



# CITY OF GRAND RAPIDS

CITY COUNCIL  
CHAMBERS  
420 NORTH POKEGAMA  
AVE.

## Meeting Agenda Full Detail City Council Work Session

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Monday, February 28, 2011

3:30 PM

Conference Room 2A

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**CALL TO ORDER:** Pursuant to due notice and call thereof a Special Meeting/Worksession of the Grand Rapids City Council will be held on Monday, February 28, 2011 at 3:30 p.m. in Conference Room 2A, 420 North Pokegama Avenue, Grand Rapids, Minnesota.

**CALL OF ROLL:** On a call of roll, the following members were present:

### Discussion Items

1. 11-1305 Discuss appointments to Boards & Commissions.
2. 11-1302 Consider approving the Master Internal Service Agreement between the City of Grand Rapids and the Public Utilities Commission.  
**Attachments:** Master Internal Services Agreement
3. 11-1340 Discuss filling the Network Technician position in the IT Department
4. 11-1316 Discuss holding a public hearing on increasing the public, educational, and governmental (PEG) access fees.
5. 11-1315 Department of Corrections Housing  
**Attachments:** exclusion zones  
residency restrictions  
Sex Offender Doc 1  
Sex Offender Doc 2  
Sex Offender Doc 3  
Sex Offender Doc 4
6. 11-1256 Review agenda for 5:00 p.m. regular meeting and other business as noted.

**ADJOURN**

**Attest:**

**Shawn Gillen, City Administrator**



# CITY OF GRAND RAPIDS

## Legislation Details (With Text)

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**File #:** 11-1305      **Version:** 1      **Name:**

**Type:** Agenda Item      **Status:** CC Worksession

**File created:** 2/9/2011      **In control:** City Council Work Session

**On agenda:** 2/28/2011      **Final action:**

**Title:** Discuss appointments to Boards & Commissions.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
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Discuss appointments to Boards & Commissions.



# CITY OF GRAND RAPIDS

## Legislation Details (With Text)

**File #:** 11-1302      **Version:** 1      **Name:** City/PUC Agreement  
**Type:** Agenda Item      **Status:** Passed  
**File created:** 2/9/2011      **In control:** Administration  
**On agenda:** 2/28/2011      **Final action:** 2/28/2011

**Title:** Consider approving the Master Internal Service Agreement between the City of Grand Rapids and the Public Utilities Commission.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** [Master Internal Services Agreement](#)

Date	Ver.	Action By	Action	Result
2/28/2011	1	City Council	Approved As Presented	Pass

Consider approving the Master Internal Service Agreement between the City of Grand Rapids and the Public Utilities Commission.

### **Background Information:**

The steering committee which is overseeing the collaboration between the City and the PUC is made up of Mayor Dale Adams, PUC Chair Steve Welliver, PUC General Manager Tony Ward and City Administrator Shawn Gillen. After discussing how to proceed with more collaboration the committee has agreed that the attached Master Internal Services Agreement will facilitate a more rapid process in arranging for shared services. The Master Agreement outlines how the work will be defined and compensation from one part to another, settlement of disputes, etc.

This agreement was approved by the Public Utilities Commission at their February 23, 2011 meeting.

Approve the Master Internal Service Agreement between the City of Grand Rapids and the Public Utilities Commission.

## **MASTER INTERNAL SERVICES AGREEMENT**

THIS AGREEMENT is entered into this \_\_\_\_ day of \_\_\_\_\_, 2011, by and between the City of Grand Rapids, a municipal corporation (hereinafter referred to as "City"), acting through its City Council, and the Grand Rapids Public Utilities Commission (hereinafter referred to as "PUC"), acting through its Commission.

