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August 14, 2023

Via U.S. Mail and E-mail

Board of Trustees
Lakeside Union School District
12335 Woodside Avenue
Lakeside, California 92040
Attn: Andrew Hayes, President

Re: Residency Restrictions for Persons Listed on Sex Offender Registry

Dear Mr. Hayes:

I write concerning a recent report that the Lakeside Union School District (LUSD) Board of Trustees is considering a recommendation to state or local governing bodies concerning residency restrictions for persons listed on the sex offender registry.¹ In particular, it appears that parents and other residents of Lakeside have expressed concerns about Registrants residing near local schools. As a mother myself, I share every parent's concern that the children in our schools and neighborhoods are safe. And it is for that reason that I agree with every state agency in California that has considered this matter which, in turn, rejected residency restrictions for Registrants.

The subject of residency restrictions is not new. Instead, that subject has been studied for decades in this state and others, including by the California Sex Offender Management Board (CASOMB). CASOMB is a state entity staffed by prosecutors, psychologists, parole/probation departments, and victim's advocates, which exists to recommend best practices and legislative policies concerning Registrants. CASOMB unequivocally opposes residency restrictions, and has published a substantive paper explaining their position entitled Homeless Among California's Registered Sex Offenders (2011).² I have enclosed a copy of that publication with this letter in the hope that you will review its contents carefully as you and the Board consider next steps.

¹ <https://www.cbs8.com/article/news/local/lakeside-community-concerned-sex-offenders-near-elementary-schools/509-30ada5b3-338a-4536-8d61-fcb2489f154b>

² http://www.casomb.org/docs/Residence_Paper_Final.pdf

Among CASOMB’s conclusions in that report is:

“There is no evidence to support the assumption that residence restrictions are or would be effective in reducing sexual offending and thereby making communities actually safer,” and, in fact, [t]here is compelling evidence which suggests that residence restrictions are actually counterproductive with regard to increasing community safety.”

(CASOMB, *supra*, at pp. 9, 14.)

Notably, CASOMB published this and other papers in response to persistent, false assumptions by members of the public that residency restrictions are effective. CASOMB notes, “There does not seem to have ever been any attempt on the part of those who advocate for and create policies establishing residence restrictions to identify, conduct, sponsor, fund, promote or in any way establish a scientific research basis for such policies.” (*Id.* at p. 9)

For these reasons, the California Legislature has declined to adopt statewide residency restrictions. After the legislature declined to adopt those restrictions, voters adopted them through the 2006 ballot initiative known as Jessica’s Law. Subsequently, that law was decimated in the Courts, rendering them effectively unenforceable. For example, in the county in which you reside, the San Diego Superior Court issued “more than 150” stays of enforcement against residency restrictions. (*In re Taylor* (2015) 60 Cal. 4th, 1025-26.)

In addition, the California Supreme Court ruled that the blanket application of residency restrictions “cannot survive even rational basis review” because they “impose[] harsh and severe restrictions and disabilities on the affected parolees’ liberty and privacy rights, however limited, while producing conditions that hamper, rather than foster, efforts to monitor, supervise, and rehabilitate these persons.” (*Id.* at p. 1039-40.) My law firm has successfully challenged residency restrictions in dozens of California municipalities, including several in San Diego county, resulting in court rulings adverse to the municipalities, as well as voluntary repeals.

Finally, it is worth noting that the assumption behind residency restrictions – that Registrants have uniform and high rates of re-offense – is false despite its persistence. Again, CASOMB explains that “[s]ex offenders differ in many important ways, including their risk to reoffend.”³ In particular, “research has made clear that: [t]he sexual recidivism rate of identified sex offenders is lower than the recidivism rate of individuals who have committed any other type of

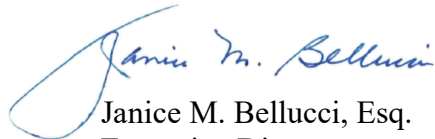
³ CASOMB, A BETTER PATH TO COMMUNITY SAFETY: SEX OFFENDER REGISTRATION IN CALIFORNIA “TIERING BACKGROUND PAPER” 4-5 (2014) <http://www.casomb.org/docs/Tiering%20Background%20Paper%20FINAL%20FINAL%204-2-14.pdf>

Letter to LUSD Board of Trustees
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crime except for murder.”⁴ Even Registrants on parole re-offend less than 1% of the time after three years in the community, according to the California Department of Corrections and Rehabilitation.⁵

Given these facts, the LUSD Board would be wise to reconsider its support for unnecessary and destructive policies such as residency restrictions. I am available to answer any questions you may have.

Sincerely,

A handwritten signature in blue ink that reads "Janice M. Bellucci". The signature is written in a cursive style with a large initial "J".

Janice M. Bellucci, Esq.
Executive Director
Alliance for Constitutional
Sex Offense Laws, Inc.

⁴ *Ibid.*

⁵ (CDCR, 2015 Outcome Evaluation Report (2016), at p.3,
http://www.cdcr.ca.gov/Adult_Research_Branch/Research_Documents/2015_Outcome_Evaluation_Report_8-25-2016.pdf.)

CALIFORNIA

SEX OFFENDER MANAGEMENT BOARD

HOMELESSNESS

Among California's Registered Sex Offenders

An Update



August 2011

“Collateral consequence statutes and policies impose additional burdens on people who have served their sentences, including denial of employment and housing opportunities, without increasing public safety in essential ways.

However, [...] research reveals that gainful employment and stable housing are key factors that enable people with criminal convictions to avoid future arrests and incarceration. I encourage you to evaluate the collateral consequences in your state - and to determine whether those that impose burdens on individuals convicted of crimes without increasing public safety should be eliminated.

Public safety requires us to carefully tailor laws and policies to genuine risks while reducing or eliminating those that impede successful reentry without community benefit.

Failed reentry policies impose high social and economic costs including increased crime, increased victimization, increased family distress, and increased pressure on already-strained state and municipal budgets.”

U.S. Attorney General Eric Holder

Letter to all state Governors and Attorney Generals

April 18, 2011

“Should you think that I am soft on violent and sexual crime, let me assure you that there is a dark painful part of my soul that wants people who hurt other people to never take another comfortable breath. However let us be intelligent. Given that we are a society of law, let us demand that the laws we do enact achieve their intended mission. Let us stop creating a false sense of security and wasting our precious resources on laws that simply do not work.”

Andrea Casanova

Founding Director of the ALLY Foundation

Mother of Alexandra (Ally) Zapp, who was sexually assaulted and murdered

<http://www.theallyfoundation.org/>

RECONSIDERING CALIFORNIA'S SEX OFFENDER RESIDENCE RESTRICTIONS POLICIES

EXECUTIVE SUMMARY

The California Sex Offender Management Board (CASOMB) has, after reviewing the evidence, once again come to the conclusion that the reality reflected by the high and still escalating rate of homelessness among registered sex offenders in California is the single greatest obstacle to the effective management of sex offenders in California. ***The Board believes that the rise in homelessness among sex offenders needs attention because it is so closely associated with an increased level of threat to community safety.*** CASOMB continues to believe that the issue is primarily about where sex offenders should live in our communities and under what conditions - concerns that are not addressed by dictating where they may not live. While there are numerous opinions and many impassioned arguments, pro and con, regarding the value, importance and efficacy of residence restrictions, the arguments offered in this paper will be primarily based upon the best available scientific research evidence rather than relying on emotion-based arguments.

The four central questions addressing this issue are:

- **What is the current California reality with respect to the impact of residence restrictions for sex offenders?**
- **Is there any evidence to support the belief that residence restrictions increase community safety?**
- **Is there any evidence which suggests that residence restrictions are actually counterproductive with regard to increasing community safety?**
- **Finally, are there any other considerations worth noting in evaluating the effectiveness of California's current residence restrictions and the validity of the assumptions upon which these policies appear to be based?**

The answers provided in the following report to these four questions will only represent summaries of the available knowledge in the field of sex offender management and not a comprehensive review of all the available information.

