to share the task of monitoring sex offenders in the community. Shared Living Arrangements are loosely defined as either two or three sex offenders living together in a house that they either rent or own. The residence is the sex

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<sup>7</sup> Doe v. Miller, United States District Court for the Southern District of Iowa Davenport Division, February 9, 2004.

<sup>8</sup> The seven states that were contacted are: Alabama, Florida, Iowa, Illinois, Oregon, Louisiana, and Kentucky.

<sup>9</sup> The four states that responded to the inquiry were: Illinois, Alabama, Florida, and Oregon.

<sup>10</sup> An inquiry was sent to the ATSA listserv requesting information on other treatment agencies who utilize shared living arrangements. The inquiry resulted in feedback that Colorado was the only state that had agencies who utilize Share Living Arrangements.

offenders' responsibility, not the treatment provider's. The residence location and housemates are approved in advance by the treatment provider and supervising officer. Typically, the SLA would not be located within sight of a school, playground, or next-door to a residence that has "child-type" items (for example, a swing set). The general SLA philosophy is an extension of the Therapeutic Community treatment modality in which offenders' living environments can be seen as an extension of both treatment and monitoring. Offenders hold each other accountable for their actions and responsibilities and notify the appropriate authorities when a roommate commits certain behaviors, such as returning home late or having contact with children. This type of accountability and support is different in an SLA than in other types of living arrangements in that the treatment provider makes holding each other accountable for their actions a *requirement* of living in the SLA.

Typically, in other living arrangements, the probation officers or treatment providers do not have any jurisdiction over the other members of the household that the offender lives therefore there are no consequences if a roommate in a different type of living arrangement does not report a violation committed by the sex offender. In addition, all of these treatment programs conduct residence checks as a component of the treatment. These residence checks supplement those conducted by probation officers.

Research has found that recidivism among sexual offenders is related to several factors, including lack of social skills (personality disorders), chaotic lifestyle, and being disengaged from treatment<sup>11</sup>. Shared Living Arrangements allow for a controlled opportunity for a therapist to work with an offender's cognitive and behavioral levels because the offender is influenced throughout the day by not only his or her peers, but by his or her therapist as well. In addition, because an offender

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<sup>11</sup> Hanson, R.K. & Bussiere. (1998). Predictors of Sexual Offender Recidivism: A Meta-Analysis. Department of the Solicitor General Canada.

living in an SLA has to account for all of his or her time; SLAs become an approach that enables behavioral monitoring outside of the therapist's office<sup>12</sup>. While not all sex offenders in treatment with these providers are required to live in an SLA, those who have been assessed as posing the greatest risk to the community are typically recommended for such living conditions. This recommendation may occur for varying reasons, including the increased monitoring it allows and more socialization for the offender. The ultimate goal would be to create a continuum of progress in treatment with the goal of stabilizing at a level of reduced risk to re-offend.

Treatment providers have found several benefits to Shared Living Arrangements, including more knowledge of offenders' involvement in high-risk behaviors (both through the offender accounting for his or her time and the other residents informing the treatment provider of conflicts or violations). Possibly one of the most important benefits to SLAs is that treatment providers are able to contact the offender's probation officer very quickly if there is a violation or if the offender is missing<sup>13</sup>. Finally, many offenders who are sentenced to the community have limited resources with which to obtain housing that meets the ideal placement criteria, leaving many living in potentially dangerous situations, such as a motel, living with friends who are not sufficiently supportive, or homeless. An SLA allows for the offender to live on his own, with informed roommates, in a controlled environment, and with close contact with his or her treatment provider and supervising officer.

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<sup>12</sup> Many sex offender treatment providers who do not utilize SLAs require offenders to keep a time log outlining their activities for each day. Time logs kept by sex offenders in SLAs have the added benefit of verification by housemates who are also being held accountable for the same behaviors and responsibilities.

<sup>13</sup> The ability to contact the supervising officer immediately is also an element of GPS and EHM monitoring. The difference between these two technologies and the SLA, however, is that GPS and EHM violation notifications are based solely on location, while violations detected in an SLA can also be behavioral.

## RESEARCH STUDY

A review of probation files was conducted to gather information on risk levels, types of residences, surveillance methods, number of violations, how quickly violations were discovered, and the method by which violations were identified on a sample of adult sex offenders under supervision, living in the Denver metropolitan area. Offenders under Parole and Community Corrections supervision were not included in the study for the following reasons: 1) Parole and Community Corrections has a significantly smaller population of sex offenders in the community, and 2) Parolees and those under Community Corrections supervision are typically not candidates for Shared Living Arrangements due to their limited time in the community<sup>14</sup>. Please see Table 1 for a snapshot of the number of sex offenders who were under criminal justice supervision living in the community on January 31, 2003 in Colorado.

Table 1 – Statewide Population Data

Census of Sex Offenders Under Community Correctional Status on January 31, 2003			
<i>Parole*</i>	<i>Probation</i>	<i>Non-Residential Community Corrections</i>	<i>Residential Community Corrections</i>
417	2,023	14	81

\*as of June 11, 2003

<sup>14</sup> Although most convicted sex offenders who have been sentenced to the Department of Corrections (DOC) since July of 1993 have received a mandatory period of parole, and those convicted since July 1996 have received a 5-year mandatory period of parole, many offenders currently being released from the DOC were sentenced prior to the imposition of mandatory parole provisions and are serving relatively short parole periods. Offenders sentenced to community corrections typically serve a six to nine month residential term and complete the sentence on non-residential status.

### Sample

The sample for this study was selected from the following judicial districts: 1<sup>st</sup> (Jefferson and Gilpin Counties), 2<sup>nd</sup> (Denver County), 18<sup>th</sup> (Arapahoe, Douglas, Elbert, and Lincoln Counties), and the 20<sup>th</sup> (Boulder County). These districts were selected for three reasons. First, treatment providers who utilize SLAs provide services within these districts. Second, the majority of the Colorado convicted sex offender population is in the Denver metropolitan area, which is largely comprised of these four districts. Finally, given that this study was conducted using existing resources, a relatively small sample and data collection effort was necessary.

A total of 318 adult offenders in the 1<sup>st</sup>, 2<sup>nd</sup>, 18<sup>th</sup>, and 20<sup>th</sup> judicial districts received a probation sentence for a sexual offense between January 1, 2001 and June 30, 2002. Approximately 50% of these offenders were randomly selected for inclusion in this study (n=148). In addition, an over-sample of 100% of adult sex offenders who were placed on probation between January 1, 2001 and June 30, 2002 in the same four districts as the random sample *and* were living in an SLA during their first 15 months of supervision were selected (n=17) for inclusion in this study. The over-sampling of this population was done to ensure an adequate sample of offenders living under this unique arrangement.

Table 2 – Random Sample

<i>Random Sample</i>			
Judicial District	Received Probation between January 1, 2001 and June 30, 2002	Selected for Study	Completed File Review
1 <sup>st</sup>	71	29	22
2 <sup>nd</sup>	28	15	11
18 <sup>th</sup>	160	82	64
20 <sup>th</sup>	59	22	16
<b>TOTAL</b>	<b>318</b>	<b>148*</b>	<b>113*</b>

Thirty-five (35) of those files that were initially selected for inclusion in the study could not be reviewed. These cases were dropped from the sample and were not replaced. Files were not reviewed for the following reasons: the offender 1) moved out of the district, 2) was deported out of the country, 3) absconded from supervision, 4) was serving a concurrent sentence in jail or DOC, or 5) had died in the first 15 months of supervision.

\* Five people from the Random Sample (3%) met the specifications of the Shared Living Arrangement Sample and are included in the total combined sample.

Table 3 – Over-sample Population

<i>Shared Living Arrangement Sample</i>			
Judicial District	Received Probation between January 1, 2001 and June 30, 2002 and lived in a SLA during the 1 <sup>st</sup> 15 months	Selected for Study	Completed File Review
1 <sup>st</sup>	0	0	0
2 <sup>nd</sup>	3	3	3
18 <sup>th</sup>	6	6	6
20 <sup>th</sup>	8	8	8
<b>TOTAL</b>	<b>17*</b>	<b>17*</b>	<b>17*</b>

\*The 5 people in the Random Sample who met the specifications for the Shared Living Arrangement Sample brought the total Shared Living Arrangement Sample to 23 people.

Data were collected from case files for the first 15 months of probation supervision. Allowing for 15 months of supervision ensured that at least one or two polygraph examinations would occur for each individual and would allow time for offenders to be referred to SLAs. In addition, the risk level for this population is typically higher during the initial stages of supervision; therefore, this timeframe allows for a conservative look at safety issues within the community during the time when they are likely to pose the greatest risk. Finally, the 15-month review period



allowed for a uniform time at risk, providing a comparable study period for each case. However, ten sex offenders in the sample (7.7% of the combined sample) were placed on supervision for a sex offense at an earlier date, revoked, and their sentence reinstated during the selection timeframe for this sample (between January, 2001 and June, 2002).

#### Demographic Information

A total of 130 sex offender probation files were reviewed for this study—113 cases in the initial sample and 17 SLA cases. The majority of offenders in the study were male (98.5%) with an average age of 36 years. Forty-three percent (n=55) had never been married and 51% (n=67) had at least one child. The majority of the sample was working at least part-time (81%) and 8% were attending school (GED, college or technical school).

Table 4 – Demographic Information

Age Age Range	Average = 36 years 19 years-67 years
<b>Marital Status</b>	
Married, living together	16 (12.8%)
Married, not living together	14 (11.2%)
Separated or Divorced	39 (31.2%)
Single, Never Married	55 (44.0%)
Widowed	1 (0.8%)
<b>Last Grade Completed</b>	
< High School	26 (22.2%)
GED	15 (12.8%)
High School Diploma	25 (21.4%)
Some College	34 (29.1%)
College Diploma	12 (10.3%)
Graduate School	5 (4.3%)
<b>Attending School</b>	10 (7.7%)
<b>Employment Status</b>	
Working full-time	87 (73.1%)
Working part-time	8 (6.7%)
Unemployed	18 (15.1%)
AFDC/SSI/Disability	4 (3.4%)
Retired	2 (1.7%)

The types and number of residences represented in this sample are illustrated in Table 5. The majority of the sex offenders in this sample resided in only one residence during the first 15 months of supervision. However, 29% of the sex offenders in this sample moved two times, 11% moved three times, 3% moved four times, and 1% moved 5 times during the timeframe examined for this study. Please see Table 5 for the number and types of residences the combined sample lived in during the first 15 months of supervision.

Table 5 - Residence Information

SLA	32 (14.7%)
Lives Alone	41 (18.9%)
Lives with Family	65 (30.0%)
Lives with Friends	49 (22.6%)
Homeless/Shelter	5 (2.3%)
Jail/Work Release	25 (11.5%)
<b>TOTAL NUMBER OF RESIDENCES</b>	<b>217 (100%)</b>

Figures 1 – 3 illustrate demographic data by residence type.

Figure 1: Marital Status by Residence Type

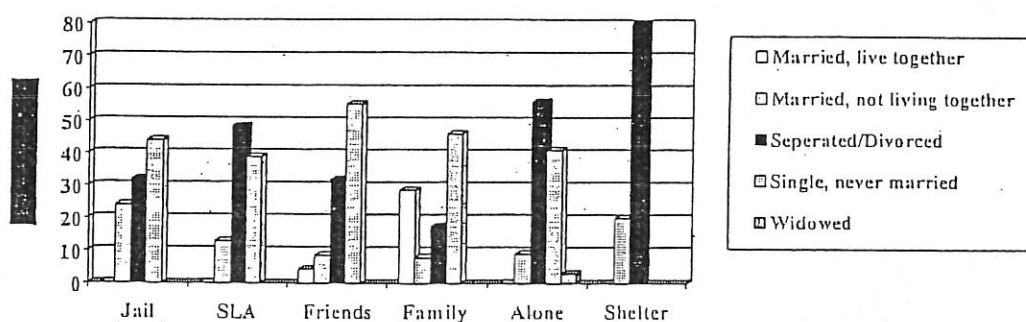


Figure 2 – Employment Status by Residence Type

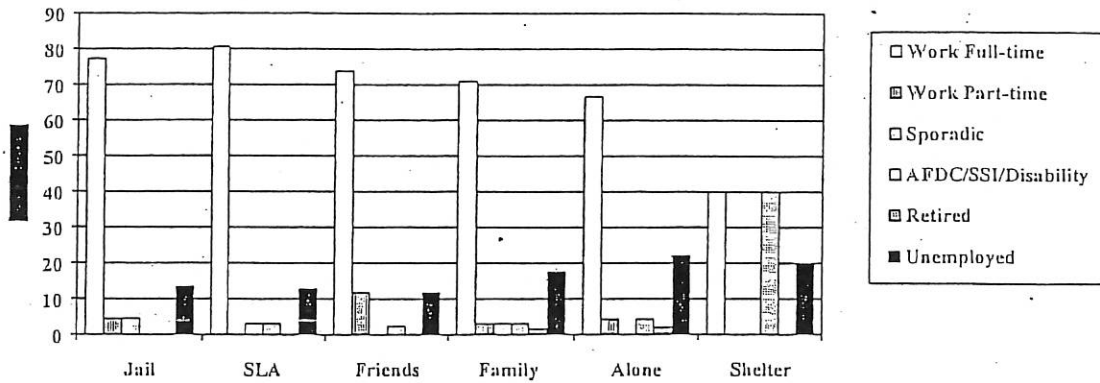
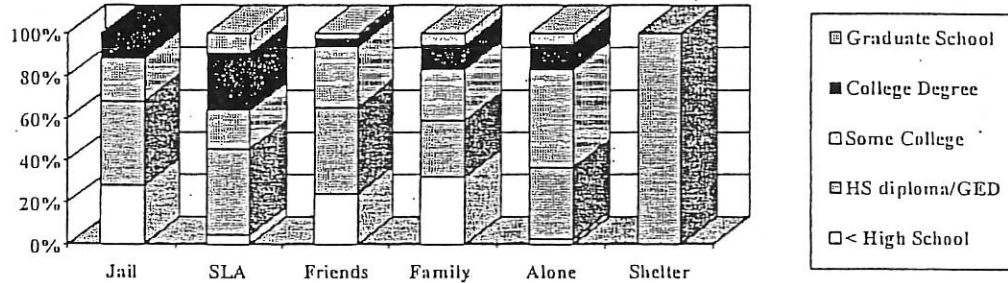


Figure 3 – Education Level by Residence Type



Over half of the sample (54%) were assessed as “high risk” by the Probation Department. Thirty-four percent were medium risk and 9% were low risk. Over three-quarters of the offenders living in SLAs were classified as high risk. Pearson chi-square tests were used to determine whether a significant relationship between risk levels and residences existed for this sample. Sex offenders living in Shared Living Arrangements were significantly\*\* more likely to be high-risk sex offenders. Sex offenders living alone were significantly\*\*\* more likely to be low or medium-risk

sex offenders. Statistically significant relationships between risk level and residence were not found for the other living arrangement types. See Table 6 for the breakdown of residence type by risk level.

Table 6 – Residence Type by Risk Level

	High Risk	Medium Risk	Low Risk	TOTAL
SLA	25 (78%)** (19%)	6 (19%) (9%)	1 (3%) (6%)	32 (100%)
Lives Alone	17 (40%) (13%)	19 (46%*** (28%)	5 (12%*** (28%)	41 (100%)
Lives with Family	42 (65%) (32%)	21 (32%) (31%)	2 (3%) (11%)	65 (100%)
Lives with Friends	26 (53%) (20%)	14 (29%) (21%)	8 (16%) (44%)	49 (100%)
Homeless/ Shelter	4 (80%) (3%)	1 (20%) (2%)	0	5 (100%)
Jail/Work Release	16 (64%) (12%)	7 (28%) (10%)	2 (8%) (11%)	25 (100%)
TOTAL	130 (60%) (100%)	68 (32%) (100%)	18 (8%) (100%)	217 (100%)

\*\*p ≤ .025

\*\*\*p ≤ .01

Sex offenders sentenced to probation may be sentenced to one of two programs: Sex Offender Intensive Supervision Probation (SOISP) or “regular” probation. Offenders within the SOISP receive the highest levels of supervision that is provided to probationers. Offenders on SOISP have severely restricted activities, daily contact with the probation officer, monitored curfew, home visitation, employment visitation and monitoring, and drug and alcohol screening. Also, they are required to actively participate in treatment and undergo regular physiological monitoring. SOISP is comprised of three phases, and movement between the phases is dependent upon the offender meeting specific behavioral benchmarks. Supervision levels are commensurate with the phases of SOISP, with Phase I being equivalent to a maximum supervision level, Phase II, medium and Phase III minimum. The supervision levels in the SOISP program relate primarily to type and frequency of probationer-probation officer contact and monitoring. Offenders on regular probation, or non-SOISP sex offender supervision, are classified according to supervision levels:

maximum, medium or minimum. These supervision levels are determined by the offender's score on the Oregon Risk Assessment instrument, which is completed within the first 30 days of probation supervision. Supervision plans are developed to meet the specific risks and needs of each offender. These plans are based upon information contained in the risk assessment instrument, the sex offense specific mental health evaluation report and any other relevant information. Offenders classified as high risk are subject to more contact and oversight by the probation officer than those classified as low risk. While there are no standards dictating the number of contacts or other activities in which an officer must engage based on supervision level, there are some guidelines set out by the Division of Probation Services. These are presented in Table 7 below.

Table 7 - Guidelines for Probation Officer's Contact with Probationers by Supervision Level

ADULT SUPERVISION General Reference		
Maximum Level	Medium Level	Minimum Level
2 face-to-face contacts with the offender per month.	1 face-to-face contact with the offender per month.	1 face-to-face contact with the offender every 60 days.
1 home visit within the first 90 days of supervision, unless transitioning from ISP. Thereafter, by supervision plan. Home visits shall be conducted in accordance with local policy.	1 verification of residence every 60 days.	No residency verification required.

From Standards for Probation, Colorado Judicial Branch, July 2003, p. 29

## RESULTS

### Living Arrangements

Fifteen new sexual offenses were reported among all 130 offenders in the sample during the first 15 months of data collection. One hundred percent of those offenses were "hands off" offenses—peeping, voyeurism, or exposure. Of the new sexual offenses reported, 27% occurred while the

offender was living with a family member, 27% while living with friends, 13% while living alone, 20% while living in an SLA, and 13% while in jail or work release. The 15 new sexual offenses were committed by 13 sex offenders (10% of the sample).

A total of 52 non-sexual criminal violations were reported for the entire sample. See Table 8 for the description of non-sexual criminal violations by residence type.

Table 8 – Non-sexual criminal violations

	Jail/Work Release N Column % Row %	SLA N Column % Row %	Family N Column % Row %	Friends N Column % Row %	Alone N Column % Row %	Shelter N Column % Row %	TOTAL
Failed to register as a sex offender	0	0	0	0	1 (2%) (50%)	1 (20%) (50%)	2 (100%)
Driving Crime	1 (4%) (10%)	2 (6%) (20%)	3 (5%) (30%)	3 (6%) (30%)	0	1 (20%) (10%)	10 (100%)
Contact with the victim	0		3 (5%) (50%)	2 (4%) (33%)	1 (2%) (17%)	0	6 (100%)
Threatened or Assaulted another person	0	0	3 (5%) (75%)	0	1 (2%) (25%)	0	4 (100%)
Drug Use	0	2 (6%) (10%)	8 (12%) (40%)	7 (14%) (35%)	1 (2%) (5%)	2 (40%) (10%)	20 (100%)
Other non-sexual crime	0	1 (3%) (33%)	1 (2%) (33%)	1 (2%) (33%)	0	0	3 (100%)
Did NOT commit a non-sexual crime	24 (96%) (14%)	27 (85%) (16%)	47 (72%) (27%)	36 (73%) (21%)	37 (90%) (22%)	1 (20%) (1%)	172 (100%)
TOTAL	25 (100%)	32 (100%)	65 (100%)	49 (100%)	41 (100%)	5 (100%)	217 (100%)

Comparison of means tests (ANOVAs) were run to see if there were significant relationships between residence types and non-sexual criminal violations (sexual and non-sexual violations



combined). Sex offenders living with a family member averaged significantly\*\*\*<sup>15</sup> more criminal violations (0.68 criminal violations) than those not living with a family member (0.36 criminal violations). Sex offenders sent to jail had significantly\*\* less criminal violations in jail (0.12 criminal violations) than those not living in jail (0.49 criminal violations). No significant relationships were found between the other types of residences and criminal violations.

A technical violation is a violation of either the probation requirements or the treatment requirements of the offender. These types of violations include, but are not limited to: staying out past curfew, going out without a safety plan, viewing or possessing pornography, missing a probation or treatment appointment, not paying treatment or court fees in a timely manner, drinking alcohol, not disclosing his or her crime to a roommate or employer, having unapproved contact with a minor (for example, not immediately leaving a residence if a minor comes to the residence), having a sexual relationship with a vulnerable person (for example, dating a woman who has small children), hostile behavior, or living in an unapproved residence. A total of 443 technical violations, committed by 103 sex offenders (79% of the sample), were reported during the first 15 months of supervision. The majority, thirty-four percent (n=152), of those technical violations was for failing to appear for a probation or treatment appointment.

Comparison of means tests (ANOVAs) were also run to see if there were significant relationships between residence type and technical violations. As with criminal violations, sex offenders living with a family member had significantly\*\*\* higher numbers of technical violations (2.55 technical violations) than sex offenders not living with a family member (1.47 technical violations). And, sex offenders in jail had significantly\*\*\* lower numbers of technical violations (0.52 technical violations) than those not in jail (1.96 technical violations). No significant

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<sup>15</sup> For the purpose of this report, \* =  $p \leq .05$ ; \*\* =  $p \leq .025$ ; \*\*\* =  $p \leq .01$

relationships were found between the other types of living arrangements and technical violations.

Figure 4 illustrates the average number of total violations, criminal violations, and technical violations in each residence type. To be expected, jail and work release had the lowest number of criminal violations, presumably due to their highly supervised, restrictive environment. The type of residence with the second lowest number of criminal violations was living alone, and sex offenders living in SLAs accrued just slightly more criminal violations than those living alone. It is important to remember when considering this finding that sex offenders living alone were significantly more likely to be classified as low or medium risk, and those living in a Shared Living Arrangement were more likely to be classified as high risk. Sex offenders living with friends, family, or in shelters, where there were no significant differences between these living arrangements and risk levels, had the highest numbers of criminal violations. While the lower rate of criminal violations for those living alone may be attributable to risk; it is likely that the lower re-offense rate among those living in SLAs may be attributable to the level of surveillance associated with an SLA and the sex offenders' extensive involvement in treatment which is a requirement of living in an SLA.

When looking at the highest number of total violations (technical and criminal combined), sex offenders living with a family member had the most violations. As expected, sex offenders in jail or work release had the lowest number of violations, followed by the group of sex offenders living in SLAs who had the second lowest number of total violations.

Figure 4: Average Number of Violations in Each Residence Type

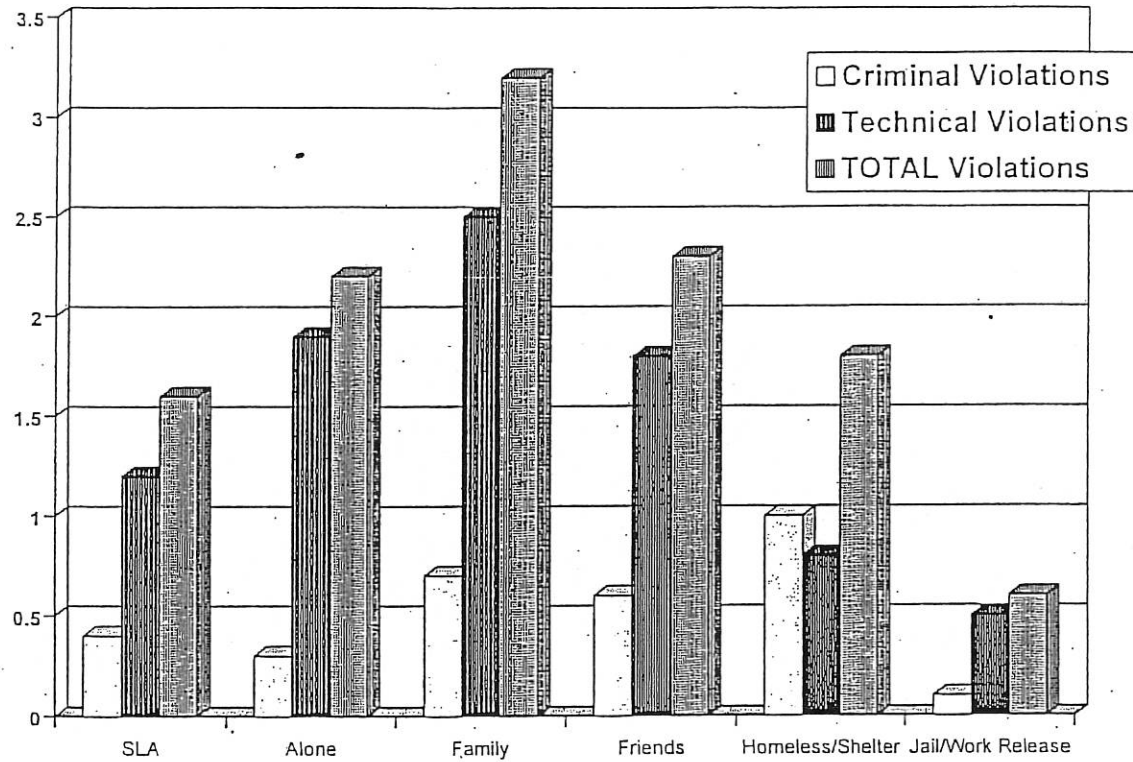
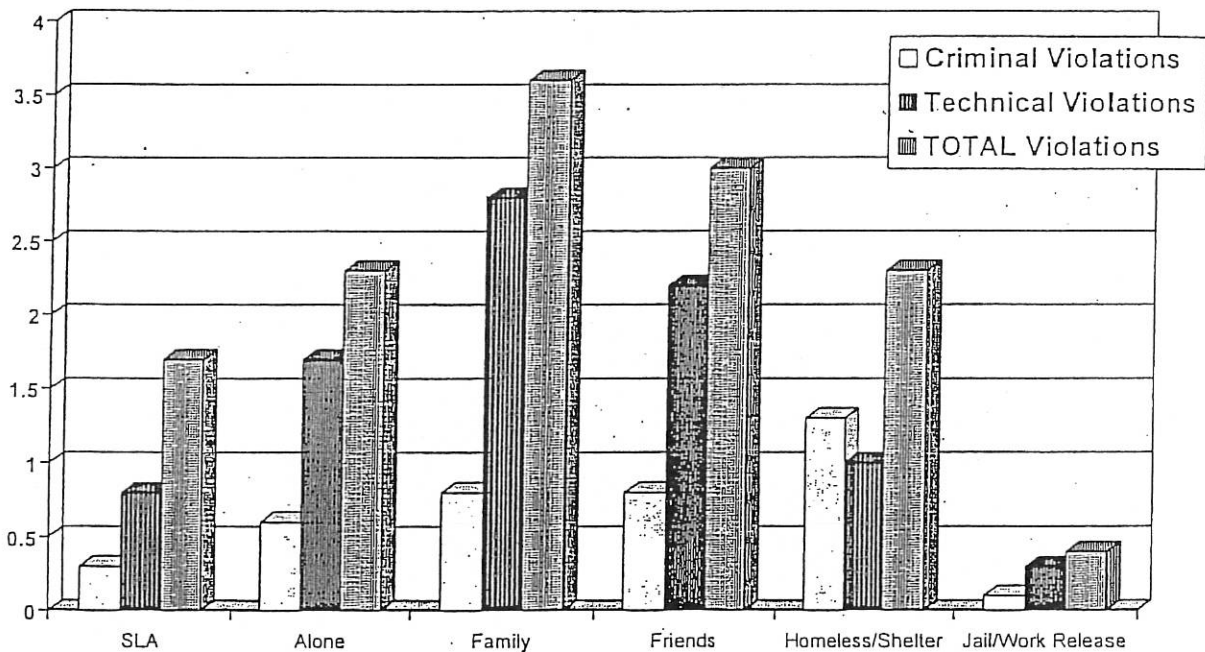


Figure 5 illustrates the average number of total violations, criminal violations, and technical violations in each residence type for HIGH RISK sex offenders. When controlling for risk, sex offenders living in SLAs had the second lowest number of criminal, technical, and total violations (high risk offenders in jail had the lowest number of violations). Sex offenders living with a family member continued to have the highest number of criminal, technical, and total violations.

Figure 5: Average Number of Violations for HIGH RISK Sex Offenders



Comparison of means tests (ANOVAs) were run to determine if there were significant relationships between residence type and number of violations for sex offenders classified as high risk. High-risk sex offenders living in SLAs had a significantly\*\*\* fewer number of total violations (1.16

High-risk sex offenders living in an SLA had a significantly lower number of violations while high-risk sex offenders living with a family member had significantly more violations.

violations) and technical violations (0.84 technical violations) than high risk sex offenders not living in SLAs (2.70 total violations and 2.03 technical violations). In addition, high-risk sex offenders living in an SLA had significantly<sup>16</sup> fewer criminal violations (0.32 criminal violations) than those not living in SLAs (0.68 criminal violations).

<sup>16</sup> This p-value for this finding was .07.

High-risk sex offenders living with a family member had significantly\*\*\* more total violations (3.62 violations) and technical violations (2.79 technical violations) than high-risk sex offenders not living with a family member (1.83 total violations and 1.33 technical violations). High-risk sex offenders living with a family member also had significantly\* more criminal violations (0.83 criminal violations) than high risk sex offenders not living with a family member (0.50 criminal violations). As expected, high-risk sex offenders in jail or work release had significantly\*\*\* less total violations (0.43 violations) and technical violations (0.31 technical violations) than high risk sex offenders not living in jail (2.68 total violations and 2.00 technical violations). High-risk sex offenders living in jail or work release had significantly\*\* less criminal violations (0.13 criminal violations) than high-risk sex offenders not in jail (0.68 criminal violations).

Information was also obtained on how the violations were discovered among the different types of residences (please see Table 9). Understanding how violations are discovered is important because it speaks to the degree of support and community safety provided in each living arrangement. We are quite certain that if an offender is late checking in from work to a halfway house, the delay will be reported to the appropriate authorities and action will be taken. We are not so certain that the same tardiness would be reported if the offender were living with a friend or family member. The data below illustrates the differences in violation detection found among the various situations. Information from polygraph testing was the number one way violations were detected. Followed by that, the rates of how violations were found varied by residence. For example, in SLAs, roommates calling in to a probation officer or treatment provider was the most effective tool in detecting violations and home visits conducted by probation officers was a common way to detect violations for sex offenders living with friends.

In SLAs, roommates calling in to a probation officer or treatment provider was the most effective tool in detecting violations.
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Table 9 – How Violations Were Discovered

How violation was discovered	Jail/Work-release	SLA	Friends	Family	Alone	Shelter
Probation Officer (PO) found out (including self-report)	0	10% (5)	9% (11)	16% (33)	20% (18)	22% (2)
Treatment Provider found out (including self-report)	25% (4)	14% (7)	12% (14)	8% (18)	17% (15)	22% (2)
Both PO & Treatment Provider found out (including self-report)	0	2% (1)	3% (4)	1% (2)	3% (3)	0
PO did home visit	0	8% (4)	12% (14)	7% (14)	8% (7)	11% (1)
Polygraph	50% (8)	16% (8)	12% (14)	14% (29)	20% (18)	0
Fail to appear for treatment	0	4% (2)	7% (8)	17% (35)	3% (3)	0
Fail to appear for PO appt.	0	2% (1)	10% (12)	7% (15)	7% (6)	22% (2)
Roommate called PO or Treatment provider	0	16% (8)	7% (8)	2% (5)	0	0
PO called or visited employer	0	0	2% (2)	2% (4)	0	0
Employer called PO	0	0	0	1% (2)	0	0
Lab Result (UA)	0	14% (7)	11% (13)	13% (27)	10% (9)	0
PO called residence	0	2% (1)	1% (1)	0.5% (1)	1% (1)	0
Victim Advocated called PO	0	0	2% (2)	1% (2)	1% (1)	0
PO called non-resident family member	0	0	2% (2)	0	0	0
Law Enforcement	19% (3)	0	9% (10)	5% (11)	1% (1)	22% (2)
Group member called Treatment provider or PO	0	4% (2)	1% (1)	5% (10)	1% (1)	0
Sex Offender's friend called PO	6% (1)	2% (1)	0	1% (3)	1% (1)	0
GPS/EHM	0	4% (2)	0	0	6% (5)	0
Computer Surveillance	0	4% (2)	0	0.5% (1)	1% (1)	0
TOTAL	100% (16)	100% (51)	100% (116)	100% (212)	100% (90)	100% (9)

In addition to how the violations were found, the number of days between the day of the violation and when the violation was found by the probation officer or treatment provider were examined by residence types. The time between a violation and when the offender is "caught" is an extremely important factor when considering public safety. If an offender is committing violations, it is critical to act quickly to protect potential victims. The data indicated that sex offenders living in shelters had the shortest time period from when he or she committed a violation and when he or she was caught. However, the size of the sample living in a shelter in this analysis was extremely low. The second shortest time period between a sex offender committing a violation and getting



caught was with sex offenders living in SLAs. The longest period of time between violations and violations getting detected was with sex offenders living alone. However, there were no statistically significant differences among the types of residences and the number of days between the violation and when the violation was discovered. Please see Table 10 for the average number of days between a sex offender's violation and when the violation was found, broken out by residence.

Table 10 – Days between violation and when the violation was discovered

	Average number of days between violation and when the violation was discovered	Range of days between violation and when the violation was discovered
Living in a Shelter	0.1	0-1
SLA	2.4	0-31
Living with Family	6.2	0-184
Living with Friends	7.4	0-258
Living Alone	10.6	0-113

#### Proximity to Schools and Childcare Centers

Although getting exact measurements of residences' proximity to schools and childcare centers could not be done for this study, due to limited resources, an illustration of the sex offender

Very few of the sex offenders in this study engaged in criminal behavior during the study period, suggesting that a tight web of supervision, treatment and surveillance may be more important in maintaining community safety than where a sex offender resides.

residences that had at least one criminal offense during the first 15 months of supervision and their proximity to schools and childcare centers were plotted using a mapping software program. These maps illustrated that these offenders seemed to be randomly located, and were, in fact, not usually within 1000 feet of a school or child care center. In addition, the maps illustrated (as said before) that in a densely populated area it is nearly impossible for

anyone to find a residence that is not relatively close to a school or childcare center. However, sex offenders under criminal justice supervision usually have to abide by guidelines that restrict their

residence's proximity to schools or childcare centers and the residence would have to get approved by their criminal justice authority figure. While it is not ideal for sex offenders to live in areas where children are frequently present, the data indicated that very few of the sex offenders in this study engaged in criminal behavior during the study period, suggesting that a tight web of supervision, treatment and surveillance may be more important in maintaining community safety than where a sex offender resides.

### Support Systems

As with most behavioral health treatment, a positive support system is emphasized as a component of being successful in treatment. This component seemed to hold especially true with this population. For this report, support was defined as having someone significant to the offender and/or a roommate who attends treatment with the offender, has a positive relationship with the probation officer and treatment provider, and is well versed in the offender's probation and treatment requirements. Please see Table 11 for an illustration of the amount of support by the various resident types.

Table 11 – Support by Residence Type

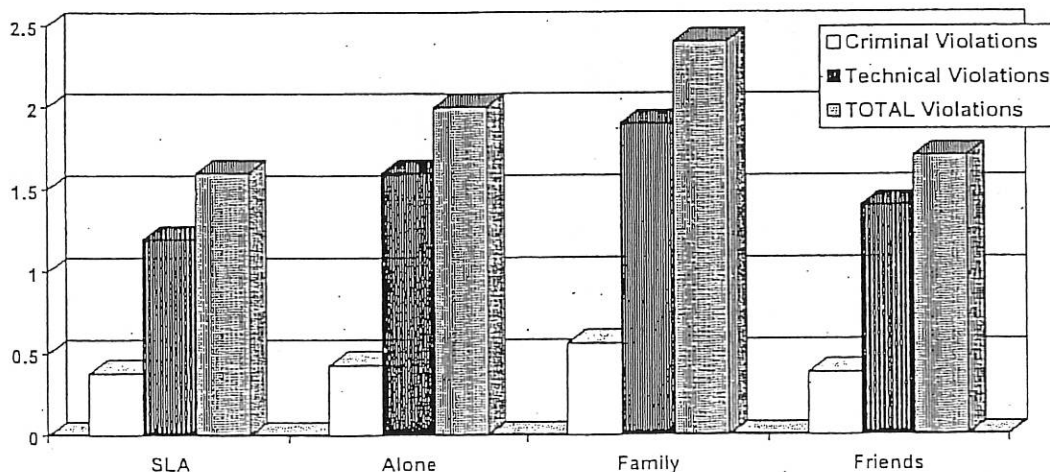
	Have Negative or No Support	Have Support	Support system is unclear	TOTAL
Living in a Shelter	1 (20%) (2%)	0	4 (80%) (4%)	5 (100%)
SLA	0	32 (100%) (46%)	0	32 (100%)
Living with Family	23 (35%) (44%)	18 (28%) (26%)	24 (37%) (25%)	65 (100%)
Living with Friends	14 (29%) (27%)	11 (22%) (16%)	24 (49%) (25%)	49 (100%)
Living Alone	11 (27%) (21%)	7 (17%) (10%)	23 (56%) (24%)	41 (100%)
Jail/Work Release	3 (12%) (6%)	1 (4%) (1%)	21 (84%) (22%)	25 (100%)
TOTAL	52 (24%) (100%)	69 (32%) (100%)	96 (44%) (100%)	217

Comparison of means tests (ANOVAs) were run to determine whether positive support was significantly related to the number of violations incurred. Sex offenders who had support had significantly\*\*\* lower violations (1.86 violations) than sex offenders who had negative or no support (3.85 violations). The positive nature of support systems also held true for technical violations (1.45 technical violations for offenders with positive support vs. 3.13 technical violations for those with negative or no support). Those with support also had significantly\* lower criminal violations (0.41 criminal violations) than sex offenders with negative or no support (0.71 criminal violations).

Figure 6 illustrates the average number of total violations, criminal violations, and technical violations in each residence type for sex offenders who have POSITIVE support. When controlling for positive support, sex offenders living in SLAs had one of the lowest numbers of criminal, technical, and total violations. Sex offenders living with a family member continued to have the highest number of criminal, technical, and total violations.

Sex offenders with positive support living in SLAs had one of the lowest numbers of violations. Sex offenders with positive support living with a family member continued to have the highest number of violations.

Figure 6: Average Number of Violations for Sex Offenders with POSITIVE support



Figures 7 – 9 illustrate the average number of total violations, criminal violations, and technical violations in each residence type for HIGH RISK sex offenders controlling for support. Because of the high number of missing information regarding support (this variable was not easily obtainable from the files reviewed) missing data is included in the figure. When controlling for these two variables (risk and support), sex offenders living in SLAs had the second lowest number of criminal, technical, and total violations (sex offenders in jail or work release had the lowest). Sex offenders with negative or no support living with either a family member or friends had the highest number of criminal, technical, and total violations. In fact, high-risk sex offenders living with a family member or friends had very similar outcomes when controlling for support.

High-risk sex offenders with negative or no support living with either a family member or friends had the highest number of violations.

Figure 7: Average Number of *Total* Violations for High Risk Sex Offenders

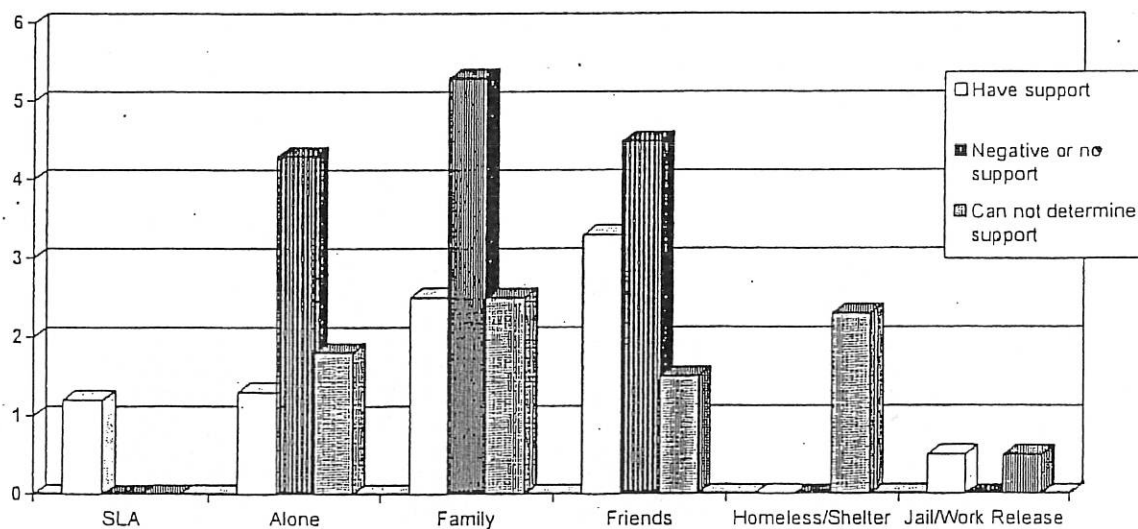


Figure 8: Average Number of *Criminal* Violations for High Risk Sex Offenders

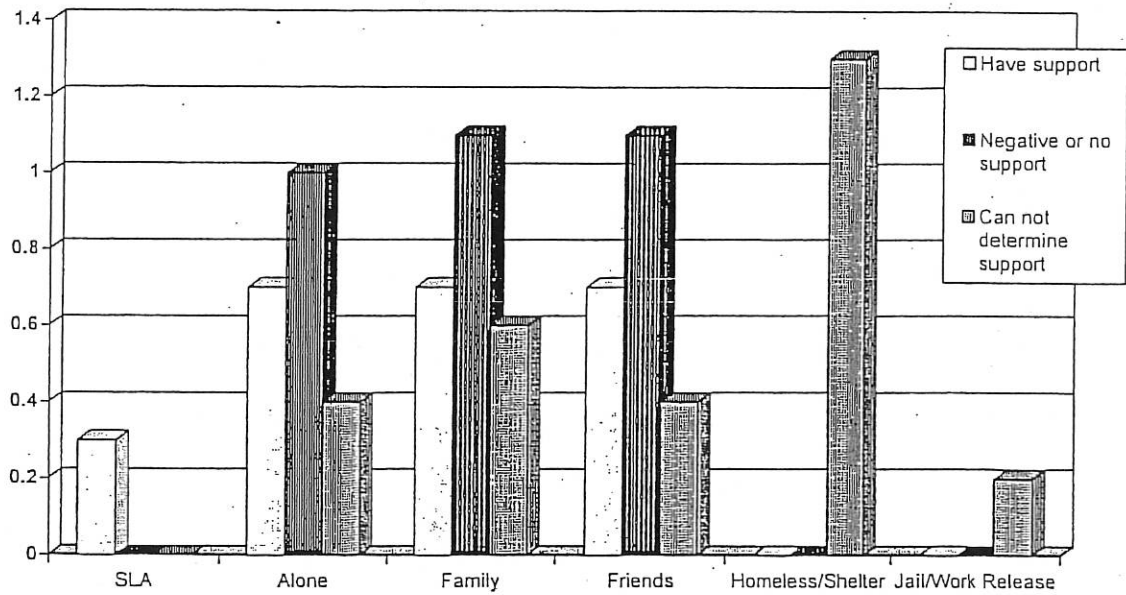
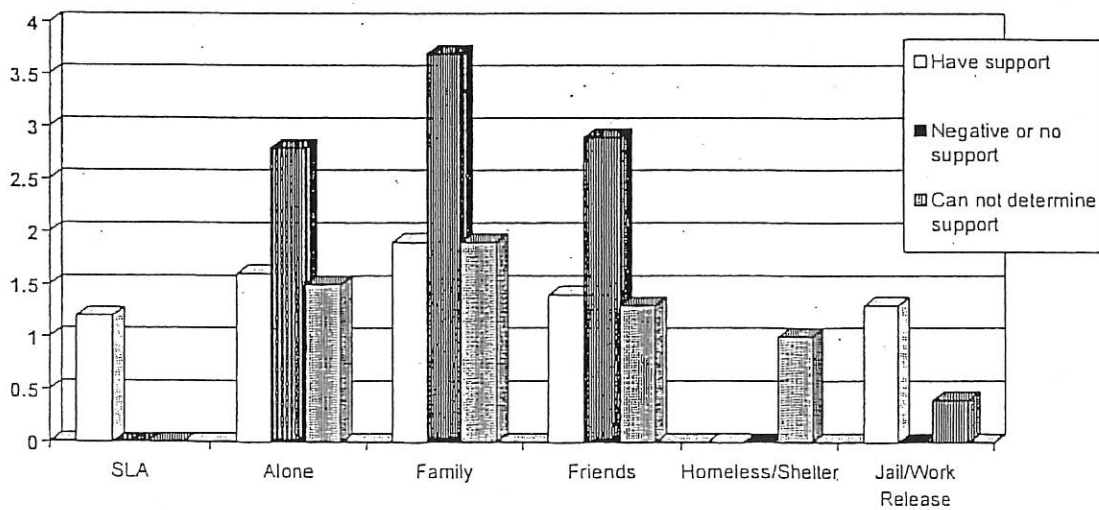


Figure 9: Average Number of *Technical* Violations for High Risk Sex Offenders



### Risk Levels

Comparison of means tests (ANOVAs) were run to see if offenders' risk levels were significantly related to the number of violations incurred during this study period. Sex offenders classified as high risk had significantly\*\* more total violations (0.93 violations) than sex offenders classified as medium or low risk (0.60 violations). High-risk sex offenders also had significantly\*\*\* more criminal violations (0.72 criminal violations) than medium or low risk sex offenders (0.51 criminal violations). This finding is expected, given that higher risk levels are typically associated with higher rates of violations and/or failure. In addition, when controlling for high-risk sex offenders, those with support had significantly\*\*\* fewer total and technical violations (1.65 total and 1.21 technical violations) than high risk sex offenders with negative or no support (4.6 total and 3.6 technical violations). High-risk sex offenders with support also had significantly\*\* fewer criminal violations (0.45 criminal violations) than high risk sex offenders with negative or no support (1.00 criminal violations).

A logistic regression was run to determine whether risk level, support, and living with a family member<sup>17</sup> act independently of one another or if they work as a cluster to predict violation

Risk level does not independently contribute to *total* number of violations. Yet, risk level is the only variable of the three that independently contributes to the number of *criminal* violations.

behavior. Support and living with a family member were found to be independent of one another, but risk level lost its significance when clustered with these two variables. This means that risk level does not independently contribute to *total* number of violations. Yet, risk level is the only variable of the three that independently contributes to the

number of *criminal* violations. This suggests that higher risk sex offenders need higher levels of supervision, which may be afforded by SLAs.

<sup>17</sup> These variables (support, risk level, and living with a family member) were selected for this analysis because they were found to be significantly related to number of violations.



## CONCLUSIONS AND RECOMMENDATIONS

Persons convicted of offenses involving unlawful sexual behavior demonstrate a high likelihood of recidivism due to many factors. This study explored whether various types of living arrangements impacted sex offenders' risk to community safety.

Several limitations to this study existed. First, this report focused on sex offenders under criminal justice supervision and cannot speak to sex offenders not receiving criminal justice supervision. Second, only data from the Denver metropolitan area were used. Therefore, these findings should not be generalized to Colorado's non-metropolitan areas. Third, data were collected from sex offenders who received a probation sentence; parolees were not included in this study. Fourth, data were only collected for the first 15 months of supervision. The time allowed for re-offending was relatively short<sup>18</sup>. And finally, the sample was only comprised of adult sex offenders; juveniles were not represented in the study. However, strengths of the data set include using both a random sample of probationers, who make up the majority of sex offenders receiving criminal justice supervision in the community, and an all-inclusive sample of sex offenders living in SLAs.

High-risk sex offenders living in Shared Living Arrangements had significantly fewer violations than those living in other living arrangements. This finding is similar to Hanson and Harris' 1998 study<sup>19</sup> in which they found no overall difference in the frequency with which recidivists and non-recidivists were known to associate with other sexual offenders. In addition, the average overall number of violations was low in Shared Living Arrangements, which is surprising, given that this was the only residence type that had significantly more high-risk

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<sup>18</sup> Typical studies on recidivism occur over a 4 to 5 year period.

<sup>19</sup> Hanson, R.K. & Harris, A. (1998). Dynamic Predictors of Sexual Recidivism. Department of the Solicitor General Canada.

sex offenders. Shared Living Arrangements also had one of the shortest amounts of time between when a sex offender committed a violation and when the probation officer or treatment provider found out about the violation. In addition, the roommates of sex offenders living in Shared Living Arrangements called in violations of probation and treatment requirements to the sex offender's treatment provider and probation officer more times than roommates in any other living arrangement. This leads back to the conclusion that a positive support system, which 100% of the Shared Living Arrangements provided, is an important component of being successful in treatment.

*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 living in the community.*

Although residences' proximity to schools and childcare centers was not specifically analyzed; two things could be inferred from the maps. One, in urban areas, a large number of schools and childcare centers are located within various neighborhoods, leaving extremely limited areas for sex offenders to reside if restrictions were implemented. Second, sex offenders who have committed a criminal offense (both sexual and non-sexual) while under criminal justice supervision appear to be randomly scattered throughout the study areas -- there does not seem to be a greater number of these offenders living within proximity to schools and childcare centers than other types of offenders. In addition to the maps, the state of Iowa's legal challenge to their law provides some insight into the constitutionality of restricting sex offender residences.

*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.*

The research findings indicated that sex offenders on probation living with their families in the Denver metropolitan area were more likely to have a criminal and technical violation than those living in other types of residences. Support was another component related to the number of criminal and technical violations. Those who had support in their lives had significantly lower numbers of violations than those who had negative or no support. When support was examined for high-risk offenders, those with no support and living with a family member or friends had the highest numbers of violations (criminal, technical, and total). These findings suggest that although a high-risk sex offender may be living with a family member or friends, it does not necessarily mean that he or she is living in a supportive or healthy environment.

*Recommendation 3a:* *Efforts should be made to ensure that the sex offender's support in the home is positive in order to aid in his or her treatment.*

*Recommendation 3b:* *While the findings in this report suggest a link between a sex offender's support in the home and performance in the community, more research in this area should be conducted to further inform this important finding.*

*General Recommendation 4:* *The Sex Offender Management Board should consider the findings from this report when revising the Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders.*

Continuum of Housing Options for Convicted Sex Offenders under the Criminal Justice System

Place of Residence (level of monitoring provided by residence indicated by shade of box: dark=high, light = low)	Supervision Levels Available - Residential Facilities <i>Supervision provided by facility officers/guards and treatment team. In some cases, probation/parole officers provide supervision.</i>			Supervision Levels Available - Non-Residential Facilities <i>Supervision provided by probation/parole officer and treatment team</i>			Population
	HIGH	MEDIUM	LOW	HIGH	MEDIUM	LOW	
DOC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				Adult sex offenders
State Hospital (Pueblo)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				Mentally ill sex offenders
Jail	<input type="checkbox"/>	<input type="checkbox"/>					Adult sex offenders
Work Release/Jail after hours		<input type="checkbox"/>					Adult sex offenders
Work Release/Community Corrections after hours		<input type="checkbox"/> *					Adult sex offenders
Residential Community Corrections	<input type="checkbox"/> *	<input type="checkbox"/> *					Adult sex offenders
Non-Residential Community Corrections				<input type="checkbox"/> *	<input type="checkbox"/> *	<input type="checkbox"/> *	Adult sex offenders
Group Home	<input type="checkbox"/> *	<input type="checkbox"/> *	<input type="checkbox"/> *				Developmentally disabled sex offenders
Alcohol/Drug Treatment Center SHORT-TERM	<input type="checkbox"/> *						Adult sex offender
Unlocked Psychiatric Hospital SHORT-TERM	<input type="checkbox"/> *	<input type="checkbox"/> *					Mentally ill sex offenders
Shared Living Arrangement				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Adult sex offenders
Host Home				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Developmentally disabled sex offenders
Residential Home - living with friends/family				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Adult sex offenders

3-89

3-89

Place of Residence (level of monitoring provided by residence indicated by shade of box: dark=high, light = low)	Supervision Levels Available - Residential Facilities <i>Supervision provided by facility officers/guards and treatment team. In some cases, probation/parole officers provide supervision.</i>			Supervision Levels Available - Non-Residential Facilities <i>Supervision provided by probation/parole officer and treatment team</i>			Population
Motel - living with friends/family				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Adult sex offenders
Residential Home - living alone				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Adult sex offenders
Motel - living alone				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Adult sex offenders
Rooming House						<input type="checkbox"/> *	Adult sex offenders
Homeless Shelter						<input type="checkbox"/> *	Adult sex offenders
Homeless				<input type="checkbox"/> *	<input type="checkbox"/> *	<input type="checkbox"/> *	Adult sex offenders

\*case manager may also be part of supervision team

NOTE:

*Low supervision may include any of the following:*

- Contact with a supervisory officer on a regular, but minimum basis
- Contact with a treatment provider on a regular, but minimum basis

*Medium supervision may include any of the following:*

- Contact with a supervisory officer on a regular basis
- Contact with a treatment provider on a regular basis
- Some restrictions put on offender by supervisory team

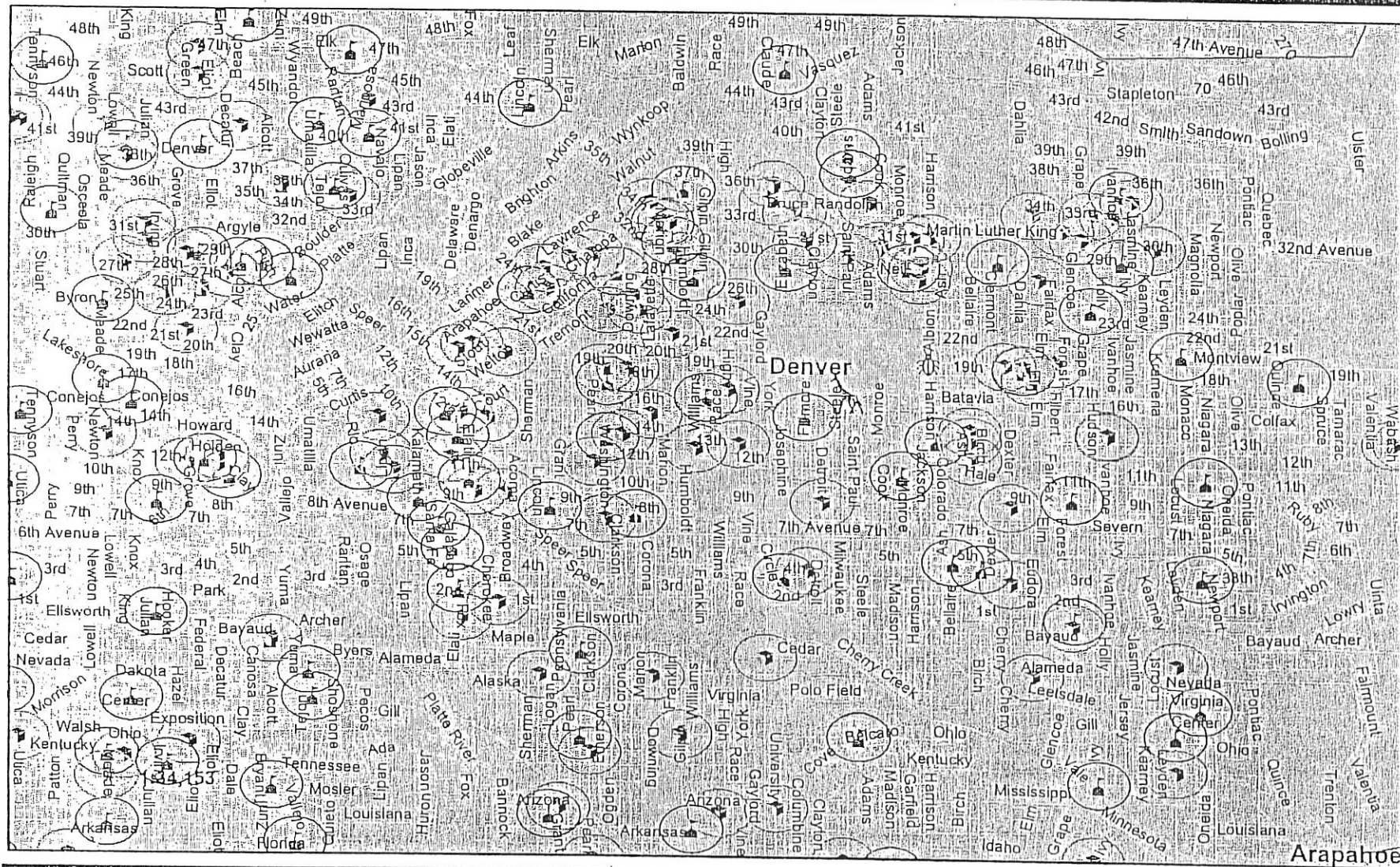
*High supervision may include any of the following:*

- Contact with a supervisory officer on a regular and frequent basis
- Contact with a treatment provider on a regular and frequent basis
- Increased restrictions put on offender by supervisory team



16-3

# Map 1a: 1000 Foot Buffers Around Denver County Schools and Child Care Facilities



	<b>School</b>		<b>Six Flags Elitch Gardens</b>
	<b>1000 Buffer of School</b>		<b>Denver Children's Museum</b>
	<b>Child Care Facility</b>		<b>Denver Zoo</b>
	<b>1000 Foot Buffer of Child Care Facility</b>		<b>Denver Museum of Nature and Science</b>