### **RECITALS**

1. City and PUC have initiated an "Internal Services" program for the mutual benefit of the parties and their respective citizens, taxpayers and customers, the purpose of which is to support the effective and efficient operation of their organizations.
2. The City Council and Public Utilities Commission have the authority to enter into and perform the "Internal Services Agreement" under which each party provides services to the other.
3. City and PUC represent that they have sufficient experience, expertise, resources and personnel needed to provide quality and timely services to the other.
4. During the term of this Agreement the City Council and the Public Utilities Commission may, from time to time, authorize work to be performed by the other under the terms of this Agreement.

### **Article 1: - Scope of Services**

- A. This is a Master Internal Services Agreement that establishes standard terms and conditions for work to be authorized by either party that may have special terms and conditions. Services provided under this Master Agreement shall be authorized and referred to as individual Service Orders and shall be executed by both the City Council and the Public Utilities Commission. The duties of either party shall not be construed to exceed those services and duties specifically set forth in the individual Service Orders. No provision of this Agreement shall be construed as generating a minimum amount of work.
- B. Either party may request, or offer, a service from the other party by a Service Agreement. Each Service Agreement shall be submitted to the other party only after it meets with the approval of a majority vote of its respective governing board. Each request or offer for service shall be in writing and shall specify the particular service requested, or offered, including the amount of compensation as addressed in Article 3 below. Upon receipt of an offer or a request, the other party shall indicate their acceptance, or rejection, of the request by a majority vote of their respective governing body, direct that any documents needing execution be signed, and return one copy to the other party. Each accepted Service Agreement shall be incorporated into and become a part of this Agreement.

- C. The Service Agreements shall establish the scope of services and deliverables to be provided which shall include, at a minimum, the following:
- i) Quantifiable measures of the service provided (i.e., vehicle miles driven or hours operated, feet of utility trench excavated and backfilled to standard specifications, acres of property or right-of-way mowed, etc.);
  - ii) Qualitative measures of the service provided before work is performed (i.e., technical specifications, schedules, and budgets established by the service recipient) as well as after work is performed (i.e., adherence to schedules for vehicle trips, adherence to schedule and successful inspections for utility trench projects, employee safety performance, accuracy of employee documentation for work and time, customer satisfaction or dissatisfaction, etc.);
  - iii) Methods by which work is identified, described, assigned, tracked and reported;
  - iv) Methods by which costs (including labor, equipment and materials) are tracked, accounted for and reported; and
  - v) Methods by which costs are recovered. Unit costs for identified work units (quantitative measures as described above) are preferred to time and materials recovery. Either method requires the parties to agree on methods of work-in-progress observation, quantitative and qualitative work reporting upon completion, cost accounting, invoicing and payment.
- D. The City Council and Public Utilities Commission will maintain a structure and process by which either party may suggest services that they need and which they believe the other party should consider offering. The City Council and Public Utilities Commission, with input from their respective employees, will evaluate the qualitative and economic viability of each suggested service before offering it under this Agreement.
- E. Either party may discontinue any service subject to the notice and termination provisions of each Service Agreement.

**Article 2 – Term:**

- A. The initial term of this Agreement is three (3) years from date of execution, ending on \_\_\_\_\_, 2014.
- B. This Agreement will automatically renew for successive three (3) year terms. This agreement can be terminated by either the City Council or the Public Utilities Commission by serving the other party written notice no less than 90 (ninety) days prior to the effective date of cancellation.

### **Article 3 – Compensation:**

- A. Each recipient party agrees to pay for services identified in the individual Service Agreement in accordance with the amount and basis of compensation included with each Service Agreement and the compensation provisions in this Agreement.
- B. In addition to the individual Service Agreements as addressed above, each party may pay to the other a flat fee according to a schedule to be determined by the parties while contemplating a specific body of work that would lend itself well to a flat fee instead of specific detailed billing. This is done in an effort to minimize work of staff in tracking, accounting and billing services that tend to incur additional costs for both parties. Additionally, there may be some services provided that will be difficult for the parties to pre-determine a value for prior to the service's completion. All agreed upon flat fees shall be paid within thirty (30) days of acceptance. If a flat fee is utilized, the parties may by mutual agreement adjust the fee in the subsequent calendar year after reviewing the actual work performed.
- C. City Council and Public Utilities Commission will review and report to each other on the performance of all active Service Agreements through the City Work Order System at least quarterly during each annual Contract Year. The report will include information about service activity level (i.e., measured amounts of work requested and performed), service levels requested and delivered (quality and timeliness).