Based on all that is known about sex offender recidivism and about the nature of most sex offenses involving children, there is no evidence that residence restrictions are related to preventing or deterring sex crimes against children. To the contrary, the evidence strongly suggests that residence restrictions are likely to have the unintended effect of increasing the likelihood of sexual re-offense.

Analysis of the situation in California shows that residence restrictions have led to dramatically escalating levels of homelessness among sex offenders, particularly those on parole, of whom nearly one in three are now homeless. In addition, sex offender homelessness is likely to be exacerbated by local ordinances, which continue to proliferate. It is extremely difficult to keep track of these ordinances and to evaluate their contribution to the problem.

In conclusion, CASOMB strongly recommends, once again, that policy makers take action to review this situation and revise the state's residence restriction policies.

RECONSIDERING CALIFORNIA'S SEX OFFENDER RESIDENCE RESTRICTION POLICIES

Introduction

In its Recommendations Report, issued in January of 2010, the California Sex Offender Management Board (CASOMB) stated the following:

CASOMB has concluded that the high, and still escalating, rate of homelessness among sex offenders in California is one of the most serious issues facing the field of sex offender management. Where, and how, sex offenders should live has become the central crisis of sex offender management in California. No other emerging issue has demonstrated the same potential to fray community re-entry collaborations, complicate supervision, and undermine the offender's long-term stability... Appropriate housing, homelessness and the instability created by transience are public safety concerns.

Despite the myriad of public safety concerns associated with sex crimes, the CASOMB has concluded that the significant increase in the rate of homelessness among sex offenders and lack of appropriate housing in California is the most serious issue facing the field of sex offender management. (p. 9)

In December of 2008, CASOMB published a Report: Homelessness Among Registered Sex Offenders in California – The Numbers, the Risks and the Response. This Report reviewed the situation in California at that time and stated: “The Board believes that the rise in homelessness among sex offenders needs attention because it is so closely associated with an increased level of threat to community safety.” (p 2)

In the Fall of 2010, as it became apparent that conditions were worsening, CASOMB decided that it was necessary to prepare and issue another update on the status of homelessness among sex offenders in California and to review the reasons why the Board is so concerned. The present paper represents such an update.

Although the focus here is primarily the worsening situation in California, the larger question, CASOMB continues to believe, is not about where in California communities sex offenders should not live. Rather it is about where in our communities they should live and under what conditions.

The following sections of this Report will pose and answer four broad questions which are central to the issue at hand. That issue is the impact of sex offender residence restrictions in California and the sources of CASOMB's concern that

they make California citizens actually less safe. The answers provided to the four questions will only represent summaries of the available knowledge. In every case, much more could be stated and explained about each topic addressed and additional supporting resources could be cited. While there are numerous opinions and many impassioned arguments, pro and con, regarding the value, importance and efficacy of residence restrictions, the arguments offered here will be primarily based upon the best available scientific research evidence rather than relying in any substantial way on emotion-based arguments, on the statements of various types of commentators and stakeholders or on *ad hominem* argumentation.

THE FOUR CENTRAL QUESTIONS ARE AS FOLLOWS:

QUESTION ONE:

What is the current California reality with respect to the impact of residence restrictions for sex offenders?

QUESTION TWO:

Is there any evidence to support the belief that residence restrictions increase community safety?

QUESTION THREE:

Is there any evidence which suggests that residence restrictions are actually counterproductive with regard to increasing community safety?

QUESTION FOUR:

Are there any other considerations worth noting in evaluating the effectiveness of California's current residence restrictions and the validity of the assumptions upon which these policies appear to be based?

EACH QUESTION WILL BE ADDRESSED IN TURN

QUESTION ONE:

What is the current California reality with respect to residence restrictions for sex offenders?

This Report will not attempt to provide an exhaustive review of the current situation in California regarding residence restrictions for sex offenders. (More complete information is available in previous CASOMB publications.) Some of the more salient and more recent and, perhaps, less well-known information will be reviewed here.

Although there are a number of laws and policies which control where convicted sex offenders may live in this state, by far the greatest impact to date has come from the residence restrictions imposed by Proposition 83 (Jessica's Law). This extensive measure, which addressed many issues in addition to residence

restrictions, was passed as a Ballot Initiative and became effective on the date it was adopted by the voters - November 7, 2006. The requirements of the new law were gradually implemented through agency policies in the following months. The restriction forbids those affected from living within 2000 feet of any public or private school or park where children regularly gather. The language of Prop 83 was very unclear with regard to which sex offenders fall under the jurisdiction of the law – all 66,000 registered sex offenders living in California communities, no matter when they were convicted, or only certain subgroups, such as those on state parole or only those convicted after a certain date.

Although the question concerning which categories of sex offenders are affected by the law has remained without a definitive answer, it has been applied most directly to PC290 Registrants who are on state parole and who were released (or re-released) from custody subsequent to the date that Proposition 83 became state law – a number that gradually grew and that now represents nearly all parolees. Individuals on state parole make up approximately 6,600 of the roughly 70,000 registered sex offenders living in California communities. The other primary categories of registered sex offenders not currently in some form of custody are the estimated 10,000 on county probation and the approximately 50,000+ who are no longer under any formal criminal justice system supervision. Data is not available to indicate whether, and to what extent, each of these categories, considered separately, is affected by the residence restrictions. While some county probation departments are enforcing the restrictions, other counties are partially enforcing them, and other counties appear to be waiting for clarification and direction through the courts or some other authority before they start implementing residency restrictions.

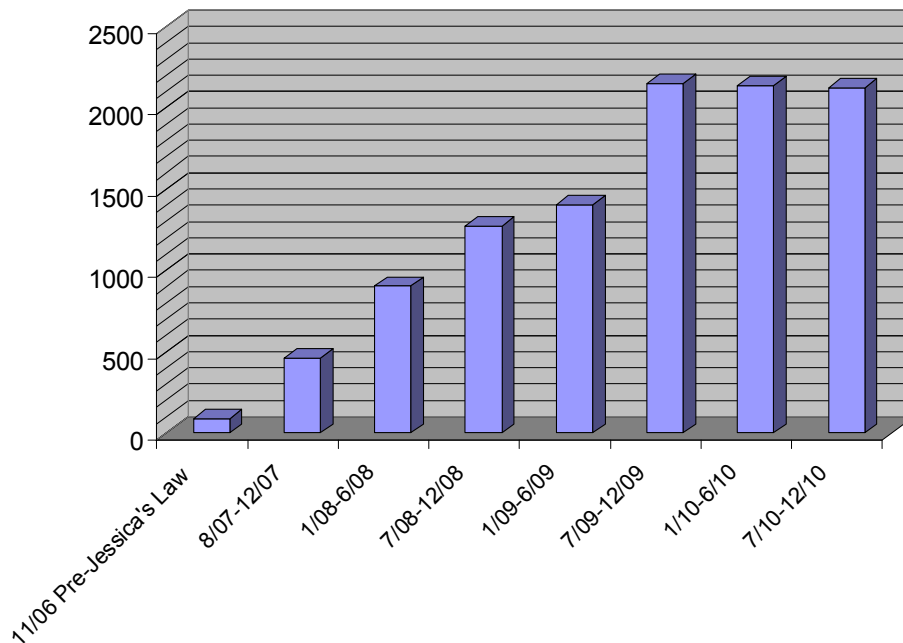
The most reliable data on the consequences of enforcing residence restrictions is that made available regarding parolees. Statistics reported by the California Department of Corrections and Rehabilitation (CDCR) at the monthly meetings of CASOMB indicate that as of March, 2011, there were 6,376 sex offenders on active parole in the community. Of those, 1,986 were listed as transient (homeless).

Nearly 32%, almost one-third, of sex offenders on parole are homeless due to Jessica's Law.

