

**California Coalition On Sexual Offending
(CCOSO)**

**Position Paper
on
Sex Offender
Residence Restrictions**

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This statement has been approved by the CCOSO Board of Directors as a CCOSO Position Paper.

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EXECUTIVE SUMMARY

In the last few years, laws and policies which regulate and limit where registered sex offenders may live have increasingly been enacted in a number of states, including California, and new requirements continue to be created. At present in California, a growing body of local ordinances adds to the restrictions imposed by state law under Proposition 83 and, as the number of affected registrants continues to rise, these policies appear to be resulting in a significant increase in the number of homeless and transient sex offenders.

Historically, these policies have evolved through a series of laws developed in response to horrific sex crimes and, in many cases, named for the victims of those crimes. The intent of each of these laws was to prevent future crimes of the same sort. Originally the laws required sex offenders to register. Then the registration information they provided – including their addresses - was made available to the general public. Then, as the information about where sex offenders were living became publicly available, efforts began – again initially in response to a terrible crime - to regulate where they could legally live by imposing sweeping residence restrictions.

Residence restriction policies are based upon some basic assumptions:

- Persons not previously connected to or with ready access to the victim – “strangers” – pose the major threat of sexual assault.
- Previously identified sex offenders who commit repeat offenses are responsible for most new sex crimes.
- Where a sex offender “lives” (sleeps at night) has some direct relationship to any new sex crime he may commit.

This paper examines the accuracy of each of these assumptions and concludes, based upon solid information, that none of them matches the realities of what is now known about sex offenses.

- In only about 20% or less of sex crimes is the offender a stranger.
- Nearly 90% of new sex crimes are committed by individuals who had no previous sex offense history and 75% or more of registered sex offenders do not commit another sex crime.
- The available research shows no relationship whatsoever between where a registered sex offender lives and the pattern of any new sex crime he commits.

Residence restrictions are making life increasingly difficult for an ever growing number of sex offenders in California. Some might say that the offenders have only themselves to blame. However, there is good reason to believe that the real-world consequences of residence restrictions are actually decreasing public safety because the conditions associated with homelessness are directly associated with increased sexual recidivism.

The conclusions and recommendations are that – difficult as it might be – laws that regulate where sex offenders may not live should be repealed or substantially modified in the interest of public safety. Instead of regulating where sex offenders may live, public policy efforts should address a number of other areas that can actually have an impact on reducing the likelihood of future sexual victimization of California’s children and adults.

Introduction

The past two decades have seen a dramatic increase in the number of state and federal laws in the United States intended to protect communities against sexual assault. Under these laws, penalties for sex crimes have increased significantly, including longer prison sentences and extended parole terms. Probation and parole offices throughout the country have tightened supervision of sex offenders, sometimes using GPS satellite tracking. The maintenance of sex offender "Registries" or data bases has become standard. In a number of states, including California, "civil commitment" statutes now seek to hold convicted child molesters and rapists in state mental hospitals far beyond their prison terms when they are deemed at high risk to re-offend.

In an effort to protect children, states and municipalities have also passed residence restrictions which prohibit convicted sex offenders from living in specific areas where children may be found, usually near schools or parks.

The present paper represents an effort to review what is known with respect to residency restrictions for sex offenders, including their historical context, their assumptions and premises, their efficacy, their unintended consequences and other related matters. Conclusions drawn from this review will be presented as a set of Recommendations or "positions" put forward by the California Coalition On Sexual Offending, the state association of professionals involved in the evaluation, management and treatment of sex offenders.

Section I of this paper provides a very brief historical overview of the gradual emergence of policies and laws which set the stage for current sex offender residence restrictions.

Section II examines one commonly-held belief underlying residence restriction policies – that the primary risk for child molestation is presented by a "stranger."

Section III reviews a second widely-accepted belief about sexual offending – that most perpetrators of child molestation and other types of sexual assault are previously convicted sex offenders who are committing repeat offenses.

Section IV looks at a third premise underlying residence restriction laws – that residence restrictions actually have some demonstrable relationship with the prevention of new sex offenses.

Section V surveys the data regarding the unintended consequences of residence restrictions.

Section VI offers conclusions and recommendations.

Section I. The Policy History Leading to Sex Offender Residence Restrictions

Following a decade or more of increasing public awareness of the magnitude and severity of sexual assault, reports of rape and child sexual abuse began declining during the early 1990's. Nonetheless, this period saw a remarkable and continuing increase in sex offender legislation aimed at augmenting the penalties for sex offenses and

monitoring convicted offenders. Motivated by public outrage over sensationalized sexual crimes and murders, governments at the federal, state, and local levels enacted sweeping new legislation.