### **Article 4 – Relationship:**

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees and agents of that party and shall not be considered for any purpose to be employees or agents of the other party. This Agreement is for the benefit of the parties, and no third-party beneficiary relationship is intended. No separate legal entity is created by this Agreement. No joint organization is created. No common budget is to be established. No personal or real property is to be jointly acquired or held.

### **Article 5 – Indemnification:**

- A. Both the City and PUC hereby indemnify and hold the other harmless against all losses, expenses, claims or liability of any kind (including reasonable attorney's

fees and costs) for personal injury or property damage, arising out of the actions taken by either party pursuant to this Agreement.

- B. In the event of loss or damage arising out of any cause whatsoever, neither party's financial liability to the other will exceed the annual compensation received for each service involved in a claim.

#### **Article 6 – Dispute Resolution:**

In the event a dispute shall arise concerning the terms and conditions of this Agreement, the parties hereto agree to submit said dispute first to the Internal Services Team, then the Steering Team, if no agreement is reached then the matter will be jointly submitted to the Public Utilities Commission and the City Council.

#### **Article 7 – Insurance:**

During the term of this Agreement each party will keep in force, at its expense, a policy of insurance adequately protecting each party as further specified. General liability coverage amounts shall be at least \$1,500,000 combined single limit or such other amount as set forth in Minn. Stat. § 466.04, Subd. 1, as may be changed from time to time by the State Legislature, setting forth a municipality's maximum liability limit. The insurance policies shall name the other party as an additional insured. Copies of said policies shall be deposited with the City Clerk and Public Utilities Director prior to commencement of the term of this Agreement. Each party will provide the other with a Certificate of Insurance naming the other as an additional insured, and stating that said policy cannot be cancelled except upon proper cancelation of this Agreement.

#### **Article 8 – General Terms and Conditions:**

- A. Each party reserves the right to enter into any other contract with other public or private entities for the performance of any service or services which may be included within the scope of services provided in this Agreement.
- B. Neither party makes any representations, covenants nor warranties, express or implied, to the other with respect to the equipment and services provided under this Agreement or any individual Service Agreement.
- C. Neither party may assign this Agreement or any individual Service Agreement without the prior written consent of the other party.
- D. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.
- E. If any provision of this Agreement or any provision of any document incorporated by reference is held to be invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid

provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement and the provisions of this Agreement are declared to be severable.

- F. This Agreement may only be modified in writing, duly authorized and signed by the designated representative of each party. All notices given under this Agreement shall be either hand-delivered or mailed to the following addresses:

Public Utilities Commission:  
Attn: General Manager  
500 SE 4<sup>th</sup> Street  
Grand Rapids, MN 55744

City of Grand Rapids:  
Attn: City Clerk  
420 No. Pokegama Avenue  
Grand Rapids, MN 55744

IN WITNESS WHEREOF the parties have executed this Agreement the day and year first above written.

**CITY OF GRAND RAPIDS**

**PUBLIC UTILITIES COMMISSION**

By: \_\_\_\_\_  
Its: Mayor

By: \_\_\_\_\_  
Its: President

By: \_\_\_\_\_  
Its: City Clerk

By: \_\_\_\_\_  
Its: Secretary





# CITY OF GRAND RAPIDS

## Legislation Details (With Text)

**File #:** 11-1340      **Version:** 1      **Name:** Discuss filling the Network Technician position  
**Type:** Agenda Item      **Status:** CC Worksession  
**File created:** 2/24/2011      **In control:** City Council Work Session  
**On agenda:** 2/28/2011      **Final action:**  
**Title:** Discuss filling the Network Technician position in the IT Department  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:**

