

# HOMELESSNESS AND TRANSIENT STATUS AMONG REGISTERED SEX OFFENDERS IN CALIFORNIA

A RESEARCH REPORT FOR THE CALIFORNIA SEX  
OFFENDER MANAGEMENT BOARD

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Thank you for sharing your expertise and your time.

# I. EXECUTIVE SUMMARY

Homelessness and transience among registered sex offenders (RSOs) reflects a significant policy problem and public safety issue that is largely understudied. This report details findings from a research project examining the number and housing situations of individuals who are registering as “transient” sex offenders in California. Representing the first statewide assessment of transient sex offenders supervised at the county level, the study includes efforts to identify the scale of out-of-doors homelessness among transient RSOs, housing issues, and other possible reasons for registering as transient among sex offenders in California.

## The Scale of Transient-Status in California

The actual number of registered sex offenders in the community and on different forms of supervision is constantly in flux as individuals move on and off of conditional release, parole, or various forms of county-level supervision; reenter after periods of incarceration; move; or pass away. The following report provides a snapshot of the situation of transient and homeless sex offenders in California in the fall of 2018.

**As of October 2018, there were 6,659 sex offenders in the community registered as transient, approximately 6% of the total 106,915 individuals on California’s sex offender registry. Nearly 48% of transient registrants are on some form of supervision in the community. The vast majority of transient registrants are male. African Americans are disproportionately represented among transient 290-registrants supervised at the county level. Transient registrants in the community include:**

- 3 Sexually Violent Predators (SVPs) on conditional release (CONREP);
- 1,949 transient sex offender parolees; and
- 1,217 transient 290-registrants supervised by county probation departments.

**Overall, transient individuals account for approximately 20% of the 15 SVPs on CONREP, 20% of sex offender parolees, and 17% of registrants supervised at the county level by California Probation Departments.**

## Methods

The study utilized a mixed methods design to evaluate the scope of transient status and actual homelessness among transient registrants in California, as well as the strategies different jurisdictions have developed to supervise transient RSOs in the community. A statewide survey of California’s 58 county probation departments collected quantitative data regarding the number, demographics, form of supervision, and assessed risk-levels of transient RSOs.

The survey also solicited feedback to qualitative questions regarding the experiences of those who supervised registrants as to the reasons why individuals register as transient, and the strategies and resources required to supervise this population. Data regarding sex offender parolees and Sexually Violent Predators (SVPs) registering as transient was also collected from the California Department of Corrections and Rehabilitation (CDCR) and the Department of Adult Parole Operations (DAPO), the Department of State Hospitals (DSH), and the California Sex Offender Management Board (CASOMB).

Interviews with probation officers in 22 counties across the state (ranging from small, rural counties to large, urban counties in the North and South of California), as well as interviews with representatives from parole supplemented this survey and data collection, providing information regarding the policies and strategies used to supervise transient registrants in the community. Interviews were also conducted with professionals working with incarcerated and civilly committed sex offenders, as well as therapists and providers conducting Containment Model treatment programs in the community. In total, nearly one hundred individuals were interviewed for the study. A second statewide survey identified homeless shelters and housing programs in each California county to determine their eligibility requirements and potential accessibility to 290-registrants. These varied sources of quantitative and qualitative data contribute to the findings in this report.

### **“Transient” Registrants Live in a Wide Variety of Housing Situations**

Though concentrated in urban areas, homeless and transient sex offenders live in diverse circumstances throughout the state. Sex offenders in California who are registered as “transient” live in a variety of situations: some are homeless, unsheltered and living out of doors on the streets or in encampments, others live in cars or recreational vehicles, while others “couch surf” with family and friends. Sexually Violent Predators that are unable to be released to a fixed residence may be released as “transient,” but live under strict supervision in hotels or motels paid for by the state, moving every four days to maintain transient registration status in compliance with state law. Although not in recent years, transient released CONREP SVPs have also resided in tents and recreational vehicles.

### **Risk Factors and Resource Needs: Variation in Support and Programming for Transient Registrants**

While resources are available to support housing assistance and Containment Model treatment for indigent sex offenders on some forms of community supervision, the majority of transient sex offenders supervised by probation departments are offered limited to no housing support. Many transient registrants lack the resources to pay for mandatory sex offender treatment and polygraph testing, creating barriers to participation in and completion of treatment.

*Because the conditions of transience and homelessness facilitate risk factors and can disrupt protective factors, these varied contexts for transient registrants present different challenges in terms of promoting effective community supervision, treatment, desistance from reoffending, and success in the reentry process. This results in the uneven and incomplete implementation of the Containment Model throughout California.*

The following report provides a preliminary assessment analyzing transient-status among registered sex offenders in California, exploring the scale of transient-registration and the housing situations of individuals who are supervised by county probation departments, parole, or on conditional release in the community. After a brief review of the research literature on homelessness and transience among registered sex offenders, the report analyzes factors shaping transient registration and strategies for the supervision of transient registrants in the community.

## II. OVERVIEW OF THE RESEARCH LITERATURE

Few academic studies explicitly examine homelessness or the impact of transient registration among registered sex offenders. However, a variety of studies have been conducted regarding the challenges registrants face in identifying affordable, stable housing. Many of these studies examined the actual or projected impact of residence restrictions on housing availability, as well as the collateral consequences of residence restrictions and public registry requirements for sex offenders and their families.

The existing body of research largely focuses on the following:

- geocoding and mapping studies to identify the community characteristics and crime rates in areas where RSOs reside;
- how residency restrictions limit the availability of compliant housing, and the percentage of RSOs living in non-compliant housing;
- quantitative studies evaluating residency restriction factors correlated with increased transience among RSOs (e.g., population density, cost of housing, the distance/coverage of residence restrictions, RSO risk level, and prior convictions for failure to register) and attempting to ascertain the relationship between residence restrictions and recidivism rates;
- surveys and qualitative studies based on interviews with registrants and their family members examining how residence restrictions and public registration and notification requirements can create “collateral consequences” for registrants and their families, including housing challenges and discriminatory treatment by landlords and community members.

A more extensive overview of the research literature, particularly regarding the projected and actual impact of residence restrictions their impact on sex offender reentry, is available in Appendix B of this report.

***A common finding of these studies is that a lack of accommodation contributes to instability, loss of connection to families and prosocial ties, and therefore creates or aggravates risk factors for recidivism.<sup>1</sup>***

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<sup>1</sup> Jill S. Levenson and Leo P. Cotter, “The Impact of Sex Offender Residence Restrictions: 1,000 Feet From Danger or One Step From Absurd?,” *International Journal of Offender Therapy and Comparative Criminology* 49, no. 2 (April 2005): 168–78, <https://doi.org/10.1177/0306624X04271304>; Jill S. Levenson and Andrea L. Hern, “Sex Offender Residence Restrictions: Unintended Consequences and Community Reentry,” *Justice Research and Policy* 9, no. 1 (June 2007): 59–73, <https://doi.org/10.3818/JRP.9.1.2007.59>; Jill Levenson and Richard Tewksbury, “Collateral Damage: Family Members of Registered Sex Offenders,” *American Journal of Criminal Justice* 34, no. 1–2 (2009): 54–68, <https://doi.org/10.1007/s12103-008-9055-x>; Richard Tewksbury, “Evidence of Ineffectiveness: Advancing the Argument Against Sex Offender Residence Restrictions: Sex Offender Residence Restrictions,” *Criminology & Public Policy* 13, no. 1 (February 2014): 135–38, <https://doi.org/10.1111/1745-9133.12075>; Richard Tewksbury and Matthew Lees, “Perceptions of Sex Offender Registration: Collateral Consequences and Community Experiences,” *Sociological Spectrum* 26, no. 3 (May 2006): 309–34, <https://doi.org/10.1080/02732170500524246>; Christopher P. Dum, *Exiled in America: Life on the Margins in a Residential Motel*, Studies in Transgression



However, few studies appear to directly examine the relationship between accommodation status and recidivism, or housing and treatment outcomes.<sup>2</sup>

To make causal claims regarding homelessness and transient-status would require a longitudinal study that follows individually identifiable registrants over time and accounts for periodic evaluations of accommodation status, mental health status, substance use and abuse, arrest records, criminal history records including convictions, incarcerations, supervision status, risk assessments, and registration status. Such a research design is beyond the scope of this study, but would be an important contribution to better understanding the impact of sex offender policies and effective supervision techniques, particularly given the gaps in the current research literature, the growing problem of chronic homelessness<sup>3</sup> among mentally ill and aging registrants, and the persistence of relatively high numbers of transient-registrants in California despite the recent relaxation of laws restricting where they can live.

The present study aims to lay the groundwork for such a study by identifying key factors shaping homelessness and transient registration status among sex offenders in California, and by highlighting areas of success and challenges in their supervision and reentry in the community. After briefly describing the methods utilized in the study, the following sections examine access to housing, homelessness, and transient-registration status among registered sex offenders (RSOs) released from civil commitment in state hospitals as Sexually Violent Predators, among RSOs released from state prison and supervised by parole, and among RSOs supervised by county probation departments.

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(New York: Columbia University Press, 2016); Jill S. Levenson et al., “Transient Sex Offenders and Residence Restrictions in Florida” (Boca Raton, FL, 2013), <https://floridaactioncommittee.org/pdf/SORR%20and%20Transients%20in%20Florida%202013.pdf>; Candace Kruttschnitt, Christopher Uggen, and Kelly Shelton, “Predictors of Desistance among Sex Offenders: The Interaction of Formal and Informal Social Controls,” *Justice Quarterly* 17, no. 1 (March 2000): 61–87, <https://doi.org/10.1080/07418820000094481>; Kelly M. Socia, “The Efficacy of County-Level Sex Offender Residence Restrictions in New York,” *Crime & Delinquency* 58, no. 4 (July 2012): 612–42, <https://doi.org/10.1177/0011128712441694>; Jill S. Levenson et al., “Where for Art Thou? Transient Sex Offenders and Residence Restrictions,” *Criminal Justice Policy Review* 26, no. 4 (June 2015): 319–44, <https://doi.org/10.1177/0887403413512326>.

<sup>2</sup> Kelly M. Socia, “Too Close for Comfort? Registered Sex Offender Spatial Clustering and Recidivistic Sex Crime Arrest Rates,” *Sexual Abuse: A Journal of Research and Treatment* 25, no. 6 (December 2013): 531–56, <https://doi.org/10.1177/1079063212469061>; Levenson et al., “Where for Art Thou?”; Deanna Cann, “Sex Offender Policies That Spin the Revolving Door: An Exploration of the Relationships Between Residence Restrictions, Homelessness, and Recidivism” (Master’s Thesis, University of South Carolina, 2017), <https://scholarcommons.sc.edu/cgi/viewcontent.cgi?article=5269&context=etd>; Gwenda M. Willis, “Back to Basics: Empirical Support for the Importance of Release Planning in Reducing Sex Offender Recidivism,” *Sexual Abuse in Australia and New Zealand* 2, no. 2 (2010): 54.

<sup>3</sup> The U.S. Department of Housing and Urban Development (HUD) defines individuals as “chronically homeless” where a person has been continuously homeless for over a year or has had four or more episodes of homeless in the past three years. A chronically homeless person must also have some form of disabling condition, such as a physical disability, mental illness, substance use disorder, or developmental disability that inhibits their ability to maintain gainful employment.

### III. METHODS

This study utilized a mixed-methods approach to identify the number of transient registrants in California and the ways in which they are supervised.

Informational interviews were conducted with members of the California Sex Offender Management Board, judicial representatives, sex offender treatment providers, parole and probation officers, reentry lawyers, and community-based organizations working with homeless registrants. Based on information from these interviews and a previous statewide survey of probation departments in California for CASOMB,<sup>4</sup> an online survey was developed in Qualtrics to gather data regarding the number of transient sex offenders and their supervision.

A statewide survey of California's 58 County Probation Departments and interviews with probation officers across the state were conducted. The survey collected data regarding probation departments' sex offender caseloads as of October 31, 2018 to identify a point-in-time count of the number of 290-registrants supervised by county probation departments who are transient, the types of supervision to which they are subject, factors that lead individuals to register as transient, and best practices and challenges in the supervision of transient registrants in the community.<sup>5</sup> A second statewide survey conducted between February and December 2018 evaluated the accessibility of homeless shelters to registered sex offenders in each county in the state.

Interviews were also conducted with California parole officers, sex offender treatment providers, judicial actors, reentry lawyers, and individuals working with Sexually Violent Predators with the California Department of State Hospitals (DSH).

The findings in this report help to explain the persistence of high numbers of transient-registrants in California despite recent legal challenges that have limited the scope and impact of residence restrictions at the state and local levels. It also presents recommendations from parole agents, probation officers, law enforcement, Department of State Hospitals personnel, treatment providers, and reentry advocates who work with transient sex offenders

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<sup>4</sup> Danielle Harris and Edith Kinney, "Adults on Probation Supervision in California for a Sexual Offense," Report to the California Sex Offender Management Board, 2016.

<sup>5</sup> Representatives from 44 county probation departments provided responses to the survey, administered from November 2018 – January 2019. Respondents included individuals involved in the supervision of sex offenders on probation, as well as Information Technology personnel and data analysts. Researchers "cold-called" and emailed the remaining fourteen county probation offices to identify the individual(s) responsible for supervising sex offenders in their county and to request submission of the survey. Data from all 58 counties in California are represented in the following report. As noted in the data analysis, some counties submitted surveys that did not include answers to all questions on the survey. Other counties (typically larger counties with more individuals responsible for sex offender caseloads) submitted multiple answers for survey items requesting information about supervision strategies for transient sex offenders, and one combined survey answer regarding the overall point-in-time counts for all sex offender registrants under supervision by the county's probation department.

to identify potential policy changes to promote desistance and improve outcomes for transient registrants, supported by evidence-based supervision practices that can enhance public safety in California communities.

## **IV. TRACKING THE INCREASING NUMBERS OF REGISTERED AND TRANSIENT SEX OFFENDERS IN CALIFORNIA**

California has the oldest sex offender registry in the nation. Launched in 1947, the number of individuals listed on California’s registry has increased significantly over the past seven decades to almost 107,000 individuals as of October 2018. This number has grown over time for several reasons.

First, legal reforms have expanded the number of offenses that could result in placement on the sex offender registry since the 1940s.<sup>6</sup> Second, California was one of the few states to impose a lifetime registration requirement for sex offenders until recent legal reforms to “tier” the registry, which will be implemented in 2021–22.<sup>7</sup> Until then, the overall number of individuals on California’s sex offender registry continues to grow as individuals convicted qualifying sex offenses are placed on the registry.

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<sup>6</sup> Individuals must register as a sex offender if they have ever been convicted of any crime listed in California Penal Code section 290(c). Section 290(c) includes a wide range of felony and misdemeanor offenses including forcible sex crimes against adults, most sex crimes involving children, prostitution and child pornography-related crimes, kidnap or assault for the purpose of committing a sex crime, soliciting another person to commit a sex offense, and attempt or conspiracy to commit any of the included crimes (Cal. Penal Code §§ 290, 290.003). Individuals may also be required to register based on convictions for crimes that are not listed in § 290(c) if the crime was committed “as a result of sexual compulsion or for purposes of sexual gratification,” a determination made by the judge at conviction or sentencing (Cal. Penal Code §§ 290.006). Individuals are required to register if they were adjudicated as a ward in juvenile court for certain sex offenses and committed to CDCR’s Division of Juvenile Justice (formerly the California Youth Authority) or a similar agency in another state (Cal. Penal Code § 290.008); if the individual was found “not guilty by reason of insanity” for any of the offenses listed in PC 290(c) (Cal. Penal Code § 290.004.); or if the individual was determined to be a Mentally Disordered Sex Offender (MDSO) or Sexually Violent Predator (SVP) (Cal. Penal Code § 290.001, 290.004). Finally, individuals who have been convicted in another state or in federal or military court of an offense with the same elements as an offense in PC 290(c) will be required to register (Cal. Penal Code § 290.005), as will most individuals required to register as a sex offender in another state (Cal. Penal Code § 290.002, 290.005(c)).

<sup>7</sup> SB 384, to be implemented on January 1, 2021, establishes three tiers of adult registrants for periods of 10 years, 20 years, and life, based on the registerable conviction(s) or adjudications from California and non-California jurisdictions, risk assessment scores, and other criteria, including whether the individual has been subsequently incarcerated, committed to a state mental hospital or mental facility as a sexually violent predator, or has felony convictions for failing to register. Individuals that were adjudicated in juvenile court will have mandatory, minimum registration periods of 5 years or 10 years; few, if any, will be subject to lifetime registration requirements.

## Increase in California's Sex Offender Registry, 1947 - 2018

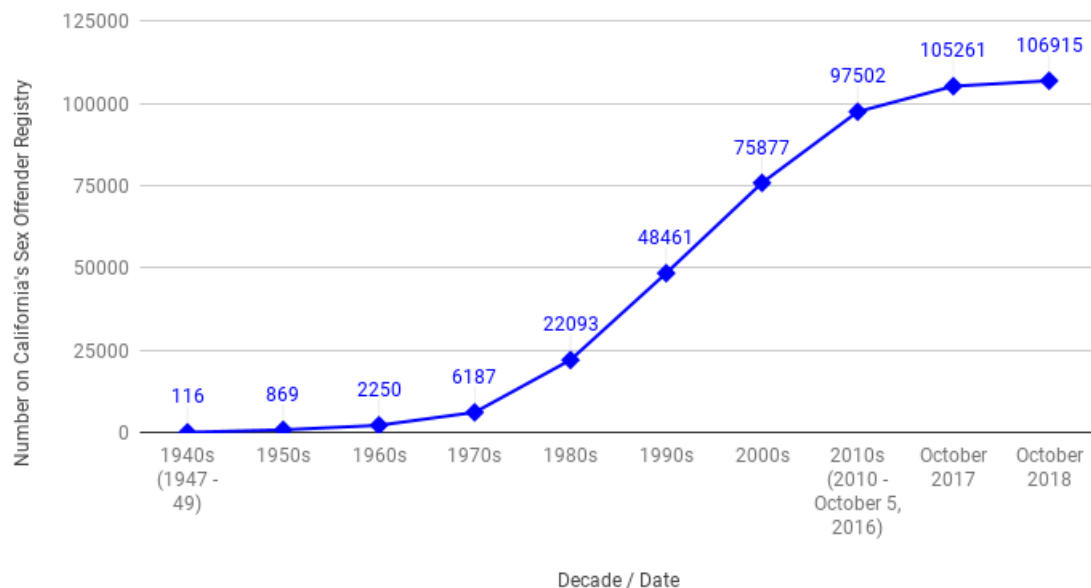


Figure 1 Total Number of Registered Sex Offenders on California Sex Offender Registry

As the overall number of registered sex offenders has increased significantly over the past decade, so too has the number of those registering as transient. Though many factors may impact the number of transient registrants, including the broader crisis in affordable housing in California, a sharp increase in the number of individuals registering as transient occurred soon after legal reforms limiting where certain sex offenders may live.

## Residence Restrictions and Rising Numbers of Transient Registrants in California

On November 7, 2006, California voters passed “Jessica’s Law,” a ballot initiative that aimed to create “predator free zones around schools and parks to prevent sex offenders from living near where our children learn and play.”<sup>8</sup> The law, codified as Penal Code section 3003.5(b), prohibited registered sex offenders from living within 2,000 feet of a school or park.<sup>9</sup>

<sup>8</sup> Ballot Pamphlet, General Electric (Nov. 7, 2006) argument in favor of Prop. 83, p. 46.

<sup>9</sup> Proposition 83 modified an existing statute, Penal Code section 3003.5, which limited parolee sex offenders from living with other registered sex offenders while on parole, and added a new residence restriction in subdivision (b) as follows: “Notwithstanding any other provision of law, it is unlawful for any person for whom registration [as a sex offender] is required to reside within 2000 feet of any public or private school, or park where children regularly gather.”

The California Supreme Court determined that the law did not apply retroactively to the tens of thousands of sex offender registrants already living in the community (perhaps in residences within the 2,000-foot buffer zone), but instead applied only to individuals released from custody after November 7, 2006. Jessica's Law residence restrictions were only routinely enforced against sex offenders on parole and conditionally released SVPs but not other registrants. Nevertheless, the restrictions caused significant challenges in terms of identifying compliant housing and effectively supervising individuals released into the community.

In addition, cities and counties throughout California subsequently developed their own, often more stringent, residence restrictions.<sup>10</sup> For over a decade, CASOMB has warned of the unintended consequences of public policies ostensibly aimed to prevent sexual victimization by strictly limiting where sex offenders can live.<sup>11</sup>

It is unknown whether or how often county and local officials enforced local residence restriction laws, or how many individuals who were not formally subject to the residence restrictions "self-policed" by moving out of non-compliant housing or registering as transient.

***What is known is that after Jessica's Law was passed in 2006, the rate of sex offender parolees registering as transient skyrocketed, and the overall number of individuals registering as transient increased significantly on California's sex offender registry.***

In November 2006, immediately prior to the passage of Jessica's Law, only 88 sex offender parolees were registered as transient. Just over a year later, on December 9, 2007, the number of transient sex offender parolees had grown to 718 – nearly 19% of all sex offenders on parole.<sup>12</sup> The implementation of Jessica's Law in the fall of 2007 required over 2,700 sex

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<sup>10</sup> For an overview of the local residence and presence restriction ordinances enacted by cities and counties throughout California within two years of the passage of Jessica's Law, see CASOMB's December 2008 Report, *Homelessness Among Registered Sex Offenders in California: The Numbers, the Risks and The Response*, Appendix B, "Local Ordinances Regulating Residence and Presence of Sex Offenders as of October, 2008," Prepared by the California Department of Corrections and Rehabilitation, available at <http://casomb.org/docs/Housing%202008%20Rev%201%205%20FINAL.pdf>.

<sup>11</sup> In 2010, CASOMB called for research to "determine the impact of local ordinances on the housing of sex offenders, their degree of transience and their movement across jurisdictional boundaries as a result of such restrictions" (See CASOMB Recommendations Report, January 2010, available at [http://www.casomb.org/docs/CASOMB%20Report%20Jan%202010\\_Final%20Report.pdf](http://www.casomb.org/docs/CASOMB%20Report%20Jan%202010_Final%20Report.pdf)). CASOMB also responded to Prop 83 by recommending that "local communities (cities or counties) should be required to identify appropriate, affordable, and compliant housing for sex offenders prior to implementation of, or if they presently have, local restrictions for sex offenders." (CASOMB Recommendations Report, January 2010, p. 41).

<sup>12</sup> CASOMB, January 2008, "An Assessment of Current Management Practices of Adult Sex Offenders in California: Initial Report," (p. 15-16), available at <http://www.casomb.org/docs/SOMBReport1.pdf>. CASOMB's 2008 report noted that CDCR had determined that 2,393 registered sex offenders on parole were not subject to Jessica's Law, and 4,345 were subject to residence restrictions; of this group, 4,332 were compliant with Jessica's Law requirements, and 13 were noncompliant with Jessica's Law requirements (due to extenuating circumstances of a medical or psychiatric nature) (at page 7).

offender parolees to move from non-compliant housing within 45 days or risk a return to prison.<sup>13</sup> Though California courts limited the application of Jessica’s Law to sex offenders paroled after its passage, the policy applied to 290-registrants among the approximately 400 – 700 individuals (including non-sex offenders) released on parole each month.<sup>14</sup> By June 2008, the number of sex offender parolees registering as transient had grown to 1,056.

***The percentage of all transient registrants in the state who were parolees spiked from 3% in 2006 to nearly 33% of all transient registrants by June 2008. As of November 2018, 1,949 registered sex offenders on parole were transient, accounting for approximately 29% of all transient registrants on CSAR.***

The total number of transient registrants in California also continued to increase over the next decade. As of November 8, 2006, CASOMB reported 2,730 individuals were registered as transient among all sex offenders required to register in California, rising to 2,779 as of December 9, 2007 and 2,879 as of January 2008.<sup>15</sup> By June 2008, the California Coalition on Sexual Offending (CCOSO) reported a total of 3,229 individuals registered as transient in California counties.

A decade later, the number of transient registrants had more than doubled: at CASOMB’s June 2018 meeting, California Department of Justice representatives reported a total of 6,669 individuals were registered as transient sex offenders on the California Sex and Arson Registry (CSAR).

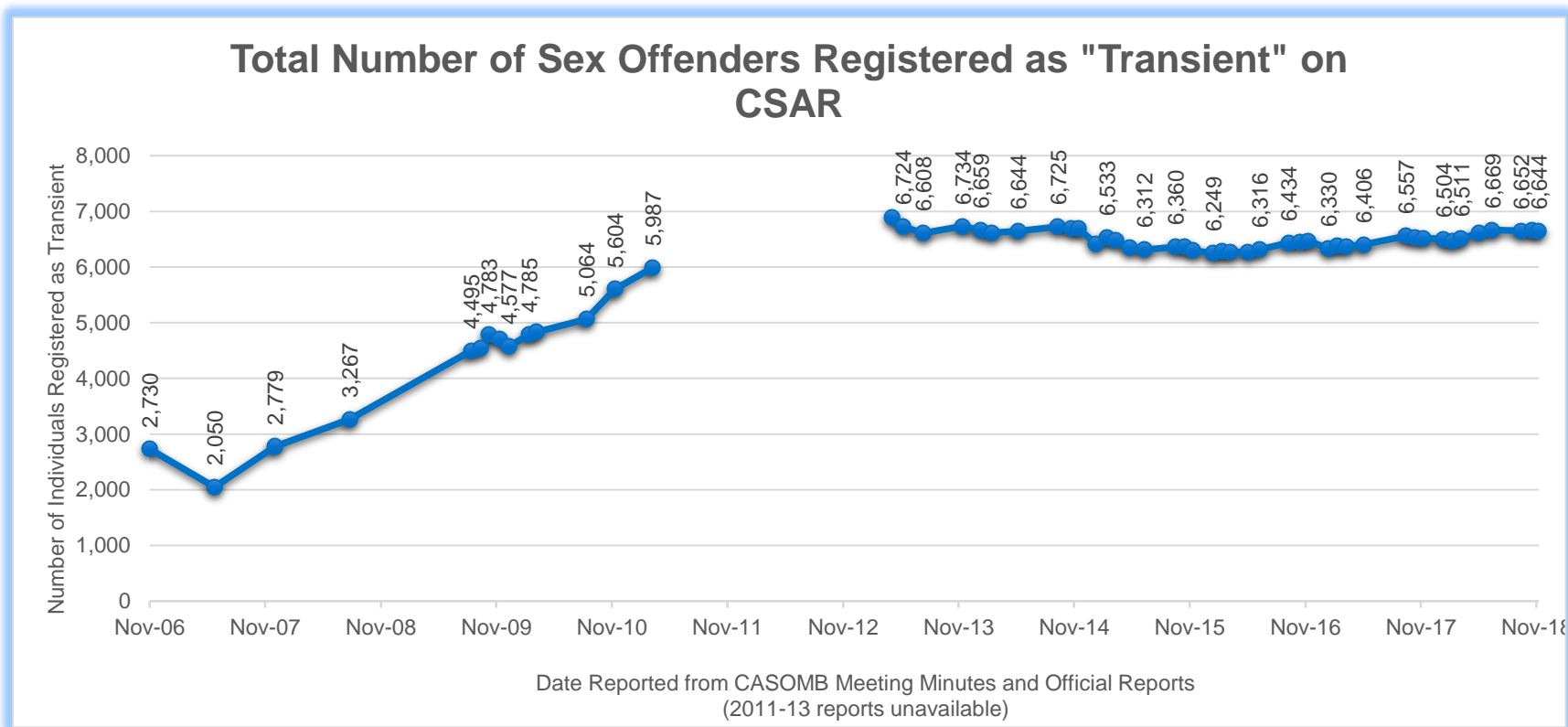
The chart below depicts the rising number of transient registrants in California between 2006 and 2018, based on CSAR reports provided by California Department of Justice representatives at CASOMB Meetings and CASOMB’s official reports.

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<sup>13</sup> Phillip Matier and Andrew Ross, “New Law Puts Most of S.F. off-Limits to Sex Parolees,” *San Francisco Chronicle*, September 12, 2007, <https://www.sfgate.com/bayarea/article/New-law-puts-most-of-S-F-off-limits-to-sex-2504136.php>.

<sup>14</sup> Matier and Ross.

<sup>15</sup> CASOMB, January 2008, *An Assessment of Current Management Practices of Adult Sex Offenders in California: Initial Report*, Chart 6-3 at page 127, available at <http://www.casomb.org/docs/SOMBReport1.pdf>



*Figure 2 Increasing Numbers of Sex Offenders Registering as Transient, 2006 - 2018*



## **Unintended Consequences of Residence Restrictions: Homelessness, Transient Registration, and Barriers to Supervision**

The residence restrictions imposed by Jessica's Law increase the reentry challenges that sex offenders face after their release. In 2008, CASOMB observed that residence restrictions disrupted the transitional housing plans traditionally utilized by sex offenders returning to the community, such as living with family members, as many residences were now located within the prohibited zones established by Jessica's Law.<sup>16</sup> Housing was particularly limited in population-dense urban areas, severely restricting areas of compliant housing outside prohibited zones in major California cities. With few areas of compliant housing for sex offenders living in the community and a lack of transitional housing for those recently released, increasing numbers of sex offender parolees registered as transient.

The lack of housing available to sex offenders released into the community and increasing rates of transient registration also created challenges for the probation, parole, and DSH CONREP representatives supervising them as well as those providing sex offender treatment. Residence restrictions required parole agents to use GPS devices to measure the distance from parks and schools to the entrance of potential housing identified by parolees to assess whether the proposed residence complied with the 2,000-foot buffer zones around prohibited locations. This mapping and assessment process significantly increased the time, difficulty, and costs required to supervise sex offenders on parole while restricting parole agents' discretion to apply restrictions appropriate to individual offenders (Interview with parole representatives, February 2019). In the SVP arena, substantial costs are incurred in search of housing and community placements are commonly delayed due to the housing search process, resulting in longer institutionalizations than necessary.

In addition, a range of local jurisdictions passed ordinances imposing residence and presence restrictions on registered sex offenders. Although many of these ordinances were reportedly not enforced, such restrictions further complicated efforts to identify compliant housing and created additional work for parole agents and county probation officers charged with supervising sex offenders in the community. The lack of housing for sex offenders also impacted access to sex offender treatment programs mandated by state law beginning 2010. Treatment professionals interviewed for this report explained that housing instability made it difficult to ensure homeless and transient clients participated in sex offender treatment sessions, whether due to an inability to pay, or because they were more focused on addressing primary needs: securing shelter and staying safe.

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<sup>16</sup> CASOMB, January 2008, "An Assessment of Current Management Practices of Adult Sex Offenders in California: Initial Report," (15-16), available at <http://www.casomb.org/docs/SOMBReport1.pdf>.



## Legal Challenges and Policy Reforms to Address the Unintended Consequences of Residence Restrictions

In 2015, the California Supreme Court ruled that Jessica’s Law residency restrictions are unconstitutional as applied to sex offender parolees in San Diego County, after finding that the 2,000-foot buffer zone excluded nearly all affordable housing in the County (*In re Taylor*, 60 Cal. 4th 1019). The Court ruled that where there is insufficient affordable housing for sex offender registrants, the residence restrictions in Jessica’s Law undermined public safety by forcing registrants into homelessness and transient-status. The Court’s decision also found that the residence restrictions also created barriers to sex offender parolees accessing treatment and rehabilitative social services, and limited the ability of parole agents and law enforcement to monitor and supervise them, undermining public safety.

Although the *Taylor* decision was limited to the restrictions as applied to parolees in San Diego County, it has been interpreted as applying statewide. CDCR and the Division of Adult Parole Operations ended the blanket enforcement of residence restrictions for all sex offenders on parole. Now, residence restrictions are imposed on parolees on a case by case basis, reflecting the risk factors of the individual parolee and where the restrictions have a nexus to the underlying sex offense (“e.g., supported by circumstances found in the parolee’s criminal history and include clearly articulated justification for the restriction”).<sup>17</sup>

Further, while the *Taylor* decision was limited to San Diego County, the lack of affordable housing in California was not unique to San Diego. Following the *Taylor* decision, judges in other counties granted temporary relief to individual parolees in San Diego, Los Angeles, Sacramento, San Francisco, Contra Costa, and San Bernardino Counties.<sup>18</sup>

The rationale of the *Taylor* decision has been extended to limit the application of residence restrictions to other sex offenders, including those under probation supervision. In 2016, a California appellate court ruled that the Jessica’s Law residency restriction in Section 3003.5, subdivision (b) does not apply to registrants on probation as a blanket restriction.<sup>19</sup> Presently, the residence restriction only applies if it is imposed as a probation or parole condition, based on an individual offender’s record. However, unlike parole and probation, DSH continues to interpret Jessica’s Law residence restrictions as applying to all 290 registrants unless the court orders otherwise. This substantially bogs down the CONREP placement of 290 registrants discharging from state hospitals.

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<sup>17</sup> CDCR, Division of Adult Parole Operations, *Laws Related to Sex Offender Parolees*, [http://www.cdcr.ca.gov/parole/Sex\\_Offender\\_Facts/sex-offender-laws.html](http://www.cdcr.ca.gov/parole/Sex_Offender_Facts/sex-offender-laws.html).

For example, 290-registrants who have been convicted as adults of sex offenses involving children, particularly Lewd Acts with a Child Under 14 (Cal. Penal Code § 288(a) and Continuous Sexual Abuse of a Child (Cal. Penal Code § 288.5) are subject to residence restrictions to prohibit such individuals from living near places where children gather.

<sup>18</sup> Root and Rebound, *Roadmap to Reentry*, available <https://roadmap.rootandrebound.org/parole-probation/state-parole/conditions-of-state-parole/residency-movement-employment-restrictions/i-am-a-290-registrant-are-there-restrictions-on-wh/#footnote-ref-546>

<sup>19</sup> See *People v. Lynch*, 2 Cal.App.5th 524 (2016).

In addition to Jessica’s Law, registrants seeking housing face a confusing patchwork of county and municipal residence and presence restrictions, many of which have faced recent legal challenges. Some local governments repealed their ordinances in response to the *Taylor* decision. Other cities and counties were sued by the Alliance for Constitutional Sex Offender Laws, resulting in the repeal, revision, or stay of enforcement of residence and presence restrictions in many jurisdictions throughout the state (see Chart in Appendix A, identifying the status of litigation challenging residence and presence restrictions in several cities and counties in California).

Despite these legal challenges and policy reforms limiting the scope of residence restrictions, the number of individuals registering as transient has continued to grow as individuals are released from prison, jail, or state hospitals and face extremely restricted options for housing. This report helps to explain why the number of transient registrants in California remains high even after these reforms. The challenges of finding housing as a registered sex offender, the desire to avoid the stigma and collateral consequences of registering an address on the public Megan’s Law website, and a lack of accessible treatment options for mental illness and addiction all play a role in the persistence of high numbers of transient 290-registrants in California.

The following sections of the report provide a snapshot of transient-status among different groups of registered sex offenders, including those supervised by county probation departments, those supervised by parole, and Sexually Violent Predators (SVPs). The report does not evaluate those individuals who are registered as transient sex offenders and living in the community but are not under any form of supervision. The report then draws on interviews with individuals who have experience supervising and working with homeless and transient registrants in the community to examine the varied housing circumstances of transient registrants, as well as their resource needs. Challenges and best practices in the supervision and treatment of transient registrants are then analyzed to identify recommendations to CASOMB, supervising agencies, and policymakers.

## **V. TRANSIENT REGISTRATION AMONG SEX OFFENDERS SUPERVISED BY COUNTY PROBATION**

Approximately 18% of all transient registered sex offenders in California are currently supervised by probation departments. While state funding supports housing and treatment for sex offender parolees and SVPs, registered sex offenders supervised by one of California’s 58 county Probation Departments may have little to no support. In many counties, transient and indigent registrants are expected to pay for treatment, polygraphs, and some aspects of their supervision. Many transient registrants struggle to meet these requirements, leading to increased challenges in participating and successfully completing treatment.

The following section examines the supervision and management of transient registrants supervised by county probation departments based on a survey distributed to each of California's 58 Probation Departments and interviews with probation officers supervising registered sex offenders in 22 counties across the state. After providing a snapshot of probation departments' sex offender caseloads, the next section describes the demographics, risk assessments, and supervisory practices reported by probation officers in interviews and survey responses. Findings suggest that additional resources are needed to support the statewide implementation of Containment Model treatment and polygraphs for transient and indigent registrants supervised at the county level.

### **Snapshot of Probation Departments' Sex Offender Caseloads**

Survey responses from 58 out of 58 counties reported a total of 7,149 290-registrants supervised by county probation departments across the state of California.<sup>20</sup>

***Probation staff identified 1,217 of these individuals as registered as transient, accounting for approximately 17% of the total population of 290-registrants supervised by county probation departments.***

As of October 2018, transient registrants supervised by county probation departments made up about 18% of all sex offenders registered as transient in the state.

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<sup>20</sup> Several counties submitted surveys with notes identifying inconsistent or incomplete data, due to a variety of factors including lack of a case management system; upgrade / transition to alternative case management systems, including some systems that did not provide access to certain data points (e.g., demographic information, risk assessment scores, prior criminal history); and a reliance on hand counts and individual review of probation officers' case files. Some counties were unable to provide data for all questions on the survey; where relevant, the number of counties reporting data for the particular question is noted. Due to individuals going on and off probation caseloads, the counts provided may vary. Some counties observed the requested point-in-time count of October 1, 2018, while others reported counts from their current caseload when they submitted the survey response. While best efforts were made to ensure complete and accurate reporting, the counts presented in this report should be treated as estimates of the general population of 290-registrants supervised by county Probation Departments between October 1, 2018 and February 15, 2019.

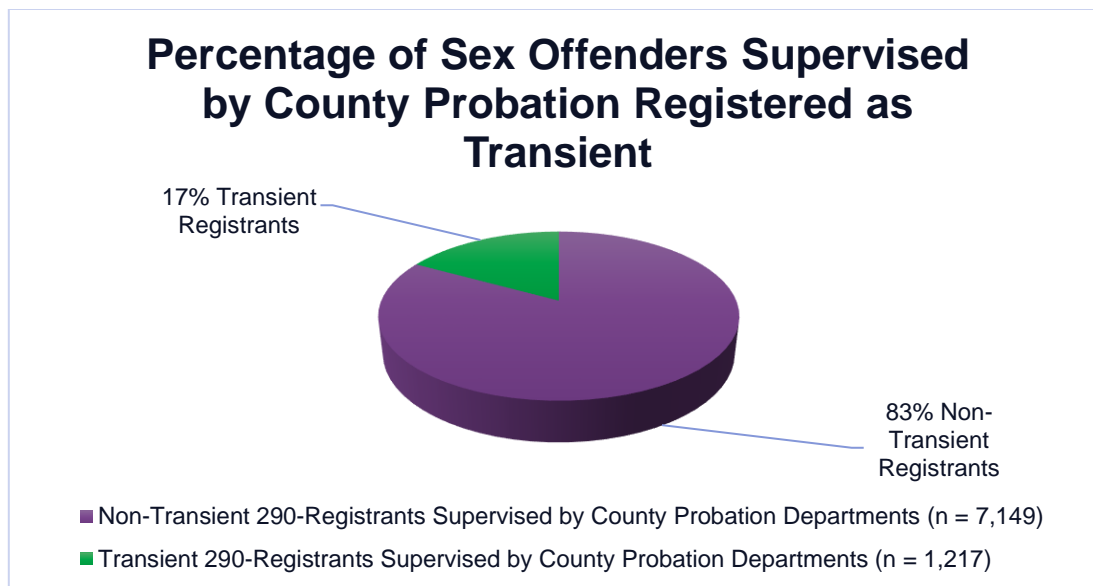


Figure 3 Percentage of Transient and Non-Transient Registrants Supervised by Probation

Although the largest numbers of transient sex offenders are concentrated in counties with populous urban centers, 47 counties reported at least one transient 290-registrant supervised by probation departments. Only one small, rural county reported that their current probation caseloads had no registered sex offenders as of October 2018. Counties with no transient registrants were rural with low population density, few resources for homeless individuals, and characterized by remote, sometimes harsh, natural environments, such as large uninhabited areas of mountains, forests, or deserts.