When Proposition 83 was passed on November 7, 2006, there were only 88 sex offenders on parole statewide who were registered as transient. In August of 2007, CDCR put in place a set of policies to implement the provisions of the law as they applied to parolee living locations. In September of 2007, about the time that the residence restrictions of Prop 83 began to be enforced by the Parole Division of CDCR and the grace period for finding compliant housing was ending, there were 178 paroled sex offenders identified as transient. The law was interpreted as applying to parolees released from prison after November 7, 2006. The number of sex offenders released on parole after that date has, of course, gradually grown so

that now nearly all paroled sex offenders are subject to the residence restrictions.¹ As the number has grown, so has the proportion of transient/homeless sex offender parolees. Thus in December of 2007 there were 750. In September of 2008, one year after enforcement began, there were 1,279. The steady increase resulted in 2,178 in September of 2009. The Report of the CDCR Sex Offender Supervision and GPS Monitoring Task Force, released on November 12, 2010, stated the following with respect to what has happened since Proposition 83 began to be enforced: “Now, almost three years later, over 2,100 parolees are registered as transient. That is an increase by approximately 24 times.” (p. 17)

Mean Number of Transient Sex Offender Parolees Per Six-Month Period



It is quite clear that the Department of Corrections and Rehabilitation is actively enforcing the residence restrictions enacted by Proposition 83 and it is clear what the impact is on homelessness among parolees.

No information has been collected regarding the impact on the rates of homelessness of sex offenders on probation who have been the targets of such enforcement. As noted, it is not even clear to what extent California's 58 county adult probation departments are enforcing these restrictions on the sex offenders they supervise.

¹ The transient registration figures may have been affected by court decisions in several counties, including San Diego and Los Angeles. In San Diego County the court stayed application of the residency restriction pending litigation, and on February 18, 2011, ruled that enforcement of the residency restriction in San Diego County is unconstitutional. In Los Angeles County the court stayed the residency restriction pending litigation, although the stay order was reversed on May 16, 2011 in *In re Pham* (2 DCA 2011)___Cal.App.___. CDCR data shows that the drop in the numbers of transient parolees is, in fact, accounted for by decreases in the Parole Regions where these court decisions took effect.

The terms “transient” and “homeless” are used interchangeably in this Report. “Transient” refers more accurately to the legal classification under which homeless sex offenders are required to register under Megan’s Law. “Homeless” better reflects the lived reality. Some “transient” sex offenders may be using an RV or van as their “home.” Some sex offenders may be living in an RV or van but may not be required to register as “transient” because they regularly park at an identifiable street location and are permitted to register using that address.

It is also of interest to note the increase in the numbers of those sex offenders who may or may not be currently on parole or probation but who are required to register under the provisions of Penal Code 290 and whose registration information is tracked by the California Department of Justice in conjunction with DOJ’s management of the Megan’s Law website. Although the following data includes parolees, it clearly indicates a rise in homelessness among sex offenders considerably beyond what can be accounted for by the parolee numbers.

There are currently 71,803 PC290 registered sex offenders living in California communities. As of April, 2011, 6,012 of the 71,803 PC290 registrants are currently registered as “Transient.” It is noteworthy that approximately 1,211 of these “transient” individuals were in violation of their Registration requirements in some way – usually because of a failure to renew their registration in a timely manner. When tracked over the last few years, these transient numbers reflect the following changes:

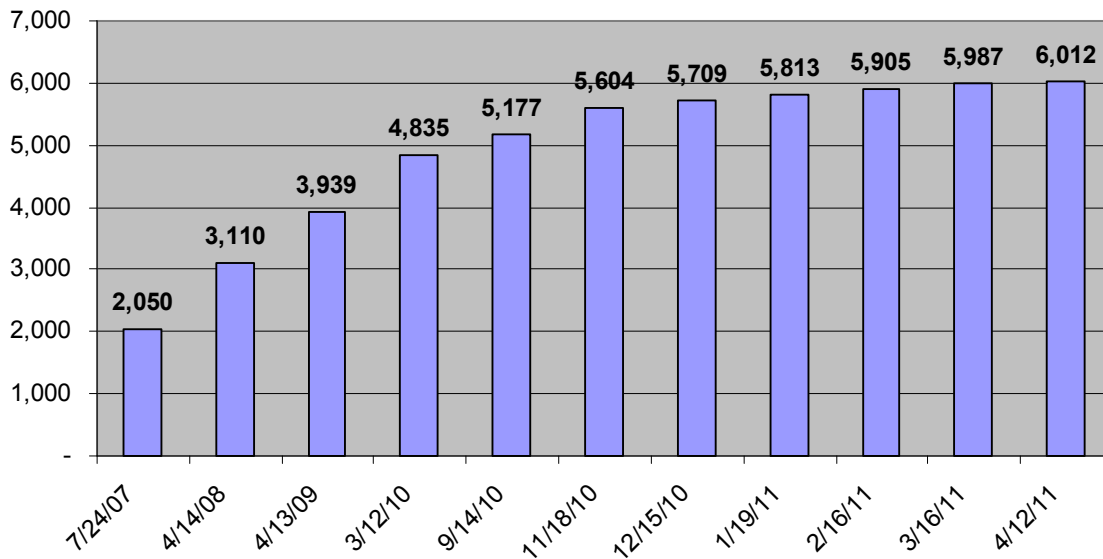
- 8.25% increase in transience since September 2010
- 22% increase since November of 2009
- 66% increase since November 2008
- 101% increase since November of 2007 – a point about one year after Prop 83 was passed.

Although a considerable proportion of these registrants are parolees. (n = 2,080), there are clearly many other transient sex offenders who are not on parole.

The claim has been made that, if they only tried hard enough, many of the homeless parolees could find a place to live which would comply with the residence restrictions. This is clearly not the case.

That an eagerness to deliberately choose transient status has grown exponentially just at the time residence restrictions became law is simply incredible.

Total Number of Transient Registered Sex Offenders in California by Month



A number of metropolitan areas have developed maps showing the areas where, according to the language of Prop 83, affected sex offenders may not live. Observers agree that the vast majority of potential housing locations in urban areas are now included in the off-limits territory. San Francisco, for example, has virtually no realistic places where a paroled sex offender may legally live. Other dense urban areas in the state present a similar picture. State law requires, with a few specific exceptions, that CDCR inmates, when released from prison, be returned to the county of last legal residence, so there is no option to have affected parolees, who might be forced to be transient because there is little or no available housing in the county to which they have been released on parole, relocate and live elsewhere.

Other counties have done similar analyses. San Diego County, for example, appears to have about 28% of its territory available for compliant housing. Of course a question must also be asked about how many actually available residence locations there are where a paroled sex offender could reasonably afford to live and would be accepted as a tenant. Most housing that would be realistic for these individuals is likely to be in more densely populated areas and therefore unlikely to be compliant because of the accompanying density of schools and parks. A research project, reported in a February 18, 2011 San Diego Superior Court decision, attempted to answer this question for San Diego County. The research determined that only 3% of the residential parcels in the county which were outside of the 2000 foot zones were “residential multi-family” parcels. All other properties were single family homes – settings that would not be within the price range of almost any parolee to purchase or rent.

The subsequent issue addressed was whether any of this compliant multi-family housing could actually be rented by an affected parolee. An exhaustive door-to-door research effort concluded that only a handful of locations were financially feasible, did not require a background criminal check and did not automatically exclude parolees. After these criteria were applied, only five possible rental units remained. Not one of them was actually vacant and available to rent. There is little reason to believe that similar research efforts in other urban areas would, if conducted, have substantially different outcomes.

The claim has been made that, if they only tried hard enough, many of the transient (homeless) parolees could find a place to live which would comply with the residence restrictions. This is clearly not the case in San Diego County. In addition, those closer to the reality believe that this is not so. That a steadily increasing number of paroled sex offenders would choose to live on the streets and submit to the increased check-in and other onerous requirements with parole agents when there is the possibility of having a place to live and sleep is simply an incredible claim and is at variance with the reports of parole agents and others. That an eagerness to deliberately choose transient status has arisen and grown exponentially just at the time residence restrictions became law and began to be enforced is simply incredible.