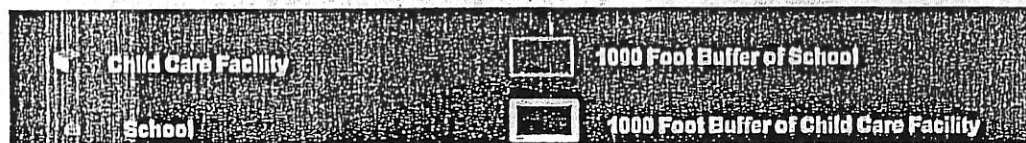
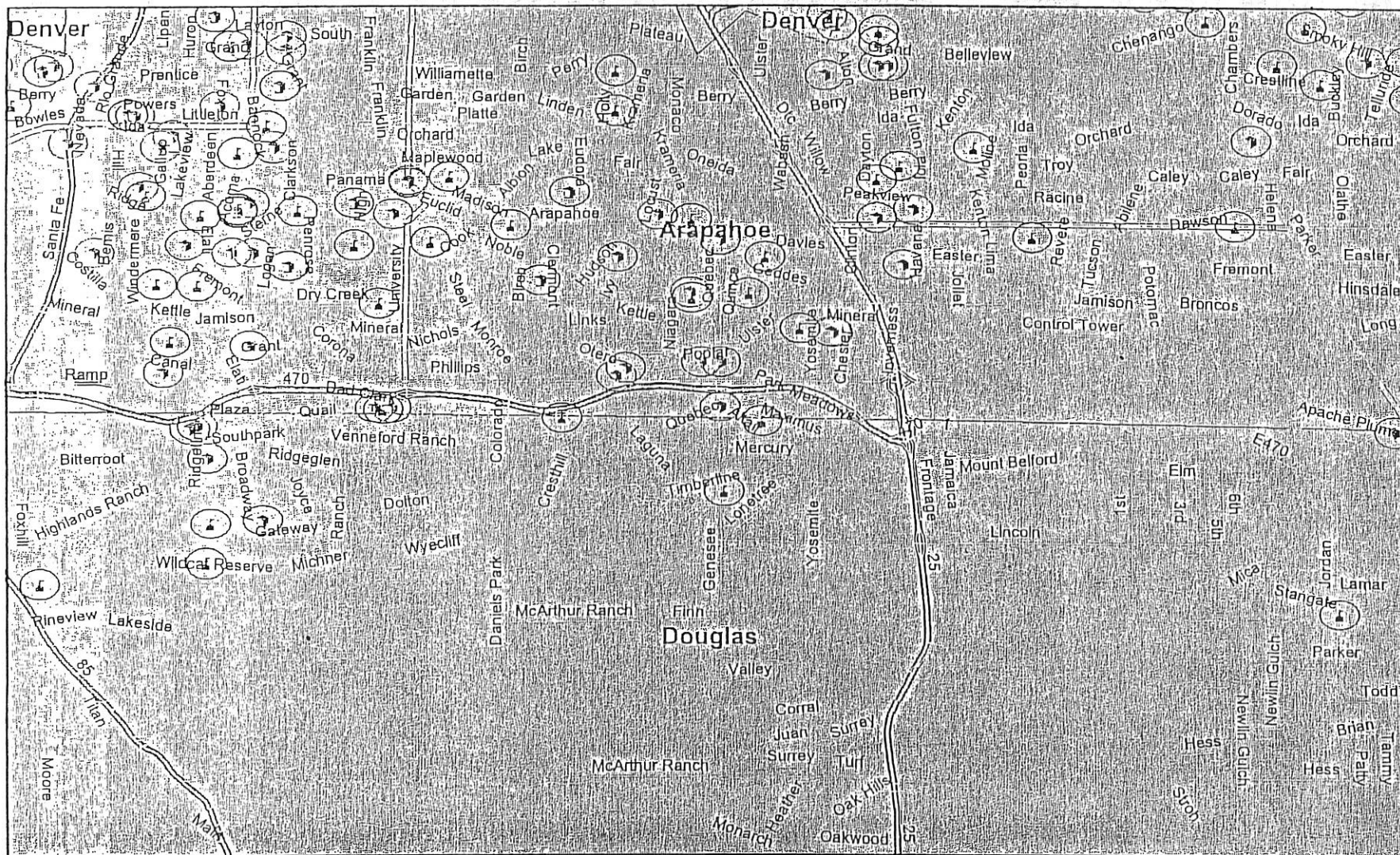
N  
  
 1 Inch equals 1.136879 miles  
 1:72,318

Colorado Division of Criminal Justice  
 Sex Offender Management Board  
 March, 2004



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# Map 1b: 1000 Foot Buffer Around 18th Judicial District Schools and Child Care Facilities



1 inch equals 1.813204 miles  
1:148,383

Colorado Division of Criminal Justice  
Sex Offender Management Board  
March, 2004

# Map 1c- 1000 Foot Buffer Around Jefferson County Schools and Child Care Facilities



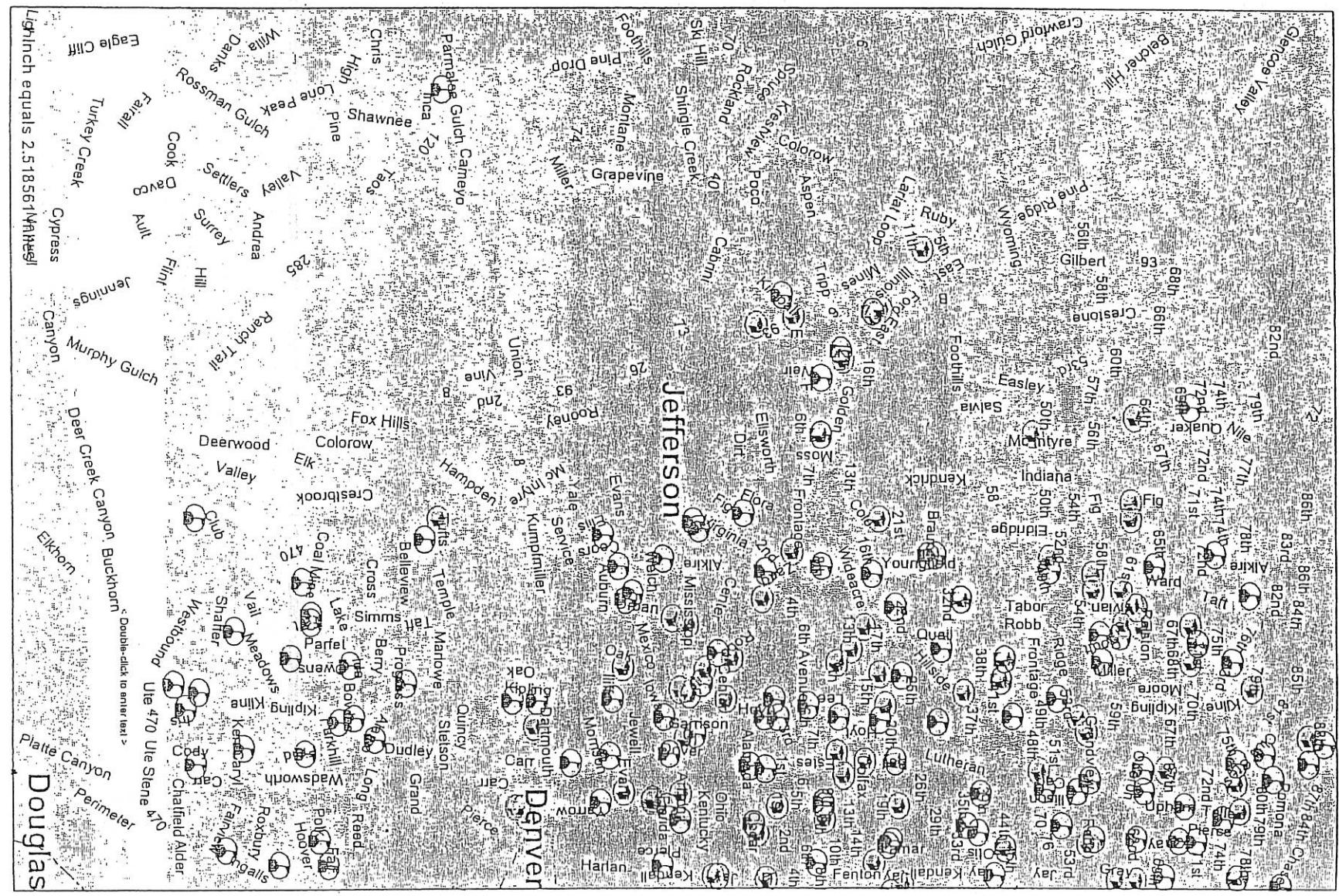
1:158,072

**Child Care Facility**

**School**

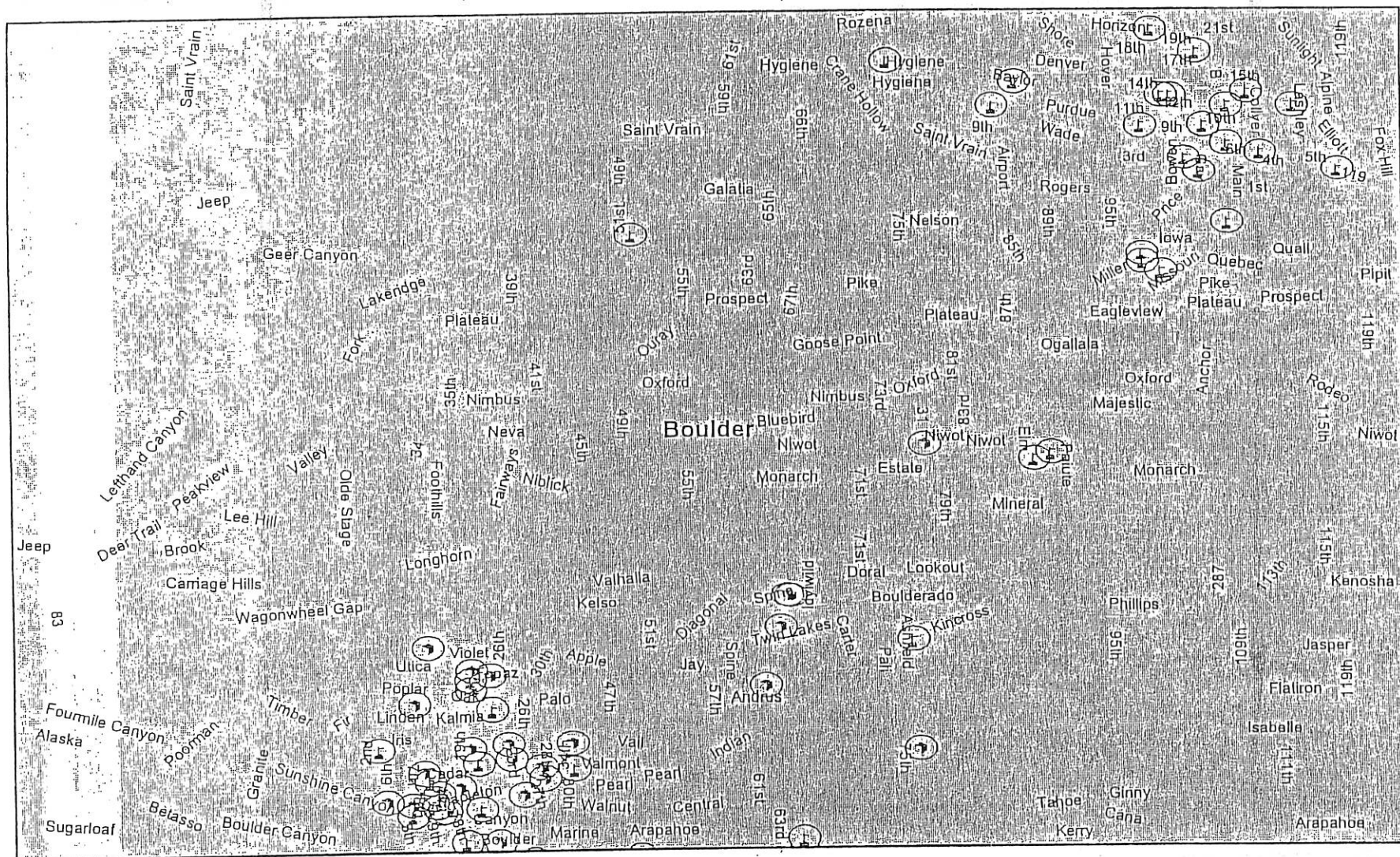
**1000 Foot Buffer of Child Care Facility**

**1000 Foot Buffer of School**





176-6



Colorado Division of Criminal Justice  
Sex Offender Management Board  
March, 2004

- 1 inch equals 2.231864 miles

1:141,411



## Child Care Facility

## School

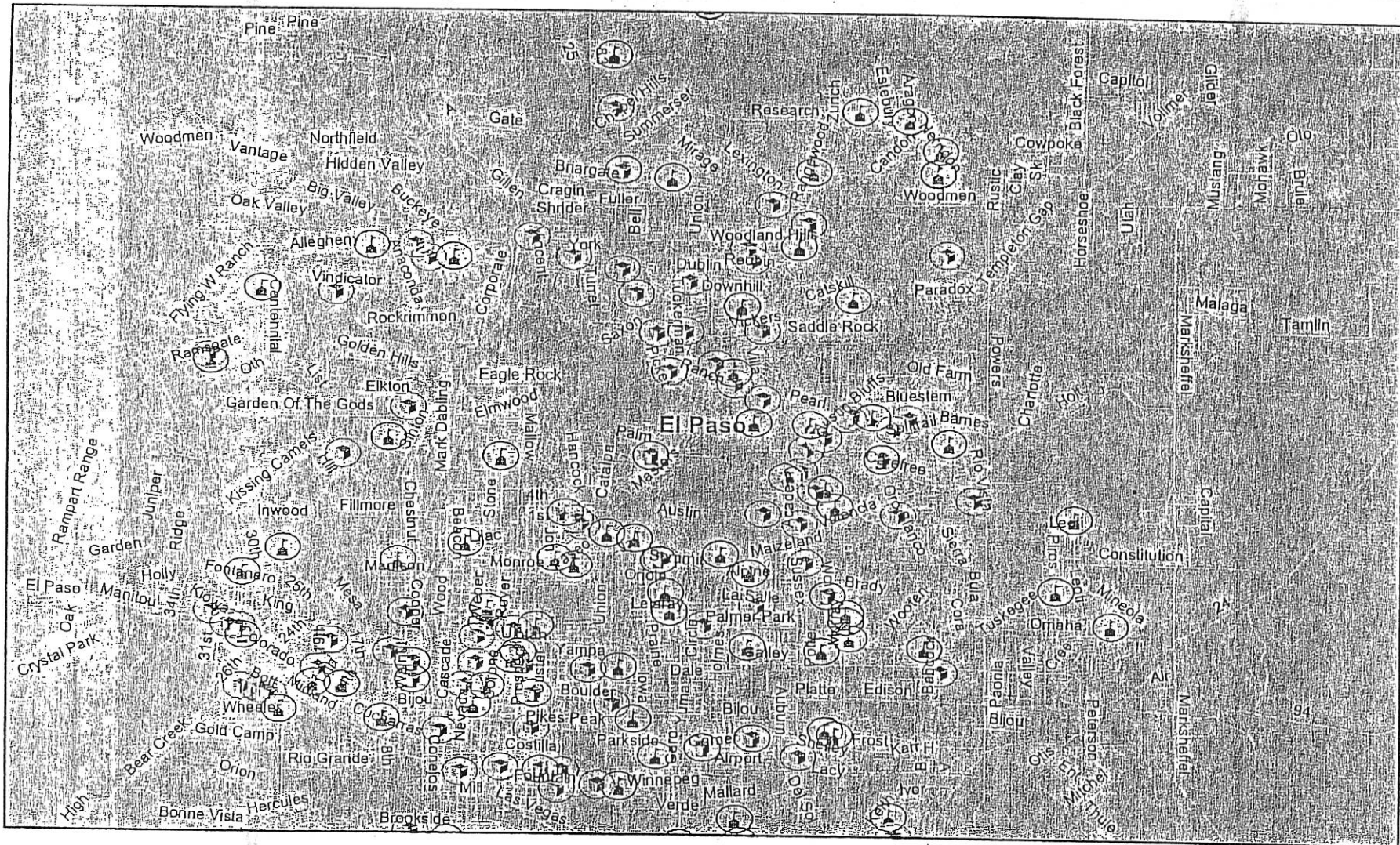


## 1000 Foot Buffer of School

## 1000 Foot Buffer of Child Care Facility

3-95

# Map 1e: 1000 Foot Buffer of Colorado Springs Schools and Child Care Facilities



**School**

**Child Care Facility**

**1000 Foot Buffer of School**

**1000 Foot Buffer of Child Care Facility**

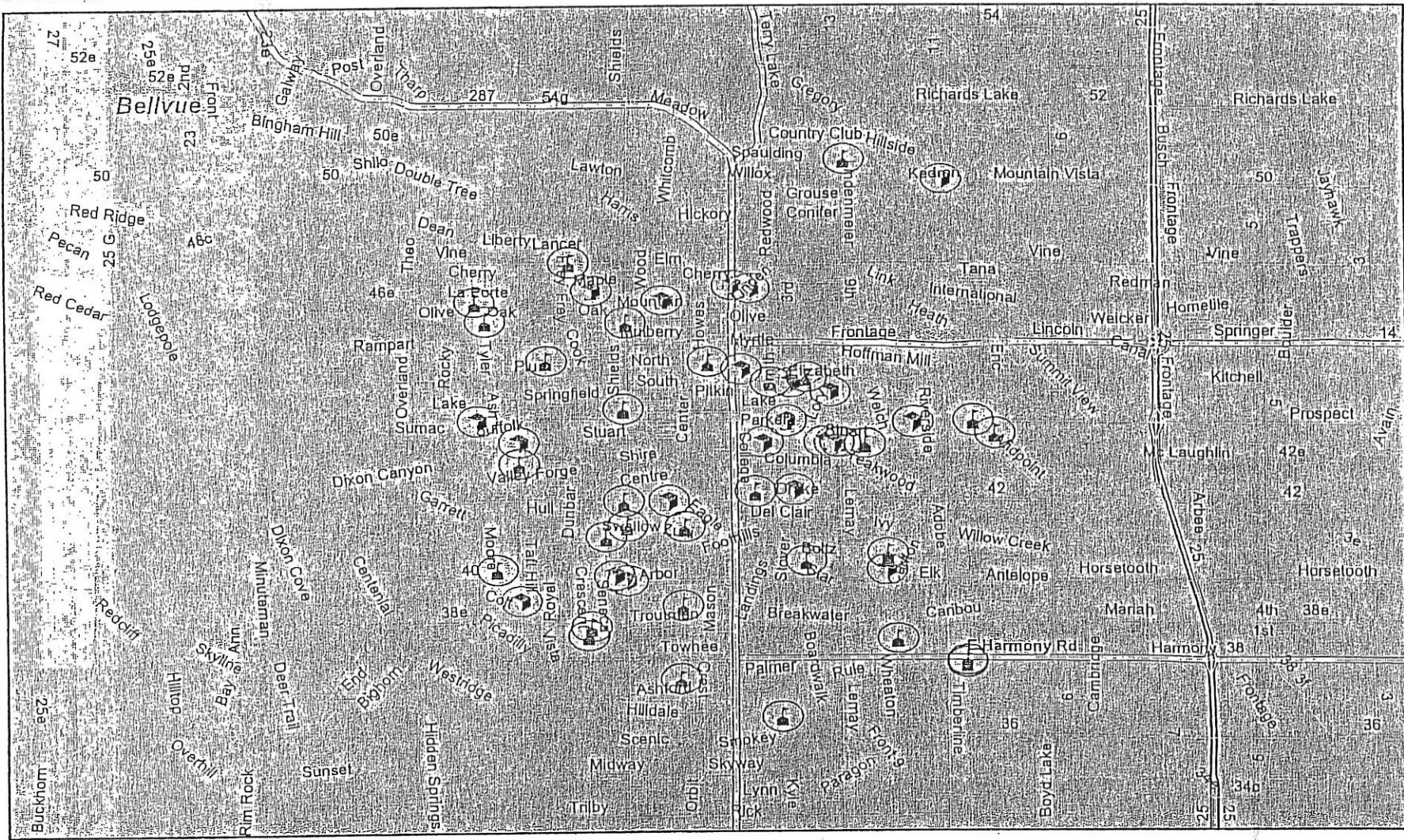
N

1 Inch equals 1.981905 miles  
1:125,573

Colorado Division of Criminal Justice  
Sex Offender Management Board



# Map 1f: 1000 Foot Buffer of Fort Collins Schools and Child Care Facilities



**School**

**Child Care Facility**

**1000 Foot Buffer of School**

**1000 Foot Buffer of Child Care Facility**



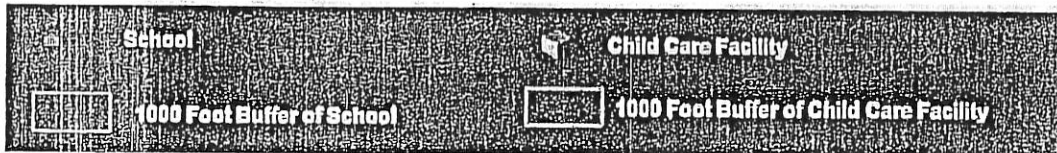
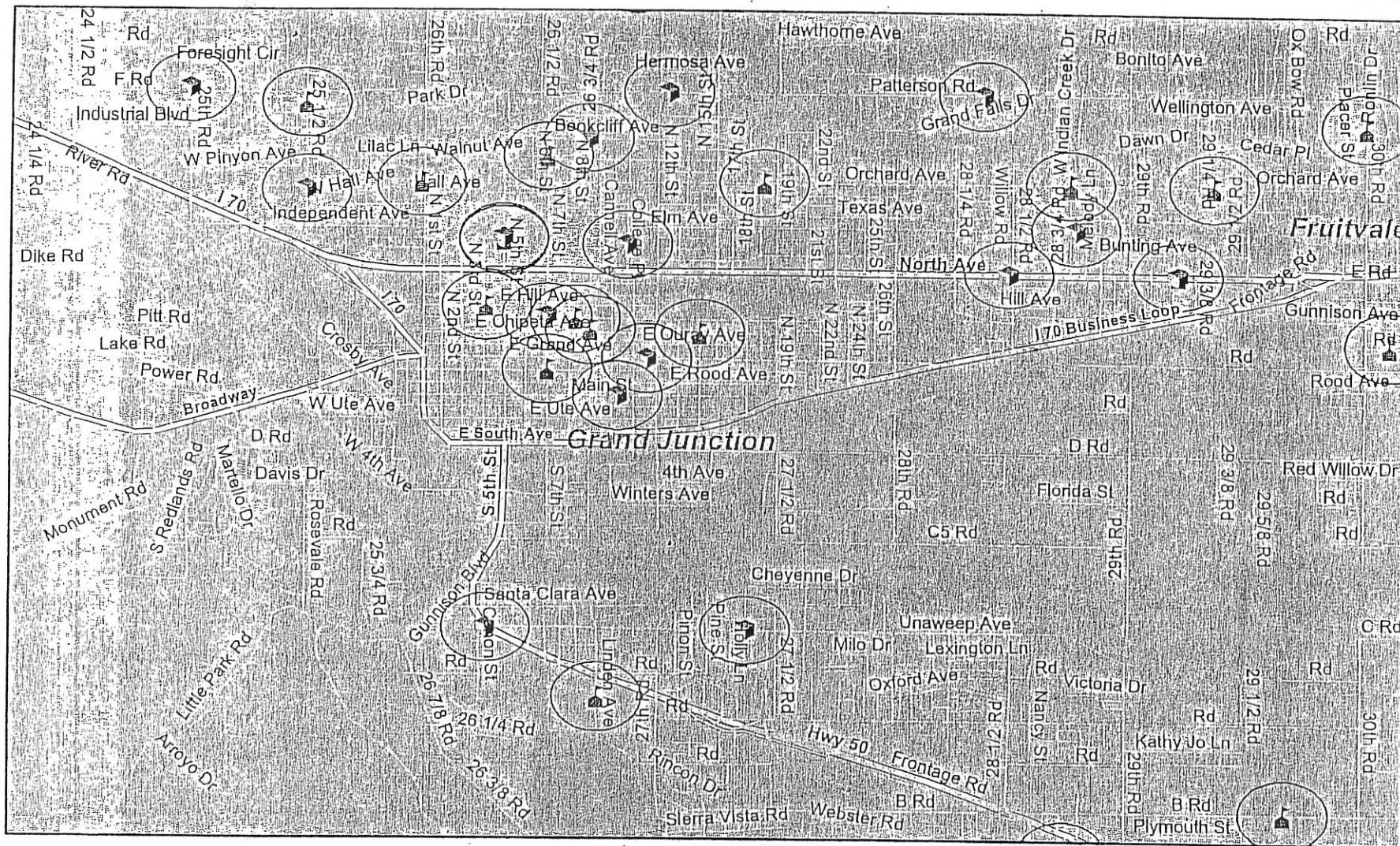
Colorado Division of Criminal Justice  
Sex Offender Management Board

1 Inch equals 1.793498 miles  
1:113,636

3-96.

3-97

# Map 1g: 1000 Foot Buffer Around Grand Junction Schools and Child Care Facilities



Colorado Division of Criminal Justice  
Sex Offender Management Board  
March, 2004

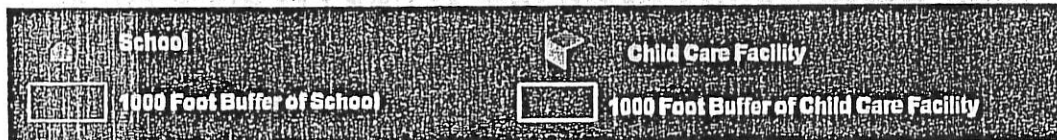
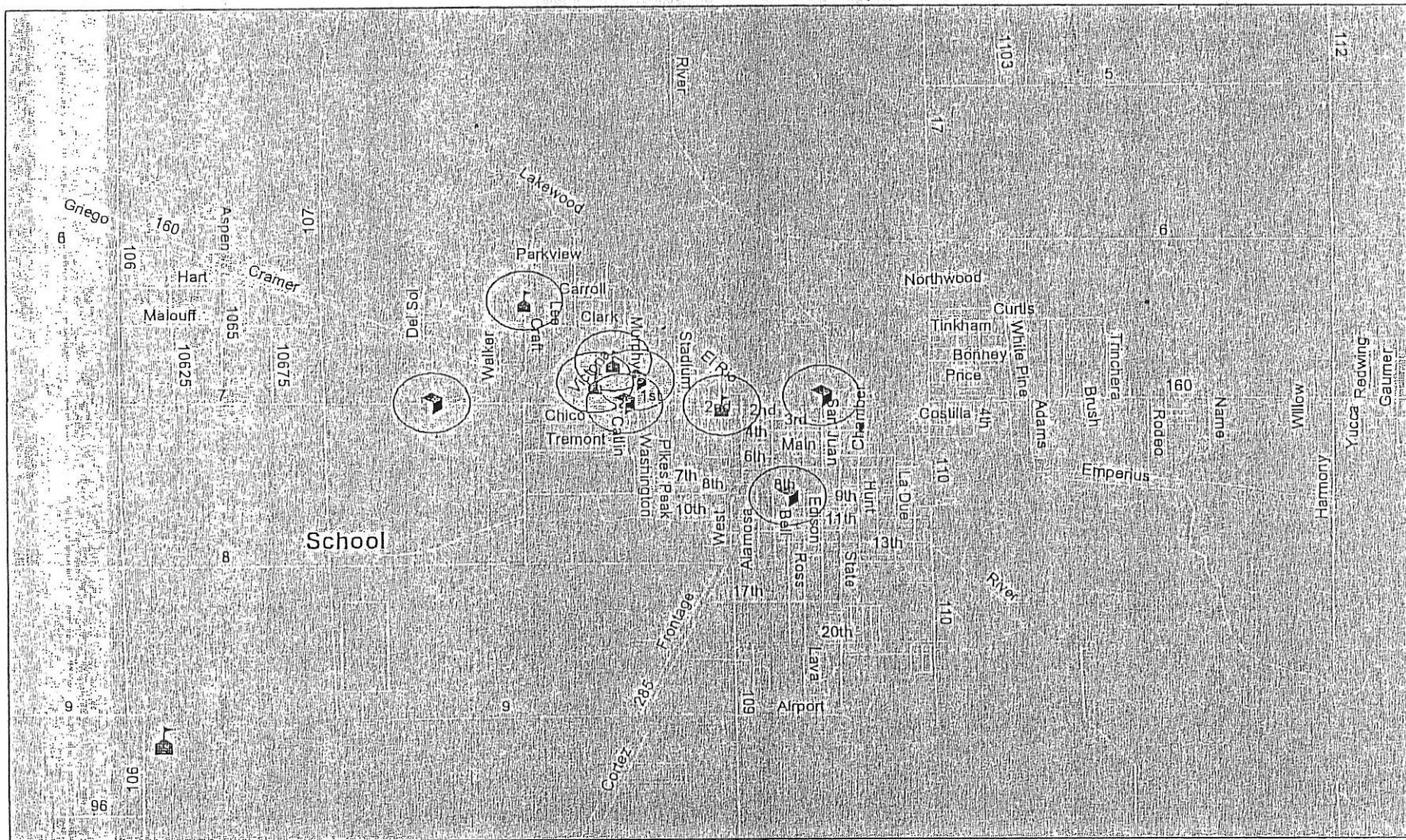
1 inch equals 0.793828 miles

1:50,297



3-98

# Map 1h: 1000 Foot Buffer Around Alamosa Schools and Child Care Facilities



Colorado Division of Criminal Justice  
Sex Offender Management Board  
March, 2004

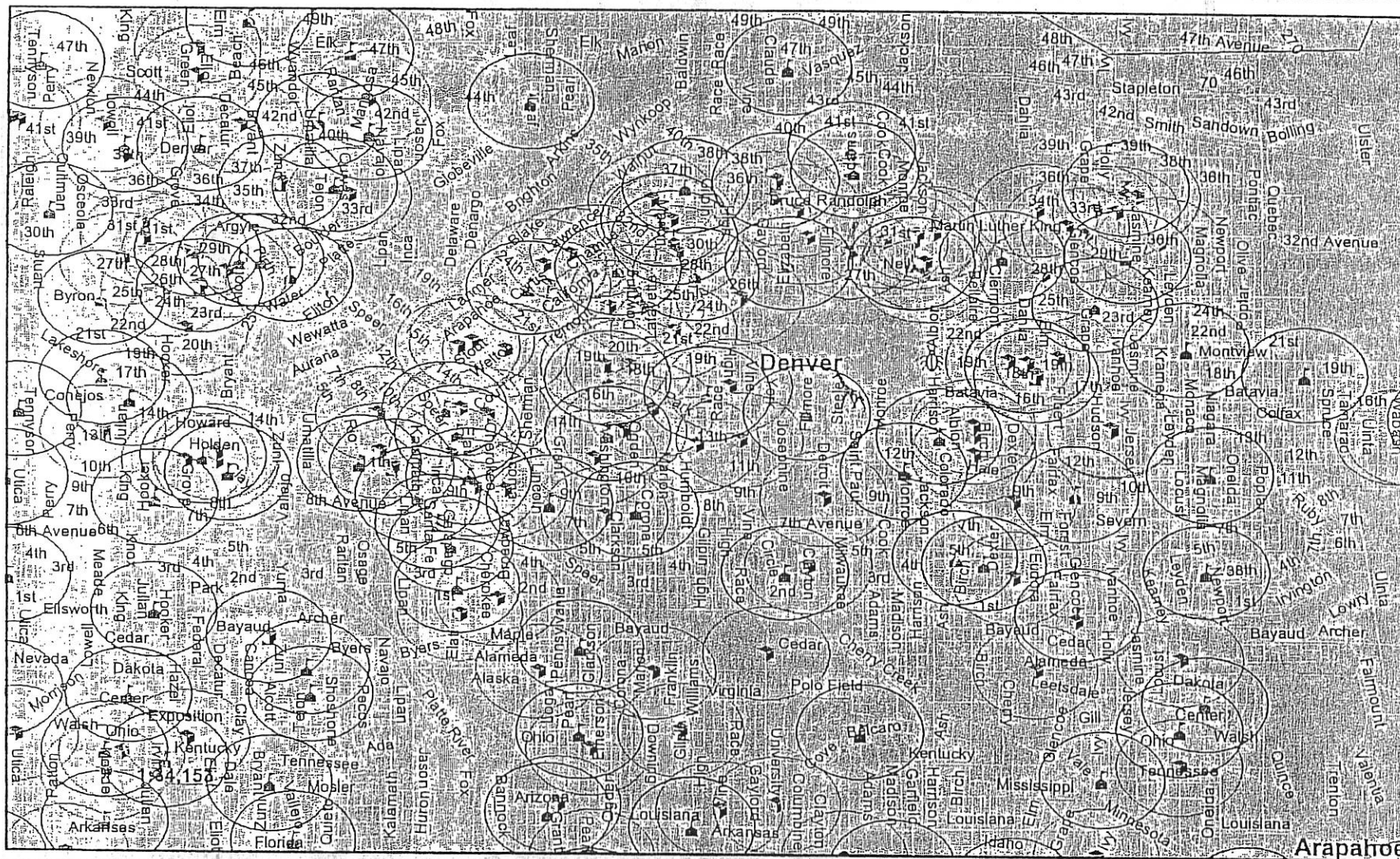
1 inch equals 0.910537 miles

1:57,692



3-99

# Map 2a: 2000 Foot Buffers Around Denver County Schools and Child Care Facilities



## School

- 2000 Buffer of School
- Child Care Facility
- 2000 Foot Buffer of Child Care Facility

## St. Elitch Gardens

Denver Children's Museum

Denver Zoo

Denver Museum of Nature and Science

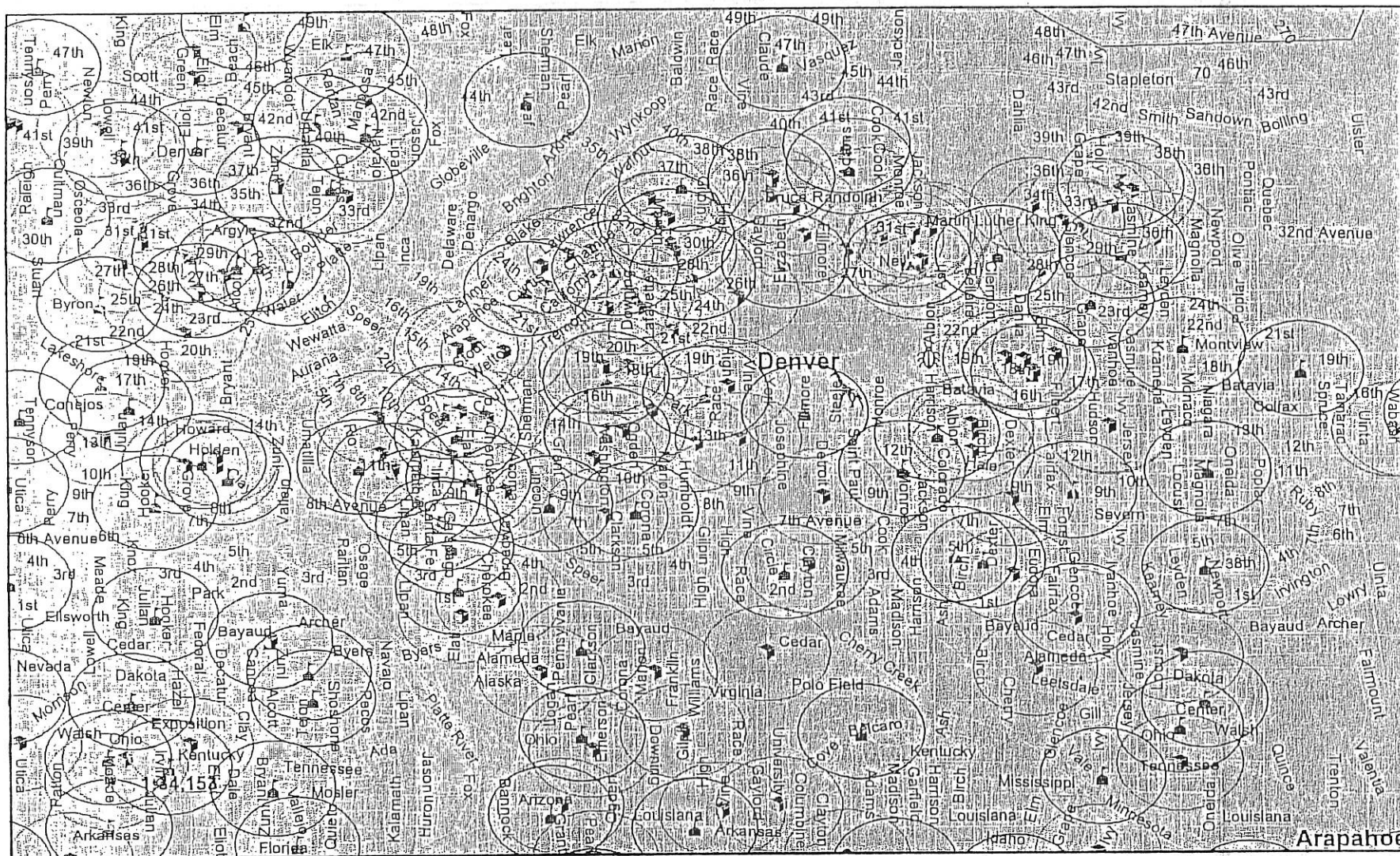










1 inch equals 1.136879 miles  
1:72,318

Colorado Division of Criminal Justice  
Sex Offender Management Board  
March, 2004



# Map 2a: 2000 Foot Buffers Around Denver County Schools and Child Care Facilities



 <b>School</b>	 <b>Six Flags Elitch Gardens</b>
 <b>2000 Buffer of School</b>	 <b>Denver Children's Museum</b>
 <b>Child Care Facility</b>	 <b>Denver Zoo</b>
 <b>2000 Buffer of Child Care Facility</b>	 <b>Denver Museum of Nature and Science</b>



1 inch equals 1.136879 miles  
1:72,318

Colorado Division of Criminal Justice  
Sex Offender Management Board  
March, 2004

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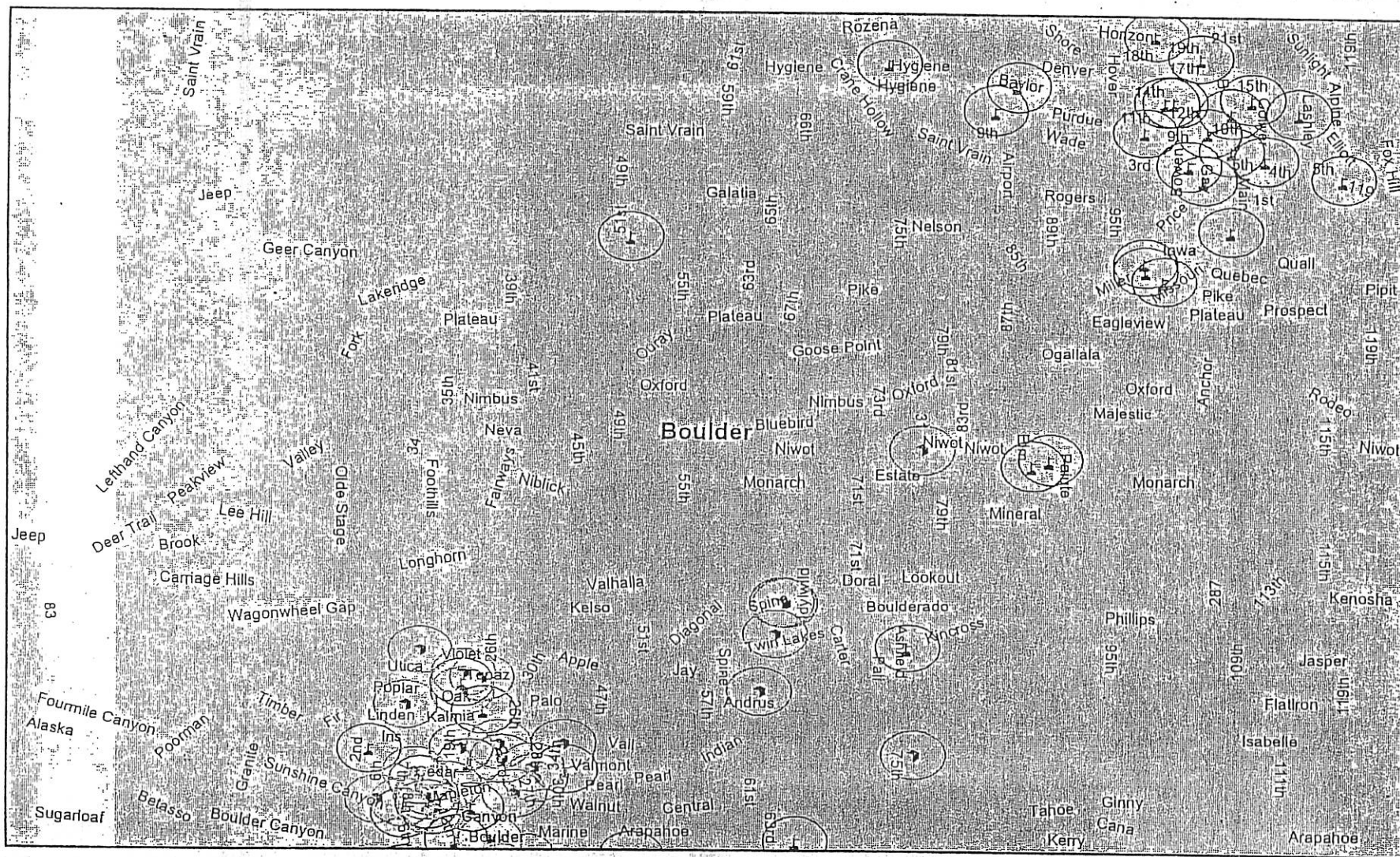






3-103

# Map 2d: 2000 Foot Buffer Around Boulder County Schools and Child Care Facilities



Child Care Facility

School

2000 Foot Buffer of School

2000 Foot Buffer of Child Care Facility

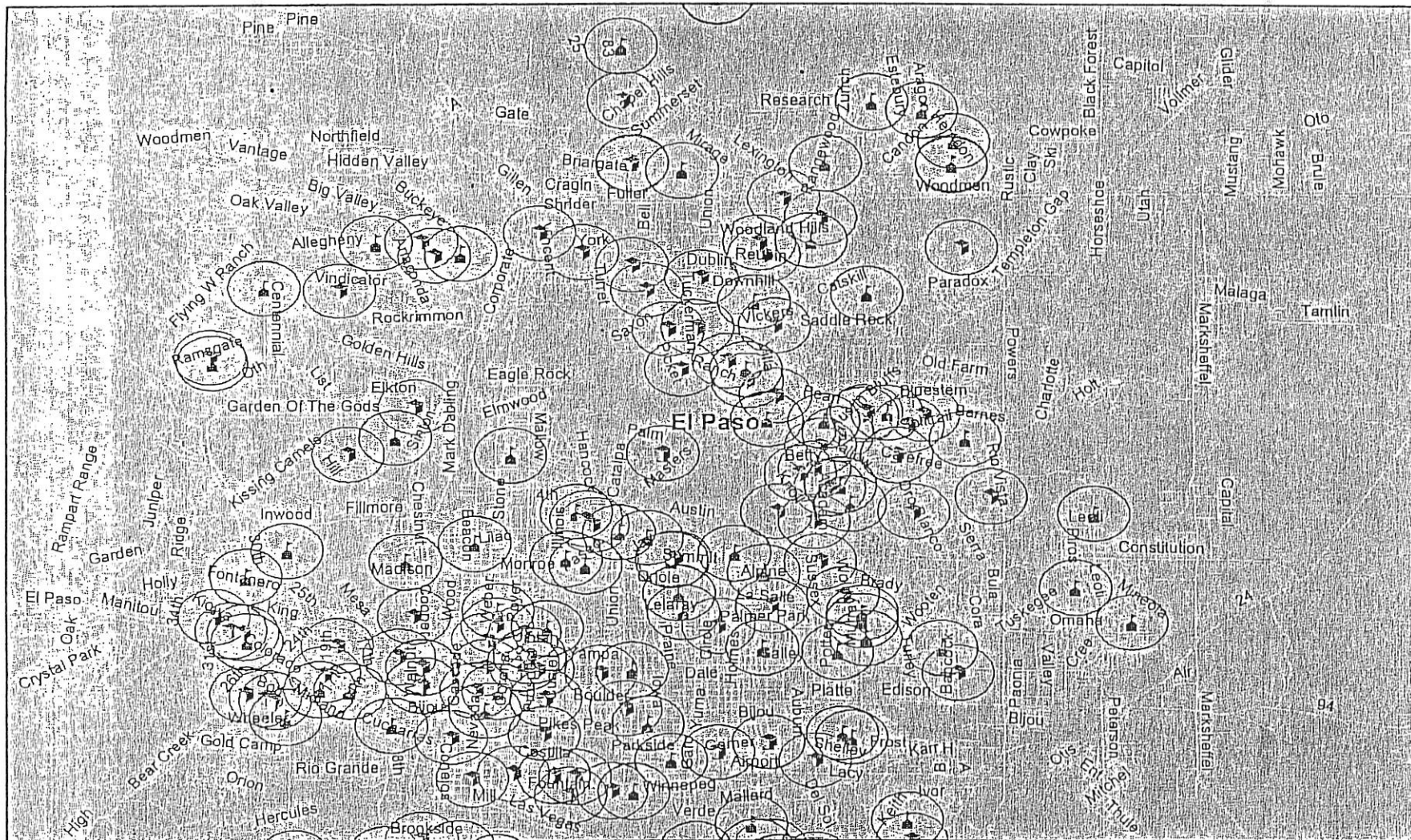


Colorado Division of Criminal Justice  
Sex Offender Management Board  
March, 2004

1 inch equals 2.237708 miles  
1:141,411



# Map 2e: 2000 Foot Buffer of Colorado Springs Schools and Child Care Facilities

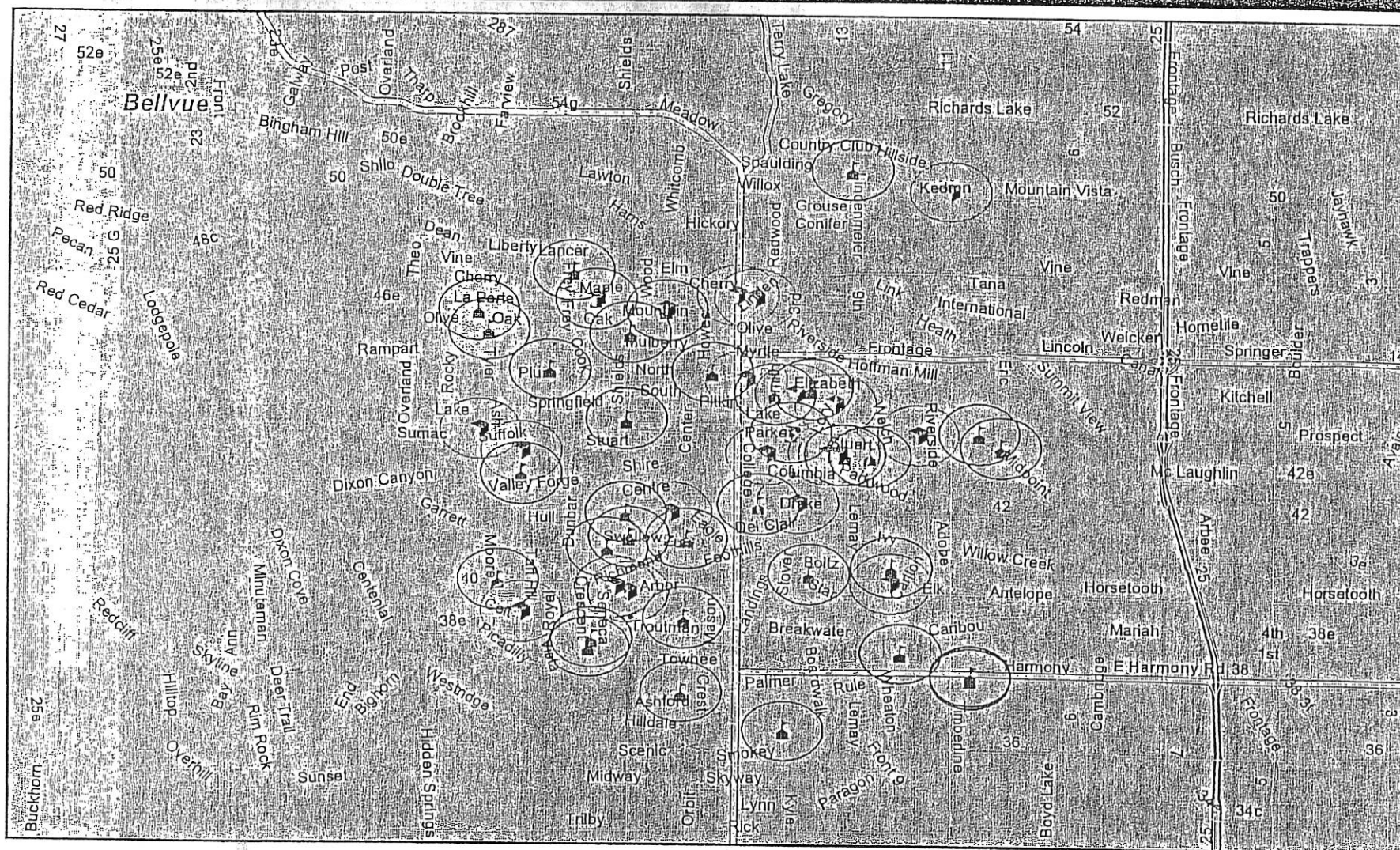


1 inch equals 1.981905 miles  
 1:125,573

Colorado Division of Criminal Justice  
 Sex Offender Management Board

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# School

## Child Care Facility



## 2000 Foot Buffer of School



## 2000 Foot Buffer of Child Care Facility



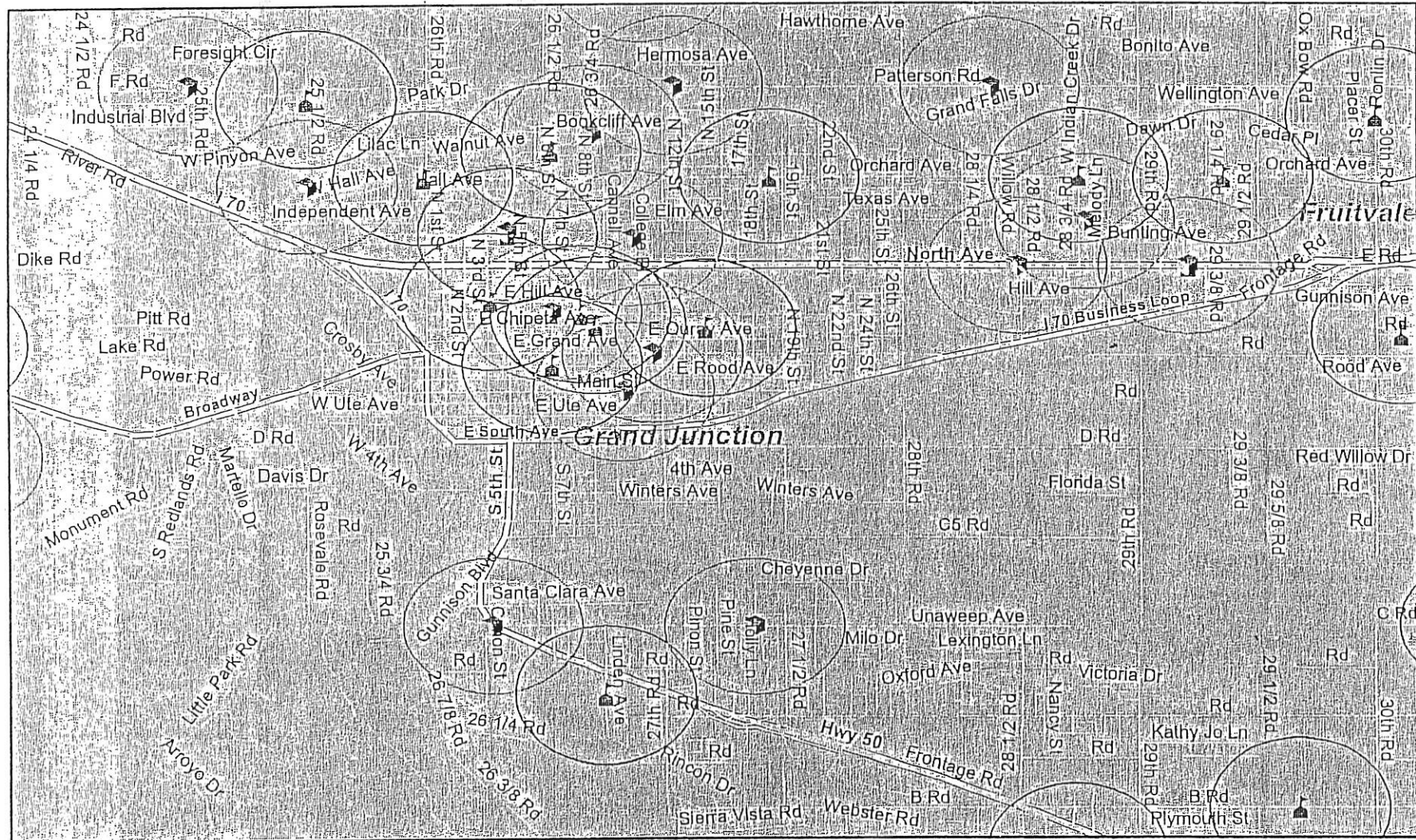
1 inch equals 1.790662 miles  
1:113,636


Colorado Division of Criminal Justice  
Sex Offender Management Board




3-106

# **Map 2g: 2000 Foot Buffer Around Grand Junction Schools and Child Care Facilities**







**School**



**2000 Foot Buffer of School**



**Child Care Facility**



**2000 Foot Buffer of Child Care Facility**

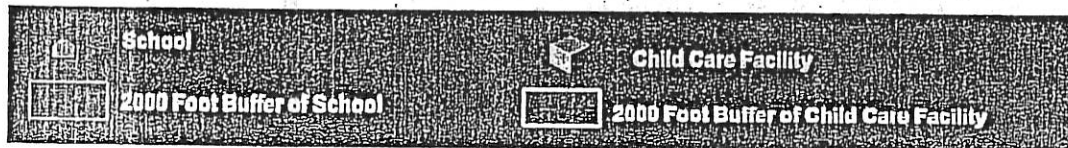
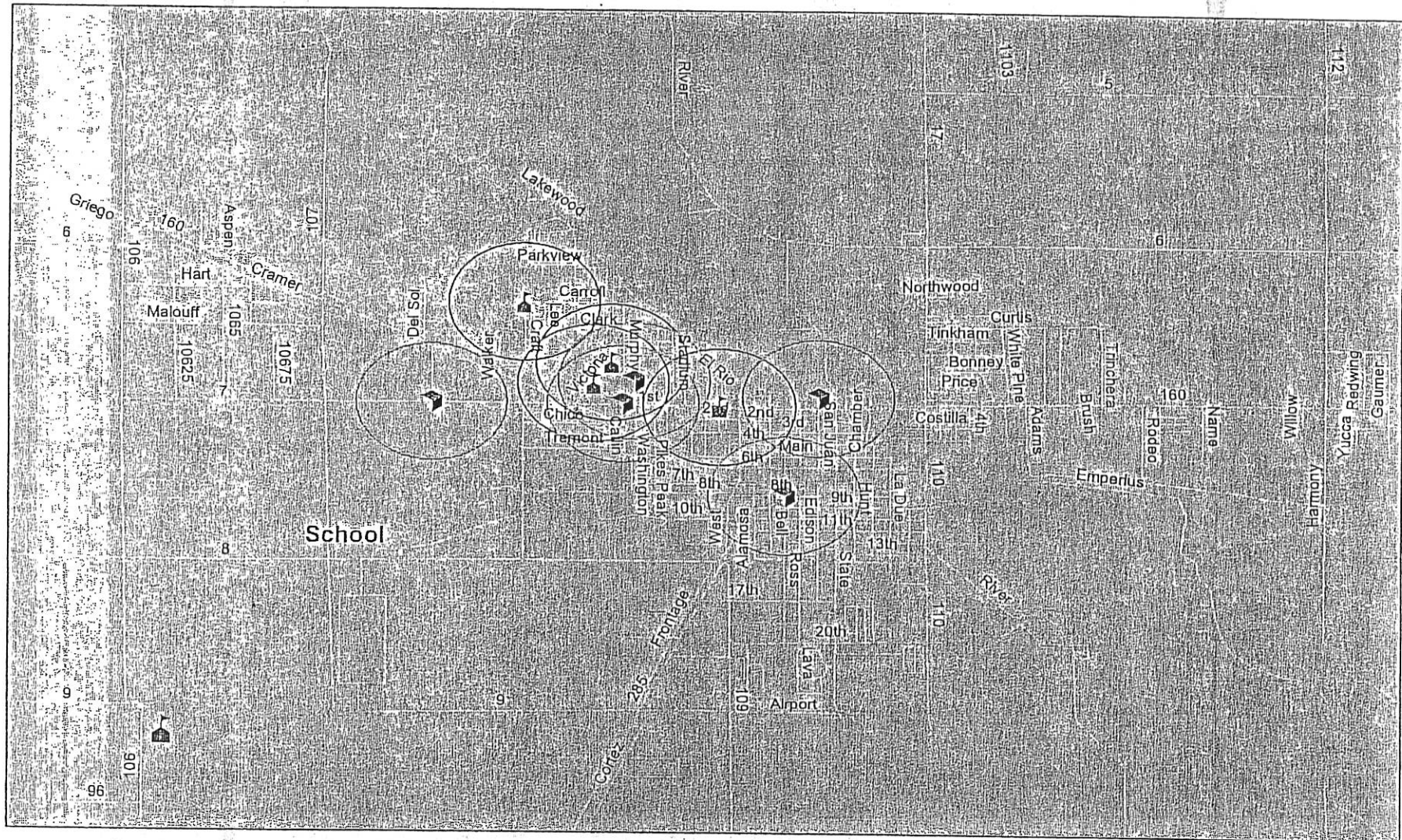


Colorado Division of Criminal Justice  
Sex Offender Management Board  
March, 2004

1 inch equals 0.793828 miles

1:50,297

# Map 2h: 2000 Foot Buffer Around Alamosa Schools and Child Care Facilities



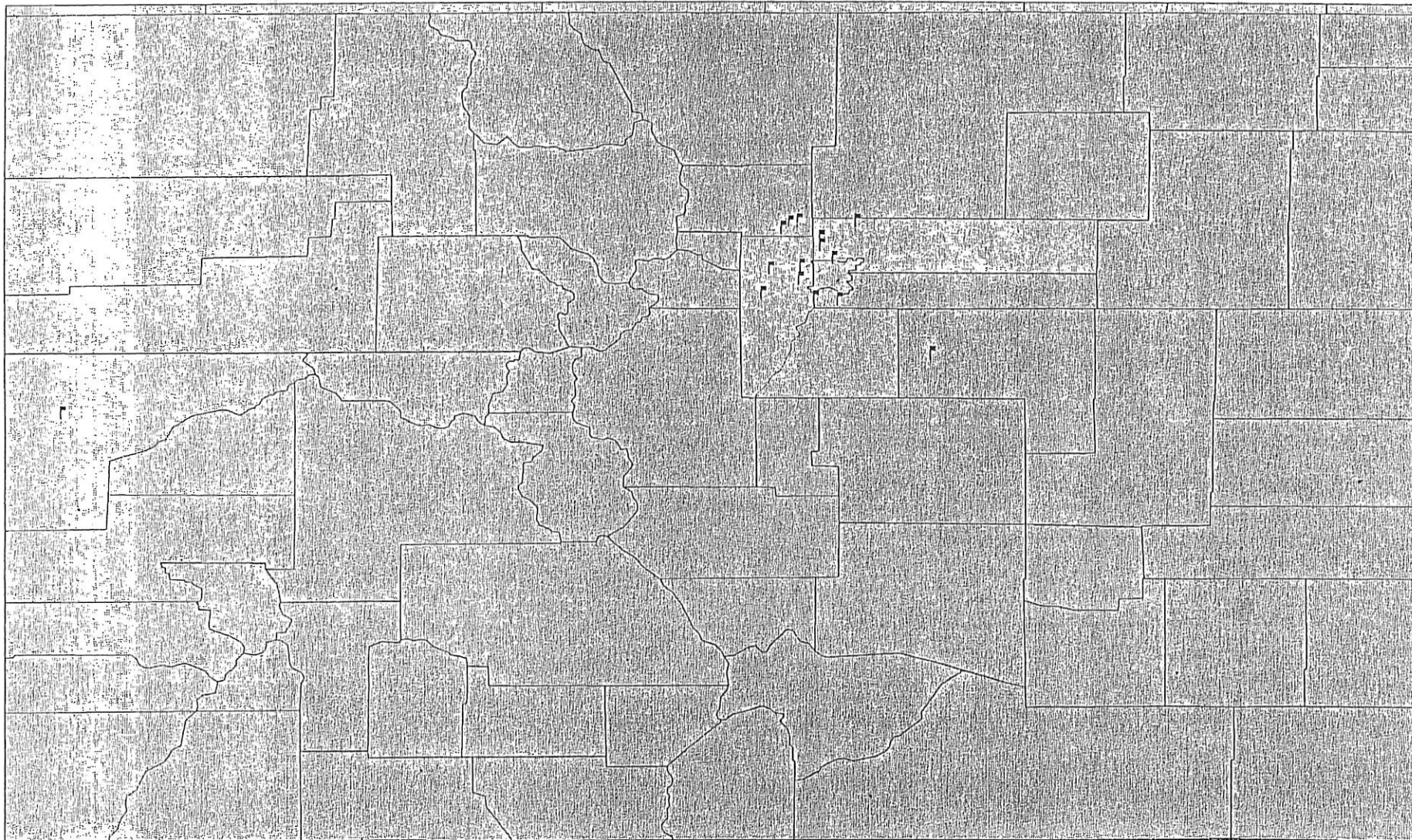
Colorado Division of Criminal Justice  
 Sex Offender Management Board  
 March, 2004

1 inch equals 0.910537 miles  
 1:57,692

3-107



# Map 3: Ordinances Restricting the Housing of Sex Offenders in Colorado



Municipality with Ordinance Restricting the Housing of Sex Offenders

County with Ordinance Restricting the Housing of Sex Offenders

Municipalities include Brighton, Commerce City, Elizabeth, Golden, Grand Junction, Greenwood Village, Kiowa, Lafayette, Lakewood, Littleton, Louisville, Mountain View, Northglenn, Superior, Thornton, and Wheat Ridge.



