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The Florida Association for the Treatment of Sexual Abusers is the Florida State Chapter of ATSA, an international multi-disciplinary professional association dedicated to the research and treatment of sexual offenders.

FATSA members offer evaluations and treatment of sexual offenders, sexually violent predators, family members and victims. Members work closely with State organizations such as the Department of Corrections, the Department of Children and Families, the State Attorney's Offices, the Public Defender's Offices, and the Florida Legislature in an effort to protect Florida's citizens from sexual assault.

CURRENT ISSUES

**INFORMATION PACKET
DEFINING THE REQUIREMENTS TO BE A
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PURSUANT TO SB1354**

Legislative Issues 2005

Leo P. Cotter, Ph.D.

Florida Association for the Treatment of Sexual Abusers

This legislative packet, **Part A**, includes a list of current Florida Statutes that define the designation, community notification, supervision and treatment of sexual predators and sexual offenders. Please note the legislative changes that have accrued during the 2005 legislative session.

Part B of this legislative packet includes a brief description of the bills pending in 2006 legislative session. Additions will be made to this section as new bills are filed. Please contact me at LeoCotter@aol.com if you have any questions.

**Sex offender residence restrictions
A REPORT TO THE FLORIDA LEGISLATURE
OCTOBER 2005
By Jill S. Levenson, Ph.D.**

**ATSA Amicus Brief
to the Supreme Court of the United States
in the Eight Circuit Court of Appeals**

We would like to hear from you !

The Florida Forum welcomes your thoughts about the treatment of sexual offenders. If you have any ideas on how to make our newsletter more informative or if you have any news or upcoming events that

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semi-annually, once in May
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Sex offender residence restrictions

A REPORT TO THE FLORIDA LEGISLATURE

OCTOBER 2005

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A modified version of this paper will be published in a future issue of the Sex Offender

Law Report, a periodical published by the Civic Research Institute

Sex offender residence restrictions Levenson, page 2

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 as

ked 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).

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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 t

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).

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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

Sex offender residence restrictions Levenson, page 5 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.

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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, 200

3). 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

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(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 be

come 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

Sex offender residence restrictions Levenson, page 8 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 re integration.

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

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 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 longterm 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

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 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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