### 290-Registrants by Types of Supervision at the County Level

Individuals convicted of PC 290-registerable offenses may be supervised in a variety of different ways at the county level: informal (or court) probation; formal probation; Post-Release Community Supervision (PRCS); or Mandatory Supervision.

***The majority of 290-registrants supervised at the county level are on formal probation.*** However, since California’s implementation of public safety realignment in 2011 as enacted through California Assembly bills 109 and 117, counties are responsible for managing two populations of offenders who previously were the responsibility of the California Department of Corrections and Rehabilitation (CDCR) and parole: those released from state prison on Post-Release Community Supervision (PRCS), and local prison offenders (1170h) given “split sentences” who serve part of their sentence in county jail and then receive Mandatory Supervision (or Mandatory Supervision only).<sup>21</sup> As discussed below, the addition of these categories of offenders has increased the seriousness of probation caseloads.

<sup>21</sup> PPIC. January 2019. “Corrections,” available at <https://www.ppic.org/wp-content/uploads/californias-future-corrections-january-2019.pdf>. In 2017, approximately half of inmates released from state prison (17,400) were assigned to Post-Release Community Supervision rather than state parole (18,200).

Some 290-registrants may be on multiple forms of supervision simultaneously. For example, one county reported a “dual status” individual on PRCS for a sex offense and on Formal Probation for domestic violence; another county reported an individual on PRCS and also on probation for failing to register. In addition, a small number of respondents reported that some 290-registrants supervised by county Probation Departments were also subject to Parole or Federal Probation Supervision. However, most counties reported that their case management systems do not track or account for this data. As such, the data presented below focus on the forms of county-level supervision of 290-registrants for which Probation departments are responsible.

### *Informal Probation*

Individuals may be placed on informal (or “court,” “summary,” or “misdemeanor”) probation for misdemeanor convictions and are supervised by the court, not a probation officer (Cal. Penal Code § 1203(d)).

This study did not gather data on individuals convicted of sex offenses who are placed on informal probation. One reason data was not collected on the number of transient individuals in this population is because many on informal probation for sexual offenses are not required to register.

Further research is needed to evaluate the different practices of county courts with regard to determinations regarding the placement of individuals on informal versus formal probation for sex offenses. However, interviewees from a few county probation departments suggested that increased education was needed for legal actors, such as judges and prosecutors, to better understand potential risk factors, protective factors, and best practices in the supervision of sex offenders. Continuing education on these issues was viewed as important to inform processes including plea bargaining, making determinations regarding informal or formal probation, and crafting individualized terms of supervision for sex offenders in the community.

### *290-Registrants on Formal Probation*

The vast majority of 290 registrants supervised by probation departments are on Formal Probation, a type of supervision for felony and some misdemeanor convictions (Cal. Penal Code § 1203(b–d)). ***The 58 of 58 probation departments surveyed for this study reported a total of 5,424 290-registrants on formal probation.*** Formal probationers accounted for nearly 76% of all registered sex offenders supervised by county probation departments. ***Of the sex offenders on formal probation, 13.3% (n = 721) were registered as transient.***

The number of 290-registrants on formal probation who were registered as transient varied significantly between counties, ranging from 0 to 142. Of the 43 counties reporting any transient registrants on formal probation, the mode was 1 (with 10 counties reporting 1 transient registrant), and the median was 4. The percentage of transient individuals of the total number of 290-registrants on formal probation ranged from 1.16% to over 38%. Transient 290-registrants on formal probation were concentrated in large, urban counties in coastal southern California and the Bay Area.

### *290-Registrants on Post-Release Community Supervision*

Since the implementation of public safety realignment, county probation departments are now responsible for supervising certain categories of offenders who would formerly have been supervised by state parole, including those on Post-Release Community Supervision (PRCS). All 58 county probation departments provided data regarding the number of 290 registrants currently on PRCS, reporting a total of 974 PRCS 290-registrants, 271 (27.8%) of whom were transient. ***Sex offenders on PRCS accounted for 13.6% of the total population of 290-registrants supervised by county probation departments in this study.***

Individuals on PRCS are present in many counties across the state, with 47 counties reporting at least one 290-registrant on PRCS, and 36 counties reporting at least one individual on PRCS registered as transient. The county with the largest number of 290-registrants on PRCS was Los Angeles County, reporting 218 individuals, 9 of whom were transient. Fresno County had the second largest number of 290-registrants on PRCS, reporting 107 individuals, 33 of whom were transient.

### *290-Registrants on Mandatory Supervision*

Mandatory Supervision is a second, more rarely utilized form of county supervision under realignment. Of the 56 of 58 counties that provided data regarding 290 registrants on Mandatory Supervision, ***only 9 counties reported 290-registrants on Mandatory Supervision, for a total of 22 registrants, 6 of whom were transient (27.3%).***

A 2012 CPOC report indicates that the use of mandatory sentencing varied significantly across counties in the state: while statewide, 23% of total local prison sentences were split, Central Valley, Bay Area, and Sacramento area counties utilized split sentencing at nearly 40%, but Southern and Northern counties only did so about 20% of the time.<sup>22</sup> As such, it is not surprising that in the current survey, some counties report no individuals currently on this status while others do.

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<sup>22</sup> CPOC. 2012. "Mandatory Supervision: The Benefits of Evidence Based Supervision under Public Safety Realignment," <https://www.cpoc.org/sites/main/files/file-attachments/issuebrief2.pdf>

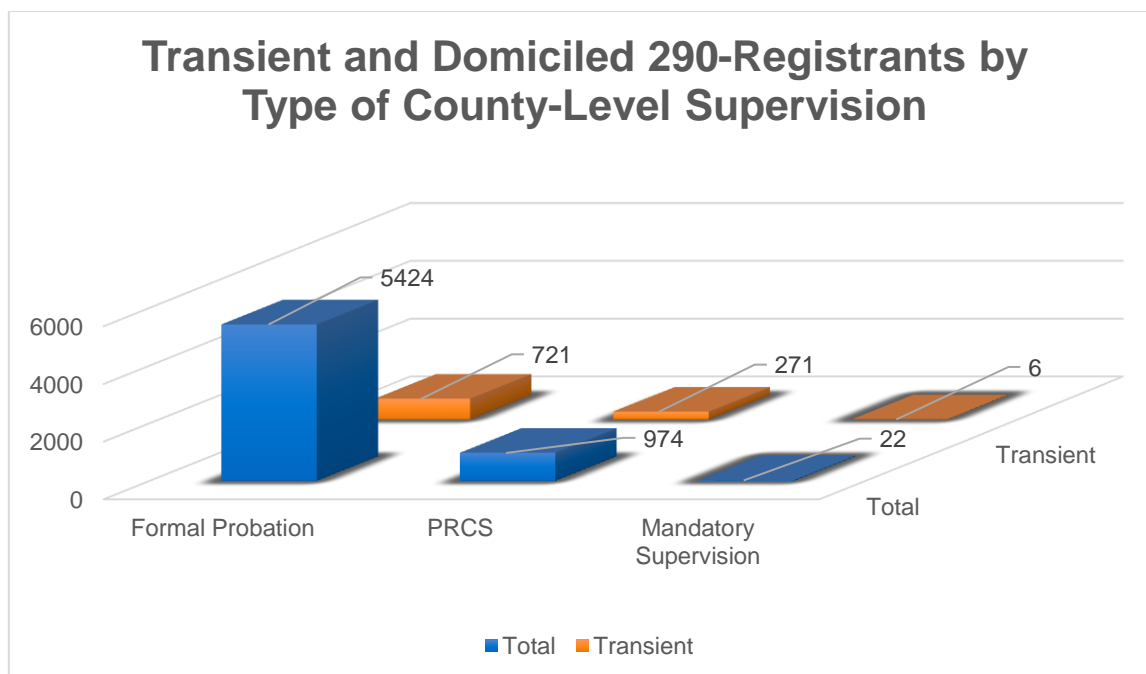


Figure 4 Comparing Transient Status Among Registrants on Different Forms of Supervision by County Probation Departments

#### *Resources and Realignment Populations*

The implementation of public safety realignment has increased the seriousness of offenses on probation caseloads and created new demands on local resources. For example, a study examining the impact of realignment by PPIC found that almost half (46.7%) of all individuals who started probation supervision were booked into county jail within their first year, and booking rates were highest among realigned offenders.<sup>23</sup> Realigned offenders had a higher likelihood of reentering jail multiple times during the first year of probation supervision, and remained in jail custody longer than those on traditional probation caseloads for felonies and misdemeanors.<sup>24</sup>

Interviews with probation officers in counties throughout the state indicated that realignment, including realigned offenders who are 290-registrants, has created new challenges and resource demands on their caseloads. Some probation officers indicated that they are able to use realignment funding allocated from AB 109 to help support payments for Containment Model treatment and housing for 290-registrants who are on PRCS. However, the funding cannot be utilized for other transient 290-registrants on their caseloads on other forms of supervision, despite similar needs and risk assessment scores. One probation officer’s survey response explained how this lack of resources adversely impacts the supervision and reentry of transient 290-registrants:

<sup>23</sup> PPIC. August 2017. “California Probation in the Era of Reform,” available at <https://www.ppic.org/publication/california-probation-in-the-era-of-reform/>

<sup>24</sup> PPIC. August 2017. “California Probation in the Era of Reform,” available at <https://www.ppic.org/publication/california-probation-in-the-era-of-reform/>



“Transient offenders who are supervised under AB 109 funding are provided with a strong support system that helps them seek housing options, helps them find counseling, and obtain employment. However, transient offenders who are not supervised on AB 109 lack all these resources. Funding for all transient offenders would help provide them with resources and support that would help improve supervision and promote public safety.”

*Recommendation: Comprehensive Funding for Probation-Supervised 290-Registrants*

Ensuring additional funding from the state to help support comprehensive programming for transient and low-income 290-registrants would promote public safety and the implementation of best practices in the supervision and management of sex offenders in the community.

## **Sex / Gender of 290 Registrants and Transient-Status**

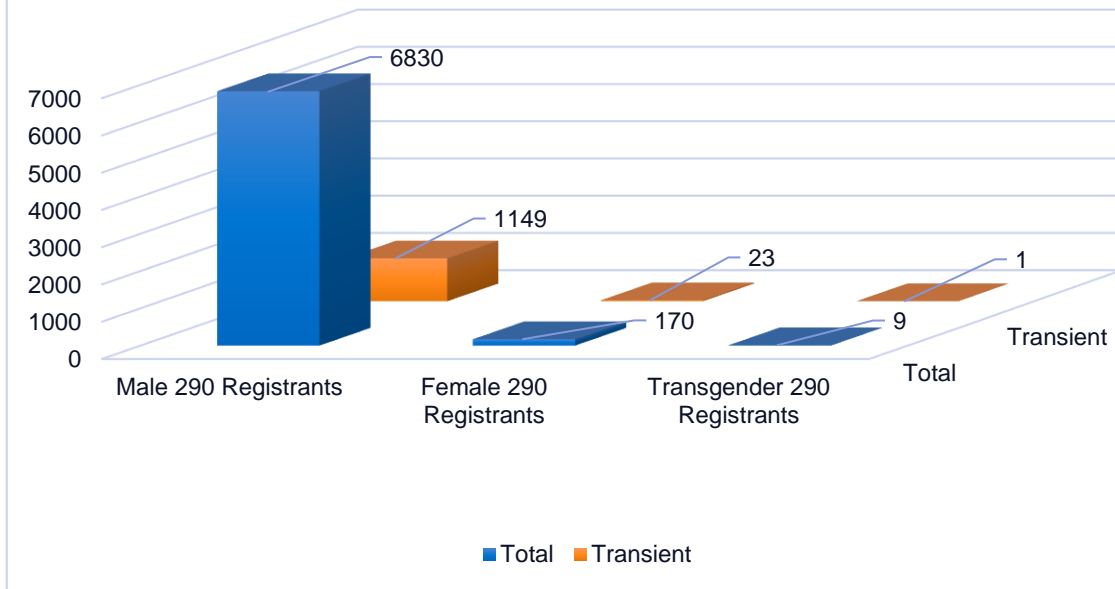
The overwhelming majority of registered sex offenders supervised at the county level are male. Given that the population of known sex offenders and 290-registrants are predominately male, it is unsurprising that ***males constitute 97% of the transient registrants in the present study.***

Men account for 6,830 of the total 7,088 290-registrants reported by 57 counties for this data point. A total of 170 female 290-registrants was reported by 34 counties; most counties had zero female sex offenders on their current caseload. Only 7 counties reported data on transgender individuals, with many noting that their department’s case management system does not collect this data.

A larger percentage of male 290-registrants were registered as transient than female 290-registrants. Almost 17% (n = 1,149) of all 290-registrants supervised by probation departments were transient, compared with 13.5% (n = 23) of female offenders. Of the 9 transgender 290-registrants reported, 1 was registered as transient.



## Sex / Gender of Transient and Non-Transient 290-Registrants Supervised by County Probation Departments



*Figure 5 Transient Status and Sex / Gender of Registrants Supervised by County Probation Departments*

Despite the small sample of female and transgender 290-registrants, the gender disparity in the transient-registration rates in this sample of 290-registrants reflects broader trends in homelessness in California. Men make up two-thirds of the homeless population in the state, and are more likely to be unsheltered than female or transgendered individuals who are homeless.<sup>25</sup>

The most recent evaluation of homelessness in California is based on the U.S. Department of Housing and Urban Development 1/24/2018 point-in-time count.<sup>26</sup> These counts are necessarily estimates, given variability in the reliability and consistency of homeless counts in different regions, and the transient and sometimes hidden nature of homeless populations. Unsheltered homelessness – people living outside the shelter system – can be particularly hard to count.

<sup>25</sup> See “HUD 2018 Continuum of Care Homeless Assistance Programs Homeless Populations and Subpopulations” for California, available at [https://files.hudexchange.info/reports/published/CoC\\_PopSub\\_State\\_CA\\_2018.pdf](https://files.hudexchange.info/reports/published/CoC_PopSub_State_CA_2018.pdf)

<sup>26</sup> HUD, 2018, “2018 AHAR: Part 1 - PIT Estimates of Homelessness in the U.S. - HUD Exchange,” accessed April 2, 2019, <https://www.hudexchange.info/resource/5783/2018-ahar-part-1-pit-estimates-of-homelessness-in-the-us/>.

The 2018 HUD report found that males comprise 66% of California's total homeless population of 129,972, totaling 85,810 males who are unsheltered, in emergency shelters, or transitional housing across the state.<sup>27</sup> California has the largest unsheltered homeless population in the country, concentrated in the Bay Area and Los Angeles. Of the total unsheltered homeless population in the state (89,543 people), 70.5% were male, 28% were female, 1.2% were transgender, and 0.4% were gender non-conforming. While there are numerically more homeless males than females in both emergency shelters and transitional housing, females constitute a higher percentage of the population in emergency shelters (44%) and transitional housing (43.9%) than in the unsheltered population (27.8%).<sup>28</sup>

These gendered differences in access to and use of homeless shelters may help explain the higher rate of transient-registration status among this study's sample of male 290-registrants in California as compared with female 290-registrants supervised by county probation departments. A statewide phone survey of homeless shelters completed for this report found that sex offenders are routinely prohibited from the vast majority of shelters in California. ***Most counties lacked even one shelter that accepted male registered sex offenders.***

Both formal policies and informal practices work to exclude registrants from the homeless shelter system. Male sex offenders are frequently excluded from shelters that provide services to women and children. Though many of the facilities surveyed indicated that their shelter did not have a formal written policy regarding sex offender eligibility, those that accepted individuals with 290-registration requirements were few and far between. This reflected findings from recent studies of homeless shelters' policies on sex offenders in other states.<sup>29</sup>

A small number of shelters surveyed in California indicated that they would accept individual 290-registrants on a case-by-case basis, depending on the nature of their offense and perceived risk factors to staff, other clients, and the registrant himself (e.g., potential violence against registrants if their status became known to others in the shelter). Shelters that did accept sex offenders were often religiously-oriented with work requirements.

Males' greater representation in unsheltered homelessness, coupled with shelter policies or practices that exclude sex offenders, consign many transient male 290-registrants to life on the streets.

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<sup>27</sup> See "HUD 2018 Continuum of Care Homeless Assistance Programs Homeless Populations and Subpopulations" for California, available at [https://files.hudexchange.info/reports/published/CoC\\_PopSub\\_State\\_CA\\_2018.pdf](https://files.hudexchange.info/reports/published/CoC_PopSub_State_CA_2018.pdf)

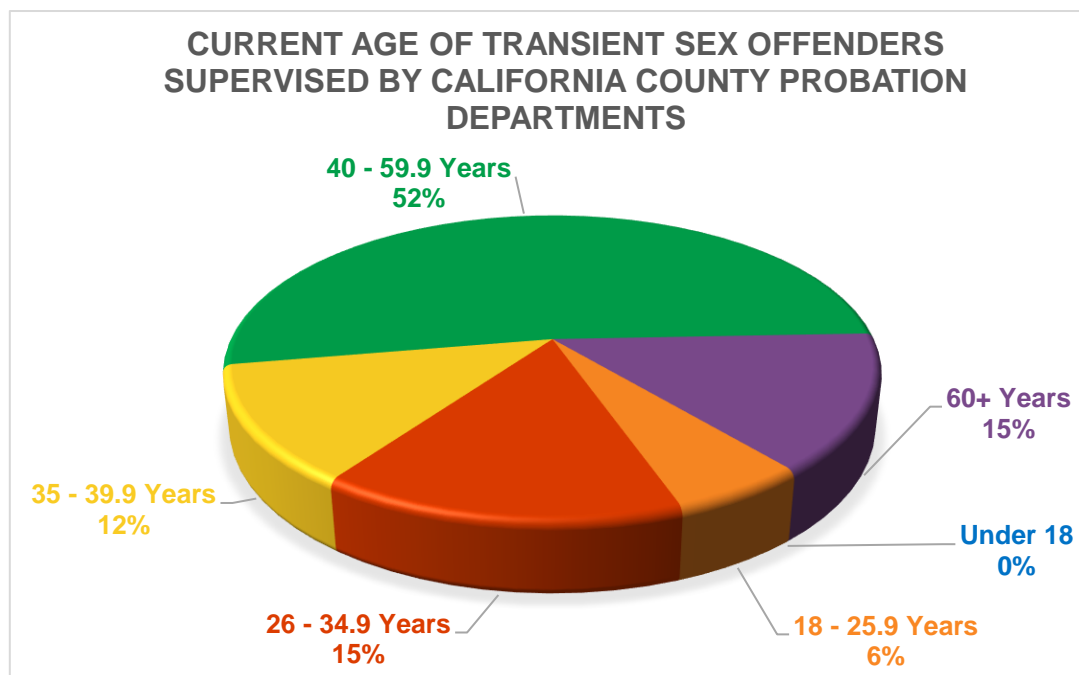
<sup>28</sup> HUD, 2018, "Continuum of Care Homeless Assistance Programs Homeless Populations and Subpopulations, California State Information," available at [https://files.hudexchange.info/reports/published/CoC\\_PopSub\\_State\\_CA\\_2018.pdf](https://files.hudexchange.info/reports/published/CoC_PopSub_State_CA_2018.pdf)

<sup>29</sup> Shawn M. Rolfe, Richard Tewksbury, and Ryan D. Schroeder, "Homeless Shelters' Policies on Sex Offenders: Is This Another Collateral Consequence?," *International Journal of Offender Therapy and Comparative Criminology* 61, no. 16 (December 2017): 1833–49, <https://doi.org/10.1177/0306624X16638463>.

## Age of Transient Registrants Supervised by County Probation Departments

Transient status among sex offenders supervised by county probation departments in California appears to be associated with older age. In the current survey, 58 of 58 counties reported data regarding the age of 1,162 transient 290-registrants under supervision by probation departments.

Although some county probation departments supervise juveniles as well as adults, no county probation departments reported supervising 290-registrants under age 18. The youngest reported transient registrant was 18, and the oldest reported transient registrant was 91 years old. Approximately 6% of transient registrants are 18 to 25.9 years old ( $n = 66$ ); 15.3% are 26 to 34.9 years old ( $n = 178$ ); and 12.4% ( $n = 144$ ) are between 35 and 39.9 years old. Two-thirds of all transient sex offenders supervised by County Probation Departments are over 40 years old, with 52% ( $n = 605$ ) between the ages of 40 – 59.9 years old, and 14.5% (or 169 individuals) 60 years or older.



*Figure 6 Age of Transient Registrants Supervised by County Probation*

Respondents reported or estimated the average age of transient registrants in their county to be in their late 40s. Interviews with probation staff indicated that transient 290-registrants tend to be older than other 290-registrants on their sex offender caseloads; however, this data point was not collected for the survey to minimize the burden of data collection for probation departments.

County probation officers and state parole agents interviewed for this study warned that the aging population of transient registrants will soon become an issue of concern, as many are

chronically homeless and have increasing medical problems and mental health needs. Co-occurring drug and/or alcohol addiction and mental illness among transient registrants can result in a cycle of arrest, incarceration, release, and return to homelessness.

As homelessness and a lack of continuous care can cause medical and mental health issues to worsen, a small number of individuals can create large burdens on local programs and resources. In interviews and survey answers, probation officers indicated that mental health and addiction issues can make it difficult for registrants to comply with requirements for transient sex offender registration, leading some to have repeated “failure to register” violations that return them to probation caseloads and/or periods of incarceration. Thus, even if transient registrants do not re-offend sexually, they are likely to continue to cycle through the revolving door of the criminal justice system without significant intervention or supportive programming.

The financial, legal, and logistical barriers for aging transient registrants to access sober living environments, residential treatment centers, assisted living, or skilled nursing facilities will present a significant challenge for communities, public health, and justice systems to address in the coming years.

## **Race / Ethnicity of 290-registrants Supervised by County Probation Departments**

The survey findings reveal significant differences in the rate of transient-status between different racial / ethnic groups. Responses for 54 of 58 counties reported on the race / ethnicity for a total 6,720 290-registrants and 1,143 transient 290-registrants supervised by county Probation Departments. Because some counties reported demographic data drawing on different internal databases, the total counts for each county may not match with those reported for other survey questions.

### *Race / Ethnicity Demographics of 290-Registrants Supervised by County Probation*

White (2,471) and Latino / Hispanic (2,458) individuals represent the two largest racial/ethnic categories in this sample of sex offenders, and are nearly equivalent in size. African Americans constituted the third largest group, with 1,353 registrants reported on probation caseloads. Asian, Pacific Islander, Native Americans, Bi-racial / Mixed Race, and Other categories were also reported in much smaller numbers. As discussed below, the sample of sex offender registrants reported in this survey of county probation caseloads reflects an overrepresentation of African Americans and underrepresentation of Asian individuals relative to the general population in California, and the rates of transient-status vary significantly across racial groups.

County probation departments report using different processes and categories to document ethnicity / race of the individuals they supervise. Some counties’ case management systems included data on the racial identification of individuals under supervision, while respondents from other counties indicated they answered this survey question through reference to

booking slips, minute orders, pre-sentence reports, jail intake information, or hand counts from reviewing individual client files.

Several counties' case management systems reportedly did not utilize categories such as "bi-racial or multi-racial," instead categorizing such individuals' race/ethnicity as "other." Further, some larger counties utilized much more nuanced identifications of ethnicity in "Asian" and "Pacific Islander" categories (e.g., Vietnamese, Filipino, Nepalese, etc.) that are not reflected in other counties' databases or captured in this report.

The data reported by county probation departments reveals significant differences between racial / ethnic groups with regard to the overall percentage who are transient within each group.

<b>Race / Ethnicity Category of 290-Registrants Supervised by County Probation Departments</b>	<b>Percent of Each Race / Ethnicity Category who are Transient 290-Registrants</b>
<b>Asian / Pacific Islander</b>	<b>7.9%</b>
<b>Latino / Hispanic</b>	<b>11%</b>
<b>White</b>	<b>17.7%</b>
<b>Native American</b>	<b>26%</b>
<b>Black / African American</b>	<b>28%</b>

*Figure 7 Comparing Transient-Status Among Different Racial / Ethnic Groups of 290 Registrants Supervised by County Probation Departments*

Asian / Pacific Islander 290-registrants supervised by county probation departments have the lowest percentage of transient-registration. Only 7.9% of Asian / Pacific Islander 290-registrants under probation supervision are transient (18 transient of a total reported 229 individuals). Although Latino / Hispanics constitute the second largest group of 290-registrants supervised at the county level (2,458 reported), only 11% (273) are registered as transient. White 290-registrants make up the largest total number of transient registrants in the state (437 transient of a total of 2,471 reported individuals), with 17.7% of White 290-registrants supervised by probation departments in California registering as transient.

The percentage of individuals with transient-status among Black / African American and Native American 290-registrants supervised at the county are much higher than other racial / ethnic groups: 26% of Native American 290-registrants are transient (14 transient of 54 reported individuals), and 28% of Black / African American 290-registrants are transient (357 transient of 1,268 reported individuals).

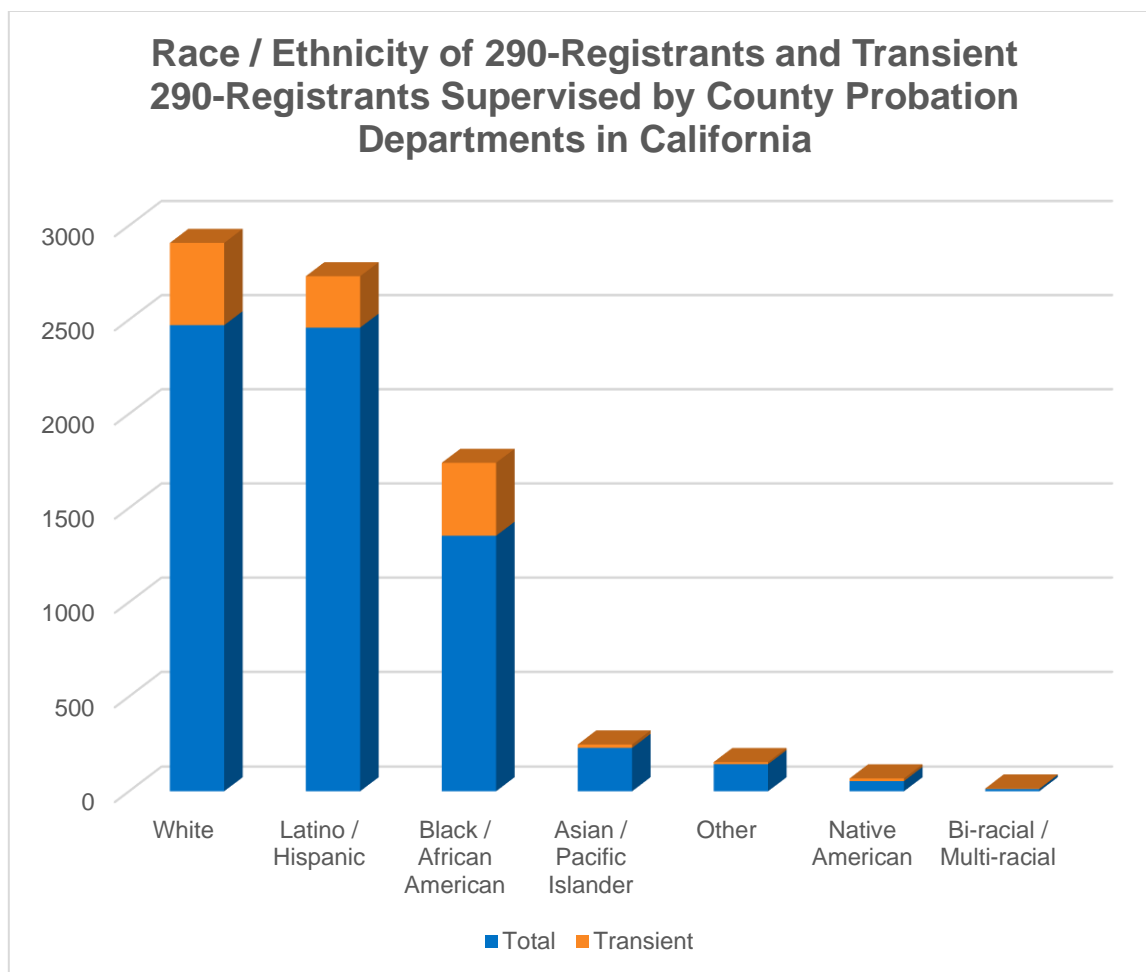


Figure 8 Comparing Proportion of Transient and Non-Transient Registrants by Race / Ethnic Groups

Comparing the racial/ethnic breakdown of 290-registrants and transient-registrants supervised by county probation departments to the racial/ethnic breakdown of the general population helps to illuminate groups that are over- and under-represented among 290-registrants and the subpopulation of transient registrants.

Whites (36.8%) and Latino / Hispanics (36.6%) under probation supervision are approximately equally represented in the overall count of sex offenders, at proportions that are nearly identical with that of their respective racial groups in California Census data.<sup>30</sup> However, **a greater percentage of White 290-registrants (17.7%) are registered as transient than are Latino / Hispanic 290-registrants (11%)**. The survey revealed that Whites account for 38% of the total transient 290 population supervised by county probation departments, and Latino / Hispanic registrants account for 24% of all reported transient 290-registrants supervised at the county level.

<sup>30</sup> See <https://www.census.gov/quickfacts/CA>, population estimates as of July 1, 2018.

Relative to the racial composition of the general population in California based on U.S. Census Data, ***African Americans are disproportionately overrepresented in both the populations of 290-registrants and transient 290-registrants supervised by county probation departments.*** Though African Americans comprise only 6.5% of California's total population, they constitute 20% of 290-registrants supervised by probation and 34% of all transient 290-registrants supervised by probation departments.

Conversely, ***Asian and Pacific Islanders are disproportionately underrepresented among both the 290-registrant population and the transient registrant population supervised by probation departments.*** While accounting for over 15% of California's total overall population, Asian / Pacific Islanders comprise only 3.4% of the total 290-registrants supervised by county probation, and 1.6% of all transient registrants.

Both Black / African American and Native American 290-registrants reflect high rates of transient-status at the county level. Though Native Americans constitute a small percentage of both the overall California population (1.6%) and the current study's sample of 290-registrants (0.8%), 25.9% of Native American sex offenders supervised by probation departments are registered as transient (14 transient of 54 individuals reported). Of African American 290-registrants supervised by county probation, 28.6% are transient (or 387 transients out of the total 1,353 reported African American 290-registrants), and African Americans account for over one-third of all transient 290-registrants under probation supervision.

In sum, transient-status is not distributed evenly across different racial / ethnic categories of registered sex offenders supervised by County Probation Departments. In particular, African Americans are disproportionately represented in both the overall population of 290-registrants and among transient-registrants.

### ***Comparing the Racial Demographics of Transient 290-Registrants to the General Homeless Population in California***

Some of the variation in transient-status between ethnic / racial categories of 290-registrants supervised by county probation departments may be explained by high rates of homelessness among certain racial groups in California.<sup>31</sup> The U.S. Department of Housing and Urban Development's (HUD) 2018 point-in-time count estimated a total number of 129,972 homeless individuals in California, 69% of whom were "unsheltered."

Given that probation officers in most counties surveyed reported that sex offenders were not eligible to stay in homeless shelters, it is reasonable to compare the racial/ethnic breakdown

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<sup>31</sup> Homeless statistics for California are drawn from the U.S. Department of Housing and Urban Development's (HUD) 2018 Continuum of Care Homeless Assistance Programs Homeless Populations and Subpopulations, based on a point-in-time count on January 24, 2018. See "HUD 2018 Continuum of Care Homeless Assistance Programs Homeless Populations and Subpopulations" for California, available at [https://files.hudexchange.info/reports/published/CoC\\_PopSub\\_State\\_CA\\_2018.pdf](https://files.hudexchange.info/reports/published/CoC_PopSub_State_CA_2018.pdf)



of California's unsheltered homeless population to that of transient 290-registrants supervised at the county level.

The divergent percentages of transient-status among different racial and ethnic categories of 290-registrants identified by county probation departments reflects the varied representation of unsheltered homelessness by race and ethnicity in the general population in California. HUD's demographic summary by ethnicity found that "Hispanic / Latino" individuals comprised 30.7% of California's unsheltered homeless population; HUD's demographic summary by race unsheltered population reported that 56% identified as "White"; 27% are "Black or African American"; 1.7% are "Asian" 4.7% are "American Indian or Alaska Native"; 1% are "Native Hawaiian or Other Pacific Islander," and 9% are categorized as "Multiple Races" ("Hispanic/Latino" is categorized as ethnicity, not as a separate racial group).

The demographic summary by race for the total population of homeless individuals in California, (including those living in emergency shelters, transitional housing, and those who are unsheltered) reflects a very similar racial breakdown as that of the unsheltered population, with African Americans comprising a slightly higher percentage of the total homeless population (29%).<sup>32</sup>

*The 2018 point-in-time count estimating homelessness in California reveals some similarities between the racial/ethnic breakdown of the general homeless population and that of this study's transient 290s-registrants, as well as some stark differences.*<sup>33</sup> For example, *African Americans are disproportionately overrepresented among both the homeless and transient 290 registrants* as compared to California's overall population, while Asians account for a smaller percentage of both groups than their representation in the general population.

The charts below visualize the breakdown of race/ethnicity in California's overall population, among all 290-registrants supervised at the county level, and among 290-registrants supervised at the county level who are transient.

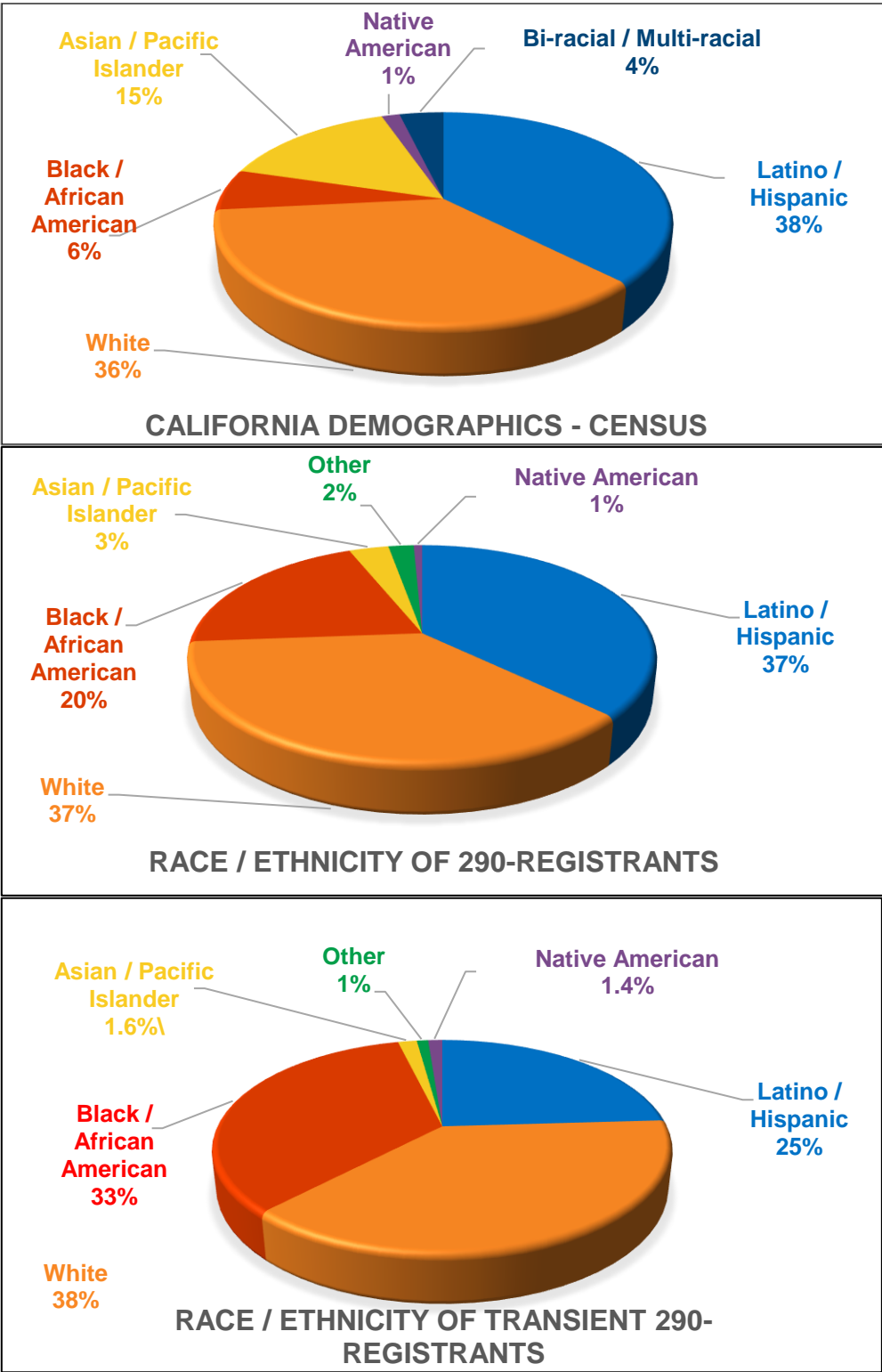
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<sup>32</sup> The demographic summary by race for the total homeless population in California is 56% White, 29% Black or African American, 1.7% Asian, 4.1% American Indian or Alaska Native, 1.1% Native Hawaiian or Other Pacific Islander, and 7.7% Multiple Races.

<sup>33</sup> <https://www.hudexchange.info/resources/documents/2018-AHAR-Part-1.pdf>



Figure 9 Comparing Proportional Representation of Racial / Ethnic Groups in California's General Population, 290-registrants Supervised by County Probation, and Transient-290 Registrants Supervised by County Probation



Experiences of incarceration can increase the likelihood of homelessness, a phenomenon that also reflects differences among racial groups. The Prison Policy Initiative's 2018 analysis of homelessness among formerly incarcerated individuals found that homelessness among African Americans is higher than all other racial groups.<sup>34</sup> This context of generally high rates of homelessness and histories of incarceration may help explain the high rates of transient-status among African American 290-registrants supervised by county Probation Departments in California.

Conversely, a much higher percentage of Native American 290-registrants supervised at the county level are transient than is reflected in California's general homeless population. The 26% of Native American 290-registrants reported as transient in the present study is much higher than the approximately 5% of indigenous people represented in California's overall homeless population (even when American Indian, Alaska Native, Native Hawaiian, or Other Pacific Islander populations are combined). Although Native Americans accounted for a small number of 290-registrants supervised by county probation departments in this study (n = 54), the high rate of transient-status reported among this population is concerning. This finding suggests additional research may be warranted regarding the resources available to Native American registrants and the programming of local and tribal governments to address the needs of transient Native American registrants in the community.

#### *Recommendations: Data Collection Regarding Race / Ethnicity and Transient-Registration Status*

Agencies supervising registered sex offenders should collect and review data regarding the demographics of their sex offender caseloads. CASOMB should encourage probation departments to adopt standardized case management fields or a standardized reporting format to improve data collection and reporting efforts, particularly in areas of race / ethnicity. Additional research into the nature and response to homelessness and sexual offending in different ethnic communities may be warranted to further investigate why transient-status varies so significantly across racial / ethnic groups, and whether there are strategies that might be adopted to promote more stable housing to reduce homelessness and transient-status.

### **Risk Assessments of Transient 290-Registrants Supervised by County Probation**

California currently utilizes three types of risk assessment instruments to evaluate sex offenders' risk of reoffending.<sup>35</sup> Probation officers and parole agents use these risk

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<sup>34</sup> Couloute, "Nowhere to Go."