Sex offender residence restriction laws, now the center of much attention in California and elsewhere, are one such legislative attempt to track, identify and control sexual offenders in order to reduce the risk that they might victimize anyone in the future. Residence restriction laws came to be the center of current focus as the culmination of a sequence of preceding policies which paved the way. In almost every case, these policies have emerged in an effort to provide some response to specific, emotionally-disturbing, widely-publicized crimes and have been named for the victims of those crimes. A brief chronology of this sequence of legislative activity follows.

1994: The Wetterling Act¹

The Wetterling Act is a federal law named for 11-year-old Jacob Wetterling, who was abducted in Minnesota in 1989 and whose case remains unsolved. Passed in 1994, the Act required states to develop "registries" listing the addresses of convicted sexual offenders. Although some states, including California, already maintained such registries, the practice became mandatory and nationwide with this Act.

1996: Megan's Law²

Named after 7-year-old Megan Kanka, who was murdered by a convicted sex offender, this federal law amended the Wetterling Act. It eliminated the requirement that information collected by the states be treated as private data available only to law enforcement and it made mandatory the release to the general public of specified information about certain sexual offenders, including their addresses. This release of information was described as necessary for public safety and required that "the state or any agency authorized by the state ... release relevant information as necessary to protect the public" concerning a specific sex offender. Megan's Law allowed state discretion in specifying the standards and procedures for public notification. The United States Supreme Court eventually held that this practice did not violate constitutional rights.

1996: The Pam Lyncher Act³

Also known as the Sexual Offender Tracking and Identification Act, The Pam Lyncher Act was named after a real estate agent who was brutally assaulted by a twice-convicted felon as she prepared to show a vacant house to prospective buyers. It amended the Wetterling Act by providing for a national database of names and addresses of sex offenders who were released from prison. It required lifetime registration for recidivists and offenders who had committed certain offenses listed as aggravated in United States Code Title 18, Section 2241.

1997: Jacob Wetterling Improvements Act⁴

The 1997 Wetterling Act directed states to participate in a national sex offender registry and added a variety of other mandates. Under the law, each state must develop a procedure for determining whether a convicted sex offender is a sexually violent offender; registered offenders who change their state of residence must register under the new state's laws; and sex offenders must register in the states where they work or go

to school in any state that is different from their state of residence. The Act also extended sex offender registration requirements to sex offenders convicted in federal or military courts.

2000: The Campus Sex Crimes Prevention Act⁵

The Campus Sex Crimes Prevention Act required all registrants attending or working at an institution of higher education to notify the institution of their status as a sex offender and to include any change in their enrollment or employment status. It further required that the information be promptly reported to local law enforcement and entered into the state records system. It required institutions to disclose campus security policy and campus crime statistics.

2006: The Adam Walsh Child Protection and Safety Act⁶

The Adam Walsh Act carries the name of a nine-year-old boy who was kidnapped and murdered in 1981. After his death, Adam's father, John Walsh, became an advocate for victims' rights and was instrumental in creating the National Center for Missing and Exploited Children. As host of the television show America's Most Wanted, he has been an outspoken advocate for more severe penalties for sex offenders.

Among its many provisions, The Adam Walsh Act increased mandatory minimum sentences for sex offenders and upgraded sex offender registration and tracking provisions to include registration of sex offenders who are juveniles. Furthermore, the law required that sex offender registration occur before an offender is released from imprisonment or within three days of a non-imprisonment sentence. It also allowed for the involuntary civil commitment of sexual offenders for treatment after completion of their criminal sentence.

Each state must make its own decision about whether to comply with the requirements of the Adam Walsh Act. The consequence for non-compliance is the loss of certain federal funding. As of this writing, no state is fully in compliance, some states are taking some action to comply and a large number of states have yet to take action. Considerable numbers of lawsuits challenging the constitutionality of various provisions of this Act have arisen in states which are in the vanguard of those attempting to implement it.

Jessica's Laws

Information provided to the public with respect to the identification and location of registered sex offenders led, as a logical next step, to concerns about where sex offenders should be allowed to live. Another notorious crime led to a new set of laws attempting to address public fears. John Evander Couey, a previously convicted sex offender, was convicted and sentenced to death for the kidnap, rape, and murder of Jessica Lunsford, a nine-year-old Florida girl. This horrific crime became the cornerstone for enacting additional restrictions and more severe penalties for sexual offenders, including electronic monitoring and residence restrictions.