Date	Ver.	Action By	Action	Result
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Discuss filling the Network Technician position in the IT Department

### **Background Information:**

With the Internal Service Team convening their first meeting on March 2nd, we would like to start the discussion about filling the Network Technician position in the IT Department. With the additional responsibility of providing service and support to the expanded Citynetwork, the IT Department needs to fill this position. With the filling of the full-time Network Technician position, I am confident that our IT Department can provide the required service and support for this new larger network. Leveraging our current Support Contract plus the additions to cover PUC's technology needs would cost approx. \$73,200 per year. The fully loaded cost of a full time Network Technician for 2011 would be \$66,114. By adding this technician position, we would not only be able to more effectively support our current technology, but also realize a cost savings of \$7,086 per year.



# CITY OF GRAND RAPIDS

## Legislation Details (With Text)

**File #:** 11-1316      **Version:** 1      **Name:** Public Hearing-Franchise Fees-work session  
**Type:** Agenda Item      **Status:** CC Worksession  
**File created:** 2/22/2011      **In control:** City Council Work Session  
**On agenda:** 2/28/2011      **Final action:**  
**Title:** Discuss holding a public hearing on increasing the public, educational, and governmental (PEG) access fees.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
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Discuss holding a public hearing on increasing the public, educational, and governmental (PEG) access fees.

### **Background Information:**

In 2006, the Cable Commission and its supporting communities implemented a PEG fee as allowed by the Franchise Agreement. At that time, Paul Bunyan allowed up to a \$2.00 fee while the Franchise Agreement with Mediacom was set at \$.75 for the first three years. Language in the Franchise Agreement with Mediacom does allow \$.25 incremental increases in the PEG fees. The overall increase for any one subscriber would be \$3.00 a year.

Any increase in the PEG fee requires a public hearing. The Cable Commission is requesting all of the communities that are part of the service area, Cities of Grand Rapids, Cohasset and LaPrairie and Harris Township, hold public hearings to discuss the potential \$.25 increase in 2012. The television providers need to be notified by November 1, 2011 of any increases to be implemented January 1, 2012.

Discuss holding a public hearing on increasing the public, educational, and governmental (PEG) access fees.



# CITY OF GRAND RAPIDS

## Legislation Details (With Text)

**File #:** 11-1315      **Version:** 1      **Name:** Department of Corrections Housing  
**Type:** Agenda Item      **Status:** CC Worksession  
**File created:** 2/20/2011      **In control:** City Council Work Session  
**On agenda:** 2/28/2011      **Final action:**  
**Title:** Department of Corrections Housing

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** [exclusion zones](#)  
[residency restrictions](#)  
[Sex Offender Doc 1](#)  
[Sex Offender Doc 2](#)  
[Sex Offender Doc 3](#)  
[Sex Offender Doc 4](#)

Date	Ver.	Action By	Action	Result
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Department of Corrections - Housing

### **Background Information:**

The Department of Corrections (DOC) is actively seeking high risk offender housing in the City of Grand Rapids. The DOC would like to address the City Council in a work session to explain the DOC's intentions and to answer any questions the council may have of the DOC.

Consider housing options for the Department of Corrections.

**SEX OFFENDER EXCLUSION ZONES**  
**AND PROHIBITION OF CERTAIN EMPLOYMENT-RELATED ACTIVITIES**  
(An alternative to residency restrictions)

**1. Definitions**

(a) "Loiter" means remaining in a place or circulating around a place on foot or through the use of a motorized or non motorized vehicle under circumstances that would warrant a reasonable person to believe that the purpose or effect of the behavior is to enable a sex offender to become familiar with a location where a potential victim may be found or to satisfy an unlawful sexual desire, or to locate, lure or harass a potential victim.

(b) "Sex Offender" means a person who is required to register as predatory offender as provided in Minn. Stat. 243.166 and 243.167 for an offense in which the victim was a minor.