<sup>35</sup> The first type of risk assessment identifies the static risk of sexual reoffense, based on fixed criminal history factors, using the Static-99R for adult males and the JSORRAT-II for juveniles. The second assesses dynamic risk based on factors that may change based on the criminogenic needs of the individual (such as deviant sexual interests, hostility toward women, emotional identification with children, and capacity for relationship stability); California utilizes the STABLE-2007 and ACUTE-2007 to for dynamic risk assessment. Third, the Level of Service/Case Management Inventory (LS/CMI) is utilized to predict risk of

assessment tools to evaluate the risk of recidivism, to identify appropriate terms and conditions of supervision, and to determine whether to utilize GPS monitoring.

The Static-99R is an actuarial risk assessment tool that utilizes ten static risk factors including demographic information, victim information, and criminal history of the offender. When a 290 registrant is released into the community from prison, state parole conducts a risk assessment using the Static-99R; those scoring 4 or higher, are designated a “High Risk Sex Offender” (HRSO). All sex offender parolees must wear a GPS device while on parole. Individuals identified as having “well above average” risk for reoffending are required to wear a GPS ankle monitor while on probation. As discussed below, some counties utilize GPS for transient registrants, regardless of risk level.

#### *Variation in Static-99R Risk Assessments of Transient Registrants Supervised by County Probation*

Thirty-three of fifty-eight California county probation departments reported data on the Static-99R scores of 783 transient registrants supervised by probation departments, constituting 76% of the total reported number of transient sex offenders supervised at the county level. The risk scores for some transient registrants supervised by probation departments were not reported because they had not or could not be assessed for a variety of reasons, for example, for offenses that pre-dated risk assessment requirements.<sup>36</sup>

Of the 33 counties submitting responses to survey questions regarding the Static-99R risk assessment scores for a total of 783 transient registrants supervised by county probation departments,

- 10% were Risk Level IVb (Static-99R Numerical Score 6 - 12) (n = 79)
- 19.4% were Risk Level IVa (Static-99R Numerical Score 4, 5) (n = 152);
- 27.5% were Risk Level III (Static-99R Numerical Score 2, 3) (n = 215);
- 14% were Risk Level III (Static-99R Numerical Score 1) (n = 110);
- 18.5% were Risk Level II (Static-99R Numerical Score -1, 0) (n = 145); and
- 10.4% were Risk Level I (Static-99R Numerical Score -3, -2). (n = 82).

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future sexual and nonsexual violence by measuring criminogenic needs such as anti-social attitudes or companions, family relationships, and substance abuse. Unlike the Static-99R or STABLE-2007 assessment tools, the LS/CMI can be used for both male and female offenders.

<sup>36</sup> Several probation departments did not provide responses to this question on the survey because their case management systems did not collect risk assessment scores in a readily accessible format. Probation departments that did respond to the survey noted that the risk scores for some transient sex offenders were not reported for one of the following reasons: some registrants supervised by their department had not been assessed, either due to their sex offense predating risk assessments (e.g., for individuals who committed their 290-registerable offense in the 1990s who were currently on probation for a non-sex offense); due to the sex offense being committed in another state; due to the offender being female, or due to the non-scoreable nature of their offense (e.g., child pornography offenses). One county indicated that its report excluded 290 registrants who were not currently on probation for a sex offense, for example those who were on probation for failure to register only.

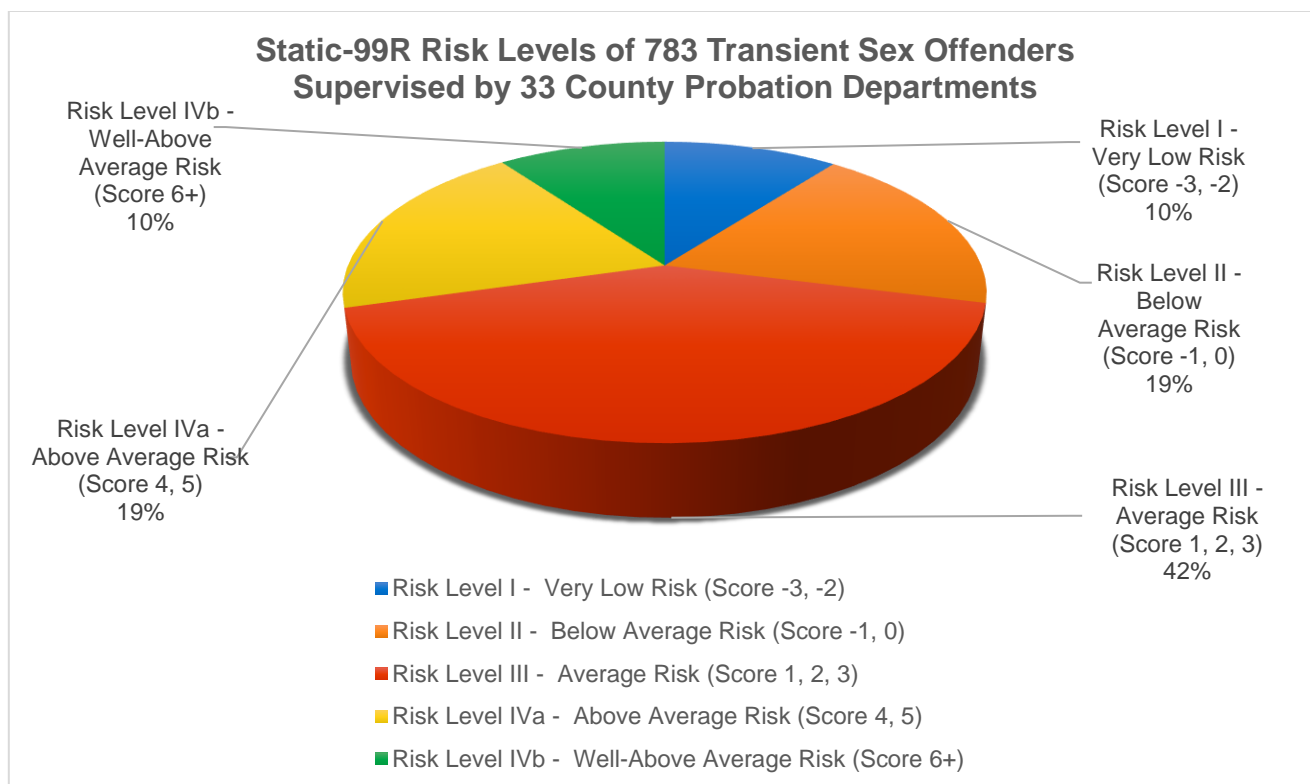


Figure 10 Assessed Static-99R Risk Levels of Transient Sex Offenders Supervised by County Probation Departments

While risk assessment scores for all 290-registrants supervised by probation departments were not collected for this study due to the burden of data collection, the distribution of risk levels of transient offenders is similar to that of the risk levels of a larger sample of nearly 24,000 registered sex offenders in California. CASOMB's 2016 Annual Report described the risk levels of California registrants for sexual re-offense potential, based on Static 99-R and Static-99 scores submitted to the California Department of Justice from 2007-2015.<sup>37</sup> Of the 23,965 registrants in California whose assessed risk levels for sexual offense potential were reported, 34% (n = 8,206) were below average risk; 31% (n = 7,421) were average risk; 23% were above average risk (n = 5,420); and 12% were well above average risk (n = 2,918).

***The current survey findings suggest that the risk levels of transient sex offenders supervised at the county level reflects the general distribution of sex offenders' assessed risk levels reported to the DOJ since 2007.*** Although only 33 of 58 counties reported on this data point, this included counties with the largest total population and transient population of 290 registrants supervised by probation, as well as responses from rural and urban counties across the state.

<sup>37</sup> See CASOMB 2016 Annual Report, p. 6.

Nevertheless, caution should be used when interpreting the findings on risk assessments of transient 290 registrants supervised at the county level, due to the partial nature of the reported information for this component of the survey. Some survey responses from county probation staff indicated that their department did not maintain records regarding risk assessment scores outside of their case files, or that their case management systems did not track this information in an easily searchable way. Other respondents reported searching CSAR for risk assessments, but in some counties, few probation officers had ready access to CSAR.

### *Recommendations: Risk Assessments*

Interviewees suggested that state funding to upgrade and integrate risk assessment data into all probation departments' case management systems would help to inform supervision strategies, streamline reporting requirements, and improve future data collection efforts. Continued research evaluating risk assessments at the county level is warranted to validate risk assessment instruments and ensure that they are administered in a standardized manner by officials across the state.

### *Risk Assessment and Supervision Strategies*

Every county probation department in California indicated that they use risk assessment tools for sex offender caseloads. Risk changes over time, and the risk of recidivism is reduced the longer an individual remains offense-free in the community and can rise if an individual reoffends.<sup>38</sup> As such, calibrating supervision requirements throughout the period of probation and parole based on risk factors represents a best practice. Risk assessments and changes in risk factors are communicated between supervising officers and treatment providers under the Containment Model as mandated by California state law.

Probation officers surveyed and interviewed for this report indicated that they used risk assessment tools to tailor the intensity of supervision for registrants. For example, several probation officers indicated that individuals who scored a 6 or higher (Level IVb) on the Static-99 were monitored using GPS devices. Another respondent explained how supervision levels were gauged based on a variety of risk assessment tools for registered sex offenders utilized by their department and treatment providers:

“Those scoring high on the Static are placed on a higher level of supervision. Static scores are combined with Probation Risk assessments (COMPAS) and assessments completed by the sex offender therapist (LS/CMI, STABLE, and ACUTE risk assessments) for a better understanding of the clients' overall risk and required supervision level.”

Survey respondents and interviewees confirmed that probation officers supervise transient registrants more intensely than non-transient registrants who are not high-risk offenders. This typically took the form of increased reporting requirements and weekly or daily check-ins with probation officers. As one probation officer from a small, rural county explained,

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<sup>38</sup> R. Karl Hanson, Andrew J. R. Harris, Elizabeth Letourneau, & David Thornton, Reductions in risk based on time offense free in the community: Once a sexual offender, not always a sexual offender, *Psychology, Public Policy, and Law* (May 2017) Advance online publication, <http://dx.doi.org/10.1037/law0000135>.

“[t]ransient probationers are required to report to the area office more often than a non-transient probationer.” One interviewee explained that he required transient sex offenders on probation to document where they slept, ate, and spent their time during the day in a log book, which he reviewed at weekly meetings. Another required transient probationers to call in every day to report where they were staying for the night, and recommended unannounced field visits to verify that transient registrants were staying at the same place they had reported.

Probation officers interviewed for this study suggested that one best practice for compliance checks for transient 290 registrants was to utilize a nightly residence log to locate the individual in the community, and then work with law enforcement agencies to determine if the individual is known to them. While many counties indicated that they did not have a formal policy to determine the residence or conduct compliance checks of transient individuals, one mid-sized central California county described a particularly thorough method of determining the residence of individuals who had or intended to register as transient, starting while they were still in custody:

“If it is known upon sentencing and at assignment of case that a probationer has a listed address as transient, officers will contact the probationer in custody to obtain additional information on the area of the County that they frequent and if the probationer is receiving any support services from family members, such as showering occasionally, mail service, etc. Officers will obtain this information as a second source for locating the probationer. If a probationer has been released from custody before an officer can make contact, officers have selected locations throughout the County that are heavily populated by the transient population. Officers will conduct contacts at these locations and also contact the homeless shelters to determine if the probationer has utilized these services after release. Furthermore, officers will contact local law enforcement agencies to confirm if the probationer has registered and at what address was listed on the registration. Finally, officers will check the jail records to determine if the probationer has provided an address and also check additional resources (Lexis Nexis) to determine if a previous address has been listed.”

Gauging the intensity of supervision, use of GPS, and frequency of compliance checks for transient 290 registrants by their assessed risk level appears to be a practice that increasing numbers of probation departments are utilizing to better allocate officer time and resources.

## **GPS Monitoring of Transient Registrants**

Proposition 83, enacted by initiative on November 8, 2006, requires felony registered sex offenders who are released on parole to wear a GPS unit, either for the duration of parole or for life, as determined by the court. The legislation applies to individuals who committed their offenses after the law was enacted. However, because the California Attorney General determined that the law did not create a criminal offense, while a parolee who refuses to wear a GPS unit may be violated, the law is not enforced against individuals who are no longer on parole.

While all sex offenders on parole are required to wear GPS devices, this is not the case for all 290-registrants supervised at the county level. Probation departments in California utilize GPS differently for individuals who were not ordered to be monitored on GPS by the court: some reported placing all 290-registrants who were registered as transient on GPS, while



others reserved GPS monitoring for individuals assessed as high-risk based on their Static-99R scores.

### *GPS Supervision to Confirm Transient Status and Monitor Registrants*

While sex offender parolees must wear GPS units, this is not required of all sex offenders supervised by county probation departments. Some counties utilize continuous GPS tracking for all individuals registered as transient, others place individuals on GPS on a case-by-case basis. 105 Probation Officers responded to the survey describing the use of GPS to monitor registered sex offenders in their county.

The survey asked respondents to report whether their county utilizes GPS to supervise sex offenders who are registered as transient, not including individuals who otherwise are legally required to be on GPS supervision. Respondents were asked about the use of GPS, as well as their county's access to GPS devices and whether resources were available to monitor GPS data. Possible survey answers included the following: "Yes, on a case-by-case basis," "No," "Yes, for all transient registrants," "Yes, but only for individuals with moderate to high risk assessments," "Our department would use GPS to monitor transient registrants, but the County lacks the resources to monitor the GPS data," and finally "Our department would use GPS to monitor transient registrants, but the County does not have access to GPS devices."

**The majority of survey respondents and interviewees indicated that they did *not* automatically use GPS on transient registrants solely because of their transient status.** Only 18.29% of respondents indicated that they placed all transient registrants on GPS. As one probation officer from a mid-sized suburban county explained,

"For the most part, since homelessness is a huge risk factor for our 290 population, they are generally all on GPS. While on GPS we can monitor if they in fact have a permanent address or not."

Interviews with probation officers in counties that did not automatically place all transient registrants on GPS indicated that they did not do so because of the cost, personnel, and resources required to monitor the GPS data.

Nearly 55% of respondents indicated that their departments evaluated the need for GPS monitoring on a case-by-case basis. Many interviewees and survey responses reported that the decision to place a 290-registrant on GPS was determined by risk assessment scores on the Static-99R, as well as an individual's behavior and environmental factors that increased the risks of recidivism. Formal probationers that scored a 6 or above on the Static-99R were placed on GPS. Several county probation departments' survey responses indicated that their practice was to place all 290 registrants who were AB 109/realigned clients on GPS, placing Formal Probationers on GPS only in cases where the individual was assessed as high-risk on the Static-99R.

Several probation officers interviewed for this study indicated that they use GPS to confirm that an individual is "really transient," monitoring their movements and where they spend the night to confirm they are not actually residing with family or friends at undisclosed residences. Some probation officers explained that they utilized GPS – or the threat of imposing GPS monitoring – to deter individuals from falsely claiming transient status in an

attempt to avoid supervision, home visits, or searches, or live in housing prohibited under the terms and conditions of their supervision.

Does your county use GPS to supervise sex offenders who are registered as "transient"?

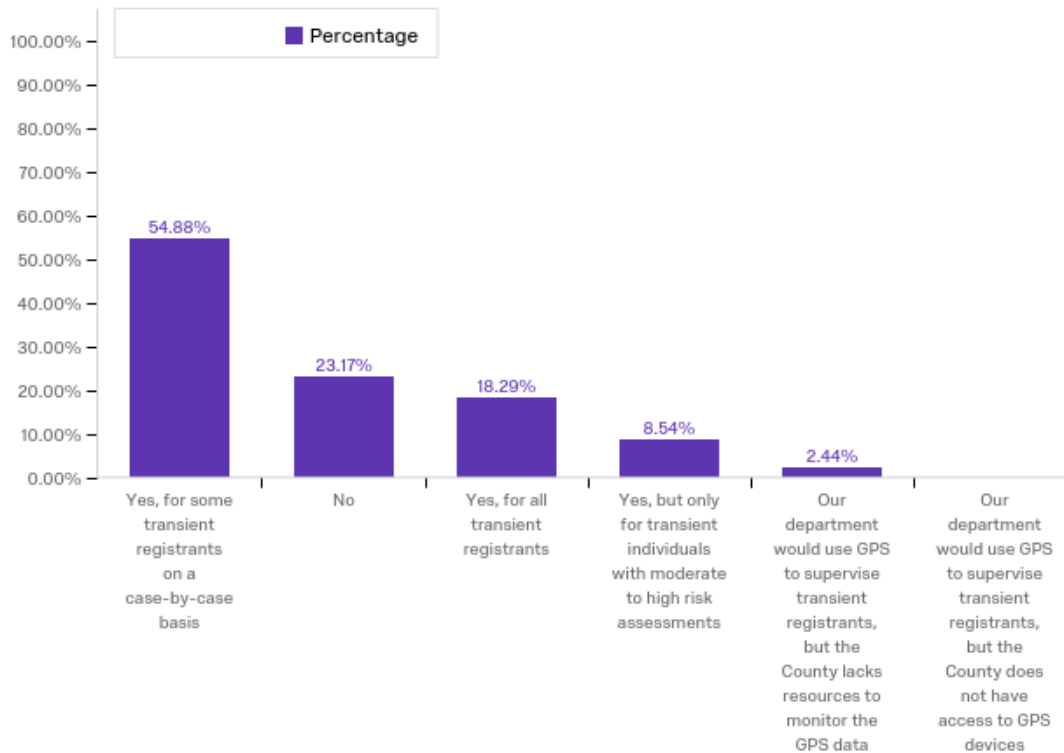


Figure 11 County Probation Department Use of GPS Monitoring for Transient Registrants

No respondents indicated that their County did not have access to GPS devices, though two of the 105 respondents noted that their department would use GPS to supervise transient registrants, but the county lacked the resources to monitor the GPS data. As one respondent from a mid-sized Northern California county explained these tradeoffs, GPS “increases tracking, but increases training, work, and staffing (and overtime).”

## Failure to Register

### *Failure to Register Offenses Constitute a Significant Portion of Probation Departments’ Sex Offender Caseloads*

A significant portion of sex offender caseloads supervised by probation officers involve failure to register offenses, rather than new or recidivistic sex offenses. California Penal Code 290(b) requires individuals convicted of specified sex crimes to register as sex offenders with a local law enforcement agency having jurisdiction over their residence within 5 working days of release from prison or jail. Registered sex offenders must update



their information each year with local law enforcement within five working days of their birthday. Some sex offenders must update their registration more frequently: Sexually Violent Predators must update every 90 days, and “transient” registrants that are homeless or who do not have a long-term residence must re-register with law enforcement every 30 days. Transient individuals must provide local law enforcement with information about where they sleep at night, works, and locations they frequent during the day. Individuals that spend the night in a shelter are to register the address of the shelter as a “residence.”

Probation officers dedicate significant time and resources to supervising sex offenders for failing to register, and many transient 290-registrants return to probation caseloads for failure to register offenses, rather than new contact or non-contact sex offenses. The 52 of 58 county probation departments that submitted data for this survey question reported a total of 1,070 registered sex offenders currently under active supervision for failure to register as a sex offender as required by California Penal Code 290(b). Individuals supervised by probation for failure to register offenses account for approximately 15% of the overall sex offender caseload.

**Nearly 84% of 290-registrants supervised by county probation departments for failure to register were being supervised *solely* for failure to register offenses, and many of these cases involved transient registrants.** Of the 896 reported 290-registrants who were being supervised by probation officers solely for failure to register offenses, 258 were registered as transient, accounting for almost 29% of those supervised by probation solely for failure-to-register offenses.<sup>39</sup>

#### *Factors Shaping Failure to Register Offenses*

Survey respondents noted that a lack of clarity on reporting requirements and locations where individuals can register, and no system to remind registrants of their upcoming registration requirements were all listed as causes in the majority of failure to register cases.

Transient individuals were also reportedly more likely than domiciled registrants to fail to register. Probation officers interviewed about the process of sex offender registration and failure to register issues explained that this was due to transients’ more frequent registration requirements – as transients must re-register monthly, they have more opportunities to miss registration deadlines.

**“They Forget”:** According to probation officers surveyed and interviewed for this study, while some sex offenders “have no intention of registering and have multiple convictions for failure to register,” many individuals on their caseloads for failure to register offenses simply forget to do so. Some interviewees explained that the conditions of homelessness can make it difficult for transient registrants to be mindful of appointments and the importance of keeping their registration status up to date. “They don’t remember to register because no

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<sup>39</sup> Transient sex offenders (303) also accounted for 28% of the total number of individuals on active supervision for failure to register. This count may include individuals under supervision for failure to register and another / a new offense.

one tells them” when they’re not being supervised, reported one probation officer’s survey response; another explained, “[i]n their mind, more urgent issues take precedence such as food and shelter.”

**Personal Problems, Addiction, and Mental Illness:** Survey respondents and interviewees distinguished the majority of failure to register cases that stemmed from logistical or personal and health problems from “willful” failure to register cases that may indicate an effort to evade supervision and present risk factors for recidivism for certain individuals. Several probation officers indicated that keeping up with registration requirements was particularly challenging for those struggling with mental health and/or substance abuse issues. Substance abuse was a commonly identified factor leading to “failure to register” cases, reported by probation officers in counties throughout the state.

Individuals who failed to register due to personal problems, addiction, or mental health issues were generally viewed as posing less risk to public safety than those who willfully ignored registration requirements in order to evade supervision and live in circumstances that allowed access to potential victims. One probation officer explained that her fifteen years of experience supervising sex offenders claiming to be transient led her to scrutinize certain failure to register cases more strictly, particularly those involving registrants who had previously offended against children and who found housing with new romantic partners who potentially had children living with them. Knowing the individual’s case history, candidly discussing their offense(s), and independently verifying claims about where and with whom registrants spent their time were important to evaluating claims of transient status and supervising individuals registered as transient to prevent opportunities for reoffending.

**Misunderstanding Reporting Requirements:** Some registrants with older convictions for sex offenses were reportedly unclear on the registration requirements, and thought that once they were off probation they no longer needed to register.

**Lack of Transportation / Difficult Accessing Reporting Sites:** In some counties, the locations where 290-registrants are required to register were difficult to access. Accessibility issues were particularly problematic for transient registrants who were disabled and/or lacked ready access to transportation, particularly in areas with limited public transport options. One probation officer explained that individuals on his sex offender caseload cited difficulties accessing registration offices as a primary factor in their failure to maintain current registration status: “Lack of transportation to the registration office is the main reason clients cite for failing to register.” To mitigate these problems, some probation officers indicated that their departments funded bus passes for transient registrants to ensure that they can access registration sites. Providing funding for transportation for transient registrants was particularly important in rural counties where public transportation was limited and county facilities were spread across large areas.

*Challenges and Best Practices in the Supervision of Transient “Failure to Register” Cases*  
Probation officers must evaluate the potential public safety risks of individuals on sex offender caseloads to allocate limited time and resources accordingly. Knowledge of individual risk factors for each registrant on one’s caseload as well as local registering

officers' practices were identified as best practices in managing cases where 290-registrants had failed to register.

Several interviewees noted that it was important for probation officers to be aware of local registration practices to evaluate clients' claims regarding barriers to the reporting process in failure to register cases. For example, one probation officer from a central California county suggested that it was helpful to know when law enforcement agencies limit the days or hours that they are open for registration, or when registration locations are in remote areas with limited access to public transport to better assess the truthfulness and merits of probationers' claims regarding difficulties with the registration process. One survey respondent from a southern California county with both rural and urban areas explained that "local law enforcement does not make the process easy and are not flexible or sensitive to the transient population."

Several probation officers suggested that by personally introducing themselves to law enforcement personnel responsible for sex offender registration, they had improved management of cases involving transients with late registrations: probation officers could call law enforcement responsible for registration to check if a client had been waiting to attempt to register, and more quickly discern if the client was telling the truth. Opening lines of communication between probation officers and registering officials reportedly resulted in improved compliance and fewer complaints from clients as well as increased responsivity from individuals responsible for the registration process.

Best practices in the supervision of transient individuals included visiting them in the field and providing frequent reminders of re-registration requirements. One probation officer suggested scheduling a field check-in with clients at the registration site to help clients meet their registration obligations. Several survey respondents indicated that a significant portion of their workload with transient registrants involved attempting to identify programming to address needs related to mental health and housing as ways to promote observance of registration requirements in the future.

## **Containment Model Treatment of Transient and Indigent Sex Offenders**

One of the key problems identified in the survey as well as in interviews with probation staff and treatment professionals involved the lack of funding at the county level for sex offender treatment mandated by the Containment Model.

While the costs of mandated treatment, polygraphs, and assessments for 290-registrants on parole are covered by the state, individuals supervised at the county level are largely expected to pay for these mandatory components themselves. For 290-registrants who are homeless and/or have difficulty finding work, the costs associated with assessments, polygraphs, and treatment are prohibitive. Though some counties have reallocated funding or obtained grants to support treatment for homeless and indigent registrants, and some treatment providers offer pro bono or sliding scale options, these are not necessarily sustainable long-term solutions to the gap in funding for state-mandated treatment under the

Containment Model. As transient registrants supervised at the county level reflect a variety of risk levels, including high risk sex offenders, providing funding to support or subsidize sex offender treatment may help promote successful reentry and desistance while enhancing public safety.

Because “Chelsea’s Law,” the 2010 California law requiring Containment Model treatment for sex offenders, predated realignment, sex offenders on PRCS status were not officially required to participate in treatment or undergo risk assessments. While a previous study of sex offenders under the supervision of County Probation departments found that several counties were supervising PRCS sex offenders using the Containment Model approach (Harris and Kinney 2017), this was not consistent across the state. However, the majority of probation staff interviewed for the current study indicated that they were able to reallocate some AB 109 funding received by their county to support the cost of treatment for sex offenders on PRCS.

#### *Affordability of Containment Model Treatment, Assessments, and Polygraphs*

The cost of treatment remains a problem for some 290-registrants supervised by county probation. While realigned 290-registrants may have their treatment paid for by the county through AB 109 funds, individuals on other forms of county-level supervision are often unable to afford treatment. 63% of survey respondents indicated that transient 290-registrants could not afford treatment.

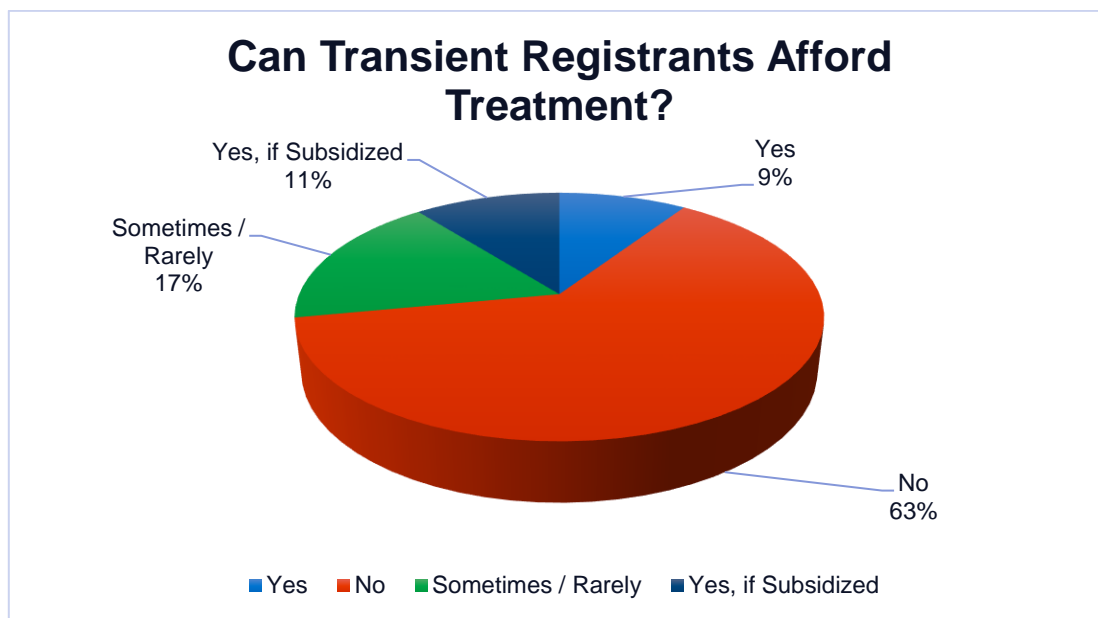


Figure 12 Affordability of Containment Model Treatment for Transient Registrants on Probation Supervision

The costs of Containment Model treatment appear to range significantly across different counties. The price of individual treatment sessions varies from \$40 to \$185, and group sessions vary from \$5 - \$80; intake fees can be upwards of \$300, and assessment fees also vary. Some counties reported that treatment can cost anywhere between \$300 - \$1,000 per

month, plus the costs of intake and assessments. Polygraphs also vary significantly in cost across counties, sometimes by hundreds of dollars: the least expensive reported polygraph was \$150 to \$400.

11% of survey respondents reported that there were sliding scales or indigent programs available to help subsidize treatment in their county, but as one respondent from a small, rural county explained, “there is a sliding scale, however, many transient offenders still struggle.” Some counties appear to have developed sliding scale arrangements to help reduce the costs of treatment and polygraphs for low-income and indigent registrants, but other probation departments reported that it was up to the offender to come up with the money for mandated treatment, assessment and polygraph fees.

Those registrants that could afford treatment reportedly did so through work, SSI, or Medi-Cal; however, Medi-Cal did not pay for assessment or polygraph exams. While some registrants are able to cover the cost of treatment through their insurance, not all treatment providers accept insurance so fees must be paid by the registrant themselves. The lack of ability to pay for assessments, treatment participation, or polygraphs can reportedly delay successful completion of treatment and/or supervision; it is unclear if individuals are receiving violations for non-compliance due to inability to pay.

Interviews with probation staff in 22 different counties indicated a range of practices with regard to financial support for indigent and low-income registrants to promote compliance with the treatment, polygraphs, and assessments as required by the Containment Model. Two counties reported that they provided all financial support for sex offender treatment, however, the majority of counties had no funding or very limited funding available, even for indigent individuals. Several respondents indicated their counties had allocated AB 109 funding to pay for the treatment of realigned sex offenders on PRCS, but not those on formal probation. Three counties reported allocating SB 678 funds from the California Community Corrections Performance Incentives Act to subsidize treatment costs and reduce their probation failure rate. One county only had funding allocated for juvenile sex offenders. Another county had developed a sliding scale agreement for polygraphs, with fees determined by the registrants’ income. Other probation officers explained that they provided bus passes to transient 290-registrants to ensure that individuals could get to treatment, and to remove a potential excuse for non-compliance.

Two probation departments indicated they had funding for treatment, polygraph testing, and assessment costs for individuals declared indigent by the court. In one large county in southern California, clients were able to request a court hearing to determine their financial status and ability to pay for treatment; the court evaluated the client’s financial declaration to determine whether an individual meets the criteria for indigency or if the individual could afford partial amount for treatment fees based on income. The county then paid the balance to reimburse the treatment program for remaining costs.

Probation officers interviewed for this study recommended that state funding for treatment be made available for all individuals supervised for sex offenses at the county level, regardless of type of supervision. Given that the state funds treatment for those on parole

and funding is available for 290-registrants on PRCS, probation officers suggested that it is in the interest of public safety as well as effective, evidence-based reentry policy to ensure that all 290-registrants who are released in the community are able to participate in treatment. While some probation officers and treatment professionals indicated that requiring a modest fee to ensure “buy-in” among participants, there was uniform agreement that cost should not be a barrier to accessing or completing sex offender treatment.

#### *Access to Containment Model Treatment*

Access to containment model treatment continues to be a problem in some counties, particularly in predominately rural counties. In some counties without treatment providers, individuals must travel long distances to other counties to get to treatment providers, posing significant barriers to accessing treatment, particularly for low-income and transient registrants. Another barrier to accessing sex offender treatment in some counties includes a lack of polygraphers and treatment providers offering programming in languages for 290-registrants who do not speak English. Difficult or differential access to treatment and polygraph services inhibits the effective statewide implementation of the required components of the Containment Model.

#### *No Providers in County or Long Travel Distances to Provider Limit Access to Treatment*

As compared to Harris and Kinney’s 2017 report of sex offender supervision and treatment among 290-registrants supervised by California probation departments, access to sex offender treatment appears to be improving in the majority of counties. However, there are still county probation departments reporting difficulties in accessing treatment in their home county or a nearby county. 75% (51 of 76 respondents) indicated that transient registrants were able to access sex offender treatment. However, this was contingent on an individual being able to afford treatment. 6 respondents noted that there was no treatment provider in their county. Distance and cost of transportation also created barriers for low-income registrants to access and complete treatment.

Other counties reported that it was necessary to provide funding for transportation to decrease barriers to accessing treatment, and respondents noted that both distance and the length of travel time to get to treatment providers was prohibitive. In one county, the nearest provider was a 4-5 hour drive one-way. One rural county in Northern California reported that the lack of an in-county treatment provider was formerly a serious problem in terms of access, but that treatment providers now visited the county to conduct sessions. Another respondent noted that they had addressed access issues by offering treatment sessions in the probation conference room.

Interviewees recommended developing programs that allow individuals to meet with treatment providers virtually to improve access to and completion of treatment in remote areas. This was viewed as particularly important for low-income and transient 290 registrants who often lacked access to transportation, given the limited public transportation services in rural counties. Indeed, some interviewees from rural counties noted that requiring 290 registrants to travel long distances on public transportation to attend treatment was itself a potentially destabilizing factor that introduced risks of recidivism and non-compliance.



### *Language Barriers for Non-English Speakers Limit Access to Treatment and Polygraphs*

Language barriers were also identified as a barrier to accessing sex offender treatment under the Containment Model in some counties. While some large, urban counties reported access to a variety of providers who offered sex offender treatment in a variety of languages (English, Spanish, Chinese, and Korean, as well as sign language), many counties reported that there were limited to no services for non-English speakers available.

Probation staff from several rural counties indicated that there was an insufficient number of qualified Spanish-speaking treatment professionals and polygraphers. In interviews, probation officers facing this problem reported that it seemed ineffective to require non-English speakers to go to English-only treatment when they could not understand or effectively participate in group discussions. Although the low numbers of non-English speakers on probation for sex offenses in some counties meant that this had not (yet) presented a problem for supervising probation officers, the lack of Spanish-speaking sex offender treatment programs was identified as a barrier to the effective statewide implementation of the Containment Model. Probation officers from some counties, particularly in the northern regions of the state, indicated that they had not had demand for treatment programming in Spanish or other language. While individuals supervised in highly-populated urban counties often have access to a multiple programs and treatment providers, probation officers in several other mid-sized counties in central California reported a pressing need for more options for non-English speakers.

### *Challenges to Homeless and Transient Registrants' Completion of Containment Model Treatment*

Even those transient and homeless sex offenders who can access treatment reportedly face difficulties in successfully completing treatment. The majority of survey respondents that provided an answer to this question (n = 69) indicated that transient registrants either did not successfully complete treatment, or took longer to do so. Forty percent of respondents indicated that transients did not successfully complete treatment, and 16% reported that they were able to complete treatment sometimes or rarely. Failure to complete treatment was often associated with an inability to pay for treatment sessions.

“Homeless/transient registrants do not usually successfully complete treatment as they cannot afford to pay the required weekly fee. However, if they do complete it, it usually takes longer for them to do so.” ~ Supervising Deputy Probation Officer from a large, urban county in southern California

Homeless individuals also face other barriers to accessing and participating in treatment programs. For example, a treatment provider working primarily in southern California counties interviewed for this study explained that some homeless individuals who attended meetings were so exhausted from life on the streets that they sometimes slept through group meetings “because it was one of the few places they were safe and could rest” (Interview with sex offender treatment provider, February 26, 2019).

Only 23% of probation officers who responded to the survey reported that transient individuals were able to complete treatment. Some noted that the living conditions of



homelessness made it difficult for transient registrants to participate effectively. For example:

“[I]t can be more difficult for transients [to successfully complete treatment] due to having to complete assignments and not having a stable, physical location in which to complete said assignments.” ~ Deputy Probation Officer from a rural, central-western California county

## Reoffending and Recidivism

The survey of probation departments also explored recidivism among individuals registered as transient sex offenders, including both sexual and non-sexual offenses committed after a registerable sexual offense.

A survey administered to probation officers with experience supervising sex offenders to respond to questions assessing four metrics of recidivism, including 1) rearrest; 2) failure to register; 3) committing a new non-sex offense; and 4) committing a new sex offense. The survey utilized a Likert scale to measure probation officers’ assessments regarding the likelihood of recidivism among transient sex offenders, compared to non-transient sex offenders. Because responses were not received by all probation departments in the state, the following data should be viewed as preliminary and interpreted with caution. Nevertheless, they provide an important snapshot regarding the amount and nature of reoffending among transient registrants.

A recent study examining the predictive value and calibration of risk assessment tools in California found that transient status appeared to be associated with a higher sexual recidivism rates. Although the California Department of Justice reported that “only about 6% (6,316/103,737) of the total registered sex offenders in the community are transient, the 2016 study found that approximately “19.2% (5/26) of sexual reoffenses by probationers and 32.7% (17/52) of sexual reoffenses by parolees were committed by offenders who were registered as transients at the time of rearrest.”<sup>40</sup> The study also found that probationers had higher sexual recidivism rates within 5 years than parolees, at 6.07% (26/428) and 4.34% (52/1,198), respectively.

Given the relatively low total number of identified sexual reoffenses committed by transients on probation (5) and transient parolees (17) in the 2016 study, the current study’s survey of probation departments across the state of California provides important context for these findings.

### *The Majority of Registrants who Reoffend were Supervised for a Non-Sex Offense*

48 county probation departments provided data regarding reoffending and recidivism among 290-registrants. The majority of registrants (996 reported) that recidivated were currently on supervision for a non-sex offense; of these individuals, 29% (287) were transient. Thus,

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<sup>40</sup> Seung C Lee et al., “The Predictive Validity of Static-99R for Sexual Offenders in California: 2016 Update,” Government Report (Sacramento, CA: California Department of Justice, 2016), 9, [http://saratso.org/pdf/ThePredictiveValidity\\_of\\_Static\\_99R\\_forSexualOffenders\\_inCalifornia\\_2016v1.pdf](http://saratso.org/pdf/ThePredictiveValidity_of_Static_99R_forSexualOffenders_inCalifornia_2016v1.pdf).

about 30% of recidivism by 290-registrants supervised by probation departments is by transient registrants.

Only 217 290-registrants were reported to be supervised by county probation for a subsequent sex offense, 62 of whom were transient, accounting for 28.5% (48 of 58 counties reporting). This means nearly 30% of sexual reoffending by registrants is perpetrated by transient registrants. These counts exclude individuals who were currently on parole or probation supervision for their first sex offense.

#### *Limited Data Regarding Transient Re-offending and the Age of Victims.*

Few counties were able to report data regarding the repeat offenders and age of victims due to the size of caseloads and limitations of case management systems. The survey requested data on recidivism and reoffending both sexually and non-sexually. Those that reported data indicated that doing so sometimes required individualized review of probation officers' case files, pre-sentence reports, booking slips, minute orders, client files, and reference to charges in CSAR.

One large, coastal southern California county reported that 806 registered sex offenders had reoffended sexually and were currently under supervision for a subsequent sex offense involving child victims; of this group, only 52 of these registrants were transient – approximately 6.5%. By comparison, a mid-sized county in the Central Valley reported a total of 86 registered sex offenders under supervision for a new sex offense involving child victims, 13 of whom were transient (15%). Of the 28 counties that reported cases of reoffending by registered sex offenders involving child victims, the majority did not involve transient registrants. Only 8 of these 28 counties reported cases of reoffending by transient registrants against child victims.

#### *Probation Officers' Experience and Perceptions of Transient Registrants' Recidivism: Rearrest, Failure to Register, New Non-Sex Offense, and New Sex Offenses*

The survey asked probation departments to consult with probation officers that had experience supervising transient 290 registrants to report whether transient sex offenders were more or less likely to recidivate than non-transient sex offenders.

