

10-29-2014

Sex Offender Residency Restrictions Serve No Purpose

Stephen Butts

Golden Gate University School of Law

Follow this and additional works at: http://digitalcommons.law.ggu.edu/ggu_law_review_blog

 Part of the [Criminal Law Commons](#)

Recommended Citation

Butts, Stephen, "Sex Offender Residency Restrictions Serve No Purpose" (2014). *GGU Law Review Blog*. Paper 15.
http://digitalcommons.law.ggu.edu/ggu_law_review_blog/15

This Blog Post is brought to you for free and open access by the Student Scholarship at Digital Commons: The Legal Scholarship Repository @ Golden Gate University School of Law. It has been accepted for inclusion in GGU Law Review Blog by an authorized administrator of Digital Commons: The Legal Scholarship Repository @ Golden Gate University School of Law. For more information, please contact jfischer@ggu.edu.



Sex Offender Residency Restrictions Serve No Purpose

🕒 OCTOBER 29, 2013 BY [STEPHEN BUTTS](#) 💬 0 COMMENTS

Under [Jessica's Law](#), sex offenders in San Francisco are barred from residing within two thousand feet of any school or park where children regularly gather. Due to San Francisco's limited size and dense population, it is nearly impossible to find housing outside of this restricted zone.

Consequently, the number of homeless sex offenders living in San Francisco has surged since the implementation of the restriction. This unintended consequence has led to multiple challenges to the restriction's [constitutionality](#) and [effectiveness](#).

The residency restriction is just one of many sex offender management strategies. Electronic monitoring, public registration, and community notification provisions have also been implemented through [Jessica's Law](#) and [Megan's Law](#). In addition to residency restrictions, [Jessica's Law](#) requires sexual offenders to wear Global Positioning System (GPS) electronic monitoring devices. Under [Megan's Law](#), sex offenders' pictures, names, and addresses are made available to the public through a searchable website. The general purpose of both of these laws is to protect society from the threat of further victimization posed by sex offenders.

Society can be protected either by diminishing the threat posed by sex offenders, or by enacting protections to neutralize the threat even though it still exists. Sex offender rehabilitation diminishes the threat by reducing sexual recidivism, while GPS tracking and community notification neutralize the threat without diminishing it. Using GPS electronic monitoring devices, parole agents protect the public by closely supervising sex offenders' whereabouts. Community notification allows the public to protect itself through awareness. By knowing the residences of sex offenders, people are able to move if necessary.

In terms of the residency restriction, though, the text of [Jessica's Law](#) does not specifically discuss how it will protect the public. This is because the restriction serves no purpose. It neither neutralizes the threat posed by sex offenders nor diminishes it, which makes it ineffective and unnecessary.

To begin with, the underlying premise of the residency restriction is flawed. Very few sex offenders find their victims by frequenting schools or parks because most child molesters choose victims who are [familiar to them](#). Ninety percent of child victims know their offenders, with approximately fifty percent of the offenders being family members. Since there is little threat of children being snatched from schools or playgrounds, there is little need to keep sex offenders from living within two thousand feet of them. Even if there is a threat, the residency restriction still does not prevent sex offenders from travelling inside the two thousand foot restricted zone and sitting across the street from a school or park.

Instead of a residency restriction, which does not prevent access to children, GPS tracking can be relied upon to ensure sex offenders do not travel too closely to a school or park. Monitoring the whereabouts of sex offenders is [more difficult](#) if those offenders are homeless. Extra rules can be placed upon sex offenders with residences, such as the requirement that offenders be in their homes during certain hours of the night. Such a restriction would be enforced using GPS tracking. If GPS tracking is as effective as proponents claim, it can be used without the residency restrictions of [Jessica's Law](#).