**2. Loitering prohibited. A sex offender shall not**

(a). Be present upon the real property of a public or nonpublic elementary or secondary school without the written permission of the school administrator or school administrator's designee, unless enrolled as a student at the school.

(b). Loiter within three hundred feet of the real property boundary of a public or nonpublic elementary or secondary school, unless enrolled as a student at the school.

(c) Be present on or in any vehicle or other conveyance owned, leased, or contracted by a public or nonpublic elementary or secondary school without the written permission of the school administrator or school administrator's designee when the vehicle is in use to transport students to or from a school or school-related activities, unless enrolled as a student at the school or unless the vehicle is simultaneously made available to the public as a form of public transportation.

(d). Be present upon the real property of a child care facility without the written permission of the child care facility administrator.

(e). Loiter within three hundred feet of the real property boundary of a child care facility.

(f). Be present upon the real property of a public library without informing the

library staff upon entry to the library of his/her status as a registered sex offender.

(g). Loiter within three hundred feet of the real property boundary of a public library.

(h). Loiter on or within three hundred feet of the premises of any place intended primarily for the use of minors including but not limited to a playground available to the public, a children's play area available to the public, recreational or sport-related activity area when in use by a minor, a swimming or wading pool available to the public when in use by a minor, or a beach available to the public when in use by a minor.

### 3. Certain Employment Prohibited. A sex offender shall not

(a). Operate, manage, be employed by, or act as a contractor or volunteer at any municipal, county, or state fair or carnival when a minor is present on the premises.

(b). Operate, manage, be employed by, or act as a contractor or volunteer on the premises of any children's arcade, an amusement center having coin or token operated devices for entertainment, or facilities providing programs or services intended primarily for minors, when a minor is present.

(c). Operate, manage, be employed by, or act as a contractor or volunteer at a public or nonpublic elementary or secondary school, child care facility, or public library when contact with minors will occur as result.

(d). Operate, manage, be employed by, or act as a contractor or volunteer at any place intended primarily for use by minors including but not limited to a playground, a children's play area, recreational or sport-related activity area, a swimming or wading pool, or a beach when contact with minors will occur as a result.

### 4. Allowances. A sex offender

(a). Who resides in a dwelling located within three hundred feet of the real property boundary of public or nonpublic elementary or secondary school, child care facility, public library, or place intended primarily for the use of minors as specified in subsection 1, paragraph "h", shall not be in violation of subsection 1 for having an established residence within the exclusion zone.

(b). Who is the parent or legal guardian of a minor shall not be in violation of subsection 1 solely during the period of time reasonably necessary to transport the offender's own minor child or ward to or

from a place specified in subsection 1.

(c). Who is legally entitled to vote shall not be in violation of subsection 1 solely for the period of time reasonably necessary to exercise the right to vote in a public election if the polling location of the offender is located in a place specified in subsection 1.

## **SEX OFFENDER RESIDENCY RESTRICTIONS**

Some Minnesota municipalities (Otsego, Duluth, Taylors Falls, Wyoming, Albertville, Cuyuna, and Cohasset.) have enacted sex offender residency restrictions. These restrictions are intended to restrict sex offenders from living within a certain distance from schools, parks, playgrounds or other locations that are frequently used by children. Although at first glance residency restrictions may appear to be effective approaches to public safety, research and professional experience indicate that is not the case.

Residency restrictions do not address the relevant behavior of the offender. Residency restrictions merely restrict where the offender sleeps. More effective legislation such as exclusion zones addresses the location and behavior of the offender while he/she is awake. Exclusion zones prohibit sex offenders from loitering near locations that are frequently used by children and excludes sex offenders from certain employment situations.

## **SEX OFFENDER RESIDENCY RESTRICTIONS**

There are several reasons residency restrictions do not reduce sexual violence in the community. Additionally enforcement of residency restrictions diverts resources from practices that do help. And in some cases residency restrictions may create a more dangerous situation.