Survey questions identified four metrics of recidivism, including 1) rearrest; 2) failure to register; 3) committing a new non-sex offense; and 4) committing a new sex offense. The survey utilized a Likert scale to measure probation officers' assessments regarding the likelihood of recidivism among transient sex offenders, compared to non-transient sex offenders. These survey questions received 77 – 78 total responses, some of which reflected consolidated answers for multiple officers from the same county.

The findings indicate that while transient sex offenders are perceived to be *more likely to be rearrested* or to *fail to register*, in probation officers' experience, most probation officers think that transient registrants are not much more likely to commit new sex offense than non-transient sex offenders.

**Rearrest:** 77 survey responses were recorded for this question. Probation officers indicated that, in their experience, transient sex offenders were “somewhat more likely” (41.6%) or “much more likely” (31.2%) to be re-arrested than non-transient offenders. 26% of respondents indicated that transient sex offenders were just as likely to be rearrested as those who were not transient.

**Failure to Register:** 78 survey responses were recorded for this question. Nearly 45% of probation officers suggested that, in their experience, transient sex offenders were “somewhat more likely” to fail to register than non-transient sex offenders, with 28.2% reporting that transients were “much more likely” to fail to register. 24.4% thought that transient and non-transient sex offenders were “just as likely” to fail to register, while 2.6% felt that transients were “less likely” to fail to register than non-transient offenders.

**Reoffending with a New Non-Sex Offense:** 78 responses were recorded for this question. While 34.6% thought that transient sex offenders were “just as likely” as non-transient sex offenders to recidivate by committing a new, non-sex offense, 43.6% considered transients as “somewhat more likely” to do so. 19.2% of respondents indicated that in their experience, transients were “much more likely” to reoffend with a non-sex crime. Only 2 respondents (2.6%) thought that transients were “less likely” to recidivate with a non-sex offense.

**Reoffending with a New Sex Offense:** 77 responses were recorded for this question. 76.6% (59 of 77) indicated that in their experience, transient sex offenders were “just as likely” as non-transient sex offenders to recidivate by committing new sex offenses. 5.2% (4 respondents) reported that transients were “somewhat less likely” to do so. By comparison, only 10.4% (8 respondents) thought transients were “somewhat more likely” and 6.5% (5 respondents) considered them “much more likely” to commit new sex offenses as compared with non-transient sex offenders.

The chart below summarizes these findings comparing probation officers’ perceptions of recidivism risks among transient versus non-transient sex offenders.

## Survey: Probation Officers' Perceptions of Transient Sex Offenders' Likelihood to Commit New Sex Offenses, Commit New Non-Sex Offenses, Be Rearrested, or Fail to Register, Compared to Non-Transient Sex Offenders

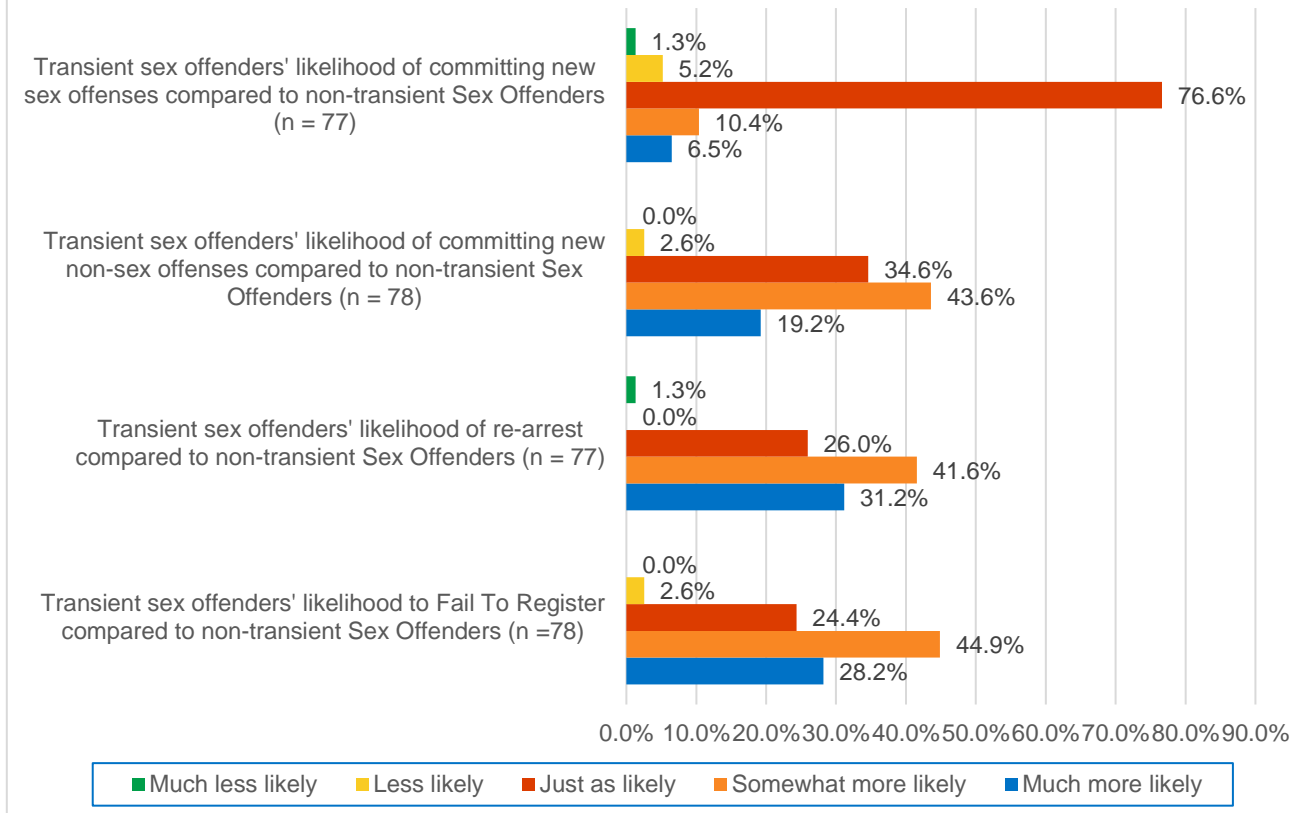


Figure 13 Probation Officers' Perceptions of Transient Registrants' Likelihood of Recidivism

### *Probation Officers' Perception of Factors that Increase or Decrease the Risks of Recidivism*

To elaborate on these assessments, survey respondents were asked to reflect on their experience supervising registered sex offenders to identify factors that increase or decrease the likelihood of recidivism.

While survey respondents emphasized that each 290 registrant has unique risks and needs, transient sex offenders with substance abuse and untreated mental health issues who are out of compliance were identified as posing heightened public safety risks. This finding was affirmed in interviews with probation officers in counties across the state: **substance abuse** was a major problem that resulted in technical violations of the terms of probation and/or new offenses, both sexual and non-sexual. The conditions of living homeless and access to drugs and alcohol also resulted in possession and public intoxication charges, which was identified as a problem by 14 of 77 respondents. Several interviewees explained that alcohol and substance abuse often led to indecent exposure charges for some transient 290 registrants. As one probation officer from a mid-sized Central Valley county explained, “[i]n my experience homeless 290 registrants’ violations are mostly technical violation[s] related



treatment figures prominently in probation officers' perceptions of factors that increase the likelihood a sex offender may commit a new contact sex offense.

### *Factors Decreasing Likelihood of Sexual Recidivism and Promoting Desistance*

63 survey respondents from probation departments identified factors that decreased the likelihood of committing a new contact sex offense. The majority of responses emphasized regular participation in sex offender treatment programs as a way to reduce the risk of sexual reoffending. One respondent also identified employment and attending mental health treatment and drug and alcohol treatment programs as an important factor in preventing sexual recidivism. Additional factors identified effective supervision “based on criminogenic needs,” the development of a support system, compliance checks, and “stabilizing factors” including accountability, stable job, [and] high feelings of self-worth” as key components ways to promote desistance from sexual reoffending.



*Figure 15 Probation Officers' Perceptions of Factors Contributing to Desistance from Sexual Offending*

The word cloud above identifies the top 30 words from survey responses identifying factors that reduced risks for sex offenders to commit a new contact sex offense. Again, access to and completion of sex offender treatment figures prominently in probation officers' perceptions of factors that decrease the likelihood a sex offender may commit a new contact sex offense.

These findings underscore the importance of sex offender treatment in preventing sexual reoffending among individuals supervised by probation departments. Many transients, however, are unable to afford treatment.

### *Non-Contact Sex Offenses*

Survey questions asking probation officers to identify factors that increased and decreased the likelihood of committing a new *non-contact* sex offense offered similar accounts to the question regarding contact sex offenses. Access to computers and the Internet was a common concern, as it was related to non-contact offenses such as child pornography. A lack of treatment, lack of supervision, and substance abuse were common factors identified in the 65 responses to this question. One respondent noted that “idle time and being out of compliance” increased the likelihood of committing a new non-contact sex offense, and



another respondent highlighted “mental health instability, drugs and/or alcohol, unemployment, depression, lack of or failure to attend Sex Offender Treatment and loitering” as cause for concern. Finally, one respondent noted that “instability of residence” also increased the likelihood that a sex offender may commit a new non-contact sex offense.

63 survey respondents identified a variety of factors that decreased the likelihood of committing a new non-contact sex offense. The majority of responses emphasized the importance of regular participation in treatment, strict supervision, including monitoring of electronic devices, and stable support systems. Limiting or prohibiting access to computers and the Internet and ensuring “no porn exposure” were identified as ways to reduce the risk of non-contact sexual offending. One response suggested that “flash incarceration” was a way to ensure strict supervision. One respondent suggested encouraging participation in Sex Addicts Anonymous groups as well as other treatment groups for mental health issues or drug and alcohol abuse to ensure sobriety helped to reduce the risk of committing a new non-contact sex offense. Finally, housing, employment, and meeting basic needs such as transportation were also mentioned as important to decreasing the likelihood of non-contact sexual reoffending.

#### *General Criminal Recidivism: Non-Sexual Offending*

Finally, probation officers offered a variety of suggestions regarding factors that increased the risk of general criminal recidivism among transient registrants. Respondents identified general criminal activity such as property offenses including trespass, theft, burglary, and vandalism, as well as assault and battery; many of these crimes were thought to be associated with the living conditions of homelessness and/or were motivated to support addiction.

Common themes in the 70 survey responses to this question identified a lack of housing and instability in residence status were emphasized frequently in response to this survey question, in addition to poverty, unemployment, addiction, and mental illness.

Unstable residency and “no residential drug treatment services for sex offenders” was identified as increasing the risk that sex offenders would commit a new non-sex offense. “Crimes of opportunity” and offenses such as trespassing due to squatting were also identified as factors that increase general criminal recidivism among sex offenders, as were “antisocial peers.”

Conversely, individuals that had stable housing with their “basic needs met,” were clean and sober, employed, or able to access residential treatment and sex offender treatment were viewed as less likely to recidivate. The 66 survey responses to this question highlighted protective factors including support systems, pro-social activities, and healthy relationships as key factors promoting desistance from offending.

#### **Factors Leading to Transient Registration Status**

Eighty-two respondents from probation departments answered a survey question identifying a variety of potential factors that clients may give for registering as transient. Survey respondents were asked to check all the factors that applied in their experience supervising sex offenders in California. The following analysis focuses on probation officers’ reported



experience with transient registrants; if polled, registrants themselves may provide different answers regarding the factors that lead to transient registration status.

### *Substance Abuse, Addiction, and Pre-existing Homelessness*

Overall, the most selected answer was “substance abuse / drug addiction” (chosen by 84% of respondents). This factor was also emphasized in nearly every interview with probation officers as a significant problem among the sex offenders they supervised who were transient.

Factors associated with general homelessness were also frequently selected choices, including “prior history of homelessness / living out-of-doors before sex offense committed” (80%), followed by “poverty / indigent” (79%), and a lack of affordable housing (67%). Half of the respondents indicated that some individuals register as transient because they prefer to “live outside the system.” Interviews with probation officers and treatment providers confirm that some transient registrants “choose” to be homeless, preferring life on the streets to shelters or struggling to pay for rent because of the freedom it affords them.

Many factors identified as leading to transient registration are not specific to sex offenders, but are reflected among the general homeless population. Individual circumstances such as mental health and strained family relationships often played a role in homelessness: 73% of respondents indicated that mental illness was a key factor leading to transient registration status, as was a lack of social supports (e.g., being kicked out of family or friends’ home (71%) or having no family nearby (70%)). Economic factors such as a lack of employment opportunities (68%) or lost jobs (57%) also led individuals to register as transient.

Structural factors including affordable and appropriate housing availability and rejection of available housing due to sex offender status are a significant contributing cause of individuals registering as transient. 67% of respondents indicated a lack of affordable housing in the county contributed to transient registration, and 51% indicated that local apartments would not rent to registered sex offenders.

### *Sex Offender Registration and Public Notification as Factors Leading to Transient Registration*

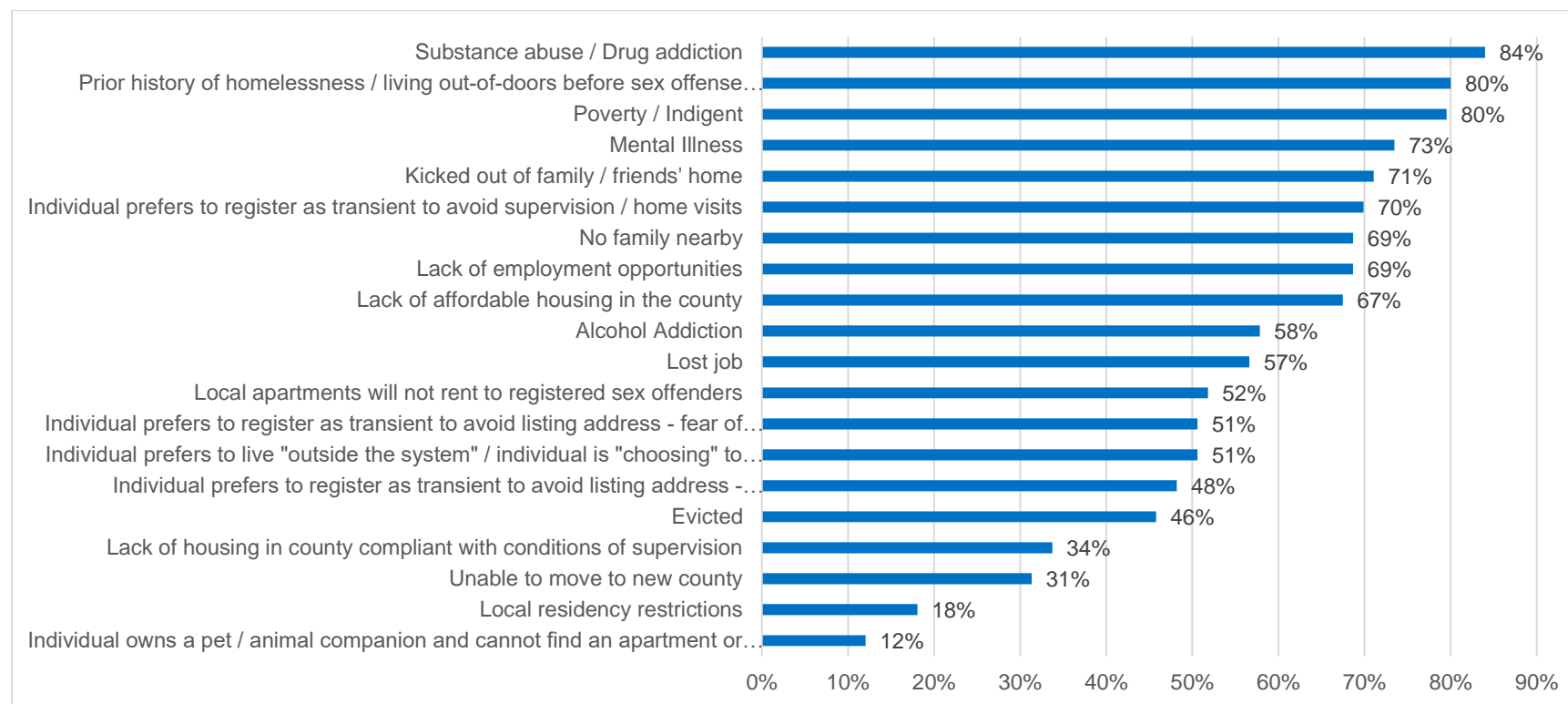
Probation officers’ survey responses suggest that sex offender laws regarding registration and community notification play a larger role in motivating transient registration than do residence restrictions. In fact, laws restricting where sex offenders could live were *not* identified as major influence on transient registration in the survey, a finding confirmed in interviews with probation officers in counties across the state.<sup>41</sup>

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<sup>41</sup> However, in one case, a probation officer reported that an individual who had formerly been subject to Jessica’s Law residence restrictions while on parole misrepresented his housing status as transient because he thought he would not be able to live in his friend’s apartment as it was located near a park. This mistaken assumption suggests that additional pre-release planning and information regarding acceptable transitional housing options may help encourage forthrightness with supervising officers and reduce incentives to register as transient while living in an unreported fixed residence.

As discussed below, only 18% of respondents identified residence restrictions as a factor leading to transient registration, and 33% reported a lack of housing in the county that was compliant with the terms and conditions of supervision for registrants. By contrast, 70% of respondents indicated that, in their experience, sex offenders register as transient to avoid supervision and home visits, while public registration laws requiring sex offenders to list their address on public websites was identified as contributing to transient registration by approximately half the respondents.

Figure 16 Probation Officers' Identification of Factors Leading to Transient Registration Status



These findings suggest that it is the “collateral consequences” of public registries, rather than the existence or enforcement of residence restrictions, that may lead individuals who would otherwise be able to find housing to register as transient. These factors are discussed in more detail below, drawing on interviews with supervising parole and probation officers, as well as survey responses from probation departments across the state. It is important to note here that these are supervision officer perceptions of offenders’ opinions; different results may be likely if offenders were surveyed directly.

#### *Local Residence Restrictions Not Viewed as a Factor Leading to Transient Status*

Many academic studies addressing housing and homelessness among registered sex offenders have focused on the impact of residence restrictions that aim to limit where sex offenders may live. Much of this research has examined the actual or projected effect of residence restrictions on housing availability.

After the 2006 passage of Jessica’s Law, many cities and counties across California passed local ordinances imposing residence and presence restrictions on registered sex offenders.<sup>42</sup> Because Jessica’s Law was interpreted to apply only to sex offenders on parole, most registrants supervised by county probation departments for sex offenses are not subject to Jessica’s Law residence restrictions, unless they are also on parole. Lawsuits challenging the application of Jessica’s Law to sex offender parolees presented evidence that blanket residence restrictions forced many registrants into homelessness and transient-status.<sup>43</sup>

However, little was known about the impact of state or local residence restrictions on registered sex offenders supervised at the county level. ***The current study’s survey of county probation departments and interviews with probation officers suggest that residence restrictions do not play a significant role in leading to transient-status among 290-registrants supervised by Probation Departments at the county level.***

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<sup>42</sup> See Appendix B, “Local Ordinances Regulating Residence and Presence of Sex Offenders,” in CASOMB’s 2008 report, *Homelessness Among Registered Sex Offenders in California: The Numbers, the Risks, and the Response*, available at <http://casomb.org/docs/Housing%202008%20Rev%201%205%20FINAL.pdf>.

<sup>43</sup> For example, mapping studies of compliant housing and attempted searches for apartments available for registrants to rent demonstrated that residence restrictions effectively excluded sex offender parolees from nearly all available rental housing in San Diego. In the case of *In re Taylor*, a crime analyst for the San Diego District Attorney’s office conducted research examining the effect of residence restrictions on housing available to individuals subject to Jessica’s Law. Because sex offender parolees are unlikely to be able to afford single-family residences, the trial court excluded them from the analysis; the percent of multifamily parcels compliant with residence restrictions was ultimately less than 3%, and there was high competition for these units due to increased demand for low-cost housing in San Diego County. Similar findings in other cases supported court decisions staying enforcement of residence restrictions against sex offender parolees in other cities and counties across California.

Notably, “local residence restrictions” was one of the *least* selected factors contributing to transient status in probation department representatives’ responses to the survey. Only 18% (15 of 82) of probation officer respondents from 11 counties indicated that local residence restrictions were a factor that explained why the individuals they had supervised registered as transient. In fact, the majority of probation officers interviewed for the study were unaware that there were local residence restrictions in their jurisdiction other than the statewide Jessica’s Law, which was understood as applicable only to registered sex offenders on parole. In follow up interviews, probation officers who indicated they were aware of local residence restrictions suggested that they had not and did not enforce them, unless they were part of a registrant’s court-ordered terms and conditions of supervision.

When asked about their perceptions of the efficacy of residence restrictions more generally, both parole agents and probation officers suggested that individualized restrictions were superior to blanket policies in terms of managing sex offender caseloads. While residence restrictions prohibiting a sex offender from living near parks, schools, or places where children gather may be deemed necessary for certain individuals where related to the underlying offense, previous victims, and environmental triggers or risk factors, blanket residence restrictions were not perceived as helpful in promoting public safety or successful reentry.

One probation officer explained that in her experience supervising sex offenders, scrutinizing registrants’ housing situations and conducting home visits and searches was more effective than blanket residence restrictions. She provided an example of a case where residence restrictions may prove beneficial for a registrant who had molested children; the officer indicated that it would be inappropriate and unnecessarily risky to allow an individual with a history of offenses against children to live in an apartment overlooking a pool where children regularly swim and play. Multiple probation officers affirmed that residence restrictions focused on schools and places where children gather were most often unnecessary for individuals who had sexually offended against adults, and in some cases could be counterproductive where they forced individuals to move out of stable housing situations.

Interviewees universally reported that blanket residence restrictions applied to all 290-registrants regardless of a connection to the underlying offense or individualized risk factors for recidivism made effective supervision more difficult and increased challenges for sex offenders reentering the community with little to no improvement in public safety. In fact, the lack of housing and subsequent instability created by blanket residence restrictions was viewed as more likely to lead registrants into living situations where there were additional risk factors for reoffending, such as drug and alcohol use while living in homeless encampments.

Interviewees and survey respondents identified several best practices in supervision that, in their experience, produced better outcomes in terms of compliance and successful completion of supervision than did general residence restrictions for sex offenders, including: tailoring the terms and conditions of supervision to individual registrants,

unannounced visits to places where registrants reside, and independently verifying information about where and with whom registrants spend their time.

### *Recommendations: Individually Tailored Terms and Conditions of Supervision*

- Residence restrictions should be individually tailored for registrants based on offense history and targeted to address particularized risk factors.
- Education for judges and prosecutors is needed to better understand risk factors and protective factors, and to avoid standard imposition of residence restrictions in terms and conditions of supervision for sex offenders where such restrictions may inhibit access to housing and successful reentry with minimal enhancements to public safety.
- Consider alternatives including terms and conditions of supervision that include prohibitions against loitering around places where children gather rather than imposing residence restrictions.

## **Addressing The Varied Living Circumstances of Transient Registrants**

Not all individuals who are registered as “transient” sex offenders are homeless. Transient registrants reside in a variety of locations both indoors and out of doors, ranging from “couch surfing” with friends to hotels to urban streets and rural campsites. As described in more detail below, the circumstances of sex offenders who are registered as transient can vary significantly by county in light of the form of supervision to which they are subject, and vastly different communities, resources, and environmental factors throughout the state.

This study’s survey of county probation departments asked respondents to identify the types of places where transient sex offenders “resided.” The response from a probation officer working in a large, urban county in southern California explained the range of circumstances in which transient registrants may reside, as well as the housing insecurity and instability that often characterizes transients’ housing situations:

Some transient sex offenders live with family members who will allow them to sleep in an unused room, on a couch or on a pallet on the floor. Others live in motels for a few days at a time or on the streets. Some transients that live on the streets tend to live next to buildings, by freeway overpass or near intersections.

~ Probation Officer from a large, urban county in southern California

Some registrants categorized as “truly homeless” by survey respondents and interviewees lived on the streets or camped in tents along dry riverbeds, canals, and sloughs. In some counties, probation officers reported that registrants were welcomed into encampments of other homeless people, while in other places, sex offenders were excluded from encampments. For example, one probation officer working in a large southern California county with both rural and urban areas similarly described a variety of locations where transient individuals may live, as well as challenges that sex offenders can face within the larger homeless community:

Many homeless sex offenders are living in encampments in the riverbed, under freeways, behind grocery stores, in downtown urban areas, near the train tracks and bus stations, and in fields in unincorporated areas. Many live with partners, friends, or family who are also homeless. Many who have been banned from shelters are living in their vehicles. Some members of the homeless

community prevent sex offenders from joining their encampments to avoid law enforcement contact within their community....

By contrast, a probation officer from a coastal county in Northern California explained that transient registrants lived in homeless “encampments, beaches, [and] under bridges alongside other transient populations.” Probation officers from another northern California county with both rural and urban regions explained that “[e]ncampments exist in the county, and transient sex offenders have resided in them in the past, but law enforcement will frequently clear the encampments out.”

Other transient registrants, however, are not living out of doors. Probation officers, parole agents, and treatment professionals all confirmed that many individuals registered as transient are not “truly homeless,” but instead register as transient and “couch surf” between different residences, staying with friends and family.

#### *Transient Registrants Lack Access to Homeless Shelters, Residential Treatment Programs and Transitional Housing in Different Counties*

While DSH pays for the housing of SVPs living in the community, and individuals who are parolees or AB 109 clients may be placed in funded housing programs, other 290-registrants supervised by county probation departments are ineligible for housing assistance. Registered sex offenders may be excluded from shelters, transitional housing, and/or residential treatment programs. This increases the likelihood that they will become transient registrants, and limits their ability to access services and needed treatment.

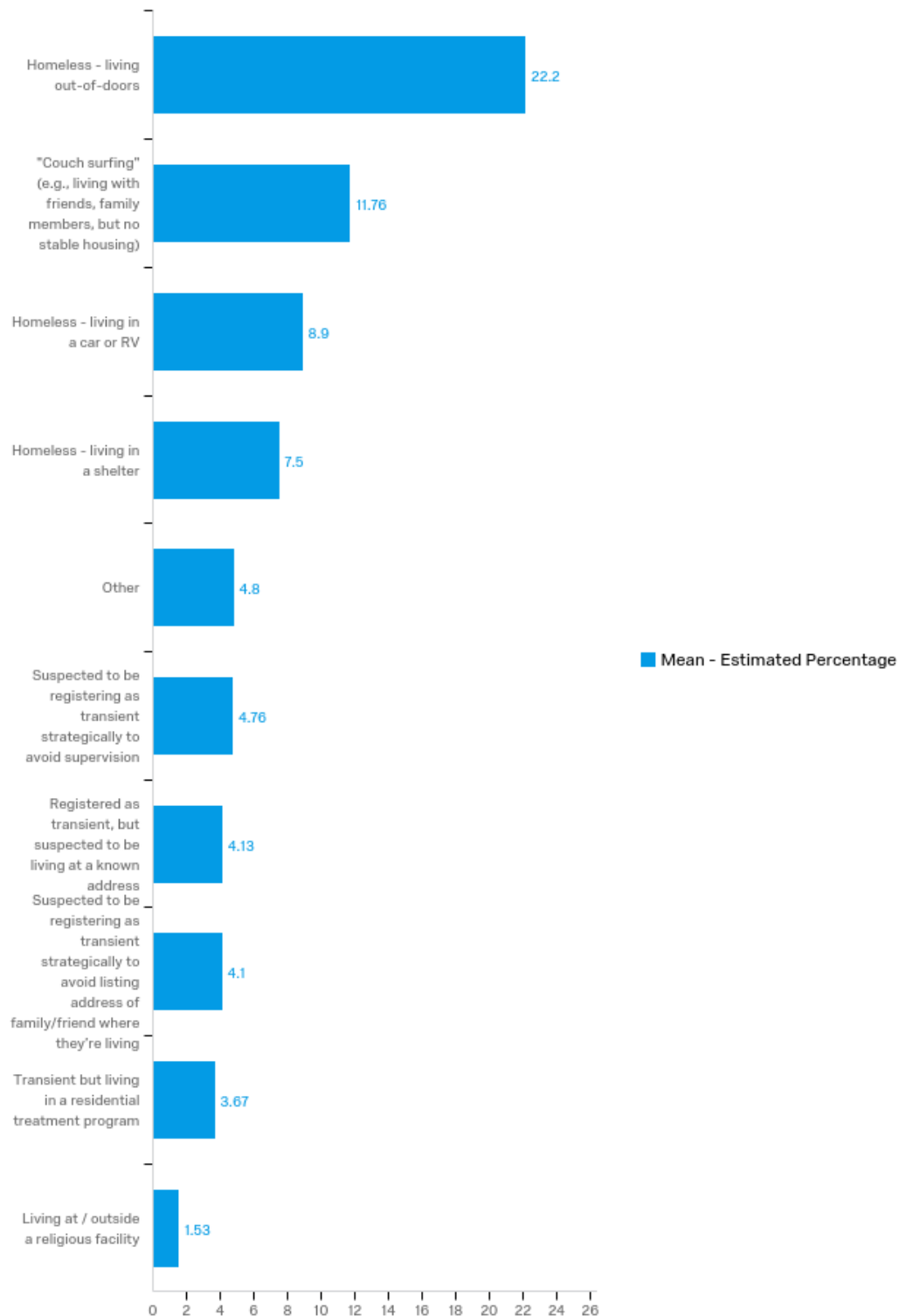
A review of housing resources available to registered sex offenders reentering the community revealed that most face extremely limited options. In most counties, probation officers reported limited to no homeless shelter services that accepted registered sex offenders. “Typically, sex offenders are not allowed at the local shelter due to women and children also residing at the shelter,” explained a probation officer from a small coastal county in northern California. A statewide survey of homeless shelters reaffirmed this point, finding that 290-registrants lacked access to homeless shelters in over 75% of California counties.

One coastal county in southern California indicated that 290-registrants who were transient sometimes lived in “a Residential Treatment Program (RTP), and in clean & sober housing.” However, several counties reported a shortage of residential treatment programs and clean and sober housing.



Figure 17 Locations Where Transient Registrants Reside, As Identified by California Probation Officers

### Where do Transient Registrants Reside?



*Few Counties Provide Housing Referrals, Often because there are no Local Options that Accept 290 Registrants*

Only two county probation departments reported providing housing assistance to non-AB 109/PRCS sex offenders under their supervision. Though some respondents indicated they provided general referrals to local shelters, as they would for any homeless probationer, most shelters surveyed throughout the state did not accept 290 registrants, a finding confirmed in the survey of probation staff and in interviews with probation officers, reentry lawyers, and treatment providers.

There is a dire need for transitional housing and sober living homes that accept 290-registrants in most counties. Although probation officers from one larger county in southern California indicated they provided a list of housing referrals for sober living homes and other programs that accept 290-registrants, the overwhelming majority of county probation officers interviewed for this project explained that sex offenders were not accepted at sober living homes – or rarely, on a case-by-case basis. When interviewees from probation departments were asked what criteria informed the case-by-case analysis, or whether sex offenders’ exclusion was due to formal program policies, fear for staff safety, or other reasons, some suggested that the location of the sober living homes close to schools or daycares meant that the program was inappropriate for sex offenders, given their particular offense. Few identified formal program policies that prohibited 290-registrants; instead, interviewees explained that “liability concerns” animated their exclusion, as well as the fact that allowing a sex offender to live at their sober living home would require registration on the publicly-available Megan’s Law website, leading to unwanted attention from the community.

However, one probation officer noted that the program staff was not necessarily concerned for their safety or that of volunteers, but for the safety of the 290-registrant themselves, describing cases of harassment, intimidation, and violence against sex offenders from other residents. This was thought to mimic or replicate the “social hierarchies in prison or jail” whereby sex offenders are considered the “lowest of the low.” Another explained that sex offenders were no longer welcome at their local sober living home because their presence was “disruptive” to programming for other participants, leading to hostility and conflict among the residents. Interviewees agreed that sober living homes that were exclusively for sex offenders would go a long way in reducing homelessness and transient-registration status among sex offenders, as it was viewed as extremely difficult to stay sober living in the streets. As one probation officer explained:

*Our county will not house 290’s and shelters will not allow them. Therefore, they live under bridges or on the streets.*

The few remaining options for housing that were identified included faith-based programs that would accommodate registered sex offenders, sometimes in exchange for work. However, “many [290 registrants] do not meet the requirements or wish to live in a faith-based environment,” explained a Deputy Probation Officer from a rural California county, a point that was reiterated by supervising personnel in other counties.

Other housing options included privately run single room occupancy facilities that would rent to 290 registrants. While a few sober living homes and other programs accepted sex offenders, the cost was \$500 - \$700 per month (including room and board), beyond the reach of many low-income 290-registrants.

In conclusion, the limited housing options for registrants and the fact that sex offenders are ineligible or excluded from many services that non-sex offender homeless individuals may utilize means that many transient offenders are relegated to life on the streets.

## **VI. TRANSIENT SEX OFFENDERS SUPERVISED BY STATE PAROLE**

The number of sex offender parolees registered as transient has grown considerably since the mid-2000s. In 2006, before the implementation of Jessica’s Law residence restrictions, only 88 sex offenders on parole were registered as transient. By 2012, the number had skyrocketed to over 2,700.

In 2015, the California Supreme Court’s *In re Taylor* decision ruled that residence restrictions were unconstitutional as applied to sex offender parolees in San Diego, as they forced many into homelessness and inhibited access to treatment and effective supervision. Although the number of transient parolees reduced slightly after the *Taylor* decision, the number has crept back up in recent years. The following section analyzes the number of transient sex offenders on state parole in light of this shifting legal terrain, and the strategies that parole agents utilize to supervise transient registrants in the community.

### **Jessica’s Law Residence Restrictions and Rising Numbers of Transient Registrants**

CASOMB reports have repeatedly identified concerns regarding the implementation of residence restrictions, noting the importance of stable housing for sex offenders returning to the community to promote effective supervision and as a protective factor against recidivism.

In 2008, CASOMB reported data on the first indications that residence restrictions had led to a significant rise in the number of sex offenders registering as transient. As of December 9, 2007, CASOMB reports identified that 3,884 parolees were subject to Jessica’s Law, with 18.5% registering as transient.<sup>44</sup>

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<sup>44</sup> Thirteen parolees were residing in a non-compliant facility as a result of a medical or psychiatric condition.

The number of sex offender parolees grew significantly over the next several years. The total number of sex offenders on parole hit its highest point in March 2012 at 10,631. Of these parolees, 65% were on parole for a sex offense and over 25% were transient.

Since the spring of 2012, the total number of sex offenders on parole declined, dropping to 8,208 in December 2015, when 19.2% of sex offender parolees were registered as transient. Although the number of sex offenders on parole grew steadily since 2015 to 9,886 in December 2018, the percent that were transient only rose slightly to 19.71%.

Number of Transient and Non-Transient Sex Offenders On Parole, 2010-2018

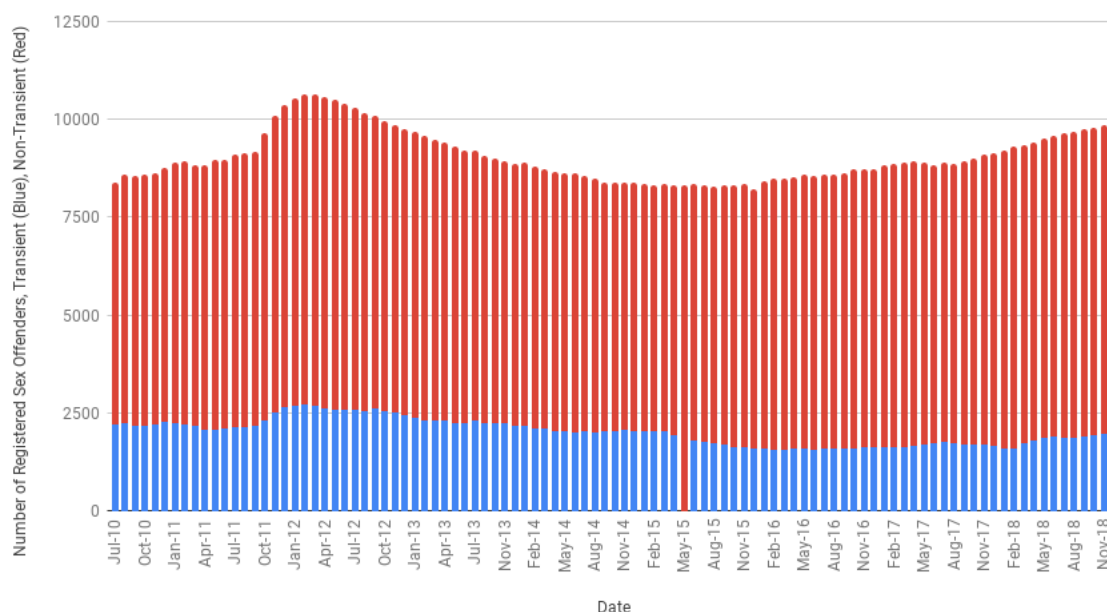


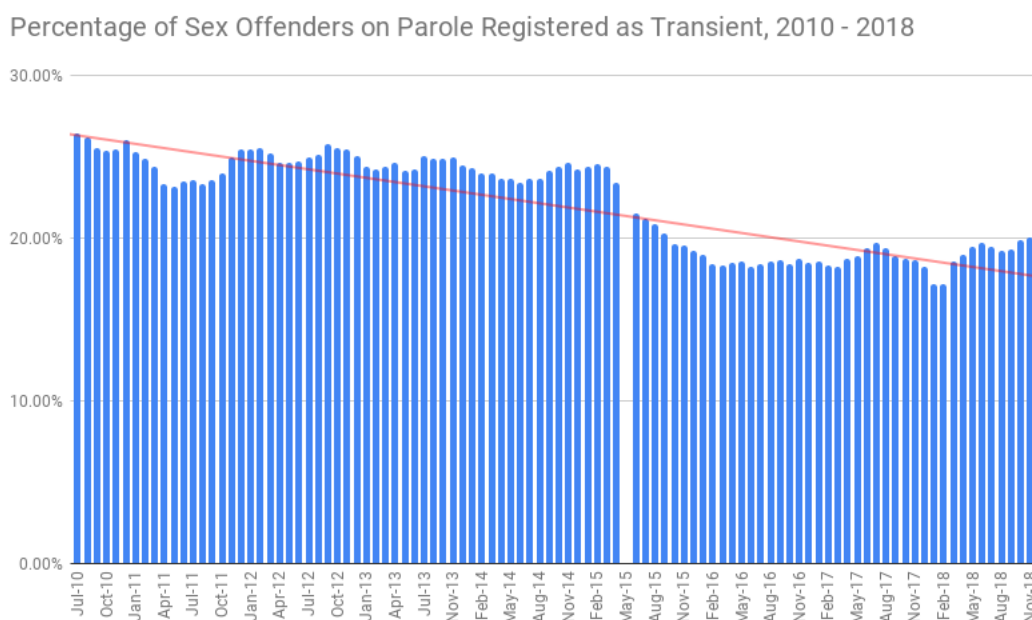
Figure 18 Transient and Non-Transient Sex Offender Parolees, July 2010 - November 2018.

\*Data on the number of transient 290 registrants on parole was unavailable for May 2015.

The number and percentage of sex offender parolees registered as transient also hit a high point in the spring of 2012, when more than one of every five was transient. The reported number of transient parolees spiked in February 2012, when 2,708 sex offender parolees were registered as transient – 25.5% of the 10,618 sex offenders on parole that month.

By March 2016, the number of sex offender parolees registering as transient dropped to 1,553, accounting for 18.33% of the total number of sex offenders on parole. The number of transient registrants on parole then began rising again. In December 2018, a total of 1,949 sex offender parolees were transient out of a total population of 9,886 sex offenders on parole, or 19.71%. This is a modest drop from 2010, when over 26% of sex offender parolees were registered as transient.