Legislation generally designated with the label "Jessica's Law" and including various types of restrictions on where registered sex offenders may live was enacted by Delaware and Florida, which passed residence restriction legislation in 1995; Alabama followed in 1996. California passed and enacted its version of Jessica's Law in November

of 2006. This legislation was submitted to the voters as a ballot initiative – Proposition 83 - after the California legislature frustrated certain lawmakers by failing to pass the proposed legislation. A number of elements of California’s Proposition 83 remain unclarified at this time, including some related to residence restrictions. At this point the law has been applied primarily to sex offender parolees under the jurisdiction of the California Department of Corrections and Rehabilitation. As of April 2008, at least 31 states and hundreds of local jurisdictions have enacted similar laws, creating zones near schools, parks, day care centers and bus stops where sexual offenders may not reside.

The reality is that, following the passage of Proposition 83 and with the escalating creation of increasingly restrictive local ordinances, those areas of California where sex offenders may not live are quite extensive and are increasing constantly. At the same time, as offenders complete their prison terms and are released to reenter the community, the number of sex offenders who are subject to the new residence restrictions is growing continually while the actual pool of available housing where sex offenders may legally live is simultaneously diminishing as those relatively few available housing units are absorbed by those sex offenders who have been able to secure them. There is evidence of an escalating crisis in identifying appropriate housing for California’s sex offenders.

Section II. The Truth About Sex Offending: Most Sex Offenders Were Not Strangers to Their Victims

Residence restrictions are explicitly designed to prevent abuse by the stereotypical repeat offender who intrudes, as a predatory stranger, into a child’s otherwise safe environment.⁷ The assumption appears to be that the offender will stalk the child at a school or other place where children may be expected to gather and that by keeping the potential offender from living near such locations, consequent sexual assaults will be prevented. However, studies consistently show that most victims of sexual assault are not assaulted by a stranger but know their attacker prior to the offense, sometimes quite well.

Research has made it clear that the typical sex offender is not a stranger, but is someone previously known to the victim – the soccer coach, the uncle, the step-father or the baby sitter. And the typical sex offense does not occur on the fringes of the playground, but in the home of the victim. Abduction and sexual assault by a stranger – certainly a nightmare crime – is far from being the common way children suffer sexual assault. Nationwide, about 100 children each year are abducted by strangers, according to the National Center for Missing and Exploited Children.⁸

A major study, conducted by David Finkelhor and associates and published in August 2008,⁹ revealed that among all child victims of sexual assault identified in the study – a group which included both victims who had not previously reported the crime as well as those who had - most were not victimized by a stranger. “Almost three-fourths (71 percent) were assaulted by someone they were acquainted with or knew by sight; 18 percent were assaulted by a complete stranger, 10 percent by a family member.”

Previously, using data from a 1985 *Los Angeles Times* telephone survey, Finkelhor had estimated that between 10% to 30% of child sexual assault was committed by perpetrators who were strangers to the victim¹⁰. Another large criminal justice study

involving data from 12 states reported that while 34% of juvenile victims were assaulted by family members, only 7% were assaulted by strangers¹¹. Among victims under age 12, strangers constituted less than 4% of the perpetrators. Moreover, some researchers have reported that a constellation of family factors characterized as “lack of family cohesion” may make children vulnerable to child sexual abuse by relatives, acquaintances and strangers alike^{12 13}.

The United States Department of Justice Bureau of Justice Statistics has reported that more than one fourth of all sexual assaults are perpetrated by family members^{14 15} [12, 13]. For child victims younger than six, almost one half of the offenders are family members. Even when the offender is not a family member, most sexual offenders are known to the victim. According to this research, only 14% of offenders were strangers to their victims. The younger the victims, the less likely they were to be sexually abused by a stranger. For children under age 6 only 3% of the assaults were committed by strangers. For elementary and middle school age children (6-12) that number is 5%.

The research also reports that 77% of sexual assaults against juvenile victims occurred in a residence. The most common non-residence locations for sexual assaults of juveniles were roadways, fields or woods, hotels or motels and other locations – including, far down the list, schools. In the 2008 Finkelhor study cited previously, 14% of the incidents took place in the victim’s home and 38% in someone else’s residence.