The overall impact of residence restrictions in California is delivered not only by the 2000 foot limit set directly by Proposition 83 but also as a result of its *carte blanche* invitation to local jurisdictions to add their own restrictions. Consequently, another aspect of the current residence restriction reality in California is local ordinances. Prop 83 gave explicit permission for local jurisdictions to create additional restrictions on where sex offenders may live – restrictions that go beyond the restrictions imposed in the language of the Proposition itself. Unfortunately, but not surprisingly, no one really seems to have an authoritative picture of how many such ordinances there are, what they say, who they apply to or to what extent they are enforced. CDCR makes efforts to track the new restrictions through web searches, which often lead to reports of new ordinances in the local popular press. At present, such an approach appears to be the best – perhaps the only – way to obtain the desired information. As of late 2010, this effort had identified at least 87 separate city or county ordinances across the state – each of which uses different definitions, distances and exclusion targets. A recent effort by the Los Angeles County Public Defender’s office identified 37 different local ordinances within Los Angeles County, all with different requirements. Some, for example, do not permit a sex offender to live within 1,000 feet of another sex offender. Among the few things that are clear about local ordinances are the following: they appear to frequently trigger “self-defensive” responses in the form of similar ordinances from adjacent communities; they are very difficult to understand and abide by; they are likely to continue to be enacted and to proliferate; they are not easy to learn about and, most important for this statement, they are, consequently, likely to add considerably to the growing level of homelessness among sex offenders.

The future picture is impossible to predict. Given the political realities discussed later in this Report, it is hard to imagine what could ever set a limit to the local ordinances and restrictions or bring an end to their proliferation.

QUESTION TWO:

Is there any evidence to support the belief that residence restrictions increase community safety?

The most direct and succinct answer that can be made to Question Two is the following: No, there is no evidence to support the assumption that residence restrictions are or would be effective in reducing sexual offending and thereby making communities actually safer.

There is no evidence to support that residence restrictions are effective in reducing sexual offending [or] making communities safer.

There does not seem to have ever been any attempt on the part of those who advocate for and create policies establishing residence restrictions to identify, conduct, sponsor, fund, promote or in any way establish a scientific research basis for such policies.

An absence of scientific support for residence restriction policies does not seem to have hampered their creation and proliferation. The general fear, misunderstanding, and antipathy toward sex offenders makes it easy to persuade the general public that things must be done to protect children from their attacks. In such a cultural climate, the question about whether there is sufficient reason to believe that such “things” will accomplish the task is seldom seriously asked, much less answered.

The focus of residence restrictions is on the sexual abuse of children. No one seems to make a claim that residence restrictions will do anything to reduce sexual assault against adults. The belief that residence restrictions would be effective in reducing the sexual victimization of children seems to be based on a set of underlying beliefs and assumptions about how sexual offenses against children occur. These assumptions include:

1. The belief that lurking strangers, who are scheming to assault children whom they grab near schools or in parks, are the perpetrators of many sexual assaults. This concept is sometimes referred to as “stranger danger.”
2. The belief that already identified (i.e. convicted and “registered”) sex offenders are the greatest danger to children because they commit most of the new sex crimes that occur and because they can’t be “cured” and so will always re-offend.

3. The belief that sex offenses frequently occur in some sort of public place where there is access to children.
4. The belief that registered sex offenders will deliberately try to find a place to live that is near a school or park. It is assumed that, if they will only choose to, they can just find somewhere else to live that is at least 2000 feet from schools or parks. If they choose to live closer, they do so to create opportunities to find potential new victims against whom to commit new offenses.
5. The belief that all registered sex offenders are alike and all pose the same degree and type of risk and should, therefore, all be treated alike.

Each of these assumptions is far from an accurate representation of the reality. Each will be addressed in turn.

1. **Stranger-danger represents the major threat to children.** The extent of “stranger danger” is much less than is often believed. The US Bureau of Justice Statistics stated that only 7% of perpetrators of sexual assault against juveniles were identified as strangers to the victim. In fact, 25% of the offenders were family members and an additional 60% were acquaintances already known to the victim.
2. **Registered sex offenders commit most of the new sex crimes.** With respect to sex offender recidivism, the apparent assumptions about high levels of recidivism are simply inaccurate. Although there is a wide range of risk among identified sex offenders and some may indeed be at high risk of re-offending, the general rate of sex offender recidivism is lower than that for any other crime, with the exception of murder. A recent report on parolee recidivism from the California Department of Corrections and Rehabilitation indicates that only 3.25% of paroled sex offenders are convicted of a new sex offense while on parole. And it is not true that previously identified sex offenders are responsible for anywhere near a substantial portion of new sex crimes. A US Bureau of Justice Statistics Report published in 2003 declared that after analyzing the records of nearly 10,000 convicted sex offenders, only 4.6% of them were found to have had a previous conviction involving a sex crime against a child victim. Thus over 95% of new sex crimes against children are committed by someone who has no previous record of being convicted of a sex offense against a child. The vast preponderance of risk comes from individuals in the community at large, not from previously identified sex offenders, including individuals on parole. The same research recognizes that sex offenders who re-offend do so by committing a subsequent sex crime more often than other types of offenders re-offend by committing a sex crime.

This unsurprising finding is sometimes misinterpreted to say that sex offenders have the highest re-offense rates – which is simply not what this research and other research has found. What is true is that those few sex offenders who do commit a new sex crime are very likely to make headline news. And the popular press is often the primary source for generating and sustaining assumptions about sexual offending – both for the general population and for some of those who make public policy in this realm.

3. **Sex offenses are commonly committed or initiated in public places.**

Although there is a belief that children are most at risk when they are in public places such as schools or parks, this is not the case. Sex offenders make initial contact with their victims or actually commit the offense in “public places” such as around schools or parks relatively infrequently. A 2009 study looked at the location of sex offenses and found that, consistent with similar previous research, only 6.8% of offenders met their victim in some public location which would have been included in most residence restriction laws. Of the total, in 3.6% of the cases the initial contact between the victim and the perpetrator occurred at a school and 2.0% in a park. These can be compared with a 2.4% figure for a bar or restaurant and a 12.1% figure for a first meeting on a street or in a neighborhood and a 67.2% figure for meetings in a home or residential area. (Even this finding, of course, does not address the issue of whether there was any relationship between where the offender lived and where he or she met the victim. And analysis found that some of the offenders who met the victim at a school had a reason to be there, such as employment at the school.) The study also found that just over 82% of all sex offenses took place in a “private” setting. In fact, over 73% of sex offenses studied occurred in the home of the offender, the home of the victim or a home shared by both. Only 1.2% of the offenses occurred at a park or playground and only 1% actually occurred at a school. The study concludes, unsurprisingly, that “sex offenders do not meet or perpetrate offenses in public or semi-public locations with great frequency.”

Given these realities, it is not surprising that the previously-cited recent Report of the CDCR Sex Offender Supervision and GPS Monitoring Task Force states: “Blanket residence restrictions have not improved public safety and have compromised the effective monitoring and supervision of sex offender parolees.” (p. 17)

“Blanket residence restrictions have not improved public safety and have compromised the effective monitoring and supervision of sex offender parolees.” – CDCR Sex Offender Supervision & GPS Monitoring Task Force

Many of those who contributed to developing the CDCR report were in-the-field parole agents or law enforcement officials who work daily with sex offenders and see first-hand the fallout of residence restrictions.

Descriptive data about the patterns seen in the crimes that involve the sexual victimization of children offer very little reason to think that blanket restrictions on where registered sex offenders live would be at all likely to reduce future victimization.

The design of a study that might shed light on this subject and provide support for the belief that where a sex offender lives is important would involve a research strategy that looks at the actual recidivistic sex crimes of convicted sex offenders released to the community and then asks whether there is some relationship between where that offender lived and the new offense he or she committed. If some hypothetical set of residence restrictions would have deterred a significant number of such new crimes, then such restrictions might be seen to make the community safer. Such a study would offer some scientific research support for enacting residence restrictions.

There is, in fact, one study which meets that description. It was conducted by the Minnesota Department of Corrections in 2007 and looked at the sexual recidivism of 224 sex offenders released from prison between 1990 and 2005. After analysis of each case, the study concluded that not one of the re-offenses would have been prevented by residence restrictions. Only 12% of the offenders established contact with the victim within one mile of the offender's home and in none of the crimes was contact established near a school, park or playground. The research provides absolutely no support for the efficacy of residence restrictions. To the contrary, it strongly supports the position that they are ineffective in preventing recidivistic sex offenses.