*The percentage of transient sex offenders of the parole population has decreased slightly since July 2010.*



First, changes in California Department of Adult Parole Operations (DAPO) policies regarding transitional housing may have impacted transient status among some parolees. In 2009, DAPO issued a directive eliminating transitional housing payments beyond 60 days. While some parolees continued to receive assistance beyond 60 days, this support was contingent on a case-by-case basis evaluation of their individual circumstances. In 2011, DAPO updated its policy to supersede the 2009 directive, providing ongoing financial assistance for mentally ill parolees to provide for inpatient mental health care, mental health board and care, or transitional / supportive housing and services to “increase the likelihood of successful reintegration and self-reliance.” Given the barriers to reentry for registered sex offenders – particularly finding housing and employment – limitations on financial assistance for longer-term transitional housing for parolees may have played a role in increasing rates of transient registration status.

Second, new individuals are constantly being added to California’s sex offender registry, some of whom may have been homeless at the time of their first sexual offense. Individuals who enter prison from homelessness are overwhelmingly likely to return to homelessness. For individuals required to register as sex offenders, this leads to transient registration upon release into the community. California has the largest population of unsheltered homeless in the U.S., and homelessness has been increasing in both urban and rural parts of the state.<sup>45</sup> The persistence of high numbers of transient sex offender parolees may be partly due to the lack of affordable and available housing in the state, which has increased the difficulty of finding transitional housing.

Third, the relative percentage of sex offender parolees registering as transient has trended 3-5% downward since the 2015 *In re Taylor* decision ended the blanket application of residence restrictions to all sex offender parolees. This indicates that the pace of transient registration has not continued to increase, despite the historic housing crisis in California. As one parole officer explained, the main barrier to housing sex offender parolees is no longer residence restrictions, and there are more residential treatment services accessible to 290-registrants in many areas. Instead, “the biggest hurdle is the cost” of housing, particularly in urban areas, as sex offender parolees often “don’t have the resources to get first and last months’ rent and credit checks . . . and rents are ridiculously expensive” (Interview with Parole Agent, January 2019). Because many registered sex offenders on parole struggle to find employment, it is often difficult for them to secure housing.

Fourth, the overall number of transient registrants may remain fairly high as registrants cycle through periods of incarceration and release, which can increase the risk of homelessness. Recent studies show that “people who have been to prison just once experience homelessness at a rate nearly 7 times higher than the general public. . . . [and those] incarcerated more than once have rates 13 times higher than the general public.”<sup>46</sup> Though these studies did not

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<sup>45</sup> See, e.g., Fagan, “Homeless crisis expands to country,” San Francisco Chronicle, September 8, 2017 <https://www.sfchronicle.com/news/article/California-s-homelessness-crisis-moves-to-the-12182026.php>

<sup>46</sup> Lucius Couloute, “Nowhere to Go: Homelessness among Formerly Incarcerated People” (Prison Policy Initiative, August 2018), <https://www.prisonpolicy.org/reports/housing.html>.

focus specifically on sex offenders, individuals who have been to prison for sex offenses are more likely to be homeless than the general public, and multiple incarcerations may exacerbate this risk. Interviews with parole agents conducted for this study confirm that “truly homeless” transient registrants, many of whom suffer from mental health and addiction issues, often cycle in and out of periods of incarceration and homelessness. It is often difficult for transient registrants to secure employment and maintain a stable residence; as such, it is unlikely that these individuals will shift out of transient status over time.

Fifth, the increased frequency of registration requirements for sex offenders who are transient may further increase the likelihood that transient registrants may return to custody and/or parole. As discussed elsewhere in this report, transient offenders are required to register with law enforcement every thirty days, compared with annual registration required for domiciled registrants, creating more opportunities for transients to fail to comply with registration requirements. Further, given that California currently maintains a lifetime registration requirement, as more individuals are added to California’s sex offender registry over time, the pool of individuals who may be in violation of registration requirements grows. Failure to register is itself a sex offense under PC 290(b) and can carry a potential state prison sentence. These cases may account for the slight rise in the percentage of sex offender parolees on parole for a sex offense: in July 2010, 62% of 290-registrants were on parole for a sex offense, compared with 72% of 290-registrants in December 2018.

Finally, parole agents interviewed for this study suggested that a number of individuals register as transient to avoid some of the stigma of public registration as a sex offender. While some transient registrants are “truly homeless,” other individuals prefer registering as transient and “couch surfing” with friends and family or living in their vehicles to avoid publicly registering an address on California’s Megan’s Law website. Interviews with parole officers explain that these transient parolees are “not hiding from parole, because they’re on GPS, but they do not want to register an address” because “they don’t want their family’s or loved ones’ addresses on public websites” (Interview with Parole Officer, January 2019). Other sex offender parolees who are transient do not have families that are willing to assist them, and are reportedly more likely to be “truly homeless” and living out of doors “in tents, in the street, and under freeway underpasses.”

In sum, structural factors contributing to increased homelessness, limited housing availability in California, the continued growth of the registry as new sex offenders are added, and some sex offenders’ efforts to avoid the stigma of publicly registering their address on the Megan’s Law website help to explain why the number of transient registrants has not dropped significantly since the removal of blanket residence restrictions for sex offenders on parole.

#### *Recommendations:*

Representatives from parole interviewed for this project explained that sex offender parolees who are transient – like all parolees – have different programming needs, and require individualized assessments. Expanding access to mental health treatment, residential and outpatient drug and alcohol treatment, and housing assistance can help to stabilize transient registrants. Improving access to public showers and clinics, including medical and dental



care, may also help address the needs of homeless and transient individuals and improve reentry outcomes.

## **VII. TRANSIENT-STATUS AND HOUSING CHALLENGES AMONG REGISTRANTS DEEMED SEXUALLY VIOLENT PREDATORS**

### **Sexually Violent Predators in Civil Commitment and in the Conditional Release Program**

Public perception of registered sex offenders is shaped in large part by media and political attention to Sexually Violent Predators (SVPs).<sup>47</sup> The vast majority of SVPs are males in civil commitment at Coalinga State Hospital, and there is one female SVP at Patton State Hospital. Since the existence of the Conditional Release Program (CONREP) for SVPs, there have been only 46 Sexually Violent Predators (SVPs) on Conditional Release in the community in California. Additionally, there are roughly 50 PC290 registrants in other DSH Conditional Release programs. Hundreds of SVPs have been unconditionally released from SVP commitment, some portion who then serve community parole terms.

It is extremely difficult, labor intensive, and costly for the state to identify and secure compliant housing for CONREP SVPs in the community due to current laws, adherence to blanket enforcement of Jessica's Law, and community resistance. The challenge of identifying legally-compliant housing for SVPs significantly increases the time it takes to move them from civil commitment into the community, sometimes leading courts to release SVPs unconditionally or as transient on Conditional Release Program (CONREP) under the authority of the Department of State Hospitals (DSH).

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<sup>47</sup> An SVP is a sex offender who has been convicted of one of 35 designated sexually violent offenses. When the individual is within six months of parole, s/he is referred to the department of State Hospitals (DSH) for a mental health evaluation. The annual cost of the SVP evaluation process is \$18 million (CASOMB Meeting Minutes, March 2018). For those who are diagnosed with a mental disorder and found to meet criteria indicating a likelihood that the person will engage in acts of sexual violence absent in-custody treatment, a district attorney may then file a petition for civil commitment of an individual as an SVP. A court proceeding under Welfare & Institutions Code 6600 will then determine if an individual is a danger to the health and safety of others by reason of a diagnosed mental health disorder. If a judge or jury determines beyond a reasonable doubt that a person meets the definition of an SVP, the individual is involuntarily committed to a secure state hospital for an indeterminate term. Civilly committed SVPs may bring a motion to have a court determine whether they continue to qualify as an SVP. Should a judge or jury determine that a particular patient no longer meets the legal requirements defining SVP commitment, the individual may be unconditionally released into the community without any supervision.

*A total of 46 individual SVPs have been released on CONREP to date, 7 of whom courts ordered released as transient because they were unable to find suitable housing in the county of domicile where they lived at the time of the offense.* In January 2019, there were 3 transient release SVPs and 15 fixed residence SVPs on CONREP. Currently, four individuals have been approved for release, but remain at the state hospital because the DSH is unable to find suitable housing.

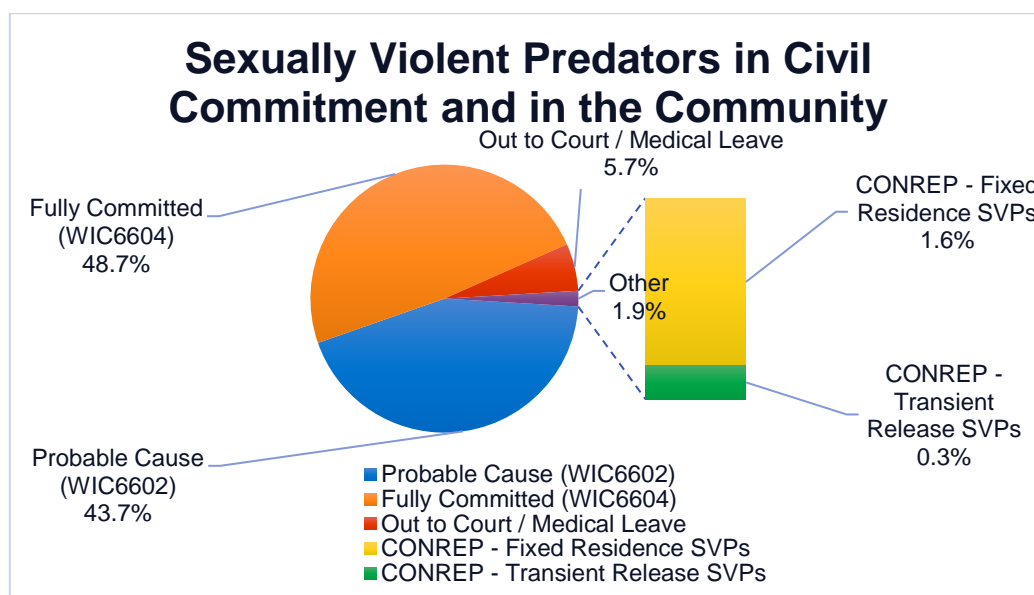


Figure 20 Sexually Violent Predators in Civil Commitment and Conditionally Released – March 2018

According to a DSH representative overseeing the CONREP programs in the state of California, it is challenging to find legally compliant housing for SVPs in the community with access to appropriate treatment, supervision and community services, leaving most SVPs with “no appropriate places to land” (Interview, January 29, 2019). As a result of this and other factors, many SVPs remain civilly committed.

As recorded at CASOMB’s meeting on March 15, 2018, there were 943 inpatient SVPs, including 420 on Probable Cause (WIC6602), 468 fully committed (WIC6604), 50 out to court, and 5 on medical leave. The total number of SVPs as of that date would be the fully committed, the probable cause, plus those on CONREP (15). Notably, the only discharge option for Probable Cause SVP category is unconditional release, which does not even include parole in the majority of cases.

The fully committed SVPs (WIC6604) in commitment are interviewed annually to evaluate whether they continue to meet the SVP criterion, and at least annually and as frequently as every six months, to assess their readiness for CONREP. SVPs (WIC6604s only) may also petition for community release, requiring a court hearing to determine whether they can be safely supervised and treated in the community on CONREP. Although CONREP and DSH

agree that ideally an SVP only becomes eligible to be placed on CONREP by participating in treatment, participation is not required by the courts to order CONREP, and in several cases SVPs are ordered to CONREP without having completed the inpatient treatment program. SVPs in commitment are frequently advised by their lawyers not participate in treatment (Interview with DSH representative, January 2019).<sup>48</sup>

Once approved for Conditional Release, outpatient SVPs are closely supervised by Liberty Healthcare, a private treatment provider contracted by DSH, which provides community-based supervision and treatment of SVPs. All conditionally released SVPs are subject to a variety of treatment and supervision requirements, including daily supervision contact, specialized sex offender treatment, regular drug screening, surveillance, polygraph examinations, and active Global Positioning System (GPS) tracking. SVPs in the community must also fulfill sex offender registration requirements every 90 days. SVPs are under constant surveillance when initially released, which is reevaluated and reduced over time depending on the individual's behavior and/or improvements.<sup>49</sup>

DSH covers the cost of treatment, housing, and supervision for SVPs who are conditionally released into the community by court order. The costs of civil commitment and CONREP for SVPs far outstrips that of parole or probation supervision.

For example, while **the cost per person for one year at Coalinga State Hospital is \$205,000**, the cost to the state of identifying, securing, and paying for housing for SVPs is extraordinary.

*While SVPs in the Conditional Release Program require a budget of \$310,000 per person per year for a fixed residence, the cost for a transient release SVP in CONREP is \$647,000 per person per year.<sup>50</sup>*

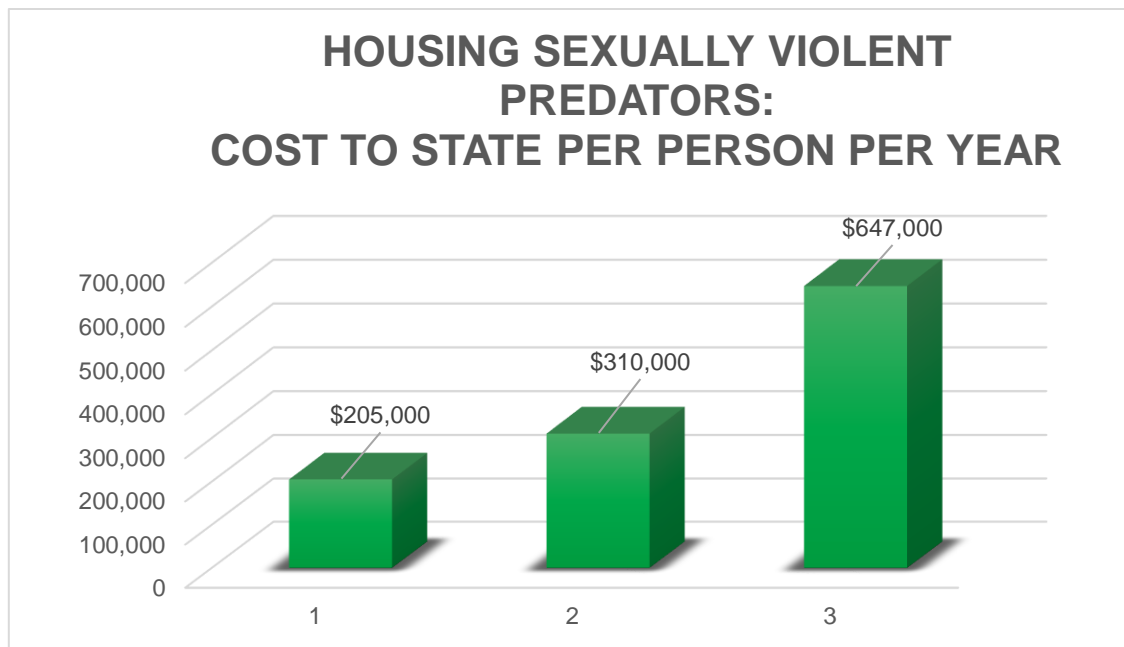
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<sup>48</sup> The California Sex Offender Commitment Program offers treatment to all committed SVPs, a cognitive behavioral therapy program that aims to promote recognizing triggers and controlling high risk behaviors. Four of five phases are offered in the state hospital, graduating to outpatient treatment and community reintegration in Phase V. See "Sex Offender Commitment Program," at

[http://www.dsh.ca.gov/Treatment/Sex\\_Offender\\_Commitments.aspx](http://www.dsh.ca.gov/Treatment/Sex_Offender_Commitments.aspx). However, treatment is voluntary, and only approximately 20% have chosen to participate in the treatment program (San Diego County DA, <http://www.sdcda.org/preventing/sex-offenders/faq.html> ).

<sup>49</sup> A multidisciplinary community supervision program monitors a released SVP's progress in the community, and periodically reports to the Court, District Attorney, and the SVP's attorney. Should high risk behaviors be observed, Liberty or the District Attorney's Office may request that an outpatient SVP be revoked and returned to the hospital; in such cases an SVP may subsequently petition for re-release into outpatient treatment.

<sup>50</sup> CASOMB. (2018). In *March 2018 CASOMB Meeting Minutes*. Board of State and Community Corrections: Board Room.



*Figure 21 Comparing the Costs of Civil Commitment, Fixed Residence Conditional Release, and Transient Conditional Release of Sexually Violent Predators*

The following section examines the process of placing SVPs in the community, highlighting the legal and extralegal barriers to housing for SVPs and the reasons why some SVPs have been released as transient, which are problematic in a number of ways.

### **Legal and Extralegal Barriers to Housing for SVPs in the Community Lead to Transient Release**

Interviews of those who supervise sexual offenders committed as “Sexually Violent Predators” provide very different reasons for the transient registration of SVPs than do those supervising sexual offenders on probation or parole. SVPs are frequently registered as transient because communities block their placement in fixed housing through a public notification and hearing process unique to the SVP law.

Under Welfare & Institutions Code section 6609.1, selection of the proposed placement location is the responsibility of DSH and the County Superior Court. However, the public is permitted to comment on the proposed location of housing prior to the judge’s order for placement. This has led to public protests and campaigns attempting to persuade judges not to approve the placement, as well as community pressure on landlord-owners not to rent to SVPs.<sup>51</sup>

<sup>51</sup> See, e.g., Monica Williams, “Constructing Hysteria: Legal Signals as Producers of Siting Conflicts Over Sexually Violent Predator Placements,” *Law & Social Inquiry* 43, no. 03 (2018): 706–31,

Interviews with DSH representatives indicate that the social stigma against sex offenders, coupled with current state laws regulating where SVPs may live and the community notification process, create significant barriers to identifying and securing compliant, appropriate housing for SVPs in the community. California law orders SVPs to be placed in a county of domicile where the individual lived at the time of the offense. These legal requirements restrict where SVPs can be placed upon release, increasing the costs and difficulty of locating housing. Currently, four individuals have been approved for release, but DSH staff are unable to find suitable housing for them (Interview with DSH representative, January 2019).

Housing searches require extensive research in the county of domicile to identify appropriate housing that is compliant with state law. After the judge reviews searches in the county of domicile, the county is notified in writing by DSH of the upcoming hearing on the placement. GPS data is used to identify potential housing that meets the distance requirements of residency restrictions; potential property owners are contacted; and staff identify neighborhood characteristics and demographics for the court. Counties may create their own housing search committees including representatives from local law enforcement, the District Attorney's office, or other county representatives, who meet with the Executive Director of CONREP and provide the results of the housing search(es) to the court. Although the law instructs counties to aid the search for housing, this often does not occur in practice, resulting in one state agency (DSH) bearing the burden for finding housing with little to no support from other agencies.

Searches for properties to rent for an SVP on CONREP typically take numerous months and not infrequently more than one year. Housing searches can require significant cash outlays of state funds for deposits and housing holds to secure vacant rental properties for an SVP (sometimes for many months during court processes) to be available upon their release. Landlords have reportedly often reneged on housing holds, accepting payment for holds from CONREP then backing out of the hold, thus leading to several months' rent paid for a residence never to be used. The scarcity of compliant housing also creates incentives for landlords to raise the rent much higher than market rate, sometimes three-times or more, as they realize that housing options are so limited for SVPs.

Another challenge to identifying housing that contributes to transient-releases for SVPs is that the Department of State Hospitals continues to adhere to Jessica's Law residence restrictions, despite the California Supreme Court determining the law unconstitutional as applied to parolees where such restrictions exclude nearly all available housing. Identifying compliant housing in highly-populated counties is particularly problematic due to the number of schools in dense urban areas, as SVPs are currently prohibited from residing nearby schools. SVP law (WIC 6600 et seq.) also has a residence restriction for SVPs with child offenses.

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<https://doi.org/10.1111/lsi.12265>; Monica Williams, *The Sex Offender Housing Dilemma: Community Activism, Safety, and Social Justice* (New York: New York University Press, 2018).

Once a court provisionally approves a property, the judge sets a hearing date 45 days later to allow community notification, as required by law. During this time, housing searches for other potential properties continue, given the likelihood that placements will be challenged or otherwise disapproved. Interviewees from DSH identified the following potential factors: community members may organize protests; “code enforcement suddenly comes out of the woodwork,” social pressure is placed on the owner/landlord and/or his/her businesses; and in some cases, property may be vandalized or destroyed to prevent the SVP’s placement there. Further, rural community members and their political representatives are increasingly organizing to oppose or prevent the placement of SVPs in their areas, protesting state and county action which they claim treats their communities like a “dumping ground” for SVPs, resulting in an “overconcentration” of SVP placements in rural areas.<sup>52</sup>

Where there is no suitable housing in the county of domicile (e.g., due to urban density, most housing options do not meet residence restrictions, or if the judge finds the community opposition compelling, etc.), the judge may order “Extraordinary Circumstances,” meaning Liberty staff may research housing options in other counties. Placement in counties other than county of domicile is to be a rare exception. Controversies and lengthy court hearings may arise to contest efforts to place the SVP outside the county of domicile. Resistance from communities and district attorneys to placements in counties other than the county of domicile works to constrain placement options to one county instead of the entire state, and promotes the practice of transient release over out of domicile placement.

In cases where suitable housing cannot be found or such housing is found but ultimately not approved, the judge may order transient release. This means CONREP will search for local hotels or motels compliant with Jessica’s Law in anticipation of a “transient,” as opposed to fixed residence, release.

### *“Transient Releases” of Sexually Violent Predators*

In some cases, the inability to identify compliant, suitable fixed housing for an SVP leads courts to eventually approve the release of SVPs as “transient.” To date, seven individuals have been released on CONREP as “transient.” However, this does not mean SVPs are released into homelessness; instead, “transient” indicates the lack of a fixed residence with a permanent address, even though transient SVPs are placed in accommodation and strictly supervised in the community.

According to interviews with DSH representatives, conditionally released SVPs were formerly allowed by courts to live in tents in riverbeds or in a recreational vehicle or trailers. These SVPs were registered as “transient” sex offenders, and supervised 24-hours per day by CONREP staff to ensure compliance as well as to ensure the safety of the SVP.

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<sup>52</sup> For example, see the recent controversy regarding the placement of a SVP in rural San Diego County. Debbie L. Sklar, “Judge Rules SVP Placement in East County to Go Forward,” *Times of San Diego*, March 27, 2019, <https://timesofsandiego.com/crime/2019/03/27/judge-rules-svp-placement-in-east-county-to-go-forward/>.



*Due to an inability to identify legally compliant housing, 7 individuals committed as Sexually Violent Predators have been released into the community as transient registrants, living under strict supervision at a cost of \$647,000 per person per year.*

Now, however, transient SVPs are more likely to be placed in motels or hotels paid for by the state at great expense: ***the current cost of a transient release per person per year is \$647,000.*** However, they must move out every 4 nights to retain their “transient” status, staying at another location to avoid the requirement of registering the motel as a “residence,” which would require court approval. While DSH covers the housing costs for SVPs, individuals on transient release often choose to pay out of pocket to keep their room on the night they cannot stay there to avoid having to move all their belongings every few days. As a result, to maintain compliance with sex offender registration requirements and Jessica’s Law residence restrictions, the housing situation for “transient” SVPs entails “just moving them from one kind of suspect motel to the next” (Interview with DSH representative, January 29, 2019).

The benefit of such transient placements is that the community will not protest a specific address, as in cases of fixed residence placements, which can reduce community resistance to the placement and pressure on the owner/landlord or judge. However, transient releases also significantly increase the costs of CONREP as well as the challenges of successfully reintegrating SVPs into the community.

***Housing Instability of Transient Release SVPs Does Not Promote Conditions for Successful Reentry or Desistance and Increases the Difficulty of Effective Treatment and Supervision***

Not only are transient releases of SVPs incredibly expensive for the state, they result in higher failure rates compared to fixed placements. The nature of accommodations in hotels and motels has frequently caused instability undermining the conditions for desistance. The rate of rehospitalization for serious rule violations of terms and conditions (for example, illicit substance abuse and non-sexual criminal behavior), is much greater among those released to transient than those released to fixed housing (Interview with DSH Staff, January 22, 2019). DSH representatives report that 71% of SVP CONREP transient releases were revoked due to serious rules violations, whereas 33% of CA CONREP fixed residence releases were revoked due to serious rules violations. Further, the social contexts in which transient SVPs are placed “brings the criminal element to them” because of the hotel settings to which they are exposed (Interview with DSH Staff, January 22, 2019).



Requiring an SVP to move in and out of hotel rooms to maintain compliance with residence restrictions laws also increases the difficulty of supervising and monitoring them. The room conditions may be changed by guests staying there on the nights that the SVP must vacate the premises to maintain transient registration status. For example, the person may be offered illicit substances or sexual activity by another hotel resident or visitor, drugs or alcohol might be found in the hotel room, the hotel room might be damaged, or children's items may be present, making it very difficult for supervising authorities to verify who made these changes and when they occurred to ensure the SVP is compliant with the conditions of release.

Arguably most significantly, SVPs who are transient and living night-to-night in different hotel rooms find it difficult to create positive social ties that support successful reentry and community reintegration. For example, they cannot develop stable friendships, community ties, have pets or houseplants, nor take up hobbies such as cooking, playing musical instruments, or any pursuit involving loud sounds, large spaces, or equipment. The CONREP program's intended progression from extreme levels of supervision to less supervision that allows SVPs more privileges and activities is thwarted with transient releases. The hotels and motels where transient SVPs reside or rotate through may also house parolees and others with criminal histories whom the SVP is instructed to avoid, while at the same time treatment professionals encourage SVPs to develop prosocial interests and support networks. Even smoking a cigarette with a "neighbor" may expose the transient SVP to risks of violations for fraternizing with individuals they are required to avoid. Moreover, SVPs may become targets for harassment or violence if their sex offender status becomes known.

Transient SVPs living in such social contexts have reported they experience isolation. Isolation does not promote desistance or successful reentry, and can instead trigger stress, paranoia, and risk-oriented behaviors among SVPs. Transient SVPs have reported difficulty handling the stressors of being transient released, and have reported a sense of relief when revoked back to the state hospital.

As one DSH representative explained, the current workaround to house "transient" SVPs in hotels or motels was developed because "first, California's SVP law says placement should be in the patient's county of domicile unless there are 'extraordinary circumstances,' [which are rarely found]; and second, the state has interpreted Jessica's Law [residence restrictions] as applying to sex offenders in CONREP, since it's still on the books" (Interview, January 22, 2019). Given the challenges of identifying housing, supervisory issues, and costs of placing SVPs in the community as "transients," legal and policy reforms may be necessary to provide additional flexibility that facilitates fixed-residence placement of SVPs.

### **Recommendations Regarding Housing and Transient-Status among Sexually Violent Predators Conditionally Released in the Community**

Reforms are needed to develop more suitable housing options for SVPs who are released into the community, particularly as multiple SVPs are approved for CONREP and currently awaiting release. California's housing crisis continues to limit affordable housing throughout the state. Residence restrictions have not been shown to be an effective deterrent for sexual

re-offense and such restrictions often increase risk factors and disrupt protective factors. More individualized application of residence restrictions would reduce a significant barrier to identifying housing in the community for SVPs on CONREP.

One key recommendation includes allocating state funding to enable DSH to purchase housing that could serve as transitional housing and/or residential treatment facilities for SVPs, particularly in counties where appropriate properties are unavailable. This would help to promote public safety and effective supervision through increased stability while more efficiently utilizing state funding and curtailing the current exorbitant costs entailed in releasing and monitoring SVPs as transients.

Finally, as individuals on CONREP age and become infirm, there will be increased need for skilled nursing facilities that will accept individuals with a criminal record and sex offender registration requirements. Currently, skilled nursing facilities refuse to accept these individuals due to fears regarding liability and safety for others. Without alternative housing options or skilled nursing facilities, aging individuals on CONREP may be placed back in a locked facility long term.

## VIII. CONCLUSIONS AND RECOMMENDATIONS

This report details several key findings regarding homelessness and transient-status among registered sex offenders in California. The varied living circumstances of sex offenders registered as “transient” present a range of challenges in terms of supervision in the community and barriers to successful reentry.

This study represents a first step in identifying some of the factors contributing to housing insecurity, homelessness, and transient status among registered sex offenders in California. The recommendations and best practices described by survey respondents and interviewees identify several potential interventions and reforms that may help to reduce the number of transient registrants and prevent registrants from becoming homeless.

### Summary of Findings

The following provides a brief summary of the study findings and highlights commonalities and differences between categories of transient registrants who are subject to different forms of supervision. It then identifies recommendations from the field, based on interviews with probation officers, parole agents, DSH staff, legal professionals, and treatment providers who have experience working with transient registrants.

#### *The Population of Transient Sex Offenders in California*

Nearly 6,700 individuals are registered as transient sex offenders in California, accounting for approximately 6% of all registered sex offenders in the state. In October 2018, almost half (48%) of transient registrants in the community were on some form of supervision,

including 1,217 transient 290-registrants supervised by county probation, 1,949 transient sex offender parolees, and 3 Sexually Violent Predators on conditional release. Approximately 60% of transient 290-registrants under supervision were on parole and 38% were supervised by county probation departments.

Transient 290-registrants account for around 17% of the sex offenders supervised at the county level and 20% of sex offenders on parole. At the time of data collection 3 SVPs on CONREP were on transient release, and 15 SVPs were in fixed residences.

The vast majority of 290-registrants in this study are male, and a larger percentage of men were registered as transient than female 290-registrants. The majority of transient 290-registrants supervised by county probation departments were 26 years old or older; about 67% were over forty years old. The survey findings revealed significant differences in the rate of transient-status between different racial / ethnic groups. The majority of 290-registrants supervised by county probation departments were Latino / Hispanic and White. However, African Americans were disproportionately overrepresented in both the populations of 290-registrants and transient registrants supervised by county probation departments. Finally, the distribution of Static-99R Risk Assessments of transient 290-registrants supervised by county probations reported in this study reflects the general distribution of sex offenders' assessed risk levels reported to the California DOJ, with 71% of transient registrants assessed as average risk or lower (Risk Levels 1 – III).

A limitation of the current study is that it does not address the 3,490 transient registered sex offenders in the community who are not currently under supervision by probation, parole, or DSH. Although doing so is a violation of California's sex offender registration laws, some individuals who are no longer on supervision and confirmed to be transient may find housing in a fixed residence but continue to register as transient with law enforcement. Interviews with parole and probation officers suggested that some registrants may attempt to misrepresent their transient status to avoid listing a permanent address on the Megan's Law website and/or because they seek to avoid or evade post-supervision contact with law enforcement. However, this risks arrest, incarceration, and another period of supervision for failing to register per PC 290.

Additional research on the operation of Sexual Assault Felony Enforcement (SAFE) Teams that monitor the compliance of individuals required to register as sex offenders would help to better understand the living circumstances of transient registrants in the community, assess the potential number of individuals who may be misrepresenting their transient status, and identify strategies utilized to detect and address such cases. As noted above, a longitudinal study that tracks individual transient registrants over time to assess how accommodation status impacts risk factors and protective factors is recommended to help evaluate reentry outcomes, recidivism rates, and programmatic innovations that may help reduce rates of homelessness and transient-status among 290-registrants in California.

#### *“Transient” 290-registrants Reside in Varied Circumstances*

The vast majority of transient 290-registrants are concentrated in urban areas. However, this study identified “transient” sex offenders living in varied circumstances in rural, suburban, and metropolitan areas across the state.

Findings from interviews with parole and probation officers and reports from the statewide survey examining the supervision of transient 290-registrants by county probation departments reveal that not all “transient” registrants are homeless. Transient registrants reside in wide variety of housing situations, with different access to resources that is often dependent on the form of supervision to which they are subject.

County probation departments reported that transient registrants live in homeless encampments, under freeway underpasses, and in their vehicles, while others “couch surfed” with family or friends. Representatives from parole described similar living circumstances for transient sex offender parolees. While the majority of transient 290-registrants supervised by probation departments were on felony probation caseloads, there was little to no housing assistance available to indigent and/or homeless registrants in the majority of counties. However, individuals on PRCS had access to some resources for housing assistance, as did sex offender parolees. SVPs who had been released on CONREP as “transient” actually lived in hotels or motels paid for by the state at great cost – over \$600,000 per person per year. These individuals were technically “transient” and required to move every four days to maintain transient status, a destabilizing factor that did little to promote reintegration or effective supervision and treatment in the community.

This study did not directly evaluate non-supervised transient registrants in the community. Once off supervision (and removal from GPS monitoring for those sex offenders subject to it), it is possible that some transient registrants may continue to register with local law enforcement as transient despite finding accommodations in a fixed residence. However, the statewide survey of probation departments and interviews conducted with stakeholders throughout California indicate that many transient registrants in the community continue to be “truly homeless,” live in their vehicles, or “couch surf” even after they are no longer on supervision. Substance abuse, mental health issues, and challenges finding employment as a registered sex offender can make it extremely difficult to secure and maintain housing.

### *The Impact of Residence Restrictions on Housing and Transient-Status Varies by Type of Supervision*

As described in this report, a combination of factors shapes transient registration for registrants, including unaffordable housing, addiction, and lack of employment. While Jessica’s Law residence restrictions previously created significant barriers to housing for 290-registrants on parole, they were not applied to 290-registrants on probation and, after the 2015 *In re Taylor* decision, are no longer enforced against all sex offenders on parole.

This study, based largely on interviews with probation, parole, and representatives monitoring SVPs, found that the high cost of housing, substance abuse, and mental illness, as well as a desire to avoid publicly registering an address, contribute to the persistence of transient-registration even after the *Taylor* decision restricted the application of residence restrictions to certain 290-registrants on parole. Data from the survey and interviews in this study suggest that the high cost of housing in California was currently a more influential factor contributing to transient registration status among sex offenders in California on parole and probation than state or local residence restrictions. Although there are several

municipalities and counties that created local residence restrictions since the mid-2000s, interviews and surveys of probation officers revealed that few were aware of local residence restrictions and did not enforce them on the 290-registrants they supervised, unless they had been imposed by court order on particular 290-registrants.

Parole officials noted that the implementation of Jessica's Law residence restrictions beginning in 2007 had significantly increased the difficulty of identifying compliant housing for sex offender parolees, leading many to register as transient and inhibiting access to needed services. However, since the shift in policy ending blanket enforcement of residence restrictions for sex offender parolees after the California Supreme Court's 2015 *In re Taylor* decision, parole officers report that transient-status is now more commonly a function of the high cost of rental housing and parolees' lack of credit history and income for security deposits. Representatives from parole responsible for supervising sex offenders explained that in their experience, transient-status among sex offender parolees was now more likely to be related to parolees' difficulties in securing a job and lack of income to pay for security deposits and rent than to legal restrictions on where they can reside.

Jessica's Law residence restrictions do, however, impact transient-status among SVPs. Residence restrictions continue to be interpreted as applying to all SVPs placements regardless of individualized circumstances, risk assessments, or the fact that they severely limit the availability of compliant housing for SVPs on CONREP. As a result, some SVPs are released as "transient," although they live in hotels or motels and are closely monitored as they move every four days to retain their transient status.

Interviews with stakeholders involved in the supervision and treatment of 290-registrants confirmed that evaluating 290-registrants' individual case histories and risk assessments and imposing more targeted anti-loitering policies was a more effective way of supervising transient registrants and promoting desistance and public safety than blanket application of residence restrictions.

### *Factors Contributing to Transient Registration Status Among 290-Registrants*

Methodologically, it is difficult to disentangle the rising numbers of sex offenders registering as transient from broader contexts of growing homelessness and the lack of affordable housing in California. Many individuals who have never been incarcerated are currently struggling with housing insecurity, and homelessness has expanded beyond urban centers into rural areas of the state. The fact that a portion of 290-registrants become homeless or "couch surf" and register as transient is not surprising, given the scarcity of affordable housing and the discrimination that formerly incarcerated individuals – particularly registered sex offenders – face in the rental market.

Interviews with probation officers, parole agents, reentry advocates, shelter operators, and treatment professionals in this study revealed that many individuals who are registered as transient sex offenders face significant barriers to finding employment and stable housing, protective factors that help support desistance. Moreover, with limited options for housing or residential treatment, transient registrants with mental health and/or addiction issues can struggle to remain offense free in the community and maintain compliance with registration

requirements. These conditions result in some registrants cycling through arrest, incarceration, and release back into homelessness with little likelihood that they will secure a fixed residence. As such, the number of 290-registrants who are registered as “transient” is likely to continue to grow over time.

### *Transient Registrants and Failure to Register*

A key finding from this study reveals that transient registrants supervised for “failure to register” offenses account for a significant portion of county probation departments’ sex offender caseloads. Approximately 15% of all 290-registrants supervised by county probation departments involve failure to register offenses. Nearly 85% of individuals on supervision for failure to register were being supervised *solely* for failure to register offenses, meaning they not committed another contact or non-contact sex offense leading to their current supervision. Transient 290-registrants accounted for approximately 30% those under probation supervision solely for failure to register.

Findings from interviews with parole and probation officers indicate that transient individuals who fail to register often also have addiction and/or mental health issues that cause them to forget or neglect registration requirements. At the county level, significant time, resources, and staff are required to supervise 290-registrants who repeatedly return for failure to register offenses. Ensuring access to needed services and minimizing logistical barriers to registration may help to reduce the number of transient individuals supervised solely for failure to register.

### *Need for Homeless Shelters, Transitional Housing, and Residential Treatment Programs for Transient Registrants*

This study’s statewide survey of homeless shelters in California found that there are few existing options that provide homeless services for registered sex offenders. Several rural counties do not have homeless shelters, and those counties that do routinely exclude sex offenders from receiving services there.

Interviews and surveys of probation officers revealed that many transient registrants are in need of transitional housing and residential treatment centers, but are excluded from these programs as well. While there is some support available for transitional housing for 290-registrants on parole, particularly those who are mentally ill, access to affordable, stable housing remains a barrier to successful reentry. One key recommendation emerging from this study to interrupt the cycle of incarceration and homelessness for transient registrants is to develop state- and county-funded residential programming that can address the substance abuse and addiction issues that supervising authorities explain can contribute to failure to register, general recidivism, and sexual recidivism.

## **Selected Recommendations to Promote Effective Supervision, Successful Reentry, and Desistance from Offending or Transient Sex Offenders**

*Improve Access to Sex Offender Treatment: Provide State Funding to Counties and Expand Medi-Cal Coverage to Include Sex Offender Treatment*



One major area of need identified by this study is the lack of accessible treatment options. California law requires that sex offenders participate in specialized Containment Model treatment, polygraphs and risk assessments. Although Medi-Cal and other state programs may pay for some forms of mental health treatment, sex offender treatment is not covered. Funding is available for treatment for parolees, SVPs, and some individuals on PRCS, but in most counties, registrants are required to pay for this required component of probation supervision on their own. Many transient registrants also lack the resources to pay for polygraph testing, which can create barriers to effective participation in and completion of treatment.

Some counties have developed workarounds, reallocated Realignment funds, or secured grants to provide supplemental funding for probationers who cannot afford treatment. However, other counties do not have access to these resources. As a result, many counties struggle to ensure that registrants successfully attend and complete treatment, particularly among transient and low-income registrants. State funding is needed at the county level to ensure that all 290-registrants are able to attend and participate in sex offender treatment. Assuring funding is available may also help incentivize additional treatment providers to offer services in remote, rural counties where access is currently limited.

#### *Create One-Stop Centers to Improve Access to Coordinated Services for Transient Registrants*

Another promising approach that some probation departments had developed was a “one-stop” approach to supervising transient offenders to improve access to comprehensive services. Several probation officers suggested that cultivating relationships with county housing and social services personnel was valuable in connecting transient registrants with programs and benefits to stabilize them and support success in the reentry process. For example, transient sex offenders with mental health issues might be assisted by referrals to their county’s behavioral health team, who may help facilitate applications for housing assistance.