### **Factors To Consider**

#### **1. Convicted Sex Offenders Are 10% of The Problem**

Approximately 90 % of sex offense convictions are perpetrated by individuals who have no prior sex offense history. Residency restriction has no impact on these individuals because at the time of their offense they are not subject to residency restrictions.

#### **2. It's About Relationship, Not Residence**

In approximately 90% of sex offenses the victim knows the offender. Residence is not the issue. Offenders access the victim through relationship, ie. dating, coach, teacher, minister, uncle, parent, stepparent, sibling etc.

#### **3. Sex Offenders Sexual Recidivism Rates Are Relatively Low**

**Minnesota Department of Corrections Studies at:**  
<http://www.doc.state.mn.us/publications/documents/>

Sex Offender Recidivism in Minnesota, April 2007

Of 3,166 sex offenders released and in community for average of 8.4 years

10% were reconvicted of new sex offense, 7% re-incarcerated for new sex offense

**Federal Study at:** [www.ojp.usdoj.gov/bjs/](http://www.ojp.usdoj.gov/bjs/)

Of 9,691 released offenders, 3 year follow up

3.5% convicted of new sex offense, 5.3% arrested for sex offense.

**Study by AJR Harris and R.K. Hanson** "Sex Offender Recidivism: A Simple Question" (No 2004-03) ( Public Safety and Emergency Preparedness Canada 2004)

Of 29,000 offenders after 15 years 76% had not been charged or convicted of another sex offense.

#### **4. Research Shows Residency Restrictions do Not Reduce Recidivism or Improve the Safety of Children.**

<http://ccoso.org/papers/ResidenceRestrictionsPaper.doc>

Research does not indicate children are more likely to be victimized by strangers at places such as schools, daycares, playgrounds. Study by MnDOC at:

<http://www.doc.state.mn.us/publications/documents/>

Studies in other states show similar conclusions.

#### **5. Residency Restrictions Give a False Sense of Security.**

Residency restrictions often allow for complacency under the belief 'there are no sex offenders in my circle' which is most likely false because:

90% of sex offenses are committed by people who have no sex offense conviction, therefore they are not subject to residency restriction.

Some sex offenders when faced with residency restrictions may decide their best option is to ignore registration law, 'go underground' and reside in the restricted area anyway. (see #7 below)

Most sex offenders access their victims through relationship not residence.

The best safety practice for protecting children is knowledge about what warning signs to look for, and parents who intervene when these warning signs appear.



## **6. Different Types of Sex Offender Require Different Rules**

The best restrictions or requirements placed on sex offenders are based on the offense behavior. For example conditions for those who have assaulted children are different than those who assaulted adults. General residency conditions impose meaningless conditions on some offenders.

Some offenders are physically or mentally disabled. For public safety purposes the most appropriate residence for them may be with family members.

## **7. Residency Restrictions Reduce Registration Compliance**

Residency restrictions tend to result in more offenders refusing to register and therefore they avoid providing law enforcement the details their whereabouts. This increases risk to the public.

California Coalition on Sexual Offending

<http://ccoso.org/papers/ResidenceRestrictionsPaper.doc>

Iowa County Attorneys Association "Statement on Sex Offender Residency Restrictions in Iowa"

<http://iowa-icaa.com/>

## **8. Instability Leads to Recidivism**

Residential restrictions restrict and eliminate housing options for sex offenders. Studies show that residential instability is associated with increased recidivism.

## **Sex Offender Residency Restrictions May Create More Danger**

### **Transience and Recidivism**

- In Georgia, residential instability was found to be a robust predictor of reoffending; the likelihood of re-arrest increased by 25% each time a parolee moved (Meredith, Speir, Johnson, & Hull, 2003).
- Released prisoners living in temporary shelters in New York were more likely to use drugs and alcohol, to be unemployed, and to abscond from probation or parole (Nelson, Deess, & Allen, 1999).