Of 224 sex offenders released from prison over a 15 year period in Minnesota who re-offended, not one of the re-offenses would have been prevented by residence restrictions.

A very similar study was conducted in 2008 under the auspices of the California Sex Offender Management Board. This study has yet to be officially completed and published due to lack of funding. Nevertheless, the data indicate that of the 190 sex offenders who had been released from California state prisons and who committed a new – recidivistic - sex offense (and who could, therefore, be included in the study), only one met his victim at a park. And that park was more than 2,000 feet from where he resided. Again, there is absolutely no support for the belief that residence restrictions, had they been in place at the time, would have reduced the risk of sex offending among known sex offenders and would have made California communities one bit more safe.

Of the 190 sex offenders who have been released from California state prisons and who committed a new – recidivistic – sex offense, only one met his victim at a park, and that park was more than 2,000 feet from where he resided.

4. **All sex offenders are alike and so should be treated the same.** One of the foundational principles of correctional programming and sex offender management is the “risk principle,” which states that a greater proportion of resources and attention should be focused on those individuals who pose the higher risk of reoffending. It has become increasingly possible to differentiate sex offenders and separate them into various risk categories and California has been legislatively mandated to determine the best ways to do so and has made considerable progress under the direction of the California “State Authorized Risk Assessment Tool for Sex Offenders” (SARATSO) committee. This risk-level approach is similar to strategies used by life insurance and automobile insurance companies to determine what makes individuals higher and lower risk and to then adjust insurance costs accordingly.

Putting aside the question of whether residence restrictions actually achieve any desirable goals, it would be much more productive to impose them on those individuals whose risk levels and previous offense patterns indicated that they posed greater risks and whose victims had been children. However, that is not the approach taken by Prop 83, which imposes the same restrictions on all sex offenders, no matter how long ago their offense occurred, no matter what risk level they have been assessed to be, no matter whether their offense victimized a child or an adult and no matter what individual conditions – including medical status – they might be experiencing.

Seldom acknowledged in discussions about residence restrictions resulting from Prop 83 is the fact that even before its passage, California already had laws on the books that prevented parolees with child victims from living within a considerable distances of schools and parks.

Prior to the passage of Proposition 83, California already had laws that prevented sex offenders with child victims from living within either ¼ or ½ mile (depending on risk) from schools and parks.

Treating all sex offenders alike ignores the reality that they are very different in many important ways and almost inevitably results in unhelpful policies.

QUESTION THREE:

Is there any evidence which suggests that residence restrictions are actually counterproductive with regard to increasing community safety?

There is compelling evidence which suggests that residence restrictions are actually counterproductive with regard to increasing community safety.

To begin with, a substantial body of research now links criminality to life stability – an inverse relationship. An unstable life leads to increased problems with the law and with increased criminal recidivism. Of course life instability is unavoidably linked with housing instability.

“Numerous studies show that a parolee who finds and maintains a steady job – and who also has stable housing and avoids substance abuse – is less likely to re-offend.” - Governor’s Rehabilitation Strike Team, Meeting the Challenges of Rehabilitation in California’s Prison and Parole System, 2007

A concise statement about the relationship between stable housing and criminal recidivism for general prison inmates was provided in a report on the issue from Massachusetts:

“For the returning prisoner, the search for permanent, sustainable housing is more than simply a disagreeable experience. It is a daunting challenge - one that portends success or failure for the entire reintegration process. Housing is the linchpin that holds the reintegration process together. Without a stable residence, continuity in substance abuse and mental health treatment is compromised. Employment is often contingent upon a fixed living arrangement. And, in the end, a polity that does not concern itself with the housing needs of returning prisoners finds that it has done so at the expense of its own public safety.” (2001 Massachusetts Report, as cited in Petersilia: When Prisoners Come Home. 2003)

U.S. Attorney General Eric Holder has stated: “People who have been incarcerated are often barred from housing, shunned by potential employers and surrounded by others in similar circumstances. This is a recipe for high recidivism.” (Corrections Forum, July/August 2010)

Almost every one of the scholarly papers published recently about sex offender residence restrictions emphasizes this very point: the general criminology research is unanimous in associating criminal recidivism with an unstable lifestyle that includes housing instability or homelessness along with accompanying unemployment. The combination represents a major risk factor for re-offending.

Helping people released from prisons or jails to find safe places to live is critical to reducing homelessness and recidivism and to ensuring stable housing situations for the children, families, and communities.

Research has shown that people who do not find stable housing in the community are at higher risk to recidivate.

According to a qualitative study by the Vera Institute of Justice, people released from prison and jail to parole that entered homeless shelters in New York City were seven times more likely to abscond during the first month after release than those who had some form of housing.

- nationalreentryresourcecenter.org

A project of the Council of State Governments Justice Center

It is also true that, to date, there is no specific study that looks exclusively at sex offenders and studies the association between sex offender homelessness and sex crime recidivism. One of the factors that makes this a formidable research undertaking is that sex offender recidivism for a new sex crime is quite low – lower for any other type of crime except murder. As a result, such a study would need to look at thousands of offenders over a period of many years to have any confidence in producing outcomes that were statistically significant and scientifically well-founded. (An example of how low the recidivism rate for sex offenders actually is can be seen in recent research from the California Department of Corrections and Rehabilitation which determined that the sex crime recidivism of sex offenders on parole in California is approximately 3.25% during the period of parole.)

There is one study which shows that criminal justice system “case planning” to increase the likelihood that individual sex offenders would be able to find suitable housing after release from prison did actually result in lower recidivism rates than the comparable rates for inmates who did not have such planning assistance. This study posed an interesting question whose answer would shed light on the role of appropriate housing versus homelessness for sex offenders, namely: Do sex offenders who are helped to obtain appropriate housing re-offend less than those who do not receive such assistance? Two comparable, carefully matched groups of child sex offenders were tracked. One group had received a significant amount of assistance in developing a prison release plan which included finding appropriate housing accommodations. The other group had not received such assistance. There was a significantly higher level of recidivism among the group that had received no assistance and the “accommodations” factor was a major contributor to the differences. This study is unusual in that it actually gave some focus to the housing issue and, in its outcomes, lends strong support to the hypothesis that the ability of sex offenders to secure stable housing for is a factor which contributes to lowering the risk of recidivism.

The study did not look at the actual housing situations in which the offenders eventually lived. And there were no residence restrictions in the jurisdiction where the study was done.

The only intervention in use for the community management of sex offenders that has been demonstrated by research to be effective in reducing sex offender recidivism is sex offender-specific treatment.

Sex offender-specific treatment is the only intervention currently in use for the community management of sex offenders that has been demonstrated by research to be effective in reducing sex offender recidivism.

This piece of information is introduced here because there is a relationship between the ability of sex offenders to participate meaningfully in specialized treatment programs and their ability to, first, remain in the community and, second, bring to treatment the focus, effort and attention needed for meaningful participation. Paroled sex offenders who are being repeatedly returned to custody for various reasons – reasons that are often directly related to their homeless status and associated life instability – cannot maintain continuity of participation in the specialized treatment programs (when these are available to them). The Governor’s CDCR Rehabilitation Strike Team (RST), referring to all types of parolees, stated:

“Moreover, parolees who were enrolled in treatment programs, are constantly having that treatment disrupted for what, in many treatment providers’ views, are predictable and minor rule violations.... The RST heard much frustration from treatment providers who say that parolees are often yanked out of programs, sent back to prison for a few weeks or months, and then re-released - and CDCR expects treatment providers to adapt to these constant breaks in the treatment regimen.”

CDCR has yet to analyze data to determine whether homeless sex offenders are more likely to be returned to custody for infractions than those who have stable housing, but many observers believe this is the case.

With respect to readiness to participate meaningfully in specialized treatment, those treatment providers who work with homeless sex offenders confirm the predictable reality that these individuals are unable to focus on treatment, are preoccupied with issues of survival on the streets, often cannot stay awake during treatment sessions, have no place to save handouts or do homework assignments, sometimes hamper the efforts of other group members to address significant issues and, overall, are handicapped by their homeless status in ways that severely interfere with the one meaningful intervention that has been shown to reduce recidivism risk.