One probation department in a large county indicated they had developed a “Whole Person Care” program with a nurse onsite at probation offices to provide clients with medical care and social services. This program had assisted at least one transient sex offender client by funding his first three months of housing. Another urban, coastal county indicated that its local department dedicated to addressing homelessness issues “does not screen people experiencing homelessness for any criminal justice involvement as a criteria [sic] of participation in our adult emergency shelters,” which has improved options for registered sex offenders who were formerly relegated to homelessness. These collaborative innovations may help move transient registrants from the streets to stable housing, and create avenues for them to get necessary mental health or substance abuse treatment, protective factors that may reduce the risk of recidivism or failure to register.



### *Funding Needs*

The findings described in this report may provide support for additional legal reforms and budgetary allocations for programs aimed to reduce transient-status, expand housing and treatment options, and improve reentry outcomes among 290-registrants.

Feedback from the statewide survey of probation departments and officials interviewed for this study identified a variety of funding needs, including the following:

- More funding is needed to support sex offenders supervised at the county level for treatment. While 290-registrants on PRCS and supervised using AB 109 funding may have access to support systems, other 290-registrants supervised at the county level do not.
- State funding is needed for county probation departments to ensure registrants supervised by county probation departments can afford and access sex offender treatment and required polygraphs.
- Financial and technical support to implement and/or update probation departments' case management systems to improve data collection and reporting, particularly regarding the integration of risk assessment information to inform supervision strategies.
- Budgetary allocations to DSH to purchase property to house SVPs who cannot be placed in their county of domicile, and those who need residential treatment or long-term care.

### *Training Needs*

Study participants identified a variety of training needs that would help to improve the supervision of 290-registrants, including those who are transient and/or do not live in a fixed residence.

- Increase the number of Containment Model trainings for probation officers per year to facilitate trainings for individuals as soon as they are assigned to sex offender caseloads.
- Develop virtual training programs for probation officers in rural or remote counties who have limited time or resources to travel to trainings in other parts of the state.
- Field visits for transient offenders may require searches of electronic devices to ensure compliance with the terms of supervision. Additional training is needed regarding searches of smart phones, particularly updated training regarding new apps and social media that may present risk factors for reoffending for individuals on supervision. Updated training programs and state funding for searches smartphones and electronic devices is necessary to improve supervision of 290-registrants in the community and to more effectively utilize cell phones for monitoring and reporting of transient registrants in particular.

### *Educate Key Stakeholders and the Public to Promote Evidence-Based Policy Reform*

This study highlights several ways in which sex offender laws that are not based on evidence or best practices can inadvertently contribute to increased transience and instability among registrants with little to no public safety benefits. Findings from this study show that laws like residence restrictions that ostensibly intended to prevent sexual victimization instead

constrained the abilities of officials from parole, probation, state hospitals, and law enforcement agencies to effectively supervise registrants in the community.

The recent successful reform effort to “tier” California’s sex offender registry and provide alternatives to lifetime registration for qualifying individuals is one example of a reform that balances public safety concerns with a more measured response to sexual offending, reflecting lowered rates of recidivism over time and rewarding desistance from offending. Reforms to the public sex offender registration that provide more information about the time since the conviction and the period a registrant has been offense-free in the community, indications of registrants’ risk assessment scores, and new opportunities to remove one’s name from the public registry after a certain period of time may also help to disincentivize those who may register as transient to avoid some of the stigma of being on the registry.

As California continues to grapple with rising homelessness and a housing crisis, addressing the needs of transient sex offenders will be difficult. However, increased public attention to sexual violence and public education about the realities of sexual offending, coupled with emerging support for evidence-based reforms to address the unintended consequences of punitive sex offender policies, suggests that there may be opportunities for agencies and programs working with transient sex offenders to collaborate to prevent homelessness and reduce the number of individuals registering as transient.

## APPENDIX A: COUNTY AND MUNICIPALITY RESIDENCY RESTRICTIONS

The following chart was excerpted from a document by the Alliance for Constitutional Sex Offender Laws and is re-used with permission.

### RESIDENCY RESTRICTIONS CASES (*Inactive AND ACTIVE*)

	<u>Municipality</u>	<u>Date Filed</u>	<u>Date Dismissed</u>	<u>Ordinance Repealed, Stayed, or Revised</u>	<u>Status and Outcome</u>
1.	<b>Grover Beach, F.L. vs.</b> (C.D. Cal. Case No. 15-cv-04577)	06/15/2015	07/15/2015	Rep.	Ordinance repealed.
2.	<b>Arcadia, F.L. and Doe vs.</b> (C.D. Cal. Case No. 15-cv-05736)	07/29/2015	02/27/2016	Rep.	Motion to dismiss denied. Ordinance repealed.
3.	<b>Cypress, R.L. and M.M. vs.</b> (OCSC Case No. 30-2015-00804210)	08/13/2015	02/08/2016	Stay.	City permanently stayed enforcement of ordinance.
4.	<b>Murrieta, F.L, K.C., and P.H. vs.</b> (C.D. Cal. Case No. 15-cv-02055)	10/06/2015	05/05/2017	Rev.	Motion to dismiss denied. TRO and Preliminary Injunction granted. The Ordinance was amended to impose a 1,000 ft. exclusion zone on parolees only, with certain discretionary exceptions.
5.	<b>Gardena, F.L. and K.C. vs.</b> (C.D. Cal. Case No. 15-cv-09634)	12/15/2015	10/14/2016	Rev.	City repealed exclusion zone provision of ordinance and retained only density restriction for single housing units.
6.	<b>Bell Gardens, F.L. and K.C. vs.</b> (C.D. Cal. Case No. 15-cv-09693)	12/17/2015	05/20/2016	Rev.	City repealed exclusion zone provision of ordinance and retained only density restriction for single housing units.
7.	<b>Norwalk, F.L. and K.C. vs.</b> (C.D. Cal. Case No. 16-cv-00460)	01/21/2016	10/7/2016	Rep.	Ordinance repealed. The City's repeal ordinance cites "growing evidence" that SORRs "could threaten public safety in our community," as well as judicial opinions.
8.	<b>Long Beach, F.L. and K.C. vs.</b> (LASC Case No. 16K04649)	04/15/2016	07/01/2016	Rev.	City repealed exclusion zone provision of ordinance and retained only density restriction for single housing units.
9.	<b>Apple Valley, Doe vs.</b> (C.D. Cal. Case No. 16-at-00453)	06/15/2016	10/06/2016	Rep.	Ordinance repealed.
10.	<b>Tustin, F.L, K.C., and Doe vs.</b> (C.D. Cal. Case No. 16-cv-01453)	08/05/2016	10/01/2016	Rep.	Ordinance repealed.
11.	<b>CARSON, F.L. vs.</b> (C.D. CAL. CASE NO. 16-CV-06559)	08/31/2016	--	STAY.	Case currently in pleading stage; city has stayed enforcement of ordinance. Settlement pending.

# APPENDIX A: COUNTY AND MUNICIPALITY RESIDENCY RESTRICTIONS

	<u>Municipality</u>	<u>Date Filed</u>	<u>Date Dismissed</u>	<u>Ordinance Repealed, Stayed, or Revised</u>	<u>Status and Outcome</u>
12.	<b>Fullerton, F.L. vs.</b> (C.D. Cal. Case No. 16-cv-01735)	09/19/2016	05/08/2017	Rep.	Ordinance repealed.
13.	<b>Desert Hot Sprgs., Doe vs.</b> (C.D. Cal. Case. No. 16-cv-02055)	09/28/2016	01/17/2017	Rep.	Ordinance repealed.
14.	<b>Covina, F.L. and K.C. vs.</b> (C.D. Cal. Case No. 16-cv-08022)	10/27/2016	6/27/2017	Rep.	Ordinance repealed.
15.	<b>San Dimas, F.L. vs.</b> (C.D. Cal. Case No. 16-cv-08344)	11/06/2016	9/27/2017	Rep.	Ordinance repealed.
16.	<b>Inglewood, F.L. vs.</b> (C.D. Cal. Case No. 16-cv-08857)	11/30/2016	2/23/2017	Rep.	Ordinance repealed.
17.	<b>ADELANTO, K.C. vs.</b> (C.D. CAL. CASE NO. 16-CV-02535)	12/08/2016	--	REP.	Ordinance repealed after court granted partial summary judgment, ruling that cities may not restrict the residences of non-parolees.
18.	<b>Seal Beach, F.L. vs.</b> (OCSC Case No. 30-2017-00896499)	01/10/2017	7/25/2017	Rep.	Ordinance repealed.
19.	<b>MONROVIA, DOE vs.</b> (C.D. CAL. CASE NO. 17-CV-00981)	02/07/2017	12/13/2017	REP.	Ordinance repealed.
20.	<b>Temecula, Doe vs.</b> (C.D. Cal. Case No. 17-cv-00407)	03/03/2017	7/6/2017	Rep.	Ordinance repealed.
21.	<b>ONTARIO, DOE vs.</b> (C.D. CAL. CASE NO. 17-CV-00682)	4/10/2017	7/17/2018	DISMISSED	Case dismissed on jurisdictional grounds without ruling on the merits.
22.	<b>GLENDORA, DOE vs.</b> (C.D. CAL. CASE NO. 17-CV-03494)	05/09/2017	2/7/2018	REV.	Ordinance revised to 250 ft. exclusion zone and limit of one registrant per unit (with discretionary exceptions akin to Murrieta's), applicable to parolees only.
23.	<b>COMPTON, DOE vs.</b> (C.D. CAL. CASE NO. 17-CV-04172)	6/5/2017	5/3/2018	REP.	Ordinance repealed.
24.	<b>MAYWOOD, M.W. vs.</b> (LASC CASE NO. VC066407)	7/10/2017	--	REP.	Ordinance repealed after court granted summary adjudication, ruling that cities may not restrict the residences of non-parolees.
25.	<b>CLAREMONT, M.W. vs.</b> (C.D. CAL. CASE NO. 17-CV-05713)	8/2/2017	2/2/2018	REV.	City repealed exclusion zone provision of ordinance and retained only density restriction for single housing units.
26.	<b>SAN DIEGO, DOE #1 AND DOE #2 vs. (S.D. CAL. CASE NO. 17-CV-1581)</b>	8/7/2017	--	--	City's Motion to Dismiss denied.

# APPENDIX A: COUNTY AND MUNICIPALITY RESIDENCY RESTRICTIONS

	<u>Municipality</u>	<u>Date Filed</u>	<u>Date Dismissed</u>	<u>Ordinance Repealed, Stayed, or Revised</u>	<u>Status and Outcome</u>
27.	<i>Twentynine Palms, Doe vs. (C.D. Cal. Case No. 17-cv-1791)</i>	9/5/2017	12/19/2017	Rep.	Ordinance repealed.
28.	<i>ALHAMBRA, DOE VS. (C.D. CAL. CASE NO. 17-CV-08684)</i>	12/1/2017	2/8/2018	Rev.	City repealed exclusion zone provision of ordinance and retained only density restriction for single housing units.
29.	<i>HAWAIIAN GARDENS, DOE VS. (C.D. CAL. CASE NO. 18-CV-203)</i>	1/9/2018	5/17/2018	REP.	Ordinance repealed, retaining only reference to “enforceable provisions of state law.”
30.	<i>PICO RIVERA, DOE V.S. (C.D. CAL. CASE NO. 18-CV-1478)</i>	2/22/2018	7/25/2018	REP.	Ordinance repealed.
31.	<i>SOUTH GATE, DOE V.S. (C.D. CAL. CASE NO. 18-CV-3036)</i>	4/11/2018	8/13/2018	REP.	Ordinance repealed.
32.	<i>COUNTY OF KERN, DOE VS. (KERN CO. CASE NO. BCV-18-102469)</i>	9/27/2018	--	--	Discovery commencing.
33.	<i>CITY OF LOMPOC, ACSOL AND DOE VS. (SANTA BARBARA CO. CASE NO. 19CV00887)</i>	2/14/2018	--	--	Case in pleading stage.

## APPENDIX B: HOUSING AND HOMELESSNESS AMONG REGISTERED SEX OFFENDERS: A REVIEW OF THE RESEARCH LITERATURE

### I. OVERVIEW

Homelessness and transience among registered sex offenders reflects a significant policy problem and public safety issue that is largely understudied. The following review of the research literature examines homelessness, incarceration and reentry among offenders, generally, and among sex offenders, specifically. Second, the review examines the research literature exploring the impact of residency restrictions on housing availability, affordability, and recidivism among registered sex offenders. Third, the review describes research on the “collateral consequences” of sex offender policies, focused on the role of housing instability and homelessness as it relates to protective factors promoting desistance and risk factors for recidivism.

### II. HOUSING INSTABILITY, HOMELESSNESS, INCARCERATION, AND REENTRY

#### Housing Issues Among General Offenders in Reentry

After release from prison or jails, the ability to access stable, safe, secure, and affordable housing is critical to an individual’s successful reentry into society. A recent study of housing issues among former prisoners identified several risk factors for housing insecurity, particularly “mental illness, substance use, prior incarceration, and homelessness,” finding that income and social supports served as protective factors or “buffers” against insecurity and homelessness.<sup>53</sup> However, many ex-offenders reentering society from prison and jail face a limited array of options for accommodation, from short-term stays with friends, residing in temporary shelters, paying for low-cost motels, or homelessness.<sup>54</sup> Studies on prisoner reentry reveal that many ex-offenders return

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<sup>53</sup> Claire W. Herbert, Jeffrey D. Morenoff, and David J. Harding, “Homelessness and Housing Insecurity Among Former Prisoners,” *The Russell Sage Foundation Journal of the Social Sciences: RSF* 1, no. 2 (November 2015): 44–79.

<sup>54</sup> Jocelyn Fontaine and Jennifer Biess, “Housing as a Platform for Formerly Incarcerated Persons” (Washington, D.C.: Urban Institute, 2012); Teresa Gowan, “The Nexus: Homelessness and Incarceration in Two American Cities,” *Ethnography* 3, no. 4 (December 2002): 500–534, <https://doi.org/10.1177/1466138102003004007>; Margot B. Kushel et al., “Revolving Doors: Imprisonment Among the Homeless and Marginally Housed Population,” *American Journal of Public Health* 95, no. 10 (October 2005): 1747–52, <https://doi.org/10.2105/AJPH.2005.065094>.

## APPENDIX B: HOUSING AND HOMELESSNESS AMONG REGISTERED SEX OFFENDERS: A REVIEW OF THE RESEARCH LITURATURE

to unsafe communities with high rates of poverty and crime where there is limited affordable housing.<sup>55</sup>

A growing body of research examines the interrelationship between experiences of housing instability, homelessness, and incarceration, which can become a cycle.<sup>56</sup> A 1996 national survey of homeless services providers determined that 54% of people receiving homeless services had some experience of incarceration.<sup>57</sup> Subsequent studies found that individuals at homeless shelters were significantly more likely to have committed a criminal offense and experienced incarceration than the general public.<sup>58</sup> Indeed, homelessness was 7.5 to 11.3 times more common among jail inmates than the general population; jail inmates who had been homeless constituted over 15% of the U.S. jail population.<sup>59</sup> A 2006 study found that approximately 10% of inmates had experienced homelessness prior to their current prison sentence, and about the same percentage would experience homelessness after release.<sup>60</sup> Those returning to the community after prison who become homeless may concentrate in urban areas. For example, one study of California parolees reported that 10% of the state's parolees were homeless in 1997, and in urban areas such as Los Angeles and San Francisco, approximately 30 – 50% of all parolees were homeless.<sup>61</sup>

Homelessness and housing instability increase the barriers to successful reentry and reintegration for all former offenders.<sup>62</sup> Housing instability can facilitate risk factors for reoffending and

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<sup>55</sup> Todd R Clear, *Imprisoning Communities: How Mass Incarceration Makes Disadvantaged Neighborhoods Worse*, 2009; Charis E. Kubrin and Eric A. Stewart, "Predicting Who Reoffends: The Neglected Role of Neighborhood Context in Recidivism Studies," *Criminology* 44, no. 1 (February 2006): 165–97, <https://doi.org/10.1111/j.1745-9125.2006.00046.x>.

<sup>56</sup> Greg A. Greenberg and Robert A. Rosenheck, "Jail Incarceration, Homelessness, and Mental Health: A National Study," *Psychiatric Services* 59, no. 2 (February 2008): 170–77, <https://doi.org/10.1176/ps.2008.59.2.170>; Kushel et al., "Revolving Doors"; Stephen Metraux and Dennis P. Culhane, "Homeless Shelter Use and Reincarceration Following Prison Release," *Criminology & Public Policy* 3, no. 2 (March 2004): 139–60, <https://doi.org/10.1111/j.1745-9133.2004.tb00031.x>; Stephen Metraux and Dennis P. Culhane, "Recent Incarceration History Among a Sheltered Homeless Population," *Crime & Delinquency* 52, no. 3 (July 2006): 504–17, <https://doi.org/10.1177/0011128705283565>; Jack Tsai and Robert A. Rosenheck, "Incarceration Among Chronically Homeless Adults: Clinical Correlates and Outcomes," *Journal of Forensic Psychology Practice* 12, no. 4 (July 2012): 307–24, <https://doi.org/10.1080/15228932.2012.695653>.

<sup>57</sup> M. Burt et al., "Homelessness: Programs and the People They Serve: Findings of the National Survey of Homeless Assistance Providers and Clients" (Washington, D.C.: Urban Institute, 1999).

<sup>58</sup> Metraux and Culhane, "Homeless Shelter Use and Reincarceration Following Prison Release"; Metraux and Culhane, "Recent Incarceration History Among a Sheltered Homeless Population."

<sup>59</sup> Greenberg and Rosenheck, "Jail Incarceration, Homelessness, and Mental Health."

<sup>60</sup> Caterina Gouvis Roman and Jeremy Travis, "Where Will I Sleep Tomorrow? Housing, Homelessness, and the Returning Prisoner," *Housing Policy Debate* 17, no. 2 (January 2006): 389–418, <https://doi.org/10.1080/10511482.2006.9521574>.

<sup>61</sup> California State Department of Corrections, "Preventing Parolee Failure Program: An Evaluation" (Sacramento, CA: California State Department of Corrections, 1997).

<sup>62</sup> Doreen Anderson-Facile, "Basic Challenges to Prisoner Reentry," *Sociology Compass* 3, no. 2 (March 2009): 183–95, <https://doi.org/10.1111/j.1751-9020.2009.00198.x>; Anmarie Aylward, "Successful Transitions from Institution to Community: Reentry and the Washington State Sex Offender Treatment Program," *Corrections Today* 68, no. 7 (2006): 76–77, 82–83, 106; R. Karl Hanson and Kelly Morton-Bourgon, "Predictors of Sexual Recidivism: An Updated Meta-Analysis" (Ottawa, Canada: Public Safety and Emergency Preparedness, 2004); R. Karl Hanson and Kelly E. Morton-Bourgon, "The Characteristics of Persistent Sexual Offenders: A Meta-Analysis of Recidivism Studies," *Journal of Consulting and Clinical Psychology* 73, no. 6 (2005): 1154–63, [Homelessness and Transient Status Among Registered Sex Offenders in California](https://doi.org/10.1037/0022-</a></p></div><div data-bbox=)



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interrupt protective factors that promote desistance, such as family contact and social support. Residential instability has been significantly associated with increased likelihood of arrest,<sup>63</sup> and, for a large sample of California parolees, with absconding from supervision.<sup>64</sup> A lack of housing and residential instability is also associated with recidivism among sex offenders.<sup>65</sup>

Homelessness and incarceration can become a revolving door, particularly for those with mental health issues. In a 2000 study, jail inmates who had been homeless were significantly more likely than domiciled jail inmates to be mentally ill, to have more extensive criminal histories, and more likely to be arrested for nuisance offense.<sup>66</sup> This has been a particularly difficult problem in California. For example, McNiel, Binder, and Robinson (2005) examined 13,000 jail episodes in San Francisco, finding that in 16 percent of the episodes the person was homeless at the point of arrest, and in 18 percent of the episodes the person had a diagnosed mental disorder. Of jail inmates that were homeless, 30% had a diagnosis of a mental disorder during one or more jail episodes, and 78% of these individuals had co-occurring substance-related disorders; those with dual diagnoses were more likely to be homeless, more likely to be charged with violent crime, and more likely to be incarcerated longer than jail inmates charged with similar crimes.<sup>67</sup>

Safe housing plays a critical role in the successful reentry and reintegration of formerly incarcerated people.<sup>68</sup> Individuals with a stable residence experience better physical health and mental well-being than do homeless people,<sup>69</sup> and have a lower likelihood of recidivism.<sup>70</sup> However, while many formerly incarcerated people struggle to secure stable, affordable housing, barriers to finding and retaining housing can be particularly challenging for registered sex offenders.<sup>71</sup>

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006X.73.6.1154; Kubrin and Stewart, "PREDICTING WHO REOFFENDS"; Caterina Gouvis Roman and Jeremy Travis, "Taking Stock: Housing, Homelessness, and Prisoner Reentry" (Washington, D.C.: Urban Institute, 2004); Gwenda M. Willis and Randolph C. Grace, "The Quality of Community Reintegration Planning for Child Molesters: Effects on Sexual Recidivism," *Sexual Abuse: A Journal of Research and Treatment* 20, no. 2 (June 2008): 218–40, <https://doi.org/10.1177/1079063208318005>.

<sup>63</sup> Tammy Meredith et al., "Enhancing Parole Decision-Making through the Automation of Risk Assessment" (Atlanta, GA: Applied Research Services, Inc., 2003).

<sup>64</sup> Frank P. Williams, Marilyn D. McShane, and H. Michael Dolny, "Predicting Parole Absconders," *The Prison Journal* 80, no. 1 (March 2000): 24–38, <https://doi.org/10.1177/0032885500080001002>.

<sup>65</sup> Mark Halsey, "Assembling Recidivism: The Promise and Contingencies of Post-Release Life," *Journal of Criminal Law and Criminology* 94, no. 4 (2007): 1209–60.

<sup>66</sup> Matt DeLisi, "Who Is More Dangerous? Comparing the Criminality of Adult Homeless and Domiciled Jail Inmates: A Research Note," *International Journal of Offender Therapy and Comparative Criminology* 44, no. 1 (February 2000): 59–69, <https://doi.org/10.1177/0306624X00441006>.

<sup>67</sup> Dale E. McNiel, Renée L. Binder, and Jo C. Robinson, "Incarceration Associated With Homelessness, Mental Disorder, and Co-Occurring Substance Abuse," *Psychiatric Services* 56, no. 7 (July 2005): 840–46, <https://doi.org/10.1176/appi.ps.56.7.840>.

<sup>68</sup> N. G. La Vigne, C. Visser, and J. L. Castro, "Chicago Prisoners' Experiences Returning Home." (Washington, D.C.: Urban Institute, 2004).

<sup>69</sup> Barrett A. Lee, Kimberly A. Tyler, and James D. Wright, "The New Homelessness Revisited," *Annual Review of Sociology* 36, no. 1 (June 2010): 501–21, <https://doi.org/10.1146/annurev-soc-070308-115940>.

<sup>70</sup> J. Yahner and C. Visser, "Illinois Prisoners' Reentry Success Three Years after Release" (Washington, D.C.: Urban Institute, 2008).

<sup>71</sup> Keri B. Burchfield and William Mingus, "Not in My Neighborhood: Assessing Registered Sex Offenders' Experiences with Local Social Capital and Social Control," *Criminal Justice and Behavior* 35, no. 3 (March 2008): 356–74, <https://doi.org/10.1177/0093854807311375>.

## Housing Issues Among Sex Offenders in Reentry

Registered sex offenders face additional barriers to accessing housing, creating further barriers to successful reentry. Individuals with sex offenses are not eligible for federally assisted public housing per 42 U.S.C. §13663, which prohibits any person who is subjected to lifetime registration under a state sex offender registration program.<sup>72</sup> Securing a residence on the rental market is also challenging, as many formerly incarcerated people lack income or savings to pay the security deposit or first and last months' rent required to obtain housing in the private sector.<sup>73</sup>

Even where rental properties are available, landlords' background checks and the stigma of a criminal conviction can increase the difficulty of renting,<sup>74</sup> a problem that is compounded for individuals required to register as sex offenders on publicly-available websites.<sup>75</sup> In a 2015 study in New York state examined discrimination in the rental market utilizing matched pairs of "testers" posing as potential tenants to compare responses to individuals with a conviction for child molestation, statutory rape, or drug trafficking; landlords were significantly less willing to consider potential tenants with a criminal conviction, particularly for child molestation.<sup>76</sup>

Several studies have investigated the "collateral consequences" of sex offender policies in the reentry process (see below). Research has shown that sex offender public registration and notification policies can result in registrants' exclusion from employment and social support networks, factors that can create barriers to successful reentry, particularly in finding safe, affordable, and legally compliant housing.<sup>77</sup>

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<sup>72</sup> Rebecca Oyama, "Do Not (Re)Enter: The Rise of Criminal Background Tenant Screening as a Violation of the Fair Housing Act," *Michigan Journal of Race and Law* 15, no. 1 (2009): 181–222; Kelly M. Socia, "The Policy Implications of Residence Restrictions on Sex Offender Housing in Upstate NY: Implications of Residence Restrictions," *Criminology & Public Policy* 10, no. 2 (May 2011): 351–89, <https://doi.org/10.1111/j.1745-9133.2011.00713.x>.

<sup>73</sup> Roman and Travis, "Where Will I Sleep Tomorrow?"; C. Visser, N. G. La Vigne, and J. Travis, "Returning Home: Understanding the Challenges of Prisoner Reentry" (Washington, D.C.: Urban Institute, 2004).

<sup>74</sup> Roman and Travis, "Where Will I Sleep Tomorrow?"

<sup>75</sup> Christopher P. Dum, *Exiled in America: Life on the Margins in a Residential Motel*, Studies in Transgression (New York: Columbia University Press, 2016).

<sup>76</sup> Douglas N. Evans and Jeremy R. Porter, "Criminal History and Landlord Rental Decisions: A New York Quasi-Experimental Study," *Journal of Experimental Criminology* 11, no. 1 (March 2015): 21–42, <https://doi.org/10.1007/s11292-014-9217-4>.

<sup>77</sup> J.C. Barnes et al., "Analyzing the Impact of a Statewide Residence Restriction Law on South Carolina Sex Offenders," *Criminal Justice Policy Review* 20, no. 1 (March 2009): 21–43, <https://doi.org/10.1177/0887403408320842>; Mary Ann Farkas and Gale Miller, "Reentry and Reintegration: Challenges Faced by the Families of Convicted Sex Offenders," *Federal Sentencing Reporter* 20, no. 1 (December 2007): 88–92, <https://doi.org/10.1525/fsr.2007.20.2.88>; Erika Davis Frenzel et al., "Understanding Collateral Consequences of Registry Laws: An Examination of the Perceptions of Sex Offender Registrants," *Justice Policy Journal* 11, no. 2 (2014): 1–22; Beth M. Huebner et al., "The Effect and Implications of Sex Offender Residence Restrictions: Evidence from a Two-State Evaluation," *Criminology & Public Policy* 13, no. 1 (February 2014): 139–68, <https://doi.org/10.1111/1745-9133.12066>; Wesley G. Jennings, Kristen M. Zgoba, and Richard Tewksbury, "A Comparative Longitudinal Analysis of Recidivism Trajectories and Collateral Consequences for Sex and Non-Sex Offenders Released since the Implementation of Sex Offender Registration and Community Notification," *Journal of Crime and Justice* 35, no. 3 (November 2012): 356–64, <https://doi.org/10.1080/0735648X.2012.662062>; Jill S. Levenson, "Collateral Consequences of Sex Offender Residence Restrictions," *Criminal Justice Studies* 21, no. 2

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Public registration and notification can result in discrimination from landlords, and harassment by prospective neighbors and community members further limit housing options for registered sex offenders (RSOs), even in housing that is legally compliant with residence restrictions<sup>78</sup> or formally approved by courts and public officials.<sup>79</sup> As a result, sex offenders often move into “socially disorganized,” high-crime neighborhoods, as found in one study of sex offenders on parole in California.<sup>80</sup>

Studies show that housing instability is a serious concern for some sex offenders, and many struggle to avoid homelessness.<sup>81</sup> Homelessness among sex offenders is particularly problematic because there are few resources available to them, as they are excluded from public housing, and most homeless shelters will not accept them or provide them services. An exploratory study conducted in four states found that three quarters of homeless shelters prohibited sex offenders, while others would only accept certain types of RSOs, such as female or statutory rape offenders.<sup>82</sup>

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(June 2008): 153–66, <https://doi.org/10.1080/14786010802159822>; Jill S. Levenson and Richard Tewksbury, “Collateral Damage: Family Members of Registered Sex Offenders,” *American Journal of Criminal Justice* 34, no. 1–2 (June 2009): 54–68, <https://doi.org/10.1007/s12103-008-9055-x>; Elizabeth Ehrhardt Mustaine, “Sex Offender Residency Restrictions: Successful Integration or Exclusion?,” *Criminology & Public Policy* 13, no. 1 (February 2014): 169–77, <https://doi.org/10.1111/1745-9133.12076>; Shawn M. Rolfe, Richard Tewksbury, and Ryan D. Schroeder, “Homeless Shelters’ Policies on Sex Offenders: Is This Another Collateral Consequence?,” *International Journal of Offender Therapy and Comparative Criminology* 61, no. 16 (December 2017): 1833–49, <https://doi.org/10.1177/0306624X16638463>; Kelly M. Socia and Janet P. Stamatel, “Assumptions and Evidence Behind Sex Offender Laws: Registration, Community Notification, and Residence Restrictions,” *Sociology Compass* 4, no. 1 (January 2010): 1–20, <https://doi.org/10.1111/j.1751-9020.2009.00251.x>; Richard Tewksbury, “Collateral Consequences of Sex Offender Registration,” *Journal of Contemporary Criminal Justice* 21, no. 1 (February 2005): 67–81, <https://doi.org/10.1177/1043986204271704>; Richard Tewksbury, “Stigmatization of Sex Offenders,” *Deviant Behavior* 33, no. 8 (September 2012): 606–23, <https://doi.org/10.1080/01639625.2011.636690>.

<sup>78</sup> Kelly K. Bonnar-Kidd, “Sexual Offender Laws and Prevention of Sexual Violence or Recidivism,” *American Journal of Public Health* 100, no. 3 (March 2010): 412–19, <https://doi.org/10.2105/AJPH.2008.153254>; Evans and Porter, “Criminal History and Landlord Rental Decisions.”

<sup>79</sup> Monica Williams, *The Sex Offender Housing Dilemma: Community Activism, Safety, and Social Justice* (New York: New York University Press, 2018); Monica Williams, “Constructing Hysteria: Legal Signals as Producers of Siting Conflicts Over Sexually Violent Predator Placements,” *Law & Social Inquiry* 43, no. 03 (2018): 706–31, <https://doi.org/10.1111/lsi.12265>.

<sup>80</sup> John R. Hipp, Susan Turner, and Jesse Jannetta, “Are Sex Offenders Moving into Social Disorganization? Analyzing the Residential Mobility of California Parolees,” *Journal of Research in Crime and Delinquency* 47, no. 4 (November 2010): 558–90, <https://doi.org/10.1177/0022427810381093>; see also Elizabeth Ehrhardt Mustaine and Richard Tewksbury, “Residential Relegation of Registered Sex Offenders,” *American Journal of Criminal Justice* 36, no. 1 (March 2011): 44–57, <https://doi.org/10.1007/s12103-010-9102-2>.

<sup>81</sup> Burchfield and Mingus, “Not in My Neighborhood”; Jill S. Levenson et al., “Where for Art Thou? Transient Sex Offenders and Residence Restrictions,” *Criminal Justice Policy Review* 26, no. 4 (June 2015): 319–44, <https://doi.org/10.1177/0887403413512326>; Jill S. Levenson, David A. D’Amora, and Andrea L. Hern, “Megan’s Law and Its Impact on Community Re-Entry for Sex Offenders,” *Behavioral Sciences & the Law* 25, no. 4 (July 2007): 587–602, <https://doi.org/10.1002/bsl.770>; Jason Rydberg et al., “The Effect of Statewide Residency Restrictions on Sex Offender Post-Release Housing Mobility,” *Justice Quarterly* 31, no. 2 (March 4, 2014): 421–44, <https://doi.org/10.1080/07418825.2012.667141>; Kelly M. Socia et al., “‘Brothers Under the Bridge’: Factors Influencing the Transience of Registered Sex Offenders in Florida,” *Sexual Abuse: A Journal of Research and Treatment* 27, no. 6 (December 2015): 559–86, <https://doi.org/10.1177/1079063214521472>.

<sup>82</sup> Rolfe, Tewksbury, and Schroeder, “Homeless Shelters’ Policies on Sex Offenders.”

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As a result, some jurisdictions place homeless sex offenders into emergency living situations including boarding houses and low-budget motels, including those with safety code violations.<sup>83</sup> Attempts to site transitional housing for sex offenders and investigative reporting of the emergency housing of sex offenders in motels has sparked community opposition and concern from the public as well as local officials, leading to the closure of some motels for code violations and the subsequent eviction and displacement of residents living there.<sup>84</sup>

### Housing Instability and Homelessness as Dynamic Risk Factors

Because housing instability and homelessness are dynamic risk factors that can destabilize sex offenders and increase the risk of recidivism,<sup>85</sup> homelessness among registered sex offenders presents a pressing public policy and public safety issue.

Although there are no large empirical studies that directly examine the relationship between homelessness and sexual recidivism, research shows that homelessness can result in ex-offenders living in social contexts that harbor risk factors that are correlated with recidivism, violation of the terms of probation or parole, readmission to prison, and treatment failure.<sup>86</sup> One study of community reintegration in New Zealand found that child molesters who reoffended had significantly lower scores on a measure of housing accommodation than those who did not, suggesting that reintegration planning for accommodation was “necessary but not sufficient to prevent sexual recidivism.”<sup>87</sup> Among other factors, housing instability, unemployment, and lack of social support were predictors of recidivism in a study of 141 sex offenders.<sup>88</sup>

A 2017 thesis examining the relationship between homelessness, residence restrictions, and recidivism among registered sex offenders in South Carolina found that sex offender registrants who had been homeless were almost two times more likely to recidivate than registrants who were

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<sup>83</sup> Dum, *Exiled in America*; Kelly M. Socia, Christopher P. Dum, and Jason Rydberg, “Turning a Blind Eye: Public Support of Emergency Housing Policies for Sex Offenders,” *Sexual Abuse: A Journal of Research and Treatment*, July 1, 2017, 1079063217720925, <https://doi.org/10.1177/1079063217720925>.

<sup>84</sup> Dum, *Exiled in America*; Christopher P. Dum, Kelly M. Socia, and Jason Rydberg, “Public Support for Emergency Shelter Housing Interventions Concerning Stigmatized Populations: Results From a Factorial Survey,” *Criminology & Public Policy* 16, no. 3 (August 2017): 835–77, <https://doi.org/10.1111/1745-9133.12311>; Socia, Dum, and Rydberg, “Turning a Blind Eye.”

<sup>85</sup> R. Karl Hanson and Andrew J. R. Harris, “Where Should We Intervene?: Dynamic Predictors of Sexual Offense Recidivism,” *Criminal Justice and Behavior* 27, no. 1 (February 2000): 6–35, <https://doi.org/10.1177/0093854800027001002>.

<sup>86</sup> Aylward, “Successful Transitions from Institution to Community: Reentry and the Washington State Sex Offender Treatment Program”; Hanson and Morton-Bourgon, “Predictors of Sexual Recidivism: An Updated Meta-Analysis”; Hanson and Morton-Bourgon, “The Characteristics of Persistent Sexual Offenders”; Kubrin and Stewart, “PREDICTING WHO REOFFENDS”; Faith E. Lutze, Jeffrey W. Rosky, and Zachary K. Hamilton, “Homelessness and Reentry: A Multisite Outcome Evaluation of Washington State’s Reentry Housing Program for High Risk Offenders,” *Criminal Justice and Behavior* 41, no. 4 (April 2014): 471–91, <https://doi.org/10.1177/0093854813510164>; Roman and Travis, “Where Will I Sleep Tomorrow?”; Tsai and Rosenheck, “Incarceration Among Chronically Homeless Adults”; Willis and Grace, “The Quality of Community Reintegration Planning for Child Molesters.”

<sup>87</sup> Willis and Grace, “The Quality of Community Reintegration Planning for Child Molesters,” 234.

<sup>88</sup> Gwenda M. Willis and Randolph C. Grace, “Assessment of Community Reintegration Planning for Sex Offenders: Poor Planning Predicts Recidivism,” *Criminal Justice and Behavior* 36, no. 5 (May 2009): 494–512, <https://doi.org/10.1177/0093854809332874>.



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not.<sup>89</sup> Interestingly, Cann’s analysis determined that the implementation of a state residence restriction in 2011 did not appear to significantly impact the likelihood of being homelessness between those registered before and after the 2011 law; however, the pre-2011 registrants were more likely to recidivate and the average number of re-offenses per year increased from 42.11 to 48.86 after the residence restriction was implemented. These mixed results suggest both that the impact of residence restrictions may depend on state- and local factors, and that homelessness among registered sex offenders – regardless of its cause or duration – presents a public safety issue.

Planning for discharge from jail or prison, pre-release development of reentry plans, expanded transitional services, and programs providing targeted housing for ex-offenders can play a critical role in preventing homelessness and promoting housing stability, particularly for those ex-offenders who with histories of addiction, mental illness, or who have been convicted of a sexual offense. For example, Colorado’s efforts to address barriers to housing facing sex offenders returning to the community from prison reflect one strategy to mitigate the risk of recidivism in reentry. The Colorado Department of Public Safety, Division of Criminal Justice, Sex Offender Management conducted a research study on Shared Living Arrangements (SLAs), and found that high-risk sex offenders in in SLAs had significantly fewer violations than those who lived alone, with friends or families, in homeless shelters, or in jail and work release programs.<sup>90</sup> SLAs were also effective in promoting peer accountability and reporting of violations to probation and treatment providers.

These benefits are similar to Lutze and colleagues’ findings regarding the positive effect of having roommates in the Washington Reentry Housing Pilot Program.<sup>91</sup> Sober living homes and other housing programs with wraparound services incorporating treatment and supervision also appear to be positive interventions for sex offenders reentering society who may struggle with homelessness and housing instability. Unfortunately, there are few such programs currently available to sex offenders.<sup>92</sup>

### III. RESEARCH EVALUATING THE IMPACT OF RESIDENCE RESTRICTIONS

A second arena of research examines the impact of sex offender residence restrictions. Residence restrictions are based on the presumption that most if not all sex offenders recidivate, and that

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<sup>89</sup> Deanna Cann, “Sex Offender Policies That Spin the Revolving Door: An Exploration of the Relationships Between Residence Restrictions, Homelessness, and Recidivism” (Master’s Thesis, University of South Carolina, 2017), <https://scholarcommons.sc.edu/cgi/viewcontent.cgi?article=5269&context=etd>.

<sup>90</sup> Colorado Sex Offender Management Board, “Report on Safety Issues Raised by Living Arrangements for and Location of Sex Offenders in the Community” (Denver, CO: Colorado Department of Public Safety, 2004).

<sup>91</sup> Lutze, Rosky, and Hamilton, “Homelessness and Reentry.”

<sup>92</sup> Rolfe, Tewksbury, and Schroeder, “Homeless Shelters’ Policies on Sex Offenders.”

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restricting where known sex offenders live will prevent sexual victimization by minimizing opportunities for registered sex offenders to encounter children.<sup>93</sup>

The academic research on residence restrictions generally falls into three categories: first, how various residence restrictions influence the availability of housing for sex offenders; second, the impact of residence restrictions' potential on sexual reoffending; and third, studies examining the collateral consequences of residence restrictions on neighborhoods, sex offenders, and their families.