1 inch equals 23.133615 miles

1:1,465,746

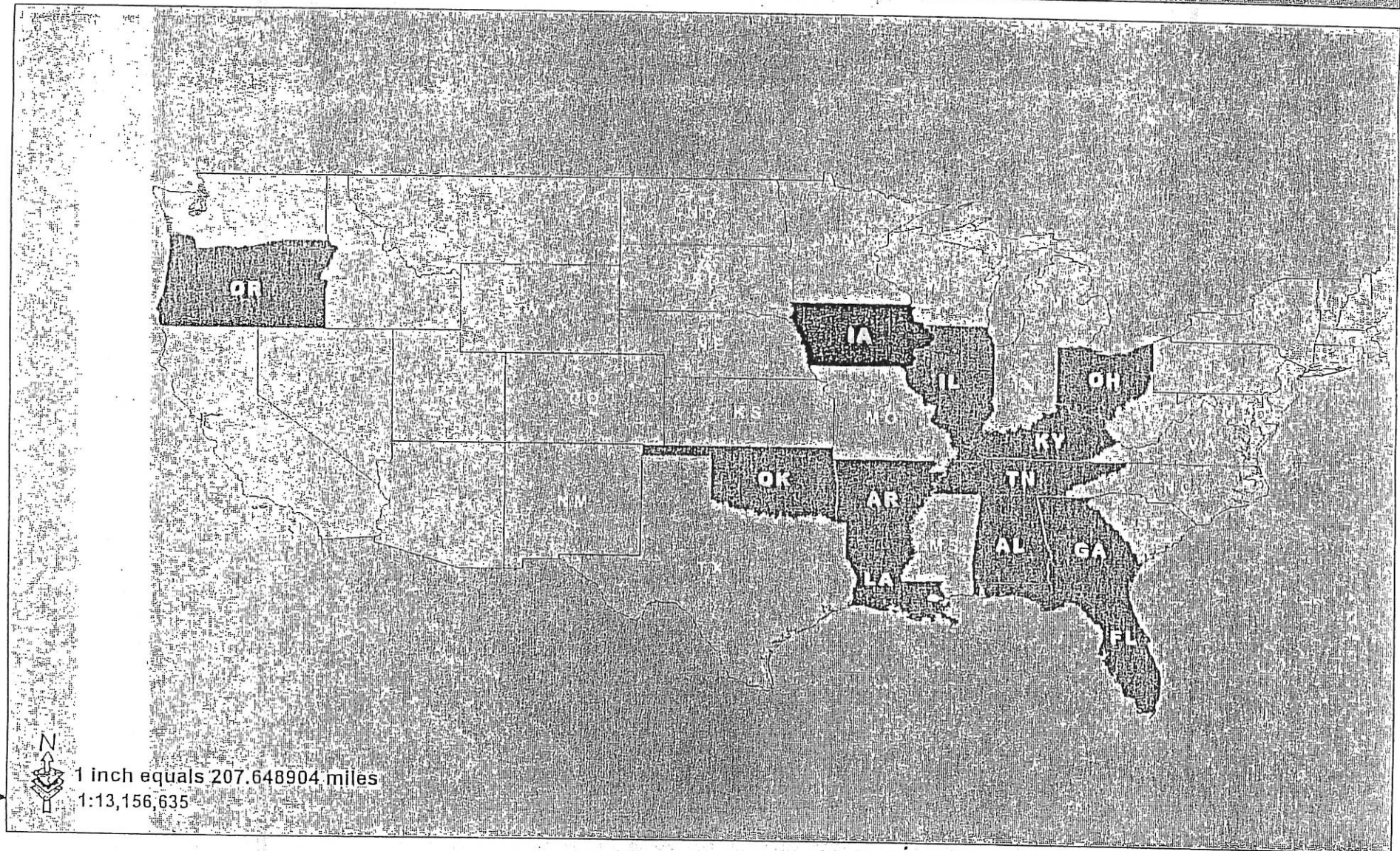
Colorado Division of Criminal Justice  
Sex Offender Management Board  
March, 2004

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# Map 4: States Addressing Sex Offender Residencies in Regard to Proximity to Schools and Child Care Facilities

3-109



State With Legislation Concerning Sex Offender Residences:

Iowa previously had legislation concerning sex offender residences; this was ruled unconstitutional in the State Supreme Court, February, 2004.

Colorado Division of Criminal Justice  
Sex Offender Management Board  
March, 2004

# The Impact of Sex Offender Residence Restrictions: 1,000 Feet From Danger or One Step From Absurd?

Jill S. Levenson  
Leo P. Cotter

**Abstract:** *Several states have enacted public policies that prohibit sex offenders who have abused children from living within close proximity to a school, park, day care center, or school bus stop. The purpose of this exploratory study was to describe the impact of residence restrictions on sex offender reintegration and to better understand sex offenders' perceptions of these laws. A survey of 135 sex offenders in Florida was conducted. Most of the molesters who responded to the survey indicated that housing restrictions increased isolation, created financial and emotional stress, and led to decreased stability. Respondents also indicated that they did not perceive residence restrictions as helpful in risk management and, in fact, reported that such restrictions may inadvertently increase triggers for reoffense. Implications for policy and practice are discussed.*

**Keywords:** *sex offender; 1,000-ft rule; proximity; residence restrictions; reintegration; rehabilitation*

Public concern about the threat posed by sex offenders has inspired varied legislation designed to combat recidivistic sexual violence. For example, policies mandating sex offender registration, community notification, civil commitment, castration, "three-strikes and you're out," and nondiscretionary sentencing have been introduced. The newest wave of such statutes has come in the form of laws controlling where sex offenders can live. These restrictions prohibit sex offenders from residing within specific distances from schools or places where children congregate.

Thus far, 14 states (Alabama, Arkansas, California, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Ohio, Oklahoma, Oregon, and Tennessee) have enacted buffer zones that prohibit sex offenders from residing within close proximity to a school, park, day care center, or school bus stop. The least restrictive distance requirement is in Illinois (500 ft), but most common are 1,000- to 2,000-ft boundaries. California law does not allow certain sex offenders on parole to live within a quarter mile of an elementary school and prohibits parolees from living within 35 miles of a victim or witness.

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There have been only a few studies investigating the relationship between housing and sex offending, and the results are mixed. In Arkansas, it was 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 adult victims (Walker, Golden, & VanHouten, 2001). The authors speculated that molesters who were motivated to reoffend might be more likely to purposely place themselves in close access to potential child victims. However, in Colorado it was found that molesters who reoffended while under supervision were randomly scattered throughout the study area and did not seem to live closer than nonrecidivists to schools or child care centers (Colorado Department of Public Safety, 2004). In Minnesota, sex offenders' proximity to schools or parks was not a factor in recidivism, nor did it affect community safety (Minnesota Department of Corrections, 2003). In fact, the opposite was found to be true: A sex offender was more likely to travel to another neighborhood in which he could seek victims without being recognized.

Public safety and child protection are understandably the primary considerations when sex offender restrictions are imposed. However, concerns have been raised that such mandates might exacerbate the shortage of housing options for sex offenders and force them to move to rural areas where they would be increasingly isolated with few employment and treatment options (Minnesota Department of Corrections, 2003). The dispersal of parks and schools may lead to overlapping restriction zones thus making it essentially impossible for sex offenders in some cities to find suitable housing. In some urban areas, offenders might be forced to cluster in high-crime neighborhoods. Such restrictions can lead to homelessness and transience, which interfere with effective tracking, monitoring, and close probationary supervision. Other scholars have concurred that sex offender statutes inadvertently may increase risk by aggravating the stressors (e.g., isolation, disempowerment, shame, depression, anxiety, lack of social supports) that can trigger some sex offenders to relapse (Edwards & Hensley, 2001; Freeman-Longo, 1996). The Colorado study recommended that residence restrictions do not appear to be a viable method for controlling sexual offender recidivism (Colorado Department of Public Safety, 2004).

Although sexual predator statutes are based on the presumption that sex offenders are repeatedly arrested in alarmingly high numbers, research suggests that sex offense recidivism rates are lower than commonly believed (Bureau of Justice Statistics, 2003; Hanson & Bussiere, 1998). As well, ambiguity about the effectiveness of sex offender treatment (Furby, Weinrott, & Blackshaw, 1989) has led to pessimistic attitudes about the possibility of rehabilitation despite recent research suggesting more promising results (Hanson et al., 2002). Over the past decade, great gains have been made in the ability to assess and identify high-risk sex offenders (Epperson et al., 1999; Hanson, 1997; Hanson & Bussiere, 1998; Hanson & Harris, 1998, 2001; Hanson & Morton-Bourgon, 2004; Hanson & Thornton, 1999). Unfortunately, such research has not been consistently incorporated into policy development or implementation.

Most states continue to tighten their restrictions of sex offenders, whereas only a few states have questioned the benefits and consequences of proximity statutes. Recently, a U.S. District Court of Appeals judge in Iowa declared such restrictions unconstitutional and ordered that Iowa's statute, which prohibited sex offenders from living within a restricted zone of 2,000 ft, not be enforced (*Doe v. Miller & White*, 2004). The court opined that the law was punitive, it imposed restraints leading to housing disadvantages for sex offenders, and it hindered the right to conduct family affairs without interference from the state. Although the court noted that the public has a reasonable interest in restricting sex offenders' access to children, it found that the law went beyond what is necessary to protect the community and cited the lack of research indicating a relationship between proximity and recidivism. Constitutional issues notwithstanding, the impact of such statutes on offenders and communities remains largely unknown.

#### PURPOSE OF THE STUDY

The purpose of this exploratory study was twofold: to describe the impact of residence requirements on sex offender reintegration and to better understand sex offenders' perceptions of such restrictions. Specific hypotheses were not tested, but, using quantitative and qualitative techniques, the study attempted to ascertain (a) the proportion of sex offenders who report having suffered adverse effects as a result of housing restrictions and (b) the opinions of sex offenders about the utility of such restrictions. Florida was considered an ideal venue in which to conduct such research, because its residency limitations (often referred to as *1,000-ft rules*) are quite restrictive and have been in effect since 1997. The study was considered important because it can help policy makers to better understand the positive and negative, intended and unintended, consequences of proximity legislation. Such data ultimately can inform the development of evidence-based social policy and contribute to the effective management of sex offenders in the community.

#### METHOD

##### PARTICIPANTS

A nonrandom sample ( $N = 135$ ) was drawn from a pool of sex offenders from two outpatient sex offender counseling centers in Fort Lauderdale, Florida ( $n = 40$ ) and Tampa, Florida ( $n = 95$ ). All clients attending treatment at the facilities were invited to complete a survey about the impact of sexual offender policies on their community reintegration. Out of those who voluntarily completed the survey ( $n = 183$ ), this sample was made up of 135 who indicated that they were subject to residency restrictions. Clients had been on probation for an average of 40



months (median = 32 months,  $SD = 37$  months). Slightly more than half had been in their current treatment group for 2 years or less, and 47% had been in treatment for more than 2 years.

Most of the respondents were between the ages of 25 and 64; 10% were younger than 25, and 6% were age 65 or older. About 68% were White, 14% were Black, 14% were Hispanic, and 4% described their race as "other." Marital status included 24% who were currently married with 35% reporting that they had never been married, 37% stating that they were divorced or separated, and 4% describing themselves as widowed. More than one third of the participants had graduated from high school (19%) or obtained a General Equivalency Diploma (16%), 33% had attended some college, and 14% were college graduates. About 77% reported an annual household income of less than \$30,000 per year. About 97% were identified as child molesters. The remaining 3% identified themselves as having an index victim older than the age of 18, although they had minor victims as well. Other reported offenses included voyeurism (9%), exposure (13%), and computer-related sex crimes (9%). The percentages do not add up to 100% because about 20% of participants endorsed more than one type of offense. Offender and victim characteristics are displayed in Table 1.

In Florida, residence restrictions apply only to sex offenders who were sentenced after October 1, 1997, for crimes involving victims younger than the age of 18 (*Special Conditions of Sex Offender Probation*, 1997). At the time of the data collection, the conditions of probationary supervision in Florida precluded sex offenders with minor victims from living within 1,000 ft of a school, day care center, park, playground, or other place where children regularly congregate. Shortly after the data were collected, Florida's law was amended by adding school bus stops to the list of prohibitions for child molesters released from prison (*Conditional Release Program*, 2004).

## INSTRUMENTATION

A survey was designed by the authors for the purpose of collecting data regarding the impact of residence restrictions on sex offenders. Client demographic data and information regarding offense history were elicited using forced-choice categorical responses to ensure anonymity. Participants were asked to rate 3-point and 5-point Likert scales indicating their degree of agreement with the issue in question and were also given the opportunity to provide narrative responses.

## DATA COLLECTION PROCEDURES

Clients were invited to complete the survey during a group therapy session. Respondents were instructed not to write their names on the survey and to place the completed questionnaire in a sealed box with a slot opening. The research was conducted in accordance with federal guidelines for the ethical treatment of human participants.



TABLE 1  
OFFENDER AND VICTIM CHARACTERISTICS

<i>Offender</i>	<i>Percentage</i>
Age	
Younger than 25	10%
25-64	84%
65 or older	6%
Race	
White	68%
Minority	32%
Currently married	24%
Education	
High school or equivalent	35%
Attended college or college graduate	47%
<i>Victim</i>	<i>Percentage</i>
Victim age	
Younger than 5	6%
Age 6-12	37%
Minor teen	54%
Relationship	
Extrafamilial only	67%
Intrafamilial only	20%
Both extra- and intrafamilial	12%
Gender	
Male only	14%
Female only	77%
Both genders	11%

#### DATA ANALYSIS

Descriptive and correlational statistics were used to interpret the quantitative results of the survey. Data analyses were conducted using SPSS version 12.

#### RESULTS

Overall, 50% of the respondents reported that proximity restrictions had forced them to move from a residence in which they were living, and 25% indicated that they were unable to return to their residence after their conviction (see Table 2). Nearly half reported that residence restrictions prevented them from living with supportive family members. A considerable proportion reported that the

TABLE 2  
IMPACT OF RESIDENCE RESTRICTIONS ( $N = 135$ )

Item	Yes
I have had to move out of a home that I owned because of the 1,000-ft rule.	22%
I have had to move out of an apartment that I rented because of the 1,000-ft rule.	28%
When released from prison, I was unable to return to my home.	25%
I have been unable to live with supportive family members because of the 1,000-ft rule.	44%
I find it difficult to find affordable housing because of the 1,000-ft rule.	57%
I have suffered financially because of the 1,000-ft rule.	48%
I have suffered emotionally because of the 1,000-ft rule.	60%

geographical limitations created a financial hardship for them, and nearly 60% agreed or strongly agreed that they have suffered emotionally because of the restrictions.

Age was significantly related ( $p < .05$ ) to being unable to live with family ( $r = -.17$ ) and difficulty finding affordable housing ( $r = -.19$ ) with younger offenders being more likely to report these events. There was also a significant inverse relationship between being married and the inability to find affordable housing ( $r = -.19$ ), and minority race was related to having to move from a residence ( $r = .20$ ). There was no significant relationship between adverse events and income, education, or length of time on probation.

In addition to the structured survey responses, narrative comments were also examined. There were 2 respondents who agreed that residency restrictions were a deterrent to offending, commenting, "It doesn't tempt you" and "It's good because you can't just walk from your home to a school." Overwhelmingly, however, the participants reported that they did not find the 1,000-ft rule to be practical or helpful, although some suggested that such restrictions should be imposed on a case-by-case basis. Several common themes emerged.

Importantly, many offenders emphasized their need for social support and believed their risk increased with isolation from supportive family and friends. For example, they commented, "I believe you have a better chance of recovery by living with supportive family members" and "What helps me is having support people around. . . . Isolating me is not helpful." Another respondent expressed distress that geographical restrictions kept him from living with and caring for his infirm mother. One reported concern at having to live alone because of the location of his family's home, and several young adults said they were unable to live with parents and younger siblings after committing what they referred to as a "statutory" offense. Some respondents indicated that they had to relocate several times, and one said he was forced to move to a "ghetto."

On the other hand, several participants reported that they had successfully petitioned the court for an exception to the rule and were then allowed to reside within 1,000 ft of a school. Such requests to the court were reportedly initiated for various reasons, the most common being home ownership or a desire to reside with family. What was most remarkable about these exceptions is that they were seemingly granted in the absence of an assessment of risk or relevant offender characteristics. They seemed to be based solely on the offender's request that the court eliminate a hardship created by the statute.

The majority of respondents emphatically proclaimed that the 1,000-ft rule would have no effect on their risk of reoffense. Many pointed out the need for internal motivation to prevent reoffense and said that if a sex abuser wanted to reoffend, the rule would not stop him. Their comments included "has no effect at all on offending," "does not make an impact on my life," "I follow the rule, but it has had little impact," "It's a childish rule," "You can walk as far as you want if that [child abuse] is what you're after," "Living 1,000 ft away compared to 900 ft doesn't prevent anything," and "It doesn't matter where a sex offender lives if he sets his mind on reoffending. . . . He can just get closer by walking or driving. The 1,000-rule is just a longer leash, I don't see the point."

Many opined that if an offender is not committed to treatment and recovery, "the 1,000-ft rule is inconsequential. If a person wants to offend, it doesn't matter how close he is to a convenient place to find kids." Another pointed out that "if a person wants to reoffend, he will, regardless of what laws are made up or what treatment they go through. . . . It's entirely up to him." Referring to his victim empathy training received in therapy, one offender suggested that some exposure to children might be a good thing: "When I see kids in the park, I can see them as real people with real lives and real feelings, not just an object."

Other respondents were somewhat more analytical and thoughtful about the issue. One questioned if there is a "link between sex offending and distance from schools," and another suggested that "resources would be better used by identifying dangerous individuals who [*sic*] the rule should apply to."

Noteworthy is that many respondents pointed out that they have always been careful not to reoffend in close proximity to their homes, so geographical restrictions provided little deterrence. The rule "serves no purpose but to give some people the illusion of safety," said one respondent. Others expressed similar sentiments: "I think that if someone wanted to reoffend, then they would do it at a place away from home instead of putting themselves at more risk of getting caught [near home]." Another reported, "It is better for me not to have sexual contact with neighborhood kids—less chance of being recognized," and others agreed, "Most people would worry more about being caught in their own neighborhood." One offender wryly noted, "I never noticed how many schools and parks there were until I had to stay away from them."

Some participants pointed out the myth of *stranger danger*: "It doesn't matter where you live; most offenses happen with someone you know or live with." Another commented, "Most abuse happens in homes or with family or close friends, not at bus stops or schools." Although acknowledging that they would be unlikely to abduct a child from a school or park, they did point out a chilling and ironic reality: "You can live next door to a minor but not a school," said one offender, and another agreed, "You don't want me to live near a school where the kids are when I'm at work. The way it is now, when I get home from work, they're home, too—right next door." One offender asked, "What is the point if the houses on your same block are full of kids?" Another offender noted a similar and equally illogical experience:

I couldn't live in an adult mobile home park because a church was 880 ft away and had a children's class that met once a week. I was forced to move to a motel where right next door to my room was a family with three children—but it qualified under the rule.

## DISCUSSION

Most of the molesters who responded to this survey indicated that housing restrictions increased isolation, created financial and emotional hardship, and led to decreased stability. The data further suggested that offenders do not perceive residence restrictions as helpful in risk management. Although this study did not measure risk or recidivism, the findings appear to confirm prior speculation that proximity rules might increase the types of stressors that can trigger reoffense (Minnesota Department of Corrections, 2003). Research regarding dynamic risk has indicated that a lack of positive social support and depressed mood, anger, and hostility are all associated with recidivism (Hanson & Harris, 1998, 2001). Restricting lower risk offenders unnecessarily, in ways that potentially interfere with their recovery, may be counter-productive. In Colorado, it was found that sex offenders who had more social support had a lower number of probation violations (Colorado Department of Public Safety, 2004).

On the other hand, sexual interest in children and access to victims are factors also associated with recidivism (Hanson & Harris, 1998, 2001; Hanson & Morton-Bourgon, 2004), so it makes sense that risk might be managed by reducing some molesters' exposure to children and prohibiting them from living near places where children congregate. However, blanket restrictions may fail to address individualized risk factors that are related to potential offending patterns. For example, proximity laws are usually designated only for sex offenders convicted of child molestation, even though research suggests that up to 50% of rapists have committed undetected sex crimes against child victims (Ahlmeyer, Heil,

McKee, & English, 2000). It is well established that most sex offenders have many more victims (and a variety of victims) than those for which they have been arrested (Abel et al., 1987; Abel, Becker, Cunningham-Rathner, Mittleman, & Rouleau, 1988; Ahlmeyer et al., 2000; Heil, Ahlmeyer, & Simons, 2003), and therefore, some may pose risks not readily apparent by relying solely on their documented offense history.

What we can learn from these sex offenders' responses is that they will circumvent restrictions if they are determined to reoffend. Therefore, restrictions must be sensible and feasible and should be based on a thorough assessment of past offense patterns and current risk factors. Practitioners and probation officers should collaborate in determining treatment plans and supervision restrictions that are most applicable to individual offenders' needs and risks. Noteworthy is that several respondents in our study had successfully petitioned the court for a modification of residence restrictions, seemingly without an assessment of risk by the treatment provider or probation officer. Restrictions are likely to be most effective when combined with appropriate assessment, support, monitoring, and rehabilitation. A more individualized approach to sex offender management can enhance public safety while promoting successful reintegration for offenders.

This study was preliminary and exploratory, and it was limited by the inherent problems of self-reported data. The data were collected from two large, metropolitan areas in Florida and therefore probably reflect urban implementation statewide but may fail to capture other problems or benefits more specific to rural communities. It is unknown whether these results can be generalized to other states, and continued research will assist us to more fully understand the national impact of residence restrictions on sex offender reintegration. Ultimately, empirical investigation must clarify the effect of proximity restrictions on recidivism to determine whether such policies are successful in achieving their stated goals.

Prevention of sexual violence requires a well-planned, comprehensive, interdisciplinary response that begins with developing clear goals and objectives, implementing strategies based on empirical research, and collecting and analyzing data on an ongoing basis (Center for Sex Offender Management, 2002). Some states (Minnesota and Colorado) have elected to study the relationship between housing and recidivism before implementing proximity restrictions. These states ultimately determined that the potential benefits of such legislation do not seem to outweigh the possible negative consequences. Social policy should be solidly grounded in empirical evidence and informed by theoretical literature. It is clear that public concern about sexual crimes sometimes leads to legislation that is not driven by data or science but rather by outrage and fear. Scientists and practitioners have a responsibility to assist lawmakers to respond to the problem of sexual violence by advocating for the development of evidence-based policies that protect women and children and rehabilitate perpetrators as well.



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Sex offender residence restrictions  
A REPORT TO THE FLORIDA LEGISLATURE

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

#### Residence Restrictions

Many states have prohibited sex offenders from residing within close proximity to a school, park, day care center, school bus stop, or place where children congregate, with the most common restriction zone being 1,000 feet. In Spring 2005, after a series of child abductions and murders by convicted sex offenders, hundreds of jurisdictions across the U.S. began initiating housing restrictions with increasingly larger buffer zones, often 2,500 feet, or about one half mile. These laws have essentially banned sex offenders from living in some cities.

The constitutionality of residence restrictions was challenged in Iowa, and the state's 2,000 foot restriction law was overturned in 2003. The Iowa Supreme court, however, later ruled that any infringement on sex offenders' freedom of residency was superseded by the state's compelling interest in protecting its citizens. The American Civil Liberties Union has asked the U.S. Supreme Court to rule on the issue.

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 for 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 (Minnesota Department of Corrections, 2003).

Are sex offender residence restrictions evidence-based?

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.

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

Treatment does not work. The myth that treatment can not be helpful to sex offenders is based largely on a highly publicized meta-analytic study that was unable to detect a treatment effect among outcome studies conducted in the 1970's and 1980's (Furby, Weinrott, & Blackshaw, 1989). Recent data have reported more promising results, suggesting that cognitive-behavioral treatment reduces sex offense recidivism by nearly 40% (Hanson, Gordon, Harris, Marques, Murphy, Quinsey, & Seto, 2002; Losel & Schmucker, 2005). Again, recidivism rates were lower than commonly believed; 17% for untreated offenders, and 10% for treated offenders (Hanson et al., 2002). Even in studies where significant overall treatment effects are not detected, researchers have found that sex offenders who *successfully complete* a treatment program reoffend less often than those who do not demonstrate that they "got it" (Marques, Miederanders, Day, Nelson, & van Ommeren, 2005).



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

Tragic cases of child abduction and sexually motivated murder receive extraordinary media attention, and the publicity of such events creates a sense of alarm and urgency among citizens. In reality, such cases are extremely rare; it is estimated that about 100 stranger abductions occur in the United States each year (National Center for Missing and Exploited Children, 2005). About .7% of all murders involve sexual assault, and in fact, the prevalence of sexual murders declined by about half between the late 1970's and the mid 1990's (Bureau of Justice Statistics, 1997). About 75% of sexual murder victims are adults (Bureau of Justice Statistics, 1997). In contrast to sexual assault in general, the majority of sexually motivated murder victims were attacked by strangers or acquaintances.

#### Do residence restrictions work?

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

A survey of sex offenders in Florida indicated that housing restrictions increased isolation, created financial and emotional stress, and led to decreased stability (Levenson & Cotter, 2005a). Overall, 50% reported that housing restrictions had forced them to move from a residence in which they

were living. About one-quarter indicated that they were unable to return to their home after their conviction, and almost half reported that housing restrictions prevented them from living with supportive family members. Many reported a financial hardship due to housing laws, and nearly 60% said that restrictions created emotional suffering. Younger offenders were significantly more likely to be unable to live with family ( $r = -.17$ ) and to have difficulty finding affordable housing ( $r = -.19$ ). Unmarried offenders had more difficulty finding affordable housing ( $r = -.19$ ), and minority race was related to having to move from a residence ( $r = .20$ ). Sex offenders indicated that they did not perceive residence restrictions as helpful in risk management, and in fact, reported that such restrictions tend to increase psychosocial stressors which can lead to recidivism (Levenson & Cotter, 2005a). (It should be noted that these data were collected in 2004. At that time, housing restrictions in Florida were enforced by the special conditions of sex offender probation with a restriction zone of 1,000 feet. In 2005, scores of cities passed local ordinances increasing zones to 2,500 feet, making it increasingly difficult for offenders to find housing in major metropolitan areas such as greater Miami and Fort Lauderdale. It is likely that hardships related to housing have been amplified since Levenson and Cotter (2005) conducted this research).

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

Decades of criminological research have concluded that stability and support increase the likelihood of successful reintegration for offenders, and public policies that make it more difficult for offenders to succeed may jeopardize public safety (Petersilia, 2003). Employment stability has been established as an important factor in reduced criminal offending (Petersilia, 2003; Uggen, 2002). In Colorado, it was found that sex offenders who had social and family support in their lives had significantly lower recidivism and rule violations than those who had negative or no support (Colorado Department of Public Safety, 2004).

Despite widespread support and popularity, there is no evidence that residence restrictions prevent sex crimes or increase public safety. These laws may, ironically, interfere with their stated goals of enhancing public safety by exacerbating the psychosocial stressors that can contribute to reoffending (Edwards & Hensley, 2001; Freeman-Longo, 1996; LaFond, 1998; Levenson & Cotter, 2005a; Levenson & Cotter, 2005b). Such stressors, referred to as dynamic risk factors, have been associated with increased recidivism (Hanson & Harris, 1998; Hanson & Morton-Bourgon, 2004). Sex offenders rouse little public sympathy, but exiling them may ultimately increase their danger.

#### Recommendations for evidence-based social policy

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

Research has identified factors associated with sex offense recidivism, and as a result, risk assessment instruments have been developed that can be very useful in estimating the likelihood that a sex offender will reoffend (Epperson, Kaul, Huot, Hesselton, Alexander, & Goldman, 1999; Hanson, 1997; Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2004; Hanson & Thornton, 1999;2000; Petersilia, 2003; Quinsey, Harris, Rice, & Cormier, 1998). It is possible, therefore, to classify sex offenders into risk categories, and apply the most restrictive interventions and the most aggressive monitoring for the most dangerous offenders.

All sex offenders are not the same. For instance, it has been found that pedophiles who molest boys, and rapists of adult women, are among the most likely to recidivate (Doren, 1998; Prentky, Lee, Knight, & Cerce, 1997). Research shows that incestuous offenders have consistently low recidivism rates

(Doren, 1998). A repeat molester of young children poses a much different risk than the young adult who had a teenage girlfriend. On the other hand, there is substantial evidence that some sex offenders have committed many undetected offenses, so a thorough assessment, including polygraph examinations, can be useful in determining offense patterns and risk factors when making decisions about restrictions and supervision (Ahlmeier, Heil, McKee, & English, 2000; English, Jones, Pasini-Hill, Patrick, & Cooley-Towell, 2000; Heil, Ahlmeier, & Simons, 2003).

Broad strategies may, by lumping all sex offenders together, dilute the public's ability to truly identify those who pose the greatest threat to public safety. At the same time, classification systems allow limited resources to be used more cost-efficiently to monitor, treat, and restrict highly dangerous offenders without unnecessarily disrupting the stability of lower risk offenders and their families.

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

Several studies have shown that treatment reduces sex offense recidivism (Hanson et al., 2002; Losel & Schmucker, 2005) and that sex offenders who successfully complete treatment reoffend less often than those who do not (Marques et al., 2005). Although treatment does not guarantee success in every case, it should be considered a vital part of any public policy effort to control sex offenders. The widespread acceptance of initiatives such as drug courts and mental health courts indicates that politicians recognize a need for an inter-disciplinary response to crime. Notably, however, sex offender legislative initiatives rarely include treatment requirements. Resources should be allocated for sex offender assessment and treatment programs that take a collaborative approach to community supervision and rehabilitation. Research shows that such "containment" approaches can be successful in reducing sex offense recidivism (English, Pullen, & Jones, 1996).

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

Recent high-profile cases do not represent the "typical" sex offender. Sexually motivated abduction and murder are rare events, and such cases should not become the impetus for legislation affecting the heterogeneous group of sexual offenders. It is well-established that most sexual abuse victims are molested by someone they know and trust, not by strangers lurking near playgrounds or

schools (Bureau of Justice Statistics, 1997;2000;2004). Public education should focus on providing factual information to parents about the realities of sexual abuse rather than promoting the false sense of security that is reinforced through housing legislation. Parents should become aware of the signs and symptoms of sexual abuse as well as the common patterns of grooming used by perpetrators who gain access to victims by using their positions of trust and authority.

4. *States should provide a mechanism for low risk offenders to be removed from public registries and be released from the restrictions that hinder successful community reintegration.*

Lifetime registration may not be necessary for all sex offenders and public registries may in fact interfere with the stability of low-risk offenders by limiting their employment and housing opportunities, unnecessarily isolating them, and leading to harassment and ostracism (Levenson & Cotter, 2005b; Tewksbury, 2005; Petersilia, 2003). Sex offenders represent a wide range of offense patterns and future risk. Research has found that treatment decreases recidivism while treatment failure is associated with increased risk. It also appears that as the length of time living in the community offense-free increases, recidivism decreases, and as offenders get older, they tend to recidivate at lower rates (Hanson, 2002; Harris & Hanson, 2004). So, some sex offenders should be allowed to petition for release from registration if deemed to pose a low risk to the community AND the offender has successfully completed a sex offender treatment program AND the offender has been living in the community offense-free for at least five years. This would allow for low-risk offenders to be released from restrictions mandated for registered sex offenders and would create opportunities for successful community re-entry.

5. *The definition of a "sexual predator" in Florida should more clearly distinguish such offenders as discussed below.*

The definition of "predator" differs from state to state, but is generally reserved for the most dangerous sex offenders. The term should more accurately reflect the clinical construct to which it refers, describing individuals who have longstanding patterns of sexually deviant behaviors and who meet criteria for paraphilic disorders as defined in the DSM-IV-R. The Kansas Sexually Violent Predator Act, for example, defines "predatory acts" are those "*directed towards strangers or individuals with whom relationships have been established or promoted for the primary purpose of victimization.*" In some states, the definition includes criteria involving the use of violence, weapons, or causing injury during the



commission of a sex crime, or those offenders who have had multiple victims. Repeat offenders, and those who have committed abduction of children or adults for sexual purposes may also be considered predators. Such definitions are more consistent with the term "sexually violent predator" as defined in civil commitment proceedings, which require a convicted sex offender to have a mental abnormality predisposing him to a likelihood of future sexually violent crimes.

The term "sexual predator" should be reserved for sex offenders who have engaged in a long-term pattern of sexually deviant behavior, who are assessed to be at high risk to reoffend, who have assaulted strangers or non-relatives, who have used violence, weapons, or caused injuries to victims, who have had multiple victims and/or arrests, or who have committed abduction, kidnapping, false imprisonment, or sexually motivated murder or attempted murder. It is important to remember that although recent media attention has been focused on child abduction, rapists of adult women can also be highly dangerous sexual predators. They often have many victims, and are more likely than child molesters to use violence or weapons to gain compliance from victims. The majority of victims of sexually motivated murders are adult women.

### Conclusions

Banning sex offenders from communities does not solve the problem of sexual violence. The goal of sex offender policies is to prevent future victimization. To that end, the Center for Sex Offender Management, operated under a grant by the U.S. Department of Justice, recommends thorough and research-based evaluations and risk assessments of sex offenders, specialized treatment, and the development of an appropriate individualized monitoring plan that addresses an offender's specific risk factors and supervision needs (Center for Sex Offender Management, 2000).

Though laudable in their intent, there is little evidence that recently enacted housing policies achieve their stated goals of reducing recidivistic sexual violence. In fact, there is little research at all evaluating the effectiveness of these policies. Furthermore, these policies are not evidence-based in their development or implementation, as they tend to capture the widely heterogeneous group of sex offenders rather than utilize risk assessment technology to identify those who pose a high danger to public safety. There is emerging research suggesting that sex offender policies lead to serious unintended collateral

consequences for offenders, such as limiting their opportunities for employment, housing, education, and prosocial support systems. As a result, current social policies may contribute to dynamic risk factors for offenders in the community, ultimately becoming counter-productive. "It does not help the child maltreatment field or the public and policymakers to see child molesters as simply incorrigibly compulsive fiends who cannot be stopped" (Finkelhor, 2003, p. 1227). Emotionally reactive legislation based on fear and anger rather than research and data will not be as effective in keeping our communities safe. Scientists and clinicians can assist politicians to respond to the problem of sexual violence by informing the development of evidence-based policies that can better protect the public and rehabilitate perpetrators.

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## STATEMENT ON SEX OFFENDER RESIDENCY RESTRICTIONS IN IOWA

JANUARY, 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 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 that sex offenders would be prohibited from entering except in limited and safe circumstances. Such areas might include schools, parks, libraries, and childcare facilities.
- Entrance into the protected areas would be allowed for activities involving an offender's own child 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

Other measures that might be considered would include educational programs for young children aimed at keeping them safe from all offenders. Illinois has begun such a program.

The 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. The ICAA stands ready to assist in any way with this effort.



February 16, 2006

Sen. Bourne and Members of the Judiciary Committee:

My name is Elizabeth Barnhill, and I have been the Executive Director of the Iowa Coalition Against Sexual Assault, or IowaCASA, for the past 16 years. IowaCASA is composed of 27 sexual assault crisis centers across the state of Iowa, centers that serve approximately 4,000 victims of sexual assault annually. Our member programs provide crisis advocacy, short-term counseling, medical and court accompaniment for victims, and conduct prevention work in schools and communities. My prior work experience includes work in one of Iowa's sexual assault crisis centers, work as a director of a battered women's shelter, and work in a treatment facility for children, many of whom had been sexually abused.

For the past 16 years, I have also served, including a term as president, on the Iowa Board for the Treatment of Sexual Abusers, a group that oversees training and credentialing for both individual treatment providers, and the programs that treat sex offenders. Since the inception of Iowa's civil commitment process in 1998, I have also served on the Department of Corrections Multidisciplinary Team. We review cases of convicted sex offenders that have been forwarded from the Department of Corrections, and make recommendations about forwarding them to the Iowa Attorney General's office for possible civil commitment proceedings.

Testimony to Nebraska Judiciary Committee  
Elizabeth Barnhill, Iowa Coalition Against Sexual Assault  
Page 1 of 6

I am here to offer information about Iowa's experience with sex offender residency restrictions. As you know, our state has enacted a sex offender residency restriction that prohibits a sex offender from living within 2000 feet of a school or day care facility. The law went through a series of court challenges, culminating in an appeal to the US Supreme Court in November of last year. The Supreme Court declined to hear the case, and so at this time the law stands in Iowa.

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. Yesterday, February 15, 2006, 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. IowaCASA will be working with other organizations to suggest consideration of alternate measures such as "safety zones," protected areas that sex offenders would be prohibited from entering except in limited and safe circumstances. We will also join others in suggesting that restrictions be applied to a more limited group of offenders who, after assessment, have been determined to be a risk to children in public places.

I understand that Nebraskans are considering a variety of residency restrictions, some enacted by state law, and others as a result of community ordinances. In our Iowa experience, both have become problematic and are contributing to reduction in community safety. When IowaCASA began to review this issue, we turned to available research, and learned that there is to date no research to support the idea that residency restrictions reduce repeat sex crimes.<sup>i</sup> Minnesota and Florida have found that such restrictions can increase homelessness, transience, decrease stability for the offender, and interfere with close supervision of sex offenders.<sup>ii</sup>

We have experienced similar problems in Iowa. A January 23, 2006 article in the Des Moines Register cited Iowa Department of Public Safety statistics showing that the number of sex offenders who are unaccounted for has doubled since the law went into effect.<sup>iii</sup> Of 6000 registered sex offenders, the number of unaccounted for sex offenders increased from 142 on June 1, 2005, to 298 by mid-January of this year.<sup>iv</sup>

Where are these offenders? Iowa sheriffs have been working very hard to enforce sex offender compliance with both registry and the 2000-foot requirements. As a result, some offenders are attempting to comply by providing descriptions of where they are actually living, even if it is not a residence. A sampling from Polk County, where I live, shows some offenders are listing their whereabouts in this manner: "under 7<sup>th</sup> St. bridge," "truck near river," "rest area mile marker 149," "Flying J, in truck," "in tent, S side I-80," "RV in old Kmart parking lot," "I-35 rest area," "west side Des Moines river," "in a truck," "in a tent on the south side." Two listed Quick Trips, two listed other truck stops. About 60 offenders in my community show "whereabouts unconfirmed."<sup>v</sup>

For the first time, sex offender treatment providers tell us, sex offenders are absconding in large numbers. Probation and parole supervisors cannot effectively monitor, or engage in treatment, offenders who are living under bridges, in parking lots, in tents at parks, or at interstate truck stops. Our overall concern is not for the comfort of sex offenders, individuals who have created great anguish for those they abused. Our concern is that community safety is decreased when sex offenders are difficult or impossible to locate, and become homeless and destabilized as a result of residency restrictions.

Treatment of sex offenders is more likely to be successful when offenders can be effectively supervised or monitored, and when there are community support systems. Scarce resources are currently being used to track down offenders and to monitor compliance with the 2000-foot rule. As both as a professional working

in the field, and as a parent of two elementary-school aged children, I would far rather see our state using its resources to effectively supervise, monitor and treat the offenders in my community.

Additionally, some communities now have "clusters" of offenders congregating in inexpensive motels or other places that fall outside any of the areas affected by residency requirements. The Des Moines Register reported that clusters of four or more offenders can be found at about two dozen locations around Iowa.<sup>vi</sup> These locations can limit sex offenders' transportation and employment options, and place them far from treatment and other community supports. Research has shown that "meaningful employment can provide sex offenders a stabilizing influence by involving offenders in pro-social activities and assisting them in structuring their time, improving their self-esteem, and meeting their financial obligations."<sup>vii</sup> Research suggests also that stable employment is a contributing factor in reducing sex offender recidivism.<sup>viii</sup>

Sex offenders are not all the same, and applying the same measures to every offender does not enhance community safety. As a victim-centered organization IowaCASA is very involved in sex offender management. Nearly all professionals involved in the sex offender management field agree that responsible and effective management of sex offenders requires rigorous community supervision and sex-offender specific treatment. It is based on the notion that if an offender can be taught to manage successfully his *individual* propensity to sexually abuse, he becomes less of a risk to past and potential victims. A victim-centered approach to sex offender management involves agencies working together to continually evaluate an offender's progress and discuss whether modifications should be made in the treatment or supervision plan. Measures imposed equally on all classes of sex offenders, such as residency requirements, can detract from the ability of sex offender treatment and supervision professionals to make changes in treatment and supervision plans that may be effective for individual offenders.<sup>ix</sup>



Additionally we are concerned that residency restrictions reinforce perceptions that sex crimes against children are most often committed by predatory strangers. The sad reality is that most of the time children know, and often have trusted, the person who sexually abuses them. A recent study showed that among adults victimized before the age of 12, only 10.8% of the females, and 15.7% of the males reported being sexually violated by a stranger.<sup>x</sup> Public policy should create community supports to protect children from *all* sex offenders.

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. In Iowa, we are encouraging our public policy makers to support prevention efforts such as:

- Youth instruction in school, places of worship, and community organizations;
- Parent instruction in both proactive parenting & protecting children: Parents need tools to help detect signs of adult with sexual behavior problems, tools to help teach their children about warning signs, and tools to encourage healthy parenting;
- Support for initiatives directed at bystander behavior: Research increasingly points to the importance of bystander intervention in risky situations, and bystander support for healthy attitudes; and
- Community and Professional Education: Communities need to understand both the limitations of available information, and the importance of their role in preventing sexual assault. We need to shift the focus away from the "say no, go & tell" programs aimed at children, back to the adults who are truly responsible for community safety, and
- Organizational Policy Development: Workplaces, educational institutions, community organizations, faith-based organizations, and others need to

have policies that support prevention and early intervention in sexual assault.<sup>xi</sup>

Thank you for the opportunity to share our experiences with you as you work to create safety for our neighbors in Nebraska. We are happy to respond to questions or provide additional information that may assist your decision-making process.

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<sup>i</sup> Association for the Treatment of Sexual Abusers (2005). Facts About Sex Offenders. p. 7.

<sup>ii</sup> Ibid.

<sup>iii</sup> Des Moines Register (January 23, 2006). New Data Shows Twice As Many Sex Offenders Missing.

<sup>iv</sup> Ibid.

<sup>v</sup> Iowa Sex Offender Registry (data as of February 15, 2006).

<sup>vi</sup> Des Moines Register (January 29, 2006). New Law Creates Clusters of Sex Offenders.

<sup>vii</sup> Curtis, R.L., Jr., and S. Schulman (1984). Exoffenders, Family Relations, and Economic Supports. *Crime and Delinquency* 30 (4): 507-528.

<sup>viii</sup> Hanson, R.K., and A. Harris (1998). Dynamic Predictors of Sexual Recidivism. Cat. no. JS42-82/1998-01E. Ottawa: Department of the Solicitor General of Canada.

<sup>ix</sup> Iowa Coalition Against Sexual Assault (November 30, 2005). Remarks to the Iowa Sex Offender Legislative Interim Committee.

<sup>x</sup> National Institute of Justice, U.S. Department of Justice (January, 2006). Extent, Nature and Consequences of Rape Victimization, Findings from the National Violence Against Women Survey.

<sup>xi</sup> Iowa Coalition Against Sexual Assault (November 30, 2005). Remarks to the Iowa Sex Offender Legislative Interim Committee.

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There Goes the Neighborhood? Estimates of the Impact of Crime Risk on Property Values From  
Megan's Laws  
Leigh L. Linden and Jonah E. Rockoff  
NBER Working Paper No. 12253  
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### ABSTRACT

We combine data from the housing market with data from the North Carolina Sex Offender Registry to estimate how individuals value living in close proximity to a convicted criminal. We use the exact location of these offenders to exploit variation in the threat of crime within small homogenous groupings of homes, and we use the timing of sex offenders' arrivals to control for baseline property values in the area. We find statistically and economically significant negative effects of sex offenders' locations that are extremely localized. Houses within a one-tenth mile area around the home of a sex offender fall by four percent on average (about \$5,500) while those further away show no decline. These results suggest that individuals have a significant distaste for living in close proximity to a known sex offender. Using data on crimes committed by sexual offenders against neighbors, we estimate costs to victims of sexual offenses under the assumptions that all of the decline in property value is due to increased crime risk and that neighbors' perceptions of risk are in line with objective data. We estimate victimization costs of over \$1 million—far in excess of estimates taken from the criminal justice literature. However, we cannot reject the alternative hypotheses that individuals overestimate the risk posed by offenders or view living near an offender as having costs exclusive of crime risk.

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## 1. Introduction

Crime is predominantly a local issue. The majority of both violent and non-violent offenses take place less than one mile from victims' homes, and most government expenditures on police protection are local (Bureau of Justice Statistics, 2004, and Census of Governments, 2003). In response to the fear of crime, residents generally have two options: they can vote for anti-crime policies, or they can vote with their feet. When individuals exercise the latter option, local response to crime will be observed in the housing market. This may be particularly salient for crime, since individuals can reduce their exposure without moving great distances, and empirical evidence on urban flight supports this notion (Cullen and Levitt, 1999).

To decide how to respond to crime, we must understand the costs that crime imposes on individuals. Estimates of the demand for public safety, for example, are necessary to determine the appropriate level of public expenditures, such as the optimal provision of police services. But many jurisdictions are also considering various regulatory options for individuals deemed likely to commit specific crimes. Sex offenders, for example, have been a particular target. Offenders may be restricted from living in close proximity to areas with significant numbers of children. A small number of local governments and real estate developers in the U.S. have begun considering rules designed to restrict the ability of sexual offenders to reside in their communities. And in some states, property sellers are required to notify potential buyers of local offenders.

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Historically, information about an individuals' future risk for being victimized by a criminal was limited to crime statistics for specific geographic locations. A number of papers have documented an inverse relationship between property values and crime rates.



In one of the earliest studies, Thaler (1978) finds a negative relation between property crimes per capita and property values. His estimates imply that a one standard deviation increase in the incidence of property crime reduces home values by about 3%. A more recent study by Gibbons (2004) finds a decrease in property values of 10% for a one standard deviation increase in property crime.

These studies, however, face potential omitted variable problems in both cross sectional and time series. In the cross section, crime rates are likely to co-vary with other geographic amenities for which researchers cannot adequately control. Over time, crime rates may change as the composition and characteristics of neighborhoods change. Reductions in crime levels, for example, may correspond to other changes that increase the value of property located in a particular neighborhood.

In this paper, we combine data from the housing market with data from sex offender registrations to estimate individuals' valuation of living in close proximity to a convicted sex offender. By exploiting both the timing of move-in and the exact locations of sex offenders, we can improve on past estimates of individuals' responses. The exact location of these offenders then allows us to exploit variation in the threat of crime within small homogenous groupings of homes. The timing of a sex offender's arrival allows us to confirm the absence substantive pre-existing differences in property values and to control for the remaining minor differences.

Our study is the first to exploit both inter-temporal and cross-sectional variance in the presence of an offender, but not the first to exploit the cross-sectional variation alone.

Larsen et al. (2003) examine the cross sectional relationship between property values and proximity to sex offenders using a single year of data from Montgomery County, Ohio.

They find a reduction in housing prices of 17% within a tenth of a mile of an offender's home, and find significant changes in price up to a third of a mile. Although their study is similar to ours in the empirical question it addresses, their empirical strategy suffers from the same potential biases mentioned above.

Sex offender registries are not simply an important source of data for research. The advent of sex offender registration laws and public access to offender registries has changed the kind of information available to individuals about their propensity for being victimized by a crime. Based on the belief that an individual convicted of a sex offense is likely to commit a similar crime in the future, these registries publish the names, addresses, and sometimes even the employers of convicted sex offenders. Thus, individuals can now find out not only historical crime rates, but also the number of specific types of criminals living in an area and, usually, their exact addresses.

Anecdotal evidence suggests that individuals are extremely averse to living in close proximity to convicted criminals and that they have put the information obtained from the offender registries to use. Neighbors have encouraged sex offenders to leave neighborhoods. Real estate broker associations provide information on sex offenders and the sex offender registry to their members. Law suits have been filed both against sex offenders for reducing property values and against appraisal agencies for not considering the proximity of local sex offenders. And a small, but growing number of localities have passed laws that would prevent sex offenders from living within their borders.

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The results of our analysis suggest that these laws reflect a strong distaste for living in close proximity to an offender. Prices of homes near a sex offenders decline considerably following an offender's arrival in the neighborhood. We find that, on

average, the housing market reacts strongly to a sex offender living in a neighborhood. We estimate that the sale price of homes closest to the offender decline by about 10% in value or about \$10,000 for the median value home in our data. Roughly four percentage points of this decline is due to real decline in the value of homes located near offenders. The remaining decline is due to changes in the composition of sales due to the offender's arrival and neighborhood level changes in property values. However, these effects are extremely localized and dissipate quickly with distance. We find no evidence of any impact on homes located more than a tenth of a mile away from offenders' locations.

This paper is organized as follows. In the next section, we describe the nature of both the national and North Carolina sex offender registration laws. In Section 3, we describe the data used in our study, and then in Section 4, we describe our empirical methodology, present graphical evidence on the impact of sex offenders' arrivals, and describe the model we use for formal statistical analysis. We present our empirical results in Section 5. We conclude in Section 6.

## **2. Sex Offender Registration Data Bases**

In 1994, a seven year old girl named Megan Kanka was brutally raped and murdered by her next door neighbor. The man had been convicted in 1981 for an attack on a 5-year-old child and an attempted sexual assault on a 7-year-old, but none of his neighbors knew these facts. This tragic event was the motivation for the body of legislation known as Megan's Laws, requiring the notification of the public regarding the location and description of convicted sex offenders. By imposing requirements on a class of individuals previously convicted of a crime after they have completed their sentences,

these laws represent a significant change in the legal practice of dealing with convicted criminals after they have been released from prison.

At the Federal level, sex offender registration laws comprise two sets of state requirements. In 1994, the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program created a mandatory state requirement for the registration of sex offenders.<sup>2</sup> Congress enforced the act by threatening states with a reduction of Federal grants provided for state law enforcement efforts. The registry must include a range of identifying information including the offenders' names, addresses, photographs, etc. The law applies to individuals convicted of committing a specific set of sexual offenses and non-sexual crimes against minors. Offenders are required to register this information with state authorities, update authorities regarding changes, and to verify periodically the accuracy of the currently provided information. Congress expanded this legislation in 1996 to require the dissemination of information in the registry.

Megan's Laws have been extremely controversial and subjected to numerous court challenges. Two such challenges reached the Supreme Court in 2003. The first, Connecticut Department of Public Safety et al. v. Doe, claimed that registration laws violated the due process clause of the 14th amendment by depriving registered sex offenders of a "liberty interest" and depriving them of a hearing to determine whether they posed to a significant danger. The second challenge, Smith et al. v. Doe, was brought on grounds that the registration laws violated the ex post facto clause in Article I of the Constitution by creating a retroactive punishment. In both cases, the Court has upheld the laws as a legitimate civil regulation (rather than a criminal punishment) in

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<sup>2</sup> 42 U.S.C. § 14071 (2000). Jacob Wetterling was abducted in Minnesota in 1989; neither he nor the perpetrators were ever found.

response to the recidivism threat imposed by sex offenders on the communities in which they live.

While federal law requires registration of offenders and community notification, states are given significant latitude in their implementation of these provisions. All 50 states currently maintain a registry which makes some information available to the public, but the method of compliance varies significantly. Forty-six states provide public internet access to the offender registry. Hawaii, South Dakota, and Oregon provide more limited access either only through local law enforcement agencies or only to small subsets of the data base. Rhode Island provides no public access to the database, but requires the notification of individuals likely to be at risk from a given offender. Individuals in many states can also request information by mail or through designated telephone numbers.

Louisiana has perhaps the most aggressive notification law. It requires offenders to, "give notice of the crime for which he was convicted, his name, and his address to at least one person in every residence or business within a one mile radius of his residence in a rural area and a *three tenths of a mile radius* in an urban or suburban area [italics added]." Louisiana courts can also require additional methods of notification including specially labeled clothing.

Despite the legal controversies surrounding their creation, searchable sex offender registries are extremely popular. In December of 2004, California unveiled a site that ~~allowed residents to search the state's registration database and obtain offenders names,~~ addresses, and proximity to parks and schools. On the first day that the state made the



site publicly accessible, it was so popular that the host failed to keep up with demand.

Within 4 days, the site had registered 14 million visits.

## **2.1 North Carolina Sex Offender Legislation**

The North Carolina sex offender registration law is similar to many of the registration laws that exist in other states. Originally, adopted in 1996 as the "Amy Jackson Law", the law was amended in 1998 and 2001 to comply with the requirements of the federal registration laws.<sup>3</sup> All individuals convicted on or after January 1, 1996 of kidnapping, prostitution, sexual exploitation of a minor, or sexually violent offenses against anyone, are required to register. In addition, all sexual offenders released from prison on or after January 1, 1996 must register, even if their convictions took place prior to this date.<sup>4</sup> The law applies equally to individuals convicted in other states who move to North Carolina.

An individual with a reportable offense must register with the state within 10 days of being released from prison. If an individual moves, he or she must notify the state of their new address within 10 days. Failure to register an address is a felonious offense and cause for revocation of parole. Individuals are required to register for 10 years after being released from prison. In addition to these reporting requirements, the state is required to verify offenders' addresses periodically. A non-forwardable post card is mailed to the individual, if this card is not returned with the current address, the

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<sup>3</sup> Article 27A of Chapter 14 of the North Carolina General Statutes (NCGS 14-208.5).

<sup>4</sup> The degree of retroactivity for States' Megan's laws varies considerably. In other (ongoing) work, one of us is examining how the discontinuity created by laws' retroactivity can be used to measure the impact of sex offender registration on criminal activity.

individual is subject to criminal penalties and the local sheriff is required to verify whether or not the individual still resides at the registered address.

Information in the offender data base is provided to citizens via a web-based interface that is maintained by the State Bureau of Investigation's Division of Criminal Information. The registry reports each offender's current address, zip codes of past addresses, the offense of which the individual was convicted, a picture of the individual, and identifying information such as height, weight, race, gender, distinguishing characteristics, hair color, and eye color. All address entries include both the data on when the address was reported and if the address was verified, the date on which the address was last verified. To the best of our knowledge, North Carolina, Florida, and Montana are the only states that provide information on the exact timing of offenders' move-in dates.

Unlike other states, compliance with the sex offender registration laws is extremely high in North Carolina. Between January 1, 1996 and March 9, 2003, North Carolina released a total of 8,287 individuals that would be required to register. Of these offenders, 1,007 had moved out of state and of those remaining in the state, only 103 had failed or had yet to register their addresses. This contrasts with the experience of California, for example, whose registry was heavily criticized for missing addresses on a significant number of offenders.

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### 3. Data Sources

Our analysis of the impact of offenders' arrivals is based upon three sets of data regarding the location of sex offenders, the location and characteristics of property in

Mecklenburg County, and property level sales data. Information on registered sex offenders in North Carolina were provided by the North Carolina Department of Justice (NCDOJ).<sup>5</sup> This dataset contains information on offenders' basic demographics, type of offense, date of offense, current address, and date of registration at current address.<sup>6</sup> Because of the strict provisions governing timely registration in North Carolina, the date of registration is a close approximation of the actual date an offender moved to their current location.

In January of 2005, there were approximately 9,200 registered sex offenders in North Carolina, though 11% were registered as living in jail or a residence for ex-convicts and 4% had an unknown street address. In Mecklenburg County, where we focus, there were 518 registered offenders, the most of any county in the state.<sup>7</sup> 56 offenders (11%) were registered as living in a jail/halfway-house and 35 offenders (7%) had an unknown street address. We do not include these offenders in our analysis.

A variety of crimes qualify individuals to register their address under North Carolina's sexual offender registration law. Table 1 shows crime frequencies for registered offenders in the state and in Mecklenburg County. Almost 90% of all sexual offenses fall into three categories. The majority of all crimes—70% in the state, 63% in Mecklenburg County—are classified as Indecent Liberty with a Minor.<sup>8</sup> These crimes,

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<sup>5</sup> The registry is updated continually. Our source at the DOJ compiles a monthly data set that is provided to law enforcement agencies, of which October 2004 was the oldest file still available.

<sup>6</sup> We plan to use the historical ZIP code level data to examine the impact of the introduction of the sex offender registry in 1996. If the information provided by the registry was important and spread quickly, one might expect decreases in relative house prices in ZIP codes with more offenders after the registry's introduction. However, there are only 32 ZIP codes in Mecklenburg County, and we are therefore gathering sales data from other counties to pursue this line of investigation.

<sup>7</sup> Mecklenburg County contains the metropolitan area surrounding the city of Charlotte. This is the largest metropolitan area in the state (population 640,000).

<sup>8</sup> Indecent liberty refers to a person who, "1) Willfully takes or attempts to take any immoral, improper, or indecent liberties with any child of either sex under the age of 16 years for the purpose of arousing or

sometimes referred to as 'child molestation,' do not involve physical force or violence. The second most frequent set of crimes is sexual offenses (11% in the state and Mecklenburg County), which refer to sexual acts where force or violence is involved but do not include rape. Rape (9% in the state and 10% in Mecklenburg County) is the third largest category of crimes. The remaining crimes are spread among a variety of categories such as incest, prostitution of a minor, and kidnapping of a minor.