The goal of sex offender management policies is to reduce the risk that identified sex offenders will re-offend. Sex offender treatment does this by addressing and promoting change in areas of cognitive and interpersonal functioning that have been identified as correlated with reoffending. Over the last ten or fifteen years, a substantial body of research has been developed to accurately assign risk levels to known sex offenders. A significant driver for the development of instruments to assess risk has been the need for states, such as California, which operate Civil Commitment programs for sex offenders, to provide evidence to judges and juries that a particular offender is “more likely than not” or “likely” to commit another sex offense. The utilization of research-based instruments to determine risk level proceeds somewhat like the methods used by actuaries to assign “risk of death” for life insurance companies or “risk of accident” by automobile insurance providers. Actuaries mathematically evaluate the relative likelihood of future events. Studies of large numbers of individuals are conducted to sort out which factors are associated with particular outcomes. These factors are called risk factors and the approach is called *actuarially-based risk assessment*. Over the last ten or so years, these methods have been increasingly applied to sex offenders.

Two types of risk factors are now able to be identified and quantified. One is called a “static” risk factor because it is based on past history and, for the most part, does not change. The number of past sex offense convictions might be a good example of a static risk factor. Though that number could possibly increase, it will never decrease. California has adopted, as the static “State Authorized Risk Assessment Tool for Sex Offenders” (SARATSO), a ten-item instrument called the “Static 99.”

Another type of risk factor, as differentiated from a static factor, is the dynamic risk factor. These are also factors or characteristics of a particular sex offender which have been shown to be associated with the risk for future sex offending. What is different about dynamic factors is that they can change over time. Examples of dynamic factors would be social isolation, attitudes toward women or chronic anger. There are a number of instruments that have been shown by research to be effective in identifying the key dynamic risk factors and California is now in the process of selecting one among the top three of these to be the “State Authorized Risk Assessment Tool for Sex Offenders” (SARATSO) for assessing dynamic risk. The selected instrument will be required for doing risk assessments for all California sex offenders.² Not only is a dynamic risk instrument useful, along with the static instrument, in determining risk level for re-offense, it is also a very useful tool for community management, including treatment and supervision. Research shows that sex offenders whose dynamic risk factors change in desired directions as a result of treatment or other interventions have reduced risk of re-offending.

² Shortly before the publication of this Report, the SARATSO committee announced that the Structured Risk Assessment – Forensic Version (SRA-FV) had been selected as the dynamic risk instrument to be used in California.

Reducing such risk is, of course, the hoped-for outcome of all sex offender management interventions.

Research on the “dynamic risk factors” which have been shown to be associated with increases in recidivism levels among sex offenders brings another important perspective to the discussion of the ways in which sex offender homelessness decreases community safety.

Many studies have demonstrated that sex offender specific treatment is effective in reducing re-offending to the extent that it addresses and brings about changes in key dynamic risk factors for each offender. Thus the identified dynamic risk factors – sometimes also referred to as “criminogenic need factors” – are the targets for treatment. If they can be changed in the desired direction, risk of re-offending will be lowered.

Two additional questions must be raised and answered in order to provide a meaningful connection to the question about the potential counter productivity of residence restrictions. The first question is: What are the relevant dynamic risk factors of interest? The second question is: Are these factors likely to be improved or exacerbated by the previously-noted effects of residence restrictions – the dramatically increasing rate of homelessness among paroled California sex offenders as a result of the enactment and enforcement of Proposition 83?

Each of the three leading research-supported dynamic risk assessment instruments for sex offenders contains a dozen or more dimensions or factors. Among these, many appear to be related to the condition of homelessness. The ones that seem to be related, such that homelessness seems likely to cause them to be exacerbated, are noted and briefly described in the following paragraphs. (A more extensive listing of the factors is provided at the end of this paper.)

The cluster of dynamic risk factors which appears to be most evidently linked with homelessness has been labeled “**Social Engagement and Lifestyle Stability Factors.**” The research clearly shows that offenders who have more “**positive**” **social influences** in their lives and more **engagement with pro-social adults** are less likely to re-offend. Treatment efforts necessarily address and attempt to remedy the ways in which offenders lack the skills to develop and maintain such relationships and lack the resources to find opportunities in their lives to do so.

A closely associated factor is the experience of **general social rejection** – feeling like an outcast. What is true about the importance of broader social interactions is also true for emotionally intimate interactions and relationships. **Chronic isolation** and **emotional loneliness** are associated with re-offending. **Intimacy deficits** and an **impaired capacity for relationship stability** are important treatment targets for this reason.

A factor closely related to social instability is **employment instability**. No one would contest the assertion that being homeless substantially decreases the ability of an individual to find and retain employment.

Not everyone who is unemployed is homeless, but persons who are homeless are almost certain to be unemployed and to have very low chances of becoming employed, particularly at a time when jobs are very difficult to find and competition for them is intense. Being able to show up consistently, be appropriately groomed, be awake and alert and be able to focus on the assigned tasks are nearly insurmountable challenges for someone who has nowhere to sleep or take care of personal needs.

It is inconceivable to imagine that a condition of homelessness would not exacerbate many or all of these “Lifestyle Stability” factors – the very factors that, when addressed and ameliorated by effective treatment – have been shown to actually reduce risk and recidivism. It hardly seems necessary to spell out how homelessness would move each of these factors in a direction that is the opposite of what is needed and desired to reduce the risk of reoffending and thereby enhance community safety.

A second cluster of dynamic risk factors for sex offenders includes factors which have to do with “**Self-Regulation Impairments.**” These include factors such as inclinations toward **impulsivity** and **recklessness**. Also included in this cluster are the dimensions of **poor coping** and **poor problem solving skills**. Poor coping specifically includes attention to a tendency to make use of “**sexualized coping**” – using sexual fantasies and behaviors as a means of escape from unpleasant realities. Such escape can certainly be one of the desired benefits of sexual activity for any individual, but can become a problem when used in excess. It is not hard to imagine that a homeless and destitute sex offender, bereft of most other sources of self-soothing available to those with a place to live, a job, a social network and a relatively stable lifestyle, would return to patterns of using sex as a means to escape his unpleasant reality. First would come fantasies, reinforced by masturbation and followed, in some cases, by actual victimizing behaviors. While treatment seeks to reduce the chronic and inappropriate use of “sex as coping,” a condition of homelessness could only be seen as likely to increase it.

Finally, also included in this cluster, are three factors which are clearly associated with being homeless: **negative emotionality**, **dysfunctional self-evaluation** and **substance abuse**. Once again, these are characteristics or behaviors which, when improved by treatment, lead to reduced risk but which, when made worse by homelessness, lead to increased risk.

A third cluster which must be included in the list is termed “**Offense-Supporting Attitudes, Beliefs and Cognitive Distortions.**” Within this group are included dimensions such as **lack of concern for others** and **general callousness**. These mental states are known to be associated with tendencies toward interpersonal aggression, which could certainly include an inclination toward

aggressive sexual behaviors. Treatment works at changing these perspectives on the world. Forced homelessness can only be seen as likely to deepen and confirm them.

Also grouped here are factors described as **grievance thinking** and **pervasive hostility toward others**. Treatment aims to reduce them; homelessness would be likely to amplify them.

The final cluster of dynamic risk factors which deserves attention here is described as **“Resistance to Rules including Supervision and Treatment Non-cooperation.”** While treatment attempts to support values related to compliance with community norms, chronic homelessness would hardly lead to pro-social values and attitudes. For a sex offender on parole, compliance with the parole conditions required for community supervision is the most obvious manifestation of such attitudes. For many, homelessness would be unlikely to work in favor of supporting such compliance but rather is likely to make it increasingly difficult. Compliance with treatment requirements, including consistent attendance and diligence about homework assignments, is also likely to suffer for an individual with nowhere to live.