The above-cited research is consistent with widespread clinical reports that children are at considerably greater sexual risk from relatives and acquaintances than from strangers, and that family dynamics, rather than proximity to previously-convicted molesters, make children vulnerable to sexual abuse.

The vast majority of these actual everyday incidents of sexual assault bear little resemblance to the horrific, front-page-news tragedies that arouse public sentiment, yet the policies to reduce the victimization of children appear to be based on those rare terrible crimes rather than on the situations and events under which most child victims are actually abused.

Section III. The Truth About Sex Offending: Most Sex Offenses Are Committed by Perpetrators Who Had Not Previously Been Convicted of a Sex Crime

Residence restrictions are based on the erroneous belief that future sex offenses can be prevented by imposing highly restrictive conditions on those sex offenders who have already been identified. Yet a comprehensive survey by the United States Department of Justice found that 87% of the individuals arrested for sex crimes had not been previously convicted of a sex offense.¹⁶ The unsettling truth is that the vast majority of the sex offenses of the future will be committed by offenders who have never before been convicted of a sex crime.

A related myth is that most sex offenders are destined to reoffend. In fact, the opposite is true: the majority of sex offenders who are punished for one sex crime do not commit another. The largest analysis of available data examined the reoffense patterns of over 31,000 sex offenders and found an observed sexual recidivism rate of 13.7% after approximately 5 years.¹⁷ This research confirmed the results of a previous review which found the observed sexual recidivism rate among typical groups of sex offenders to

be in the range of 10 to 15 percent after 15 years.¹⁸ After 15 years, 76% of convicted sex offenders have not been arrested for a new sex crime.¹⁹

To summarize, residence restrictions are proposed and enacted to create a firewall between the children in our communities and a predatory stranger who has already been identified as a sex offender, when the vastly greater threat is posed by someone inside a potential victim's family or social circle, someone who has never been convicted of a sex crime. Thus, residence restrictions could have no possible effect whatsoever on preventing the most common circumstances where children are sexually abused. And such restrictions are quite unlikely to have any impact on preventing a previously known sex offender – stranger or not - from committing another offense should he have the intent of doing so, as is explained in the following section.

Section IV. The Truth About Sex Offending: Residence Restrictions Do Not Reduce Recidivism Rates of Known Sex Offenders

In light of the findings reported in Sections II and III above, it is not surprising that residence restrictions do not prevent sexual offending. The few carefully-conducted research studies regarding this question have consistently found that there is no connection between residence restrictions and the commission of a new sex crime by known sex offenders.

In 2006, Nieto and Jung reported to the California State Assembly Public Safety Committee that, “. . . 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 rates²⁰.”

A year later, Levenson and Hearn reviewed the literature and found only two empirical studies examining this question²¹. In the first, Minnesota researchers tracked 329 “level three” sex offenders (those considered to be at highest risk for re-offense) released from prison between 1997 and 1999. By March 2002, 13 (4%) had been rearrested for a new sex crime. The circumstances of each recidivism case were examined to ascertain whether the offense was related to the offender's residential proximity to a school or park. None of the new crimes occurred on the grounds of a school or was seemingly related to a sex offender's living within close proximity to a school. The authors concluded that residential proximity to schools and parks appears unrelated to sex offense recidivism²².

In the second study, Colorado tracked 130 sex offenders on probation over a period of 15 months. Fifteen (12%) were rearrested for new sex crimes, and all were “hands off” offenses (peeping, voyeurism, or indecent exposure). Using mapping software to examine the sex offenders' proximity to schools and daycare centers, the researchers found that recidivists were randomly located and did not usually live within 1,000 feet of a school. They further found that in densely populated areas, residences that are not close to a school or childcare center are virtually nonexistent. They concluded that residence restrictions are unlikely to deter sex offenders from committing new sex crimes, and that such policies should not be considered a viable strategy for protecting communities²³.

To date, these remain the only known peer-reviewed studies that have examined whether restrictions achieve their stated purpose of preventing known sex offenders from targeting new victims by choosing to live near a school or park. Each study concluded that there was no link between residential proximity to schools or parks and sexual offending.

In a less academically rigorous study, *The Desert Sun*, a California newspaper, reviewed the one-year criminal histories of nearly 500 released sex offenders living near schools and daycare facilities to see whether they had in fact committed new abuses against nearby children. Only one of the 500 men was arrested during the year. He was charged with committing a technical parole violation, not another sex crime. The author of the article concluded that these convicted offenders were not tempted into new offenses by proximity to children²⁴.