Because we only have access to offenders' current addresses, we are only able to observe how variation in prices relates to offenders' arrivals for offenders that have not yet moved from their current location. In order to have enough post-arrival sales to generate statistically meaningful estimates, we limit our analysis to offenders who have lived in the same location for one year or more. 10% of the offenders in Mecklenburg County were released less than one year before our sales data ends. Of those released prior to this date, roughly 35% had moved into their current address less than one year prior to the end of the sales data. We find similar results to those reported below when we include offenders who had been living in their current locations for at least six months.<sup>9</sup>

It is important to note that differences in sentence lengths affect the distribution of crimes for which registered offenders were convicted. The median sentence lengths for Indecent Liberty with a Minor and Rape are, respectively, 1 ½ years and 10 years. Thus, most offenders who committed Indecent Liberty with a Minor since 1996 will be

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gratifying sexual desire; or 2) Willfully commits or attempts to commit any lewd or lascivious act upon or with the body or any part or member of the body of any child of either sex under the age of 16 years." (NC Statute 14 202.1).

<sup>9</sup> If offenders that move frequently would cause different changes in property values than offenders who choose to live in a single place for an extended period of time, our estimates might not be representative of the effects of the average sex offender moving into a neighborhood. Our analysis identifies the effects on property values of the sex offenders we observe in our data base.

registered, in contrast to a relatively small fraction of those who committed Rape or other crimes with long sentence lengths. Many of those in the latter group are likely to be in prison.

Our second source of data comes from the Mecklenburg County division of Property Assessment and Land Record Management. This assessment data contains Geographical Information Systems (GIS) information on all real estate parcels in the county as of March 21, 2005. With GIS information, we can measure the distance in feet between the centers of any two parcels. The assessment data also gives us a comprehensive set of physical characteristics for each parcel: type of structure, building quality, square footage, year of construction, number of bedrooms, number of bathrooms, etc.<sup>10</sup>

All parcels in the county are divided into 1004 "neighborhoods." These neighborhoods are defined by the tax assessor's office within Mecklenburg County and are intended to be sets of similarly valued properties. These neighborhoods are much smaller than census tracts (there were 144 tracts in Mecklenburg County in 1990) or even census block groups (there were 373 block groups in Mecklenburg County in 1990). Neighborhoods encompass just 0.47 square miles on average. The relative homogeneity of property within neighborhoods allows us to control for unobservable fixed and time varying characteristics at the neighborhood level.

In order to measure the proximity of property sales to offender locations, we matched offender addresses from the NCDOJ data to addresses in the assessment data. As

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<sup>10</sup> Building quality is measured on a thirty-six point scale. There are six tiers of quality ranging from "Below Average" to "Custom Made". Within each tier there are 6 quality rankings (e.g. Below Average 1, Below Average 2...Below Average 6). Regressions of sale price on quality measures confirm the lexicographic nature of the ranking system.



mentioned above, there were 518 registered offenders in a numbered county as of January 1, 2005. From this population, we exclude 56 offenders who were registered as living in a jail/halfway-house, 35 offenders who had an unknown street address, and 29 offenders whose date of current residence was unknown. We were able to find a match with a parcel in the assessment data for the addresses of 367 (92%) of the remaining 398 offenders,<sup>11</sup> and 192 of these offenders moved before January 1, 2004.

Using the matched offender-assessment data, we flag all parcels within a three-tenths mile radius of each registered sex offender. Distances are calculated as a straight line radiating from the center of the tax parcel to the center of the parcel in which the registered offender resides. We chose 0.3 miles based on the Louisiana law requiring sex offenders to inform all neighbors living within this distance from their home of their presence in the neighborhood. In this way, each offender creates an "offender area" with size of about .28 (.09 $\pi$ ) square miles. For each parcel within an offender area, we also calculate the distance to the offender's parcel. Note that the offender areas are smaller than the average size of neighborhoods designated in the assessment data. For those properties that have more than one offender within a 0.3 mile radius, we use the arrival date from the first offender to move into the area.<sup>12</sup>

Finally, the matched offender-assessment data is merged with property sales data from the Mecklenburg County Property Assessment and Land Record Management

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<sup>11</sup> 369 of these 373 matches were exact. The remaining four matched offenders claimed to be living at an address whose street number could not be matched with a parcel in the assessment data but whose street name, city, and ZIP code did match. For these offenders, we matched them to the "next closest" parcel on the street based on street numbers, so long as the street numbers seemed reasonably close. For example, an offender who claimed to live on "838 Everett Place" was matched to "836 Everett Place.". Of the remaining 25 offenders, 7 claimed to be living on streets that did not exist in the assessment data, and 18 claimed to live on street addresses that were not within a reasonable distance to a "next closest" parcel.

<sup>12</sup> Of the 367 offenders we successfully link to an address in GIS, 12 offenders were not the first to arrive within 0.3 miles of any parcel. An additional 21 offenders were in locations that did not have a sale of a single family home within 0.3 miles.

Office. This data includes all sales in Mecklenburg County from January 1994 to December 2004. We were able to match 96% of sales with an address in the assessment data. Though we cannot determine the reason why any particular sale did not match, we suspect that many of these are caused by sales of parcels that subsequently are changed or demolished so they do not exist in the assessment data from 2005. All sale prices are normalized to December 2004 dollars using the monthly South Urban CPI. We restrict our sample to sales of single-family homes and drop sales with prices in the range of \$5,000 to \$1 million. These cutoffs are approximately the 1<sup>st</sup> and 99<sup>th</sup> percentile of the sales price distribution. We also drop a small number of irregular sales entries, e.g., sales that took place less than 3 days following another sale of the same parcel. Parcels in which the registered offenders reside have also been dropped from the sample. This gives us a sample of 170,239 sales of 121,834 parcels, of which 27,529 lie within a 0.3 mile radius of a registered offender.

Table 2 provides summary statistics of the various parcels that are sold in Mecklenburg County during the period of interest. The first column provides information on all sales in the county and the second column shows the sales that occur within 0.3 miles of where a sex offender either has located or will eventually locate. This demonstrates the importance of the localized data we use in this analysis because the areas in which sex offenders locate have smaller houses that sell for less money. In other words, sex offenders, on average, move to the cheaper neighborhoods. Column three provides a hedonic decomposition of the log of the sale price of homes within 0.3 miles of an offender to gauge the importance of the various characteristics. The regression also

includes dummy variables for the composition of the house's exterior and offender area by year fixed effects.

#### 4. Empirical Methodology

The purchase of a home is inextricably linked with the selection of a city, a school district, and a neighborhood. Thus, choice of residence represents choice of labor market, school quality, social group, environment, etc., in addition to choice of house characteristics. The demand for homes in areas with particular characteristics is therefore also a measure of individuals' preferences regarding all of the local factors that impact economic outcomes. A large number of studies have examined the relation between property values and location specific (dis)amenities, such as school quality, pollution, crime, and property taxes. Some recent examples are Black (1999), Colwell et al. (2000), Lynch and Rasmussen (2001), Bui and Mayer (2003), Davis (2004), Gibbons (2004), Figlio and Lucas (2004), and Chay and Greenstone (2005).

The difficulties in identifying the hedonic price function for local (dis)amenities are well-known. A major obstacle is that variation in the local amenity may be correlated with unobservable factors (Bartik, 1987, Epple, 1987). In addition, if the long-run supply of housing is perfectly elastic, then changes in demand for local property will, in equilibrium, show up in quantities, not prices (Edel and Sclar, 1974). Thus, an effective empirical strategy for uncovering capitalization might examine short run changes in property values due to arguably exogenous changes in local (dis)amenities.

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Geographical heterogeneity in the average demographic characteristics of households makes it abundantly clear that particular kinds of people tend to live in

particular kinds of places. Sex offenders, like all individuals, likely choose to live in particular neighborhoods, depending on their income and preferences. Sex offenders do tend to move to areas that, on average, have lower property values. If we simply compared the average sale values of areas with varying numbers of sex offenders, the covariance of sex offender location and other neighborhood characteristics would complicate our ability to identify the effect of a sex offender's presence on changes in the value of home sales.

Rather than compare these aggregated areas, however, we know the specific locations in which sex offenders have chosen to live and the date of their arrival. Compared to previous studies, this provides three advantages. The specific location data allows us to compare the value of home sales within very small areas in which the housing stock is more homogenous than in normal aggregate comparisons. This notion is illustrated by Figure 1, which shows the location of one of the sex offenders in our data, the surrounding parcels grouped by neighborhood, and a circle that outlines all parcels located within 0.3 miles of the offender's location. The offenders' particular choice of residence is extremely close to some houses in the neighborhood and farther from others. Moreover, houses in adjacent neighborhoods vary in their distance from the offender's location.

Relying on cross sectional variation alone, however, would be problematic if property characteristics vary within these small areas in ways that are unobservable to the researcher. If for example, sex offenders move into the cheapest property available in a given area (e.g., next to a local "eye-sore" like the home of a resident who has allowed his or her property deteriorate significantly, the artist who decided to paint his house

fluorescent pink, or the local mechanic who has turned his or her front yard into a garage), then variation in the sale value of property around the sex offender's home may reflect distaste for the location to which the offender moved rather than distaste for living near the offender.

This is a constant concern in the literature that attempts to exploit variation in housing prices along geographic administrative boundaries. For example, in an important study of the capitalization of school quality into property values, Black (1999) compares the prices of homes located extremely close to one another but separated by school attendance boundaries. While this strategy may adequately control for fixed factors (e.g., distance from employment center), families may sort based on attendance boundaries so that "neighborhood socio-demographics are likely to vary discontinuously at the boundary" (Bayer et al., 2004).

We therefore examine within-neighborhood variation in property values shortly before and after the arrival of a sex offender. This allows us to control for pre-existing differences in property values between homes closer to the offender and homes farther from the offender within the same neighborhood. This framework would only be compromised if sex offenders consistently moved into properties near which a localized disamenity was likely to emerge. There is no reason to believe that the commission of a sex offense is correlated with such poor judgment in real estate value.

In fact, this possibility seems even more unlikely when one considers that the nature of the search for housing is also a largely random process at the local level.

Individuals may choose neighborhoods with specific characteristics, but their choice of exact locations is generally restricted by property availability, i.e., the suitable houses



and/or apartments that are currently on the market. Within a fraction of a mile, the exact locations of the properties available at the time individual seek to move into a neighborhood are out of the control the sex offenders, and are arguably exogenous (Bayer, Ross and Topa, 2004).

#### 4.1 Graphical Evidence

If living close to a sex offender has a negative impact on property values, we should see prices of homes near the offender's location fall subsequent to the offender's arrival. Moreover, we should observe a larger impact on homes closest to the offender. Figure 2a shows the price gradient of distance to sex offenders' locations during the year after offenders' arrivals. Price gradients are calculated using a linear Fan regression, a nonparametric estimator similar to a kernel. Prices are lowest for homes closest to the offenders, rise with distance until reaching homes about .1 miles away, and then flatten out.

The bottom panel of Figure 2b adds the price gradient of distance to sex offenders' locations during the year before offenders' arrivals. The price gradients are quite similar between 0.1 and 0.3 miles from the offender before and after arrivals. However, there is a clear decline with proximity to a sex offender for homes within 0.1 miles of the offender. Homes located .05 miles from the offender sold for about \$145,000 on average before the offenders arrived, but sold for almost \$125,000 afterwards. The decline in sale price was greater for homes even closer to the offender.

The notion that the price decline within 0.1 miles of an offender reflects a causal impact of the offender's arrival would be supported if the decline coincides with the

offender's arrival and does not reflect a pre-existing downward trend in prices. Figure 3a shows the price gradient of time with respect to sex offenders' arrivals. This gradient is measured separately for the two years before and after offenders' arrivals. Time is measured in days relative to the date sex offenders arrive. If the price decline showed in Figure 2a reflected a pre-existing trend, we would expect to see a gradual downward price movement over this time period. Instead, we find a fairly sharp decrease in prices coincident with offenders' arrivals.

Figure 3b shows the price gradient with respect to offenders' arrivals both for prices within 0.1 miles and houses between 0.1 miles and 0.3 miles of the offender's locations. These latter homes are still quite close to the offenders' locations and (as we saw in Figure 2a and 2b) were selling at similar prices to the affected homes prior to the offenders' arrivals. In contrast to the homes closest to the offenders, prices in these proximate areas did not decline after the offenders' arrivals. It is plausible that the two groups of homes would have had the same trend in prices over time in absence of the offender. This counterfactual is given support by the fact that *prior* to arrivals the prices of homes between 0.1 and 0.3 miles was similar to that of homes within 0.1 miles of the offenders' locations. If so, then these homes slightly farther away from offenders can be used as a control group for measuring the impact of offenders on property values.

#### 4.2 Statistical Estimation Framework

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Our estimation strategy will proceed by estimating the models inspired by the graphical evidence: a cross sectional difference estimator, and a difference in differences estimator. First, we use only data on parcel sales within offender areas, and estimate the

average cross-sectional differences in price and parcel characteristics between the areas that are within 0.1 miles of where the offender will move and those sales that occur between 0.1 and 0.3 miles. We estimate these differences both in the two years prior and two years after the offender arrives. Both comparisons use the same estimation specification:

$$\log(P_{ijt}) = \alpha_t + \pi_1 D_{ijt}^{Y_{10}} + \varepsilon_{ijt} \quad (1)$$

The log of the deflated sale price of the house is a function of a measure of distance from the offender, a random error term (allowing for year specific correlation in prices by offender area) and  $\alpha_t$ , a year specific effect. The term,  $D_{ijt}^{Y_{10}}$ , is the distance measure, an indicator variable set to one if a parcel sale occurs within 0.1 miles of an offender's address. To examine variation in other parcel characteristics, we simply substitute those characteristics for log sale price as the dependent variable.

These difference estimates (shown in section 5) document two facts: little or no preexisting differences in housing characteristics close to offenders' locations and a decline in the value of sales due to the offenders' arrivals. No two groups of property, however, are identical, and those in our data set are no exception. To further isolate changes in value from changes in composition, we include all of the data on parcel sales from Mecklenburg County and estimate the decline in property values controlling for observable characteristics of the parcels. Other sales in the county help us estimate the value of observable housing characteristics, hold these characteristics constant, and attribute the remaining changes in value to the offenders' arrivals. This model takes the following form:

$$\log(P_{ijt}) = \alpha_{jt} + \beta X_i + \pi_0 D_i^{Y_{10}} + \pi_1 D_i^{Y_{10}} * Post_{it} + \varepsilon_{ijt} \quad (2)$$

where  $X_i$  is a vector of housing characteristics including size, age, and quality measures and  $\alpha_{jt}$  is a neighborhood by year fixed effect. The use of these fixed effects allows us to capture any differential movement of prices over time across neighborhoods, and to focus only on variation in distance from offenders' locations within neighborhoods. The coefficient  $\pi_1$  is our estimate of the change in property values due to being located close to the offender.

Finally, we estimate a difference-in-differences specification where the counterfactual time trend for homes close to an offender is estimated using the time trend in house prices for homes just slightly farther away. Our difference in differences specification adds a similar indicator variable for homes within 0.3 of a mile of offenders' locations ( $D_{ijt}^{>0.3}$ ) and an interaction with  $Post_{it}$ .

$$\log(P_{ijt}) = \alpha_{jt} + \beta X_i + (\omega_0 D_{ijt}^{>0.3} + \pi_0 D_{ijt}^{>0.3}) + (\omega_1 D_{ijt}^{>0.3} + \pi_1 D_{ijt}^{>0.3}) * Post_{it} + \varepsilon_{ijt} \quad (3)$$

The difference in difference estimate is then given by the term  $\pi_1$ .

## 5. Estimation Results

### 5.1 Differences in Characteristics of Homes Located Close to an Offender

Figures 2 and 3 illustrate that, prior to sex offenders' arrivals, homes located within 0.1 miles of an offender's location have very similar values as homes between 0.1 and 0.3 miles away from the offender's location. They also illustrate that, after the offender's arrival, homes sold located within 0.1 miles of the offender's location are significantly less expensive than those in the 0.1 mile to 0.3 mile range.

To formally estimate these differences, we take all sales of homes in the offender areas and run regressions of house characteristics (including price) on a dummy variable for whether or not the home is within 0.1 of the offender's location and a set of year fixed effects (equation 1). First, we limit the sample to sales that took place before the offender's arrival (Table 3 Panel A), and find little evidence of any preexisting differences in either sale price or house characteristics. The only difference that is marginally statistically significant is the fraction of homes built in the same year in which they are sold.

Figure 4 shows the distribution of prices in these areas in more detail, highlighting the small differences in homes in these areas. The distributions overlap significantly with three small differences: First, the area between 0.1 and 0.3 miles from where the offender will eventually locate have a small number of homes with values over \$400,000. Second, the area within 0.1 miles has slightly more homes in the \$150,000 to \$300,000 range than the area between 0.1 and 0.3 miles of the offender location. Finally, the area between 0.1 and 0.3 miles of an offender location has more homes that sell for \$100,000 to \$150,000.

The average differences in the areas can be more precisely estimated by using not just the characteristics of houses that sell, but all of the houses in the offender areas. These differences are provided in Panel B of Table 3. These differences are of the similar magnitude as the characteristics of homes that sold, though of opposite sign. With a much larger sample, the power of the hypothesis tests is sufficiently increased that these small differences are now distinguishable from zero.

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Overall, the results in Panels A and B of Table 3 demonstrate the relative homogeneity of the areas compared in our study. The differences between parcels within



0.1 miles of an offender and those between 0.1 and 0.3 miles, for example, are smaller than the differences one would observe walking down a typical street in these areas. The average standard deviation of sale price on the same street within offender areas is 16 percent of the street's average price. The average standard deviation in the size of homes by street is 244 square feet or about 15 percent of the mean. The difference of 60-80 square feet in average size between the areas within 0.1 miles and between 0.1 and 0.3 miles is about the size of a walk-in closet. Given the price elasticity with respect to size (Column 3 of Table 2) this increase in home size is worth about two percent of the average house price.

After offenders' arrivals, all of the differences in the average characteristics of homes sold within 0.1 miles of an offender and homes between 0.1 and 0.3 miles are similar to the pre-existing differences except for price. While there were no differences in the price of homes sold before the offenders' arrival, prices are approximately 10% lower among homes sold within 0.1 miles of offenders' location after the offender moves. Otherwise, homes are on average 100 square feet smaller (this difference is statistically significant), have .05 less bedrooms, .04 less bathrooms, and are no longer more likely to be built in the same year they are sold.<sup>13</sup>

## 5.2 Estimates Controlling for Area and House Characteristics

We first present estimates of equation 1 that include sales of homes outside of offender areas. The estimate of  $\pi_1$  from this equation when we restrict the sample to pre-arrival homes sales is simply a measure of the average price difference between houses

<sup>13</sup> Based upon results not presented in this version of the paper, this reduction in the average size of homes seems to be the result of more homes selling in areas with large numbers of smaller homes. However, given the sample size, it is difficult to analyze such disaggregated effects.

within 0.1 miles of an offender's future location and other houses sold within the same year. This difference is approximately 34% (Column 1 of Table 4), and confirms that homes close to offenders' locations are cheaper than in other parts of the county. However, when we include neighborhood-year fixed effects and house characteristics in the regression (Column 2 of Table 4), we estimate that homes within 0.1 miles of an offender sell for only .7% less on average.<sup>14</sup> This difference is not statistically different from zero at any reasonable confidence level.<sup>15</sup> These results demonstrate that the household characteristics contained in our data set include sufficient information to capture almost all of the differences between areas in which offenders move and the rest of the county, and that, controlling for these characteristics, sex offenders' locations were not significantly less expensive than other parts of their neighborhoods prior to arrival.

Estimating equation 2, we find that homes located within 0.1 miles of an offender's location sold for 4% less on average than surrounding homes after the offender's arrival (Column 3 of Table 4), but just .7% less on average prior to the offender's arrival. This 3.3% decline in price is statistically significant at the 8% level. Estimating equation 3—our differences-in-differences specification—we find a slightly higher estimate of the impact of a sex offender's arrival. This estimate is -4.1%, and is statistically significant at the 4% level (Column 4). The estimated change in value for homes located between 0.1 and 0.3 miles of an offender's location when the offender arrives is positive (1%) but statistically insignificant. Thus, homeowners living just

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<sup>14</sup> Our controls for housing characteristics include dummy variables for the major building quality grades and a linear term for the minor grades, the square footage of the property, fireplaces, number of bedrooms, number of bathrooms, a dummy variable for properties built in the same year they are sold, the age of the house in years, and dummy variables for the number of stories, the external wall type, and air conditioning.

<sup>15</sup> Standard errors are clustered at the neighborhood level for regressions including all sales in the county and at the offender area level for regressions including only offender areas.

slightly farther away from the offender (between 0.1 and 0.3 miles) experienced no decrease in property values on average.

This is a sizable loss. Single family homes within 0.1 miles of offenders' locations sold for about \$135,000 in the two years prior to the offenders' arrivals. Thus, our estimates suggest that homeowners who live extremely close to a sex offender and sell their homes lose between \$4,500 and \$5,500, relative to the amount they would have received if the offender did not move in. Each offender thus causes an average loss to local home owners of \$156,912. Countywide, the 373 offenders known to live in private residences depress property values by an estimated \$59.5 million.

Implicit in our estimation strategy is the assumption that the relationship between housing characteristics and prices outside of the offender areas are valuable in estimating the relationship between prices and those characteristics in the offender areas. This assumption would be violated, for example, if offender areas were systematically different from non-offender areas. The resulting misspecification could cause us to erroneously attribute residual changes in prices in the offender areas to the arrival of the offender. To check for this, we re-estimate equation 3 using only the data from the offender areas (Column 5 of Table 4). Rather than controlling for neighborhood by year fixed effects, we instead control for offender area by year fixed effects and estimate standard errors clustering at the offender area level. These results (impacts of -3.6%) are consistent with those in columns 3 and 4, suggesting that additional data from the rest of the county did not bias our estimates.

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While these differences document the average change in prices resulting from the arrival of a sex offender, Figures 2a and 2b suggest that property closest to the offenders'

location declines more steeply in value after the arrival of the offender. To check for this heterogeneity in the treatment effect, we interact distance from the offender with the dummy variable indicating that a parcel is located within 0.1 miles of an offender after the offender has moved in. (Note that distance is measured in hundredths of a mile.) The results are consistent with the figures. Parcels directly adjacent to the offenders' location are estimated to decline by 11.5% and those a tenth of a mile away experience virtually no change in value (a decline of 0.5%).

Given the drop in value for the parcels near an offender, it is possible that offenders' arrivals might have generated a compositional shift in which occupants with a high distaste for living near an offender sell their homes to new occupants who are less averse to the location. For example, families with young children might sell their homes to male-only occupants or couples without children. We do not have information of the actual occupants, but we can check for changes in the probability that a home sells. For this purpose, we construct a monthly panel of all parcels in the offender areas for two years before and after the offender's arrival date. Column 7 of Table 4 presents the estimate of a linear regression of the probability that a parcel sells (measured in percentage points) within the difference in difference framework provided in equation 3. The results suggest that the arrival of an offender does increase the probability that nearby parcels sell by 0.12 percentage points. This is a 20% increase from the baseline probability of sale of 0.57 percentage points.

### 5.3 Falsification Tests

Figures 2 and 3 and the results in Tables 3 and 4 show little evidence of any preexisting differences in homes located close to an offender relative to other homes in their neighborhoods. However, it is theoretically possible that the decrease in values after offenders' arrival is driven by differential trends in values for homes closest to an offender. In other words, the prices of houses in offender areas may be trending over time in a different way than other houses in their neighborhoods. For example, if houses located near the parcel where an offender moves were experiencing slower growth in prices, this could lead to a spurious negative "impact" of the offender's arrival.

We investigate this possibility by estimating equation 3 using arrival dates equal to two years and three years prior to offenders' actual arrival dates. In both of these specifications, we find no evidence of a spurious effect in this specification (Table 5).

## 6. Estimates of the Cost to Victims of Sexual Offenses

The results above present evidence that the arrival of a sex offender has a statistically and economically significant impact on the value of homes in the immediate vicinity. As economists, we seek to measure the welfare cost to victims of crimes committed by sexual offenders so that we can make optimal policy decisions, such as how much to spend on programs that reduce crime. Households' willingness to trade off lower house prices against increased victimization risk can be used to estimate the welfare cost of crimes committed by sexual offenders. If the decline in property value close to offenders is indeed driven by increased risk of victimization, then we can make this calculation.



The Department of Justice currently estimates victimization costs using other methods. In a widely cited DOJ study, Miller et al. (1996) estimate victimization costs for various crimes and include measures of tangible costs (e.g., medical expenses, lost work time, property loss etc.) and intangible costs (e.g., pain, suffering, fear, lower "quality of life"). Estimates of tangible costs use a number of sources, but rely heavily on losses and injuries reported in the NCVS. Intangible cost estimates rely on data from jury awards to compensate victims (i.e., not punitive damages) and, for fatal crimes, the average value of life estimate across studies reviewed by Viscusi (1993). Victimization cost estimates from this study are shown in Table 6.<sup>16</sup> Average victimization costs of Rape and Sexual Assault to be roughly \$114,000, 95% of which represents intangible costs. In contrast, the average victimization cost of Burglary is estimated at \$2,000, almost all of which is due to direct costs such as property loss.

Relying on survey responses and jury awards to estimate victimization costs is problematic to the extent that this information does not accurately reflect individuals' willingness to pay to reduce crime risk. For example, jury awards are often based upon testimony of experts who estimate intangible victimization costs from contingent valuation surveys. Since these surveys require people to hypothetically make a trade-off between suffering from a crime and paying varying amounts of money, one might think that these surveys are likely to overestimate the true amount an individual would be willing to pay to avoid being the victim of a crime. On the other hand, one advantage of the DOJ estimates is that they are based on actual crimes, not perceived risk. Our empirical strategy enables us to estimate the willingness to pay to live far from convicted

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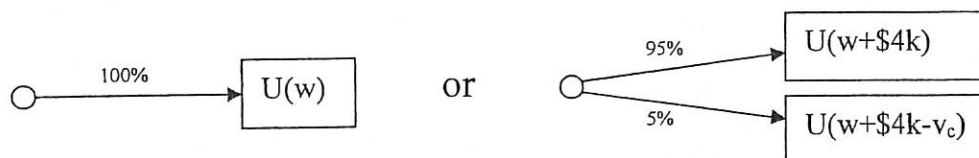
<sup>16</sup> Costs in the DOJ study are given in 1993 dollars. We adjust this to 2004 dollars using the annual CPI for all urban consumers.

criminals. We infer individuals' willingness to pay to reduce crime risk by estimating the actual distribution of crimes committed against neighbors by sex offenders. However, we cannot be certain that the *perceived* risk is the same as the empirical risk distribution. We return to this issue below in the discussion of our findings.

Our calculation is based on a simplistic model of the choice faced by the marginal homebuyer, whose preferences determine the price discount for living close to a convicted sex offender. This household can choose either to live far from a sex offender or to live close to an offender, get a price discount, and expose itself to higher crime risk. The marginal home buyer will have equal utility under either choice, i.e., the discount for living near an offender will compensate them for the increased crime risk. This notion is expressed by equation 4, where utility is a function of lifetime wealth ( $w$ ), the individual knows the discount ( $d$ ) and the increased probability of crime ( $f(c)$ ) for living near an offender, and  $v_c$  is a scalar that maps crime victimization into an equivalent wealth loss.

$$U(w) = \int U(w + d - v_c c) f(c) dc \quad (4)$$

For example, if we suppose that living close to a sex offender located nearby decreased property values by \$4,000 and increased the risk of being the victim of one crime by 5%. Then equation 4 can be restated as a choice between two simple lotteries:



If the marginal household is risk neutral, the implied victimization cost would be \$80,000.

Our estimates suggest that property value declined by about 3.5% in areas within 0.1 miles of an offender. At the median price of homes sold in these areas prior to the offenders' arrivals (\$135,000), a 3.5% impact implies a decline in value of \$4,725. We specify the utility function to have constant absolute risk aversion equal to 2.<sup>17</sup> This is generally considered a relatively high level of risk aversion, and perhaps even an upper bound given empirical evidence on labor supply decisions (Chetty 2005). We set lifetime wealth at \$1.575 million. This is the amount of annual income needed to obtain a mortgage equal to the value of the median home in our sample (about \$35,000), multiplied over 45 years.<sup>18</sup>

The amount of additional crime risk faced by neighbors of sex offenders requires a more complex calculation. We estimate the probability distribution with which offenders commit crimes against neighbors using data from the Department of Justice (DOJ), the Federal Bureau of Investigation (FBI), and the National Crime Victimization Survey (NCVS). This calculation requires a number of steps and details are given in the appendix. We make a number of assumptions in this calculation, and we examine the sensitivity of our results to alternate assumptions.<sup>19</sup> For example, the relationship of offender to victim is reported in the NCVS and "neighbor" and "stranger" are both potential responses. Recognizing that some "strangers" may actually be "neighbors," we assume that the true fraction of crimes committed by neighbors is 200% of the fraction of

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<sup>17</sup> Formally,  $U(w) = -\frac{1}{2}e^{-2w}$ .

<sup>18</sup> Lenders often follow the 28% rule: a family can pay up to 28% of gross monthly income (before other debt payments) as mortgage payments. A 30-year fixed rate mortgage of \$135,000 (the median home price) at 6% interest would give rise to payments of \$810 per month. Family income must therefore be about \$2890 per month or about \$35,000 per year.

<sup>19</sup> For example, the relationship of offender to victim is reported in the NCVS and "neighbor" and "stranger" are both potential responses. Recognizing that some "strangers" may actually be "neighbors," we assume that the true fraction of crimes committed by neighbors is 200% of the fraction of victims that claim the offender was a neighbor.

victims that claim the offender was a neighbor. The assumptions we make generally will lead us towards low estimates of victimization costs. However, despite these choices, our estimates remain high relative to the lifetime income of our representative household.

If neighbors are only concerned with the increased risk of sexual offenses (Rape and Sexual Assault) associated with living near a sex offender, then the assumption that  $c$  is scalar is fairly trivial and  $c$  would represent the number of sex offenses committed by the sex offender. However, sex offenders commit many types of crime, ranging from Murder to Motor Vehicle Theft, and it seems reasonable that neighbors would be concerned with these crimes as well as sexual offenses. In order to incorporate various types of crime into our simple model,  $c$  and  $v_c$  must be specified as vectors.

Unfortunately, we cannot separately calculate victimization costs for various crimes because we do not have variation in the willingness to pay to reduce the risk of various types of crime. We only have the willingness to pay to not live near a sex offender, and therefore must maintain  $c$  as a scalar. To do so, we assume that all crimes can be specified as a fraction or multiple of a sex offense. For example, victims of a presumably less severe crime, such as Burglary, can be seen as suffering costs that are equivalent to a fraction of a sex offense.

If we knew the relative severity of various types of crime, all crimes could be specifying all crimes in terms of sex offenses would be a straightforward exercise. Because we do not know these relative severities *ex ante*, we must use estimates of victimization costs from some other source. We choose to use estimates from Miller et al. (1996) as a rough approximation to the *relative* costs of victimization among different types of crime, e.g., the relative cost of Burglary is about 2% the cost of Rape.

We estimate that each sexual offense has a wealth-equivalent welfare cost of almost \$1.2 million (Table 7). Thus, the housing market impacts we identify above imply very large costs to victims of sexual offenses—an order of magnitude larger than the DOJ estimates.<sup>20</sup> Moreover, the high amount of risk-aversion assumed and several of the choices made in our estimates of the distribution of crime risk are likely to lead us to overstate crime risk and underestimate victimization costs. We examine the sensitivity of our results to the assumptions embedded in our estimates by estimating victimization costs under wide-ranging alternate assumptions. These alternative estimates vary from about \$0.6 to \$2.3 million. We therefore feel confident that the large implied welfare losses are not an artifact of the assumptions built into our calculation.

There are, however, other potential explanations for the large implied costs we find. First, it may be that individuals overestimate the amount of crime risk associated with living in close proximity to a sex offender. There is a longstanding literature that shows individuals tend to overweight rare events in making decisions under risk and tend to overestimate the actual probability of rare events. (Kahneman and Tversky (1979), Lichtenstein et al. (1978) and Viscusi (1990, 1999)). If individuals overestimate the risks posed by sex offenders, then cost estimates based on objective probabilities will be too high.<sup>21</sup> To illustrate the power of overestimation of risk, we recalculate our victimization cost estimates assuming that individuals believe that any crime sex offenders commit against a neighbor will happen to them. Under this (albeit extreme) assumption, we estimate that sexual offenses have a victimization cost of \$67,000 (bottom of Table 7).

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<sup>20</sup> It is important to note that, for our calculation, we only require that the *relative* costs of various crimes are estimated correctly in the Miller et al. study.

<sup>21</sup> See Kask and Maani (1992) for further discussion of the implications of bias in subjective probability estimation for hedonic estimates of the willingness-to-pay to reduce the risk of hazardous events.



Another explanation for our results is that there is additional cost—above any crime risk—to living in close proximity to a released sex offender. This additional cost could come from several sources. First, it is reasonable to believe that individuals derive utility from interaction with their neighbors, and that this utility may vary with their neighbor's characteristics (e.g., shared interests). If individuals derive low utility from interactions with neighbors who are sex offenders, this could lead to a larger impact on house prices. Second, there may be consumption losses that stem from the increased crime risk created by the sex offender's presence (e.g., your friends refuse to visit you). Third, there may be a psychic cost to living near a sex offender, i.e., a cost to living with increased *fear* of crime. The cost of living in close proximity to an offender may include a constant reminder of the possibility of the worst outcomes – such as those faced by the families of Megan Kanka and Jacob Wetterling.

This latter explanation is supported somewhat by the distance gradient of the impact of a sex offender's arrival. Recall that the impact of a sex offender's arrival on housing prices is extremely localized, with no price impact more than .1 miles (about 2 city blocks) from the offender's location and the largest impacts in the homes virtually next door to the offender. We do not know of any evidence on whether the expected change in crime risk should have a similar gradient, but it seems unlikely that the risk posed by the sex offender should decline so quickly in distance and be confined to such a small area. However, it may well be that those neighbors living closest to the offender are far more likely to be aware of his/her presence by passing by the offender's home or come into contact with the offender on the street.

## 6. Conclusion

Local governments spend more than \$50 billion per year on police protection, more than five times the amount spent by state governments even including intergovernmental expenditures (Census of Governments, 2003). Comparable expenditure at the federal level is difficult to measure, but the entire budget of the Department of Justice in fiscal year 2003 was less than \$20 billion. The magnitude of these expenditures implies that individuals care deeply about crime prevention.

The results of this paper suggest that individuals show a significant distaste for living in close proximity to a convicted criminal. Using very detailed data on the locations of convicted sex offenders (whose identities and residential locations are made public on the North Carolina Sex Offender Registry) and the dates on which they move into a neighborhood, we estimate that on average the values of homes within 0.1 miles of an offender fall by roughly four percent. This effect dissipates quickly with distance of homes from the offender; homes between 0.1 and 0.3 miles away show no effect.

These results are a significant improvement upon the existing literature because we are able to exploit a quasi-random process (the selection of a specific home by a sex offender among those available on the market at the time) that introduces a convicted criminal into a very specific geographic area. We then use both cross-sectional and time series variation in values of homes sales in the specific locations in which an offender chooses to live. This allows us to identify the causal relationship between the risk of ~~crime and changes in property values than previous studies that rely either only on cross~~ sectional variation in risk (Larsen et al., 2003) or those that use panels of crime statistics in aggregate geographic areas.

These estimates suggest that individuals have a strong distaste for living in close proximity to a sex offender. We estimate that a single offender depresses property values in the immediate vicinity by \$4,500 to \$5,500 per home. If we aggregate these effects across all homes affected and all offenders, we find that the presence of sex offenders depress property values in Mecklenburg County by about \$58 million. This suggests that households would be willing to pay a high cost for policies that remove sexual offenders from their neighborhoods.

We combine the estimated decline in property values with data on crimes committed by sexual offenders against neighbors to estimate costs to victims of sexual offenses. Two key assumptions in our calculation are that all of the decline in property value is due to increased crime risk and that neighbors' perceptions of risk are in line with objective data. We estimate victimization costs of over \$1 million—far in excess of estimates taken from the criminal justice literature. These estimates imply a high willingness to pay for policies that reduce the incidence of sexual offenses.

Unfortunately, we cannot test the two assumptions underlying this estimate. It is quite plausible that individuals substantially overestimate the risks posed by neighboring sex offenders or experience a cost—unrelated to crime risk—of living in close proximity to an offender. If so, then the willingness to pay for policies that only decrease crime risk would be lower. However, under these alternative hypotheses, households would be willing to support policies that provided accurate information regarding the risks posed by sex offenders or isolate sex offenders without decreasing crime risk.

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## Appendix: Calculation of Crimes Committed Against Neighbors by Sex Offenders

For illustrative purposes, suppose that there is only one kind of crime and that  $g(c)$  is the probability distribution of crimes committed by sex offenders. Further, let us suppose that there is a constant probability that, conditional on crimes being committed, they are committed against neighbors ( $P_N$ ). Finally, let us suppose that there is a constant number of neighbors ( $N$ ) who are potential victims, that all neighbors are equally likely to be victims, and that crime, conditional on being committed against neighbors, is committed against a single neighbor.  $f(c)$ , the probability distribution of crimes committed against neighbors, will then be:

$$f(c) = g(c) \frac{P_N}{N}$$

Under these assumptions, we can use data on  $g(c)$ ,  $P_N$ , and  $N$ , to estimate  $f(c)$ .

In order to estimate  $g(c)$ , we first calculate the number and type of crimes for which sex offenders are arrested in the three years subsequent to their release from prison. This information comes from "Recidivism of Prisoners Released in 1994," a data set collected in 1998 by the Bureau of Justice Statistics on prisoners released by 15 states. This data set includes all 10,337 sex offenders who were released from these states in 1994, and gives a complete inventory of all arrests and adjudications of these offenders through 1998. These states are: Arizona, California, Delaware, Florida, Illinois, Maryland, Michigan, Minnesota, New Jersey, New York, North Carolina, Ohio, Oregon, Texas, and Virginia. The data set also includes a stratified sample of all other prisoners released in these states in 1994. Because this data contains offenders' entire criminal histories, we treat as sex offenders all released prisoners who had previously been convicted of a sexual offense, not just those whose most current prison sentence was due to a sexual offense conviction. We use sampling probability weights to construct population averages. We drop offenders for whom a record of arrests and prosecutions (a "RAP sheet") was not successfully located and offenders who died during the three years following their release. We also drop a small number of offenders who had unknown arrest and adjudication dates (making it impossible to distinguish recidivism from prior criminal history) or had adjudication dates that preceded the arrest date for any given offense.

Table A.1 shows the fraction of sexual offenders and other released criminals who are arrested for various crimes during the first three years after their release from prison. Sex offenders are much more likely to be arrested for a sexual offense than other released criminals. The fraction of released sex offenders who are later arrested for Rape and Sexual Assault are 2.1% and 4.0%, respectively. Moreover, the ratio of arrests for sex offenders vs. other criminals is over 4:1 for Rape and over 5:1 for Sexual Assault. Arrests of sexual offenders are similar to other released convicts for violent crime, though somewhat more likely for Kidnapping and Assault, and less likely for Murder, Manslaughter, and Robbery. Arrests of sex offenders are significantly less likely for non-violent crimes such as Burglary, Larceny, and Motor Vehicle Theft.

It is important to note that sample selection into this data set may overstate the frequency of arrests for all criminals at all times. Almost all of the released criminals in our data spent a year in prison for their crimes, whereas 30% of sex offenders registered in North Carolina spent less than one year in prison. Also, we examine offenders just

after their release from prison, when they are most likely to recidivate. Indeed, of sexual offenders' arrests for Rape and Sexual Assault, 37% and 49% (respectively) come in the first year after their release. These one-year statistics are also reported in Table A.1.

Not all crimes lead to arrests. In order to calculate the crimes actually committed by offenders, we use statistics from Lee and McCrary (2005) on the fraction of crimes that are reported to the police and fraction of reported crimes that lead to an arrest (Table A.2). Their calculations are based on comparisons of victimization reports from the National Crime Victimization Survey (NCVS) and crimes reported to the police and reported crimes that lead to arrests from FBI Uniform Crime Reports (UCR). See appendix table II of their study for further explanation. Because the NCVS and UCR data do not break out crimes into great detail, we assume that similar crimes have similar crime/arrest ratios. For example, we assume that the ratios are the same for Rape and Sexual Assault.

According to their estimates, for every individual arrested for a sexual offense, roughly four offenses had actually been committed (i.e., there is a crime/arrest ratio of 4:1). Although we can use the estimates in Table A.2 to gauge crime/arrest ratios, we do not have estimates of the extensive and intensive margins of criminal activity. In other words, even if the crime/arrest ratio is 4:1, it may be that (intensive) all four crimes were committed by the same offender who was arrested, or it may be that (extensive) four different offenders committed one crime each, but only one offender was arrested.

We assume that the crime/arrest ratio is due entirely to the intensive margin, i.e., each arrest is indicative of multiple crimes, but non-arrested offenders do not commit crimes. Given this assumption, the empirical distribution of arrests and the estimated crime/arrest ratios are sufficient to estimate the empirical distribution of crimes committed. It is important to note that the intensive assumption—placing a larger number of crimes on a small number of offenders—will lead us towards estimates of welfare costs that are lower, given risk aversion, than assuming that some of the crime-arrest ratio is due to offenders who commit crimes but are not arrested.<sup>22</sup>

We estimate the fraction of crimes committed against neighbors using the fraction of victims claiming that the offender was a neighbor in the concatenated NCVS files from 1993-2004. Because the NCVS cannot ask murder or manslaughter victims about their offenders, we use the 2003 Supplemental Homicide Reports (a subset of the UCR data) to estimate offenses by neighbors for these crimes. This is, of course, only possible for crimes where the offender is known. Murder and Manslaughter are not separately identified in this data, so we combine them. For Murder/Manslaughter, Rape, and Sexual Assault, the fractions of offenses committed by neighbors are 0.7%, 3.7% and 6.9%, respectively (Table A.3 column 1). These figures suggest that the crime risk from

<sup>22</sup> This can be shown in the following manner: Suppose there is a  $1/N$  chance of being a victim of  $N$  crimes. Indifference to this risk implies  $U(w) = \frac{1}{N}U(w + d - nv) + \frac{N-1}{N}U(w + d)$ , where notation follows equation 4. As  $N$  increases, the probability of being a victim falls, but the number of crimes committed per victimization rises. This is essentially the intensive margin assumption.  $\frac{dv}{dN}$  is the change in the wealth equivalent value of a single crime that sustains the equation when  $N$  rises. Solving for  $\frac{dv}{dN}$  yields an expression proportional to  $[U(w + d) - U(w + d - nv)] - nvU'(w + d - nv)$ . The term in brackets equals the loss in utility from victimization, which must be smaller than the second term if the agent is risk averse, i.e., if  $U'' < 0$ . For a risk neutral agent,  $\frac{dv}{dN}$  would be zero.

neighbors may be quite small. One potential problem with these measures is that victims may not know their neighbors. The fraction of crimes committed by *both* neighbors and strangers is a possible alternate measure, but it is often an order of magnitude greater than the fraction committed by neighbors alone, and is likely to considerably overestimate crime risk from neighbors (Table A.3 column 2). Recognizing the problems inherent in both measures, we assume that the true fraction of crimes committed by neighbors is 200% of the fraction of victims that claim the offender was a neighbor. In other words, for every crime victim claiming the offender was a neighbor, another victim claimed the offender was a stranger when, in fact, the true offender was a neighbor.

We estimate the number of households in the neighborhood among which crime risk from the sex offender is spread by measuring the number of single family homes located within one tenth of a mile of offenders in Mecklenburg County. The median number of single-family homes within one tenth of a mile of offenders' parcels—at the time they moved in—is 120. This is probably an underestimate of the number of relevant households facing the increased risk of crime, since it does not include other residential structures such as condominiums, multi-family homes and apartment buildings.

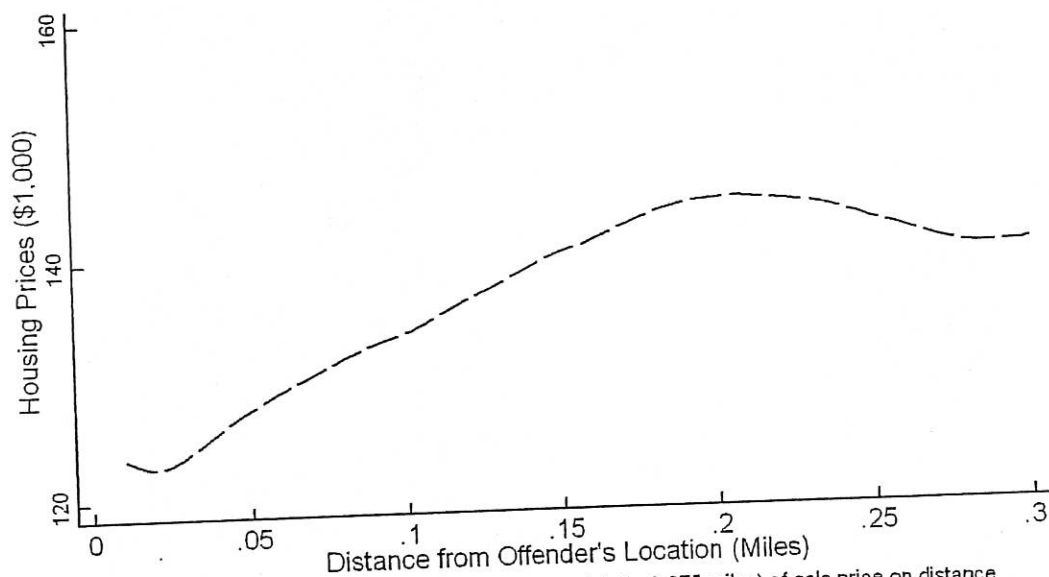
**Figure 1: An Offender Area and Surrounding Neighborhoods**



Note: X marks the center of the offender's exact location. The surrounding circle marks all parcels within one-quarter of a mile. Neighborhoods are distinguished by shades of gray. Parcels within a neighborhood are usually, but not necessarily, contiguous.

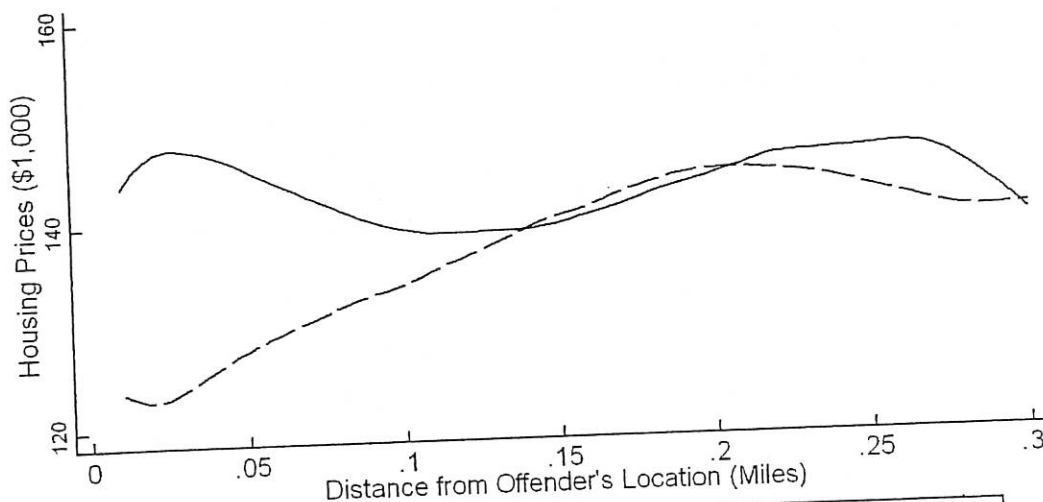


Figure 2a: Price Gradient of Distance from Offender  
Sales During Year After Arrival



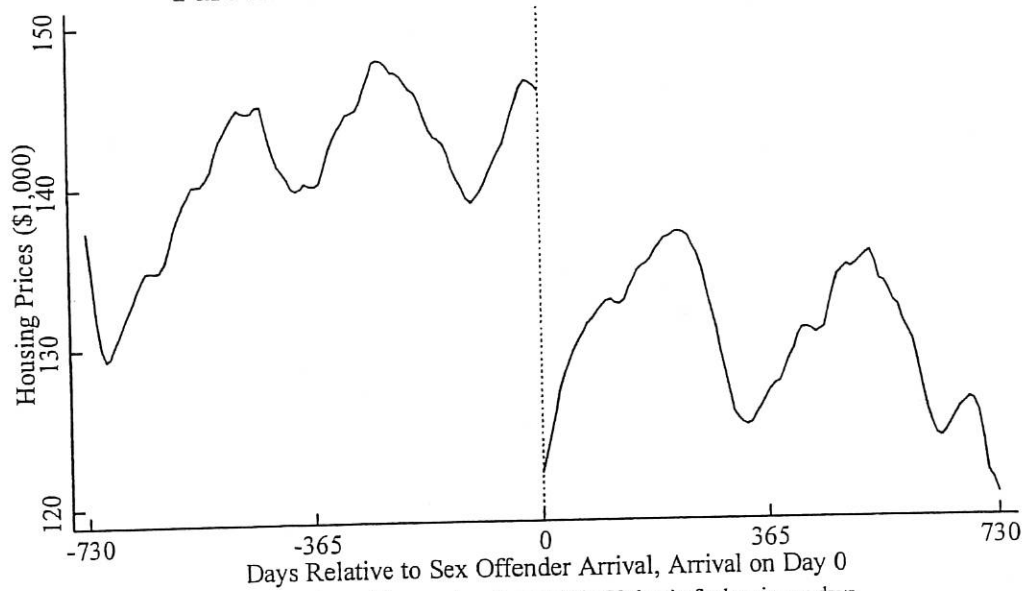
Note: Results from local polynomial regressions (bandwidth=0.075 miles) of sale price on distance from offender's future/current location.

Figure 2b: Price Gradient of Distance from Offender  
Sales During Year Before and After Arrival



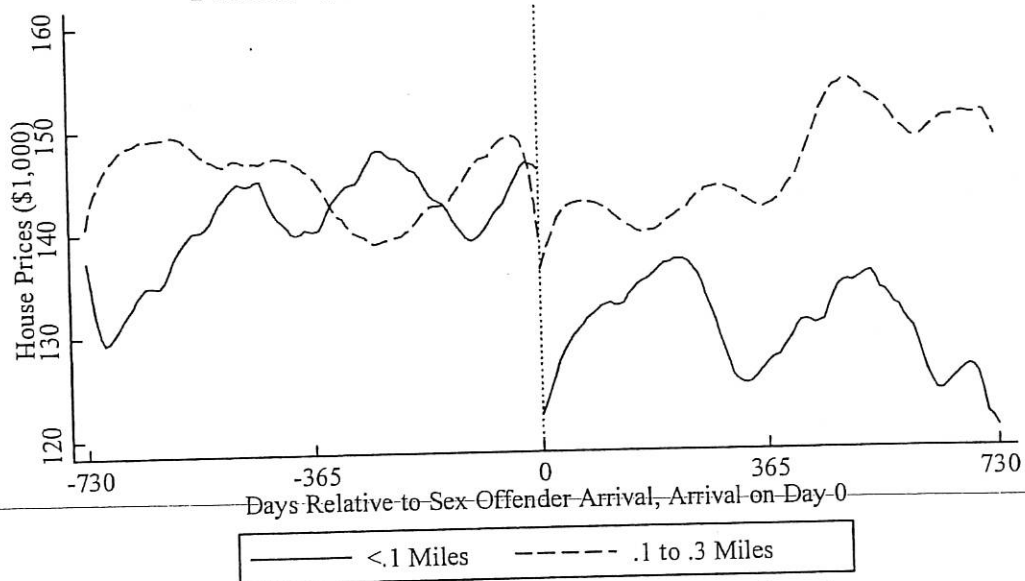
Note: Results from local polynomial regressions (bandwidth=0.075 miles) of sale price on distance from offender's future/current location.

Figure 3a: Price Trends Before and After Offenders' Arrivals  
Parcels Within Tenth Mile of Offender Location



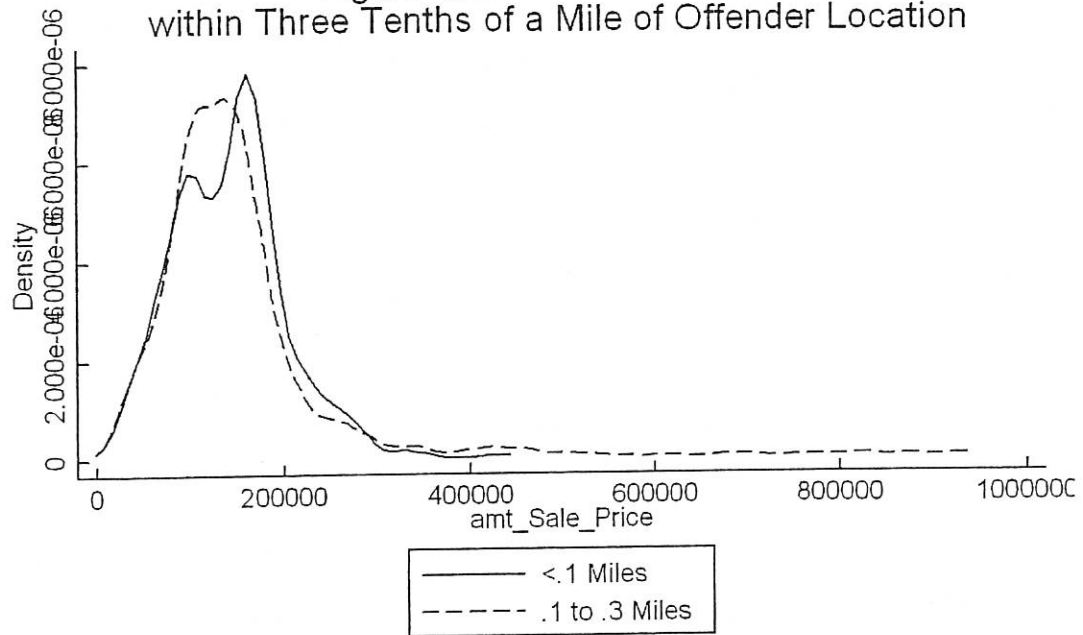
Note: Results from local polynomial regressions (bandwidth=90 days) of sale price on days before/after offender arrival.

Figure 3b: Price Trends Before and After Offenders' Arrivals  
Parcels Within 1/3 Mile of Offender Location



Note: Results from local polynomial regressions (bandwidth=90 days) of sale price on days before/after offender arrival.

Figure 4: Distribution of Price  
within Three Tenths of a Mile of Offender Location



Note: Results from kernel density estimating using optimal bandwidth

Table 1: Sexual Offenses Committed by Registered Offenders in North Carolina

Crime Committed	State		Mecklenburg County	
	Frequency	Percent	Frequency	Percent
Indecent Liberty with a Minor	8874	71.6%	417	67.7%
Sex Offense	1338	10.8%	71	11.5%
Rape	1085	8.8%	66	10.7%
Attempted Rape or Attempted Sexual Offense	467	3.8%	35	5.7%
Sexual Exploit of Minor	261	2.1%	5	0.8%
Incest Between Near Relatives	152	1.2%	13	2.1%
Kidnapping Against a Minor - 1st and 2nd Degree	98	0.8%	6	1.0%
Felonious Restraint Against a Minor	55	0.4%	1	0.2%
Other	58	0.5%	2	0.3%

Note: Frequencies and percentages represent number of crimes in each category committed by offenders. Offenders may committ multiple crimes.

Table 2: Characteristics of Homes Sold in Mecklenburg County, 1994-2004

	All Parcels	Within 1/3 Mile of Offender	
	Mean (Std Dev)	Mean (Std Dev)	Marginal Effect in Price Regression <sup>2</sup>
Sale Price (\$100,000)	2.048 (1.324)	1.438 (0.848)	
Square Footage (1,000 Sq Ft)	2.075 (0.880)	1.620 (0.595)	0.294 (0.011)*
Quality Rating <sup>1</sup>	3.251 (1.208)	3.066 (0.979)	0.015 (0.005)*
	Percentage	Percentage	
Air Conditioned	93.3%	84.6%	0.111 (0.011)*
Sold in Year Built	29.5%	19.6%	-0.042 (0.012)*
Story Height			
1 Story	39.4%	56.5%	
1.5 Stories	6.4%	5.4%	0.058 (0.016)*
2.0 Stories	49.1%	32.5%	0.055 (0.011)*
3 or More Stories	1.6%	0.6%	0.131 (0.048)*
Split Level	1.1%	1.4%	-0.019 (0.029)
Other	2.4%	3.5%	-0.014 (0.021)
Bedrooms			
1 Bedroom	0.1%	0.1%	
2 Bedrooms	5.2%	11.4%	0.171 (0.094)+
3 Bedrooms	60.8%	71.8%	0.277 (0.094)*
4 Bedrooms	30.0%	15.5%	0.255 (0.095)*
5 Bedrooms	3.6%	1.1%	0.322 (0.101)*
6 Bedrooms	0.3%	0.1%	-0.200 (0.150)
Bathrooms			
1 Bathroom	14.1%	30.8%	
2 Bathrooms	72.4%	65.1%	0.087 (0.012)*
3 Bathrooms	10.9%	3.7%	0.112 (0.024)*
4 Bathrooms	2.5%	0.4%	0.182 (0.064)*
Sample Size	170,239	9,092	9,086
R <sup>2</sup>			0.75

<sup>1</sup>Quality is rated on a 6 point scale that tends from low quality to high quality; <sup>2</sup>Estimated for parcels sold in offender areas by regressing log(Sale Price) on listed variables and offender area by year fixed effects.