Furthermore, it is necessary to remove the residency restriction because of its detrimental impact on the effectiveness of [Megan's Law](#). [Megan's Law](#) is designed to protect society through awareness of sex offenders' whereabouts, but the residency restriction actually prevents the public from having this awareness and protecting itself. It is difficult to find a list of transient sex offenders on the [Megan's Law searchable website](#). Without a residence, their address information is not available on the website. Searches by address, city, or zip code only show sex offenders for

Search

Recent Posts

- [A CC-Pain: Abuse of C.C.P. § 170.6 Peremptory Challenges](#)
- [Employee Rights: If Nobody Knows, Who Cares?](#)
- [Space Rock Mining: A Land Rush Without Title](#)
- [Remove Time Limits on Reunification; Choose Guardianship over Adoption](#)
- [It's Still Perilous to Catch a Lyft in San Francisco](#)

Archives

- [March 2014](#)
- [February 2014](#)
- [January 2014](#)
- [November 2013](#)
- [October 2013](#)
- [April 2013](#)
- [March 2013](#)
- [February 2013](#)
- [January 2013](#)
- [October 2012](#)

Categories

- [GGU Law Review](#)
- [Ninth Circuit](#)

Authors

whom complete address information is available, which means transient sex offenders are not included. Unfortunately, it is not apparent that a search by county is required to have transient offenders populate the list. The public must either know to search by county or know the offender's name. Then, only the transient sex offender's name, picture, and county are shown. Without awareness of sex offenders' whereabouts, the public will be uncertain if relocation is necessary.

Finally, the residency restriction provision has a negative impact on sex offender rehabilitation. Lack of housing may be linked to problems with employment and support, but its most detrimental effect is on mental health treatment. Since sex offenders will always have access to children, the threat they pose must be reduced through treatment, which focuses on preventing a relapse of sexual offending. Transient sex offenders are more difficult to treat than those with permanent housing. This idea is supported by Maslow's hierarchy of needs, which theorizes that basic human needs like shelter must be met before people can focus on self-improvement. Therefore, transient sex offenders will have trouble working on relapse prevention when their focus is on where to sleep each night. Lack of treatment effectiveness prevents a reduction in the risk of sexual recidivism, which prevents the threat posed by sex offenders from being diminished.

Despite these issues, proponents of Jessica's Law and Megan's Law have argued that sexual recidivism has decreased and, therefore, the laws have been successful. However, studies of the rates of sexual reoffending have produced varied findings. Scholars even disagree about how to measure sexual recidivism. Even if it can be proven that these laws cause a reduction in sexual reoffending, it is unclear how each of the laws' provisions factor into the decrease. Thus far, there have been no studies that conclusively support the claim that residency restrictions reduce sexual recidivism.

All things considered, the two thousand foot residency requirement serves no purpose. In fact, it is detrimental to the effectiveness of Megan's Law and the other provisions in Jessica's Law. The residency restriction must be repealed so that sex offenders can obtain permanent housing. GPS electronic monitoring will ensure that sex offenders do not access schools and parks, while sex offender mental health treatment will reduce their threat to society.

Share this:

Buttons for Email, Twitter (1), Facebook (28), LinkedIn, and Google+.

Buttons for Reblog and Like.

Be the first to like this.

Related

- Sex Trafficking in Massage Parlors: Working Out the Knots in the San Francisco Health Code
Hollingsworth v. Perry: United States Supreme Court Grants Certiorari to Hear the 'Prop 8' Case
Proposition 8 Oral Arguments In "GGU Law Review"

GGU Law Review California, Jessica's Law, Megan's Law, residency restriction, sex offender

About Stephen Butts

J.D./Ph.D Candidate, 2014, Golden Gate University School of Law

View all posts by Stephen Butts ->

Sex Trafficking in Massage Parlors: Working Out the Knots in the San Francisco Health Code

Talk is Cheap, But Texting While Driving Shouldn't Be

- Andy Brunner-Brown
cassieheuckroth
erikfaussner
Mark Wilson
Executive Online Editor
Joanne Badua
jefftye
Kristina Maalouf
Laura Patty
Mark Heisey
Richard Miyasaki
Stephen Butts
Lee Howery

Like us on Facebook

Facebook Like button for Golden Gate University Law Review.

Follow us on Twitter

Twitter Follow button and tweet from GGU Law Review (@GGULawReview) dated 24 Mar.