One final identified dynamic risk factor which does not fit readily into any of the above clusters and which is more a characteristic of an offender’s situation than of his inner qualities – but which is known to be associated with sex offender re-offending – is labeled **“Release to high risk situations.”** Given what has been noted elsewhere about the importance of residential and lifestyle stability for desistance, it is hard to characterize homelessness as anything but such a release to a high risk situation.

The research and the science, then, tell us which characteristics of sex offenders need to change in order for risk to be reduced. “External” societal-imposed controls are important, but only the development of “internal” controls will ultimately lead to changed behaviors in the long term. Residence restrictions lead to homelessness. Homelessness leads to an exacerbation of many of the very “internal control” factors which are known to be associated with increased risk for re-offending. It is impossible to escape the conclusion that residence restrictions are actually counterproductive with regard to increasing community safety. It is correspondingly difficult to see how anyone who values scientific knowledge could claim that there is any reasonable basis for thinking that a policy which, according to the evidence, is almost certain to create increased risk is congruent with its presumed purpose of making communities safer.

It is impossible to escape the conclusion that residence restrictions are actually counterproductive with regard to increasing community safety.

QUESTION FOUR:

Are there any other considerations worth noting in evaluating the effectiveness and value of California's current residence restrictions?

CONSIDERATION ONE: Sex Offenders Re-Offend at a Lower Rate Than Other Types of Offenders.

Residence restrictions purport to reduce sexual victimization by limiting where previously convicted sex offenders may live. Clarity about the actual risk posed by these individuals relative to the overall risk of sexual abuse and assault is important. The evidence is clear that the majority of previously convicted sex offenders do not go on to commit a new sex offense. Headline stories calling attention to sex offenders who have long histories of offending and multiple victims – exemplified recently by the media attention to pedophile priests with chronic offending histories – help perpetuate such false beliefs. Certainly some sex offenders are quite dangerous and at considerable risk to re-offend. But most are not. A recently published report from the California Department of Corrections and Rehabilitation (2010 Adult Institutions Outcome Evaluation Report) indicates that sex offenders released on parole are sent back to prison at a rate that is actually lower than that of other parolees. The study finds that 65% are returned to prison before they complete parole as opposed to a 68% rate for non-sex offender parolees. And this is despite that fact that sex offenders are generally supervised more intensively, held to a higher standard, regulated by more requirements and conditions (including maintaining their GPS systems) and violated for even minor infractions. Of those returned to custody, only 5% are returned for a new sex crime, while 9% are returned for some other crime and 86% are returned as the result of a parole violation. (pages 24-25).

CONSIDERATION TWO: Most Professional Organizations Who Study the Issue of Residence Restrictions Do Not Support Them.

The views of professionals who work in the field of sex offender management and who value and help produce the body of scientific knowledge which should be used to guide public policy are certainly worth noting here. The largest and most respected international organization of professionals who conduct research on and provide treatment and other management services to sex offenders, the Association for the Treatment of Sexual Abusers (ATSA) has issued a policy statement on the subject of residence restrictions. It reads, in part, as follows:

“The Association for the Treatment of Sexual Abusers (ATSA) believes that whenever possible, development and implementation of social policies should be based on research. It should be noted that to date, few research studies about the effectiveness of residence restrictions have been conducted. The research that has been completed does not support the hypothesis that sex offenders living in closer proximity to places where children congregate are more likely to re-offend.” “There is no research to support that adult sex offenders’ proximity to schools or

parcs leads to recidivism.” (Sexual Offender Residence Restrictions - Adopted by the ATSA Executive Board of Directors on April 5, 2010)

The “National Alliance to End Sexual Assault” an organization whose purpose is to work to end sexual violence and ensure services for victims, had this to say about residence restrictions in their 2011 Newsletter.

“In fact, those states that have studied the issue carefully have found no relationship between sex offense recidivism and sex offenders’ proximity to schools or other places children congregate”. “Moreover, residency restrictions are having the unintended consequences that decrease public safety. Sex Offenders who continually move or become homeless as a result of residency restrictions are more difficult to supervise and monitor, thereby increasing risk of re-offense. Research has shown that sex offenders with domestic stability (stable housing and social support) are less likely to commit new sex offenses compared to those offenders who lack stability. Because residency restrictions cause instability, which may increase the risk of re-offense, the NAESV opposes residency restrictions”.

Because residency restrictions cause instability which may increase the risk re-offense, the National Alliance to End Sexual Assault opposes residency restrictions.
- The National Alliance to End Sexual Violence

CONSIDERATION THREE: Politicians Who Oppose any Laws That Create Restrictions On Sex Offenders Run the Risk Of Being Labeled “Soft On Crime”.

Some observers who have reflected on the situation created by residence restriction laws and other problematic sex offender management policies have noted that, as a result of the intensity of public sentiment about these issues, many elected officials and policy makers feel paralyzed and unable to take any action that might be viewed by constituents or portrayed by rivals as “soft on sex offenders.” The consequence is that sex offender laws and policies can only “ratchet up” and can never be reconsidered or eased, even when such action makes good sense. Any elected official who steps forward and expresses a desire to reconsider any of these policies runs the distinct risk of seeing himself or herself targeted for that action in every subsequent election campaign. The Iowa legislature, pressured by the state’s prosecutors and law enforcement agencies, finally took action and repealed their residence restrictions. As it turned out, the legislature’s decision to undo the residence restrictions was almost – but not quite – unanimous and bipartisan. The vote was 93 to 3.

In California, a Ballot Initiative passed by the voters can only be changed by returning to the voters, in which case a simple majority is required, or by the legislature with a two-thirds majority.

CONSIDERATION FOUR: Residence Restrictions Tend to Drive Sex Offenders Into Rural Areas, Where Services and Treatment are More Difficult to Obtain.

Residence restrictions tend to make the most densely populated areas – which are, of course, the state’s urban areas where most of the population lives – off limits for sex offender housing. Usually these are the areas where low cost housing is more readily available. The less dense suburban areas are frequently unavailable because of housing costs and availability. Therefore it is a county’s rural areas where sex offenders – at least those who can find and afford housing – are more likely to find unrestricted housing opportunities. But these areas tend to have fewer services and little public transportation. So the urban areas have pushed their unwanted sex offenders into rural areas and, in doing so, have - if the touted dangers of proximity are to be believed - disproportionately increased the risk for the children in these areas. In addition, the one management approach for reducing risk shown to be effective – specialized sex offender treatment programming – tends to be not readily available or nonexistent in such areas.

CONSIDERATION FIVE: Other States are Either Voluntarily or Being Ordered by the Courts to Limit Residence Restrictions.

It should be noted that the state of Iowa, one of the earliest to adopt residence restrictions, found that their law created a chaotic and counterproductive situation endangering public safety. After prolonged problems and under considerable pressure from the state’s prosecutors and law enforcement officials, the Iowa policy makers took steps to roll back their restrictions. More recently, the state of Georgia, reportedly responding to an anticipated court decision invalidating their onerous residence restriction policies and the untenable situation that ensued, took a similar retrenching action.

CONSIDERATION SIX: There are Direct and Indirect Costs That Come as a Result of California’s Current Form of Residence Restrictions.

Housing costs are incurred by CDCR because parolees cannot live with family or in places that would otherwise be available to them. Over many years, CDCR has consistently made efforts to avoid a situation of having transient parolee sex offenders by paying some or all of the housing costs, but has not been able to continue to do so. Now the housing payments are limited to a 60 day period after release. The laws of supply and demand have driven up the costs of the few legally compliant housing facilities still available.

Transient parolees must report in to their parole agents more frequently and must re-register as PC290 sex offenders more frequently, burdening both CDCR personnel and law enforcement staff with additional duties. Transient parolees and other transient sex offenders appear to be out of compliance with registration

requirements (i.e. missing) at an increasing rate, thereby incurring costs related to locating them and returning them to court and to prison if they are located.

The substantial expenses now being incurred and anticipated as the result of hundreds of cases seeking redress through the courts with respect to some legally questionable aspect of residence restrictions must be added to the list.