Table 3: Pre- and Post-Arrival Differences in Average Characteristics of Homes Sold Close to Offenders' Locations

<i>Panel A, Pre-Arrival Differences in Sales</i>	Log Price	Built in Year Sold	Age in Years	Sq. Feet (1,000s)	# of Bedrooms	# of Bathrooms
Within .1 Miles of Offender	0.007 (0.034)	0.062 (0.035)+	-1.081 (1.117)	0.059 (0.047)	0.022 (0.034)	<.001 (0.036)
Constant	11.605 (0.036)*	0.186 (0.030)*	16.616 (1.153)*	1.589 (0.039)*	3.050 (0.028)*	1.716 (0.034)*
Sample Size	4497	4497	4497	4497	4497	4497
R <sup>2</sup>	0.06	0.03	0.04	0.03	0.03	0.03
<i>Panel B, Differences in All Existing Parcels</i>			Age in Years	Sq. Feet (1,000s)	# of Bedrooms	# of Bathrooms
Within .1 Miles of Offender			0.205 (1.050)	-0.079 (0.027)*	-0.048 (0.025)+	-0.081 (0.024)*
Constant			37.671 (1.518)*	1.538 (0.037)*	2.992 (0.029)*	1.585 (0.035)*
Sample Size			31856	31856	31856	31856
R <sup>2</sup>			<0.001	<0.001	<0.001	<0.001
<i>Panel C, Post-Arrival Differences in Sales</i>	Log Price	Built in Year Sold	Age in Years	Sq. Feet (1,000s)	# of Bedrooms	# of Bathrooms
Within .1 Miles of Offender	-0.096 (0.037)*	0.005 (0.050)	-0.591 (1.504)	-0.097 (0.043)*	-0.054 (0.038)	-0.042 (0.043)
Constant	11.628 (0.038)*	0.166 (0.027)*	17.337 (1.080)*	1.626 (0.038)*	3.042 (0.026)*	1.721 (0.033)*
Sample Size	4595	4595	4595	4595	4595	4595
R <sup>2</sup>	0.04	0.03	0.05	0.02	0.02	0.02

Note: Pre-arrival (post-arrival) refers to the two-year period before (after) the date upon which the offender registered their current address. Standard errors (in parentheses) are clustered at the offender area level. \* significant at 5% level; + significant at 10% level

Table 4: The Impact of Sex Offenders' Locations on Property Value and Sale Probability

	Log(Sale Price)		Log(Sale Price), Pre- and Post-Arrival				Probability
	Pre-Arrival						of Sale <sup>†</sup>
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
Within .1 Miles of Offender	-0.340 (0.052)*	-0.007 (0.013)	-0.007 (0.012)	<.001 (0.013)	-0.006 (0.012)	-0.013 (0.014)	-0.033 (0.034)
Within .1 Miles * Post-Arrival			-0.033 (0.019)+	-0.041 (0.020)*	-0.036 (0.021)+	-0.115 (0.060)+	0.125 (0.059)*
Dist*≤.1 Miles* Post-Arrival (0.1 Miles = 1)						0.11 (0.065)+	
Within 1/3 Miles of Offender				-0.010 (0.007)			
Within 1/3 Miles * Post-Arrival				0.010 (0.010)	0.010 (0.016)	0.010 (0.017)	-0.055 (0.040)
<i>H<sub>0</sub>: Within .1 Miles* Post-Arrival = 0</i>			<i>P-value =</i> 0.0805	<i>P-value =</i> 0.0442	<i>P-value =</i> 0.0813	<i>P-value =</i> 0.0579	<i>P-value =</i> 0.0364
Housing Characteristics		✓	✓	✓	✓	✓	✓
Year FE	✓						
Neighborhood - Year FE		✓	✓	✓			
Offender Area - Year FE					✓	✓	✓
Restricted to Offender Areas					✓	✓	✓
2 Years Pre- and Post-Arrival							
Standard Errors Clustered by...	<i>Neighborhood</i>	<i>Neighborhood</i>	<i>Neighborhood</i>	<i>Neighborhood</i>	<i>Offender Area</i>	<i>Offender Area</i>	<i>Offender Area</i>
Sample Size	164,993	164,968	169,557	169,557	9,086	9,086	1,519,364
R <sup>2</sup>	0.03	0.84	0.84	0.84	0.75	0.75	0.01

Note: Pre-arrival (post-arrival) refers to the two-year period before (after) the date upon which the offender registered their current address. Standard errors in parentheses. \* significant at 5% level; + significant at 10% level; † Probability sale is measured as percentage points, e.g., Probability of sale = 1 would be 100 percentage points.

Table 5: Falsification Tests on Impact of Sex Offender Location

	<i>Baseline Estimates</i>	<i>2 Year Prior Arrival Dates</i>	<i>3 Year Prior Arrival Dates</i>
		(1)	(2)
Within .1 Miles of Offender	<i>&lt;.001</i> (0.013)	-0.017 (0.016)	-0.013 (0.016)
Within .1 Miles * Post-Arrival	<i>-0.041</i> (0.020)*	0.018 (0.020)	-0.004 (0.020)
Within .25 Miles of Offender	<i>-0.010</i> (0.007)	-0.010 (0.007)	-0.012 (0.008)
Within .25 Miles * Post-Arrival	<i>0.010</i> (0.010)	-0.001 (0.007)	0.001 (0.008)
H <sub>0</sub> : Within .1 Miles*Post-Arrival = 0	<i>P-value =</i> 0.0442	<i>P-value =</i> 0.3669	<i>P-value =</i> 0.8577
Sample Size	169,557	169557	169557
R <sup>2</sup>	0.84	0.84	0.84

Note: The dependent variable is the log of house price. All regressions contain neighborhood-year fixed effects and housing characteristics (see text for list of characteristics included). Baseline results are taken from column (4) of table 4. Standard errors (in parentheses) are clustered by neighborhood.

Table 6: Estimated Victimization Costs from  
Department of Justice Study

Type of Crime	Cost (\$2004)
<i>Sexual Offenses</i>	
Rape and Sexual Assault	\$113,732
<i>Violent Crimes</i>	
Murder/Manslaughter	\$3,843,363
Assault	\$31,374
Robbery	\$10,458
Kidnapping	\$43,140
<i>Non-violent Crimes</i>	
Burglary	\$2,092
Larceny	\$523
Motor Vehicle Theft	\$5,229

Note: These cost estimates are taken from tables 2 and 4 in Miller et al. (1996). Their cost estimates are given in 1993 dollars. We adjust these for inflation using the 1993 and 2004 annual CPI for all urban consumers. Victimization costs for kidnapping are not listed in their study and we therefore set equal to the cost of assault with injury against a child under the age of 11.

Table 7: Estimated Victimization Cost of a Sexual Offense  
Using Housing Market Impact and Objective Data on Crimes Against Neighbors

Assumptions in Calculation	Estimated Victimization Cost
Baseline Assumptions	\$1,176,000
Lower Risk Aversion ( $\lambda=1$ )	\$2,031,100
Higher Risk Aversion ( $\lambda=3$ )	\$839,000
Fewer Neighbors (60)	\$1,016,100
More Neighbors (180)	\$1,259,000
Fewer Offenses by Neighbors (100% of NCVS)	\$2,353,000
More Offenses by Neighbors (300% of NCVS)	\$588,100
Systematic Overestimation of Risk: Housholds Neglect to Realize that Risk is Spread Among Neighbors	\$66,700

Note: Baseline assumptions are as follows: (1) utility function with constant absolute risk aversion equal to 2, (2) lifetime wealth equals \$1.575 million, (3) housing market discount equals \$4,750, (4) neighborhood risk is spread among 120 neighbors, (5) the fraction of crimes committed against neighbors is 200% of the reported rates in the NCVS.

Table A.1: Probability of Arrest After Release from Prison,  
by Type of Crime and Type of Criminal

Type Of Crime	Sexual Offenders		Other Criminals	
	3 Years	1 Year	3 Years	1 Year
<i>Sexual Offenses</i>				
Rape	2.1%	0.8%	0.5%	0.2%
Sexual Assault	4.0%	1.9%	0.7%	0.3%
<i>Violent Crimes</i>				
Murder	0.6%	0.3%	0.7%	0.3%
Manslaughter	0.1%	0.0%	0.2%	0.1%
Kidnapping	1.9%	1.1%	0.7%	0.3%
Robbery	4.3%	2.3%	6.2%	2.8%
Assault	14.1%	5.1%	13.5%	5.8%
<i>Non-violent Crimes</i>				
Burglary	7.1%	2.8%	9.9%	5.4%
Larceny	11.0%	4.3%	16.5%	9.0%
Motor Vehicle Theft	3.0%	1.1%	4.6%	2.3%

Note: Shown are the fraction of released prisoners arrested for various crimes of prisoners released in 1994 during the years after their release from prison. See the appendix for a description of this data set.



Table A.2: Crime/Arrest Ratios from Lee and McCrary (2005)

Type Of Crime	% of Crimes Reported to Police	% Reported Crimes that Lead to Arrest	Ratio of Crimes to Arrests
<i>Sexual Offenses</i>			
Rape	45.0%	54.0%	4.12
Sexual Assault*	"	"	4.12
<i>Violent Crimes</i>			
Murder	64.0%	77.0%	2.03
Manslaughter*	"	"	2.03
Robbery	26.0%	71.0%	5.42
Assault	57.0%	46.0%	3.81
Kidnapping*	"	"	3.81
<i>Non-violent Crimes</i>			
Burglary	13.0%	58.0%	13.26
Larceny	18.0%	33.0%	16.84
Motor Vehicle Theft	14.0%	86.0%	8.31

Note: These figures are taken from appendix table II of Lee and McCrary (2005) and are the results of their calculations using data from the National Crime Victimization Survey and Uniform Crime Reports for 2002. "\*" denotes that no information is on reporting and arrests was available for this crime and that it is assumed that reporting and arrests follow the same pattern as the preceding (similar) crime.

Table A.3: Percent of Crimes Committed by Neighbors

Type Of Crime	% of Crimes by Neighbors	% of Crimes by Neighbors or Strangers
<i>Sexual Offenses</i>		
Rape	3.7%	18.7%
Sexual Assault	6.9%	24.8%
<i>Violent Crimes</i>		
Murder/Manslaughter	0.7%	15.5%
Robbery	3.2%	53.4%
Assault	5.5%	31.7%
Kidnapping*	"	"
<i>Non-violent Crimes</i>		
Burglary	11.1%	46.1%
Larceny	5.1%	35.6%
Motor Vehicle Theft	3.0%	50.7%

Note: With the exception of Murder and Manslaughter, these figures are calculated using victims' reports of offenders' identities in the 1993-2004 Concatenated NCVS. Figures for Murder and Manslaughter are calculated using data from the 2003 Supplemental Homicide Reports. "\*" denotes that information was not available for this crime and it is assumed that offenses by neighbors follow the same pattern as the preceding (similar) crime.

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## The Impact of Residency Restrictions on Sex Offenders and Correctional Management Practices: A Literature Review

*By Marcus Nieto, Senior Research Specialist  
and  
Professor David Jung, Public Law Research  
Institute, Hastings Law School*

*Requested by Assembly Member Mark Leno  
Chair, Public Safety Committee*

AUGUST 2006

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## EXECUTIVE SUMMARY

Banishment: to expel from or relegate to a country or place by authoritative decree...to compel to depart. *Webster's Unabridged Dictionary. Second Edition*

Banishment was a form of legal punishment in Ancient Greece and Renaissance Italy and England. Colonial America received its share of banished English thieves and other offenders, as did Australia. During the American Revolution, the colonies banished English loyalists. More recently, the former Soviet Union restricted inmate's rights upon release from the Gulag to 101 kilometers from large urban centers, resulting in a number of rural settlements.

Today some communities in the United States banish sex offenders from living in their midst, resulting in a difficult dilemma: where can these offenders live, and where can they best be supervised and receive treatment, if available? This report describes local ordinances and state statutes restricting where a sex offender may reside, discusses what research has found so far about the success of these restrictions, considers the impact that these restrictions are having on criminal justice management practices and sex offender treatment regimens, and examines constitutional implications. According to California Penal Code § 288 (a) (b):

A sex offender is any person who willfully and lewdly commits any lewd or lascivious act, upon or with the body, or any part or member thereof, of a child who is under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child. A sex offender is any person who commits an act by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.<sup>1</sup>

Each year there are 60,000 to 70,000 arrests on charges of child sexual assault, according to the U.S. Justice Department, of which only about 115 are abductions by strangers. In addition, there are 15,000 to 20,000 arrests on charges of forcible rape. Most rape victims know their assailants: seven in ten female rape or sexual assault victims state the offender was an intimate, other relative, a friend or an acquaintance.<sup>2</sup>

Research on the effects of sexual assault on victims confirms that the consequences of this crime are often brutal and long lasting. Because most sexual assaults occur in the context of a relationship established and manipulated over time, the victim may be confused and made to feel responsible by the perpetrator. Experts on sexual abuse explain that this violation of a trusting relationship causes great confusion and nearly unbearable trauma to the victim.<sup>3</sup>

Sex acts against children include possessing, viewing, or manufacturing child pornography, juvenile solicitation, pimping of a minor, and luring a child over the Internet. But the violent child molester and rapist who commits lewd and lascivious acts against a child or adult, and who commits such acts by use of force, duress, or menace,



constitutes a unique class apart from other sex offenders and the larger class of felony offenders. These offenders are deemed "sexually violent predators" (SVP).

On average, recidivism rates for all types of sex offenders are lower than for other offenders. In California, for example, the parole revocation rate (within a two-year period after release) for all first time parolees convicted of non-sex offenses was 55 percent between 1996 and 2005, while the parole revocation rate for all categories of first time parolee sex offenders was 45 percent.<sup>4</sup> Rapists are likely to recidivate at a higher rate (18.9 percent) than are child molesters (12.7 percent), according to a meta-analysis of 79 studies.<sup>5</sup> Given the serious nature of sex offenses, and their life-long impact on victims, even a low re-offending rate may be too high.

The U.S. criminal justice system faces a difficult dilemma: how to best accomplish punishment and rehabilitation of an estimated 550,000 registered sex offenders while upholding public safety.<sup>6</sup> About 100,000 of those registered sex offenders are located in California. This challenge has motivated various state and local jurisdictions as well as the U.S. Congress to adopt a variety of inventive policies, some of which are controversial.<sup>7</sup>

### ***Registration***

The U.S. Congress enacted a sex offender registration law in 1994. The goals of the *Jacob Wetterling Act* were to increase public safety, deter sex offenders from committing future crimes, and provide law enforcement with additional investigative powers. A series of state laws followed that required communities to be notified of sex offenders living in their jurisdictions. However, at least 100,000 sex offenders (or about one-in-five) in the U.S. fail to comply with registration requirements and their location is unknown. There is some indication that sex offenders move to states that have the least restrictive registration and notification laws, in order to live in communities with relative anonymity.<sup>8</sup> As of April of 2006, there were 87,060 registered sex offenders in California who are in compliance with registration requirements, while 17,764 were not because they either moved or failed to report their whereabouts.<sup>9</sup>

### ***Community Notification***

The federal Megan's Law requires states to make private and personal information on registered sex offenders available to the public, but allows them the discretion to establish criteria for disclosure, such as which offenders are likely to re-offend and which ones are not. California's Megan's Law was enacted in 1996 and amended in 2005. The law requires the California Department of Justice to make specified information about high-risk and serious sex offenders available to the public on the Internet and to update that information on an ongoing basis.

### *Civil Commitment*

Between 1990 and 2002, a least 17 states enacted new civil commitment statutes for "sexually violent predators" (SVP).<sup>\*</sup> These statutes require that a SVP be confined and treated in a secure medical setting following completion of his criminal sentence. Civil commitment is different than a criminal sentence in that a criminal sentence has a definitive time frame. Civil commitment statutes generally continue indefinitely, or until it is determined that a person's behavioral abnormality has changed to the extent that the person is no longer likely to engage in a predatory act of sexual violence. To initiate the civil commitment procedure, the California Department of Correction and Rehabilitation (CDCR) and the Board of Prison Terms (BPT) conduct a review of each inmate's record during the six months before their parole release date to determine if the sexual offenses meet the legal definition. If the offender meets the legal definition he is referred to the Department of Mental Health (DMH) upon completion of his prison term to await the legal process for civil commitment.

### *Residency Restrictions*

Twenty-two states have enacted some form of residency restriction that prohibits sex offenders from living within a certain distance of schools, daycare centers, or places where children congregate. The least restrictive distance requirement is 500 feet, but distances from 1,000 to 2,500 feet are common.<sup>10</sup> In addition, hundreds of municipalities (in states with and without residency restriction statutes) have passed ordinances prohibiting convicted sex offenders from living in their communities within specified distances of schools, daycare centers, and other places where children congregate. Some communities have banned any registered sex offender from living in their environs, regardless of whether the victim lives there.<sup>11</sup>

In California, legislation that went into effect in 2006 (Chapter 463, Statutes of 2005) prohibits any offender on parole convicted of a certain sex offense involving a victim of 14 to 15 years of age from residing within quarter mile of any K-12 grade school. Any offender on parole convicted of a child-related sex offense, or whose victim was a dependent person, and is designated as high-risk, is prohibited from residing within a half mile of any K-12 grade school. Other legislation that went into effect in 2006 (Chapter 486, Statutes of 2005) prohibits a conditionally released sex offender from the Department of Mental Health with a history of child molestation, or an offender classified as a sexually violent predator (SVP), from living within a quarter mile of any K-12 school. New legislative and ballot initiative efforts are underway to restrict any registered sex offender from residing within 2,000 feet (about 2/5 of a mile) of any school, daycare facility, or place where children gather.

Some California cities have adopted and others are contemplating more severe local "banishment ordinances" for all sexual offenders in their jurisdictions. These local ordinances can impact the ability of sex offenders to find suitable housing, and it may

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<sup>\*</sup> The term SVP applies to offenders who have targeted strangers, have had multiple victims, or have committed especially violent offenses of a sexual nature.

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compel some to move, which would complicate the ability of parole and probation officials to track, monitor, and supervise the offenders. One concern is that local residency restrictions may force sex offenders to move from one community to the next, in a competitive spiral of tougher "not in my backyard" ordinances.<sup>12</sup> Unfortunately there is little research regarding the effectiveness of restricting the housing locations available to sex offenders, but the few studies available find they have no impact on re-offense rates.<sup>13</sup>

### ***Risk Assessment, Treatment and Supervision***

Pedophiles that molest boys and rapists of adult women are among those most likely to recidivate, according to research.<sup>14</sup> There is also substantial evidence that sex offenders commit many undetected offenses, so a thorough assessment, including polygraph examinations and other types of psychological assessments, is useful in determining offense patterns and risk factors.<sup>15</sup> Some sex offenders have a reasonable chance of recovery given long-term therapeutic support and supervision. For others, such as predatory offenders who prefer children, long-term direct supervision is critical. Both long-term risk assessment and treatment regimes are important.

Intervention strategies that combine therapeutic treatment, risk assessment, specialized supervision, and global positioning system (GPS) monitoring have some effect on reducing sex offender offenses and recidivism rates. States such as Colorado and Minnesota that have institutionalized this strategy have shown good results. The California Department of Corrections and Rehabilitation (CDCR) does not provide relapse prevention treatment or specialized treatment to sex offenders while they are in prison, and does not undertake an assessment to determine a parole's future risk in the community. In addition, it does not conduct pre-release planning relative to housing and employment. CDCR does notify the victims of a sex offender's impending release to the community, but does not provide notification to the community at-large.

The CDCR is charged with managing sex offenders in the community, especially high-risk offenders who are deemed likely to commit a new sex crime or other violent acts. However, the CDCR has only enough specially trained parole agents to supervise 2,000 high-risk sex offenders on parole. These high-risk paroled offenders are electronically monitored, but only a select few receive community-based therapeutic treatment. All other sex offenders on parole are supervised in regular parole caseloads, and are not electronically monitored.

At least six states have enacted laws requiring lifetime electronic monitoring for sex offenders, even if their sentences have expired. At least 23 states use GPS to monitor paroled sex offenders. In California, GPS pilot projects are underway in Los Angeles, Orange, and San Diego counties to monitor over 400 high-risk paroled sex offenders. Some California county probation departments are also using GPS to monitor high-risk probationers. The cost to use GPS devices vary from state-to-state but average about \$10 per day per offender.

If the California ballot initiative (Jessica's Law) is passed it would require GPS monitoring devices to be used on all paroled sex offenders. According to CDCR data, there are about 9,560 sex offenders currently on parole including 3,160 whose current commitment offense is not sexually related. Based on cost estimates developed by CDCR, we estimate that it would cost the state approximately \$88.4 million per year to monitor and supervise sex offenders using GPS.

### *Constitutional Implications*

Many of the sex offender residency restriction statutes and ordinances are recent and their constitutionality has not yet been established. In the last chapter of this report, we discuss the legal issues involved.

## I. INTRODUCTION

Megan, Jacob, Samantha, and Polly are the names of missing and murdered children memorialized in news accounts and legislation. The disturbing circumstances surrounding their deaths as victims of sex offenders have provoked anger and fear.<sup>16</sup> In response, some states have instituted new laws intended to prevent sex offender recidivism by lengthening sentences, increasing post-release supervision, and restricting where offenders may live after completion of their sentences, and enhancing community notification.

The first national and state laws to contain sex offenders required the creation of sex offender registries, which are designed to help law enforcement keep track of an offender's whereabouts.<sup>17</sup> California was the first state in the nation to enact a sex offender registration law in 1947. California law enforcement officials began keeping track of registered sex offenders in 1950 through fingerprints and photos. Many other states did not enact sex offender registration laws until the enactment of the federal *Jacob Wetterling Crimes Against Children Act of 1994*.

The federal *Jacob Wetterling Act* provides funding to states that enact and implement a community notification law for sex offender registrants, and gives them the discretion to release relevant information to the public about convicted sex offenders who pose a risk to public safety.<sup>18</sup> States must release information about the locations of sex offenders, but are not required to actively notify the public.

Some states are more active than others in releasing information about sex offenders and notifying the public. Some require correctional officials to send letters to local police agencies when an offender moves into a community. For certain offenders, schools and youth groups are also notified. With the most serious offenders, in some states officers go door-to-door to notify people in a neighborhood. In other states, a sex offender might move into a neighborhood without the people who live there being actively notified.<sup>19</sup>

In 1996, federal and state laws were strengthened by a more prescriptive community notification law ("Megan's Law"), which requires law enforcement to inform residents of the identity and location of sex offenders in their neighborhoods.<sup>20</sup> Megan's Law is named after seven-year-old Megan Kanka, a New Jersey girl who was raped and killed by a known child molester who had moved across the street from the family without their knowledge. In the wake of the tragedy, the Kankas' sought to have local communities warned about sex offenders in the area. All states now have some form of Megan's Law. While the definition of a high-risk sex offender varies from state-to-state, most definitions include persons with prior sex crime convictions, or other-related criminal convictions, and who have refused or failed to complete approved treatment programs.

California's Megan's Law was enacted in 1996 and amended in 2005. The law requires the California Department of Justice to make specified information about high-risk and serious sex offenders available to the public via the Internet and to update that information on an ongoing basis. Californians have Internet access to sex offender names

and aliases, addresses, information on physical appearance, registered sex offenses, location, addresses, and in some cases, pictures of these high-risk sex offenders (<http://meaganslaw.ca.gov/search.asp>).

Local law enforcement agencies are required to notify the public about sex offender registrants who pose a risk to the public. The California Department of Justice categorizes offenders as high-risk when their criminal history meets the statutory definition, which includes offenders who have committed at least two violent offenses, at least one of which was a violent sex offense. A statutory definition of "high-risk" offender is contained in California Penal Code Section 290.45.\*

Considerable variation exists among states, and even within some states, as to how Megan's Law is implemented. For example, the federal Megan's Law requires law enforcement officers to make information available in a neighborhood if a sexual predator moves into the area. However, it does not mandate the direct notification of close neighbors. Information about a sex offender's presence in the neighborhood (including address and picture in some cases) may be made available on the Internet or through other forms of communication, but not necessarily by person-to-person contact or by mail.

All states require convicted sex offenders, especially convicted child sex offenders, to register with the police. They must report when they leave prison, where they live, or if they become convicted of another crime. In most places sex offenders are subject to an exit-ban, meaning that they may not travel or leave a certain place at a certain time. Most often the offender cannot leave his/her hometown without permission from a probation or parole officer, although the exact provisions vary. The purpose of sex offender registration requirements and restrictions on the movement of sex offenders is to protect children by increasing community awareness. Policy makers and advocates who support this intervention hope that community awareness will assist in preventing future sex offenses.

A 2000 Iowa study of the impact of the sex offender registry on recidivism found a slight decrease in violations after the registry was established. For example, over a 4.3-year period, sex-offense recidivism was three percent for the registry sample (offenders listed in the state registry) and three and a half percent for the pre-registry sample. Nearly 21 percent of the new convictions for both the registry parole group and the pre-registry parole group occurred out of state.<sup>21</sup>

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\* Sex offenders are considered as "high-risk" in California when they have been convicted of an offense specified in Penal Code Section 290.4 (1) (a) and any one of the following criteria: conviction of either three or more violent sex offenses, at least two of which were tried separately; two violent sex offenses and one or more violent non-sex offenses, at least two of which were tried separately; one violent sex offense and two or more violent non-sex offenses, at least two of which were tried separately; either two violent sex offenses or one violent sex offense and one violent non-sex offense, at least two of which were tried separately; or been adjudicated a sexually violent predator pursuant to Welfare and Institution Code Section 6600. In addition, the sex offender must have been involved in specified criminal activity within the five years prior to the high-risk assessment, not including time in custody.

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Some state law enforcement agencies are very active in enforcing sex offender registration laws. For example, earlier this year Michigan law enforcement officers arrested 405 people during a 14-day sweep for violation of Michigan's sex offender registry law. The effort resulted in 585 additional arrest warrant requests for sex offenders who had failed to register after moving. Officers targeted felony offenders who had failed to change or verify their addresses for the sex offender registry by an April 15 deadline. The state's *Sex Offenders Registration Act* requires that individuals convicted of a sex offense felony verify their addresses at a local law enforcement agency four times a year. For lesser sexual offenses, the requirement is to register once a year. Offenders on the registry who move are required to report their new addresses within ten days. Penalties for not complying range from a 93-day misdemeanor to a four-year felony incarceration.<sup>22</sup>

The Illinois Sex Offender Registry Team, composed of law enforcement personnel from three levels of government, recently participated in a sex offender registry sweep in the city of East St. Louis. Of the 72 sex offenders targeted, 44 were in compliance, two were in jail, one was in the hospital, and 22 were arrested for non-compliance. According to police officials, the arrests reduced the number of sex offenders living in the city.<sup>23</sup> On the other hand, in a sweep of 81 addresses given by sex offenders in Chicago, law enforcement personnel found over 75 percent of the addresses given were places the offenders did not live or were abandoned buildings. According to the Illinois Prison Review Board, these findings raise questions about how many sex offenders are going underground to avoid monitoring, and/or the difficulty they have in finding housing.<sup>24</sup>

In several California counties, local and state law enforcement agencies teams are collaborating to undertake Internet sting operations, and to conduct surveillance of registered sex offenders, to ensure that they are complying with registration and parole requirements.<sup>25</sup> Sting operations require team members to monitor Internet websites such as "myspace.com" for any chat room activity that might involve a sex offender. Team members get involved in the chat room discussion, identify the email address of the suspected responder, and begin the sting phase of the operation.

Registration may not be as effective as it might be. John Q. LaFond, editor of *Protecting Society from Sexually Dangerous Offenders: Law, Justice, and Therapy*, notes that in Florida, nearly half of the state's released sex offenders are not on parole or probation, about a quarter (over 7,000) have run away or can not be found, and only a third are actually registered to live in Florida. "As a result, you have an excessively long list that does not generate enough accurate information to make registration useful to anyone."<sup>26</sup>

The federal government does not keep data on how states implement Megan's Law, nor does it evaluate their compliance efforts. For example, while the federal government mandates that all 50 states develop and maintain Internet websites containing sex offender registration information, there is very little data available on the effectiveness of these state efforts.<sup>27</sup> In contrast, most federally funded criminal justice projects are required to measure outcomes in order to evaluate and demonstrate program

effectiveness. Indicators of success usually involve reduction in recidivism rates, completion of treatment, gainful employment, etc.

Washington State, which enacted a sex offender notification law in 1990, is the only state to have researched the efficacy of its notification law. The state found no reduction in sex crimes against children. However, the evaluation found a benefit in the increased level of community education about sex crimes, the various types of sex offenders, and the degree of risk they pose.<sup>28</sup>

Some states have legal requirements that can prevent communities from being notified in a timely manner when a high-risk sex offender is released in their neighborhood. A state audit in Massachusetts, for example, found that about 40 percent of sex offenders released to the community had requested a court hearing to reduce their risk level classification. This resulted in a backlog of hearings due to limited hearing sites and lawyers, and budget constraints at the Sex Offender Registry Board. The most dangerous offenders, those classified as Level III, could not be posted on the state's sex offender Internet website until the hearing process was complete.<sup>29</sup>

In Arkansas, a sex offender who is released into the community must undergo a state evaluation to determine his risk of re-offending. The state agency responsible for this evaluation has a large backup of pending evaluations. Until this process is complete, the community where the sex offender lives cannot be notified of his presence. The state has a backlog of 1,500 paroled sex offenders living in the community without notification pending their evaluations.<sup>30</sup>

Recently a non-profit New York-based group of parents issued a nationwide report card (*Megan's Law Report Card*) comparing sex offender registries and community notification programs of all 50 states.<sup>31</sup> Survey questions ranged from the availability of phone access to sex offender databases to whether law enforcement agencies engage in door-to-door notification about high-risk offenders. California earned points for having a lifetime registration requirement for SVP offenders (sexually violent predators), but lost points for not providing free telephone access to the sex-offender registry, and for not having a uniform policy requiring police officers to directly notify the public about high-risk sex offenders in a neighborhood (See Table 1).

The survey found that methods vary from state-to-state regarding how police notify residents of high-risk sex offenders moving into a neighborhood. California communities have Internet access to information about these high-risk sex offenders and most of the state's 100,000 registered sex offenders. Some law enforcement agencies post fliers in police station lobbies, and others notify people door-to-door. There is no uniform state policy requiring law enforcement officers to directly notify the public.<sup>32</sup>

<b>Table 1</b> <b>2006 Megan's Law Report Card</b>					
State	2005 Number of Registered Sex Offenders	2006 Number of Registered Offenders	Civil Commitment For SVP	Lifetime Registration Required	Minimum/Max to Life Sentence for Sex Offenses
Alabama	5,616	5,193	No	Yes	10-15 years
Alaska	2,873	4,219	No	No	15 to life
Arizona	9,221	11,305	Yes	Yes	10-15 years
Arkansas	5,864	6,426	No	No	25 to life
California	102,180***	104,824***	Yes	No	No
Colorado	8,381	9,125	No	No	10-15-20 to life
Connecticut	3,785	4,106	No	No	10 to life
District of Columbia	624	641	No	No	10 to life
Delaware	2,961	2,984	No	No	15 to life
Florida	33,990	35,910	Yes	Yes	No
Georgia	8,958	11,744	No	No	10 to life
Hawaii	1,957	2,170	No	Yes	No
Idaho	2,606	2,801	No	Yes	No
Illinois	17,100	17,890	Yes	No	10 to life
Indiana	7,300	8,500	No	No	10-to life
Iowa	6,104	6,058	Yes	No	10 to life
Kansas	3,563	3,981	Yes	No	10 to life
Kentucky	4,898	5,351	No	No	10 to life
Louisiana	6,591	6,921	No	No	10 to life
Maine	1,553	1,670	No	No	10 to life
Maryland	4,253	4,340	No	No	10 to life
Massachusetts	18,000	8,104	Yes	No	20 to life
Michigan	36,233	38,032	No	No	10-25 to life
Minnesota	15,819	13,885	Yes	No	10 to life
Mississippi	3,300	3,689	No	No	10 to life
Missouri	10,719	11,031	Yes	Yes	No
Montana	3,370	1,495	No	Yes	No
Nebraska	2,041	2,189	No	No	10 to life
Nevada	4,734	5,573	No	Yes	No
New Hampshire	3,100	3,250	No	No	10 to life
New Jersey	10,464	11,003	Yes	No	15 to life
New Mexico	1,864	1,915	No	No	10-20 to life
New York	20,969	22,209	Yes*	No	20 to life
North Carolina	10,244	9,228	No	No	10 to life
North Dakota	801	946	Yes	No	10 to life
Ohio	13,485	13,750	No	No	10 to life
Oklahoma	5,507	5,118	Yes	No	10 to life
Oregon	15,259	17,160	No	Yes	No
Pennsylvania	7,199	7,736	No	No	10 to life
Rhode Island	1,640	1,352	No	No	10 to life
South Carolina	8,049	8,556	Yes	Yes	No
South Dakota	1,707	1,993	No	Yes	No
Tennessee	7,873	8,561	No	No	10 to life
Texas	46,484	44,336	Yes**	No	10 to life
Utah	8,000	6,904	No	No	10 to life
Vermont	2,226	2,340	No	No	10 to life

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Table 1 (Continued) 2006 Megan's Law Report Card					
State	2005 Number of Registered Sex Offenders	2006 Number of Registered Offenders	Civil Commitment For SVP	Lifetime Registration Required	Minimum/Max to Life Sentence for Sex Offenses
Virginia	13,211	12,152	Yes	No	10 to life
Washington	18,557	18,790	Yes	No	10 to 15 to 25 to life
West Virginia	2,220	2,500	No	No	10 to life
Wisconsin	17,169	17,887	Yes	No	15 to life
Wyoming	929	981	No	No	10 to life
<b>Total</b>	<b>551,987</b>	<b>558,824</b>	<b>Yes 18 No 33</b>	<b>Yes 11 No 40</b>	<b>12 No life 39 10 years to life</b>
Source: Parents for Megan's Law, 2006. * Pending legislative approval. ** Outpatient only. *** Includes offenders who were in the community, incarcerated, from out-of-state, and deported.					

In 2005, states began to take more stringent approaches in a effort to protect the community from sexual predators, following a high profile case involving a paroled sex offender who murdered a girl in Florida. The *Jessica Lunsford Act*, better known as Jessica's Law, was enacted in Florida in 2005 and is now being replicated in some other states. Among the law's key provisions are a mandatory minimum sentence of 25 years in prison, and lifetime monitoring of adults convicted of sexual battery of a minor under the age of 13. A version of Jessica's Law has been introduced in Congress (*H.R. 4472*) and in California. The federal law, if passed, would reduce the amount of funding available under the Violent Crime Control and Law Enforcement Act of 1994 (*42 U.S.C. § 4071*) and the Omnibus Crime Control and Safe Streets Act of 1968 (*42 U.S.C. § 3765*) for states that do not comply with the following:

- Require sex offenders convicted more than twice of failing to properly register to wear global positioning system (GPS) devices on their ankles for five years following their release from prison, or ten years for those deemed sexual predators; the costs of tracking and monitoring to be absorbed by each state.
- Mail sex offender registration forms at least twice per year, at random times, to verify sex offenders' addresses. Any registered sex offender who does not respond within ten days must be considered non-compliant.

Proposals to increase punishment for sex offenders are being considered in several state legislatures. Oklahoma and South Carolina recently enacted laws that apply the death penalty to repeat child molesters. The Oklahoma law provides that people found guilty more than once of rape and other sex crimes against children younger than 14 are eligible for the death penalty. The South Carolina law requires multiple crimes against children under the age of 11 for the death penalty.<sup>33</sup> Georgia enacted a law that requires a minimum sentence of 30 years for child-related sex crimes and GPS monitoring for sexual predators.<sup>34</sup> Missouri has enacted a law that requires a minimum sentence of 30

years with no chance of parole for sexual predators whose victims are younger than 12. Other proposals under consideration include:

- In Florida and Louisiana, lawmakers are proposing that a special mark be placed on a sex offender's driver's licenses.
- In North Carolina, the attorney general has proposed that residents receive e-mail notifications when a sex offender moves within a mile of their home.<sup>35</sup>
- Lawmakers in Arkansas, Virginia, West Virginia, and Maryland have set a mandatory minimum 25-year sentence for certain violent sex offenses against children. Maryland is also considering legislation to impose lifetime supervision and GPS electronic monitoring for all sex offenders.<sup>36</sup>
- Louisiana is considering a bill that would require lifelong electronic monitoring of sex offenders convicted of targeting children.
- In Kentucky, lawmakers have expanded the sex offender registry to include people convicted of possessing child pornography. The minimum time offenders are listed on the registry will double to 20 years under one proposal.
- Nebraska and New York are considering legislation restricting where a sex offender can live.



## II. STATE SEX OFFENDER RESIDENCY RESTRICTION LAWS

The first state sex offender residency restriction laws appeared in 2001, and at least 21 states now have enacted them. State sex offender restrictions tend to fall into one of two categories: Child Safety Zone or Distance Marker. Child safety zones involve identifying areas where children congregate, such as schools, childcare centers, playgrounds, school bus stops, video arcades and amusement parks, and imposing a distance requirement, typically 300 feet, in which a sex offender may not loiter. Distance Marker legislation is the more common restriction. Distance Marker laws restrict sex offenders from permanently residing within a certain distance of designated places where children congregate. This restriction typically ranges from 1,000 to 2,500 feet.<sup>37</sup>

In 2002, the Iowa legislature enacted a distance marker law prohibiting all people convicted of a sex crime from living within 2,000 feet of a school, daycare center or park. Many municipalities in the state passed local ordinances with similar prohibitions. The Iowa residency restriction law was challenged in a class-action suit by the American Civil Liberties Union (ACLU), which was granted a temporary restraining order by the U.S. District Court. In 2005, the Eighth Circuit Court of Appeals upheld the Iowa statute in *Doe v. Miller*.<sup>†</sup> A federal district court later upheld Ohio's Distance Marker legislation.<sup>38</sup> In both cases, the courts unanimously concluded that residency restrictions are a form of civil regulation, not a form of punishment, because the statutes are intended to protect children and are rationally related to that goal.

In addition, the Eighth U.S. Circuit Court found in *Doe v. Miller* that the federal constitution does not include a "right to live where you choose." While the federal constitution does protect the right to travel from state to state—and perhaps includes the right to travel within a state—Distance Marker—residency restrictions do not interfere with the right to travel. They do not discriminate between state residents and those from out-of-state, and they restrict only the ability to reside near a school, not the ability to enter the area near a school. Finally, the court concluded that residency restrictions do not offend the equal protection clause. They represent a rational legislative determination that excluding sex offenders from areas where children congregate will advance the state's interest in protecting children (See page 43 for a more detailed discussion of the underlying legal issues).<sup>39</sup>

To date, there have been no reported court decisions affecting Child Safety Zone legislation. Two federal courts have upheld city actions to ban individual sex offenders from public parks.<sup>40</sup>

In California, legislation was introduced in 2006 (*AB 2603*) to allow an apartment or motel owner to ask a prospective tenant if he or she is a registered sex offender, and to deny rental on that basis. The proposal also would allow landlords to evict tenants for misrepresentation.

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<sup>†</sup> *Doe v. Miller*, No. 04-1568, U.S. Eighth Circuit Court of Appeals, April 29, 2005



Some state laws and local ordinances address the problem of large numbers of paroled sex offenders living in the same residential dwelling, in what are called "sober-living-environment facilities." These laws and local ordinances seek to limit the number of offenders who can live in a single facility, and generally require a conditional use permit if more than one offender will be living in a residence. (See Pomona, California *Municipal Code Chapter 50* and Pomona, California *Zoning Code*) The California Penal Code (*Sec. 3003.5*) prohibits more than one paroled registered sex offender from living in any single family dwelling unless legally related by blood, marriage or adoption. This statute provides an exception when the sex offenders are living in a residential facility serving six or fewer people.

Some city and state laws contain exceptions to residency restrictions, for example if

- The sex offender had established a permanent residence (through deed or title) prior to the legislation being enacted.
- The sex offender was a minor when the offense was committed.
- The sex offender is currently a minor.
- The sex offender is required to live in the residence as a condition of parole.<sup>41</sup>

Alabama recently broadened its sex offender residency restriction law by enhancing residence and employment reporting requirements, increasing the punishment for violating those requirements, limiting the places that convicted sex offenders may live and work, and creating an electronic monitoring system for certain offenders.<sup>42</sup>

Georgia has widened its sex offender residency restriction law to include living, working or loitering within 1,000 feet of places where children gather including schools, churches, parks, gyms, swimming pools, or any of the state's school bus stops.<sup>43</sup> However, the U.S. District Court stopped the forcible relocation of eight registered sex offenders living in Georgia from being required to move 1,000 feet from a school bus stop, a key provision of the new law that recently took effect.<sup>44</sup>

Ohio has expanded what is deemed to be a residence within the meaning of a residency restriction to include "premises in a nursing home, adult care facility, residential group home, homeless shelter, hotel, motel, boarding house, or facility operated by an independent housing agency that is located within 1,000 feet of any school premises."<sup>45</sup>

In Florida, residence restrictions apply only to sex offenders who were sentenced after October 1, 1997, for crimes involving victims younger than the age of 18 (*Special Conditions of Sex Offender Probation*, 1997). However, the conditions of probationary supervision in Florida preclude sex offenders with minor victims from living within 1,000 feet of a school, school bus stop, daycare center, park, playground, or other place where children regularly congregate.

Several states, including Arkansas, Minnesota, and Washington, place residency restrictions on sexually violent predators and offenders who are high-risk.

<p align="center"><b>Table 2</b> <b>States With Sex Offender Residency Restriction Laws</b></p>		
<b>State</b>	<b>Revised Code and Date</b>	<b>Type of Restriction</b>
Alabama	[Ala. Code] § 15-20-26[a] ([Supp 2004.])	A sex offender may not reside or work within 2,000 feet of schools or childcare facilities.
Arkansas	[Ark. Code Ann.] § 5-14-128[(a)] ([Michie Supp.] 2003)	A level 3 or 4 (most serious) sex offender cannot live within 2,000 feet of schools or daycare centers.
California	W&I Code § 6608.5 (f) (2005) Penal Code § 3003 (g) (1) (3) (2005). Parole placement prohibition.	A sexually violent predator and a serious paroled sex offender cannot live within one-fourth of a mile of a school, and high-risk paroled sex offenders cannot reside within one-half mile of a school, daycare center, or where children congregate.
Florida	[Fla. Statute Ann.] § 947. 1405 (7)(a)(2) (2005)	A sex offender whose victim is under 18 years old cannot live within 1,000 feet of school or where children congregate.
Georgia	[Ga. Code Ann.] § 42-1-13 (2003) § 42-1-15 (2006)	No sex offender may reside, work, or loiter within 1,000 feet of any school, childcare facility, school bus stop, or where minors congregate.
Illinois	[Ill. Comp. Stat. Ann.] § 5/11-9.3 (b-5) (2002)	A child sex offender may not reside within 500 feet of a school or school property.
Iowa	[Iowa Code Supp.] § Sec. 692[(A)(2A)] (2005)	A sexual offender may not reside within 2,000 feet of a school or childcare facility.
Kentucky	[Ky. Rev. Stat. Ann.] § 17.495 ([Michie 2004 & Supp. 2006])	A sex offender may not reside within 1,000 feet of a school, childcare facility, ball fields, and playgrounds.
Indiana	[Indiana Code Supp.] § 11-13-3-4 (g) (2) (A) (July 2006)	A violent sex offender cannot reside within 1,000 feet of any school property for duration of parole.
Louisiana	[La. Rev. Stat. Ann.] § 14:91.1 and § 15.538 [(West 2004 & 2005)]	A sexually violent predator and serious paroled sex offender may not reside within 1,000 feet of schools or related school activities including school buses for life or duration of parole or probation.
Missouri	[Mo Rev. Stat.] § 589.417 (2005)	A sex offender may not reside within 1,000 feet of a school or childcare facility.
Minnesota	[Minn. Statutes] Chapter 244.052 et. al. (2005)	The Parole Commissioner determines if and where a level III sex offender may reside within 1,500 feet of school zones.
New Mexico	[N.M. Rev. Stat.] § 29-11A-5.1 (2005)	Schools within a one-mile radius of registered sex offender must be notified of his presence.
Michigan	[MCL 28.721 to 28.732] § 33 (f) (2006)	A sex offender cannot reside within 1,000 feet of school safety zone.
Ohio	[Ohio Rev. Code Ann.] § 2950.031[(A)] ([Anderson] 2003) (2006)	A sex offender cannot reside within 1,000 feet of any school, child-care facility, or where children gather.
Oklahoma	[Okla. Stat. Ann. Tit. 57,] § 590 ([West 2004 & 2005])	It is unlawful for registered sex offender to reside within a 2,000 feet radius of a school.
Oregon	[Or. Rev. Stat.] § 144.642 [(1)(a)], 144.64[4(2)(a)] (Supp 2004 & 2005)	The Department of Correction decides where and how close a sex offender can live to a school or daycare center based on a decision matrix.
South Dakota	[SD Rev. Code Ann.] § 22-24B (2006)	A sex offender cannot reside or loiter within 500 feet of community safety zones.
Tennessee	[Tenn. Code Ann.] § 40-39-2[11] [(a)-(b)] (2003)	A sex offender cannot reside within 1,000 feet of schools, childcare facilities, or the victim.
Texas	[Texas Govt. Code] Chapter 508.187 (b) (2001)	The state Parole Board decides where and how close a paroled sex offender can live or go near to a child safety zone.
Washington	[Rev. Code. Wash.] § 9.94A.712(6)(a)(ii) § 9.95.425-430 (2006)	A sex offender convicted of a serious offense with a high-risk assessment (Levels II or III) cannot reside within a community protection zone (within 880 feet of any school or daycare center)
West Virginia	[Code of W.V. 1931] Art. 12 § 62-12-26 (b) (1) (2006)	A paroled sex offender cannot reside within 1,000 feet of a school or childcare facility.
Source: California Research Bureau/ California State Library, 2006.		

Oregon's sex offender residency restriction law is somewhat unique in that there is a set of requirements to be followed prior to the release of a sex offender to parole. The Oregon Department of Corrections has developed a matrix of rules in consultation with the State Board of Parole and Post-Prison Supervision and community corrections agencies to determine where a paroled sex offender may live.

- A general prohibition against allowing a sex offender to reside near locations where children are the primary occupants or users.
- A prohibition against allowing a sex offender to reside in any dwelling in which another sex offender on probation, parole or post-prison supervision resides unless authorized as provided in *ORS 144.102 (3)(b)(M)*,
- A process that allows affected communities and community correctional agencies to be informed of the decision making process about a sex offender's residence before the offender is released.

## EVALUATION OF RESIDENCY RESTRICTIONS

Advocates believe that residency restrictions diminish the likelihood that sex offenders will come in contact with children whom they might victimize. However, there is little research-based evidence that residency restrictions actually reduce recidivistic sexual violence.<sup>46</sup> Some research suggests that residency restrictions may lead to serious unintended collateral consequences for offenders, such as limiting their opportunities for employment, treatment services, pro-social support systems, and most importantly, housing.<sup>47</sup>

Some states have expressed doubts about the laws' effectiveness. Minnesota and Colorado considered passing residency restriction laws, but decided against it after commissioning studies. Colorado researchers found that molesters who re-offended while under supervision did not live closer than non-recidivists to schools or child-care centers. They also found that placing restrictions on the location of supervised sex offender's residences did not deter the sex offender from re-offending and was not effective in controlling sexual offending recidivism.<sup>48</sup> Most importantly, the research found that sex offenders who had a positive support system in their lives had significantly lower recidivism rates and fewer rule violations than offenders who had negative or no support.<sup>49</sup>

According to a Minnesota Department of Corrections report, residency restrictions create a shortage of housing options for sex offenders and force them to move to rural areas where they are likely to become increasingly isolated with few employment opportunities, a lack of social support, and limited availability of social services and mental health treatment. Such restrictions can lead to homelessness and transience, which interfere with effective tracking, monitoring, and close probationary supervision.<sup>50</sup>

To alleviate housing problems for sex offenders transitioning from prison to the community in Minnesota, the Department of Corrections is increasing the number and capacity of halfway houses and establishing "three-quarter way houses." Three-quarter

way houses provide affordable housing and a positive community within the house. There is no staff on the premise, but some degree on monitoring by supervising agents takes place. These facilities allow for increased community supervision by parole agents, law enforcement, and the public. According to Minnesota Department of Corrections officials, there is no evidence that concentrating level three offenders in these facilities increases the likelihood of re-offense within the community.<sup>51</sup>

The most serious of sex offenders (13 level-III offenders) who were released in Minnesota between 1997 and 1999, and were re-arrested for committing new sex offenses, did not reside at the time of their arrests within 2,500 feet of schools or parks.<sup>52</sup> The study did not provide re-arrest information for the less serious sex offenders.

In Florida, a 2004 survey of sex offenders found that half of the respondents reported that residency restrictions had forced them to move from a residence in which they were living, and 25 percent were unable to return to their residence after their conviction (see Table 3 below). Nearly half reported that residence restrictions prevented them from living with supportive family members. The surveyed sex offenders did not perceive residency restrictions as helpful in risk management, and in fact reported that such restrictions inadvertently increased their psychosocial stress, which can lead to recidivism.<sup>53</sup> At that time, housing restrictions in Florida were enforced by special conditions of sex offender probation with a restriction zone of 1,000 feet. It is likely that hardships related to housing increase with larger exclusionary zones.

<p><b>Table 3</b>  <b>Impact of Residency Restrictions (1,000 feet) in Florida</b>  <b>(N=135), 2004</b></p>	
Item	Yes
I have had to move out of a home that I owned.	22%
When released from prison, I was unable to return to my home.	25%
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%
Source: Jill S. Levenson, 2005.	

An Arkansas study found that 48 percent of child molesters lived in close proximity to schools, daycare centers, or parks. However, the authors could not establish an empirical relationship between sex offender housing and recidivism. They speculate that molesters who are motivated to re offend might be more likely to live in close access to potential child victims.<sup>54</sup>

A 2001 risk-assessment study by Virginia's Criminal Sentencing Commission found employment to be a major factor affecting whether paroled sex offenders relapse and re-offend. The study of 579 paroled sex offenders over a five year-period found that an

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offender's record of employment for the previous two years was correlated with the likelihood of recidivism. Sex offenders who had been unemployed or not regularly employed (i.e., employed with a full-time job at least 75 percent of the time) were found to recidivate at higher rates than sex offenders who experienced stable employment.<sup>55</sup>

Research in Colorado suggests that sex offenders with positive, informed support (stable housing and social support) have significantly lower criminal and technical violations than sex offenders who had negative or no support (such as friend, family, or roommate who negatively influence the offender or refuse to cooperate with the authorities).<sup>56</sup>

A U.S. Department of Justice Bureau of Statistics study that tracked 9,700 released sex offenders for three years after release found a re-arrest rate for another sex crime of 5.3 percent, and a 3.3 percent re-arrest rate for sex crimes against a child. The study found a general re-arrest rate for all released offenders of 68 percent, compared to a re-arrest rate for all sex offenders of 43 percent.<sup>57</sup> Another U.S. Department of Justice Bureau of Statistics study found that the risk of an individual committing a new sex crime is greater among people who have previously committed a sex crime; a sex offender is about four times more likely than a non-sex offender to be arrested for another sex crime.<sup>58</sup>

A 1998 study of 400 paroled sex offenders drawing from data over a five-year period found a significant attitudinal difference between recidivists and non-recidivists. Recidivists saw themselves as being at little risk for committing new offenses, were less likely to avoid high-risk situations, and were more likely to report (in a polygraph) engaging in deviant sexual behavior.<sup>59</sup>

In general, people do not want to live near a sex offender. A study conducted in May 2006 by the National Bureau of Economic Research found that when a sex offender moves into a neighborhood, values of homes within a tenth of a mile drop an average of four percent.<sup>60</sup>



### III. LOCAL ORDINANCES RESTRICTING SEX OFFENDER RESIDENCY

Even though the vast majority of child victims know their abusers, the headline-grabbing cases often involve strangers.<sup>61</sup> Since the abduction and murder of Jessica Lunsford in 2005, there has been a dramatic increase in the number of local ordinances and regulations creating "sex offender free" communities and buffer zones that exclude registered sex offenders. These ordinances are designed to promote community safety by limiting the housing options available to sex offenders.

In California, Texas, Florida, Virginia, Georgia, New York, Iowa, Washington, Nebraska, and Kansas, local officials are limiting where sex offenders can live. Researchers estimate that over 400 municipalities have enacted restrictive ordinances. For example, New Jersey does not have a statewide residency rule but at least 113 municipalities in the state have local residency restrictions.<sup>62</sup>

- "I think all the towns will get involved, and it'll be one-upmanship, and then the courts will probably get involved," said Joseph C. Scarpelli, the mayor of Brick, N.J., which enacted an ordinance in 2005 that bars sex offenders from living or working within 2,500 feet of a school, park, playground, daycare center, or school bus stop.
- A local elected official from Iowa said, "If we can get these people out of our community, it's not that these crimes won't happen... It's just that they won't happen in my community."<sup>63</sup>

In Lincoln, Nebraska, the mayor is concerned that if the city does not act, it could bring a migration of sex offenders who have been affected by the laws in other communities.<sup>64</sup> City officials also contend that local law enforcement personnel are needed to participate in the enforcement of the sex offender laws that would otherwise be the responsibility of state parole or probation personnel.<sup>65</sup>

Some city ordinances are more restrictive than others. In Florida, where more than 60 municipalities have residency restriction ordinances, the restricted areas now include parks, playgrounds, churches, libraries, bus stops or any other place where minors normally congregate.<sup>66</sup> The township of Jackson, New Jersey, toughened its prohibition recently, restricting sex offenders from living within 2,500 feet, of any park or playground, movie theater or amusement park. (Jackson is home to the Six Flags Great Adventure Park.) The New Jersey township of Middletown bans sex offenders from residing within 1,000 feet of public schools, parks, and daycare centers, and creates a 150 feet exclusion zone around places where children normally congregate.<sup>67</sup> In Snellville, Georgia, a state with a statute that prohibits sex offenders from residing within 1,000 feet of any school, the city council implemented an ordinance banning sex offenders from living within 2,500 feet of any school, over twice the distance of the state statute.<sup>68</sup>



In Alvin, Texas, a new ordinance strengthens a state law restricting where sex offenders may live and provides local law enforcement more enforcement authority. City police officers have the power to enforce the restrictions, and landlords in restricted areas are prohibited from leasing to sex offenders. Residency is defined as a place where a person resides for 14 days or more. Knowingly renting to a sex offender in a restricted area could yield a fine of up to \$500. Previously, only parole officers could enforce the state law. "We have one more tool in our toolbox to protect our children," said Alvin Police Chief Mike Merkel.<sup>69</sup> The Alvin ordinance finds that sex offenders who use physical violence and are convicted of preying on children present an extreme threat to the health, safety and welfare of children. The ordinance applies to anyone who is required to register with the Texas Department of Public Safety for the Sex Offender Database. The ordinance does not apply to minors or those convicted as minors.<sup>70</sup>

Ordinances restricting sex offender residency have also been approved in the Texas towns of Brazoria, Manvel, and Freeport, and are under consideration in Lake Jackson and Sweeny. The city of Brazoria has banned registered sex offenders from living within 1,000 feet of places where children gather including schools, daycare facilities, playgrounds, public or private youth centers, public swimming pools and video arcades. According to Mayor Ken Corley, the city has yet to receive a single complaint about the new ordinance: "If you've ever visited with a child who has been sexually molested, it will not only wreck their life and their family's life, it will do some damage to you as well," he said. "You will never forget that. I'm very passionate about this."<sup>71</sup>

New housing developments in Lubbock, Texas, require prospective buyers to submit personal information and be screened for sex offenses. Anyone convicted of a sex offense is not allowed to move into the neighborhood. If a person is convicted of a sex crime while living in the housing development, the subdivision will fine that person \$1,500 a day until he or she moves.<sup>72</sup> In the Texas town of Cuero, high-risk sex offenders must announce their presence with a sign in their yards. The City Council unanimously approved an ordinance that calls for a sign that reads, "A Registered Sex Offender Lives Here." Offenders who do not comply can be fined up to \$500.<sup>73</sup> Many cities in Texas are in the process of drafting similar ordinances.<sup>74</sup>

In Canandaigua, New York, the City Council exercised its authority under the Municipal Home Rule Law (*Sections 20 (13) (22) and (23) of the General City Law*) to protect and safeguard the lives and well being of the community, and especially children, from registered sexual predators. The city ordinance bans a sex offender from establishing a residence or domicile within 1,000 feet of the property line of any land utilized, in whole or in part, as a school, and within 500 feet of the property line of any land utilized, in whole or in part, as a park, playground, or daycare center.

Some local communities differentiate between risk levels. Some exclusion zones apply only to adult sex offenders or to offenders who committed crimes against minors. Monmouth County in New Jersey does not have a residency prohibition, but it has barred adult sex offenders whose victims were minors from using county-owned or operated

properties. For example, an 18-year-old high school senior convicted of having consensual sex with a 14-year-old may not enter a county-owned library or park.<sup>75</sup>

The town of Taylor Falls, Minnesota, enacted an ordinance that prevents level III sex offenders, who are considered most likely to re-offend, from living in the town. The restrictive nature of this ordinance is being challenged by the American Civil Liberties Union (ACLU), which is also concerned that the ordinance could discourage sex offenders from registering with authorities. In the Minnesota town of Austin, just north of the Iowa state border, Police Chief Paul Philipp told the City Council that it would be a mistake to enact an ordinance restricting where a sex offender may live in the city because it would apply to only a small number of offenders while disrupting the lives of offenders trying to get their lives back in order. He cited the Iowa sex offender residency law. "The number of unregistered offenders in Iowa has doubled in just a few years."<sup>76</sup>

In October 2005, the Cook County, Illinois, Sheriffs' Department and local police conducted Halloween premise checks at the homes of all registered sex offenders in their jurisdictions. A total of 99 suburban departments agreed to participate in the effort. A sheriffs' spokesperson estimated that more than 1,000 of the 1,300 registered sex offenders who live in suburban Cook County received Halloween home visits from either the Sheriffs' or local police departments to ensure that they were not passing out candy to "trick-or-treaters."<sup>77</sup>

Some California cities have adopted or are considering adopting ordinances that restrict sex offenders from loitering near areas where children congregate, and that restrict where a paroled sex offender may live. In National City, La Mesa, Santee, Folsom, and Elk Grove registered sex offenders cannot linger within 300 feet of schools, amusement parks and other places where children gather.<sup>78</sup> Sacramento County adopted an even broader safety zone ordinance that prohibits sex offenders from loitering within 300 feet of any library, daycare center, skate park, public swimming pool, video arcade, youth sports facility, or bus stop.<sup>79</sup> San Diego and Chula Vista are considering similar restrictions.<sup>80</sup> These ordinances present thorny legal and policy questions, including whether they are pre-empted by state laws establishing parole and probation requirements.<sup>81</sup>

## **EFFECTIVENESS OF LOCAL SEX OFFENDER RESIDENCY RESTRICTIONS**

There have been no careful evaluations of local residency restrictions, in part because they are so recent. There have been some evaluations of state laws, which we discussed earlier.<sup>82</sup> A number of experts in the field have expressed opinions, which we quote below.

According to John Gruber, executive director of the Association for the Treatment of Sexual Abusers (ATSA), the organization is generally opposed to residency restrictions: "What you're doing is pushing people more underground, pushing them away from treatment and pushing them away from monitoring," he said. "You're really not improving the safety, but you're giving people a false sense of safety."<sup>83</sup>

Jill S. Levenson, author of a study on sex offender zoning laws, contends that local restrictions could force some sex offenders to move away from the sources of stability such as family in their lives, perhaps putting them at greater risk of committing more crimes: "When you push offenders out of the more populated areas, they can lose access to jobs and treatment, and it makes them harder to track."

