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You Can't Live Here

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By Steven Yoder

Do residency bans and other tough measures on sex offenders work? The evidence suggests they are counterproductive—and some states are already shifting policies.



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In June 2008, Stephen Todd, then 42, walked out of prison after serving time for drug possession. But his release didn't equate to freedom—he would still have to register as a sex offender. Twenty-seven years earlier, when Todd was 15, a juvenile court concluded that he molested his 10-year-old sister.

After getting out, he planned to stay with a friend in a downtown San Diego hotel. Although he had no sex crime convictions since the juvenile court judgment, his parole officer told him that as a registrant, he couldn't live within 2,000 feet of a school or park under a state referendum passed in 2006.

That hotel, and 97 percent of the city's apartments and low-cost residential hotels, fell within the forbidden zone. According to the court record, the parole officer told him where he could sleep instead: outside, on the banks of the San Diego River.

Last month, the California Supreme Court [ruled](#) such blanket residency bans unconstitutional. It based the decision in part on evidence that residency laws drive up homelessness among offenders and make it harder for state authorities to monitor and rehabilitate them.


It's the latest sign that science has begun to trump passion on what is one of the most sensitive areas of criminal justice.

During the 1990s, at least 30 states enacted residency restrictions on convicted sex offenders who were released into their communities, as part of what appeared to be an increasingly harsh crackdown across the nation. Congress passed six new federal laws that ratcheted up penalties on those convicted of sex crimes.

In some towns, the crackdown has extended to ordinances prohibiting those with a sex offense on their record from putting up Halloween decorations.

Kansas Rethinks Policies

But pushback began as early as 2007 in one of the more unlikely places: Kansas, which had been embroiled since the early 2000s in a debate about the teaching of evolution in schools, used scientific evidence as the foundation for a law prohibiting towns and cities from enacting local residency bans on sex offenders.

After a brutal murder of a young woman in 2004, the state legislature had passed a [law](#)  amping up criminal penalties for sex crimes. But the legislation also created a policy board to advise on best practices in sex offender management.

The board had some political gravitas. On it sat the heads of three state criminal justice agencies and the state social services agency, a representative of the state's chief justice, a mental health services expert, and the head of the state coalition against sexual assault.

One of its key tasks was to assess whether to let towns and cities pass laws restricting where sex offenders could live. Similar laws were sweeping the country and were popular with voters.

The board looked at studies from other states on the effects of residency restrictions and took testimony from national experts. The experience of nearby Iowa was particularly instructive. A representative of the Iowa Coalition Against Sexual Assault told the board that the 2,000-foot ban enacted in that state had been a bad idea because for the first time registrants were going underground in large numbers.

The Kansas board [recommendations](#) 🗨️ tersely cut through the fog of emotion and assumptions:

“Although resident restrictions appear to have strong public support, the Board found no evidence to support its [sic] efficacy. It is imperative that policy makers enact laws that will actually make the public safe and not laws giving the public a false sense of security...”

Legislators heeded that advice, passing a bill the following year prohibiting towns and cities from enacting local residency bans. Even the most skeptical authorities eventually were won over by the scientific evidence. “A potential political hot potato in an election year was dealt with calmly and efficiently,” the state county and district attorneys association wrote later

The Kansas move has been followed by a push-back in policy approaches toward sex offenders in many other states around the country.

Sex Offender Policy Boards



Today more than 20 states have sex offender policy boards, says Chris Lobanov-Rostovsky program manager for Colorado's Sex Offender Management Board. That number is down slightly since 2010—that year, 24 states had boards, according to a 2010 report by the [Center for Sex Offender Management](#), funded by the Department of Justice.

A few of these groups last just a year or two and tackle discrete issues like how to certify sex offender treatment providers. Others take on broader offender management policies, weighing in on the likely impact of proposed bills.

Colorado's board has run for more than 20 years, and Lobanov-Rostovsky gets about half a dozen calls a year from other states asking for advice on setting up their own boards. He travels to about one state a year to offer hands-on help, though he's not aware of any states that have set up new boards in the last two years.

Boards normally pull in the groups that matter on the issue, typically including representatives of state law enforcement and other agencies, prosecutors, defense attorneys, judges or their representatives, sex offender treatment professionals, and victim advocates. Some boards have full or part-time salaried staff, as in Colorado's case. Not surprisingly, boards with staff are more productive than those without, Lobanov-Rostovsky says.

And in a few cases, like Kansas, they've almost single-handedly reversed long-standing policies related to sex crimes.

In 2011 for example, Washington State's board convinced its legislature to approve sealing the criminal records of youth convicted of sex offenses, provided they stayed free of subsequent crimes for two or five years, depending on the original offense. That [recommendation](#)  was based on [research](#)  showing that

juveniles have low re-offense rates and are highly treatable.

Over the years, Washington's board also convinced state leaders to stick to using the results of actuarial risk assessments, instead of offense type, to make decisions about offenders' risk levels, which affects whether they're put on the state's public registry. At least one [study](#) has found actuarial assessments to be more accurate in deciding risk level, known as tiering.

That decision has come at a price, putting the state out of compliance with the 2006 federal Adam Walsh Act, which requires that states use offense-based tiering. Under the act, noncompliant states [lose](#) 10 percent of an annual federal crime prevention grant that they're awarded each year.

In Colorado, the board trains local law enforcement and prosecutors on sexting offenses to encourage more flexibility in how localities handle cases involving youth. It also designed practice standards for sex offender treatment providers—an [evaluation](#) showed that among youth offenders, recidivism fell from 11 percent to 3 percent after the standards were implemented.