In short, the available data indicates that residence restrictions do not achieve their stated purpose. Children are not safer because registered sex offenders are prohibited from residing near schools, parks, day care centers and other places where children tend to gather.

Section V. Residence Restrictions have Unintended Consequences which Decrease Community Safety.

The California version of Jessica's Law states that ". . . it is not the intent of the People to . . . harass persons convicted of sex offenses." Intended or not, residence restrictions have the effect of harassing many registrants to a considerable degree. Such negative consequences of residence restrictions for the affected sex offenders – whether labeled harassment or not - might be of little concern to the public and to policymakers were it not for the fact that it appears likely to actually increase the risk of sexual re-offending. Anecdotal data published in newspapers is consistent with empirical studies indicating that restrictions make it exceedingly difficult for registrants to find stable housing. As a result, many become homeless, jobless, separated from families who own homes within restricted zones. Many became financially, physically and emotionally unstable^{25 26 27}. There are consequences to these unstable states.

In one infamous example, Florida sex offenders unable to find stable housing formed a makeshift community under one of Miami's causeways. Before long the Florida Department of Corrections began referring dozens of homeless registrants there, partly because it was easier to supervise so many transients if they could be collected in one place. But less than a year later, responding to public pressure, the same authorities began evicting people from this "overpass community" in spite of the fact that they still had not found places where these offenders could live without violating the law²⁸.

While California has not yet encountered a situation as large-scale and dramatic as the one in Florida, the number of California sex offenders registering as transient grew from approximately 2000 in July of 2006²⁹ to 3140 by mid April of 2008³⁰, an increase of 53% in 21 months.

Residence restriction laws apply equally to every registered sex offender, with no distinction made with respect to the sex crime for which he or she was convicted or the risk level of the offender. Thus a man with one conviction for inappropriately touching his stepdaughter twenty-three years ago is restricted in exactly the same way as a man

with several convictions for molesting young girls he did not know, with one of those crimes happening four years ago. Policies which overlook the diversity of types of sex offenders and offenses are not likely to be effective in the desired ways.³¹

The unintended effects of these laws go beyond those immediately impacted by them. Proposed to enhance community safety, they all too often compromise it instead. For example, after Iowa's law took effect, the number of sex offenders whose whereabouts were unknown more than doubled³². In March 2008, nearly one in four of the more than 63,000 registered sex offenders living in California communities was in violation of his or her registration requirements³³. (Since the whereabouts of these individuals is unknown, it is difficult to determine how many have left the state or died and how many are living in California but failing to register.) Although it is not yet known whether California sex offenders who are forced into homelessness by residence restrictions will eventually fail to register in increasing numbers – and will also remove their GPS tracking equipment, such an outcome would not bode well for reducing their re-offending. A 2006 Study by Washington State's Institute for Public Policy found that sex offenders with a conviction for failure to register recidivate at a rate 50 percent higher than those without such a conviction³⁴.

Most proponents of residence restrictions would agree that an offender who is in a stable living situation presents less risk than the same offender would when his regular whereabouts are not stable and not reliably known to authorities – even if his immediate current location is known by way of GPS monitoring. The importance of allowing the public to know the residential location of sex offenders is, in fact, the very reasoning presented by the proponents for earlier legislation requiring all states to create and maintain public sex offender registries and for current efforts to launch the national registry.

Even when registrants remain visible, the hardship of having to leave their homes and separate from their families and support systems is likely to increase rather than decrease their risk of re-offending. A widely used, scientifically-developed sex offender risk assessment instrument, the "Stable-2007,"³⁵ indicates that the absence of stable and positive social influences and social support significantly raises risk for re-offense. Registrants simply become more dangerous when they are living on the streets, have difficulty finding and maintaining employment or are forcibly separated from their families, friends, neighbors, churches and other pro-social support systems.

The United States Eighth Circuit Court of Appeals ruled that restrictions do not constitute unconstitutional banishment, because they apply only to where a person sleeps³⁶. The U.S. Supreme Court declined to review this decision. Thus, in an ironic twist of legal fate, unless otherwise prohibited by the terms of their supervision, sex offenders cannot spend their nights near empty schools, playgrounds and child care centers but are free to be near and sometimes even in them during the day, when they are filled with potential victims. When the two are compared, so called "Exclusion Zones" make far more sense than residence restrictions, even though they are equally based upon the same questionable premises related to stranger-danger and the recidivism risk of identified sex offenders.