Ernie Allen, the president of the National Center for Missing and Exploited Children, is of the opinion that sex offender residency restrictions can create a false sense of security because people will believe that sex offenders will just go away. Also, they may move sex offenders from one community to the next, setting off a competitive spiral of ever-tougher "not in my backyard" ordinances.<sup>84</sup>

According to John Furlong, a Trenton, New Jersey lawyer and coeditor of *A Megan's Law Sourcebook*, sex offender ordinances overlook the chief victimizers of children: relatives and acquaintances.<sup>85</sup> Each year there are 60,000 to 70,000 arrests on charges of child sexual assault, according to the U.S. Justice Department, of which about 115 abductions by strangers. About seven in ten female rape or sexual assault victims state that the offender was an intimate, other relative, a friend or acquaintance.<sup>86</sup>

According to Ronald K. Chen, a Rutgers University Law School dean and authority on Megan's Law, each town is trying to make sex offender residency someone else's problem. More often than not, said Chen, "the exclusion is so comprehensive that if it doesn't prevent offenders from having any meaningful existence in the town, it comes pretty close."<sup>87</sup>

Local residency restrictions may drive some of the estimated 500,000 registered sex offenders in the country underground: "What they're probably going to do is move into a community and not register," said Carolyn Atwell-Davis, legislative director for the nonprofit National Center for Missing and Exploited Children. There are an estimated 100,000 offenders nationally who have failed to comply with registration requirements and remain undetected: "It's better to know where these 'lost offenders' are than where they aren't."<sup>88</sup>

Seattle police detective Bob Shilling, a nationally recognized expert on sex offenders, is of the opinion that sex-offender-free zones chase offenders "from one jurisdiction to another." "It creates a lot more homeless sex offenders, which makes it a lot harder for us to keep track of them," Shilling said. "They do not work. In fact, it exacerbates the problem."<sup>89</sup>

Linn County, Iowa, Sheriff Don Zeller reports that his county had 435 sex offenders registered in 2002, when the state residency restriction law first went into effect. Of those, 114 moved, 74 were charged with violating the ordinance, and others just disappeared; "We went from knowing where about 90 percent of them were. We're lucky if we know where 50 to 55 percent of them are now...the law created an atmosphere that these individuals can't find a place to live."<sup>90</sup>

Some cities have rejected proposals to ban or restrict sex offender residency. For example, in the town of Covington, Kentucky, the city commission rejected a proposal to ban sex offenders from living within a 2,000 feet radius of any school or daycare center. A concern was that it would push registered sex offenders from the city's urban core into a handful of neighborhoods. Attorney Steven Johnson-Grove cited the studies conducted in Minnesota and Colorado showing that similar restrictions had led to more sex offenders failing to register, which is a key component of notification.<sup>91</sup>

In the Colorado town of Greenwood Village, a proposal to ban sex offenders from living within a 2,500 feet barrier was debated and defeated. After the decision, an editorial in the *Denver Post* stated, "We do not become a safer society by adopting a one-size-fits-all strategy toward sex offenders. We vary the treatment, the levels of supervision and the length of sentences because we recognize that different types of sex offenses and different psychological profiles of offenders justify different levels of supervision, treatment or incarceration."<sup>92</sup>

### *Supervision and Parole*

In California, sex offenders are placed on parole under the supervision of the California Department of Corrections and Rehabilitation (CDCR). Last year the Legislature enacted a law restricting sexual violent predators (SVPs) and child molesters with multiple offenses from living within a quarter-mile of any K-12 school. A law was also enacted that prohibits high-risk paroled sex offenders from residing within a half-mile of any school, daycare center, or place where children congregate for the duration of their parole term. By law, when released from prison, parolees in California are returned to their county of commitment unless there are special circumstances that would endanger the public and the offender.

California officials are having a harder time finding a place for paroled sex offenders to live:

- Twenty-seven paroled sex offenders [20 were considered high-risk] were placed in hotels and motels within 11 miles of Disneyland, creating an uproar that resulted in their being moved to other locations.<sup>93</sup>
- In Solano County, several sex offenders released on parole are living in a parole field office because there are not able to find any living quarters in the area.
- Twelve paroled sex offenders living in a motel were evicted once it was learned who they were, leading to their placement in a trailer on the grounds of San Quentin State Prison, which sparked an angry outcry from people living near the prison.<sup>94</sup> According to CDCR spokesperson Elaine Jennings, "Placing the parolees at San Quentin is the only way to keep them from becoming homeless, which could lead to parole agents losing track of them."<sup>95</sup>
- A motel manager in Hayward evicted seven paroled sex offenders staying in the motel after neighbors lodged dozens of complaints, according to CDCR officials. The parolees temporarily reside in the local parole field office.

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#### IV. COMPREHENSIVE RISK ASSESSMENT AS A MEANS TO CONTAIN THE MOST SERIOUS SEX OFFENDERS

Historically, efforts to manage and provide treatment to sex offenders within the criminal justice system have been fragmented. The goals of offender accountability and community safety may be better attained through a more comprehensive, coordinated, and systemic approach. Anchored by a series of fundamental principles as described below, the comprehensive approach to sex offender management recognizes the interrelatedness of key criminal justice system components including investigation, prosecution, and sentencing, along with specialized assessment, treatment and supervision, and registration and timely community notification.<sup>96</sup>

Factors associated with sex offense recidivism have been identified by researchers, resulting in the development of risk-assessment instruments that can be useful in estimating the likelihood that a sex offender will re-offend.<sup>97</sup> It is possible, to classify sex offenders into risk categories, and apply the most restrictive interventions and the most aggressive community residency restrictions and notification to the most dangerous offenders. Pedophiles that molest boys and rapists of adult women are among those most likely to recidivate, according to research.<sup>98</sup> There is also substantial evidence that sex offenders commit many undetected offenses, so a thorough assessment, including polygraph examinations and other types of psychological assessments, is useful in determining offense patterns and risk factors.<sup>99</sup>

Using a proven risk assessment tool to evaluate the supervision and treatment needs of sex offenders who have been convicted multiple times is important because of the limited law enforcement and correctional resources that can be directed towards these offenders. When sex offenders are ready to return to their communities, coordination between correctional officials and local law enforcement agencies is also important so that communities can be properly notified in advance of their return.

Not all sex offenders pose the same threat. Broad prohibitions may, by lumping all sex offenders together, dilute the public's ability to truly identify those who pose the greatest threat to public safety.<sup>100</sup> At the same time, good risk assessment tools can allow limited law enforcement resources to be used more cost-effectively to monitor, treat, and restrict highly dangerous offenders, without unnecessarily disrupting the stability of lower risk offenders.

Under a 2005 Minnesota statute, the state correctional commissioner is required to develop a risk assessment scale for use by administrative law judges. The scale assigns weights to various risk factors including the age of the offender, the age and relationship to the victim, the availability and level of social and family support for the offender, prior history, educational attainment, and access to therapeutic treatment. These factors determine the risk assessment score. A low-risk offender, or tier I offender, for example, could be someone who was convicted of a single nonviolent sex offense, such as having consensual sex with an underage teen, and who is supported by family.<sup>101</sup>



Minnesota uses a three-tier system to rank the least-to-the highest risk level sex offender:

- Tier-three: Highest risk of committing another sex crime. Police inform neighbors, schools, and community groups of the offender's location. The offender's photo, address and type of car are placed on the state's Megan's Law Internet registry.
- Tier-two: Moderate risk of committing another sex crime. Schools and community groups are notified about the offender. Photo, address and type of car may be placed on the Internet.
- Tier-one: Low risk of committing another sex crime. The offender's address is listed by local police on their Internet website.

## RISK ASSESSMENT MODELS

The practice of risk assessment allows correctional officials to determine the likelihood that a sex offender will commit a new sex crime in the future. Although researchers cannot predict with certainty that any particular offender will act in a specific way, they can estimate, with moderate accuracy, whether or not an offender belongs to a high- or low-risk group. Using risk factors that have been correlated with recidivism, qualified clinical practitioners\* can use scientific risk assessment tools to screen offenders into risk categories.<sup>102</sup>

Methods of assessing risk can be generally categorized as actuarial (calculating risk based on probabilities determined by statistical records), clinical or some combination of each, and placed within six methodological approaches:

- *Unguided clinical judgment*: A process by which a clinician reviews case materials without any significant assumptions prioritizing the relative importance of the information obtained.
- *Guided clinical judgment*: Clinicians start with some assumptions of what is important based on their own ideas and theories without significant support from research. This approach is similar to unguided judgment, but clinicians have a better chance of being more consistent across cases.
- *Clinical Judgment based on a Case History Approach*: This approach uses the offender's own history as a guide to determine the factors that are relevant to recidivism risk.
- *Research-Guided Clinical Judgment*: A pre-determined set of research-supported factors are considered and given weight in determining risk. This approach results in consistency across cases of a similar nature.
- *Clinical Adjusted Actuarial Approach*: One or more actuarial instruments are used with adjustments based on clinically-derived considerations. An actuarial

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\* A clinician is usually a professional practitioner of medicine or psychology who does clinical work instead of laboratory experiments. It is a non-specific term, not implying any particular qualification or branch of medicine.



instrument is used to help predict behavior. Using more than one actuarial instrument makes it easy to compare and rate the effectiveness of each instrument.

- *Purely Actuarial Approach:* This approach uses actuarial instruments with no adjustments. Clinicians focus on specific risk factors to avoid being swayed by emotion.<sup>103</sup>

Research indicates that data-based purely actuarial risk assessments achieve greater accuracy than clinical models due to the stability of historical factors in determining risk. However, most actuarial methods are insensitive to change and are thus unable to measure possible changes in risk levels or to determine how or when to intervene. To fill that gap, researchers are focusing on dynamic factors such as age, criminal history, and living arrangements that can change over time and combining them with static variables in risk assessments.<sup>104</sup>

Sex offender risk assessments have been extensively studied by leading researchers in the field. There appears to be no significant difference in predictive strength among the commonly used actuarial measures.<sup>105</sup> This does not mean that all risk assessment instruments would be appropriate for all sex offenders, as each instrument is developed for a specific population. The majority of research has concentrated on the adult male population. Very little research has been done for juvenile sex offenders and almost none for female offenders.

The following table shows the results of a prediction study conducted by Robert J. McGrath, one of the leading researchers in the field of sex offender risk assessment. Six risk assessment methods are displayed along with the predictive validity of each.<sup>106</sup> All show moderate predictive validity for sex offense recidivism: two also show moderate predictive validity for violent offenses. For the accuracy of predicting sexual offense recidivism, researchers use the summary of the number of times each instrument is correct in assessing whether a sex offender re-offends within five years versus the number of times the instrument is incorrect. This score is referred to as the "receiver operating characteristics curve." If the instrument score is accurate .75 percent of the time, that is considered moderate predictability. If the instrument is accurate at .05 to .50, it is considered low predictability.<sup>107</sup>

<b>Table 4</b> <b>Prediction of Sex Offender Risk</b>					
Method	Predictive Validity			Purpose	Description
	Sex	Violence	Any		
Clinical Judgment	Low	Low	Low	Assess re-offense risk among sex offenders	Meta-analysis of 61 studies (n=23,393) that examined factors related to recidivism among sex offenders
Minnesota Sex Offender Screening Tool-Revised (MnSORT-R)	Moderate	--	--	Assess sexual re-offense risk among adult rapist and extra-familial child molesters	16 items (static and dynamic) scored by clinical staff or case managers using a weighted scoring key
Rapid Risk Assessment for Sex Offense Recidivism (RRASOR)	Moderate	--	--	Assess sexual re-offense risk among adult sex offenders at 5 and 10-year follow-up periods	4 items (static) scored by clinical staff or case managers using a weighted scoring key
STATIC-99	Moderate	Moderate	--	Assess risk of sexual re-offense risk among adult sex offenders at 5, 10, and 15-year follow-up periods	10 items (static) scored by clinical staff or case managers using a weighted scoring key
Sexual Violence Risk-20 (SVR-20)	Moderate	--	--	Assess risk of sexual re-offense risk among adult sex offenders	20 items (static and dynamic) scored by clinical staff or case managers using a weighted scoring key
Vermont Assessment of Sex Offender Risk (VASOR)	Moderate	Moderate	--	Assess sexual re-offense risk and offense severity among adult sex offenders	19 items (static and dynamic) scored by clinical staff or case managers using a weighted scoring key
Source: Robert McGrath, Clinical Director, Vermont Treatment Programs for Sexual Aggressors, 2003.					

## STATE COMPARISONS

In a review of how states are addressing the challenge of sex offender risk, we examine Iowa, Texas and Colorado and compare them to California. Texas and Colorado have dedicated governmental organizations that are all responsible for post-incarceration decisions about sex offenders including their supervision and treatment needs.

### Iowa

There are 6,105 sex offenders registered under Iowa law, of these 1,589 are registrants of other states living in Iowa, 1,564 registrants live outside the state, and 664 registrants are incarcerated.<sup>108</sup>

In Iowa, sex offenders convicted of any sex offense cannot reside within 2,000 feet of a school, daycare center, or places where children gather. Iowa law does not establish

exclusionary zones in which sex offenders cannot be present (near schools, daycare centers, etc.). Parole and probation officers are responsible for sex offender supervision upon release from prison.

The *STATIC-99* and the Iowa Sex Offender Risk Assessment-8 (*ISORA-8*) for adult sex offenders, and the Iowa Juvenile Sex Offender Registry Risk Assessment (*JSORRAT-II*) for juvenile offenders, are the actuarial instruments used by the Iowa Department of Corrections to measure the risk of re-offending by sex offenders whose crime involved a minor. There are three category levels of risk (highest risk to least risk). The category of risk for each sex offender is included on the state's sex offender registry website, as required by law for persons whose victims were minors (*Iowa Code Chapter 692A*).<sup>109</sup> Risk assessments ranking are used to determine whether a sex offender needs electronic monitoring, treatment, residential facility placement, supervision, or civil commitment.

Validation of these risk assessment instruments is an ongoing process involving tracking data, literature review, contacts with researchers and clinical professionals, and regular contacts with other Iowa agencies involved with sex offenders.<sup>110</sup> According to Iowa Department of Corrections officials, a study has been proposed to determine the comparative predictive validity of both the *STATIC-99* and the *ISORA-8* risk assessment tools, based on a sample of all sex offenders under supervision. However the scope and level of the validation study has not yet been determined and no resources have been allocated for it.

Other risk assessment tools used in Iowa to evaluate and monitor sex offenders in community-based corrections programs include:

- *Polygraph*: A physiological measure designed to distinguish truth from falsehood (used for sexual history and to evaluate maintenance of progress)
- *Plethysmograph*: A physiological measurement of sexual arousal<sup>†</sup>
- *Minnesota Multiphasic Personality Inventory-2 (MMPI-2)*: An assessment of adult psychopathology
- *Multiphasic Sex Inventory-II (MSI-II)*: A measurement of sexual characteristics
- *Wechsler Abbreviated Scale of Intelligence (WASI)*: A measurement of intelligence
- *Shipley Institute of Living Scale (SILS)*: An assessment of general intellectual functioning
- *Abel Assessment*: A measurement of sexual interest in children
- *Level of Service Inventory Revised (LSI-R)*: A measurement of attributes of offenders and their situations in relation to level of supervision and treatment decisions

<sup>†</sup> The 1st and 9th U.S. Circuit Courts of Appeals have found that requiring the Plethysmograph as a condition of probation/parole may violate a defendant's constitutional right to bodily integrity (*United States v. Webber*). No. 05-50491 (9<sup>th</sup> Cir., June 20, 2006).

- *STABLE 2000*: Assessment of risk using dynamic factors that change slowly over time
- *CUTE 2000*: Assessment of risk using dynamic factors that change rapidly and are situational in nature
- *Parole Board Risk Assessment*: An assessment of risk for general and violent recidivism

### *Texas and Colorado*

Neither Texas nor Colorado has a sex offender residency restriction law. Both states have developed risk assessment tools. Many of the risk assessment tools used in Iowa to evaluate and monitor sex offenders prior to their release in the community are also used by clinicians and correctional officials in Texas and Colorado.

In both states, a dedicated board or council is responsible for the treatment and supervision of sex offenders on parole. They also partner with local law enforcement to notify communities of sex offender residency in a timely manner. These two state-level sex offender management organizations have a multi-disciplinary membership that is defined in legislation. Both organizations issue guidelines for the evaluation, treatment, and monitoring of adult sex offenders behavior, including for sex offenders with developmental disabilities. They also develop release criteria for sex offenders serving lifetime probation or parole sentences. Colorado does not have a civil commitment process for sexually violent predators, but the board does use a set of guidelines to determine risk for each sex offender.<sup>111†</sup>

### *Colorado Sex Offender Management Board*

The Colorado Sex Offender Management Board (SOMB) was created by the legislature in 1992 to create and oversee guidelines for sex offender treatment, evaluation, and supervision, including standards for lifetime supervision and for offenders with developmental disabilities. The SOMB is composed of personnel from the Department of Corrections, the Judicial Department, local law enforcement, the Public Defender's Office, clinical polygraph examiners, the Department of Public Safety, district attorneys, the Department of Human Services, licensed mental health professionals with expertise in treating sex offenders, the victim services community, and the Department of Community Corrections.

At the outset of the process, probation departments conduct pre-sentence investigations and evaluations of sex offenders to determine if they are amenable and eligible for

<sup>†</sup> Civil commitment statutes are designed for "sexually violent predators" (SVPs), and require that they be confined and treated in a medical setting following completion of their criminal sentences (The term SVP applies to offenders who have targeted strangers, have had multiple victims, or have committed especially violent offenses of a sexual nature). Civil commitment is different than a criminal sentence in that a criminal sentence has a definitive time frame. Civil commitment usually continues until it is determined that the person's behavioral abnormality has changed to the extent that the person is no longer likely to engage in a predatory act of sexual violence.

treatment. Subsequent assessments occur at the entry and exit points of all sentencing options: probation, prison, parole, and community corrections.

Sex offenders with a sentence of six or more years participate in an inclusive structured treatment program. Offenders with a sentence of from two-to-six years participate in a modified program, and offenders with sentences less than two years participate in treatment and risk testing. All offenders are required to undergo risk assessment and treatment evaluation.<sup>112</sup>

While in prison, in order to successfully progress in treatment and be eligible for parole, the offender must:

- Demonstrate control over sexual arousal or interest through improvements in Plethysmograph or Abel Screen testing.
- Consistently complete non-deceptive polygraphs regarding any planning behavior or masturbation involving unlawful arousal and fantasies.
- Consistently demonstrate self-motivated use of their relapse prevention plan and distribute copies of the plan to any co-habitor or significant other.
- Demonstrate the development and maintenance of appropriate adult relationships that value the quality of the relationship over sexual gratification.
- Demonstrate an ongoing commitment to and active engagement in treatment, containment and monitoring to manage lifelong risk.<sup>113</sup>

Even after demonstrating improvement on these measures, there is no guarantee that the offender will be able to control arousal or inappropriate interests. Sex offenders who are sadists or psychopaths, for example, may not have the ability to successfully complete treatment. These offenders will probably not be released from lifetime supervision.<sup>114</sup>

After successful completion of the prison treatment program and the minimum sentence, sex offenders are eligible for release to community supervision. The offender must agree to intensive and sometimes intrusive accountability measures in order to remain in the community rather than in prison. Concurrently, the victims have the option to decide their level of involvement in the process, especially after the offender has been released. The SOMB guidelines allow the victim(s) to be informed about the offender's compliance with treatment, as well as any changes in the offender's treatment status that might pose a risk to the victim (e.g. if the offender has discontinued treatment).<sup>115</sup>

Personnel from agencies involved in sex offender management are required to make decisions regarding sex offender housing early in the process of determining risk, including evaluating the quality of family and associate relationships. Offenders sentenced to community corrections typically serve a six-to-nine month residential term and complete the sentence in the community. These sex offenders usually do not live together in a shared living arrangement.

Outside of jail and community corrections, which have their own guidelines, there are multiple arrangements in which sex offenders can live in the community. They may live

alone, with family or friends, in motels, residential homes, homeless shelters, or shared living arrangements. Preliminary research suggests that these arrangements do not equally promote community safety. The study, which looked at 217 sex offenders on probation (75 percent were high-risk) over a 15-month period, found that 27 percent had committed a "hands off" sex offense (peeping, voyeurism, or exposure). Of these offenses, 27 percent occurred while the offender was living with a family member, 27 percent occurred while living with a friend, 13 percent occurred while living alone, 20 percent occurred while living in a shared living arrangement, and 13 percent occurred while in jail or work release.<sup>116</sup>

The risk assessment evaluation instruments and law enforcement processes that the SOMB uses to determine a sex offender's risk in the community rely on collecting information from a variety of sources, including:

- The offender's criminal history.
- The Colorado Sex Offender Risk Scale (actuarial scale norms based on Colorado offenders from probation, parole and prison).
- Violence Risk Assessment Guide (norms based on a psychiatric hospital sample).
- Sex Offense Risk Assessment Guide, Rapid Risk Assessment for Sex Offender Re-arrest (sample excludes incest offenders).
- *MnSOST-R* (norms on Minnesota offenders in that state's Department of Corrections, excludes incest offenders), *CARAT*, *STATIC-99* or *2002 SONAR* assessment tools.

In May 2005, there were 8,244 registered sex offenders in Colorado. Since 2000, approximately 65 percent of convicted sex offenders in Colorado have been placed on probation, about 20 percent sentenced to prison, and approximately 15 percent placed in community corrections programs. A total of 626 sex offenders were sentenced to prison under the Lifetime Supervision provisions for sex offenses from fiscal year (FY) 1998-99 through FY 2003-04. As of June 30, 2004, there were 905 sex offenders under intensive probation supervision in Colorado. Of these offenders, approximately 309 (34 percent) were sex offenders under lifetime supervision.

Research findings published by the Colorado Department of Public Safety suggest that sex offenders with positive, informed support have significantly fewer criminal and technical violations than sex offenders with negative or no support (i.e., friends, family, or roommates who negatively influence the sex offender or refuse to cooperate with the containment teams). The study found that sex offenders living in a shared living arrangement had the lowest recidivism rate. Offenders with no support and living with a family member or friend had the highest numbers of violations (both criminal and technical violations). Family member and friends may not provide a supportive or healthy environment.<sup>117</sup> Sex offenders on probation living with their families in the Denver metropolitan area were more likely to have both a criminal and technical violation. The study also found that sex offenders who had committed a criminal offense (either sexual or non-sexual) while under criminal justice supervision were randomly



scattered throughout the Denver study area, and were no more likely to live in proximity to schools and childcare centers than other types of offenders. The study did not separately report on child-related sex offenses.<sup>118</sup>

### *Texas Sex Offender Management Council*

Treatment, intervention, and community supervision are key components of the Texas approach to sex offender management. The Council on Sex Offender Treatment sets all standards for specialized sex offender treatment in state prisons and local communities, and maintains a registry of sex offender treatment providers. The Council has been in existence since 1983, and is housed in and staffed by the Texas Department of Health. The Council has four primary functions:

- *Public safety* by administering the civil commitment program of sexually violent predators and preventing sexual assault.
- *Public and behavioral health* by treating sex offenders.
- *Regulatory* by maintaining a list of licensed sex offender treatment providers and establishing the rules and regulations regarding the treatment of sex offenders.
- *Educational* by disseminating information to the public regarding the management of sex offenders.

A serious sex offender in Texas state prison must complete a three-phase treatment program that takes up to 24 months before he is eligible for parole release to community treatment. Offenders in the prison treatment program include sexually violent predators returned to prison on parole violation charges, inmates with a previous sex offense who are not in administrative segregation, and inmates who were convicted of a sex crime. The three treatment phases are:

- *Evaluation and Treatment Orientation*-(3-6 months): This phase of treatment consists of training aimed at helping the offender to admit guilt, accept responsibility, understand sexual offending, identify deviant thoughts, and learn appropriate coping skills. Each participant receives a psychological evaluation from which an individual treatment plan is developed.
- *Intensive Treatment*-(9-12 months): This phase attempts to restructure deviant behaviors and thought patterns to lower the risk of re-offending. Group therapy and various sanctions and privileges give the offender immediate feedback about his behavior and treatment progress.
- *Transition and Relapse Prevention*-(3-6 months): Participants continue in group therapy while working on behavioral changes and learning coping skills. During this time they begin to reconnect with their family or an alternative support system, and learn the responsibilities that are expected of them by parole officers, community treatment providers, and registration laws.<sup>119</sup>

Continued specialized treatment in the community is mandatory for all violent sexual predators and sex offenders released early from prison after treatment. A risk assessment

team determines the level of treatment and the intensity of supervision each sex offender will receive at the time of his release from prison. The program is limited to about 40 percent of eligible sex offenders. Up to 60 percent of convicted sex offenders do not receive specialized treatment through this program while in prison, nor do they receive treatment after release from prison, because the sentencing courts require them to complete the full term of their sentence in prison.<sup>120</sup>

Due to fiscal constraints, the civil commitment program for sexually violent predators (SVP) operates on an outpatient basis. Texas is the only state SVP civil commitment program in the country that operates this way. The annual outpatient cost ranges between \$30,000 and \$37,000 per client-offender. This compares to yearly inpatient SVP treatment costs of \$80,000 to \$125,000 per offender in fifteen other states.<sup>121</sup> Sex offenders live in-group housing (if applicable) and engage in intensive sex offender treatment (testing, groups, individual and family sessions, etc.). They also must wear GPS devices, take anti-androgen medication, and undergo polygraph exams, penile plethysmograph exams, and substance abuse testing.<sup>§</sup>

There is a significant difference between the Texas program and civil commitment programs in other states. In other states, the civilly committed sex offender is placed in a locked, secure residential facility and can choose not to participate in sex offender treatment. In Texas, civilly committed SVPs are allowed to transition back into the community where they are mandated to actively participate and comply with intensive outpatient sex offender treatment and supervision.

### ***California Risk Assessment and Sex Offender Management***

In California, most adult sex offenders are sentenced to serve a determinate number of years in prison, and are granted a parole release date upon satisfactory completion of their sentences. Since 2001, California state law requires (*Penal Code Section 3005*) that all parolees under active supervision, and deemed to pose a high risk to the public of committing violent sex crimes, be placed in an intensive and specialized parole supervision caseload. However, because of limited financial resources, the California Department of Corrections and Rehabilitation (CDCR) has only 52 high-risk parole agents to supervise 2,000 high-risk parolee sex offenders in caseloads of about 40-to-one. Only about 300 of the 2,000 high-risk paroled sex offenders (about 15 percent) receive specialized treatment from licensed therapists.

The process has two approaches to determine which of the eligible paroled high-risk sex offenders is to receive specialized parole supervision. The first priority is to determine if

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<sup>§</sup> Studies beginning at Johns Hopkins in 1966 and continuing today show that some sex offenders, such as pedophiliacs treated with the antiandrogenic hormone Depo-Provera plus counseling, have gained in self-regulation of sexual behavior. Depo-Provera suppresses or lessens the frequency of erection and ejaculation and also lessens the feeling of libido and the mental imagery of sexual arousal. For the pedophilic, for example, there will be decreased erotic "turn-on" to children. The sex offender has "a vacation" from his sex drive, during which time conjunctive counseling therapy can be effective. John Money, *Love and Love Sickness: The Science of Sex, Gender Difference and Pair-bonding*, pp. 205-207. John Hopkins University Press (Baltimore, London) 1980.

the offender meets the criteria for civil commitment. To initiate the civil commitment procedure, the CDCR and the Board of Prison Terms (BPT) conduct a review of each inmate's record during the six months before their parole release date to determine if the sexual offenses meet the legal definition required for civil commitment. If the offender meets the legal definition he is referred to the Department of Mental Health (DMH) upon completion of his prison term to await the legal process for civil commitment.\*\*

If the offender does not meet the criteria for civil commitment, the CDCR Adult Parole Division, High-Risk Sex Offender Program determines which of the remaining eligible paroled high-risk sex offenders is selected to receive specialized parole supervision. While the CDCR has not yet developed a risk-assessment tool to determine who among the eligible paroled sex offenders should be designated high-risk, those whose county of commitment is located within the range of where the 52 high-risk parole agents work, are usually selected to be part of their caseloads.

New laws that went into effect in January 2006 prohibit all paroled sex offenders not classified as high-risk from residing within one-quarter mile of any school in the state. New parolees who are classified as high-risk cannot reside within a half-mile of any school in the state (*Penal Code § 3003 (g) (1 & 2)*). At the beginning of 2006, there were about 9,560 convicted sex offenders on parole in California including 3,160 whose current offense is not sexually related. The majority of these offenders are not classified as high-risk and thus are not subject to the new residency restriction law.

Both current sex offenders and those with prior offenses must register as sex offenders with local law enforcement when released on parole. Sex offenders released to parole with a prior sexual history (*Penal Code 290* violator), but a non-sexual new commitment offense, must report to the regional Parole Outpatient Clinic (POC) for evaluation to determine the type of service they are to receive, if any, and whether they should be classified as a HRSO. Types of services they might receive include the two major drug abuse programs (Substance Abuse Treatment and Recovery-STAR and Parolee Services Network-PSN), literacy labs, Parolee Employment Programs, and the Offender Employment Continuum. These are not particularly directed to treating sex offenders.

Due to a lack of parole resources, some sexually violent offenders who are either released on parole or not civilly committed by the Department of Mental Health, and who live outside the urban core areas of the four parole regions, are not included in the HRSO parole caseloads.

All sex offenders are required to report for a parolee orientation. The parolee orientation usually includes a meeting with the parole officer, local law enforcement, and treatment providers. At this meeting the terms and conditions of parole are explained to the parolee, who must agree or risk being sent to the Board of Prison Terms for violating parole. At a minimum, conditions usually include where the offender can and cannot

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\*\* See Marcus Nieto, *Community Treatment and Supervision of Sex Offenders: How It's Done Across the Country and in California*. (Sacramento: California Research Bureau, California State Library, December 2004, pages 37-38.)

travel, things he can not do (such as Internet surfing of pornographic websites), people and places he can visit or not visit, submission of weekly or by-weekly urine samples, and if possible, relapse prevention therapy at a CDCR Parole Outpatient Clinic. Additional meetings involving the parolee and the parole officer may be conducted unannounced at the parolee's worksite or at his home.

The CDCR is considering proposals to hire more parole officers and to adopt risk-assessment tools, including the *STATIC-99* risk assessment tool and a dynamic assessment tool. In one scenario, the CDCR would classify fewer sex offenders as high-risk parolees, but these offenders would receive more treatment and intensive supervision. Sex offenders who progress in treatment, as measured by a dynamic risk assessment tool, might be shifted to a new "medium risk" designation, under which they would not be subject to GPS surveillance.<sup>122</sup>

Since July of 2005, CDCR has outfitted nearly 400 high-risk sex offenders in the three county-region of San Diego, Orange and Los Angeles and another 100 high-risk offenders in other counties with GPS devices. Of these, 48 offenders have been returned to custody for parole violations, including tampering with their devices. GPS technology assisted parole and Department of Justice agents to apprehend a sex offender in Orange County who visited the parking lot of an elementary school, a violation of his parole conditions.<sup>123</sup>

The CDCR received an additional \$5 million for FY 2006-07 to expand the use of GPS tracking for high-risk sex offenders and other parolees.<sup>124</sup> The University of California is currently evaluating the CDCR GPS program for high-risk sex offenders; results are expected by August 2007. The CDCR estimates that by FY 2009-10, they would need \$18.5 million to cover the cost of an additional 2,000 GPS units and monitoring equipment, as well as increased parole agent staffing to monitor high-risk sex offenders. If the California initiative (Jessica's Law) on the November 2006 ballot is passed, it would require that GPS monitoring devices be used for all paroled sex offenders. Projecting from CDCR data, it would cost the state approximately \$88.4 million to monitor and supervise these offenders per year.<sup>††</sup>

## THE CONTAINMENT APPROACH TO COMMUNITY SUPERVISION OF SEX OFFENDERS

Colorado and several other states employ the "containment model," which defines victim protection and community safety as the primary objectives of sex offender management.<sup>125</sup> Paroled sex offenders must abide by a set of restrictive guidelines developed by the parole or probation officials who supervise their daily activities. The sex offender must participate in extensive therapy, receive intensive supervision and

<sup>††</sup> As of April 30, 2006, there are 9,560 sex offenders currently on parole including 3,160 whose current commitment offense is not sexually related. Using the CDCR FY 2009-10 budget cost estimate of \$18.5 million for 2,000 GPS devices and multiplying that figure by the number of sex offenders currently on parole (9,560 sex offenders), we find that it would cost \$88.4 million per year. ( $\$18.5 \text{ million} \div 2,000 = \$9,250 \times 9,560 = \$88.4 \text{ million}$ )

monitoring (which can include electronic or GPS devices), and submit to unannounced polygraph or other forms of psychological examination. The goal is to shield victims and the community from the sex offender.<sup>126</sup>

The community containment model stresses individualized sex offender case management. The offender is held accountable for any adverse action by a "supervising triangle," including offender therapy, supervision and electronic monitoring, and polygraph/and or other forms of psychological examination.<sup>127</sup>

The model is built on a collaboration approach, which focuses on developing multiple levels of law enforcement and parole management teams. This is particularly important given the various residency restrictions recently imposed by some local municipalities and states. Collaboration involves local law enforcement, parole, case supervisor, treatment providers, employment and housing counselors, and in some cases, victims. Containment teams are required to make housing decisions early in the process so as to determine the offender's risk issues, and the quality of family and associate relationships. This is important because many problems can arise due to lack of authorized housing, such as homelessness, moving to an unauthorized area, and/or having no available supervision or treatment therapy.<sup>128</sup>

Frequent communication between treatment therapists working with sex offenders and law enforcement is an important element of this approach. For instance, therapists share insights about their clients with law enforcement officials and keep them informed about potential issues that might result in failure and recidivism.<sup>129</sup> Therapists may also provide information to lawmakers about possible changes to the law.

Quality control consists of overseeing and evaluating all components of the model to ensure that they are working, especially treatment. This includes reviewing policies, practices and programs to ensure that they are working as intended, minimizing secondary trauma (staff burn-out), and increasing training for those who work with sex offenders.<sup>130</sup>

The containment model is evolving and numerous jurisdictions around the country have enacted variations of it. Colorado, Minnesota, Texas, and Maricopa County, Arizona, were among the first to experiment with the model, although it has now become widespread. Indiana has a containment program called The Indiana Sex Offender Management and Monitoring Program. In Illinois, the Cook County Adult Sex Offender Program (ASOP), which utilizes a form of the containment model, has proven effective in reducing sex offender recidivism.<sup>131</sup> A 2001 study compared the outcomes of 203 sex offenders in Cook County jail receiving treatment but not supervised to 78 sex offenders who were receiving treatment and supervision in the containment model. Researchers examined variables such as reductions in reoccurrence, rates and lifestyle changes that result in effective problem-solving skills, and pro-social and productive lives. Fifty-nine percent of the sex offenders who completed the treatment part of the containment program did not violate the terms of probation, compared to forty-one percent of the offenders who failed treatment.<sup>132</sup>



### *GPS and Electronic Monitoring*

Global Positioning Systems (GPS) and Geographic Information Systems satellite-related mapping systems (GIS) are gaining credibility as the tools to monitor and supervise sex offenders. Offenders supervised via GPS wear a wireless anklet device the size of a bar of soap, which requires 30 minutes a day to recharge. The GPS device can continuously detect a sex offender's location. GPS technology is not easily tampered with and can be used in two different ways to monitor sex offenders. There are "active" and "passive" tracking devices. The passive devices require the offender to download the information that details his whereabouts at the end of the day through a landline receiver. The active devices have cellular capability and can report real-time monitoring of the person's whereabouts to tracking centers or parole and probation officers. The most likely candidate to wear this device is the high-risk, violent or aggressive sex offender.

Radio frequency devices, or electronic monitoring (EM), is an older technology and is largely used to enforce curfews and house arrest. With this device, an offender wears a transmitter that sends signals to a receiver unit connected to the offender's landline telephone. If the offender goes out of range of the telephone receiver, the unit will relay this information to the monitoring center. While this technology is cheaper, and can report if an offender leaves his base location, it cannot identify where he is located.<sup>133</sup>

Illinois utilizes a GIS mapping system to keep track of where sex offenders live. It has been instrumental in determining the precise location of over 360 child sex offenders residing within no sex offender residency zones in the state.<sup>134</sup>

At least six states (Colorado, Florida, Missouri, Ohio, Wisconsin, and Oklahoma) have enacted laws requiring lifetime electronic monitoring for some sex offenders, even if their sentences have expired. At least 23 states use GPS to monitor paroled sex offenders. The number of sex offenders subject to GPS monitoring averages under 100 parolees in 15 of these states. The range is from five sex offenders in Iowa to nearly 800 in Florida. Numerous local law enforcement agencies, including several in California, use GPS devices to monitor sex offenders living in their jurisdictions. GPS pilot projects are underway in Los Angeles, Orange, and San Diego counties to monitor over 400 high-risk paroled sex offenders. Some California county probation departments are also using GPS to monitor high-risk probationers.

In Wisconsin, the governor recently signed legislation that requires lifetime GPS tracking for certain child sex offenders. The law requires individuals who sexually assault a child under age 12, or use or threaten force or violence while molesting a child, to be subject to global positioning tracking as a condition of parole, probation or extended supervision. The Wisconsin Legislative Fiscal Bureau estimates that active monitoring will cost about \$1 million for 285 offenders in the first year and about twice as much for 570 offenders in the second year.<sup>135</sup>

Florida was the first state to require mandatory lifetime tracking via GPS for convicted sex offenders. In 2004, Florida research drawing on data from FY 2001 to 2002, found that sex offender parolees fitted with the devices were less likely to commit new crimes



than those who were monitored by traditional means.<sup>136</sup> The state Department of Corrections followed about 16,000 offenders placed on community supervision, including more than 1,000 under GPS monitoring. As part of this study, the department revoked the community release of 31 percent of GPS-monitored sex offenders because of bad behavior, compared to 44 percent of those monitored by other means such as electronic monitoring or intensive supervision. Six percent of sex offenders monitored by GPS committed new felonies or misdemeanors, compared to 11 percent of those not electronically monitored.<sup>137</sup>

In Minnesota, GPS monitoring is required for all level III sex offenders for at least 90 days. The GPS gives parole agents a computerized record of a parolee's movements. If that sex offender goes somewhere prohibited, the GPS transmits a text message alerting the parole agent. It does not, however, dispatch a police officer. State parole agents, who already have large caseloads, cannot respond to the thousands of alerts. One problem is that there is no way to distinguish between serious threats and the mundane. For example, schools are located in many areas. The GPS sends an alert whether an offender is merely driving by or actually posing a risk.<sup>138</sup>

GPS technology does provide verifiable evidence when a sex offender has attempted to circumvent the parole condition(s) for release. Officers are able to better focus their efforts on persons they know are a greater risk for re-offense.<sup>139</sup> Peggy Conway, editor of the *Journal of Offender Monitoring*, notes that GPS devices will not send a police officer racing to a school when a sex offender walks nearby, but they do act as a deterrent: "There is no anonymity to a crime. They can be put at the scene of a crime... They know they will get caught."<sup>140</sup>

GPS is costly. According to Florida officials, it costs \$10 per day per offender, or \$3,600 per year, to actively monitor a sex offender using GPS. The Florida Department of Corrections estimates that up to 12,940 offenders may have to be monitored for 20 years, at a cost of over \$46 million per year. The cost may decrease as the technology becomes more common, and there may be some economies of scale.<sup>141</sup>

In Georgia, lawmakers have required that GPS monitoring be funded by sex offenders: "There is a cost associated with your criminal activity," said Georgia Representative Jerry Keen.<sup>142</sup> "For you to remain in Georgia after you serve your time in prison, then you're going to have to wear and pay for one of these tracking devices."<sup>143</sup>

Florida, Georgia, Oklahoma, and Ohio also require offenders to pay for their own GPS monitoring, provided they are able to do so. If an offender is able to pay and refuses, he could have his parole revoked.<sup>144</sup>

## LEGAL AND CONSTITUTIONAL IMPLICATIONS OF SEX OFFENDER RESIDENCY RESTRICTIONS

*By David Jung*

California's current state sex offender residency restriction laws apply to sexually violent predators (SVP), recently paroled sex offenders, and high-risk paroled sex offenders. Once released from the California state civil commitment program, an SVP cannot live within one-fourth of a mile of a school for life.<sup>145</sup> These provisions, which went into effect in 2006, have not been challenged in court, so their constitutionality is yet to be determined.

Pending legislation<sup>146</sup> and a proposed ballot initiative<sup>147</sup> in California would significantly broaden the current law to make it unlawful for registered sex offenders to live within 2,000 feet of any school, park, or place where children regularly gather, and would allow municipalities to enact similar ordinances. If either the bill or the initiative passes, California will join twenty other states across the country that have passed similar laws placing residency restrictions on some or all registered sex offenders. In either case, a new law would have major policy implications for cities across the state in that they would be essentially off limits to sex offenders, while more rural areas might not be.

### *Constitutional Challenges*

Residency restrictions on sex offenders face three types of constitutional challenges.<sup>148</sup> First, to the extent that these residency restrictions are criminal sanctions imposed to punish the offender—as opposed to civil, safety regulations—they may be unconstitutional as a form of ex post facto law or double jeopardy when they are applied to offenders whose convictions are already final. When applied to new and prior offenders alike, residency restrictions might constitute a form of cruel and unusual punishment that violates the Eighth Amendment to the United States Constitution.

Second, if residency restrictions are regulatory, and not punitive in nature, they may be challenged as depriving offenders of a basic right secured by the federal or state constitution – the right to travel within or among the states, for example, or the right to live where one chooses.

Finally, even if residency restrictions do not deprive offenders of a constitutionally protected right, they may be unconstitutional if they do not rationally advance a legitimate state interest. Challenges to residency restrictions in other states on these three grounds have so far been unsuccessful. A federal district court in Ohio, a state appellate court in Illinois, a federal court of appeals in Iowa, and the Iowa Supreme Court have upheld sex offender residency statutes against all three types of constitutional challenges.<sup>149</sup>

First, these courts have unanimously concluded that residency restrictions are a form of civil regulation, not a form of punishment, because the statutes are intended to protect

children, and are rationally related to that goal. Therefore, prohibitions on ex post facto laws, double jeopardy and cruel and unusual punishment do not apply.

Second, residency restrictions do not burden any basic right secured by the federal constitution. The federal constitution does not include a "right to live where you choose." While the federal constitution does protect the right to travel from state to state – and perhaps includes the right to travel within a state – residency restrictions do not interfere with the right to travel. They do not discriminate between state residents and those from out-of-state, and they restrict only the ability to reside near a school, not the ability to enter the area near a school.

Finally, according to the courts that have visited the issue so far, residency restrictions do not offend the equal protection clause. They represent a rational legislative determination that excluding sex offenders from areas where children congregate will advance the state's interest in protecting children.

It is not clear, however, that any California legislation establishing residency restrictions (*SB 588*), or an equally restrictive ballot initiative (*Jessica's Law*) would pass constitutional muster for several reasons. First, a line of California appellate decisions suggests that the California constitution may protect the right to choose one's residence as part of the right to travel within the state, even though the federal constitution does not.<sup>††</sup> If that is the case, sex offender residency laws would need to be more narrowly tailored, and it is not clear that they could pass that strict a level of judicial scrutiny. For example, the proposed law would prohibit offenders from residing near schools even though they had never committed a crime against a minor and nothing in their records suggested that they posed a danger to minors. As such, the statute is overly broad. Including offenders who pose very little danger to minors within its prohibitions is not a narrowly tailored means for advancing the state's compelling interest in protecting minors. Thus, the statute would pose serious constitutional problems if strict scrutiny were applied.

Second, the only federal appellate court to have considered the constitutionality of a sex offender residency restriction was faced with a statute that was drawn much more narrowly than the pending California bills. The Iowa statute at issue in the Eighth Circuit Court of Appeals case applied only to sex offenders who had committed crimes against minors.<sup>150</sup> The pending California laws would apply to all registered sex offenders.<sup>151</sup>

The broader proposed California statute raises a question the Eighth Circuit did not reach: Are residency restrictions that apply to offenders who have never committed an offense

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<sup>††</sup> *In re Fingert*, 221 Cal. App. 3d 1575, 1581-82 (2d Dist., Div. 6 1990) (holding unconstitutional under the right to travel an order requiring a mother to move in order to retain custody of her child); *People v. Bauer*, 211 Cal. App. 3d 937, 944-45 (1st Dist., Div. 2 1989) (holding that such broad discretion given to a probation officer to infringe on the probationer's right to travel was not sufficiently narrowly tailored); *People v. Beach*, 147 Cal. App. 3d 612, 621 (2d Dist., Div. 5 1983) (holding that there were other less subversive means to accomplish the probationary goal); *In re White*, 97 Cal. App. 3d 141, 150 (5th Dist. 1979) (holding that means less restrictive of the right to travel were available to prevent soliciting for prostitution).

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against a minor rationally related to the state's interest in protecting children? If they are not, then the statute might be viewed as a form of punishment that potentially offends the federal constitution's prohibitions on ex post facto laws, double jeopardy, or cruel and unusual punishments. Further, even as a form of safety regulation the statute might violate the equal protection clause if it arbitrarily subjected offenders who pose no threat to children to residency restrictions focusing on schools.

Residency restrictions as broad as those proposed for California have been upheld by a state court of appeals in Illinois, and by a federal district court in Ohio. Both of those courts decided that the legislature could rationally conclude that sex offenders who had never offended against minors in the past nonetheless posed a sufficient threat to children to justify prohibiting them from living near places where children congregate.

These decisions, however, would not be binding precedent in the Ninth Circuit Court of Appeals. The factual record the state courts relied on was not substantial, and the courts failed to consider cases that have questioned the logic of treating all felons alike for purposes of licensing restrictions and the like.<sup>152</sup> Thus, it is extremely difficult to predict whether a statute restricting the residency of registered sex offenders who have never offended against a minor would be found constitutional by the Ninth Circuit.

### *Local Ordinances*

Although California courts have not yet considered the constitutionality of state-wide sex offender residency restriction laws (either Child Safety Zone legislation-parks or Distance Marker legislation-schools), it is clear from other courts throughout the country that these types of state statutes may sometimes meet the legal challenge. When local governments enact similar ordinances, as discussed earlier, thorny legal and policy questions emerge, including whether these laws are pre-empted by state parole and probation laws.

If California courts were to consider local residency restrictions and whether or not local jurisdictions--cities or counties--have the authority under the state constitution to enact a residency ban, three issues would be central.

First, under a legal principle known as "Dillon's Rule," local governments can only enact laws if the state constitution expressly or implicitly empowers them to do so. The California Constitution delegates the power to legislate to local governments in the broadest terms. Under article XI section 7, cities and counties can enact "all police ordinances not in conflict with general laws." Courts have held that this authority is essentially coextensive with the state legislature's police (that is, regulatory) power.

Second, if the state has enacted a residency restriction, can local governments enact further restrictions? Local governments can enact further restrictions unless the local ordinance conflicts with state law. A conflict can arise in several ways.<sup>153</sup> If a local ordinance permits what state law prohibits, or prohibits what state law permits, the local ordinance is invalid. For example, if a local ordinance were enacted authorizing a residential treatment facility for sex offenders within 2,000 feet of a school, the ordinance

would be invalid under Jessica's Law. A local government cannot permit that which a state law prohibits.

Whether local governments can enact ordinances that are more restrictive than state law is generally a trickier question. Such an ordinance might be invalid in two sets of circumstances. First, if the state statute were interpreted deliberately to permit offenders to live anywhere "but" 2,000 feet from a school, an ordinance establishing, for example, a 3,000 feet limit might be held to conflict with the state law. Or, if the state statute were intended to regulate the subject so thoroughly as to permit no further regulation, the state statute might be said to have "occupied the field," preempting all further regulation.

Preemption, however, is primarily a question of legislative intent. In the 2005-2006 California legislative session there is one proposed sex offender residency bill (SB 588) whose legislative intent is clear, since it provides: that "nothing in this section shall prohibit local ordinances that further restrict residency." A similar ballot initiative (Jessica's Law) would do the same.

Finally, is the local ordinance unconstitutional? The first two questions go to whether local governments have the power to legislate in this area. Assuming that they do, their actions would nonetheless be subject to the same constitutional constraints discussed in relation to proposed legislation and the ballot initiative. The fact that they are local, not statewide, bans would not generally be significant in the analysis.

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<sup>151</sup> The existing California statute restricting the residency of some sex offenders, Welfare and Institutions Code section 6608.5 (f), offers an example of a statute that is clearly narrowly tailored to achieve its goal. The statute prohibits only sexual violent offenders or predators who have offended against minors in the past or whom the court determines are likely to offend against minors.

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Kansas.com

Posted on Sun, Dec. 04, 2005

## Can zones divide molesters, prey?

Proposed residence restrictions for sex offenders could backfire, some say

BY HURST LAVIANA  
The Wichita Eagle

More than 270 registered sex offenders living in Sedgwick County would be forced to find new homes if the Kansas Legislature adopts a law proposed by the speaker of the Kansas House of Representatives.

Rep. Doug Mays' plan to establish 2,500-foot buffer zones around schools and day care centers statewide would place some of the toughest living restrictions in the nation on registered sex offenders. It would put most of Wichita and its suburbs off-limits to criminals who have sexually abused children.

Laws that place buffer zones around schools, parks and bus stops have been growing in popularity around the country. Victim advocates have used several explosive cases -- such as the arrests of registered sex offenders in the killings of 9-year-old Jessica Lunsford and 13-year-old Sarah Lunde in Florida early this year -- to persuade legislators to enact get-tough-on-sex-offender laws.

Last week, the U.S. Supreme Court declined to consider a challenge to Iowa's law that allows towns to bar sex offenders from living within 2,000 feet of a school or day-care center.

Critics of the so-called buffer zones contend that increasing restrictions can make offenders' lives more stressful and therefore make them more likely to re-offend.

Were Kansas to adopt a 1,000-foot buffer -- a distance of about two city blocks -- 70 percent of Sedgwick County's offenders could stay in their homes. But a 2,500-foot buffer -- nearly half a mile -- would force more than three-fourths of the 354 offenders whose victims were children to find new homes.

Mays said he had no idea where they would live.

"As long as it's away from schools, I don't care," he said. "The purpose is to keep them away from children.

"When it comes to pedophiles, if we can separate them from children, they'll both be better off."

### Why consider a buffer?

Kansas and other states are starting to seriously consider how to deal with sex offenders who have completed their sentences and are returning to society, said state Rep. Ward Loyd, R-Garden City, chairman of a Legislative committee reviewing criminal justice issues.

Many constituents don't buy the argument that keeping offenders in stable environments -- preferably in homes with relatives -- is the best way to keep them from re-offending, he said. Those people don't mind seeing offenders forced out of their home towns.

"Frankly, there are lot of people that don't care," Loyd said. "They want their community and their particular neighborhood to be safe. And by that they mean they don't want those sex offenders living there."

Loyd said he's also heard from nervous people living in the country.

"I have folks that live in rural areas that have contacted me with significant concerns about their safety," he said.

Loyd said he didn't know if his committee would recommend the buffers to the Kansas Legislature, but that there is one good argument to be made for a buffer as other states enact such laws.

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"One thing we don't want in Kansas is to have laws that are so lenient that they attract other sex offenders from around nation."

### **Would buffers work?**

Wichita State University criminal justice professor Brian Withrow said 2,500-foot buffers would be unworkable and relatively unenforceable.

Studies have shown that sex offenders typically don't commit crimes in their own neighborhoods. And, he said, most offenders target children that they know.

Frances Breyne, public information officer for the Kansas Department of Corrections, testified before Loyd's committee last month and urged members to be careful when considering a buffer law.

It's best for offenders returning to society to have individual parole plans, many of which call for them to live in places where there are no children, she said. But some plans call for offenders to live in a home with family members.

Breyne told the committee that 14 states have adopted buffer zones that prevent sex offenders from living near schools, parks, day care centers or school bus stops. She said Illinois has the least restrictive buffer -- 500 feet -- but that most are 1,000 to 2,000 feet.

Many experts have concluded that buffer laws do not provide an effective way to promote public safety, she said.

"They lead to a false sense of security, and... they can actually lead to re-offending behavior."

A lack of stability in housing and employment are key factors in why parolees commit new crimes, she said. A survey of 135 sex offenders in Florida found that housing restrictions increased the isolation of offenders, which in turn created financial and emotional stress that made their lives less stable.

"Upwards of 70 percent of people who victimize children are known to the children -- and not just in a passing way," she said. "These measures don't account for what is, by and large, known to be the biggest portion of the population that offends against children."

### **An offender's thoughts**

A 55-year-old offender who spent five years in prison for molesting a 14-year-old boy told The Eagle he thought a buffer-zone law was a bad idea.

The man, who spoke on the condition that he not be identified, said he has completed an extensive sex offender treatment program and understands why his parole officer requires him to live more than 2,500 feet from a school. But he said he didn't think driving offenders into the country, away from their jobs and relatives, was an intelligent thing to do.

"One of the worst things you can do as a sex offender is to isolate yourself," he said. "They're increasing the chances and probability that they'll commit another crime."

"I'm sure if this law is enacted there will probably be some challenges."

The man, who is originally from western Kansas and now lives in a south Wichita mobile home park, said buffer zones could have a major impact on offenders who live in small cities around the state.

"There are some small towns where that circle is going to run from city limit to city limit," he said.

### **Parents' perspectives**

The single most common address for offenders in Wichita is the Miracle Inc. halfway house at 3820 N. Toben, where 12 offenders lived last month. Because the house is in an industrial area near 37th North and Webb Road, they would not be affected by a 2,500-foot buffer.

But offenders are scattered all over the city and many live close to schools. Eleven live within 2,500 feet of Gardiner

Elementary School, 1951 S. Laura, which is a block east of Washington and Mount Vernon.

Some Gardiner parents who were picking up their children on Friday said they had no idea so many sex offenders lived nearby.

"I can't believe that there's that many," said Amy Miller, who has three daughters at Gardiner. "It's scary. We at least want our schools safe for our children."

She said she would like to see the offenders move out of the neighborhood.

"I don't care where they go. I don't care if they live in a cardboard box out in the middle of nowhere. They shouldn't have been doing it in the first place."

Loren Jones, whose son is in kindergarten at Gardiner, said he would support a buffer-zone law.

"I think any parent would," he said. "The main objective is, you want your kids to be safe. When it's all said and done, it's really about the kids and their safety."

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Published January 23, 2006

## New data shows twice as many sex offenders missing

By LEE ROOD  
REGISTER STAFF WRITER  
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Iowans are no closer to knowing where dangerous sexual predators live, despite huge amounts of time, money and political rhetoric spent on better tracking them over the past year.

Authorities cannot find twice as many sex offenders since a state law went into effect last year banning offenders from living near child care centers and schools, according to new statistics obtained by the Iowa Department of Public Safety. As of last week, 298 of more than 6,000 sex offenders statewide were unaccounted for by law enforcement vs. 142 on June 1, 2005.

The number of missing offenders — roughly 1 in 20 now, vs. 1 in 46 before the state's 2,000-foot law went into effect — is a conservative count, police say. It does not include offenders who lie about their whereabouts, those who no longer register or those who have moved into the state undetected.

Numerous law enforcement officials — police, sheriffs and prosecutors in rural and urban areas — said last week that the gap in the offenders' whereabouts underscores the myriad problems associated with the 2,000-foot law.

Among the most trouble- some: The measure affects only where offenders sleep, not whom they come in contact with. It does not affect thousands of offenders who were "grandfathered in" and continue to live near children. And it treats low-level offenders as seriously as it does the worst predators.

What's more, numerous officials say the law is creating a new population of people who are homeless, while encouraging others to lie and say that they are.

Scott County Attorney Bill Davis, who believes the law should be repealed, said that he has consulted several prosecutors across the state, and that they are in agreement: "It's the wrong path. It doesn't make anyone safe, and it's just plain not fair."

Steven Conlon, assistant director of the Iowa Division of Criminal Investigation, said he did not know that more sex offenders were unaccounted for until the Des Moines Sunday Register inquired last week. He said the Department of Public Safety has not done much analysis of the sex offender registry to determine where offenders are living. However, he said, that should begin soon. He also said the state will soon have a Web site that will better map where sex offenders are located and include pop-up balloons that show offenders' faces.

Conlon said he believes it's too soon to tell whether the 2,000-foot law that went into effect in September has caused fewer sex offenders to report their whereabouts. Law enforcement agencies were more lax about updating the state's sex offender registry before the law went into effect.

"Before, we were probably allowed a little bit more time," Conlon said. Of recent efforts to update the registry, he said, "We probably have never been as current and timely as we are now."

Des Moines Police Chief William McCarthy echoed many peers, saying last week that he fears political cowardice will stop state legislators from overhauling the well-intentioned measure. Thus far, he said, the law has only sapped resources while giving the public a false sense of improved safety.

"Nobody wants to be seen as sticking up for the sexual offender at the expense of the child," McCarthy said.

Des Moines police have had to devote two full-time investigators to tracking sex offenders in the wake of the state ban and the passage of a similar, more-restrictive ordinance in Polk County. At the same time, locating the roughly 350 sex offenders in the capital city has become more difficult.

Sgt. Todd Dykstra said that almost all of the 87 arrest warrants issued for offenders who failed to register after the ban remain outstanding today. Some offenders simply report now that they are homeless, living under a bridge or sleeping in cars at rest stops, because registering whereabouts is mandatory, Dykstra and his peers elsewhere said.

### How offenders are tracked

The Iowa Department of Public Safety sends a letter to registered sex offenders on each anniversary of the month they were required to register. The letter is sent to the address that the offender reported to the registry. If the offender does not respond in 10 days, the agency contacts local law enforcement officials in the community where the offender is supposed to be living.

Offenders are supposed to report any address changes to their county sheriff's department, and officials there notify the state registry. The state estimated that 20 percent to 25 percent of offenders are difficult to locate. Five state investigators work with local police and sheriff's officials to track down offenders who are missing.

The level of tracking by local authorities varies. Dallas County Sheriff Brian Gilbert said deputies visit the home of every registered sex offender in the county once every three months. Polk County Chief Sheriff's Deputy Bill Vaughn said his department does not have the staffing to routinely track offenders or the jail space to house all those found to be out of compliance.

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"And then, oh my gosh, where do you begin?" Dykstra said. "It's a difficult task that we've been charged with, but we are making every effort."

Meanwhile, the state law and ordinances that have been passed in several Iowa cities and counties since have moved problems elsewhere.

Dallas County Sheriff Brian Gilbert said his county has more registered sex offenders today because the ordinance passed in Polk County has left very few places where offenders can live there. More than 30 were registered in Dallas County in September; now there are 52.

"I suspect Dallas County could enact its own ordinance, but then that just drops it down to someone else. And that's not the right thing to do," he said.

Last year, the Legislature took several steps to improve tracking and to bolster criminal penalties against those who prey on children. The move came in the wake of the slaying of 10-year-old Jetseta Gage, who was abducted from her home in Cedar Rapids. Among other measures, legislators required the state to develop a better method to assess the public safety risk posed by those who have committed crimes involving children, and to make that information available to the public.

However, the general public still cannot tell how big of a risk most offenders pose, let alone their full criminal histories. The risk assessments the state was required to provide by this year on the registry apply only to new registrants — amounting to 125 of more than 6,000 offenders.

Senate Republican Leader Stewart Iverson of Clarion said that it's apparent to him that offenders who pose the most risk need to be prioritized, but that it's too early to say what legislators will do this year. However, he said, the new law can't be blamed for sex offenders not accounting for their whereabouts. "With or without the 2,000-foot rule, the fact remains that they are supposed to tell law enforcement where they are living," Iverson said.

Since the law went into effect, law enforcement agencies have tried to do a better job of locating offenders, Iverson said, and that should give Iowans better peace of mind.

A number of ideas are being bandied about at the Legislature to change the 2,000-foot law. However, state Sen. Dick Deardon, a Des Moines Democrat who has been vocal on the issue, said it will be difficult to change.

"No one wants a postcard to come out two weeks before the election saying they are lax on sex offenders," he said.

