



Pursuing Rational Laws and Policies

**Residency and Proximity
Restrictions
for People on the Sex Offense Registry**

**Ineffective
Counter-Productive
Harmful**

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Texas Voices for Reason and Justice is a statewide, non-profit, volunteer organization devoted to promoting a more balanced, effective, and rational criminal justice system. TVRJ advocates for common sense, research-based laws and policies through education, legislation, litigation, and support for persons required to register for sex related offenses as well as for members of their families. We believe that sex offense laws and policies should be based on sound research and common sense, not panic or paranoia.

INTRODUCTION:

In recent years, restrictions against where registered people may live have become commonplace. These restrictions were created on the theory that proximity to areas where children congregate would tempt those convicted of sexual offenses into re-offending. However, despite their popularity, residency and presence restrictions have not shown to be effective. In fact, research has concluded that the imposition of these types of restrictions do not improve public safety and actually cause more harm than good.

Because empirical evidence has shown that residency and presence restrictions are ineffective, counterproductive, and costly, Texas Voices for Reason and Justice is opposed to laws and policies restricting where a person required to register may live.

Current Texas Policy:

Texas does not have a state-wide residency restriction law for registered people who have served their sentences, but many cities have enacted their own ordinances to limit where registrants may live.

Guidelines of Texas Parole and Probation Departments also restrict most registrants on supervision from living and visiting within specific distances of places such as schools, parks, day care centers, and other places designated as 'child safe zones' -- where an offense is already least likely to occur.

The Facts:

Residency restriction laws and ordinances have no empirical support. They create instability, harm families, and waste resources. Research consistently shows that these types of restrictions do not reduce sexual re-offense, do not reduce the rate of new sex offense cases, do not stop or reduce child sexual abuse, are not based on facts and evidence, and do not contribute to public safety.

Residency Restrictions:

- Are not a feasible strategy for reducing sexual offenses. The vast majority of sex offenses occur in the home or by someone known to the victim.
- Do not enhance public safety but they do create instability, harm families, and waste resources.
- Can cause people who are required to register to become homeless, to change residences without notifying authorities of their new locations, to register false addresses or to simply disappear.
- Create barriers to steady employment, and banish individuals far from their most helpful social support systems.
- Have been shown to increase both absconding and criminal recidivism.