Some unknown number of paroled sex offenders might have been able to obtain employment and become contributors to society and taxpayers were they not homeless. Instead, many of them and, in some cases, the families whom they are unable to support, need to seek public and private-sector assistance and financial support.

There are undoubtedly additional costs not specifically noted here. No one seems to be tracking the cumulative costs of implementing this policy.

CONSIDERATION SEVEN: Residence Restrictions Have Created the “Clustering” of Sex Offenders into Those Few Urban Areas Where Compliant Housing is Located.

Many local communities became very alarmed when they realized that some apartment complexes and hotels/motels had large numbers of sex offenders living there. The surrounding neighborhoods were concerned both about the safety of their children as well as potential declining property values. They became incensed that CDCR had allowed this to occur. What they failed to realize is that the real culprit (residence restrictions) had made most multi-family units ineligible to house sex offenders. Therefore, the sex offenders had gravitated to the only housing that was both affordable and compliant with the law.

The response of most communities to this problem was to pass local ordinances which limited the number of sex offenders who could reside in apartment complexes and motels/hotels. Many jurisdictions prohibit more than one sex offender from living in a multi-family building or complex. Other jurisdictions use some type of percentage formula to prevent clustering. In either case, these attempted solutions have increased homelessness among sex offenders, due to decreasing housing availability.

CONSIDERATION EIGHT: There is No Scientific Evidence to Support Residence Restrictions.

When what is put forward as “common sense” is in conflict with the findings of scientific inquiry, an enlightened policy will follow the scientific knowledge. It would not be reasonable to create policies based on, for example, the long-held “common sense” observations that the earth is flat or that the sun revolves around the earth or that illness comes from “humours” or from the “evil eye.” No evidence-based arguments have ever been put forward to support residence restrictions as a means of reducing sex offender recidivism. However, once such policies have been introduced as a plausible way for policy makers and elected officials to “do

something” to protect children, they spread from jurisdiction to jurisdiction with little visible resistance or debate. Opposing them has been and continues to be perceived as simply too politically dangerous.

CONSIDERATION NINE: There is No Rational Basis that Supports 2000 Feet as a Distance Measure that Increases the Safety of Children.

While it may be quite true that certain sex offenders should not live in a place where they can readily observe a school or a playground from their home, setting a distance of 2,000 feet cannot be said to be based on any available evidence or logic. It takes a normal, physically-fit adult just over seven minutes to walk 2,000 feet without any stops or delays. 2,000 feet is the length of 6.6 football fields. Even if there were an unbroken line of sight, a 2,000 foot distance is too great to be able to see anything or anyone in a meaningful way. Sometimes the rhetoric associated with residence restrictions takes the form of outrage about thinking of a child molester “living across the street from a grade school” or a rapist living “next door to” a high school or college. This is a distorted characterization of the reality actually brought into existence by a 2,000 foot residence restriction, which extends the limit so far beyond “across the street” that the emotional argument becomes – or should become - meaningless.

CONSIDERATION TEN: Exclusion Zones are a Better Alternative Than Residence Restrictions.

A much more rational and non-counterproductive alternative to residence restrictions is possible, one which addresses the “across the street” concerns. The creation of what are called “exclusion zones” from which sex offenders are banned at all times unless granted a specific exception makes much more sense and has been proposed by the California Sex Offender Management Board as an alternative to residence restrictions which would make a great deal more policy sense. A set of much more limited exclusion zones around schools and some parks make considerably more policy sense than restrictions on where someone can sleep – presumably at night, a time when schools are closed and no children are present anyway. CASOMB has been quite clear in recommending strongly that “exclusion zones,” if adopted, should not be imposed in addition to residence restrictions but should be an alternative approach which would replace the 2000 foot restrictions imposed by Prop 83. CASOMB does not claim that exclusion zones have any solid research support, simply that implementing them may offer a viable way to replace a form of external control which clearly is ineffective and counterproductive with one which, while it may not be effective, would not create an increased risk to community safety as do the current residence restrictions.

CONSIDERATION ELEVEN: Solutions May Have to Be Court Ordered.

Some believe that the inevitable and even preferable resolution to the problems created by residence restrictions can and should and will come through the courts. The California Supreme Court has heard a case which some observers thought might have resulted in a definitive decision about residence restrictions. However the actual decision only went so far as to affirm that there could be merit in the

objections of individual petitioners with respect to residence restrictions but that each case would need to be decided on its own merits. At this point, as a result, hundreds of petitions have been filed and local courts face an immense burden in responding to the situation. The costs that taxpayers incur as the result of these many legal actions are not easily estimated but undoubtedly have already been substantial and are likely to continue to mount.

CONCLUSIONS

Based on all that is known about sex offender recidivism and the nature of most sex offenses involving children, there is no evidence that residence restrictions are related to preventing or deterring sex crimes against children. To the contrary, the evidence strongly suggests that residence restrictions are likely to have the unintended effect of increasing the likelihood of sexual re-offense. Such increase in risk level is due to the destabilizing effect residence restrictions have on offenders and the way they are likely to exacerbate rather than reduce the psychological states which are known to be associated with re-offending. Analysis of the situation in California shows that residence restrictions have led to dramatically escalating levels of homelessness among sex offenders, particularly those on parole. In addition, sex offender homelessness is likely to be exacerbated by local ordinances, which continue to proliferate. It is extremely difficult to keep track of these ordinances and to evaluate their contribution to the problem.

The California Sex Offender Management Board must strongly recommend, once again, that policy makers review this situation and take action to revise the state's residence restriction policies.

LIST OF SELECTED DYNAMIC RISK FACTORS DEEMED RELEVANT TO THIS REPORT - CLUSTERED BY GENERAL TOPIC AND SOURCES

1. Offense-Supporting Attitudes, Beliefs and Cognitive Distortions

- Lack of Concern for Others (STABLE 07); Callousness/lack concern for others (MHT-SRA)
- Interpersonal aggression (VRS-SO); Adversarial Sexual Attitudes (SRA)
- Externalizing (MHT)
- Grievance/hostility (MHT); Grievance Thinking (SRA)

2. Self-Regulation Impairments

- Lifestyle Impulsiveness (SRA); Impulsivity (VRS-SO); Impulsive (STABLE 07); Impulsivity, recklessness (MHT)
- Dysfunctional coping (MHT); Dysfunctional Coping (SRA); Sexualized coping (MHT); Sex as Coping (STABLE 07)
- Poor Problem Solving Skills (STABLE 07); Poor cognitive problem solving (MHT)
- Emotional control (VRS-SO)
- Negative Emotionality (STABLE 07); Dysfunctional Self-Evaluation (SRA)
- Substance abuse (VRS-SO)

3. Sexual Propensities and Sexual Deviance

- Sexual Preoccupation (SRA); Sexual compulsivity (VRS-SO); Sexual preoccupation (MHT)
- Sex Drive - Sex Preoccupation (STABLE 07);

4. Social Engagement and Lifestyle Stability

- Significant Social Influences (STABLE 07); DIO Community support (VRS-SO); Relationships with Adults (SRA); Negative social influences (MHT); General Social Rejection (STABLE 07)
- Lack of Emotionally Intimate Relationships with Adults “LEIRA” (SRA); Lack of emotionally intimate relationships with adults (MHT); Intimacy deficits (VRS-SO); Capacity for Relationship Stability (STABLE 07)
- Employment Instability (MHT)

5. Resistance to Rules including Supervision and Treatment Non-cooperation

- Co-operation with Supervision (STABLE 07); Compliance with community supervision (VRS-SO); Resistance to rules and supervision (MHT); Treatment compliance (VRS-SO)

[Does not fit major categories: Release to high risk situations (VRS-SO)]

SOURCES

STABLE 07 refers to the **Stable 2007**, a dynamic risk assessment instrument for sex offenders

SRA refers to the **Structured Risk Assessment**, a dynamic risk assessment instrument for sex offenders

VRS-SO refers to the **Violence Risk Scale – Sex Offender** version, a dynamic risk assessment instrument for sex offenders

* “MHT” Refers to a major dynamic risk factor review article by Mann, Hanson and Thornton published in 2010 in **Sexual Abuse: A Journal of Research and Treatment**