"I'm sure there's going to be a lot of closed-door stuff," he said. "People are going to have to say, 'OK, we won't go after you if you don't go after us.'"

test

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Published January 24, 2006

## Replace molester laws with safety-zones, urge attorneys

**A residency restriction that took effect last summer does not make children safer, an association argues.**

By TIM HIGGINS  
REGISTER STAFF WRITER

### Latest poll

An Iowa Poll in November showed 22 percent of Iowa adults believe that the law prohibiting sex offenders from living near schools or child care centers makes Iowa a lot safer for children. Thirty percent said it made Iowa a little safer. Forty-three percent said it makes no difference, and 5 percent were not sure.

Iowa county attorneys said Monday that the state's law banning child molesters from living near schools is a failure and called for alternatives, including restrictions on where offenders can go.

The controversial law, which went into effect last summer, prohibits people convicted of sex offenses against minors from living within 2,000 feet of schools and child care centers.

The Iowa County Attorneys Association issued a statement saying that the restriction "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 association proposed erasing the 2,000-foot limit and suggested replacing it with so-called safety zones - areas that sex offenders would be prohibited from entering, such as schools and parks.

The association called for offenders to be assessed for a likelihood to commit new sex crimes.

It also said new restrictions should be placed only on those who provide an "actual risk in public areas to children with whom the offender has no prior relationship."

The restrictions should apply to crimes against children under the age of 14 and should pre-empt local ordinances, the association said.

Many Iowa cities and counties have enacted broader residency restrictions than the state's, fearing that their communities will become havens for 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," the county attorneys said.

The association said research shows no correlation between residency restrictions and reducing sex offenses against children. It said the law is giving the public a false sense of security.

"The law was directed at stranger offenses. Up to 90 percent of sex offenses against children are perpetrated by people already in the home or that have legitimate access to children. Their residency has nothing to do with access to children," said Corwin Ritchie, executive director of the association.

Gov. Tom Vilsack, a Democrat, said that legislators should look at the recommendations and that the governor's office and legislative leaders should broker a deal to prevent this issue from becoming part of the 2006 elections.

"Out of respect to law enforcement, we ought to take it very seriously," Vilsack said.

"We ought to have an agreement that this is not going to be the subject of a postcard 48 hours before an election," Vilsack added, referring to mailings attacking candidates as being "soft on crime" that have appeared in past legislative campaigns.

House Speaker Christopher Rants, a Republican from Sioux City, however, said he doubts the 2,000-foot law will be abolished.

Rants said that he believes lawmakers will look at risk assessments for sex offenders but that he thinks parents support the residency restrictions.

Senate Co-President Jeff Lamberti, a Republican from Ankeny, said the debate over sex offenders should move toward tougher sentences.

He has proposed mandatory prison time of at least 25 years for people convicted of sex crimes against children.

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**HARRY BAUMERT/REGISTER PHOTO**  
Home for him: Harry Smith makes his home at the Ced-Rel Motel in Cedar Rapids because it is one of the few places he can live without violating the state's residency law for sex offenders.

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#### Exemption lets some offenders live near schools

A half-dozen convicted sex offenders live in a hotel in the heart of downtown Des Moines — a few blocks from a school and a child-care center. But like other Iowa convicts around the state, they are allowed to remain there because they were "grandfathered in" under Iowa's 2,000-foot law or their crimes did not involve children.

## Residency law creates clusters of sex offenders

Ex-convicts find themselves living far from their jobs or treatment centers.

By LEE ROOD  
REGISTER STAFF WRITER

January 29, 2006

Cedar Rapids, Ia. — The red-and-white motel sits back from the highway, a lonely relic from a bygone era tucked behind a country supper club. In years past, one, maybe two, travelers might have pulled over on any given winter's night for a cheap night's stay before reaching Cedar Rapids.

But not now.

Now the 24-room Ced-Rel Motel is full, courtesy of Iowa's 2,000-foot law that has left people convicted of sex crimes against children few other places to live. Since September, convicts have filled the no-frills inn, paying \$450 to \$525 for a month's stay and the ability to say they are abiding by the law's controversial, and often confusing, restrictions.

"If the politicians want to take four more years debating this thing, that's fine with me," said Jeff Selzer, motel manager and landlord to the pariahs. "These people are really good about paying rent."

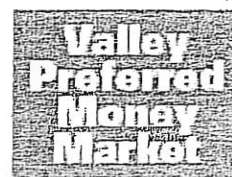
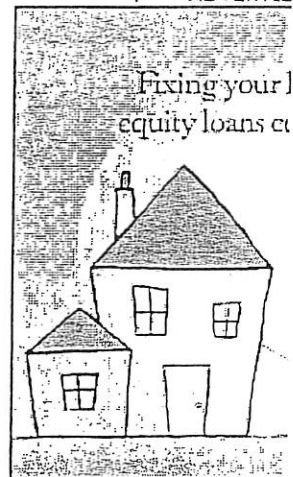
Most of Iowa's more than 6,000 registered sex offenders live alone in houses or apartments. But in the wake of the 2,000-foot rule and the myriad local ordinances that have passed in its wake, many such convicts have clustered in the few places that meet the residency restrictions.

The Ced-Rel was home to 21 such offenders as of last week, giving the motel the notorious distinction of being the largest sex-offender

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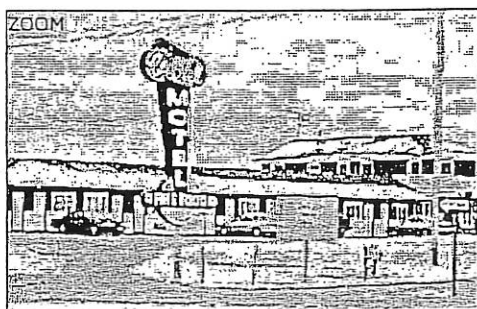
A database of registered sex offenders obtained by the Des Moines Sunday Register on Dec. 8 showed that six men, some with lengthy criminal records, lived at the Randolph Hotel, 204 Fourth St.

Sgt. Todd Dykstra of the Des Moines Police Department said he was not aware whether parents at the Downtown School or a child-care center for federal employees were aware the offenders were nearby.

"But you know what? It's the ones whose whereabouts we don't know about that are more a concern to us right now," Dykstra said.

Some Randolph residents were forced to move after the 2,000-foot rule went into effect. Dykstra said he is not aware of any serious incidents involving those who remain.

—Lee Rood



**Concentration:** Residency laws have pushed 21 sex offenders into living at this inexpensive motel in Cedar Rapids.

colony to sprout up since the laws took effect. An analysis of sex offenders' addresses shows that — outside of correctional facilities — inexpensive motels just like it are now the most common places where groups of four or more offenders reside in once place.

The convicts are also gathering in sizable numbers in mobile home parks, run-down apartment buildings, missions and halfway houses throughout Iowa, as the laws have pushed sex offenders to the outskirts of most towns and cities. At least nine reported as of early last month that they were living at an Amerihost Inn and Suites on Northeast 14th Street just outside of Des Moines. Seven rented apartments in a drafty building behind an auto body shop in Coralville. Seven shared rooms at a halfway house in Council Bluffs. Six bedded down at the Sioux City Gospel Mission.

Today, clusters of four or more offenders can be found at nearly two dozen locations around Iowa.

Sen. Larry McKibben, a Marshalltown Republican and chairman of a task force that will review the 2,000-foot law this year, believes the state residency requirement for offenders has been a good thing. While the 2,000-foot law needs some tweaking, he said, "it's my personal belief that people are safer, in that there is more information out there and people are accessing that information."

But it's not a good thing to those sex offenders who complain that their crimes did not warrant a lifetime's surveillance, as the 2,000-foot law requires.

Nor is it to those who treat sex offenders, who say such restrictions cut off offenders from jobs, housing, transportation, treatment and other support that enhance their chances for successful rehabilitation.

And it isn't good news to Linn County Sheriff Don Zeller, who said the law is causing many more of the 400 sex offenders in his county to lie about their whereabouts, which make tracking them much more difficult.

"We just filed charges last week against a guy who said he lived out there at the Ced-Rel and he doesn't," Zeller said. "Prior to the law going into effect, we knew where 90 percent of the people were. Now we know where about 50 to 55 percent of them are."

Zeller takes seriously his responsibility of monitoring sex offenders. Jetseta Gage, the 10-

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year-old whose killing spawned a whirlwind of concern over sex crimes in Iowa, was abducted last March in his county. Feeling less certain about offenders' whereabouts, the sheriff said he now feels like he has to check on all offenders in the county three or four times a year, regardless of their crimes.

"It's a tremendous amount more work for us," he said.

Iowa's 2,000-foot rule and similar ordinances are supposed to better protect communities by keeping sex offenders away from the places where children congregate. In practice, it has made abiding by other laws more difficult for people like Harry Smith Jr., the inhabitant of Room No. 2 at the Ced-Rel.

In 2001, Smith was convicted for a second time of indecent exposure and spent 60 days in jail for his crime. His victim: a 16-year-old girl.

Until the 2,000-foot rule went into effect, Smith said, he lived with his sister in Cedar Rapids, thinking he was abiding by the law as long as he registered his whereabouts with the local sheriff. He said he wasn't aware of another new state law that prohibits women with children from living with convicted sex offenders. When authorities found out, he said, his sister was charged with child endangerment and he wound up at the Ced-Rel.

Because of his record, Smith, 39, said he has been able to find only seasonal work as a highway flagger. It's not easy to get to job sites because his driver's license is suspended. If he drives to work, he risks getting a ticket. If he stays with a co-worker, he is in violation of the 2,000-foot rule. He said he can't trouble co-workers for a ride to work because he lives too far out of town.

"And forget about anything else," he said. "Do you know of any city bus that comes out this far? Do you know how much a cab would cost?"

Posted on Sheriff Zeller's Web site are a handful of zones in Linn County where sex offenders are allowed to live. But the information can give the mistaken impression that they will be accepted there.

Men who live at the Ced-Rel say managers of apartment buildings closer to Cedar Rapids and Marion that meet residency restrictions have turned them away. Other complexes are too expensive.

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The Ced-Rel is overflowing with requests for rooms, and Zeller said he cannot locate enough places for the men to live.

One unemployed man recently spent several cold days waiting in his lobby, while staff members tried in vain to find him a place that complied with the restrictions. "I don't know where he went at night," Zeller said.

Iowa is one of at least 14 states that in recent years have enacted laws restricting where sex offenders can live, and one of several this year considering additional legislation, including stiffer punishment. McKibben said he favors a 25-year mandatory sentence for offenders who commit the most serious offenses against children ages 12 and younger.

However, research suggests that longer prison terms, just like tougher residency requirements, do little to deter the most serious predators, said Deborah Denno, a Fordham University law professor and sociologist. It's also difficult to assess offenders accurately to determine who poses the most risk.

"Historically, we've always had a very difficult time trying to predict this kind of behavior," she said.

Denno said heightened media attention and public hysteria over crimes such as Jetseta Gage's slaying are fueling the spate of legislation. Violent crimes — including homicides — decreased substantially in Iowa and nationwide in the first half of this decade, compared with the 1980s and '90s.

Twice before — once after the Depression and then after World War II — the country experienced two similar "sex crime panics," Denno said. Then as now, the more heinous crimes made big headlines. Behind the scenes, however, lurked fears about sexual deviance and a number of cultural forces that collided to bring about a range of new sex offender statutes.

McKibben said he anticipates Iowa's debate will continue beyond this year's legislative session. In the meantime, the residents of the Ced-Rel wonder whether they will ever be free to move.

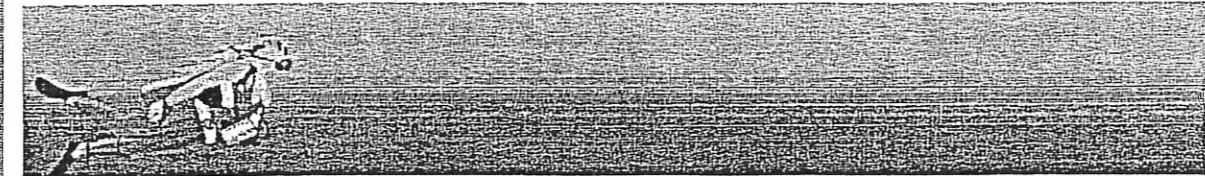
Nine years ago, mechanic Gary Gilbert was convicted of third-degree sexual abuse involving a teenage girl. He said he completed treatment while serving almost five years in prison, and he hasn't been in trouble for anything more than a speeding ticket since then.

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"I did my crime and I paid for it, but I would like to have some kind of life," Gilbert said. "Look at this. Would you call this a home?"

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March 15, 2006  
Time Served

## Iowa's Residency Rules Drive Sex Offenders Underground

By **MONICA DAVEY**

CEDAR RAPIDS, Iowa — One cornfield beyond the trim white farmhouse where the Boland family lives and a road sign warns, "Watch for children and dogs," is a faded motel.

For years a layover for budget-conscious motorists and construction crews, the motel has lately become a disquieting symbol of what has gone wrong with Iowa's crackdown on sexual offenders of children. With just 24 rooms, the motel, the Ced-Rel, was home to 26 registered sex offenders by the start of March.

"Nobody wants to have something associated with sex offenders right beside them," said Steve Boland, a farmer and father of two who learns about his newest neighbors every few weeks when sheriff's deputies stop by with photographs of them.

"Us showing the kids some mug shots sure wasn't going to help," Mr. Boland said. "How were they going to remember that many faces?"

The men have flocked to the Ced-Rel and other rural motels and trailer parks because no one else will, or can, have them. A new state law barring those convicted of sex crimes involving children from living within 2,000 feet of a school or day care center has brought unintended and disturbing consequences. It has rendered some offenders homeless and left others sleeping in cars or in the cabs of their trucks.

And the authorities say that many have simply vanished from their sight, with nearly three times as many registered sex offenders considered missing since before the law took effect in September.

"The truth is that we're starting to lose people," said Don Vrotsos, chief deputy for the Dubuque County sheriff's office and the man whose job it is to keep track of that county's 101 sex offenders.

The statute has set off a law-making race in the cities and towns of Iowa, with each trying to be more restrictive than the next by adding parks, swimming pools, libraries and bus stops to the list of off-limits places. Fearful that Iowa's sex offenders might seek refuge across state lines, six neighboring states have joined the frenzy.

"We don't want to be the dumping ground for their sex offenders," said Tom Brusch, the mayor of Galena, Ill., which passed an ordinance in January.

But even as new bans ripple across the Midwest, the rocky start of the Iowa law — one of at least 18 state laws governing the living arrangements of those convicted of sex crimes — has led to a round of

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second-guessing about whether such laws really work.

"Nobody wants sex offenders in their area, and on its face, it makes sense that people wouldn't want them near day cares and schools," said Scott Matson, a research associate at the Center for Sex Offender Management, a nonprofit project financed by the federal Department of Justice. "But there are consequences of removing them."

While some of the Iowa's largest cities, like Des Moines, have become virtually off limits for those convicted of sex crimes involving children, the new rules have pushed many to live in groups away from their families, in places like the Ced-Rel, or the Red Carpet Inn in nearby Bouton, where nine offenders rent rooms.

Michele Costigan, whose driveway is right across Highway 30 from the Ced-Rel in this rural stretch just outside Cedar Rapids, said she had stopped leaving any of her four children at home alone, had told them to dial 911 if anyone they did not recognize pulled into the family driveway, and was considering moving.

"If the point of his law was to make us safer, we are not," Ms. Costigan said.

Even more worrisome to law enforcement officials in Iowa, the restrictions appear to be leading some offenders to slip out of sight.

Of the more than 6,000 people on Iowa's registry of sex offenders, 400 are now listed as "whereabouts unconfirmed" or living in "non-structure locations" (like tents, parking lots or rest areas). Last summer, the number was 140.

"When it comes down to it, we would rather know where these people are living than to have the restriction," said Deputy Vrotsos. He said that he devoted at least 20 hours extra a week, along with the work of two clerks, to administering the new state law.

Last fall, Deputy Vrotsos told about 30 of the offenders that they would have to move to meet the requirements of Iowa's law, which he said made about 90 percent of the city of Dubuque off limits.

Some complied, he said, moving to trailer parks, across the Mississippi River into Illinois, to motels or, in the case of one man who had been living with his parents, to a truck at the Ioco Truck Stop on the outskirts of town. But at least three of the offenders have disappeared, Deputy Vrotsos said, giving false addresses or not providing any address at all.

The effectiveness and fairness of the restrictions has become a matter of great debate.

Some law enforcement officials say they believe that restrictions keep the most serious sexual predators away from places where they would be most likely to hurt a child again. But others argue that while such laws are politically appealing, there is little empirical evidence to suggest a connection between recidivism and proximity to schools or day care centers, and that the policies are too broad, drawing in, for example, people who as teenagers had sex with an under-age girlfriend.

In Arkansas, a 2001 study found that sexual offenders of children often lived near schools, day care centers and parks. Those results suggested, said Jeffrey T. Walker, a professor from the University of Arkansas at Little Rock who was a co-author of the research, that residency restrictions could be a reasonable deterrent.

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But studies for the Colorado Department of Public Safety in 2004 and the Minnesota Department of Corrections in 2003 have suggested that where an offender lives appears to have no bearing on whether he commits another sex crime on a child.

The problems have left some states turning to other means for controlling registered sex offenders, particularly with public outcry after cases like the rape and killing of 9-year-old Jessica Lunsford in Florida last year; a convicted sex offender is accused in the attack.

A flurry of new legislation is being considered all over the country. More legislatures are considering joining a dozen that already use satellite tracking devices on offenders. Others, including Iowa, are considering harsher prison sentences for those who attack children. Lawmakers reason that they would not have to worry about recidivism if offenders rarely emerged from prison.

Jerry Behn, a Republican state senator, proposed Iowa's residency law after a constituent called him to point out that a registered sex offender was living in a home that looked out over a schoolyard in Boone, Mr. Behn's hometown.

The legislation passed overwhelmingly in 2002, but was challenged in a lawsuit. A federal judge ruled that the law was unconstitutional, but a three judge panel from the appeals court overturned the ruling.

Almost immediately, other states felt the reverberations. Chief Steven M. O'Connell of the East Dubuque, Ill., police said he began getting "an appalling number" of calls from offenders from Dubuque who wanted to know if they could legally live in his town instead. Sheriff Timothy F. Dunning of Douglas County, Neb., not far from Council Bluffs, Iowa, said that new sex offenders rarely moved to town in the past, but that since last fall, 28 had arrived.

Despite the problems, legislators in Iowa are unlikely to ease the distance restriction anytime soon, said State Senator Larry McKibben, a Republican who is leading a legislative task force on sex offender policies.

"It may have created some hardships for sex offenders," Mr. McKibben said. "But over all, I feel like with the spate of sex offenders in the past few years, this has at least caused parents to be more aware of what is going on."

Corwin R. Ritchie, executive director of the Iowa Association of County Attorneys, which opposes the law, said it had created a "false sense of security" for Iowa residents.

"This is very close to banishment," Mr. Ritchie said. "They quit registering with the sex offender registry and they start sleeping under bridges and at rest stops"

Back at the Ced-Rel motel, Kenneth Selzer, the owner, angrily defended his renters to a reporter, saying they caused little trouble to anyone, not to his neighbors, not to his wife, who sometimes worked late at the motel by herself.

Don Zeller, the sheriff here in Linn County, said however that he had heard a lot of concerns from people over sex offenders in the county, 30 of whom face charges for not complying with the state law's residency restrictions.

Before September, Sheriff Zeller said, he knew where 90 percent of Linn County's sex offenders were living, and today he knows where slightly more than half live. Just before Christmas, the sheriff said,

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one man began spending his days inside the sheriff's office because he had no where else to go.

Gretchen Ruethling contributed reporting from Chicago for this article.

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## Plan to limit sex offenders' residency shelved

By STEVE SCOTT  
boundaries

St. Paul Pioneer Press

Map: Proposed sex offender

MAPLEWOOD, Minn. — The Maplewood City Council declined Monday night to enact a sexual predator ordinance that would have limited where convicted offenders could live, deciding to focus instead on education, awareness and prevention of sexual abuse.

A proposed ordinance would have enacted boundaries preventing certain classifications of offenders from living within 2,000 feet of places where children typically gather, such as schools, parks and day care centers.

"When this proposal first came in front of me, I was very excited about it as something we can do for our children," said Council Member Rebecca Cave, who along with other council members said she had received much input from residents in recent days.

After conducting more research, she said, "I don't feel this is the place and the way to do it. ... (The ordinance) will not protect our children."

Staff members of the Jacob Wetterling Foundation, a child-protection advocacy group, said such residency restrictions could undermine the registries designed to track sex offenders.

"Of all the offenders I've ever talked to," said the foundation's program manager, Michele Longe, "they've said it doesn't matter how far they live from a school, a park, whatever. ... If they want to re-offend, they will. But most try really, really hard to assimilate back into the environment. They have already experienced very punitive measures while they were in prison."

Council Member Kathy Juenemann said it was important that a decision not to enact an ordinance not be misread as doing nothing about the issue.

"We do need to be attempting to do something that states our intent or our purpose," she said. "If we say or do nothing, is that a message we want? It's a tough situation. ... There are more ways to be out in front rather than just writing it on a piece of paper. I think we need to start looking at this that the 'zone' is the entire city, and we need to look at the concept of educating everybody."

Cave's motion to dismiss the ordinance, which passed 4-1, requested that the city focus on public safety, calling town meetings and inviting experts such as the Wetterling Foundation to help the council and residents prevent sexual abuse.

"Everybody always expects us to come up here and say, 'Let's lock them up and be done with this,'" said Nancy Sabin, the Wetterling Foundation's director. "Our goal is to protect adults and children. ... What we need to do is get educated. ... Strangers aren't the ones hurting our kids. Less than 10 percent of the time, it's a stranger."

Council Member Will Rossbach voted against dropping the ordinance. He had proposed lessening the boundary to 500 feet.



# Where Will Sex Offenders Live?

Creating buffer zones around schools and other public places can make entire cities off-limits.

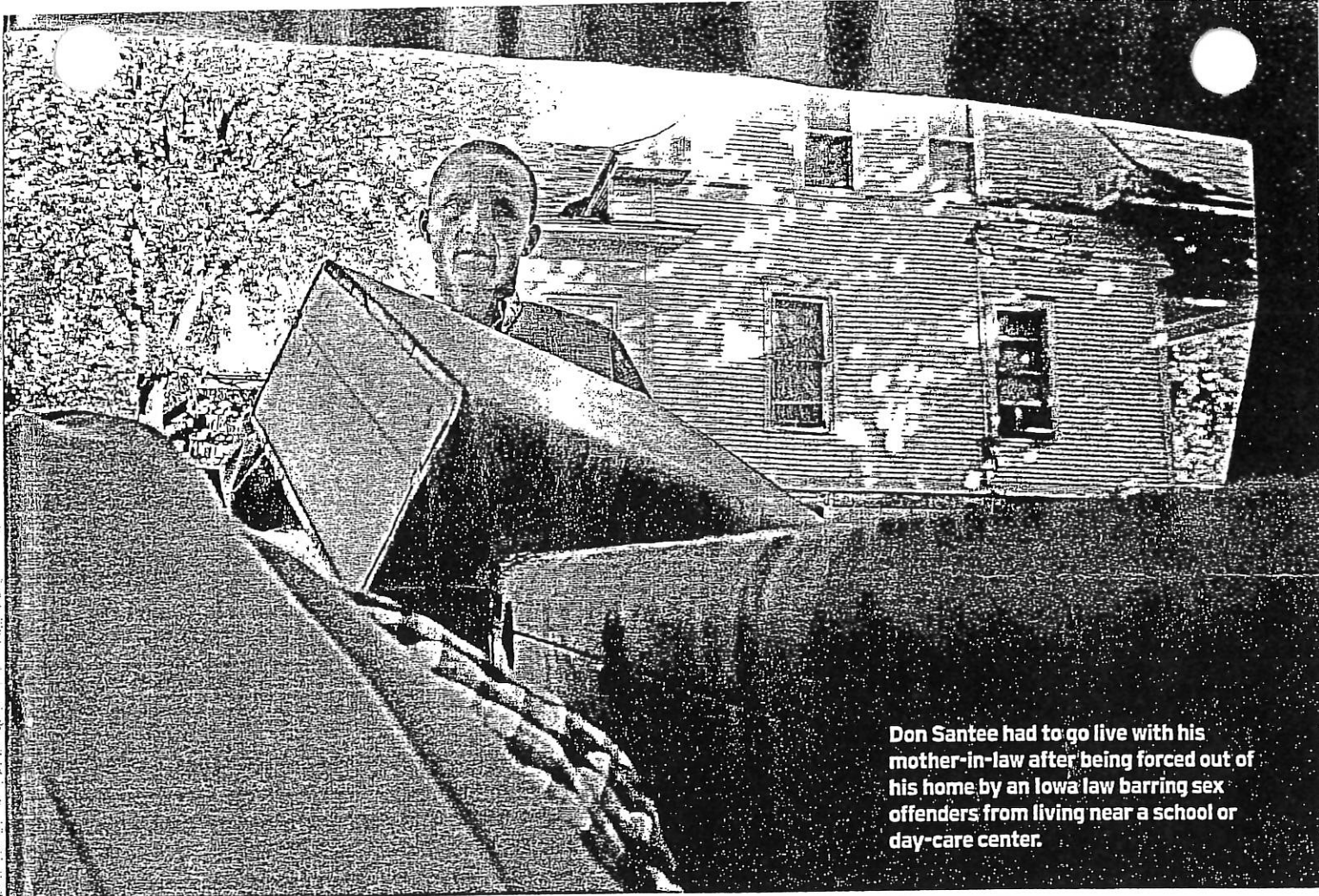
BY ELLEN PERLMAN

**M**iami Beach wanted to keep sex offenders as far away from children as possible. So officials there came up with a plan that, on the surface, would seem to do the trick. An ordinance passed last year makes it unlawful for those convicted of a serious sex crime to live within 2,500 feet of any school, public bus stop, day care center, park, playground "or other place where children regularly congregate." The city could have saved

some ink by simply writing: "No sexual predators allowed in Miami Beach." That, in essence, is the effect of the law. "The whole city is basically covered by this," says Mayor David Dermer. "As far as I'm concerned, it worked well."

When other cities heard about it, Dermer's office was deluged with calls. And so began the domino effect. As towns began to realize that neighboring jurisdictions might enact strict sex-offender residence rules, they scrambled to do the same, not wanting to be without an ordinance or have a rela-





**Don Santee had to go live with his mother-in-law after being forced out of his home by an Iowa law barring sex offenders from living near a school or day-care center.**

tively lax law that could serve as a welcome. More than 50 Florida municipalities, and 20 others from around the country, requested a copy of the ordinance from Miami Beach.

It's no surprise that public officials feel the need to do something. The nation was shocked last year when two Florida girls, nine-year-old Jessica Lunsford and 13-year-old Sarah Lunde, were murdered by registered sex offenders within a two-month span. In the wake of those and other widely publicized sex crimes in recent years, a race to clamp down on sex offenders picked up speed.

Eighteen states now have laws that prohibit sex offenders from living within a certain distance—generally ranging between 1,000 to 2,500 feet—from schools, playgrounds and other facilities where children gather. In addition, dozens of localities are enacting their own restrictions. Lawmakers rarely argue against their passage.

Jurisdictions with existing buffer-zone laws are increasing the distance regulations or adding more facilities to the list of places that are off-limits. In addition to schools, parks and day-care centers, some

also are including libraries and swimming pools. As in Miami Beach, the goal seems to be to post "no vacancy" signs at the border. "I've had folks say, 'I don't want them anywhere in my town,'" notes Charles Onley, a research associate at the U.S. Department of Justice's Center for Sex Offender Management. "Everyone wants these folks somewhere else."

Which begs the question: Where will sex offenders live? It seems that few people really care, beyond the offenders' families and the people whose job it is to work with them. But perhaps they should.

Critics of buffer-zone laws say people are kidding themselves if they think their children are safer because sex offenders live a half a mile from a school instead of, say, a quarter of a mile. Or don't live in town at all. "If sex offenders out there want to commit a crime, it's not a matter of where they are living," says Dr. Fred Berlin, an associate professor of psychiatry at Johns Hopkins University School of Medicine who has been treating sex offenders for 25 years. "They will go somewhere with access to a victim. Much of

public policy is enacted in response to a horrible crime," he adds.

But it may not be good public policy. In addition to the possibility of putting children in more danger by creating a false sense of security, such laws may also hamper law enforcement's ability to do its job effectively.

## Public Notification

The foundation for residence restrictions on sex offenders was laid more than a decade ago. In 1994, Congress passed a law compelling states to require convicted sex offenders to register their post-release address with local law enforcement agencies. This assisted parole and probation officers, who are responsible for supervising, monitoring and tracking them. But the public was out of the loop. Two years later, Megan's Law mandated community notification programs to provide citizens with information on sex offenders in their midst.

States were given discretion in deciding what information is "necessary to protect the public" and the methods for disseminating it. Forty-eight states currently provide reg-

istry data about sex offenders on the Web (Oregon will launch its site on July 1; South Dakota releases information through local law enforcement agencies).

The level of detail varies widely. Some states post information about only the most violent offenders and/or those considered most likely to re-offend. Others use broad crime categories that fail to differentiate among the types of sex offenses. For example, there are cases in which students in their late teens have been prosecuted for having consensual relationships with younger schoolmates. Those teens are unlikely to be stalking children at bus stops. But neighbors have no

on the Internet gives anyone, anywhere, the ability to know the precise location of tens of thousands of sex offenders as easily as the officers in charge of supervising them. If registered sex offenders worry about the humiliation or harassment of being listed, now they may fear for their lives.

In April, a Canadian man shot two registered sex offenders in their Maine homes. One had been convicted as a sexual predator. The other was 17 when he was arrested for being in a relationship with a 15-year-old girl, legally a minor, two weeks shy of her 16th birthday. The registry was taken down after the shootings, and the state is trying

driving into Miami Beach; Dermer does think it's one of several proactive measures a city can take to protect its children.

The Justice Department's Onley understands the sentiment but is concerned that if it has the effect of driving sex offenders underground, it will interfere with supervision of convicted felons on parole and probation, who are monitored on an individual basis. "Legislators are doing it with good motivation, but they may negate laws put there to locate these folks for public safety," he says.

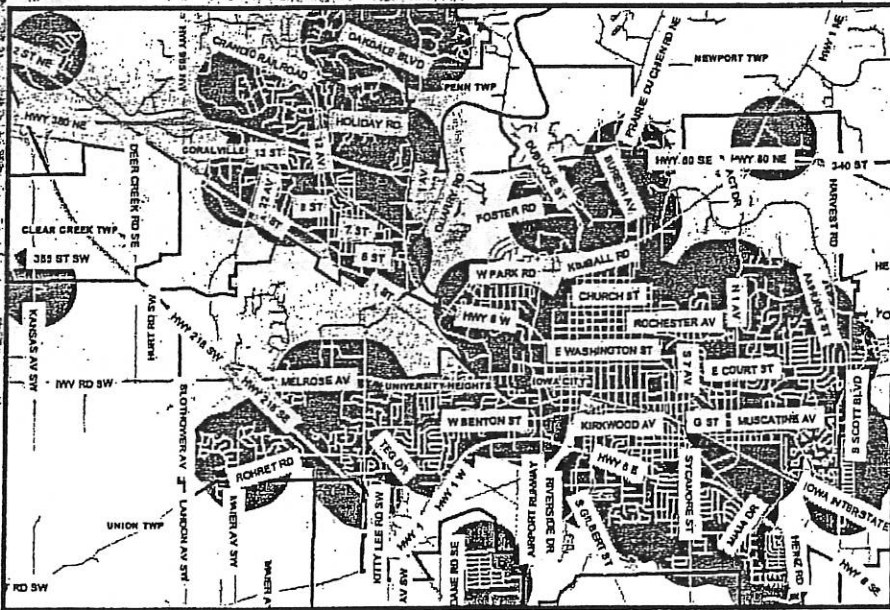
Iowa's law, for example, has made as much as 90 percent of the land area in major cities off-limits to sex offenders. As a result, 21 sex offenders wound up grouped together in a down-at-the-heels motel outside of Cedar Rapids this spring. Others have resorted to living in their vehicles—essentially homeless and hopeless, which only puts more pressure on them to re-offend, criminal justice officials note. In Wellington, Florida, about the only place sex offenders can legally live is in a rural, equestrian area where homes sell for a half million dollars and up.

The constitutionality of Iowa's 2,000-foot restriction was challenged and the law struck down by a federal district judge in 2004. However, an appeals court subsequently ruled that sex offenders' rights were superseded by the state's compelling interest in protecting its citizens. In a separate case, the Iowa Supreme Court also upheld the law. Although the Iowa Civil Liberties Union petitioned the U.S. Supreme Court to rule on the issue, the court declined to take the case.

If it becomes too difficult for sex offenders to find an affordable place to live, or they are harassed and forced to move, they may stop playing by the book and change residences without notifying authorities, register false addresses or simply disappear. The registry becomes less reliable and law enforcement has a harder time doing its job.

Since Iowa began enforcing the statewide residency law last September, nearly 300 sex offenders on the state's list of 6,000 are unaccounted for—twice as many as the previous 150 whose whereabouts were unknown.

Many people also don't realize that residence laws leave out a wide swath of potential sex offenders, including sexual deviants contemplating their first attack. In about 90 percent of the cases, predators know their victims. They might even live



Iowa's 2,000-foot residence restriction around schools and day-care centers makes virtually all of Iowa City off-limits to sex offenders.

way of knowing whether it is a sexual predator or a teen Romeo living down the street.

Nor are the people who live near sex offenders necessarily getting constructive information about what to do with the knowledge that there's a sex offender next door. "Give me some guidance on what I ought to be doing about it," Berlin says. "That's not happening in a universal way."

Registries also have proven to be riddled with inaccuracies. In a Chicago crackdown, investigators went to more than 80 homes sex offenders listed as their addresses—only to find that more than three-quarters of them were abandoned buildings, empty lots or not the home of the offender.

But, when the listings are accurate and detailed, the posting of registry information

to figure out how to handle the registry in the future.

## Going Underground

Such issues haven't stopped elected officials from introducing buffer-zone laws as a way to protect communities, particularly in reaction to a horrific sex crime. "I've heard it called feel-good legislation," says Mayor Dermer, but he doesn't buy it. "If you have a child, do you want a registered sex offender living next to you? Do you feel comfortable with that?" Miami Beach's law is tailored to pertain to the more serious crimes against minors, not, for example, the Romeo offenses.

While acknowledging that the law isn't a panacea and can't keep predators from

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# Offenders on File

Registered sex offenders, as of July 1, 2005\*

Ala.	5,619	Ind.	7,960	Neb.	2,042	S.C.	8,217
Alaska	2,000	Iowa	6,590	Nev.	9,718	S.D.	1,710
Ariz.	14,000	Kan.	3,757	N.H.	3,151	Tenn.	8,168
Ark.	5,878	Ky.	5,427	N.J.	10,443	Texas	38,627
Calif.	103,990	La.	6,611	N.M.	1,802	Utah	8,182
Colo.	8,409	Maine	1,617	N.Y.	21,021	Vt.	2,229
Conn.	3,785	Md.	4,308	N.C.	10,864	Va.	11,873
Del.	3,000	Mass.	16,500	N.D.	876	Wash.	18,631
Fla.	34,531	Mich.	37,134	Ohio	13,778	W.Va.	2,236
Ga.	9,682	Minn.	16,445	Okla.	7,711	Wis.	17,502
Hawaii	2,000	Miss.	3,411	Ore.	16,251	Wyo.	924
Idaho	2,671	Mo.	10,837	Pa.	7,370	D.C.	621
Ill.	17,100	Mont.	5,097	R.I.	1,500	U.S.	563,806

\*Because states' registration rules vary widely, the number of registered sex offenders in a state does not necessarily reflect the actual number of people who have been convicted of a criminal sexual offense.

Source: National Center for Missing and Exploited Children

with them. In the vast majority of sex-crime cases involving minors, the attacker does not snatch random victims off the street. Rather, it is often a relative or a friend of the family who takes advantage of a minor. No buffer zone in the world is going to prevent that type of crime.

The Iowa County Attorneys Association, which has urged legislators to repeal the residency-restriction law, also points out that sex offenders often have families and children. In a significant number of cases, they have married or reunited with their victims. If a sex offender can't live in his home because of a buffer-zone law, the lives of spouses and children who have committed no crime are disrupted. In some cases, it could be for living, say, 2,300 feet from a school instead of 2,500.

## Isolationist Policies

The debate over how to deal with known sex offenders in the community tends to pit people who treat or monitor sex offenders against just about everyone else. The number of advocacy groups fighting for the rights of sex offenders is small. Few elected officials openly oppose limiting where sex offenders live. Any attempt to make laws less harsh doesn't sit well with voters. "It's

almost heresy to suggest anything that might be seen as supportive of helping a sex offender," says Johns Hopkins' Berlin. "They're so demonized."

Iowa prosecutors argue the state law requiring that registered sex offenders live 2,000 feet from schools and other places does not provide the protection intended. The Iowa County Attorneys Association listed 14 problems with the law. For one, research does not show that children are more likely to be victimized by strangers at the locations covered by the law than elsewhere. And research shows no correlation between residency restrictions and a reduction in sex offenses against children or an improvement in their safety.

In California, Assemblyman Mark Leno has called the rush to effectively banish offenders the "new McCarthyism." California has an initiative on the November ballot prohibiting registered sex offenders from residing within 2,000 feet of a school or park, along with provisions on GPS tracking and involuntary civil commitment after a prison term. Leno tried to get the residence provision removed. He doesn't believe sex offenders are dangerous because of where they reside but where they hang out and how they pursue their victims. Senator Dean Florez also op-

poses the residence provision. He has said Californians will be voting on a "predator-dumping initiative," one that pushes sex offenders out of cities into rural areas.

This desire to drive the unwanted away is centuries old. "It's an old construct in criminal justice," says David D'Amora, director of the Center for the Treatment of Problem Sexual Behavior. "It's the creation of a ship of fools. You take people with criminal problems or the feeble-minded or those with mental illnesses and you load them on ships and send them out to sea where most of them would perish over time. We're recreating some of it, essentially casting people out one way or the other."

In Colorado, there has been talk of creating a separate town for sex offenders, essentially treating them like lepers. "There is a lack of comprehension of the problem," D'Amora says. "There's a big history of segregating and isolating people that scare us, with the hope that it will solve the problem," he says. "We've learned that it doesn't. But with each new group, there's a new series of rationales. There's a tendency to recycle failed solutions." Granted, the group that society wants to banish is a scary bunch. But sending them out into some desert on their own will not make city folk safer, he insists. It will just make it harder for law enforcement to keep an eye on them.

Are there other policy options beyond residence requirements? Few laws address treatment. Pedophiles are sexually oriented toward pre-pubescent children. Prescription drugs can decrease those urges. "If the only thing we do is put them in prison, we've done nothing to erase the cravings or enhance the person's ability to resist acting upon them," says Berlin. "We still think we can treat them the same as the guy who robbed a bank or evaded income taxes. Punish him and he will stop doing it." Those offenders will get out of jail eventually. And their unnatural desires will be unchanged.

There clearly are no perfect solutions to the problem of how to deal with sex offenders once they return to society. But a growing number of academics, physicians and criminal-justice practitioners are warning policy makers that these well-intentioned residency rules may ultimately do more harm than good.

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Wednesday, July 26, 2006



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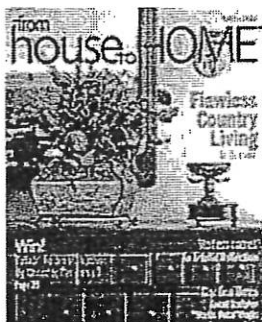
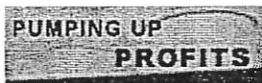
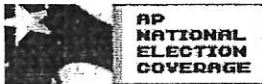
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## Registration law backfire forecast

By SHANNON MUCHMORE World Staff Writer  
7/7/2006

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### Changes likely to persuade sex offenders to ignore it, police fear

New amendments to Oklahoma's Sex Offender Registration Act will make it nearly impossible for recently convicted sex offenders to live in Tulsa and will therefore increase the number of offenders who do not register, the supervisor of the Tulsa Police Department's Child Exploitation Unit said Thursday.

"It is unrealistic to believe that the dozen or so sex offenders that get out each month are not if this is where they're from," said the supervisor, Sgt. John Adams.

"We can believe and hope that they're going to obey the law and not move to Tulsa, but in re going to move here; they're just not going to register," he said.

Gov. Brad Henry approved the changes June 7, and they took effect immediately. The act nc offenders from living within 2,000 feet of any public or private school, playground, park or lice center.

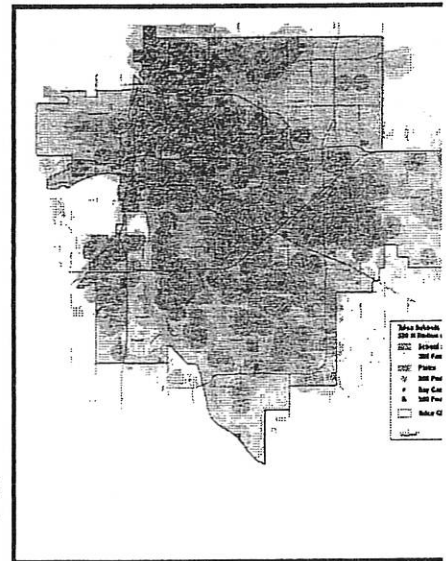
Offenders who now live in such areas will not be required to move, however.

Only about 8 percent of the city is now available to registered sex offenders, but Adams said in an even smaller percentage because that 8 percent includes industrial areas and high-rent areas.

He plans to discuss the amendments with state lawmakers and ask them to revamp the law c legislative session, he said.

"The way it is now, you may be living next door to them (registered sex offenders), but we kn next door to them," Adams said. "If this drives them underground, you'll live next door to then it."

Another amendment removed the grandfather clause from a section that prohibits sex offend



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within 300 feet of a park, school or child-care center.

The amendment will affect 20 to 100 sex offenders, depending on whether it applies to all of those who are convicted of an offense against a child age 13 or younger, Adams said.

The Police Department's Legal Department is reviewing the act's language to determine how applied, but officers believe that the Legislature intended for it to apply only to those who vict

The Police Department will begin enforcement case by case, Adams said.

"We're going to have to get to it as we can get to it and as time allows us to look into this," he a report from a citizen, we're going to look into that in a timely manner. If not, as we get time and identify the sex offenders and measure them — because we're going to have to go out ar each individual one — then we'll take them one at a time."

Even residents who have lived or worked within the 300-foot radius for several years and hav with the law will be forced to move or get new jobs, Adams said.

"We've got five or six that live in one general apartment complex. They have all been real go

"They've maintained their registration. They've never been late. They've never violated any s said, referring to the law.

"It may affect them, and they may have to move because they live across the street from Riv

The law is also flawed because it doesn't consider a sex offender's crime when determining r said. Instead, it encompasses all sex offenders, regardless of how minor the offense may hav said.

"We really group them all in one category, and we shouldn't," he said. "We should come out t rate the sex offenders and monitor them according to their threat level."

Adams said the legislation caught law enforcers by surprise.

"We had no warning it was coming," he said. "The district attorney had no warning it was con something that was rushed through and passed."

The law may even be unconstitutional, he said.

"You can go too strict with these laws and make it too restrictive to sex offenders and wind up constitutional rights," he said.

"Then you're going to wind up with the federal courts coming in and throwing out your legislat going to have to start all over."

Steve Kunzweiler, the chief of the Criminal Division of the Tulsa County District Attorney's Of office would support law officers as they enforce the act.

"We're fully backing what law enforcement is going to do and their efforts to get a handle on t make sure that these offenders are held accountable," he said.

The district attorney's office also will support the drive to amend the act, Kunzweiler said.

"We want to protect our children. Who doesn't?" he said. "We want to protect our loved ones.

"But we also want to be able to know where these people are. So we're going to just try to wc can within the framework that our Legislature has given us until we can come up with a bette

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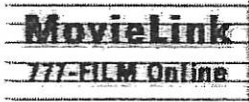




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## Law on sex offenders logistical headache

2006-08-06

by Anna C. Irwin  
of The Daily Times Staff

The purpose of the Child Protection Act of 2006 is obvious -- the law is designed to protect Tennessee's children.

However, one provision in the act is apparently making it more difficult to sentence, supervise and treat sexual offenders whose victims were minors.

Local concerns about sex offenders being treated next door to Fort Craig School of Dynamic Learning have been eliminated by the new law.

A provision in the law states that sex offenders whose victims were minors may not "knowingly obtain sexual offender treatment or attend a sexual offender treatment program" within 1,000 feet of the property line of "any public school, private or parochial school, licensed day care center, other child care facility, public park, playground, recreation center or public athletic field available for use by the general public."

The law immediately shut down the sex-offender treatment program operated by Bill Tillery, owner of Psychological and Counseling Services at 601 Charles St., on the corner across Lamar Street from Fort Craig School.

Tillery, a licensed clinical social worker, had been conducting two group sex-offender treatment sessions each week until an outcry from Fort Craig parents last spring. The parents were concerned that having sex offenders in such close proximity to the school posed a threat to their children.

Tillery suspended his daytime session but was still providing an evening session until the new law took effect July 1. He is currently holding evening group sessions at the Board of Probation and Parole office in Knoxville. He said some of the other therapists in the area with the credentials necessary to be placed on the Tennessee Sex Offender Board's

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list of approved treatment providers are also holding sessions in the Knoxville Probation and Parole office after the end of the regular business day.

Tillery can't meet with sex offenders at the probation and parole office in Maryville because that location on Home Avenue is within 1,000 feet of a public park, Maryville's Greenway Trail.

#### Reporting difficulties

At present, sex offenders required to regularly report to their probation and parole officer cannot go to the Maryville office or to 20 or more offices across the state for those meetings.

Gary Tullock, director of field services for Tennessee's Board of Probation and Parole, said the board has requested an opinion from the state Attorney General to determine if the monitoring, which had been done at local probation and parole offices, falls within the new provision making certain areas off-limits for convicted sex offenders.

"Until we have that opinion, we're using alternate locations for face-to-face meetings. We can't simply send an officer out to their homes because it is impossible to collect a sample for drug and alcohol screening in such a setting," Tullock said.

He said all sex offenders who had been monitored and supervised at the Maryville office are going to the Knoxville office for the time being.

"We are not going to relax the level of supervision for these individuals," Tullock said. "Depending on the law's interpretation, every office in the state could be impacted in some way."

Rep. Doug Overbey, one of several sponsors of the Child Protection Act of 2006, said he is responsible for the provision concerning locations for sex-offender treatment.

"The law already prevented sex offenders from living or working within 1,000 feet of schools, daycare centers and other facilities where children would be present," Overbey said. "The amendment in this provision specifically addresses treatment and treatment programs. I don't believe that can be interpreted to mean supervision or monitoring."

"We all agree that treatment is necessary as is supervision and monitoring. If, for some reason, this provision in the law is creating problems in providing these things, I would suggest that those involved -- probation and parole, DAs, therapists and judges -- get together and work out solutions to the problems."

#### Treatment location issues

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Tillery said there are only five therapists in the Knoxville area willing to provide sex offender evaluations and treatment. He said only one of the five has an office location that meets the criteria in the new law.

According to Tillery, that therapist currently has a backlog of 33 evaluations to be done and the backlog will continue to grow.

The law requires courts to order a psychosexual evaluation and receive the results before a sex offender can be sentenced. The law then requires ongoing psychotherapy during an offender's probation or parole.

The offender must pay for the treatment and, due to the relocation of the group treatment sessions in this area, must have transportation to and from the Knoxville site.

"That means an extra 50-to-75 miles of travel each week for the 23 people in group therapy here in Maryville, up to 150 miles extra per week for the 21 I had in Morristown," Tillery said.

He said the Morristown group had been meeting at the probation and parole office there, but that site is within 1,000 feet of one of the locations prohibited by the new law.

"Community safety is the first issue those providing this kind of treatment must address. Treating the offenders is the second issue," Tillery said.

"We use tools to do pre-sentence evaluations that provide a specific assessment of risk," Tillery said. "We recommend that violent offenders be locked up. You'll find nonviolent offenders in these treatment programs now limited in where they can operate.

"I cannot find any evidence that the location for treatment of sexual offenders has caused community harm," Tillery said. "I can provide research to show that sex offenders not in treatment are 10 times more likely to re-offend. Making it so difficult for offenders to get treatment increases the risk to the children in the community."




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Wednesday, January 3, 2007

## Tracking sex offenders becomes 'nightmare' for police

By Dustin Lemmon | Monday, November 13, 2006

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A large map of Davenport covers a wall in the office of Davenport police Detective Richard Tubbs and features yellow circles around each of the city's schools and day-care centers. Nearby is a large metal tape measure.

The map illustrates where sex offenders can live under an Iowa law imposed in September 2005 that restricts them from living within 2,000 feet of such facilities. Tubbs and other police, prosecutors and parole officers say it better illustrates the difficulties they've experienced since the law's inception.

"It has been a nightmare to enforce, it has caused so many problems," Tubbs said.

Tubbs said the law has been hard to implement and maintain, and in some cases, it is an unfair burden on sex offenders, who use it as an excuse to not register or to lie about their whereabouts.

Davenport police Capt. David Struckman said the 2,000-foot law has made offenders more deceptive and has made it challenging to keep track of them.

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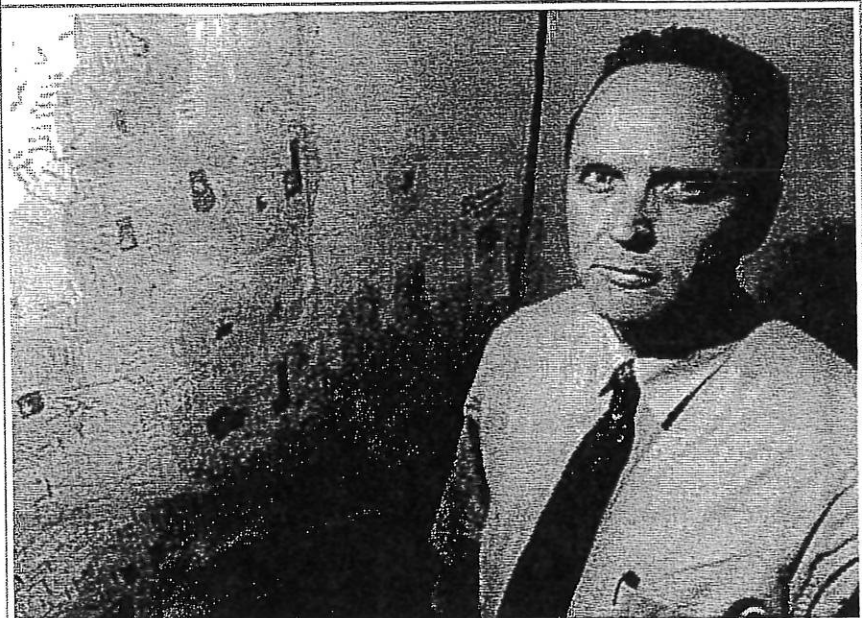
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### Story Photos



Nick Loomis/QUAD-CITY TIMES Davenport Police Department Detective Richard Tubbs stands in his office next to a map of the city that marks all the places within 2,000 feet of schools and day-care centers where sex offenders cannot live under Iowa law.

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"As a law enforcement officer, I'd rather know where they're at than worry about where they're living," Struckman said.

Tubbs handles warrants and monitors the whereabouts of sex offenders part time, doing each job by himself with occasional help from patrol officers.

He said Davenport and the Scott County Sheriff's Department work together to track offenders, but because of time restrictions, they track offenders only when they receive a complaint or notice from the state that someone has moved or given a false address.

When offenders register with the county, their address is not checked to make sure it's legitimate.

"We don't know that they're actually going to live there," Tubbs said. "We don't even know that the place actually exists."

Tracking offenders is tough

In a recent case, Tubbs received a complaint about an offender who had given a false address. When he checked the location of the apartment, he found the address didn't exist.

In another recent case, police arrested Tracy Alan Barnett, 39, Davenport, on child pornography charges after images were discovered on his computer, and he allegedly stole underwear belonging to his roommate and her daughters, ages 17 and 8. Police claim Barnett, who has a prior conviction, failed to register as a sex offender.

Tubbs said that when the patrol division has time, officers will go to the homes of registered offenders and check to see if they really do live there.

In some cases, the offenders don't sign up out of laziness, but since the new law went into effect, more have been deceiving the state because they don't want to move or can't find a home they can afford that isn't within 2,000 feet of a school or day-care operation.

Davenport Police Chief Mike Bladel said the law makes tracking sex offenders "somewhat challenging," but he still thinks police will find a way to ensure the new law works properly.

"We're confident that we'll be able to implement the new legislation," he said.

Bettendorf Police Chief Phil Redington said the law has not been as difficult for his officers to enforce because the city has about 30 registered offenders compared to Davenport, which has more than 200 by its latest count.

"We've had sex offenders come to our office and look at a map of where they can live," Redington said. "I know we have certain areas in town where a lot of them move to. We've noticed that they're starting to congregate in certain areas of town where they can live legally."

While the law is difficult to enforce, its purpose also baffles authorities who say it's ineffective. Several officials noted that limiting where the offenders live does not restrict their proximity to schools during the day when they're out and moving. Tubbs said an offender could even work at a day care if the operator doesn't do a thorough background check.

"We're a mobile society," he said. "Let's say someone is living within 1,000 feet of the school. What difference does it make?"

False sense of security

Iowa's law is one of the strictest in the country and was spurred by a case in Cedar Rapids in which a 10-year-old girl was kidnapped, assaulted and murdered by a sex offender. Other states have similar distance laws, but

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most do not extend 2,000 feet. Illinois limits offenders from living within 500 feet of a school.

Davenport and other cities have to worry about offenders coming into their cities for work and other business. Tubbs noted that Rock Island County has more than 300 registered sex offenders, giving the Quad-City area almost 600 registered offenders who are free to travel wherever they choose.

Scott County Sheriff's Maj. Mike Brown said he worries the law gives parents a false sense of security.

"I can understand the uncomfortableness" with offenders living nearby, he said, "but people call up and ask if (an offender) is living in a certain block, and when we say no, they take a big sigh of relief, almost like they can shut their eyes."

Brown said there may be someone dangerous nearby who never has been convicted and never registered, or there may be a registered offender who has given a false address.

"Parents have to constantly talk to their children," Brown said. "They have to keep an eye on them all the time."

Diana Danielson, a probation and parole officer with the Iowa Department of Corrections, said she spends much of her time helping offenders find housing that doesn't violate state laws.

She said many are poor and have to rely on bicycles or public transportation to get to work, which can be more challenging if they can't live near their job. She said studies show sex offenders who find steady work are less likely to reoffend.

"I'm not so much worried about their comfort," she said, "but how long do we expect them to hold a job when they're having to ride a bicycle several miles to work in January?"

Danielson said the law has forced her office to approve housing for offenders that they wouldn't have agreed to in the past, such as mobile home parks where children might be found playing outdoors.

To help police enforce the law, Scott County Attorney Bill Davis has told them to measure the 2,000 feet by the path a normal person would walk rather than straight-line distance. He said they prosecute three or four violations every couple of weeks.

"If it's a close call — five to 10 feet — it goes to the offender," he said.

Many in local law enforcement agree that the law should be repealed, but Davis is convinced state leaders won't change it now.

"It's a false sense of security for parents," he said. "It's a non-plus law. It doesn't do anything to protect children."

Danielson and Tubbs agreed.

"If I thought the law was for public safety, please know I'd be the first in line for this," Danielson said.

"It was not well thought out," Tubbs said of the law. "It was not (discussed) at the local level where it had to be enforced. Nobody came to Scott County from Des Moines and asked us how is this going to work."

Davis noted that it's rare so many law enforcement officials agree on one thing.

"Very seldom do we have something like this where every attorney in the state says repeal it, the police say repeal it, and they still don't do it."

Dustin Lemmon can be contacted at (563) 383-2493 or [dlemmon@qctimes.com](mailto:dlemmon@qctimes.com).

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## Police: sex offender law difficult to enforce

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DAVENPORT, Iowa (AP) -- Police say the state's sex offender residency law has become a "nightmare" to enforce and places a burden on offenders who end up not registering or lie about their whereabouts because they can't find a place to live.

The law, imposed in 2005, restricts sexual offenders convicted of committing crimes against children from living within 2,000 feet of a school or child care center. It requires them to register on the state's sex offender registry so authorities know exactly where they're living.

Davenport police Detective Richard Tubbs said the law has created problems for police and offenders.

"It has been a nightmare to enforce, it has caused so many problems," Tubbs said.

Police Sgt. David Struckman said the law has made offenders more deceptive and made it more challenging for police to keep track of them.

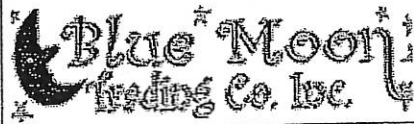
"As a law enforcement officer, I'd rather know where they're at than worry about where they're living," Struckman said.

Tubbs, who monitors the whereabouts of sex offenders, said while Davenport police and Scott County sheriff's deputies work together to track offenders, time restrictions only allow them to track offenders when they receive a complaint or notice that someone has moved or given a false address.

Tubbs said when time allows, officers will go the homes of registered offenders to

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make sure they are living there.

Sometimes, offenders don't sign up on the registry out of laziness, he said.

But since the law went into effect, more have deceived the state because they don't want to move or can't find a place to live that isn't within 2,000 feet of a school or daycare center.

There are more than 200 registered sex offenders living in Davenport.

Police Chief Mike Bladel said the law makes tracking sex offenders "somewhat challenging," but is "confident that we'll be able to implement the new legislation."

Iowa's law is one of the toughest in the country and was passed after 10-year-old Jetseta Gage was kidnapped and killed by a convicted sex offender.

Diana Danielson, a probation and parole officer with the Iowa Department of Corrections, said she spends much of her time helping offenders find housing that doesn't violate state laws.

She said the law has forced her office to approve housing for offenders that they wouldn't have agreed to in the past, such as mobile home parks where children might be found playing outdoors.

To help police enforce the law, Scott County Attorney Bill Davis has told them to measure the 2,000 feet by the path a normal person would walk rather than straight-line distance. He said they prosecute three or four violations every couple of weeks.

"If it's a close call -- five to 10 feet -- it goes to the offender," he said.

Many law enforcement officials think the law should be repealed, but Davis said he's convinced lawmakers won't change it. He said it provides a false sense of security for parents.

"It doesn't do anything to protect children," Davis said.

Both Danielson and Tubbs, the Davenport police detective, agreed with Davis.

"If I thought the law was for public safety, please know I'd be the first in line for this," Danielson said.

"It was not well thought out," Tubbs said of the law. "It was not (discussed) at the local level where it had to be enforced. Nobody came to Scott County from Des Moines and asked us how is this going to work."

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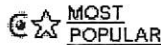
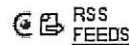
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## Sex Offender Restrictions Considered

Melissa Brunner

Most parents would say they wouldn't want a sex offender near their child. That's why, across the county, there's been a push to restrict how close to a school or playground a convicted sex offender could live.

It sounds like it should be black and white. Prof. Jeffery Walker with the University of Arkansas at Little Rock says the theory is that if you have sex offenders in close proximity to children, there's a possibility they would reoffend. However, he and others appearing at the Statehouse Wednesday say, when it comes to laws keeping sex offenders from living in areas where children are likely to be, there's a huge grey area.