By 2008, more than half of all states had passed residence restriction laws for sex offenders, and nearly all other states imposed restrictions based on parole or probation requirements.<sup>94</sup> A 2017 nationwide survey of state sex offender registration and notification policies found thirty-seven states have residence and/or presence restrictions for registered sex offenders; state and local residence and presence restrictions apply to registrants who are residents as well as those who are visiting, even for short periods of time.<sup>95</sup>

Residence restrictions vary from state-to-state in terms of the buffer zones they establish, prohibited locations, and the categories of sex offenders to whom they apply. State and local residence restriction laws prohibit registered sex offenders from residing within certain distances (typically 500 – 2,500 feet) from various locations including schools, parks, daycares, playgrounds and other places where children are likely to congregate.<sup>96</sup> Most residence restrictions focus on prohibiting sex offenders from daycares, schools, and parks, other zoning laws may include libraries, community centers, places of worship, libraries, and recreational facilities,<sup>97</sup> while others include bus stops, which school districts may move frequently, and which greatly broaden excluded zones.<sup>98</sup> Although residence restrictions were implemented to keep sex offenders away from children, all but nine states enforced residence restrictions on offenders whose victims were adults in addition to those whose victims were children.<sup>99</sup> While many states apply residence

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<sup>93</sup> Bonnar-Kidd, "Sexual Offender Laws and Prevention of Sexual Violence or Recidivism"; Levenson and Tewksbury, "Collateral Damage"; Mary Maguire and Jennie Kaufman Singer, "A False Sense of Security: Moral Panic Driven Sex Offender Legislation," *Critical Criminology* 19, no. 4 (November 2011): 301–12, <https://doi.org/10.1007/s10612-010-9127-3>.

<sup>94</sup> Michelle L. Meloy, Susan L. Miller, and Kristin M. Curtis, "Making Sense out of Nonsense: The Deconstruction of State-Level Sex Offender Residence Restrictions," *American Journal of Criminal Justice* 33, no. 2 (October 2008): 209–22, <https://doi.org/10.1007/s12103-008-9042-2>.

<sup>95</sup> Shawn M. Rolfe, "When a Sex Offender Comes to Visit: A National Assessment of Travel Restrictions," *Criminal Justice Policy Review*, November 21, 2017, 088740341774294, <https://doi.org/10.1177/0887403417742948>.

<sup>96</sup> Christopher Lobanov-Rostovsky, "Adult Sex Offender Management," Sex Offender Management Assessment and Planning Initiative (Washington, D.C.: Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, 2015), <https://www.smart.gov/pdfs/AdultSexOffenderManagement.pdf>; Marcus Nieto and David Jung, *The Impact of Residency Restrictions on Sex Offenders and Correctional Management Practices: A Literature Review*, CRB 06–008 (Sacramento, CA: California State Library, California Research Bureau, 2006).

<sup>97</sup> Levenson, "Collateral Consequences of Sex Offender Residence Restrictions," June 2008.

<sup>98</sup> Levenson; Paul A. Zandbergen and Timothy C. Hart, "Reducing Housing Options for Convicted Sex Offenders: Investigating the Impact of Residency Restriction Laws Using GIS," *Justice Research and Policy* 8, no. 2 (December 2006): 1–24, <https://doi.org/10.3818/JRP.8.2.2006.1>.

<sup>99</sup> Lori McPherson, "The Sex Offender Registration and Notification Act (SORNA) at 10 Years: History, Implementation, and the Future," *Drake Law Review* 64 (2016): 741–96.

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restrictions to adult offenders only, 20% apply residence restrictions to both adult and juvenile offenders.<sup>100</sup>

The impact of residence restrictions in California illustrates several of the “collateral consequences” of residence restriction policies that are examined in the research literature. California voters enacted Proposition 83, the Sexual Predator Punishment and Control Act, known as “Jessica’s Law” in 2006, prohibiting offenders who committed certain sex crimes from residing within 2,000 feet of schools or parks. The law sought to “help Californians better protect themselves, their children, and their communities” by creating “predator-free zones around schools and parks.” The California Department of Corrections and Rehabilitation began enforcing residence restrictions as a mandatory condition of parole for all registered sex offenders, regardless of whether the crime was committed against a child, the location of their crime, or the offender’s potential dangerousness to the community. The rate of transient-registration among sex offender parolees skyrocketed from 88 when Proposition 83 was passed in November 2006 to over 2,100 by November 2010, three years into its enforcement.

Local governments throughout California subsequently passed their own residence restrictions, creating a web of varied and sometimes overlapping exclusion zones with few areas remaining where sex offenders could legally live. Enforcement by local and county officials also varied regarding the population subject to residence restrictions, with an unknown number of probation departments enforcing residence restrictions on individuals on probation for sex offenses. The implementation of state and local residence restriction policies in California created new challenges for sex offenders reentering society after incarceration, associated with increases in the number of sex offenders registering as “transient,” rising incidence of homelessness among them, and difficulties accessing treatment, counselling and other rehabilitative social services. Monitoring and enforcing residence restrictions also increased burdens on parole authorities and probation officers.

Several of these challenges and “collateral consequences” are reflected in the experience of other states and localities where the impact of sex offender residence restrictions has been studied. The following section provides an overview of scholarly research examining the impact of residence restrictions on housing availability, housing instability, and recidivism rates.

### Residence Restrictions Limit Housing Availability

The proliferation of residence restrictions at the state, local, and municipal level has significantly restricted housing options for registered sex offenders, and many areas lack housing that is legally available and affordable to sex offenders.<sup>101</sup>

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<sup>100</sup> Kelly M. Socia, “State Residence Restrictions and Forcible Rape Rates: A Multistate Quasi-Experimental Analysis of UCR Data,” *Sexual Abuse: A Journal of Research and Treatment* 27, no. 2 (April 2015): 205–27, <https://doi.org/10.1177/1079063213509412>.

<sup>101</sup> Kristen M. Zgoba, Jill S. Levenson, and Tracy McKee, “Examining the Impact of Sex Offender Residence Restrictions on Housing Availability,” *Criminal Justice Policy Review* 20, no. 1 (March 2009): 91–110, <https://doi.org/10.1177/0887403408322119>.



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Coupled with laws requiring sex offender registration and notification (SORN), research examining the implementation of residence restrictions find that they significantly increased the difficulty of finding compliant, affordable housing for registered sex offenders.<sup>102</sup>

Studies mapping the scope of locations and areas covered by residency restrictions reveal vast zones from which RSOs are effectively banished. Residence restrictions imposing large spatial restriction zones limit the availability and affordability of housing available to sex offenders.<sup>103</sup> In some areas, up to 97% of residentially zoned properties fall within restricted zones,<sup>104</sup> with the remaining areas consisting of less available and less affordable housing.<sup>105</sup> Some studies showed that registrants were living in non-compliant restricted zones.<sup>106</sup>

Researchers examining the impact of residence restrictions using spatial analysis have determined that larger buffer zones significantly decrease the availability of compliant housing for registered sex offenders. For example, in an analysis of proposed residence restrictions in four populous counties in South Carolina, Barnes, Dukes, Tewksbury, and De Troye (2009) found that 19.5% of registrants would be in violation of a 1,000 foot restriction, and nearly half (45.4%) of all unoccupied residential property in all four counties would become restricted; the proposed one-mile restriction would have prevented over 80% of registrants from maintaining their current residence, adding significant distances to treatment centers. Similarly, in an analysis of Orange County, Florida, 95% of 137,000 residential parcels were located within 1,000 feet of locations where children gather such as schools, daycares, school bus stops, and parks; increasing the buffer zone to 2,500 excluded all but 37 properties, over 99% of residential parcels in the county.<sup>107</sup> Only

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<sup>102</sup> Rolfe, 13.

<sup>103</sup> Barnes et al., “Analyzing the Impact of a Statewide Residence Restriction Law on South Carolina Sex Offenders”; Michael Chajewski and Cynthia Calkins Mercado, “An Evaluation of Sex Offender Residency Restriction Functioning in Town, County, and City-Wide Jurisdictions,” *Criminal Justice Policy Review* 20, no. 1 (March 2009): 44–61, <https://doi.org/10.1177/0887403408320845>; Tony H. Grubestic, “Sex Offender Clusters,” *Applied Geography* 30, no. 1 (January 2010): 2–18, <https://doi.org/10.1016/j.apgeog.2009.06.002>; Tony H. Grubestic, Alan T. Murray, and Elizabeth A. Mack, “Sex Offenders, Housing and Spatial Restriction Zones,” *GeoJournal* 73, no. 4 (December 2008): 255–69, <https://doi.org/10.1007/s10708-008-9197-x>; Tony Grubestic, Alan Murray, and Elizabeth Mack, “Sex Offenders, Residence Restrictions, Housing, and Urban Morphology: A Review and Synthesis,” *Cityscape: A Journal of Policy Development and Research* 13, no. 3 (2011): 7–31; Zandbergen and Hart, “Reducing Housing Options for Convicted Sex Offenders”; Zgoba, Levenson, and McKee, “Examining the Impact of Sex Offender Residence Restrictions on Housing Availability.”

<sup>104</sup> Jacqueline A. Berenson and Paul S. Appelbaum, “A Geospatial Analysis of the Impact of Sex Offender Residency Restrictions in Two New York Counties,” *Law and Human Behavior* 35, no. 3 (2011): 235–46, <https://doi.org/10.1007/s10979-010-9235-3>.

<sup>105</sup> Socia, “The Policy Implications of Residence Restrictions on Sex Offender Housing in Upstate NY”; Zandbergen and Hart, “Availability and Spatial Distribution of Affordable Housing in Miami-Dade County and Implications of Residency Restriction Zones for Registered Sex Offenders”; Zgoba, Levenson, and McKee, “Examining the Impact of Sex Offender Residence Restrictions on Housing Availability.”

<sup>106</sup> Barnes et al., “Analyzing the Impact of a Statewide Residence Restriction Law on South Carolina Sex Offenders”; Chajewski and Mercado, “An Evaluation of Sex Offender Residency Restriction Functioning in Town, County, and City-Wide Jurisdictions”; Zgoba, Levenson, and McKee, “Examining the Impact of Sex Offender Residence Restrictions on Housing Availability.”

<sup>107</sup> Zandbergen and Hart, “Reducing Housing Options for Convicted Sex Offenders.”

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4% of almost one million residential parcels examined in Miami were compliant with state and local residence restrictions, and only 1% were renting at \$1250 or less per month.<sup>108</sup>

In some areas, nearly all residential dwellings are included within restricted zones, limiting the ability of RSOs and their families to access affordable, stable housing that complies with state and local residency restrictions.<sup>109</sup> Geospatial analyses of residence restrictions suggest that residence restrictions effectively exclude registrants from living in most urban areas, and that many offenders resided in “restricted” zones.<sup>110</sup> Residence restrictions in some communities have resulted in “clustering,” concentrating registered sex offenders in the limited areas where legally compliant housing is available,<sup>111</sup> often in poorer, more “socially disorganized” neighborhoods.<sup>112</sup> This dynamic can also create negative effects for the communities where sex offenders can reside, for example, by impacting local property values.<sup>113</sup> States and localities, including cities in California, New York, and Wisconsin have attempted to address the concentration of registered sex offenders by limiting the number of offenders that can live with or near each other to disperse registrants.<sup>114</sup>

Some research has shown that registered sex offenders are more likely to live near areas that would fall under a residency restriction.<sup>115</sup> However, Tewksbury and Mustaine (2008) caution that an alternative explanation of this proximity may be due to the fact that people with a felony conviction are more likely to be less affluent and suffer other social barriers forcing them to live in lower

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<sup>108</sup> Zandbergen and Hart, “Availability and Spatial Distribution of Affordable Housing in Miami-Dade County and Implications of Residency Restriction Zones for Registered Sex Offenders.”

<sup>109</sup> Barnes et al., “Analyzing the Impact of a Statewide Residence Restriction Law on South Carolina Sex Offenders”; Socia, “The Policy Implications of Residence Restrictions on Sex Offender Housing in Upstate NY.”

<sup>110</sup> Berenson and Appelbaum, “A Geospatial Analysis of the Impact of Sex Offender Residency Restrictions in Two New York Counties.”

<sup>111</sup> Grubestic, Murray, and Mack, “Sex Offenders, Residence Restrictions, Housing, and Urban Morphology: A Review and Synthesis”; Kelly M. Socia, “Too Close for Comfort? Registered Sex Offender Spatial Clustering and Recidivistic Sex Crime Arrest Rates,” *Sexual Abuse: A Journal of Research and Treatment* 25, no. 6 (December 2013): 531–56, <https://doi.org/10.1177/1079063212469061>.

<sup>112</sup> Hipp, Turner, and Jannetta, “Are Sex Offenders Moving into Social Disorganization?”; Elizabeth Ehrhardt Mustaine, Richard Tewksbury, and Kenneth M. Stengel, “Social Disorganization and Residential Locations of Registered Sex Offenders: Is This a Collateral Consequence?,” *Deviant Behavior* 27, no. 3 (July 2006): 329–50, <https://doi.org/10.1080/01639620600605606>; Kelly M. Socia, “Residence Restrictions Are Ineffective, Inefficient, and Inadequate: So Now What?: Sex Offender Residence Restrictions,” *Criminology & Public Policy* 13, no. 1 (February 2014): 179–88, <https://doi.org/10.1111/1745-9133.12071>; Socia and Stamatel, “Assumptions and Evidence Behind Sex Offender Laws”; Richard Tewksbury and Elizabeth Ehrhardt Mustaine, “Where Registered Sex Offenders Live: Community Characteristics and Proximity to Possible Victims,” *Victims & Offenders* 3, no. 1 (January 15, 2008): 86–98, <https://doi.org/10.1080/15564880701752371>.

<sup>113</sup> Leigh Linden and Jonah E Rockoff, “Estimates of the Impact of Crime Risk on Property Values from Megan’s Laws,” *American Economic Review* 98, no. 3 (May 2008): 1103–27, <https://doi.org/10.1257/aer.98.3.1103>; Jaren C. Pope, “Fear of Crime and Housing Prices: Household Reactions to Sex Offender Registries,” *Journal of Urban Economics* 64, no. 3 (November 2008): 601–14, <https://doi.org/10.1016/j.jue.2008.07.001>.

<sup>114</sup> Grubestic, Murray, and Mack, “Sex Offenders, Residence Restrictions, Housing, and Urban Morphology: A Review and Synthesis.”

<sup>115</sup> Chajewski and Mercado, “An Evaluation of Sex Offender Residency Restriction Functioning in Town, County, and City-Wide Jurisdictions”; Zgoba, Levenson, and McKee, “Examining the Impact of Sex Offender Residence Restrictions on Housing Availability.”

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income neighborhoods, which tend to be in more densely populated urban areas where residential housing is closer to schools and other sites where children tend to be.<sup>116</sup>

Although much of the scholarly literature examining housing issues for sex offenders focuses on urban areas, rural sex offenders can also face housing difficulties.<sup>117</sup> Efforts to identify housing for sex offenders in rural areas can spark community opposition. For example, Williams' study of placements of high risk sex offenders in California examined how different communities responded to the public notice and meetings regarding decisions to house registered sex offenders on parole in their neighborhood, including protests, legal action, awareness-raising campaigns, and other attempts by community members to challenge housing determinations and private rentals to sex offenders.<sup>118</sup>

### **Residence Restrictions Increase Housing Instability and Mobility**

Residence restrictions can increase housing instability for sex offenders. Limiting available, affordable housing can lead to housing instability as well as transience, particularly in densely populated urban areas. The likelihood of an offender registering as transient is higher in jurisdictions with residence restrictions than those without.<sup>119</sup> For example, research on the impact of residence restrictions in Florida has determined that increasing the distance of such restrictions is associated with increases in transience and homelessness, and decreases in employment opportunities.<sup>120</sup> In areas characterized by high population density and expensive housing costs, wide-distance residence restrictions, extensive areas covered by local laws, and bus stop restrictions can create a "perfect storm" for homelessness and displacement of sex offenders.<sup>121</sup>

Residence restrictions are also associated with an increase in mobility, which can pose challenges for successful reentry as well as effective supervision. In Broward County, Florida, Levenson (2008) determined that residence restrictions forced the average sex offender to move at least twice; 42% were unable to return to their home when released from prison, 22% had to move out of a home they owned, 33% had to move from a rental, 22% reported that family members had been forced to move, and 17% reported becoming homeless. 28% of respondents reported that they were considered in violation of probation due to a residence restriction, and 13% indicated they had spent time in jail due to a residence violation.

Research on the impact of residence restrictions in other states also revealed that they resulted in increased housing instability and mobility. One NIJ-funded study of registered sex offenders on parole in Michigan and Missouri found that those released after residence restrictions were implemented had significantly more address changes than those released before the policy was enacted, and that parolees released to non-residential settings such as motels, shelters, or

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<sup>116</sup> Tewksbury and Mustaine, "Where Registered Sex Offenders Live."

<sup>117</sup> Richard Tewksbury, Elizabeth Ehrhardt Mustaine, and Kenneth M. Stengel, "Residential Concentrations of Rural Registered Sex Offenders," *American Journal of Criminal Justice* 31, no. 2 (September 13, 2007): 49–63, <https://doi.org/10.1007/s12103-007-9004-0>.

<sup>118</sup> Williams, "Constructing Hysteria"; Williams, *The Sex Offender Housing Dilemma*.

<sup>119</sup> Levenson et al., "Where for Art Thou?"; Socia, "State Residence Restrictions and Forcible Rape Rates."

<sup>120</sup> Levenson, "Collateral Consequences of Sex Offender Residence Restrictions," June 2008.

<sup>121</sup> Levenson et al., "Where for Art Thou?," 20.

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transitional housing experienced much higher degrees of mobility than individuals with homes, as did sex offenders with victims under the age of 13.<sup>122</sup> Paroled sex offenders subject to residence restrictions were significantly more likely to move 3 - 5 times compared with those paroled before the restrictions were imposed.

Mobility and housing instability are risk factors for recidivism and unsuccessful reentry. Studies have shown that offenders who move multiple times are more likely to engage in future crimes, particularly property and substance-abuse related crimes.<sup>123</sup> Probationers who moved multiple times were nearly twice as likely as non-moving probationers to have a disciplinary hearing in a national sample of over 2000 male and female probationers.<sup>124</sup> Another study of over 6,000 parolees in Georgia determined that the risk of being arrested increased by 25% each time a parolee relocated, and moving three times while on parole doubled the likelihood of recidivism.<sup>125</sup> A study of over 4,000 parolees in California found that residential instability was the strongest predictor of absconding.<sup>126</sup> Levenson's studies of homelessness among sex offenders in Florida revealed that, compared to sex offenders with permanent homes, transient sex offenders were more likely to fail to register, to abscond from registration, and to fail to properly register.<sup>127</sup>

Notably, residence restriction laws can also prevent registered sex offenders from returning to their homes, even if they own the residence. Half of the 135 sex offenders surveyed in two Florida cities reported that they had to move from a home they had been renting or owned because of a residence restriction.<sup>128</sup> Moreover, once-compliant housing can become noncompliant, for example, if a day care center opens nearby. As a result, residence restrictions can work to exclude individuals from safe, stable, and affordable housing, and increase mobility among registered sex offenders.

Research regarding sex offender housing has found that many registered sex offenders reside in more "socially disorganized" neighborhoods than where they resided at the time of their

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<sup>122</sup> Rydberg et al., "The Effect of Statewide Residency Restrictions on Sex Offender Post-Release Housing Mobility."

<sup>123</sup> Benjamin Steiner, Matthew D. Makarios, and Lawrence F. Travis, "Examining the Effects of Residential Situations and Residential Mobility on Offender Recidivism," *Crime & Delinquency* 61, no. 3 (April 2015): 375–401, <https://doi.org/10.1177/0011128711399409>.

<sup>124</sup> Jennifer L. Schulenberg, "Predicting Noncompliant Behavior: Disparities in the Social Locations of Male and Female Probationers," *Justice Research and Policy* 9, no. 1 (June 2007): 25–57, <https://doi.org/10.3818/JRP.9.1.2007.25>.

<sup>125</sup> Tammy Meredith, John C. Speir, and Sharon Johnson, "Developing and Implementing Automated Risk Assessments in Parole," *Justice Research and Policy* 9, no. 1 (June 2007): 1–24, <https://doi.org/10.3818/JRP.9.1.2007.1>.

<sup>126</sup> Williams, McShane, and Dolny, "Predicting Parole Absconders."

<sup>127</sup> Jill S. Levenson, "Hidden Challenges: Sex Offenders Legislated into Homelessness," *Journal of Social Work* 18, no. 3 (May 2018): 348–63, <https://doi.org/10.1177/1468017316654811>; Levenson et al., "Where for Art Thou?"

<sup>128</sup> Jill S. Levenson and Leo P. Cotter, "The Impact of Sex Offender Residence Restrictions: 1,000 Feet From Danger or One Step From Absurd?," *International Journal of Offender Therapy and Comparative Criminology* 49, no. 2 (April 2005): 168–78, <https://doi.org/10.1177/0306624X04271304>.

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offenses,<sup>129</sup> relocating to areas characterized by high rates of crime and poverty and low rates of quality housing.<sup>130</sup>

One study of parolees released in California from 2005 – 2006 found that sex offenders were moving into neighborhoods characterized by “more concentrated disadvantage and residential instability” when reentering the community and on later moves.<sup>131</sup> A 2016 follow-up study tracking sex offenders from Mustaine and colleague’s 2006 study after fifteen years on the registry found that out of over 200 sex offenders, not one had moved to a less socially disorganized neighborhood since being arrested for the sex offense(s) that led to their registration, and all of those who did move did so into more disorganized and deprived neighborhoods.<sup>132</sup>

The dynamics of this phenomenon intersect with race and class. Research examining the residence of sex offenders in Chicago found that sex offenders were concentrated in neighborhoods that have higher levels of poverty and proportionally larger populations of African Americans.<sup>133</sup> Hipp and colleagues (2010) found that sex offender parolees in California were more likely to move into neighborhoods with greater proportions of Latinos and African Americans and less likely to enter neighborhoods with more white people.<sup>134</sup> In another study, registered sex offenders who were African-American tended to reside in neighborhoods that were more socially disorganized than those where white sex offenders lived.<sup>135</sup> While those individuals who originally resided in socially disorganized neighborhoods at the time of their offense were less likely to experience mobility into more socially disorganized neighborhoods,<sup>136</sup> “non-white registered sex offenders were the most likely to experience a decline in neighborhood quality 5 years into registration.”<sup>137</sup>

Living in high-crime areas can mean increased exposure to violence, drug use, criminogenic factors that can exacerbate the risk of recidivism and undermine treatment and supervision goals. Because disadvantaged and socially disorganized neighborhoods also tend to be located farther away from resources and social supports, such as treatment programs, this can create additional challenges to successful reentry and desistance from offending.<sup>138</sup>

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<sup>129</sup> Hipp, Turner, and Jannetta, “Are Sex Offenders Moving into Social Disorganization?”; Mustaine, Tewksbury, and Stengel, “Social Disorganization and Residential Locations of Registered Sex Offenders.”

<sup>130</sup> Karen E. Gordon, “The Registered Sex Offender Population as a Marker of Social Disorganisation,” *The Howard Journal of Criminal Justice*, July 2013, 527–42, <https://doi.org/10.1111/hojo.12024>; Mustaine and Tewksbury, “Residential Relegation of Registered Sex Offenders”; Tewksbury, Mustaine, and Rolfe, “Sex Offender Residential Mobility and Relegation.”

<sup>131</sup> Hipp, Turner, and Jannetta, “Are Sex Offenders Moving into Social Disorganization?”

<sup>132</sup> Tewksbury, Mustaine, and Rolfe, “Sex Offender Residential Mobility and Relegation.”

<sup>133</sup> Hughes and Burchfield, “Sex Offender Residence Restrictions in Chicago”; Geetha Suresh et al., “Social Disorganization and Registered Sex Offenders: An Exploratory Spatial Analysis,” *Southwest Journal of Criminal Justice* 7, no. 2 (2010): 180–213.

<sup>134</sup> Hipp, Turner, and Jannetta, “Are Sex Offenders Moving into Social Disorganization?”

<sup>135</sup> Tewksbury and Mustaine, “Where Registered Sex Offenders Live.”

<sup>136</sup> Elizabeth Ehrhardt Mustaine, Richard Tewksbury, and Kenneth M. Stengel, “Residential Location and Mobility of Registered Sex Offenders,” *American Journal of Criminal Justice* 30, no. 2 (March 2006): 177–92, <https://doi.org/10.1007/BF02885890>.

<sup>137</sup> Tewksbury, Mustaine, and Rolfe, “Sex Offender Residential Mobility and Relegation.”

<sup>138</sup> Jill S. Levenson and Andrea L. Hern, “Sex Offender Residence Restrictions: Unintended Consequences and Community Reentry,” *Justice Research and Policy* 9, no. 1 (June 2007): 59–73, <https://doi.org/10.3818/JRP.9.1.2007.59>; Cynthia Calkins Mercado, Shea Alvarez, and Jill S. Levenson, “The Impact



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In addition, residence requirements can often create challenges for the families of sex offenders by, for example, creating financial strains by paying for two residences and disrupting potentially stabilizing relationships with family members who may provide support in the reentry process.<sup>139</sup> Researchers surmise that such instability and multiple moves not only “attenuat[e] prosocial bonds,” but are also “likely to lead to financial and emotional stress that are inconducive to recovery.”<sup>140</sup>

Leveson summarizes over a decade of research evaluating the impacts of residence restrictions and homelessness among sex offenders by noting that “displacement precludes family support and access to treatment services, and often relocates offenders to high crime and impoverished areas where drugs, prostitution, and vulnerable families tend to be prevalent. Factors such as substance abuse, negative moods, hostility, depression, and anxiety all exacerbate reoffense risk, and psychosocial stressors challenge the already deficient coping strategies of many offenders. When people believe they have nothing to lose, they act accordingly.”<sup>141</sup>

In sum, blanket residence restrictions that apply to all registered sex offenders can limit housing availability, exacerbate housing instability, increase mobility into more socially disorganized communities, and lead to homelessness and transient status – all of which can create barriers to community integration, successful treatment, and effective supervision by parole and law enforcement officials.

### Residence Restrictions Have Little Impact on the Prevention of Reoffending

Much of the academic research on residence restrictions aims to evaluate their potential to prevent reoffending. However, research shows that the location of a sex offenders’ residence does not appear to contribute to victim selection, casting doubt on the assumptions regarding repeat predatory behavior that underlie residence restriction laws. In fact, one study found that sex offenders were more likely to seek victims from a neighborhood other than where they lived to avoid recognition.<sup>142</sup> Zandbergen et al. (2010) used a GIS mapping system to determine if sex offender residences and proximity to schools and daycares effected recidivism rates in Florida,

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of Specialized Sex Offender Legislation on Community Reentry,” *Sexual Abuse: A Journal of Research and Treatment* 20, no. 2 (June 2008): 188–205, <https://doi.org/10.1177/1079063208317540>.

<sup>139</sup> Levenson, “Collateral Consequences of Sex Offender Residence Restrictions,” June 2008; Jill S. Levenson and Leo P. Cotter, “The Effect of Megan’s Law on Sex Offender Reintegration,” *Journal of Contemporary Criminal Justice* 21, no. 1 (February 2005): 49–66, <https://doi.org/10.1177/1043986204271676>; Levenson and Hern, “Sex Offender Residence Restrictions”; Levenson and Tewksbury, “Collateral Damage”; Mercado, Alvarez, and Levenson, “The Impact of Specialized Sex Offender Legislation on Community Reentry”; Richard Tewksbury and Jill S. Levenson, “Stress Experiences of Family Members of Registered Sex Offenders,” *Behavioral Sciences & the Law* 27, no. 4 (July 2009): 611–26, <https://doi.org/10.1002/bsl.878>.

<sup>140</sup> Joanne Savage and Casey Windsor, “Sex Offender Residence Restrictions and Sex Crimes against Children: A Comprehensive Review,” *Aggression and Violent Behavior* 43 (November 2018): 13, <https://doi.org/10.1016/j.avb.2018.08.002>.

<sup>141</sup> Levenson, “Hidden Challenges,” 355.

<sup>142</sup> Minnesota Department of Corrections, “Level Three Sex Offenders Residential Placement Issues: L;’Report to the Legislature” (St. Paul, MN, 2003).

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finding that sex offenders who live closer to these locations were not more likely to re-offend than those living farther away.<sup>143</sup>

Research does not provide any evidence that residential proximity to schools or parks is significantly related to sexual reoffending. The Colorado Department of Public Safety mapped the addresses of sex offenders, schools, and daycare centers, and determined that recidivists did not live closer to these locations.<sup>144</sup> An examination of the residence location of sex offenders with child victims in New Jersey found that they were no more likely to live near schools than random non-offender community members or sex offenders with known/acquainted, adult victims.<sup>145</sup> Other research indicates that parks and schools are among the least common locations where offenders meet their victims, suggesting that false assumptions and “moral panic” about sex offending inform sex crimes legislation.<sup>146</sup>

Maguire and Singer’s 2011 study examining recidivism among California sex offenders found a lack of evidence or statistical correlation between a sex offender’s residence and choice of victim. Examining the records of 160 recidivist sex offenders in California (16% of which were homeless at the time of the sex offense), the study determined that “the location point of a school or park appears to be irrelevant to those who offend against children and for those who offend against adults.”<sup>147</sup> Although 62.5% of the sex offenses occurred at the offender’s home, and 75.0% of cases occurred within one-half mile of the offender’s home, neither parks nor schools were a significant place for offenders to contact victims; instead the most frequent location found was “other public location” (39.4%), about as likely as the 36.3% of offenders who met the victim in their own home (10.9%), the victim’s home (14.5%), or among family (10.9%). Similar to other studies, Maguire and Singer’s 2011 analysis of recidivist sex offenders found that sex offenses against children were much more likely to be committed by someone known to the child, rather than a stranger, as 87.2% of sex offenses against children involved an acquaintance, family member, or someone in a close relationship.<sup>148</sup>

Interestingly, the researchers called attention to the desirability of disaggregating statistics on “recidivism” to distinguish technical violations of parole from the commission of new, registerable sex crimes. Of the individuals who had been on parole with a “sex registration flag” between 2001-2008, 32% returned to custody for a new sex crime, but 71% of this group was returned to custody due to failure to register, and 28% returned for “minor sex crimes not requiring registration.”<sup>149</sup> Although failure to register has been correlated with non-sexual recidivism, particularly among

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<sup>143</sup> Paul A. Zandbergen, Jill S. Levenson, and Timothy C. Hart, “Residential Proximity to Schools and Daycares: An Empirical Analysis of Sex Offense Recidivism,” *Criminal Justice and Behavior* 37, no. 5 (May 2010): 482–502, <https://doi.org/10.1177/0093854810363549>.

<sup>144</sup> Colorado Sex Offender Management Board, “Report on Safety Issues Raised by Living Arrangements for and Location of Sex Offenders in the Community.”

<sup>145</sup> Chajewski and Mercado, “An Evaluation of Sex Offender Residency Restriction Functioning in Town, County, and City-Wide Jurisdictions.”

<sup>146</sup> Maguire and Singer, “A False Sense of Security.”

<sup>147</sup> Maguire and Singer, 310.

<sup>148</sup> Maguire and Singer, “A False Sense of Security.”

<sup>149</sup> Maguire and Singer, 308.



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individuals with “a history of persistent and versatile criminal offending patterns,”<sup>150</sup> studies of registry non-compliance found that sex offenders with registry violations are generally not more sexually dangerous than those in compliance.<sup>151</sup>

Moreover, analysis of recidivism patterns and locations suggests that “stranger danger” offenses that occur in public spaces are relatively rare, and that residence restrictions are unlikely to prevent sexual reoffending. An analysis of 224 repeat sex offenses over twelve years in Minnesota indicated that residence restriction laws would not have prevented a single sexual re-offense: offenders typically made initial contact with victims over one mile away from the offender’s residence, offenders contacting juvenile victims did not do so near child congregation locations; and predatory assaults occurring within one mile of the offender’s residence typically involved adult victims, not children.<sup>152</sup> The study found that that 79% of the offenders knew the victim prior to the offense, 85% of the reoffenses occurred in a residential location, and 39% of reoffenses occurred outside the home. Only 9% occurred within one mile of the offender’s residence, and of these, only three offenders made contact with a victim at a restricted location – one involved an adult victim, and two of the three were not near the offender’s residence.<sup>153</sup>

Similarly, a study of offense location data from the files of 1,468 sex offenders confirmed that only 0.05% of offenses were perpetrated by a stranger against a child in a location prohibited by residence restrictions or child safety zone laws, and only 4% of all cases occurred in these spaces.<sup>154</sup> Other studies also conclude that a small percentage of registered sex offenders make contact with minor victims in areas prohibited under residence restriction laws, such as schools, churches, parks, and bus stops.<sup>155</sup>

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<sup>150</sup> Andrew J. Harris et al., “Law Enforcement Perspectives on Sex Offender Registration and Notification: Effectiveness, Challenges, and Policy Priorities,” *Criminal Justice Policy Review* 29, no. 4 (May 2018): 811, <https://doi.org/10.1177/0887403416651671>.

<sup>151</sup> Grant Duwe and William Donnay, “The Effects of Failure to Register on Sex Offender Recidivism,” *Criminal Justice and Behavior* 37, no. 5 (May 2010): 520–36, <https://doi.org/10.1177/0093854810364106>; Jill S. Levenson et al., “Failure to Register as a Sex Offender: Is It Associated with Recidivism?,” *Justice Quarterly* 27, no. 3 (June 2010): 305–31, <https://doi.org/10.1080/07418820902972399>; Jill S. Levenson, Jeffrey C. Sandler, and Naomi J. Freeman, “Failure-to-Register Laws and Public Safety: An Examination of Risk Factors and Sex Offense Recidivism,” *Law and Human Behavior* 36, no. 6 (2012): 555–65, <https://doi.org/10.1037/b0000002>; Kristen M. Zgoba and Jill Levenson, “Failure to Register as a Predictor of Sex Offense Recidivism: The Big Bad Wolf or a Red Herring?,” *Sexual Abuse: A Journal of Research and Treatment* 24, no. 4 (August 2012): 328–49, <https://doi.org/10.1177/1079063211421019>.

<sup>152</sup> Grant Duwe, William Donnay, and Richard Tewksbury, “Does Residential Proximity Matter? A Geographic Analysis of Sex Offense Recidivism,” *Criminal Justice and Behavior* 35, no. 4 (April 2008): 484–504, <https://doi.org/10.1177/0093854807313690>.

<sup>153</sup> Duwe, Donnay, and Tewksbury.

<sup>154</sup> Cynthia Calkins et al., “Where Do Sex Crimes Occur? How an Examination of Sex Offense Location Can Inform Policy and Prevention,” *International Journal of Comparative and Applied Criminal Justice* 39, no. 2 (April 3, 2015): 99–112, <https://doi.org/10.1080/01924036.2014.973047>.

<sup>155</sup> Nicole Colombino, Cynthia Calkins Mercado, and Elizabeth L. Jeglic, “Situational Aspects of Sexual Offending: Implications for Residence Restriction Laws,” *Justice Research and Policy* 11, no. 1–2 (December 2009): 27–43, <https://doi.org/10.3818/JRP.11.2009.27>; Nicole Colombino et al., “Preventing Sexual Violence: Can Examination of Offense Location Inform Sex Crime Policy?,” *International Journal of Law and Psychiatry* 34, no. 3 (May 2011): 160–67, <https://doi.org/10.1016/j.ijlp.2011.04.002>; Melanie Clark Mogavero and Leslie W. Kennedy, “The Social and Geographic Patterns of Sexual Offending: Is Sex Offender Residence Restriction Legislation Practical?,” *Victims & Offenders* 12, no. 3 (May 4, 2017): 401–33, <https://doi.org/10.1080/15564886.2015.1084962>.

Findings from the research literature challenge the underlying policy rationale for residence restrictions – that sex offenders are highly likely to reoffend, that they are strangers, and that they look for potential child victims near their homes. As the vast majority of child sexual offenses are committed by someone in a position of trust or authority known to the child and their families, scholars conclude that social proximity, rather than residential proximity to schools or parks, increases the risks of predatory behavior by individuals with pedophilic disorders, findings that should inform correctional interventions as well as prevention efforts.<sup>156</sup>

### **Residence Restrictions Do Not Appear to Prevent Sexual Recidivism or Child Victimization**

Empirical research regarding the impact of residence restrictions has not shown that they are effective in preventing sexual offending or re-offending. In fact, several scholars and treatment professionals have recently called for the reform of blanket residence restriction laws to instead focus on individualized risk factors.<sup>157</sup>

Research in Florida assessing sexual recidivists and non-recidivists found that individuals living within 2,500 feet of schools and daycare centers did not reoffend more frequently than those who lived farther away; moreover, there was no significant correlation between the distance an offender lived from a school and sexual recidivism, even though the two groups were matched on risk factors including prior arrests, age, marital status, and predator status.<sup>158</sup> Similarly, a longitudinal study assessing the impact of a 2,500 foot residence restriction in Jacksonville, Florida, found no reduction in sex crime arrests rates or sex offender recidivism.<sup>159</sup> Huebner et al. (2014) found that residence restrictions had minimal impact on sexual reoffending, although general re-arrest rates went in different directions – up in Michigan and down in Missouri after passage of the law, “cast[ing] doubt on the potential usefulness” of residence restrictions.<sup>160</sup>

Nor do residence restrictions appear to be helpful in preventing sexual victimization of children. A study assessing the impact of Iowa’s 2,000 foot residence restriction concluded that the law “does not seem to have led to fewer charges or convictions, indicating that there probably have not been fewer child victims.”<sup>161</sup> Socia’s 2014 review of six studies examining the effects of residence restriction laws concluded that “[n]o study has found that residence restrictions resulted (or would

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<sup>156</sup> Calkins et al., “Where Do Sex Crimes Occur?”; Duwe, Donnay, and Tewksbury, “Does Residential Proximity Matter?”

<sup>157</sup> Levenson, “Hidden Challenges”; Mogavero and Kennedy, “The Social and Geographic Patterns of Sexual Offending”; Socia, “Residence Restrictions Are Ineffective, Inefficient, and Inadequate.”

<sup>158</sup> Zandbergen, Levenson, and Hart, “Residential Proximity to Schools and Daycares.”

<sup>159</sup> Matt R. Nobles, Jill S. Levenson, and Tasha J. Youstin, “Effectiveness of Residence Restrictions in Preventing Sex Offense Recidivism,” *Crime & Delinquency* 58, no. 4 (July 2012): 491–513, <https://doi.org/10.1177/0011128712449230>.

<sup>160</sup> Huebner et al., “The Effect and Implications of Sex Offender Residence Restrictions,” 139.

<sup>161</sup> P. Blood, L. Watdon, and P. Stageberg, “State Legislation Monitoring Report” (Des Moines, IA: Criminal and Juvenile Justice Planning, 2008), 10.

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result) in a significant decrease in child victims of sex crimes,”<sup>162</sup> citing evidence from a studies examining laws in a variety of states.<sup>163</sup>

In their meta-analysis reviewing empirical studies of residence restrictions, Savage and Windsor (2018) identify only one study that directly examines the effect of residence restrictions on child sexual recidivism.<sup>164</sup> Socia’s study found that having a residence restriction in place was negatively correlated with recidivistic and non-recidivistic sex crime against children; however, this association was not significant in multivariate models using monthly panel data from counties in New York State. This led Socia to conclude that residence restrictions were *not* associated with reductions in the rate of sex crimes against children. However, Savage and Windsor (2018) suggest a caveat that this conclusion should be tempered by the possibility that the initial correlation between the residence restriction and a reduction in sex crime against children may have been undermined by potential early effects (e.g., people hearing residence restrictions were going to be in effect), or delayed effects (after implementation) that remained unaccounted for in Socia’s analysis.