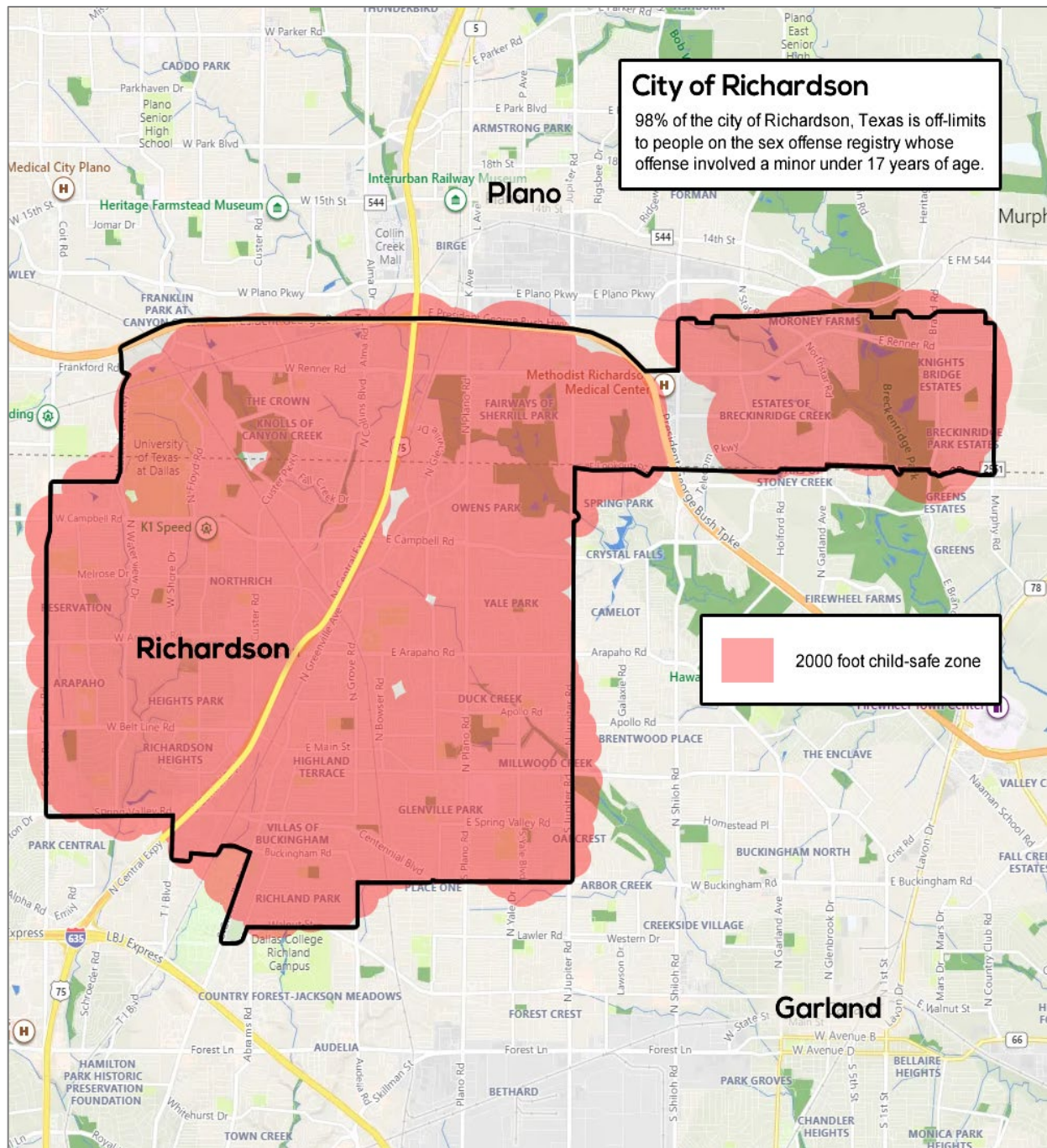


Summary:

**There are no statistics,
there are no studies,
there are no reports,
and there is no evidence
supporting the theory
that residency restrictions
protect children or the public at large.**

In fact, countless studies show that these types of restrictions are nothing more than a comfort factor and may do more harm than good.

Cities across Texas continue to enact residency restriction ordinances to limit places where people on the registry can live. These ordinances, based on fear and myth, effectively banish registered people from entire communities, often separating them from their families, creating barriers to housing and employment, and fostering homelessness.



Quotable Quotes:

- The crucial point is simply that registration, public access, community notification, residency restrictions, and other special burdens do not have the anticipated preventive effect. Research on this point has been extensive, and its conclusions are unequivocal: all the available evidence indicates that these special burdens do not reduce the incidence of these offenses. (*American Law Institute, "Model Penal Code: Sexual Assault and Related Offenses, Tentative Draft No. 5, May 4, 2021, p. 486)*
<https://www.ali.org/publications/show/sexual-assault-and-related-offenses/>
- Other scholars, she added, have explained that “banishing” returning individuals to the margins of society can lead to homelessness, unemployment, isolation and other conditions linked to increased risk of recidivism. “Despite the empirical evidence, legislatures and agencies are often not receptive to the plight of people convicted of sex offenses and their struggles in returning to their communities,” she wrote. “Nevertheless, the Constitution protects all people, and it prohibits the deprivation of liberty based solely on speculation and fear.”
Justice Sotomayor, Feb. 2022
<https://www.courthousenews.com/sotomayor-sounds-constitutional-alarm-on-ny-residency-law-for-sex-offenders/>
- Research overwhelmingly shows that residency restrictions do not lower the incidence of sex crimes against children, and for that and other reasons, they should be curtailed or abolished completely.
https://arizonastatelawjournal.org/2021/01/13/arizonas-sex-offender-laws-recommendations-for-reform/#_ftn132
- There is no demonstrated protective effect of the residency requirement that justifies the huge draining of scarce law enforcement resources in the effort to enforce the restriction.”
Iowa County Attorneys Association
Statement on Sex Offender Residency Restrictions in Iowa, December 2006
<https://ccoso.org/library/statement-sex-offender-residency-restrictions-iowa-january-2006>
- Laws that limit where sexual offenders can live and work, and that require registration and public notification, typically do more harm than good. Here are three reasons why:
 - 1) Because people who have sexually abused others already have such a low recidivism rate, such laws do not reduce re-offenses any further. Enforcing these restrictions uses up valuable law enforcement resources.

2) The majority of sexual offenses are perpetrated by someone who knows the victim, so registration and residency laws based on the concept of “stranger danger” do not generally make society safer.