Walker and Pamela Dettmann with the Iowa County Attorney's Association were among those briefing the Special Committee on Judiciary and newly-formed Sex Offender Policy Board. Iowa placed a two-thousand foot residency requirement on sex offenders four year ago. Dettmann says it has not been successful. She says it's turned many sex offenders into homeless people, making it near-impossible to know where they are under registration laws.

Sandy Barnett of the Kansas Coalition Against Sexual and Domestic Violence is among those sharing Dettmann's concerns. Barnett says knowing for certain where a sex offender is and making sure people in the neighborhood know is a better approach than restrictions. The reality, she says, is that there's really no where we can keep sex offenders away from children because children are all over the place. She says residency restrictions may create a false sense of security.

The committee did not discuss whether it would get behind any specific proposal for the full legislature to consider. The city of Wichita has said it will push for residency restrictions. The Topeka City Council considered a local ordinance earlier this year, but it was voted down, five to four.

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## Key lawmaker Doesn't Like Sex Offender Proposal

9:13 PM Nov 16, 2006  
 AP

A key legislator says laws to keep sex offenders from living close to schools or day care centers sound like a good idea, but they don't protect children.

Senate Judiciary Committee Chairman John Vratil made that assessment today, a day after Iowa officials warned Kansas legislators not to pass such restrictions.

A committee studying judiciary issues had a hearing yesterday on whether the state should prevent sex offenders from living within a certain distance of schools and day care centers.

Iowa officials told Kansas legislators that a similar law in their state forced sex offenders to live in remote areas, where it is difficult to track them. And they said the number of sex offenders unaccounted for has doubled.

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## Sex offender restrictions may backfire

By [Scott Rothschild](#) ([Contact](#))

Thursday, November 16, 2006

Restrictions on where sex offenders can live may sound good, but actually put communities at greater risk, law enforcement and victims' rights advocates said Wednesday.

"The bottom line is, it doesn't protect children," said Pamela Dettmann, a senior assistant county attorney from Burlington, Iowa.

Kansas lawmakers are considering legislation that would prohibit sex offenders who are released from prison from living near schools or day-care centers.

But officials from Iowa said a similar new law there has had several unintended consequences.

It has forced sex offenders to live in remote areas where it is difficult for law enforcement and parole officials to keep track of them.

And the number of sex offenders who are unaccounted for has doubled since the law went into effect last year.

Additionally, some communities now have clusters of offenders living in motels or other places outside the residency restriction.

Dettmann also said that the law misdirects public attention on the problem of sex crimes against children by focusing on "stranger" offenders, when most sex crimes against children are committed by a relative or acquaintance.

Iowa officials urged Kansas lawmakers to shelve proposals on residency restrictions and instead direct efforts on treatment of sex offenders and educational programs for young children.

In Iowa, law enforcement officials and prosecutors have joined forces to try to repeal the law there.

In Kansas, a judicial committee took no action on the proposal but will make its recommendations before the January startup of the 2007 legislative session.

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# Sex offender housing restrictions possibly a bad idea

Story by Gena Terlizzi (Contact)

6:19 p.m. Thursday, November 16, 2006

State lawmakers have considered passing restrictions to limit how far sex offenders can live from schools or playgrounds, but those restrictions don't always have the intended effect.

Frances Breyne works for the Kansas Department of Corrections. She says the department has spent the past year researching whether restricting where sex offenders live makes a difference in preventing future crime.

"During the course of that time we have found almost exclusively research by experts in the field does not support housing restrictions for sex offenders," she explained.

One of the reasons is that housing restrictions tend to push sex offenders to the outer edges of society, where they are less likely to have access to treatment programs.

"Sex offenders need to be around support services treatment and the supervision of law enforcement and corrections agencies," Breyne said.

Also, sex offenders have a tendency to isolate themselves from society anyway, and that increases their chances of acting out.

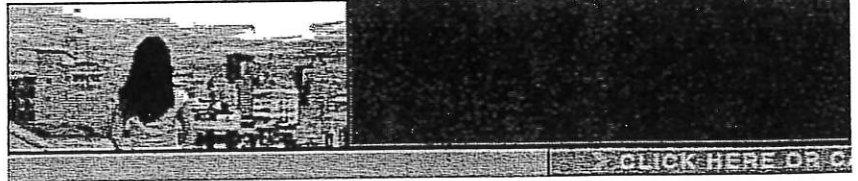
"Anything we do to encourage that isolation is problematic for continuing a law abiding lifestyle," Breyne added.

Breyne says the regulations suggest most sex offenders choose a victim who is a stranger. In reality, more than 80 percent of cases include a perpetrator who knows the victim, sometimes very well.

"They're victimized by family members and people in positions of authority like teachers and coaches," Breyne said.

Housing restrictions can also cause sex offenders to have to move more often, and make keeping in touch with law enforcement more difficult.

When lawmakers in Iowa passed a similar law, they found that the number of sex offenders that were not registered or accounted for doubled.

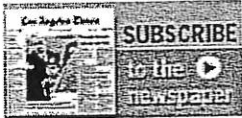


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## Law on sex offenders narrowed

In response to a suit challenging residency limits, Atty. Gen. Bill Lockyer says the measure will not be enforced retroactively.

By Jenifer Warren, Times Staff Writer  
November 16, 2006

SACRAMENTO — A ballot measure restricting where sex offenders may live in California does not apply to thousands of ex-convicts who have served their prison time and are off parole, government lawyers defending the initiative in court said Wednesday.

The declaration, made in a legal filing, means a key provision of the measure that passed overwhelmingly in the Nov. 7 election will not affect many of the 75,000 former sex offenders living throughout the state.

It also means the first legal battle over Proposition 83 is essentially over before it began. Lawyers for a sex offender challenging the initiative's residency restrictions near schools and parks said they probably would dismiss their lawsuit soon.

"It appears to us that our client and thousands of other people who thought they faced banishment can now breathe easier," said attorney Dennis Riordan, who represents the Bay Area man who filed the suit.

But Riordan cautioned that he would drop the legal challenge — which has blocked enforcement of the residency ban — only after obtaining a binding agreement signed by Atty. Gen. Bill Lockyer and approved by a judge.

Passed by 70% of voters, Proposition 83 authorized a sweeping crackdown on sex offenders, giving California what experts called the toughest such law in the nation. As well as lengthening prison and parole times for repeat and violent offenders, the measure requires registered sex offenders to wear an electronic tracking device for life.

The most controversial provision bans offenders from living within 2,000 feet of a school or park. Shortly after the election, the residency rule sparked a lawsuit from the Bay Area offender, identified as "John Doe" to protect his safety.

The suit said the initiative was unconstitutional because it slapped a new penalty on ex-convicts years after they had already been punished.

Convicted of a felony 15 years ago, the man had served his sentence, completed treatment and has led "a productive and law-abiding life" ever since, his lawsuit said. With the passage of Proposition 83, he "has effectively been banished from his community" as well as from residential areas in virtually every city in California, the suit said.

U.S. District Judge Susan Illston, finding a "substantial likelihood" the plaintiff would prove his case, blocked enforcement of the residency limit. That prompted Wednesday's response from the attorney general.

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In the court papers, Lockyer says "John Doe" does not have legal standing to sue because Proposition 83 is meant to apply prospectively, not to former offenders. To ensure the law applied retroactively, its authors would have had to expressly state — or make unambiguously clear — such an intent, which they did not, he said.

In addition, Lockyer noted, the initiative's sponsor, state Sen. George Runner (R-Lancaster) has repeatedly said that he never intended to uproot registered sex offenders already settled in society.

"We never planned for this to be retroactive," Dave Gilliard, campaign strategist for Proposition 83, said Wednesday.

Assemblyman Mark Leno (D-San Francisco), one of the few lawmakers who took a public stand against the initiative, said that statement contradicted the impression left by some of the measure's ballot materials.

Leno said some arguments presented in favor of Proposition 83 clearly "talk about the tens of thousands of sex offenders living among us, saying they need to be banished and that they are so dangerous our children should not have to pass their homes on the way to school."

"So now they're saying it's only the sex offenders released in the future we have to worry about, not those among us?" Leno said. "If I were a voter who supported this, I'd be angry and confused."

Although Lockyer's declaration that the initiative does not apply retroactively will probably make the lawsuit moot, the attorney general did address the constitutional challenge it presented.

The residency ban does not constitute a new punishment, Lockyer said, but is instead a housing regulation that "strengthens community safeguards against potential future acts of child molestation."

Some sex offenders Wednesday expressed relief that they apparently would not be covered by the initiative.

Richard Adamson, 50, of Visalia said the stigma of his offense left him unemployed and unable to find housing for eight months after his release from prison. He now lives in a small apartment within 2,000 feet of a neighborhood park. Six other sex offenders live in the same complex.

"I looked at the map, and all but about 5% of Visalia would be off limits to me," said Adamson, who now works as a bartender. He is a former teacher convicted of lewd and lascivious behavior with a minor. "I have felt a lot of anxiety, waiting for that knock on the door telling me to pack up and move."

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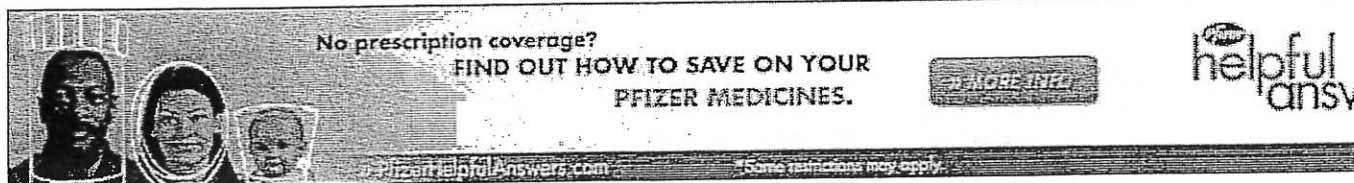
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CJOnline.com / Topeka Capital-Journal

Published Friday, November 17, 2006

## Vratil: Plan for sex offenders 'a bad deal'

*The Associated Press*

Proposals for keeping sex offenders from living close to schools or day care centers may appear attractive politically, but they won't protect children, a key legislator said Thursday.

Senate Judiciary Committee Chairman John Vratil's assessment came a day after Iowa officials warned Kansas legislators against passing such restrictions, saying they put communities at greater risk.

Vratil, R-Leawood, and other members of a committee studying judiciary issues this summer and fall had a hearing Wednesday on whether the state should prevent sex offenders from living within a certain distance -- such as 1,000 feet or 1,500 feet -- of schools and day care centers.

"It sounds good on the surface, and that's why it's politically attractive, but when you really determine what the facts are and the experiences the other states have had, it's a bad deal," Vratil said Thursday during an interview.

Iowa officials told Kansas legislators that a 2005 law in their state had unforeseen consequences. Prosecutors and law enforcement officials in Iowa are working to get the statute repealed.

"The bottom line is, it doesn't protect children," said Pamela Dettmann, a senior assistant county attorney from Burlington, Iowa.

Supporters of such proposals contend sex offenders who are released from prison should be kept a safe distance away from places where children congregate.

But Iowa officials told the committee that their state's law forced sex offenders to live in remote areas where it is difficult for law enforcement and parole officials to keep track of them.

Also, they said, the number of sex offenders who are unaccounted for has doubled since the law went into effect last year.

In addition, some communities now have clusters of offenders living in motels or other places outside the residency restriction.

Dettmann also said that the law misdirects public attention toward offenders who are strangers to their child victims, when most sex crimes against children are committed by a relative or acquaintance.

The Iowa officials urged Kansas legislators to direct their efforts to treatment of sex offenders and educational programs for young children instead of residency restrictions.

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## Some Curbs on Sex Offenders Called Ineffective, Inhumane

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By [Peter Whoriskey](#)

Washington Post Staff Writer

Wednesday, November 22, 2006; Page A01

As convicted sex offenders go, they seem to pose little danger.

One is 100 years old. Another can barely walk and is in the late stages of Alzheimer's disease. Another is dying of heart disease in a nursing home.

Yet under a new Georgia law, thousands of registered sex offenders, even the old and feeble, could be pushed from their homes and hospices.

"He doesn't really know anything about it," said Ruby Anderson, 77, whose husband was convicted of having sex with a minor in 1997 and, at 81, no longer recognizes members of his family because of Alzheimer's disease. "The trouble is, I just don't know where we can go."

As states around the country have sought in recent years to control the whereabouts of convicted sex offenders, Georgia's law stands out as one of the toughest, a testament to

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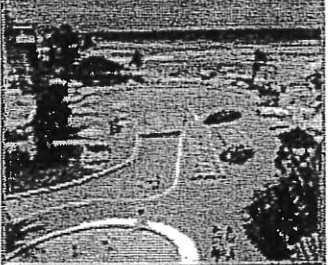
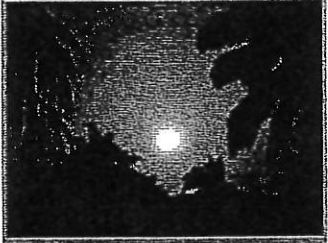
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the daunting public fears regarding children's safety.

The roughly 10,000 sex offenders living in Georgia have been forbidden to live within 1,000 feet of a school, playground, church or school bus stop. Taken together, the prohibitions place nearly all the homes in some counties off-limits -- amounting, in a practical sense, to banishment.

"My intent personally is to make it so onerous on those that are convicted of these offenses . . . they will want to move to another state," Georgia House Majority Leader Jerry Keen (R), who sponsored the bill, told reporters.

Since the law's enactment in July, however, a federal judge, human rights advocates and even some of the sheriff's departments that are supposed to enforce the measure have suggested that the zeal for safety may have gone too far.

The residency law applies not only to sexual predators but to all people registered for sexual crimes, including men and women convicted of having underage consensual sex while in high school.

Advocates for the sex offenders say the law is unfair to people who have served their sentences and been deemed rehabilitated. Many police officers, prosecutors and children's advocates also question whether such measures are effective. Most predators are mobile, after all, and by upending their lives, the law may make them more likely to commit other offenses, critics say.

"We should be concerned when we pass laws for political purposes that are irrational," said Sarah Geraghty, a staff lawyer for the Southern Center for Human Rights, the Atlanta-based group that filed court actions against the law's provisions. "This law will essentially render thousands of ex-offenders homeless, and that's just going to make them harder to monitor."

Besides the practical complications, she said, "forcing a terminally ill man to leave his hospice . . . shocks the conscience."

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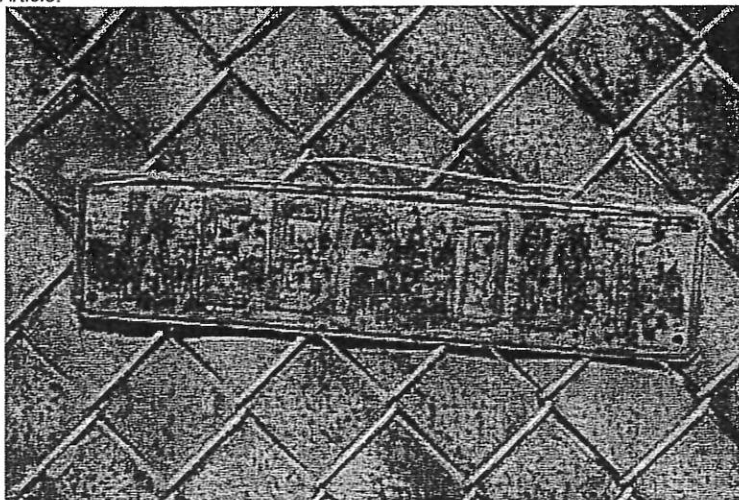
## Sex Offender City

By Sarah Etter, News Reporter

Published: 11/29/2006

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Article:



Fast forward ten years and imagine a country where sex offenders live together in little cities. Pushed to the outskirts of their communities, they are monitored and forced to live in under-populated areas. Think it's impossible? Think again.

In an effort to improve the safety of their communities, states and counties across the country are passing legislation that requires sex offenders to live no closer than 2,500 feet from schools, parks, and churches. Although this might seem like a viable solution to manage these offenders, some experts say

pushing them to the outskirts of society will only increase recidivism and make it more difficult to offer treatment.

In the small town of Algoma, Wisconsin, however, board members unanimously approved residency restriction laws, or RRLs, for sex offenders last week. According to town official Daniel Mingus, RRLs are rapidly becoming a choice for towns that want to improve safety but lack the state legislation to support their efforts.

"I can almost guarantee you that ten years from now, you are going to see every state in America using RRLs," he says. "Then you will finally see the federal government enforcing tighter restrictions. Many states are getting tougher and tougher when it comes to these restrictions because the recidivism rate is just so high for these individuals."

Mingus says the sex offender debate peaked when Algoma residents realized they were being notified only when the worst of the worst sex offenders moved into their communities. When citizens

demanding more oversight, local police said they didn't have the manpower to enforce housing ordinances. So the people took their problems to a township meeting.

Algoma's RRL does allow one unique exception. If offenders live with a relative, by blood or marriage, they may live within a child safety zone. Mingus says this is more of an allowance than most states provide.

Most residents are satisfied that the RRL passed, but the debate seems far from over.

"Is the RRL an answer? Absolutely not. This is a Band-Aid fix for our town," he admits. "I think this comes down to dollars. If we could slap GPS bracelets on all of them and keep track of them, that would be great. But we're seeing resistance in that area because of cost. So for now, I am just hoping we get enough states to pass RRLs and the federal government will take notice and do something about this problem."

Wisconsin is not the only state struggling with this issue. In California, where an estimated 100,000 released sex offenders and 10,000 sex offender parolees reside, Proposition 83, more commonly known as Jessica's Law recently passed, with 70 percent of citizens voting to prevent sex offenders from living within 2,000 feet of a park or school. The proposition also requires many offenders to wear GPS devices for life.

The California Department of Corrections and Rehabilitation is responsible for paroling these offenders, but CDCR spokesman Bill Sessa says the new law will make this issue more complex.

"We already impose housing restrictions on sexually dangerous predators," explains Sessa. "Jessica's Law basically means that we're expanding those restrictions to every sex offender."

By expanding those housing restrictions, sex offenders may end up living together in highly concentrated areas. Sessa says that the CDCR is solely responsible for finding appropriate housing for these offenders while they are under supervision and providing treatment, and treatment easier to offer when they live in groups.

"Communities might not like it, but if we drive these offenders out of housing, the biggest drawback is that we lose sight of them," he adds. "There are plenty of examples of sex offenders going underground to avoid registration, and that is not in the best interest of public safety. It is also a drawback as far as rehabilitation is concerned. One of the first steps of rehabilitation is therapy, and we cannot offer those services if we cannot find the offender."

The distance sex offenders are required to live from churches, schools and parks varies from county to county, but Sessa says even with these restrictions the public unrest is obvious.

"They are very concerned about sex offenders, and very much opposed to having live among them," he adds. "It is an issue we have to deal with all the time, in all states."

But sex offender housing issues are doing more than just raising debate. They are decreasing home values.

In North Carolina, researchers recently examined the impact sex offender housing has on the real estate market. In their report, *There Goes The Neighborhood? Estimates of the Impact of Crime Risk on Property Values From Megan's Laws*. Columbia University researchers found that Megan's Law, requires them to register and document where they live, which requires sex offenders to document where they live, impacted real estate markets for towns and neighborhoods where known sex offenders reside.

"We basically took the information from sex offender registries that would provide information not just on where a sex offender lived, but also when they moved into their current location. It turned out North Carolina offered that information so we decided to focus our efforts there," explains report co-author Leigh Linden.

After evaluating sex offender locations, property values and reports from real estate agents, Linden found the largest depreciation in those areas closest to sex offenders.

"We did not expect to see a four percent drop in real estate values for these homes," Linden says. "But that's exactly what we found."

Although his research cannot speak to where sex offenders might end up in the future, it does indicate that people who live around sex offenders make a decision to move away.

"The important thing to note from this is that sex offender housing isn't an issue being blown out of proportion by any means," Linden says. "This is an issue people are making extensive financial decisions about. They want to manage the risks they face, and their children face, at any cost. When a sex offender moves into a neighborhood, the property values drop and people move away. The degree to which this affects the public is a lot stronger than we anticipated."

Although it is not clear exactly where sex offenders may live in the future, many citizens and officials believe the federal government needs to step in and clear up the standards that surround the issue. For now, states, cities, counties and townships are on their own to create a solution to a country-wide problem.

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## Local News

Posted: Saturday, 02 December 2006 10:28AM

### Summit to Address Tight Sex Offender Housing Restrictions



SAN FRANCISCO (KCBS) -- The governor has agreed to hold a statewide summit on the issue of finding housing for high-risk sex offenders, an issue that has grown in proportion since the approval of Jessica's Law in last month's election, which bars offenders from living near parks and schools.

The High Risk Sex Offender and Sexually Violent Predator Task Force is backing the summit and has suggested the group convene in February to give lawmakers enough time to draft changes to the law next year. Jessica's Law bans offenders from living within 2,000 ft. of a school or park. More offenders qualify as sexually violent predators under the law as well.

"If it goes into effect fully, it would cause some 50 to 60 thousand of us who are registered to have to move and move out of the cities and towns of California," said Jake Goldenflame, a San Francisco sex offender who counsels other offenders still in prison.

"I've received some angry letters from men who are still in prison, threatening that if they can't be given housing within cities and towns when they come back, they may just decide not to do parole and abscond. That's the kind of thing that's most dangerous of all."



KCBS' Chris Filippi has more.

(RdD)

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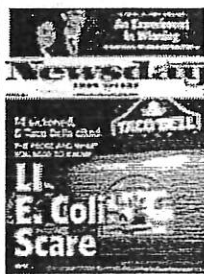
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## Long Island

### Residency laws for sex offenders under microscope

Restrictions aim to prevent repeat crimes, but critics say all laws do is prevent offenders from rebuilding lives.

BY JENNIFER SMITH  
Newsday Staff Writer

December 2, 2006, 10:59 PM EST



Talk Back: Post a comment

One after another, the laws keep coming.

Across Long Island, communities concerned about the access sex offenders have to children have passed ever-tighter legislation restricting where convicted child molesters, rapists and other sex offenders can live. Nationally, 21 states and hundreds of municipalities have similar laws on the books.

But experts in sex-offender treatment and recidivism say there is little proof such measures keep communities safer or prevent sex offenders from striking again. In Iowa, for example, the number of registered sex offenders unaccounted for more than doubled after a strict residency law went into effect. And studies of supervised sex offenders in two other states indicated that where offenders lived had no impact on new sexual offenses they committed.

"There really isn't any empirical evidence to say they are a viable strategy for keeping communities safe," said Jill Levenson, a human services professor at Lynn University in Boca Raton, Fla., and a board member of the Association for the Treatment of Sexual Abusers.

More harm than good

Levenson and other experts say making it harder for sex offenders to find housing can lead to stress and instability, which can increase the likelihood they will re-

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offend.

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Event Tickets	
Pay-Per-Click	
How2Guide	"We're trying to separate them from vulnerable people," said Joseph J. Abramo, the supervising probation officer for Suffolk County's sex offender unit. "But it does create stressors on them, and I hope it doesn't cause them to go underground or act out."
SERVICES	
About   Contact us	
Register   Log in	The Long Island laws are part of a national trend that began a few years ago and snowballed in the wake of high-profile crimes, such as the killing last year of 9-year-old Jessica Lunsford by a sex offender in Florida, who lived nearby.
How to advertise	
Community	
Career with us	Earlier this year, Suffolk County passed a law forbidding sex offenders from living within a quarter-mile of schools and playgrounds.
Buy photos	
Minority job conference	Soon after, Nassau set the limit at 1,000 feet from schools and 500 feet from public parks. In November, the Village of East Rockaway added places of worship, libraries and community centers to the zone.
Archives	
CONTESTS	
"Charlotte's Web" Tickets	And Long Beach is considering an even more stringent resolution later this month that includes school bus stops and the beach in the 1,000-foot marker -- essentially banishing sex offenders from city limits.
Tickets to the Trans-Siberian Orchestra	Lawmakers behind such bills say they are common-sense edicts that place limits on sex offenders who aren't supervised once off of probation or parole. While restrictions alone won't solve the problem, Suffolk bill's author, Legis. Jon Cooper (D-Lloyd Harbor), said, "If we're serious about this as a society, wanting to protect our kids, we need to put our money where our mouth is."
Kenny Rogers Tickets	
Meet Martina McBride	
St. Kitts Vacation	Differences between them
Miami Vice DVD	But some question the assumptions that shape residency restrictions, which they call a one-size-fits-all approach to a complex problem.
	"Not all offenders are the same, and not all offenders pose the same risk," said Charles Onley, of the Center for Sex Offender Management in Maryland.
	The laws in Nassau and Suffolk apply to all registered sex offenders, whether they have abused minors or adults. And regulations, such as the residency laws, aimed at preventing strangers from preying on children do not address the vast majority of sex offenses, which statistics show are committed by those knowing their victims.
	"A lot of these offenders are people who have access to your children or to you," said Onley, adding that overall, between 70 to 80 percent of sexual offenders, including repeat offenders, know their victims.
	An FBI study found more than 92 percent of girls 17 and under and 95 percent of boys in the same age group reporting a sexual assault identified a family member or acquaintance as the culprit. "It's date rape, a priest, your uncle or granddaddy, the schoolteacher," Onley said. "It's not the guy hiding behind the bush."
	While residency laws make less sense with respect to sexual abuse by non-strangers, Cooper said, they still would apply to cases where children are menaced by strangers.
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# Residency laws for sex offenders under microscope

Restrictions aim to prevent repeat crimes, but critics say all laws do is prevent offenders from rebuilding lives.

BY JENNIFER SMITH

Newsday Staff Writer

December 2, 2006, 10:59 PM EST

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Questioning the impact

Researchers are not so sure.

A 2004 report on sex-offender housing by Colorado's public safety department said distance markers from schools and parks may not deter recidivism."

A report the year earlier by Minnesota's department of corrections tracked 329 of the state's most serious sex offenders, known as Level 3's. It found that the location of the homes of those offenders relative to places where children congregate had no bearing on their subsequent sex crimes.

Thirteen of the 329 re-offended. Two of the 13 did so after driving from their homes to parks several miles away.

"Enhanced safety due to proximity restrictions may be a comfort factor for the general public, but it does not have any basis in fact," the report said.

That danger is not lost on local law enforcement officials faced with enforcing new residency restrictions. "While it's true they can't live there, there is nothing to say they can't be sitting in the park with a bunch of balloons and animals when the kids come," said Nassau County probation director John Carway. That was echoed by Florida sex offenders Levenson surveyed in a 2005 study on their attitudes towards that state's 1,000-foot proximity law. Most surveyed said the rule wouldn't impact their risk of re-offense.

Other sex offenders surveyed noted that despite such rules, there were still children in their neighborhoods. "What is the point if the houses on your same block are full of kids?" one respondent asked.

Local lawmakers who back residency limits often say high recidivism rates among sex offenders justify blanket restrictions. According to an oft-cited 1994 federal Bureau of Justice Statistics study, male sex offenders were four times as likely as non-sex offenders to commit a sex crime in the three years after their

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release from state prison. "Most sex offenders do not re-offend," said Karl Hanson, a senior research officer with Public Safety Canada who studied sex offenders for two decades.

On average, he said, sex offenders have a 10 percent to 15 percent recidivism rate five years after their release; that rate rises to about 20 percent after 10 years.

Those who support residential restrictions for sex offenders say the laws might not be perfect, but they're an improvement over the lack of supervision in New York for offenders no longer on parole or probation. "It's really a reaction to the lack of funding being allocated to monitor and supervise sex offenders for life," said Laura Ahearn, of the Stony Brook-based advocacy group Parents for Megan's Law.

But questions remain about the unintended consequences such laws can inflict.

"What we're seeing on a national basis is that, the more restrictive the residency requirements become, the more frequently sex offenders fail to comply and become 'whereabouts unknown' and drop off the radar screen," said Richard Hamill, head of the New York State Alliance of Sex Offender Service Providers.

In Iowa, the number of registered offenders with no known address more than doubled since a state law banning sex offenders from living within 2,000 feet of a school or child care facility went into effect last year.

Suffolk and Nassau probation officials say it's too soon to tell if the new rules will cause people here to go underground. But they are concerned that shrinking areas of available housing will cluster sex offenders in neighborhoods that don't violate distance restrictions, such as one cluster in the Gordon Heights/Coram area -- if they can find a place at all.

"As more and more restrictions are put on people, where are the people going to live?" Abramo said. "It doesn't make problems go away by displacing them." As of October, there were 1,283 registered Level Two and Three sex offenders on Long Island.

Iowa's law -- one of the most stringent in the country -- has undermined rehabilitation of sex offenders by making it nearly impossible for them to find housing, jobs or sustain a family life, according to a statement this year from the Iowa County Attorneys Association. The prosecutors' group said Iowa's residency restriction compromised the safety of children.

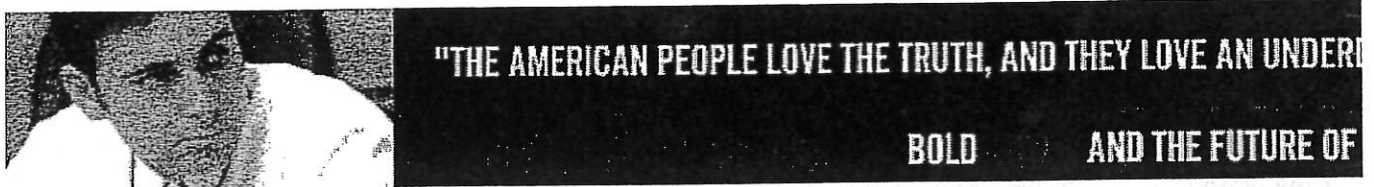
It is not clear what will happen on Long Island, where distances are smaller and restrictions newly imposed. But those who treat sex offenders say the instability such rules can cause -- from constant evictions to the inability to live with family members whose homes lie within buffer zones -- can pose another threat to public safety.

"This is a population that doesn't deal well with stress," Hamill said. "When we create policies that cause

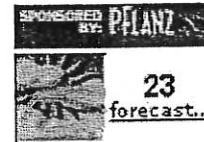
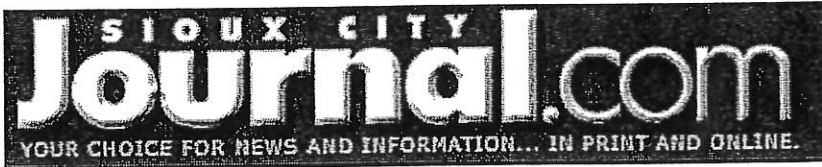
them to lose their housing and lose their jobs, many don't respond well. And for some, committing sex offenses is a way of managing that stress."

*Staff writer Brandon Bain contributed to this story.*



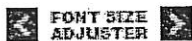


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## Mobile home court evicts sex offenders

Questions still remain about where offenders can live

SOUTH SIOUX CITY -- Even though laws have been passed regulating how close registered sex offenders can live to schools and day-care centers, how close they should be allowed to live to children's homes remains a contentious battleground.

In October, 11 sex offenders were registered as living at the Lake Village Mobile Home Court, 604 152nd St., outside of South Sioux City. That number included five assessed at high risk to reoffend by Nebraska Sex Offender Registry officials. A few children's bikes lay strewn in front yards of trailers across the street from where four of those high-risk offenders lived within 500 feet of each other.

In a mobile home court with about 65 homes -- and many of those owned by non-English-speaking families with children -- it was a situation that could have become a serious problem, said Susie Squires, president of the Watchful Eye Foundation, a South Sioux City sex offender group that educates families and children on how to protect themselves from predators.

"If the courts are going to release them into society, legally they have to live somewhere," Squires said. "But a high number of them end up in one place so close to so many children, you have to wonder what might happen."

### Walk-through to eviction

Squires said she discovered the high concentration of offenders through the production of the foundation's magazine "Variety/Variedad," which lists all registered sex offenders living in the tri-state area. In mid-October, she organized a walk-through at the mobile home court to pass out copies of the magazine and inform residents about the offenders living virtually in their backyards.

"The people there felt abandoned, forgotten -- they felt no one would really do anything about it because they could legally live there," she said. "For many of the residents, living there is all they can afford. They can't just move away."

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Nebraska law prohibits certain sex offenders from living within 500 feet of schools and day cares. But places like Lake Village, which sits just off of U.S. Highway 20 next to a summer camp for teens, aren't included. Because she heard many residents' desires to get rid of the offenders, Squires said she attended a meeting with the mobile court's owner, Curtis Rust of Sioux Falls, and Dakota County Attorney Ed Matney to discuss their options.

Equal opportunity housing laws don't protect the rights of those with a criminal history, Matney said. Even though the offenders owned the trailers they lived in, Matney said all residents pay lot rent to live in the court and therefore be told to leave with 30 days notice. After that meeting, Squires said Rust decided to evict all of the offenders from the mobile home court and, on Nov. 1, sent Dakota County Sheriff's deputies to inform them until last Friday to move out.

Squires said she is glad that he was willing to listen to his residents' concerns.

"It's something we all don't want to happen," she said of the possibility that a child could have been hurt. "The force on a child is almost unforgivable."

No other mobile home court or other rental property in the area has had to face a problem of that magnitude, said. Now that the situation at Lake Village has been taken care of, Squires said the Watchful Eye Foundation on more residency restrictions for those sex offenders whose victims were children.

"I'm not done stirring the pot. I think the more pressure you put on senators and governors who make these more apt things are to change," she said. "Unless we come up with some huge plan to educate everyone (on protect themselves), it's going to be a problem."

#### **How did they get there?**

Why were so many sex offenders allowed to move into Lake Village in the first place if policies can be created to get them out? And does this eviction notice mean no more sex offenders can move into Lake Village?

The answers to those questions aren't clear. Rust refused to be interviewed for this article, but Squires said he was not aware the offenders were there before their meeting. Numerous phone messages left for mobile home manager Bill Yates were never returned, and his wife Nancy Yates threatened to call sheriff's deputies to remove reporters who requested an interview in person at their mobile home.

"I don't want to point fingers at anyone," Squires said. "But the managers of properties should know who is living there. It's their job to do background checks."

Officials from the Nebraska and Iowa sex offender registries agreed that if landlords don't want to have sex offenders living on their properties, they should have such policies established before they begin accepting rental applications.

"We advise them that they should meet with their attorneys if a situation like the one (at Lake Village) comes to their attention," said Gordon Miller, Iowa Department of Public Safety public service executive. "They can do background checks to ensure it doesn't happen."

#### **'They say we'll never change'**

On the day before his eviction from Lake Village, Leonard (*not his real name*) spent a good portion of the day packing his belongings in boxes and loading up a small motor home that will transport the contents of his mobile home to a new apartment in South Sioux City. Convicted in November 2000 of lascivious acts with a female family member under the age of 14 and other victims, he was released in April after spending about five years in prison and treatment; he is deemed at high risk to reoffend.

The 50-year-old said that when he was released, he didn't have much money and it has been hard for him to find a place to live with the combination of his criminal history and having knee problems. A friend helped him out for a bit, but then he was evicted from Lake Village. Lake Village was one of the few places he found where he could both legally and financially afford to live. He had been living at the trailer park for three months when a sheriff's deputy handed him an eviction notice.

"You feel hurt, but I guess it's understandable. There aren't too many places where people feel comfortable with their criminal history around," Leonard said while sweeping crumbs from his kitchen's cracked linoleum. "We're looked at as monsters. They think of us as subhuman -- who cares what happens to them as long as they stay away from my family? They never change."

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
Although he admits he never completed his treatment, he said he feels the two and a half years he spent there to reform his life. A big part of that has been to focus on having empathy for others and avoiding any situation he may come into contact with children, he said. He said he has also been going to a church outside of South and growing in his Christian faith.

"If there was any way to make amends with the family I hurt, I would, but there's no way," Leonard said, holding tears. "I knew what I was doing at the time, but I wasn't thinking about what my victims felt ... A person can have empathy, recovery can be made. I believe that if we have a decent heart in us and we are trying to be a good person there will be no reoffense."

Now, he said, he just wants to be able to live somewhere where he can keep to himself and work on putting himself together. Being evicted didn't exactly help.

"It's said we move around a lot, and maybe it's because of things like this," Leonard said. "I would just ask for more empathy on their part. To do things to totally disarrange our lives makes us more apt to reoffend -- that's something we learn in treatment."

Contact Journal reporter Alicia Ebaugh at (712) 293-4219 or [aliciaebaugh@siouxcityjournal.com](mailto:aliciaebaugh@siouxcityjournal.com).

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Monday, December 11, 2006 :: infoZine Staff :: page views

**Anti-Sex Offender Zoning Laws Bring Challenges**

By **Kavan Peterson** - A major push to crack down on sex offenders in recent years may be backfiring in states where progressively strict housing rules are coming under court challenge and making it harder for law enforcement to track those convicted of rape, child molesting and similar crimes.

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Stateline.org - infoZine - LAWS in half dozen states, including California, Georgia and Illinois, sex offenders from living near schools and parks are being challenged by ex-offenders claim the laws unconstitutional. They penalize them after they already served their time and also are raising alarms among law enforcers, who fear sex offenders will be harder to track because they have no place to live.

Slapping restrictions on where sex offenders can live became popular after the highly publicized

2005 murder of nine-year-old Florida resident Jessica Lunsford by a convicted sex offender who had moved into the neighborhood. Sixteen states and more than 100 cities nationwide have since adopted so-called "Jessica's Laws," joining 15 states that restricted where registered sex offenders can live prior to 2005. But the trend may be slowing down.

Lawmakers in Kansas last month decided against adopting strict residential restrictions after reviewing evidence that neighboring Iowa's zoning law had reduced the number of sex offenders unaccounted for since the law took effect in 2000. Prosecutors and law enforcement officials are pushing the state legislature to repeal the statute, which makes it illegal for sex offenders to live within 2,000 feet of schools or child-care centers.

"State lawmakers are wrestling with whether they've gone too far (restricting where sex offenders can live), but the difficulty is they're

**22 states restrict where sex offenders live**

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afraid if they do anything to roll back these laws they'll get voted out of office," said Randall Wilson, legal director of the Iowa chapter of the American Civil Liberties Union, which unsuccessfully sued to overturn Iowa's sex offender residency rules in federal court.

Whether it's constitutional to effectively banish sex offenders from communities has yet to be determined. Iowa's law, considered one of the toughest in the nation, was upheld by the 8th U.S. Circuit Court of Appeals but is being challenged in state courts.

A federal judge is to hear a challenge in February to California's law, adopted by voters in November, which prohibits registered sex offenders from living within 2,000 feet of schools or parks. Approved by 70 percent of voters, "Jessica's law" would make it impossible for sex offenders to live in most of Los Angeles, San Francisco and other cities.

Challenges against sex offender residential restrictions in Illinois, Minnesota and New Jersey are pending in state courts. Restrictions enacted by Georgia in July face a class-action lawsuit. The Georgia plaintiffs, including an elderly man with disease, another living in hospice who cannot walk and a woman convicted of consensual oral sex with a 15-year-old boy when she was 17, claim they further threat to society.

Several sheriffs' departments in Georgia announced in October they would enforce portions of the law that would require evicting elderly or disabled from nursing homes or hospices.

"Forcing a terminally ill man with less than six months to live out of his facility because he resides within 1,000 feet of a church is irrational and nothing to promote children's safety," Sarah Geraghty, an attorney for the based Southern Center for Human Rights, which is representing the plaintiff, said in a statement.

Texas in 2001 was the first state to establish "child safety zones" restricting where sex offenders can live. Many locally adopted ordinances exceed the state law. Taylor Falls, Minn., for example, passed an ordinance barring all sex offenders classified as high-risk from living within the city limits. In New Jersey, with its statewide residency rules, 113 cities have set restrictions that make it nearly impossible for sex offenders to live within city limits.

"The proliferation of these types of restrictions is making it more difficult for corrections to fulfill their mandate of helping offenders make a successful transition into society," said Charles Olney, a research associate for the Center for Offender Management, an affiliate of the U.S. Justice Department.

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Source: California Research Bureau



Olney and other experts also question how effective the laws are at protecting children, because strangers are responsible for only about 10 percent of attacks on minors. Although incidents of strangers kidnapping and sexually abusing a child often make headlines, the Justice Department estimates just over 60,000 to 70,000 reports of sexual assault filed each year involved an attack by a stranger.

"People are very, very fearful of strangers being near their children and these laws are based on a knee-jerk reaction to that fear," Olney said. Send your comments on this story to [letters@stateline.org](mailto:letters@stateline.org). Selected reader feedback will be posted in the Letters to the editor section.

Source: Contact Kavan Peterson at [kpeterson@stateline.org](mailto:kpeterson@stateline.org) - © 2006 stateline.org

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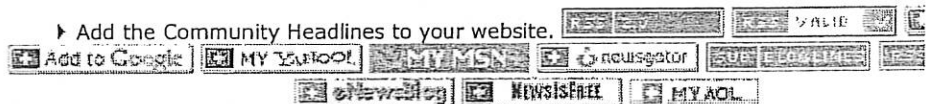
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## Off Limits

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By JOEL ELLIOTT

Staff Writer ~~KENNEBEC JOURNAL~~ ~~Hunting~~ ~~Spotted~~ Tuesday, December 26, 2006

OAKLAND -- A map of the town looked as though it had been attacked by a giant hole-punch.

An entire stretch of Messalonskee Stream, along with hundreds of feet from either bank, had disappeared. Craters, each large enough to swallow 150 football fields, had been stricken from the landscape, wiping out most of the downtown area and portions of the surrounding countryside.

The map shows how Oakland looks to registered sex offenders who want to live there, Town Manager Steven Dyer said as he smoothed out a six-foot map of the town.

"We figure between 40 and 50 percent of the areas in the town are restricted," he said, pointing to black circles that represent sections of town that are off-limits to registered sex offenders.

At the center of each circle is either a school, a registered child-care center or a public area, such as a trail or a park. The ordinance the town council adopted last month carves out 1,500-foot swaths around these locations where sex offenders are not allowed to live.

The new look seems to have caught on.

Oakland has joined a growing movement in Maine to restrict where registered sex offenders are allowed to live.

While only a handful of towns have so far adopted residency restrictions, more are considering them, and state legislators are bracing for a raft of bills on the subject in January.

Proponents of such measures say that they are aimed at protecting children.

Others say that residency restrictions infringe on the freedoms of people who already have served their sentences while offering little or no actual safeguards.

The public seems to accept the idea of residency restrictions as a method of keeping children safe from sexual predators. Town councilors in Oakland, for example, passed their ordinance with little or no opposition, or even much comment from residents, despite multiple public hearings on the matter.

The councilor who brought up the idea, Ralph Farnham Jr., said he did so at the request of two mothers concerned about the safety of their children. When asked if residency restrictions are likely to be an effective measure to cutting down on the number of incidents of predatory sexual behavior, Farnham said he was uncertain.

"I don't know that," he said. "I guess it's a place to start with."

A high-profile case in Waterboro, in which a child sex offender set off fierce protests by moving to within 840 feet of a school, resulted in an overwhelming vote in favor of one of the toughest residency restriction ordinances in the nation. Registered sex offenders must stay out of a nearly half-mile buffer zone around all schools in Waterboro.

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3-374

Sex offenders are lying low for the most part, and voices from the public in opposition to residency restrictions are rare.

#### PUSHING FOR LIMITS

Some proponents of residency restrictions say using a state law to standardize enforcement across Maine would be an effective measure for keeping predators away from children.

Rep. Lawrence "Larry" Jacobsen, R-Waterboro, plans to present a bill titled "An Act to Ensure the Safety of the Public and Victims of Sexual Assault" that would aim to do just that.

The single largest driving factor behind residency restrictions is public opinion, Jacobsen said.

"People don't want violent sex offenders living next to schools and places where young people gather," he said. "And you have a lot of these sex offenders that look for jobs in school settings and volunteer in groups of young people. They are attracted to places where young people are, and this is just a matter of saying 'No. You're not going to be there.' "

Jacobsen said he also wants a system that would distinguish between high-risk sex offenders and those convicted of less violent crimes, such as statutory rape (sexual intercourse with a person who has not reached the age of consent -- regardless of whether both parties participated willingly). Jacobsen's legislation would provide for 1,000-foot buffer zones around schools in most towns in the state of Maine.

The buffer zone would shrink to 500 feet in cities with populations of more than 30,000, but this would only affect a handful of municipalities in Maine.

Cutting in half the size of the buffer zones in larger municipalities, such as Lewiston or Portland, would avoid the perception of banishment, Jacobsen said.

But if the goal is to reduce the number of sex crimes against children, wouldn't it still be a simple matter for a predator to walk a couple of blocks to get to a playground?

"Unfortunately, yes," Jacobsen said. "It's a little close. I'd like to see 2,500 feet. But I believe that if a lot of towns start doing that, it'll probably be found unconstitutional or taken to court by the Civil Liberties Union."

Jacobsen also is proposing legislation that would prohibit sex offenders from living within 10 miles of the residence of one of their victims or within 10 miles of where the crime took place.

#### PROBLEMS

Some experts and legislators are raising questions about the effectiveness and constitutionality of laws that penalize people who already have served time in jail for their offenses.

Laws restricting where a person can live probably will be challenged in court, according to Sen. Bill Diamond, D-Windham, chairman of the state Criminal Justice Public Safety Committee.

"It sounds like an easy fix, but it's a two-edged sword," he said. "Once the state starts saying there is a buffer zone between where sex offenders live and 'where children gather,' it's a difficult issue, because it would force all of the sex offenders out of the cities."

Diamond said another possible result could be even more chilling. If residency restrictions become too stringent, sex offenders may stop registering at all. When sex offenders "go underground," there is no way for law enforcement agencies to track them, much less keep them away from children.

Sex offenders whose whereabouts are unknown pose a real danger.

Jessica Lunsford, the 9-year-old girl whose tragic death created the impetus for "Jessica's Law," was raped and murdered by a registered sex offender who, several weeks before, had moved to a different address without notifying authorities. Jessica's parents had no way of knowing that a sexual predator lived nearby. The Jessica Lunsford Act now requires sex offenders in Florida to wear electronic tracking devices at all times.

While more than 500,000 sex offenders faithfully update local law enforcement agencies about their whereabouts, a "conservative estimate" of the number of missing sex offenders nationwide is at least 100,000, according to the National Center for Missing and Exploited Children.

"Our concern is that these laws may give a false sense of security," Carolyn Atwell-Davis, director of legislative affairs for the Center, told The Washington Post. "We're not aware of any evidence that residency restrictions have prevented a child from being victimized."

Since then, the center has backed away from this position, and has stopped taking any official stance on the matter.

One of the more outspoken organizations is the American Civil Liberties Union, which argues that residency restrictions amount to banishment and are unconstitutional.

"We are concerned that such restrictions in a state like Maine could result in sex offenders being removed from housing with family and friends near services that they need ... to prevent reoffending," said Shenna Bellows, executive director of the organization's Maine office.

The Maine Municipal Association hasn't taken a stance on the matter.

The organization has been fielding requests for advice from all over the state, but neither encourages nor attempts to dissuade municipalities from adopting residency restrictions, spokesman Michael Starn said.

"It's a local decision that communities can make if they want," he said. "We are concerned about communities enacting any type of ordinance that might get overturned by a court, but sometimes that's how you determine the extent of your local law-making powers. This one clearly is one that may have some legal questions."

#### IN OTHER STATES

People in other states have been debating residency restrictions for at least the past 15 years. Nineteen states have residency, activity or employment restrictions on sex offenders, according to the National Center for Missing or Exploited Children.

Some of the buffer zones are as small as 500 feet, as in states such as Illinois. In California, sex offenders on probation are prohibited from living within a mile of schools.

Castration is used on certain sex offenders in eight states, according to the National Conference of State Legislatures.

California was the first state to pass a law providing for "chemical castration," followed by Florida, Georgia, Louisiana, Montana, Wisconsin, Texas and Oregon.

Chemical castration attempts to curb sexual urges with hormone or other chemical injections.

Texas also allows for surgical castration.

States with these laws try not to classify castration procedures as "punishment," but rather call it a "treatment," according to a criminal justice program director for the National Conference of State Legislatures, Donna Lyons.

Another approach to attempting to control sex offenders is requiring them to wearing electronic tracking devices that communicate with Global Positioning System satellites. Twelve states do this in some fashion.

'WHERE DOES IT END?'

Conspicuously quiet in the debate are the sex offenders themselves.

Not known as a particularly outspoken bunch, the people on Maine's sex offender registry have become particularly reticent after a Canadian man in April stalked and killed two of them. He had researched them on the Maine sex offender registry, which provides the home address, photos, criminal record and other information upon request.

Most of those on the sex offender registry are keeping out of the debate about residency restrictions, choosing rather to stay as far as possible from the public eye.

Those who are willing to talk tell about a lifetime of regret and rejection.

Wilfred Gordon of Norridgewock spent a year in jail after a 1995 conviction of unlawful sexual contact. But Gordon, who is both a father and a grandfather, said his punishment didn't end with his jail time.

"I done my time, finished my sentence, and haven't had any remote instance (of recurrence)," he said. "I made a mistake way back in my past, and I paid for it -- Where does it end?"

Gordon said that the proposed legislation probably wouldn't affect him as much it would others on the registry, as he doesn't plan to move near any of the taboo locations.

While Gordon seemed to speak fairly freely about his situation, many are not so transparent.

The most dangerous sex offenders frequently are those who have never been caught, or simply refuse to register, according to another man who is on the sex offender registry, David W. Berry of Millinockett. The fact that the worst sex offenders already do not care what boundaries they cross makes legislating residency restrictions an ineffective measure, Berry said.

"If an offender is looking for a victim, you increase the area of safety around a school, fantastic, but he will go somewhere else," he said.

"I agree with limitations to try to keep offenders away from minors and victim-age children, but a lot of it is a false sense of security."



Berry, who was convicted in 2002 of possession of child pornography, said he doesn't personally object to residency restrictions, because he already makes a point of avoiding places where children gather.

But he said that programs such as Dateline NBC's "To Catch a Predator," in which police officers catch predators in an online sting operation, work much better as a deterrent.

Others advocate various treatment programs as methods of avoiding recidivism.

Gary Huntley of Augusta, who in 1995 was convicted of gross sexual assault and incest, said chemical castration has cut down on inappropriate thoughts and urges.

Chemical castration reduces sexual urges by chemically inhibiting hormones that stimulate testosterone production.

"I'm a person who has offended most of his life," Huntley said. "I'll be 60 years old. And it's possible for a person to change."

#### POISED FOR A STRUGGLE

The movement by towns such as Oakland and Waterboro to adopt residency restrictions is gaining momentum. Concern is growing that towns that don't have such restrictions will become a dumping ground for sex offenders who have nowhere else to go. Towns such as Saco and Norridgewock are pushing for residency restrictions to be unified with a state law.

But proposed legislation for statewide residency restrictions aren't likely to pass as quietly as did Oakland's ordinance, and Diamond, the Windham senator, expects much debate in the Criminal Justice Public Safety Committee, where the bills will first appear. If the Maine House eventually delivers a statewide residency restriction, that probably won't be the last word, Diamond said.

"Is it constitutional, once someone has served their time, to tell them where they can live and can't live?" he asked. "I expect someone or some group will pose that challenge, and I hope they do, so it can be answered."

Diamond, like Jacobsen, said the state needs to concentrate on identifying high-risk, repeat offenders. But, like the MCLU, Diamond worries that the matter has become too politicized.

"It's just such a serious issue," he said. "The problem is that so many legislators are going to want to be seen as being tough, but the problem with the tough game is finding something that is going to work. We want something that is serious and meaningful, and not just window dressing."

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## Sparta OKs zones

Wednesday, December 13, 2006

By STEVE NOVAK

Herald Staff Writer

SPARTA — The Sparta Township Council voted Tuesday to establish "sex offender-free zones" of almost half a mile around public facilities, effectively preventing anyone listed in the state registry from moving within township boundaries.

The ordinance approved at Tuesday night's meeting says that "no person over the age of 18 who has been convicted of a (sexual) violation ... shall be permitted to reside or live within 2,500 feet of any school, library, municipal building, public park, tot-lot, active or passive recreation area or open space, playground, child care center or church."

There was little discussion of the ordinance. The council had discussed it in previous meetings and no residents provided any public comment.

The vote was unanimous among the four present councilmen — Mayor Manny Goldberg was not in attendance.

The only hesitation came from Councilman Jerry Murphy, who in past meetings expressed concern over potential legal issues that could arise from the establishment of the buffer zones.

State courts are considering the legality of the restrictions in response to a similar ordinance passed by a Gloucester County municipality, which does not make exception for established residents.

Any registered sex offender who moves within a protected zone — which cover nearly all the township — will be given 60 days to find a new residence. According to the state registry, there are no offenders currently residing within the township — the ordinance would not apply to anyone with previously established residence.

The ordinance was drafted by Township Attorney Thomas Ryan after Councilman Brian Brady presented the idea in a council goal-setting session in August.

Ryan based Sparta's ordinance on similar restrictions put in place by 50 other New Jersey municipalities.

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## Talking tough, but doing little

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**KENNEBEC JOURNAL Morning Sentinel** Friday, December 29, 2006

We sympathize with anyone facing the prospect of a convicted sex offender moving into their neighborhood. It's frightening and even enraging to think of someone who has victimized innocents -- especially children -- roaming freely about a community where doors are often left unlocked and children walk unaccompanied to their best friend's house down the street.

Stopping sex offenders from committing crimes again is a complex task. Criminal justice experts -- psychologists, law enforcement officials and advocates for the victimized -- readily admit that those at the greatest risk for re-offending will require a network of services and monitors once they're released from jail. Individual assessment and tailored treatment is a critical component of any attempt to keep sex offenders on the right side of the law. Needless to say, this is an expensive and time-consuming approach -- but it's an approach that has the weight of experience and proven research behind it.

Contrast that approach with a growing movement in the state, and the rest of the country, to keep our children safe from sexual predators by the simplistic and unproved method of what looks an awful lot like the Colonial punishment of banishment.

As our reporter Joel Elliott documented earlier this week, communities up and down the state are passing local ordinances to restrict where registered sex offenders are allowed to live. In Oakland, for example, they can't live near schools, registered child-care centers or public areas such as trails or parks. So, too, with a number of towns elsewhere in Maine.

Fourteen states have passed similar, statewide legislation designating buffer zones that prevent sex offenders from living close to parks, schools and school bus stops or day care centers. And there are rumblings that a bill to establish statewide buffer zones in Maine is likely to come up this session in the Statehouse.

We hope lawmakers will resist the temptation to look tough on crime while actually doing nothing effective to stop it.

That's because there's virtually no empirical evidence that such buffer zones do anything other than make advocates for the law feel like they've done something. Oakland Councilor Ralph Farnham, Jr., who brought the buffer zones concept to the council at the behest of two mothers, came up empty-handed when asked whether the restriction subsequently passed by the council would be effective. His response? "I don't know that. I guess it's a place to start with."

Actually, such laws are non-starters. It wouldn't take long for any legislator to get on the Web and find ample evidence that there's no evidence that banishment laws are effective. Take the opinion of U. S. District Judge Robert W. Pratt of Iowa, in his 2004 ruling on a challenge to that state's law:

"Defendants produced no research showing the effect a proximity restriction has on sex offender recidivism rates ... The one study that has reviewed the effect of restricting sex offenders from residing within a certain distance from locations frequented by children reported its findings unequivocally: '[t]here is no evidence ... that residential proximity to schools or parks affects re-offense.' With nothing to

suggest that restricting a sex offender from living within two thousand feet of a school or child care facility would actually protect children, the Court finds that (the Iowa law) is not narrowly tailored to achieve a compelling State interest ... There is no close fit between the restriction and the intended purpose of protecting children."

Yet there is evidence that the restrictions on residence can actually have unintended negative effects.

n If restrictions are applied in urban areas, they can virtually rule out the possibility that a sex offender can find a home in a city. That, then, pushes the offender out into rural areas -- where law enforcement and social service staff to keep track of them are not nearly as available.

n Proximity restrictions can also force offenders to live away from their settled families -- and treatment specialists contend that such isolation can have a seriously destabilizing effect on the offender.

n Restrictions discourage offenders from registering, which is the primary ways the state -- and local residents -- keep track of their whereabouts. We remind lawmakers: Knowing where an offender isn't living doesn't translate into knowing where an offender is living -- and that poses problems.

Our response is not the response of lily-livered, criminal-coddling bleeding hearts. Our concern, rather, is to see effective laws passed in this state that are based on research and experience that actually protect the public. And we're sorry, but tough language does not necessarily translate into effective law.

We hope that legislators in Maine's cities and towns, and in the 123rd Legislature, do not fall prey to the easy -- but empty -- fix of passing residency restrictions on sex offenders. That's not how we will protect our children. As Sen. Bill Diamond, head of the Legislature's Criminal Justice Committee said, "The problem with the tough game is finding something that is going to work. We want something that is serious and meaningful and not just window dressing."

EDITORIAL

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## Sex Offenders in Exile

Published: December 30, 2006

Of all the places that sexual predators could end up after prison, the worst is out of sight, away from the scrutiny and treatment that could prevent them from committing new crimes. But communities around the country are taking that risk, with zoning laws that banish pedophiles to the literal edges of society.

There is a powerful and wholly understandable impulse behind laws that forbid sex offenders to live within certain distances of schools, day care centers and other places that children gather. Scores of states and municipalities have created such buffer zones, then continued adding layer upon layer to the enforcement blanket.

This has placed a heavy burden on law enforcement agencies, which already must struggle to meet exacting federal and state requirements for registering and monitoring the ever-growing population of released sex offenders, many of whom must be tracked for life. Lawmakers have shown no hesitation in piling on the administrative load, but frequently are less quick to pay for additional people to do the work.

As the areas off limits to sex offenders expand to encompass entire towns and cities, if not states, the places where they can live and work are shrinking fast. The unintended consequence is that offenders have been dispersed to rural nowhere zones, where they are much harder to track. In confined regions like Long Island, they have become concentrated in a handful of low-rent, few-questions-asked areas — an unintended and unfair imposition on their wary neighbors.

Many offenders respond by going underground. In Iowa, the number of registered sex offenders who went missing soared after the state passed a law forbidding offenders to live within 2,000 feet of a school or day care center. The county prosecutors' association has

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urged that the law be repealed, for the simple reasons that it drives offenders out of sight, **INSIDE:** requires "the huge draining of scant law enforcement resources" and doesn't provide the protection intended.

The prosecutors are right that any sense of security that such laws provide is vague at best and probably false. Just as it would feel foolish to forbid muggers to live near A.T.M.'s, it is hard to imagine how a 1,000-foot buffer zone around a bus stop, say, would keep a determined pedophile at bay. If children feel secure enough to drop their wariness of strangers, that would be a dangerous outcome. And of course, no buffer against a faceless predator will be any help to the overwhelming majority of child victims — those secretly abused by stepfathers, uncles and other people they know.

The problem with residency restrictions is that they fulfill an emotional need but not a rational one. It's in everyone's interest for registered sex offenders to lead stable lives, near the watchful eyes of family and law enforcement and regular psychiatric treatment. Exile by zoning threatens to create just the opposite phenomenon — a subpopulation of unhinged nomads off their meds with no fixed address and no one keeping tabs on them. This may satisfy many a town's thirst for retributive justice, but as a sensible law enforcement policy designed to make children safer, it smacks of thoughtlessness and failure.

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