All told, there is little evidence that residence restrictions work to prevent crime or sexual victimization. In fact, some studies suggest that the implementation of residence restrictions is associated with increases, rather than decreases, in crime, both in terms of sexual recidivism,<sup>165</sup> as well as overall rates of sexual offending.<sup>166</sup> For example, a 2014 study comparing registered sex offenders and a control group of matched non-sexual offenders found that the rate of recidivism actually increased among registered sex offenders after the residence restriction law was implemented.<sup>167</sup>

The mixed results of residence restrictions and their negative unintended consequences are described in a 2015 report from the U.S. Department of Justice SMART Office (Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking), which released a summary of research on the effectiveness of management systems for individuals convicted of sexual offenses. The report concluded that “the evidence is fairly clear that residence restrictions are not effective,” and that “research suggests that residence restrictions may actually increase offender risk by undermining offender stability and the ability of the offender to obtain housing, work, and family support. There is nothing to suggest this policy should be used at this time.”<sup>168</sup>

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<sup>162</sup> Socia, “Residence Restrictions Are Ineffective, Inefficient, and Inadequate,” 181.

<sup>163</sup> Blood, Watdon, and Stageberg, “State Legislation Monitoring Report”; Jill Levenson, K Zgoba, and R Tewksbury, *Sex Offender Residence Restrictions: Sensible Crime Policy or Flawed Logic?*, vol. 71, 2007, [https://www.uscourts.gov/sites/default/files/71\\_3\\_1\\_0.pdf](https://www.uscourts.gov/sites/default/files/71_3_1_0.pdf); Minnesota Department of Corrections, “Residential Proximity & Sex Offender Recidivism in Minnesota” (St. Paul, MN: Minnesota Department of Corrections, 2007); Socia, “State Residence Restrictions and Forcible Rape Rates”; Zandbergen, Levenson, and Hart, “Residential Proximity to Schools and Daycares.”

<sup>164</sup> Socia, “The Policy Implications of Residence Restrictions on Sex Offender Housing in Upstate NY.”

<sup>165</sup> Blood, Watdon, and Stageberg, “State Legislation Monitoring Report”; Nobles, Levenson, and Youstin, “Effectiveness of Residence Restrictions in Preventing Sex Offense Recidivism.”

<sup>166</sup> Nobles, Levenson, and Youstin, “Effectiveness of Residence Restrictions in Preventing Sex Offense Recidivism”; Socia, “State Residence Restrictions and Forcible Rape Rates.”

<sup>167</sup> Huebner et al., “The Effect and Implications of Sex Offender Residence Restrictions.”

<sup>168</sup> Lobanov-Rostovsky, “Adult Sex Offender Management,” 4.

Because residence restrictions “disrupt stability, create barriers to steady employment, and banish individuals far from their most helpful social support systems,” a growing consensus is emerging among academic researchers, treatment professionals, and law enforcement officers regarding the need to reform policies enforcing blanket residence restrictions on all sex offenders to improve treatment, supervision, and reentry outcomes.<sup>169</sup>

## IV. COLLATERAL CONSEQUENCES OF SEX OFFENDER REGISTRATION, NOTIFICATION, AND RESIDENCE RESTRICTION POLICIES: CREATING BARRIERS TO REINTEGRATION, UNDERMINING POTENTIAL PROTECTIVE FACTORS, AND EXACERBATING RISK FACTORS FOR RECIDIVISM

A growing body of research examines the “collateral consequences” of sex offender registration and notification policies,<sup>170</sup> as well as residence restrictions.<sup>171</sup> Sex offender policies have produced several unintended consequences that create barriers to successful reentry and reintegration, including homelessness.<sup>172</sup> This context can complicate consistent community supervision, access to treatment and services, and increase the barriers to successful reentry.

The following section provides a review of the research literature examining the “collateral consequences” of sex offender policies, particularly as they relate to protective factors promoting desistance and risk factors for recidivism, including housing instability and homelessness.

### Intersecting Collateral Consequences of Sex Offender Registration and Notification Policies

A variety of studies reveal that sex offender registration and notification (SORN) policies can adversely impact sex offenders’ access to housing, employment, and social supports from friends

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<sup>169</sup> Levenson, “Hidden Challenges,” 355.

<sup>170</sup> Jennings, Zgoba, and Tewksbury, “A Comparative Longitudinal Analysis of Recidivism Trajectories and Collateral Consequences for Sex and Non-Sex Offenders Released since the Implementation of Sex Offender Registration and Community Notification”; Jeffrey C. Sandler, Naomi J. Freeman, and Kelly M. Socia, “Does a Watched Pot Boil? A Time-Series Analysis of New York State’s Sex Offender Registration and Notification Law,” *Psychology, Public Policy, and Law* 14, no. 4 (2008): 284–302, <https://doi.org/10.1037/a0013881>; Richard Tewksbury, Wesley G. Jennings, and Kristen M. Zgoba, “A Longitudinal Examination of Sex Offender Recidivism Prior to and Following the Implementation of SORN,” *Behavioral Sciences & the Law* 30, no. 3 (June 2012): 308–28, <https://doi.org/10.1002/bsl.1009>.

<sup>171</sup> Duwe, Donnay, and Tewksbury, “Does Residential Proximity Matter?”; Nobles, Levenson, and Youstin, “Effectiveness of Residence Restrictions in Preventing Sex Offense Recidivism”; Socia, “The Implementation of County Residence Restrictions in New York.”

<sup>172</sup> Levenson, “Collateral Consequences of Sex Offender Residence Restrictions,” June 2008; Levenson et al., “Where for Art Thou?”; Rolfe, Tewksbury, and Schroeder, “Homeless Shelters’ Policies on Sex Offenders”; Socia et al., “Brothers Under the Bridge.”

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and family.<sup>173</sup> These problems can create an environment producing feelings of isolation, stress, hopelessness, and shame, and the public nature of the registry, coupled with social stigma, can result in violence and harassment against sex offenders as well as their families.<sup>174</sup>

The research on registry and notification policies highlights a variety of dynamics that can create barriers to successful reentry and undermine protective factors. A quantitative review of eight surveys examining the social and psychological impact of community notification on adult sex offenders found that forty to sixty percent reported negative psychological consequences; thirty percent reported job loss; twenty percent reported being threatened or harassed; nineteen percent reported a loss of housing; sixteen percent reported a family member or roommate being assaulted or harassed; fourteen percent reported property damage; and eight percent of registrants reported experiencing physical assaults or injuries.<sup>175</sup>

Although all ex-offenders face challenges and collateral consequences of a criminal conviction in reentry, the implementation of SORN means that sex offenders convicted before and after such policies experience them differently. One study found that post-SORN sex offenders were less likely than non-sex offenders to be employed, live with family, and live with friends; the study showed that sex offenders were more likely than non-sex offenders to be homeless, live in a group facility, and have moved since release from prison.<sup>176</sup> Researchers concluded that the collateral consequences of registration and community notification are more severe than those experienced by sex offenders prior to SORN policies.<sup>177</sup>

The collateral consequences of registration requirements are also exacerbated by the fact that nearly all states require nonresident sex offenders to register when visiting their state, even for short periods of time, and many post visiting registrants on publicly available online registries and never remove them. Only three states (New York, Oregon, and Pennsylvania) do not require nonresident registered sex offenders to register when visiting their state; all other states require

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<sup>173</sup> Levenson, “Hidden Challenges”; Levenson, D’Amora, and Hern, “Megan’s Law and Its Impact on Community Re-Entry for Sex Offenders”; Donna M. Vandiver, Kelly Cheeseman Dial, and Robert M. Worley, “A Qualitative Assessment of Registered Female Sex Offenders: Judicial Processing Experiences and Perceived Effects of a Public Registry,” *Criminal Justice Review* 33, no. 2 (June 2008): 177–98, <https://doi.org/10.1177/0734016808318448>.

<sup>174</sup> Bonnar-Kidd, “Sexual Offender Laws and Prevention of Sexual Violence or Recidivism”; Yolanda Nicole Brannon et al., “Attitudes About Community Notification: A Comparison of Sexual Offenders and the Non-Offending Public,” *Sexual Abuse: A Journal of Research and Treatment* 19, no. 4 (November 23, 2007): 369–79, <https://doi.org/10.1007/s11194-007-9055-2>; Farkas and Miller, “Reentry and Reintegration,” December 2007; Frenzel et al., “Understanding Collateral Consequences of Registry Laws: An Examination of the Perceptions of Sex Offender Registrants”; Levenson, D’Amora, and Hern, “Megan’s Law and Its Impact on Community Re-Entry for Sex Offenders”; Levenson and Tewksbury, “Collateral Damage”; Vandiver, Dial, and Worley, “A Qualitative Assessment of Registered Female Sex Offenders.”

<sup>175</sup> Michael P. Lasher and Robert J. McGrath, “The Impact of Community Notification on Sex Offender Reintegration: A Quantitative Review of the Research Literature,” *International Journal of Offender Therapy and Comparative Criminology* 56, no. 1 (February 2012): 6–28, <https://doi.org/10.1177/0306624X10387524>.

<sup>176</sup> Jennings, Zgoba, and Tewksbury, “A Comparative Longitudinal Analysis of Recidivism Trajectories and Collateral Consequences for Sex and Non-Sex Offenders Released since the Implementation of Sex Offender Registration and Community Notification.”

<sup>177</sup> Richard Tewksbury, Wesley G. Jennings, and Kristen M. Zgoba, “Sex Offenders: Recidivism and Collateral Consequences. Final Grant Report # 2009-IJ-CX-0203.” (Washington, D.C.: National Institute of Justice, 2012).



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registration with local law enforcement between 2 (Nevada) and 30 (Alaska) days after arrival.<sup>178</sup> Of the thirty states that post information regarding visiting registrants to their state's publicly available registry website, only eight remove non-resident after a complex check-out and/or subsequent confirmation from the registrant's home state that s/he has returned to their permanent residence; twenty-two states never remove nonresident registrants who have visited the state from their public registry.<sup>179</sup> Rolfe (2017) posits that the complicated and confusing registration requirements imposed on visiting registrants pose problems not only directly for sex offenders, who may be subject to arrest and felony convictions for failure-to-register offenses for unwittingly failing to comply with state and/or local residence restrictions, and registrants' families and friends whose addresses are posted online; it can also indirectly impact neighbors as well as state and local officials and law enforcement.<sup>180</sup>

As described above, the collateral consequences of residence restriction laws and SORN requirements have been documented in several studies,<sup>181</sup> including increasing the likelihood that sex offenders live in socially disorganized neighborhoods where crime rates are high and the availability of services is limited.<sup>182</sup>

The intersection of SORN and residence restrictions can create challenges in sex offenders' reentry process that may undermine potential protective factors supporting reintegration and desistance from crime, while exacerbating risk factors for general and sexual recidivism.

### **Research Identifying Protective Factors for Desistance and Risk Factors for Recidivism in Sex Offenders' Reentry**

Successful reentry and desistance from offending is shaped by both stable and dynamic risk factors and protective factors. Researchers have identified several factors that shape success or failure in the reentry and reintegration process, grouped into the following general categories: individual needs (including physical and mental health needs and offense-specific treatment needs), social needs, employment needs, and accommodation needs (i.e., finding a place to live).<sup>183</sup> The

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<sup>178</sup> Rolfe, "When a Sex Offender Comes to Visit."

<sup>179</sup> Rolfe.

<sup>180</sup> Rolfe.

<sup>181</sup> Frenzel et al., "Understanding Collateral Consequences of Registry Laws: An Examination of the Perceptions of Sex Offender Registrants"; Huebner et al., "The Effect and Implications of Sex Offender Residence Restrictions"; Jennings, Zgoba, and Tewksbury, "A Comparative Longitudinal Analysis of Recidivism Trajectories and Collateral Consequences for Sex and Non-Sex Offenders Released since the Implementation of Sex Offender Registration and Community Notification"; Levenson, "Collateral Consequences of Sex Offender Residence Restrictions," June 2008; Levenson and Cotter, "The Impact of Sex Offender Residence Restrictions"; Levenson and Tewksbury, "Collateral Damage"; Mustaine and Tewksbury, "Residential Relegation of Registered Sex Offenders"; Sandler, Freeman, and Socia, "Does a Watched Pot Boil?"; Tewksbury, "Collateral Consequences of Sex Offender Registration"; Tewksbury and Lees, "PERCEPTIONS OF SEX OFFENDER REGISTRATION."

<sup>182</sup> Gordon, "The Registered Sex Offender Population as a Marker of Social Disorganisation"; Hipp, Turner, and Jannetta, "Are Sex Offenders Moving into Social Disorganization?"; Lorine A. Hughes and Colleen Kadleck, "Sex Offender Community Notification and Community Stratification," *Justice Quarterly* 25, no. 3 (September 2008): 469–95, <https://doi.org/10.1080/07418820701710941>; Mustaine and Tewksbury, "Residential Relegation of Registered Sex Offenders."

<sup>183</sup> Joe Graffam et al., "Variables Affecting Successful Reintegration as Perceived by Offenders and Professionals," *Journal of Offender Rehabilitation* 40, no. 1–2 (December 31, 2004): 147–71,

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following provides an overview of research on each category in turn, with particular attention to the way it relates to housing instability and homelessness.

### Individual Physical and Mental Health Needs

Research on reentry and reintegration of offenders has established that failure to provide appropriate services to address individual physical and mental health needs poses an increased risk of returning to prison as well as homelessness.<sup>184</sup> Formerly incarcerated offenders who are mentally ill and/or have substance abuse issues often have few social supports, and can struggle to find housing and employment.<sup>185</sup> For sex offenders, addiction and mental illness can contribute to homelessness due to compromised psychosocial functioning and/or limited resources, in addition to creating barriers to employment and education.<sup>186</sup>

Serious mental illness among sex offenders is a pressing issue in need of further attention and financial support to provide programming for this population.<sup>187</sup> It presents a concerning public safety issue. A 2013 study of sex offenders on parole in California from 2001-2008 determined that those who recidivated sexually were much more likely to be mentally ill than those who did not recidivate when on parole, even when controlling for employment status and housing status (whether the offender was homeless or domiciled).<sup>188</sup> As such, policies promoting housing stability and treatment for mental illness as well as substance abuse are critical to promoting successful reentry and preventing recidivism.

Addressing individual needs often requires addressing housing issues. Supported housing programs have been shown to improve outcomes for chronically homeless adults, including individuals with mental health and substance abuse issues.<sup>189</sup> In addition to mental illness, individuals with neurodevelopmental disabilities or cognitive impairment may struggle with homelessness. Evidence from a recent scoping review of research examining the relationship between cognitive impairment and homelessness indicates that people with cognitive impairments

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[https://doi.org/10.1300/J076v40n01\\_08](https://doi.org/10.1300/J076v40n01_08); as cited in Willis and Grace, “The Quality of Community Reintegration Planning for Child Molesters.”

<sup>184</sup> Theodore M. Hammett, Cheryl Roberts, and Sofia Kennedy, “Health-Related Issues in Prisoner Reentry,” *Crime & Delinquency* 47, no. 3 (July 2001): 390–409, <https://doi.org/10.1177/0011128701047003006>; Arthur Lurigio, Angie Rollins, and John Fallon, “Effects of Serious Mental Illness on Offender Reentry,” *Federal Probation* 68 (2004): 45–52.

<sup>185</sup> Jacques Baillargeon et al., “Risk of Reincarceration among Prisoners with Co-Occurring Severe Mental Illness and Substance Use Disorders,” *Administration and Policy in Mental Health* 37, no. 4 (July 2010): 367–74, <https://doi.org/10.1007/s10488-009-0252-9>; Jill D. Stinson and Judith V. Becker, “Sexual Offenders with Serious Mental Illness: Prevention, Risk, and Clinical Concerns,” *International Journal of Law and Psychiatry* 34, no. 3 (June 2011): 239–45, <https://doi.org/10.1016/j.ijlp.2011.04.011>.

<sup>186</sup> Socia et al., ““Brothers Under the Bridge.””

<sup>187</sup> Andrew J. Harris et al., “Sex Offending and Serious Mental Illness: Directions for Policy and Research,” *Criminal Justice and Behavior* 37, no. 5 (May 2010): 596–612, <https://doi.org/10.1177/0093854810363773>.

<sup>188</sup> Jennie K. Singer, Mary Maguire, and Gregory M. Hurtz, “The Prevalence of Mental Illness in California Sex Offenders on Parole: A Comparison of Those Who Recidivated with a New Sex Crime versus Those Who Did Not,” *Victims & Offenders* 8, no. 3 (July 2013): 253–77, <https://doi.org/10.1080/15564886.2012.747458>.

<sup>189</sup> Tsai and Rosenheck, “Incarceration Among Chronically Homeless Adults.”



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were disproportionately over-represented in homeless populations, which was found to be “both a risk factor to and perpetuator of homelessness.”<sup>190</sup>

Further attention is needed to the potential adverse impact of sex offender policies on the psychological well-being of sex offenders to promote successful reentry and desistance. For example, Jeglic, Mercado, and Levenson determined that registered sex offenders who were negatively impacted by residence restrictions had significantly higher levels of depression and hopelessness than other sex offenders, who on average also experienced negative emotional consequences.<sup>191</sup>

In sum, addressing physical and mental health needs is critical to breaking the cycle of instability, homelessness, recidivism, incarceration, and failed reentry for all former offenders. There is a gap in services available to sex offenders who are mentally ill and/or cognitively impaired, particularly those with co-occurring drug or alcohol addictions, as residence restriction or their status as registrants or may exclude them from homeless shelters as well as residential treatment programs.

### Social Needs and Social Support Structures

Social support and stability are important factors for all formerly incarcerated people, and are key factors in successful reintegration into society and promoting public safety.<sup>192</sup> Compared to others with non-sex offenses, individuals convicted of sex offenses may experience unique stressors and challenges to social support that may adversely shape their reentry experience and exacerbate the risk of recidivism.

Sex offenders are particularly stigmatized in our society, and are often subject to additional monitoring and supervision requirements when reentering the community, including registration on publicly accessible websites, residence restrictions, and more intensive monitoring and supervision that can impact their reentry.<sup>193</sup> Social stigma and discrimination against registered

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<sup>190</sup> Beth Stone, Sandra Dowling, and Ailsa Cameron, “Cognitive Impairment and Homelessness: A Scoping Review,” *Health & Social Care in the Community*, November 13, 2018, <https://doi.org/10.1111/hsc.12682>.

<sup>191</sup> Elizabeth L. Jeglic, Cynthia Calkins Mercado, and Jill S. Levenson, “The Prevalence and Correlates of Depression and Hopelessness among Sex Offenders Subject to Community Notification and Residence Restriction Legislation,” *American Journal of Criminal Justice* 37, no. 1 (March 2012): 46–59, <https://doi.org/10.1007/s12103-010-9096-9>.

<sup>192</sup> Joan Petersilia, *When Prisoners Come Home: Parole and Prisoner Reentry*, Studies in Crime and Public Policy (Oxford ; New York: Oxford University Press, 2003).

<sup>193</sup> Jill S. Levenson, “Collateral Consequences of Sex Offender Residence Restrictions,” *Criminal Justice Studies* 21, no. 2 (June 2008): 153–66, <https://doi.org/10.1080/14786010802159822>; Lisa L. Sample and Timothy M. Bray, “Are Sex Offenders Different? An Examination of Rearrest Patterns,” *Criminal Justice Policy Review* 17, no. 1 (March 2006): 83–102, <https://doi.org/10.1177/0887403405282916>; Socia and Stamatel, “Assumptions and Evidence Behind Sex Offender Laws”; Tewksbury, “Collateral Consequences of Sex Offender Registration”; Tewksbury and Lees, “PERCEPTIONS OF SEX OFFENDER REGISTRATION.”

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sex offenders,<sup>194</sup> coupled with the additional restrictions imposed on these individuals, may increase stress and exposure to negative peer influences, thereby raising the risk of recidivism.<sup>195</sup>

These factors can also create challenges to establishing and maintaining the social support networks that could mitigate this stress, as “disintegrative shaming,”<sup>196</sup> discrimination, lack of prosocial relationships, and inhibition or loss of contact with friends and family is associated with sex offending may inhibit successful completion of supervision, reintegration, and desistance from offending.<sup>197</sup>

Studies examining the stigma of sex offender status have identified the loss of positive prosocial relationships with friends and family as undermining social supports important to successful treatment and reentry.<sup>198</sup> Similar research from a variety of states reveals that sex offenders routinely experience social stigma and shunning, as well as discrimination, threats and harassment, loss of employment, exclusion from residences, social ostracization and emotional distress to family members.<sup>199</sup> A 2008 survey of registered sex offenders in Broward County, Florida found that three quarters reported emotional distress; some respondents indicated that the isolation caused by restrictions would increase their risk of reoffending.<sup>200</sup> Additional surveys of sex

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<sup>194</sup> Laura M. Grossi, “Sexual Offenders, Violent Offenders, and Community Reentry: Challenges and Treatment Considerations,” *Aggression and Violent Behavior* 34 (May 2017): 59–67, <https://doi.org/10.1016/j.avb.2017.04.005>.

<sup>195</sup> R. K. Hanson and M. T. Bussière, “Predicting Relapse: A Meta-Analysis of Sexual Offender Recidivism Studies,” *Journal of Consulting and Clinical Psychology* 66, no. 2 (April 1998): 348–62; Hanson and Harris, “Where Should We Intervene?”

<sup>196</sup> Monica L. P. Robbers, “Lifers on the Outside: Sex Offenders and Disintegrative Shaming,” *International Journal of Offender Therapy and Comparative Criminology* 53, no. 1 (February 2009): 5–28, <https://doi.org/10.1177/0306624X07312953>.

<sup>197</sup> Kathryn J Fox, “Civic Commitment: Promoting Desistance through Community Integration,” *Punishment & Society* 18, no. 1 (January 2016): 68–94, <https://doi.org/10.1177/1462474515623102>; Danielle Arlanda Harris, “A Descriptive Model of Desistance From Sexual Offending: Examining the Narratives of Men Released From Custody,” *International Journal of Offender Therapy and Comparative Criminology* 60, no. 15 (November 2016): 1717–37, <https://doi.org/10.1177/0306624X16668176>; Kimberly R. Kras, “Can Social Support Overcome the Individual and Structural Challenges of Being a Sex Offender? Assessing the Social Support-Recidivism Link,” *International Journal of Offender Therapy and Comparative Criminology* 63, no. 1 (January 2019): 32–54, <https://doi.org/10.1177/0306624X18784191>; Levenson and Cotter, “The Impact of Sex Offender Residence Restrictions”; Patrick Lussier, Danielle Arlanda Harris, and Anne-Marie McAlinden, “Desistance From Sexual Offending: A Policy and Research Agenda Whose Time Has Come,” *International Journal of Offender Therapy and Comparative Criminology* 60, no. 15 (November 2016): 1711–16, <https://doi.org/10.1177/0306624X16668174>.

<sup>198</sup> Farkas and Miller, “Reentry and Reintegration,” December 2007; Levenson, D’Amora, and Hern, “Megan’s Law and Its Impact on Community Re-Entry for Sex Offenders.”

<sup>199</sup> Erin B. Comartin, Poco D. Kernsmith, and Bart W. Miles, “Family Experiences of Young Adult Sex Offender Registration,” *Journal of Child Sexual Abuse* 19, no. 2 (March 2010): 204–25, <https://doi.org/10.1080/10538711003627207>; Levenson and Cotter, “The Effect of Megan’s Law on Sex Offender Reintegration”; Levenson and Tewksbury, “Collateral Damage”; Tewksbury, “Collateral Consequences of Sex Offender Registration”; Richard G. Zevitz and Mary Ann Farkas, “The Impact of Sex-Offender Community Notification on Probation/Parole in Wisconsin,” *International Journal of Offender Therapy and Comparative Criminology* 44, no. 1 (February 2000): 8–21, <https://doi.org/10.1177/0306624X00441002>; Mary Ann Farkas and Gale Miller, “Reentry and Reintegration: Challenges Faced by the Families of Convicted Sex Offenders,” *Federal Sentencing Reporter* 20, no. 1 (December 2007): 88–92, <https://doi.org/10.1525/fsr.2007.20.2.88>.

<sup>200</sup> Levenson, “Collateral Consequences of Sex Offender Residence Restrictions,” June 2008.

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offenders in New Jersey,<sup>201</sup> Florida,<sup>202</sup> and North Carolina<sup>203</sup> reflect similar findings of psychological distress and lack of social support.

Social support networks, such as Circles of Support and Accountability (COSA), are one example of an intervention model that aims to promote positive relationships and improve social reintegration to enhance protective factors against recidivism among sex offenders.<sup>204</sup> In some cases, COSA systems can provide instrumental as well as expressive support,<sup>205</sup> including practical assistance with housing needs, in the form of referrals, deposits, or rental negotiations with landlords.<sup>206</sup> COSA may be particularly helpful for individuals who lack supportive family or friends.

Family can be an important source of support for individuals convicted of sex offenses, but current sex offender policies can adversely affect them, too. One recent study of sex offender desistance found that while marital status was not significantly associated with reoffending, stable family support significantly reduced reoffending, an influence that was sustained over a three-year period.<sup>207</sup> However, the potential positive impact of family support may be undermined for some sex offenders, due in some cases to home environments that include risk factors for recidivism (e.g., family members' involvement in crime or drug and alcohol abuse). In other cases, SORN and residence restrictions can limit or prohibit sex offenders' reentry options, potentially destabilizing families and/or restricting offenders' access to sources of support. For example, residence restrictions may prevent sex offenders from living with supportive family members whose homes are too close to prohibited locations, requiring families to either move or strain finances by renting a second residence. Residence restrictions can also limit housing options to those in more socially disorganized neighborhoods farther away from support systems,<sup>208</sup> while

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<sup>201</sup> Mercado, Alvarez, and Levenson, "The Impact of Specialized Sex Offender Legislation on Community Reentry."

<sup>202</sup> Levenson and Cotter, "The Impact of Sex Offender Residence Restrictions."

<sup>203</sup> Amy Dellinger Page, Julie Sprinkle Hill, and Griff Gilbert, "False Security: North Carolina Sexual Offenders' Perceptions of Residence Restrictions," *Journal of Forensic Social Work* 2, no. 2–3 (May 2012): 108–21, <https://doi.org/10.1080/1936928X.2012.742478>.

<sup>204</sup> Grant Duwe, "Can Circles of Support and Accountability (COSA) Work in the United States? Preliminary Results from a Randomized Experiment in Minnesota," *Sexual Abuse: A Journal of Research and Treatment* 25, no. 2 (April 2013): 143–65, <https://doi.org/10.1177/1079063212453942>; Robin J. Wilson, Franca Cortoni, and Andrew J. McWhinnie, "Circles of Support & Accountability: A Canadian National Replication of Outcome Findings," *Sexual Abuse: A Journal of Research and Treatment* 21, no. 4 (December 2009): 412–30, <https://doi.org/10.1177/1079063209347724>; Robin J. Wilson, Bria Huculak, and Andrew McWhinnie, "Restorative Justice Innovations in Canada," *Behavioral Sciences & the Law* 20, no. 4 (2002): 363–80, <https://doi.org/10.1002/bsl.498>.

<sup>205</sup> Miriam Northcutt Bohmert, Grant Duwe, and Natalie Kroovand Hipple, "Evaluating Restorative Justice Circles of Support and Accountability: Can Social Support Overcome Structural Barriers?," *International Journal of Offender Therapy and Comparative Criminology* 62, no. 3 (2018): 739–58, <https://doi.org/10.1177/0306624X16652627>.

<sup>206</sup> Fox, "Civic Commitment."

<sup>207</sup> Allyson Walker et al., "The Role of Family Support in the Explanation of Patterns of Desistance Among Individuals Convicted of a Sexual Offense," *Journal of Interpersonal Violence*, June 9, 2017, 088626051771227, <https://doi.org/10.1177/0886260517712273>.

<sup>208</sup> Hipp, Turner, and Jannetta, "Are Sex Offenders Moving into Social Disorganization?"; Hughes and Kadleck, "Sex Offender Community Notification and Community Stratification"; Hughes and Kadleck; Kimberly R. Kras, Breanne Pleggenkuhle, and Beth M. Huebner, "A New Way of Doing Time on the Outside: Sex Offenders' Pathways In and

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registration and notification policies can lead to harassment from neighbors and the public towards offenders as well as their children and family members.<sup>209</sup>

Consequently, policies that make it more difficult to engage positive peer influences and social support networks can undermine protective factors for desistance from sexual offending.

### Employment

Employment is another key factor in successful reentry and desistance. A 2007 report examining California parolees determined that those who have stable housing and who find and maintain employment are more to successfully complete their parole and less likely to reoffend.<sup>210</sup> Among sex offenders, Hanson and Morton-Bourgon's 2005, meta-analysis identified employment instability as a significant predictor of sexual recidivism. Employment coupled with treatment is associated with reducing reoffending among sex offenders.<sup>211</sup> As discussed below, stable employment is an important protective factor in desistance, and is often related to stable housing.

However, finding and maintaining employment can be difficult for individuals with criminal records, particularly for people of color.<sup>212</sup> Further, finding a job can be difficult for some registered sex offenders due to constraints imposed by community supervision requirements.<sup>213</sup> Legal restrictions on the presence or employment of registrants in jobs with potential access to children, as well as anxieties that employers experience when employing sex offenders, create further barriers to employment stability.<sup>214</sup>

### Housing and Accommodation

The main area of concern with regard to the present study of transient and homeless sex offenders in California is accommodation and housing instability. Housing instability and homelessness are

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Out of a Transitional Housing Facility," *International Journal of Offender Therapy and Comparative Criminology* 60, no. 5 (April 2016): 512–34, <https://doi.org/10.1177/0306624X14554194>.

<sup>209</sup> Bonnar-Kidd, "Sexual Offender Laws and Prevention of Sexual Violence or Recidivism"; Frenzel et al., "Understanding Collateral Consequences of Registry Laws: An Examination of the Perceptions of Sex Offender Registrants"; Levenson and Tewksbury, "Collateral Damage."

<sup>210</sup> Joan Petersilia, "Meeting the Challenges of Rehabilitation in California's Prison and Parole System (Report from Governor Schwarzenegger's Rehabilitation Strike Team)." (Sacramento, CA: The Rehabilitation Strike Team, 2007).

<sup>211</sup> Candace Kruttschnitt, Christopher Uggen, and Kelly Shelton, "Predictors of Desistance among Sex Offenders: The Interaction of Formal and Informal Social Controls," *Justice Quarterly* 17, no. 1 (March 2000): 61–87, <https://doi.org/10.1080/07418820000094481>.

<sup>212</sup> Devah Pager, "The Mark of a Criminal Record," *American Journal of Sociology* 108, no. 5 (March 2003): 937–75, <https://doi.org/10.1086/374403>; Devah Pager, *Marked: Race, Crime, and Finding Work in an Era of Mass Incarceration*, Paperback ed (Chicago, [Ill.]: Univ. of Chicago Press, 2009).

<sup>213</sup> see, e.g., Graffam et al., "Variables Affecting Successful Reintegration as Perceived by Offenders and Professionals."

<sup>214</sup> Kevin Brown, Jon Spencer, and Jo Deakin, "The Reintegration of Sex Offenders: Barriers and Opportunities for Employment," *The Howard Journal of Criminal Justice* 46, no. 1 (February 2007): 32–42, <https://doi.org/10.1111/j.1468-2311.2007.00452.x>.

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considered dynamic risk factors that may increase the risk of recidivism.<sup>215</sup> Hanson and Harris (2000) suggest potential triggers including a loss of social support, emotional crisis, or homelessness can increase the risk of sexual reoffending.<sup>216</sup> As Levenson (2018) observes, treatment professionals and law enforcement officers agree that housing problems destabilize offenders and can aggravate risk factors for noncompliance and recidivism.<sup>217</sup>

Accommodation is critical for formerly incarcerated people reentering the community, particularly for low income sex offenders, who may “face a severe housing problem when they are released from prison because residency restrictions can dramatically limit where an offender can live . . . and prevent offenders from living in the areas closest to jobs and public transit.”<sup>218</sup> A 2014 study examining the “collateral consequences” of sex offender policies by surveying sex offenders in Pennsylvania, Texas, and Wisconsin found that 54.3% reported they had been evicted or denied residence as a result of landlords finding out about their sex offense from public registries,<sup>219</sup> supporting findings from Tewksbury’s study of registrants in Kentucky.<sup>220</sup>

Studies of repeat sex offenders identify accommodation needs as an important factor in recidivism. Interviews with 25 repeat offenders ages 15 – 24 identified a lack of stable housing and accommodation as an important factor shaping their reoffending behaviors.<sup>221</sup> Willis and Grace (2008) examined a group of 81 released sex offenders in New Zealand who were convicted of a sexual reoffense, and found that lack of accommodation or housing was a significant predictor of sexual recidivism, even after controlling for other dynamic risk factors such as deviant thinking or anger.<sup>222</sup> An analysis of high risk sex offenders in Washington determined that “stable housing is an essential component of safe reentry and is a key to success,” and stable employment was critical to maintaining housing.<sup>223</sup> These findings confirm those from studies of sex offenders in the community, which determined that housing instability is connected to difficulty finding and retaining employment<sup>224</sup> and a lack of social support, both of which are dynamic risk factors for sexual reoffense.<sup>225</sup>

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<sup>215</sup> Halsey, “Assembling Recidivism: The Promise and Contingencies of Post-Release Life”; Hanson and Harris, “Where Should We Intervene?”; Hanson and Morton-Bourgon, “Predictors of Sexual Recidivism: An Updated Meta-Analysis”; Hanson and Morton-Bourgon, “The Characteristics of Persistent Sexual Offenders.”

<sup>216</sup> Hanson and Harris, “Where Should We Intervene?”

<sup>217</sup> Florida Association for the Treatment of Sexual Abusers, “Report to Florida Office of Public Policy and Government Accountability” (Pinellas Park, FL: Florida Association for the Treatment of Sexual Abusers, 2015), [http://www.floridaatsa.com/2015\\_FATSA\\_report\\_to\\_OPPAGA.pdf](http://www.floridaatsa.com/2015_FATSA_report_to_OPPAGA.pdf).

<sup>218</sup> Caleb Durling, “Never Going Home: Does It Make Us Safer? Does It Make Sense? Sex Offenders, Residency Restrictions, and Reforming Risk Management Law,” *Journal of Criminal Law and Criminology* 97, no. 1 (2006): 334.

<sup>219</sup> Frenzel et al., “Understanding Collateral Consequences of Registry Laws: An Examination of the Perceptions of Sex Offender Registrants.”

<sup>220</sup> Tewksbury, “Collateral Consequences of Sex Offender Registration.”

<sup>221</sup> Halsey, “Assembling Recidivism: The Promise and Contingencies of Post-Release Life.”

<sup>222</sup> Willis and Grace, “The Quality of Community Reintegration Planning for Child Molesters.”

<sup>223</sup> Aylward, “Successful Transitions from Institution to Community: Reentry and the Washington State Sex Offender Treatment Program,” 77.

<sup>224</sup> Levenson, Zgoba, and Tewksbury, *Sex Offender Residence Restrictions: Sensible Crime Policy or Flawed Logic?*

<sup>225</sup> Hanson and Morton-Bourgon, “Predictors of Sexual Recidivism: An Updated Meta-Analysis”; Hanson and Morton-Bourgon, “The Characteristics of Persistent Sexual Offenders.”



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Several studies highlight increased homelessness among registered sex as a concerning unintended consequence of sex offender legislation.<sup>226</sup> Homelessness is particularly challenging for people with serious mental illness who have sex offense convictions. Harris and colleagues (2010) report that “supportive or transitional housing to ensure access to needed rehabilitative and social supports is critical to successful community integration,” but that developing such programs face barriers due to the legal obstacles of residence restrictions as well as factors including community opposition “provider concerns over liability and client safety, and limited staff expertise or access to sex offender treatment.”<sup>227</sup> Studies examining homelessness among veterans who are sex offenders reflect a similar need for comprehensive services,<sup>228</sup> including correctional and reentry programs that can provide specialized treatment and address trauma and mental health needs, and provide long-term housing options to support successful transitions to the community.<sup>229</sup>

Challenges in finding housing for sex offenders reentering society indicate that a lack of stable accommodation can be a serious barrier to successful reentry, particularly for those with additional medical and mental health needs and those struggling to find employment. However, a recent study of transitionally housed sex offenders suggests that in some respects, supportive housing programs may themselves present challenges to reentry and social reintegration. In an evaluation of sex offenders referred to a transitional housing facility (due to a lack of resources to establish a home plan, home plans denied due to restrictions based on sex offender status, or as a sanction resulting from violations of the terms of supervision), sex offenders experienced much longer stays in the facility; this limited opportunities for employment, alternative housing, and ongoing treatment outside the facility, such that “the living conditions became an additional barrier to successful reintegration.”<sup>230</sup>

## V. CONCLUSION

Existing research examining relationships between housing, homelessness, and sex offending provides has identified a variety of challenges and collateral consequences created by sex offender policies that can create barriers to successful reentry and exacerbate risk factors for noncompliance

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<sup>226</sup> Barnes et al., “Analyzing the Impact of a Statewide Residence Restriction Law on South Carolina Sex Offenders”; Cann, “Sex Offender Policies That Spin the Revolving Door: An Exploration of the Relationships Between Residence Restrictions, Homelessness, and Recidivism”; Levenson, “Collateral Consequences of Sex Offender Residence Restrictions,” June 2008; Socia, “The Policy Implications of Residence Restrictions on Sex Offender Housing in Upstate NY”; Zevitz and Farkas, “The Impact of Sex-Offender Community Notification on Probation/Parole in Wisconsin”; Zgoba, Levenson, and McKee, “Examining the Impact of Sex Offender Residence Restrictions on Housing Availability”; Kristen Zgoba, Bonita M. Veysey, and Melissa Dalessandro, “An Analysis of the Effectiveness of Community Notification and Registration: Do the Best Intentions Predict the Best Practices?,” *Justice Quarterly* 27, no. 5 (October 2010): 667–91, <https://doi.org/10.1080/07418820903357673>.

<sup>227</sup> Harris et al., “Sex Offending and Serious Mental Illness,” 606.

<sup>228</sup> Bradley Schaffer, “Veteran Sex Offenders and Reentry Problems,” *Journal of Correctional Health Care: The Official Journal of the National Commission on Correctional Health Care* 17, no. 3 (July 2011): 266–70, <https://doi.org/10.1177/1078345811401355>.

<sup>229</sup> Andrea K. Finlay et al., “Veterans in Prison for Sexual Offenses: Characteristics and Reentry Service Needs,” *Sexual Abuse*, August 10, 2018, 107906321879363, <https://doi.org/10.1177/1079063218793633>; Schaffer, “Veteran Sex Offenders and Reentry Problems.”

<sup>230</sup> Kras, Pleggenkuhle, and Huebner, “A New Way of Doing Time on the Outside,” 523.

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and recidivism. Though recent court decisions limiting the application of residence restrictions and legislative reforms to California's sex offender registry mark important steps in bringing state policy into line with evidence-based practices, several challenges remain.

While efforts to prevent sexual violence and the victimization of children are laudable, the studies detailed above suggest that significant reforms are necessary to improve laws, correctional programs, and supervision policies to enhance factors known to promote desistance among sex offenders. These include support for in-custody treatment; more robust pre-release planning for those exiting prison and jail; individualized risk assessment and supervision; improved access to affordable, local treatment; and increasing available housing for sex offenders who are unable to secure accommodation, particularly those in need of residential treatment programs and mental health support. Public education campaigns to raise awareness of the risks of sexual abuse from those known to children to prevent sex abuse and efforts to dispel false assumptions about "stranger danger" that animate support for punitive sex offender policies may help advance the transformations in political discourse necessary to mobilize support for evidence-based reforms.

As communities across California struggle with the housing crisis and growing rates of homelessness, it will become increasingly important to ensure that public policies and programming are grounded in evidence-based research to maximize their impact. Addressing housing and homelessness among registered sex offenders in California is a continuing challenge requiring state and local reforms to help stop the revolving door of homelessness, recidivism, and incarceration of this population to promote public safety and prevent sex offending in our state and local communities.