3) By limiting where someone can live and work, communities make it harder for that person to return to society and become a productive, tax-paying citizen. In fact, many people placed on registries ultimately become homeless and require public assistance. This does not contribute to their reformation, make society any safer, or contribute to the economic health of communities.

ATSA (Association for the Treatment of Sexual Abusers) 12/8/2017

<https://www.atsa.com/Adults-who-have-sexually-abused>

- Patty Wetterling, a national child safety advocate whose son was abducted in 1989, has aptly identified the core problem with US registration, community notification, and residency restriction laws for sex offenders: “People want a silver bullet that will protect their children. There is no silver bullet. There is no simple cure to the very complex problem of sexual violence.” In order to effectively combat sexual violence, public officials must first understand it. Research on sexual violence reveals a very different picture of who the perpetrators are and what their likelihood of reoffending is compared to what the public assumes.

“No Easy Answers: Sex Offender Laws in the US”

<https://www.hrw.org/sites/default/files/reports/us0907webwcover.pdf>

- “Research shows that there is no correlation between residency restrictions and reducing sex offenses against children or improving the safety of children. Research does not support the belief that children are more likely to be victimized by strangers at the covered locations than at other places.

Iowa County Attorneys Association

<https://nmsc.unm.edu/reports/2008/ResidentialRestrictions2008.pdf>

- *While these restrictions are clearly well-intentioned, they do not appear to be supported by scientific research and may in fact result in a more dangerous society. Professor Jill Levenson, Ph.D., of Lynn University in Florida, joins other experts in pointing out that “[sex offenders] need to have a place to live, they need to be able to get jobs. They need to be able to support themselves and their families... without those things, they're going to be more likely to resume a life of crime. That's not a debate, that's a fact.”*

New Mexico Sentencing Commission

<https://nmsc.unm.edu/reports/2008/ResidentialRestrictions2008.pdf>

- These residency restriction laws are intended to protect public safety and welfare. As Keri Burchfield pointed out in her 2011 essay in *Criminology and Public Policy*, however, these policies are implemented “in response to political motivations, perceived public outcry, and misinformation about the true threats posed by sex offenders...”

These laws are also based on the assumption that children are in great danger of an unknown attacker. However, statistics show that relatively few child sexual abuse cases (10%) are perpetrated by strangers. Most of the residency laws are crafted in protection of children, selecting restricted areas based on areas that children frequent. These laws also assume that sex offenders choose their victims based on proximity, which is unsupported by research. While society’s fear of sexual abuse of children is warranted, perhaps keeping unknown sex offenders away from certain areas may not be the most effective preventive measure.

<https://www.publichealthpost.org/research/no-place-to-live/>

- “Housing restrictions appear to be based largely on three myths that are repeatedly propagated by the media: 1) all sex offenders re-offend; 2) treatment does not work; and 3) the concept of “stranger danger.” Research does not support these myths, but there is research to suggest that such policies may ultimately be counterproductive. The resulting damage to the reliability of the sex offender registry does not serve the interests of public safety.”

Kansas Department of Corrections Website Statement

<https://www.doc.ks.gov/publications/CFS/sex-offender-housing-restrictions>

Across the States:

KANSAS

Currently, the state of Kansas has no law that mandates where an offender can or cannot live, work, or go to school, nor does Kansas law allow for local jurisdictions to have such laws: however, this may be a condition of parole or probation.

MARYLAND

Maryland does not have any residency restrictions. Information put out by other states has shown that residency restrictions do not help to prevent sexual offenses from occurring because the victims and the offenders, in most situations, know each other. Some states, such as Iowa and Florida, have found that residency restrictions can make it very difficult to track sex offenders who have become homeless. Homeless sex offenders are also more difficult to register and without an address the registry is unable to tell the public where the offender lives.

PENNSYLVANIA

In a 2011 ruling, the Pennsylvania Supreme Court invalidated an Allegheny County law that restricted where sex offenders could live, saying the ordinance would banish offenders to 'localized penal colonies' with little access to jobs, support, or even their families. Thus, there are no residency restrictions for registered people in Pennsylvania.

<https://www.aclum.org/en/news/massachusetts-high-court-unanimously-strikes-down-lynn-sex-offender-residency-restrictions>

MICHIGAN

In 2015, US Federal District Judge Robert H. Cleland of the Eastern District of Michigan ruled that the prohibitions on living, working, and loitering within 1,000 feet of school property as well as the reporting requirements were unconstitutionally vague in violation of the Due Process Clause of the US Constitution. Thus, the state of Michigan does not have residency restrictions.