The Bureau of Justice Statistics reports that nearly two-thirds of rapes and other sexual assaults were found to occur between 6 PM and 6 AM³⁷, precisely the hours when residence restrictions force homeless, transient registrants into the streets.

A recent unanimous opinion from a three-judge California Appellate Court concluded that "... Jessica's Law's residency restriction has an overwhelming punitive effect..." and the court went on to make the following statement:

"The residency restriction affirmatively restrains the rights of registered sex offenders to choose where to live and make decisions concerning their families. They cannot stay in their own home if it happens to fall within an exclusion zone, no matter how long they lived there - there is no grandfather clause, grace period, or exceptions. They cannot live with relatives who live in an exclusion zone. And if they have families of their own, they face the unpleasant choice between living away from their families or uprooting their families and relocating. And relocation may be impossible or impracticable given the sweeping extent of the zone of exclusion. They cannot move to housing near a school or park, no exceptions. This restricts more than their housing choice. It limits their access to jobs, public transportation, medical care, and rehabilitation programs."³⁸

The available evidence, then, strongly suggests that the real-world consequences of residence restrictions are likely to result in increased risk of re-offending – the exact opposite of what was initially intended.

Section VI. Conclusions and Recommendations

In order to best achieve community safety, sex offender laws should be based on empirical research and thoughtful strategies which actually reduce the risk of sexual assaults and increase protection for potential victims rather than providing a false sense of security.

As is increasingly supported by research studies, well-delivered rehabilitation and reintegration programs, delivered in the context of careful supervision and monitoring, do work. Residence restrictions, on the other hand, have no research support, actually make it more difficult to monitor and treat sexual offenders and create a dangerous dynamic where sex offenders lose housing, social support, and employment, leading to increased risk for re-offending.

Furthermore, enforcement of residence restrictions costs money, diverting resources from more effective means of reducing recidivism, from community education programs, from victims' services, and from traditional law enforcement.

Residence restrictions also provide a dangerous illusion of safety which impedes meaningful conversation about how to improve prevention efforts which will provide meaningful help for the majority of children who are far more likely to be sexually abused by someone they already know and trust than by a stranger who has stalked them at their school or a park and who is a registered sex offender.

PRIMARY RECOMMENDATIONS:

ONE. California's current sex offender residence restriction laws , policies and ordinances should be recognized as a well-intentioned failure, and, in the interest of making California communities safer from sexual assault, should be repealed.

If a complete repeal is not politically feasible, then the restrictions should be reduced in meaningful ways, in terms of the distances mandated, the specific types of offenders required to comply, the duration of the restriction and the ability of local governments to expand the restrictions. The goal should be safe, stable and appropriate housing opportunities for all registered sex offenders in the interest of community safety. Policies and laws that are creating ever increasing numbers of "transient" (homeless) sex offenders need to be revised.

Because Proposition 83 was passed as a ballot initiative, it can only be modified or repealed by a two-thirds vote of the legislature. To bring about such change will require unusual courage, leadership, political strength and a strong determination to do the right thing - along with a willingness to work at educating colleagues, the public and, in some cases, the press to the fact that policies they had, with good intentions, supported have turned out not to provide the results that were desired.

TWO. Steps should be taken and policies should be enacted, in accord with the best available science, which will actually decrease the risk of re-offending by sex offenders returning to and living in California communities. These might include:

- a. As sex offenders return to local communities after serving time in a prison or jail, appropriate monitored transitional housing situations where they can and should live should be identified and made available in order to best manage their reintegration into the community. A stabilized sex offender who lives at and is monitored at a consistent address is of less risk to the community than is a homeless or transient offender.
- b. Sex offenders who have been identified as at higher risk to re-offend should be monitored by the criminal justice system and supervised by parole or probation for extensive periods including, in some cases, for life.
- c. Effective, research-guided, specialized treatment should be provided to offenders within the prison system and on parole or probation in the interest of reducing their risk of re-offending and becoming pro-social productive members of society.