That data, according to Lobanov-Rostovsky, shows that a board's work can lead to measurably improved outcomes.

And in California, board co-chair Tom Tobin points to his board's success in convincing legislators in 2010 to fund an approach to offender management that requires tighter coordination between treatment providers and probation or parole officers, a practice that shows some evidence of effectiveness in cutting recidivism. California was the first state to create a sex offender registry back in 1947 as an expansion of Los Angeles' "convict registry," which the city set up in 1931 to keep out organized crime.

These policy boards take the heat off of legislators by letting them defer to the experts, says Colorado's Lobanov-Rostovsky.

But not all boards have succeeded.

Illinois Board ‘Kneecapped’

Chaotic leadership kneecapped Illinois’ Sex Offender Management Board, says Robin McGinnis of the Infant Welfare Society of Chicago, who served as a member for many years and helped draft the legislation creating it.

And because it reported to the state attorney general rather than to the legislature, its recommendations were often quashed over political considerations. Legislators never got the chance to see many of them.

That’s a risk with any board that reports directly to politicians. Lobanov-Rostovsky says Colorado’s board has been successful in large part because it reports to the state’s Department of Public Safety, which doesn’t manage the state’s sex offender programs.

“We’re connected to the governor’s office but aren’t working directly for politicians,” he says, noting that being one step removed allows boards more leeway.

Those advocating sweeping reform of sex offender laws are also skeptical about such boards’ long-term impact.

The efforts of Colorado’s board haven’t changed the “deeply ingrained” belief among local law enforcement, probation officers, and treatment providers that sex offenders “can’t be cured,” claims Susan Walker of the Colorado-based Coalition for Sexual Offense Restoration. And groups like hers aren’t represented on the boards, though they can offer comments at meetings.

In recommending on state policy, boards like the one in Kansas also run up against the Gordian knot of how much local control should be allowed. Should individual communities get to define their own approaches to offender management, even if those conflict with evidence-based state policy? At least one federal court has

weighed in, striking down an Englewood, Colorado city ordinance in August 2013 that restricted where offenders could live because it conflicted with state policies for managing registrants.

Plus, legislatures in only a few states have funded boards over the long term. Even Washington State, where legislators have deferred to its board on key issues, cut most of its funding after the financial crisis. That board now meets only when the legislature or governor asks for specific research, says board chair Kecia Rongen.

And no boards have weighed in on a key question in sex offender policy—the efficacy of public registries themselves.

For 20 years, states have been posting on public websites the names, addresses, photos, and in some cases the license plates and workplace addresses of those convicted of sex crimes involving everything from [streaking in public](#) and [engaging in sex as a minor](#) to sexual assault.

But a growing body of research is calling the practice into question. A [meta-analysis](#) of 20 years of research on the effectiveness of registries in the February 2012 *Journal of Crime and Justice* noted that none of the six studies on the impact of sex offender registries on sex offender recidivism conducted between 1995 and 2011 found that registration lowered recidivism.

“Over the last 15 years, sex offender registries have been established in all empirical forums not to reduce sexual offending behavior, violence, or the number of victims,” Kristen Zgoba, supervising research scientist at the New Jersey Department of Corrections and co-author of the 2012 meta-analysis, told *The Crime Report*.

In a new study of sex offender management policies enacted by Florida, Zgoba and a colleague examined public registry and residency restrictions, and found that repeat arrest rates for sex crimes actually slightly increased after those policies were put in place in 1997.

Back in California, the state’s Sex Offender Management Board, one of the most active, is having its clout tested again this year. California is one of just a few states that posts information about nearly all of those

convicted of a sex crime on its public Internet registry, regardless of their re-offense risk. As the board has for five years running, in January it issued a report calling for legislation to “tier” those on its registry into risk levels.

Under the proposal, only those deemed to pose a mid-range to high risk of reoffending would be kept on the registry, and most of the supervision resources would be directed to them.

The state, says board co-chair Tobin, is wasting a “huge amount of resources on lower-level offenders.”

But Assemblyman Bill Quirk, chair of the California Assembly’s Committee on Public Safety, didn’t respond to a request from *The Crime Report* for comment on whether he’d introduce a bill moving the state toward tiering.

Nevertheless, Tobin believes the ground is shifting toward evidence-based policies on sex offender management at both the state and federal levels. He points to the federal government’s own willingness to rethink the efficacy of registries. A [study](#) funded in February by the Department of Justice will assess the public safety impacts of the nation’s sex offender registries and recommend changes to federal and state policymakers.

If Tobin is right, it may be because some boards have convinced legislators that voting for policies shown to cut crime can inoculate them from attacks by electoral opponents that they’re soft on offenders.

The boards that best influence lawmakers keep that public-safety message at the heart of their work, says Lobanov-Rostovsky.

“If we go to the legislature and say ‘poor offenders, these things are really hard when you label them a sexually violent predator’ ... that gets you nowhere,” he says, referring to one of his board’s recommendations.

“But if the messaging is ‘if we label these guys sexually violent predators, then they can’t find a place to live, they can’t get a job, they’re destabilized, and we know from the research that destabilization is a risk factor for the community’ ... that’s much more effective.”

Steven Yoder writes about criminal justice, immigration, and other domestic policy issues. His work has appeared in Salon, The Fiscal Times, The American Prospect, and elsewhere, and he runs a blog on the impact of sex offender registries on registrants' families. He's reachable online at [@syodertweets](#). He welcomes comments from readers.

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