MASSACHUSETTS

August 2015 Mass. Supreme Court strikes down residency restrictions- compares them to Japanese internment camps.

<https://www.aclum.org/en/news/massachusetts-high-court-unanimously-strikes-down-lynn-sex-offender-residency-restrictions>

Other states with no residency restrictions:

Alaska, District of Columbia, Hawaii, New Jersey, New Mexico, Nevada, New Hampshire, Oregon, Pennsylvania, Vermont, West Virginia, Wisconsin

FLORIDA

There is no greater example of the negative impact of residency restrictions ordinances than the Julia Tuttle Causeway encampment, where registered people were forced to live under a bridge in Miami, Florida.

With few options, registered people still sleep in cars, tents, and in the open.

Miami-Dade Sex Offenders ‘Forced to be Homeless’

By Elizabeth Weill-Greenberg | February 19, 2019



Residential restrictions on individuals convicted of certain sex offenses in Miami-Dade County have rendered hundreds of them homeless. Still from “Internal Exile,” video courtesy of ACLU Florida.

“Since he was released from prison almost five years ago, John has never had a place he can call home. Suffering from Parkinson’s disease, he spends nights outside in remote areas of Miami-Dade County—sleeping outside on a mat or in the front seat of his son’s truck.”

Read The Entire Article:

<https://thecrimereport.org/2019/02/19/miami-dade-sex-offenders-forced-to-be-homeless/>

Recidivism and Residency Restrictions

Residency restrictions are widely, and mistakenly, thought to be an effective way to prevent sex offense recidivism. Any consideration of such laws and ordinances necessarily begins with a thorough understanding of re-offending itself.

Understanding research on sexual recidivism must comprehend that:

1. The term “recidivism” is often used loosely. General recidivism (arrested for any new crime) and specific recidivism (arrested for the same type previously committed) are often confused. For example, the 2100 DOJ report (in references) following releasees for 10 years reports (p. 5) that 54% of registrants were rearrested for any crime after 5 years and 65% after 10 years. Five pages later, by scrutinizing a table carefully, one finds that only 6.5% of arrests, after 10 years, were for specific sexual recidivism. It is easy to focus on the first number without finding the specific recidivism percentage (6.5%) buried further down in the article.
2. The number of diverse relevant charges is large and growing. Tarring with a broad-brush paints everyone on the Sex Offense Registry (SOR) as being the same. There are important distinctions to be made between risk levels and the dangers each may pose. Characteristics of each offense vary risk-level assessments.
3. The rate of recidivism and the risk of recidivism must be tied to a time period. Saying that “5% reoffend” is meaningless: it could be 5% per week or 5% per decade. The average recidivism rate for those on the SOR is 5.3% per 3 years.
4. Actuarial assessment is commonly used to estimate “risk” of re-offending. The most frequently used is the Static-99-R (“static” because it measures risk at one point in time, “99” because it was published in 1999, and “R” to denote that it was revised to account for the significance of age.)
5. “Risk” of reoffending is poorly defined in common usage. Risk pertains to a cohort (a group with similar characteristics), not an individual. If a person is assigned a 5-year risk level of 5%, that means that we expect 5 out of 100 men with similar scores to re-offend in the next 5 years: 95 will not. We do not know who is in which category. A prediction that a specific person will reoffend will be right 5% of the time and wrong 95% of the time.
6. Considering risk as an individual characteristic results in one-size-fits-all decisions that are unjust. For instance, if we condemn everyone with a 20-year risk level of 35% to civil commitment, 35 of 100 would be expected to reoffend and 65 of 100 would have no likelihood of reoffending. Without the benefit of hindsight, we cannot know which individuals belong to which category. Sweeping all into confinement, under the pretense of protecting the public, to incapacitate 35% would penalize the other 65%, too.
7. Recidivism risk changes. Empirical evidence shows that a registrant’s risk level goes down the longer he is offense-free in the community. Even those initially deemed in the highest risk cohort, after 20 years arrest-free, reach a risk level near zero.

A sound understanding of recidivism is essential for anyone wanting to make prudent public policy decisions regarding registration rules and residency restrictions. It is crucial to know both how low registrant recidivism rates are reported in criminal justice literature and why laws such as residency restrictions do not drive rates lower.

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