ADDITIONAL RECOMMENDATIONS:

If the time, energy and financial resources that have been diverted to residence restrictions were used to support meaningful and effective practices to reduce the risk of sexual victimization, significant success could be achieved and numerous victimizations could be prevented. The focus should be shifted somewhat from exclusive attention to the risk presented by previously identified sex offenders to other ways of reducing the risk of sexual assault. Such policies might include the following:

1. Sexual abuse should be treated as a public health issue worthy of a massive public education campaign about the prevalence of child sexual abuse and about the truth regarding who actually commits sex offenses against children. Resources should go to sound prevention strategies including educating children about choice and privacy issues from their pre-school years throughout adolescence.
2. Treatment opportunities should be widely publicized, and treatment should be readily available to those who have not yet harmed a child, but are afraid that they might. Legal obstacles to entering such treatment should be identified and removed.
3. Research into the nature of child sexual abuse should be supported. For example, California's child welfare system reporting system has the largest source of data regarding child victims in the state. This data could be utilized to understand what makes children vulnerable to sexual abuse, how children are victimized by sex offenders, and how new policies, based on evidence, might enhance children's safety.
4. Research should be integrated into the legislative process. Pending legislation about sex offenders should be analyzed by experts, including by the California Sex Offender Management Board (CASOMB), before being voted on in committee. Ballot initiatives regarding sex offenders should be reviewed and analyzed by the CASOMB several months prior to any election.
5. Data collected during sex offender registration should be modified to include information about how and where sex offenders met and subsequently assaulted their victims. This would allow legislators to construct loitering laws that are narrowly tailored to prevent predatory sex offenders from frequenting places where, as indicated by research, they are likely to find their victims.
6. The state should adopt programs that have proven effective in safely integrating sex offenders into the community, including Circles of Support and Accountability³⁹, and the "Balancing Act" program created by the Unitarian Universalist Church.⁴⁰

ENDNOTES

¹ http://www4.law.cornell.edu/uscode/42/usc_sec_42_00014071----000-.html

² http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=104_cong_bills&docid=f:h2137enr.txt.pdf

³ http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=104_cong_public_laws&docid=f:publ236.104.pdf

⁴ http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=105_cong_public_laws&docid=f:publ119.105.pdf

⁵ http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_cong_public_laws&docid=f:publ386.106.pdf

⁶ http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ248.109.pdf

⁷ "These dangerous predators have been preying on our most vulnerable for too long. Secrecy is their biggest tool to victimize our children and families. As a legislator, mother and now a grandmother, I feel my most important job is to keep these predators away from our children and within our sights." California Assemblywoman Sharon Runner, supporting California's version of Jessica's Law.

⁸ Sample, L.L., "An Examination of the Degree to Which Sex Offenders Kill", *Criminal Justice Review*, 31(3), 230-250

⁹ Data for this study were collected in 1999. "Sexually Assaulted Children: National Estimates and Characteristics," David Finkelhor, Heather Hammer and Andrea Sedlak. United States Office of Justice Programs, 2008.

www.ojp.usdoj.gov/ojjdp

¹⁰ Finkelhor, D., et al., Sexual abuse in a national survey of adult men and women: Prevalence, characteristics, and risk factors. *Child Abuse & Neglect*, 1990. 14(1): p. 19-28.

¹¹ Snyder, H.N., Sexual Assault of Young Children as Reported to Law Enforcement: Victim, Incident and Offender Characteristics. 2000, U.S. Dept of Justice, Bureau of Justice Statistics: Washington, DC.

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- ¹² Finkelhor, D., et al., Sexual abuse in a national survey of adult men and women: Prevalence, characteristics, and risk factors. *Child Abuse & Neglect*, 1990. 14(1): p. 19-28.
- ¹³ Ray, K.C., Jackson, J.L., and Townsley, R.M., Family environments of victims of intrafamilial and extrafamilial child sexual abuse. *Journal of Family Violence*, 1991. 6(4): p. 365-374
- ¹⁴ Snyder, H.N., Sexual Assault of Young Children as Reported to Law Enforcement: Victim, Incident and Offender Characteristics. 2000, U.S. Department of Justice: Bureau of Justice Statistics: Washington, DC.
- ¹⁵ Greenfield, L.A., Sex Offenses & Offenders: An analysis of Data on Rape and Sexual Assault. 1997, U.S. Department of Justice: Bureau of Justice Statistics: Washington, DC
- ¹⁶ Greenfield, Lawrence, Bureau of Justice Statistics, "Sex Offenses and Offenders: An Analysis of Data on Rape and Sexual Assault", February 1997, <http://ojp.usdoj.gov/bjs/pub/pdf/soo.pdf>
- ¹⁷ *Predictors of Sexual Recidivism: An Updated Meta-Analysis*, Hanson, R. K. and Kelly Morton-Bourgon, (2004), available at http://ww2.ps-sp.gc.ca/publications/corrections/pdf/200402_e.pdf , at 15
- ¹⁸ Hanson, R. K. and Bussiere, M.T., (1998), "Predicting Relapse: A Meta-Analysis of Sexual Offender Recidivism Studies", *Journal of Consulting and Clinical Psychology*, 66(2), 348-362
- ¹⁹ Harris, A.G. R., and Hanson, R.K., (2004), "Sex Offender Recidivism: A Simple Question", Ottawa Public Safety and Emergency Preparedness, Canada, No. 2004-03
- ²⁰ Nieto, M. and Yung, D., The Impact of Residence Restrictions on Sex Offenders and Correctional Management: A Literature Review, Public Safety Committee, California State Assembly, Editor. 2007, California State Library, California Research Bureau. p. 46 and 57.
- ²¹ Levenson, J., Sex offender residence restrictions. *Sex Offender Law Report* (Civic Research Inst.), 2006.
- ²² Minnesota Department of Corrections, Residential Proximity & Sex Offense Recidivism in Minnesota, Minnesota Department of Corrections, Editor. 2007.
- ²³ Colorado Sex Offender Management Board, REPORT ON SAFETY ISSUES RAISED BY LIVING ARRANGEMENTS FOR AND LOCATION OF SEX OFFENDERS IN THE COMMUNITY, Colorado Department of Public Safety, Editor. 2004, Division of Criminal Justice - Sex Offender Management Board.
- ²⁴ No Easy Answers: Sex Offender Laws in the US. 2007, Human Rights Watch International.
- ²⁵ Levenson, J.S. and Cotter, L.P., The Impact of Sex Offender Residence Restrictions: 1,000 Feet From Danger or One Step From Absurd? *International Journal of Offender Therapy & Comparative Criminology*, 2005. 49(2), 168-178.
- ²⁶ Levenson, J.S. and Hearn, A.L., Sex Offender Residence Restrictions: Unintended Consequences and Community Reentry. *Justice Research and Policy*, 2007. 9(1).
- ²⁷ Yung, C.R., Banishment By a Thousand Laws: Residence Restrictions on Sex Offenders. 2007: SSRN
- ²⁸ Sex offenders living under bridge told to move, in CNN. 2008. Oppmann, J.Z., AP, Florida housing sex offenders under bridge, in CNN. 2007.
- ²⁹ California Sex Offender Management Board (CASOMB), *An Assessment of Current Management Practices of Adult Sex Offenders in California; Initial Report*, January 2008, CASOMB, Editor. 2008.
- ³⁰ Po-Macias, A.A., Department of Justice, Violent Crime Information Center, Sex Offender Tracking Program. 2008 email to Niki Delson giving latest figures on transient 290 registrants.
- ³¹ Colorado Sex Offender Management Board, REPORT ON SAFETY ISSUES RAISED BY LIVING ARRANGEMENTS FOR AND LOCATION OF SEX OFFENDERS IN THE COMMUNITY, Colorado Department of Public Safety, Editor. 2004, Division of Criminal Justice - Sex Offender Management Board.
- ³² Sollum, J., Homeless, Jobless Rehabilitation; Banishment of sex offenders is unfair and ineffective, in *Reasonline*. 2007.
- ³³ Po-Macias, A.A., Department of Justice, Violent Crime Information Center, Sex Offender Tracking Program. 2008 email to Niki Delson giving latest figures on transient 290 registrants.
- ³⁴ SEX OFFENDER SENTENCING IN WASHINGTON STATE: FAILURE TO REGISTER AS A SEX OFFENDER - REVISED. 2006, Washington State Institute for Public Policy. p. 4.
- ³⁵ Harris, A.J. and Hanson, R.K., STABLE-2007 Master Coding Guide. 2008, Correctional Service of Canada.
- ³⁶ Colloton, Doe vs Miller No. 04-1568. 2005, United States Court of Appeals For The Eighth Circuit.
- ³⁷ Greenfield, L.A., Sex Offenses & Offenders: An analysis of Data on Rape and Sexual Assault. 1997, U.S. Department of Justice: Bureau of Justice Statistics: Washington, DC.
- ³⁸ The People v. Mosley; California Appellate Courts, 4th Appellate District, Division 3; Court of Appeal Case: G038379; 11-19-08.
- ³⁹ <http://www.changemakers.net/es/node/256>
- ⁴⁰ <http://www.uua.org/leaders/leaderslibrary/balancingacts/index.shtml>