- An unstable living arrangement was the strongest predictor ( $r = .29$ ) of parole absconding in a sample of over 4,000 parolees in California (Williams, McShane, & Dolny, 2000).
- National sample ( $n = 2,030$ ): Probationers who moved more than once during probation were almost twice as likely to have had a disciplinary hearing (Schulenberg, 2007).

## INTRASTATE CASE TRANSFER POLICY (11/05/10)

**A. Transfer Eligibility Criteria** – Offenders, regardless of immigration status, will be eligible for a Transfer Investigation Request (TIR), Form 269, and the county of proposed residency will determine the suitability of the offenders' plans to relocate and will submit a Reply to Transfer Investigation Request, Form 275, when offenders are:

1. on probation from a court, on supervised release or subject to the Interstate Compact but not in a pre-trial status or released from jail with conditions without also being on probation, supervised release or subject to the interstate compact, and
2. planning to or have taken up permanent residency in another county, and
3. not residents of proximate counties that have formal agreements not to transfer offenders between themselves, and
4. included in one or more of the following categories:
  - a) Gross Misdemeanor Driving While Under the Influence and gross misdemeanor and misdemeanor person offenders, including, but not limited to those convicted of domestic assault, disorderly conduct with domestic assault-related conditions, or the violation of orders for protection, who have a minimum of six months of probation remaining at the time a TIR is submitted, and are:
    - assessed as high risk within the last year by the sending county using a current, validated instrument or a detailed narrative which clearly articulates why the offender should be supervised in the receiving county, e.g., significant criminal history, mental health or chemical issues or victim concerns etc. or
    - assessed as medium risk within the last year by the sending county using a current, validated instrument or a detailed narrative which clearly articulates why the offender should be supervised in the receiving county, e.g., significant criminal history, mental health or chemical issues and have unsatisfied conditions remaining other than:
      - financial obligations
      - avoidance of same or similar behaviors
      - no use of mood-altering substances without court-ordered testing, AA/NA attendance, completion of an alcohol education program or

- CWS/STS or MADD panel completion.
- b) Felony probationers, who have a minimum of six months remaining when the TIR is submitted, and are:
- assessed as medium or high risk within the last year by the sending county using a current, validated risk instrument or by a detailed narrative which clearly articulates why the offender should be supervised in the receiving county, e.g., significant criminal history, mental health or chemical issues or victim concerns etc. or
  - assessed as low risk by the sending county and have unsatisfied conditions other than:
    - financial obligations
    - avoidance of same or similar behaviors
    - no use of mood-altering substances without court-ordered testing, AA/NA attendance, or completion of an alcohol education program or
    - or CWS/STS or MADD panel completion.
- c) Any supervised release offender.
- d) All levels of offenders whose current conviction is for a sex offense or sex-related offense, which includes any offense for which registration is required and Failure to Register.
- e) Stand-alone misdemeanor, gross misdemeanor or felony offenders not included in one of the aforementioned categories who constitute a recognizable threat to public safety, and the relevant supervisors in the sending and receiving counties agree to the transfer before a Transfer Investigation Request is initiated. If the agent in the sending county is uncertain of an offender's eligibility for transfer per this provision, it is recommended that the agent in the sending county contact the relevant county liaison in the receiving county.
5. There will be no courtesy supervision. Offenders who meet the eligibility criteria will be referred to the county of residency to determine the suitability of transfer. Offenders, who are temporarily in another county in a halfway house, treatment facility or a sober house (when the sober house is a residence with the expectation of sobriety and other program requirements), will not be referred for transfer until a permanent residence is established. College students, who meet eligibility criteria for transfer, will be eligible for transfer. If an offender temporarily in another county is determined to be high risk, the liaison in the county of residency will be notified of the offender's placement, conviction offense and history.

6. When an offender eligible for transfer pursuant to this policy takes up residency in another county, is on either supervised release or probationary supervision with a requirement to register as a predatory offender, is assessed as high risk, and there is a pending violation that will likely result in a revocation hearing, the agent in the sending county will notify the liaison in the receiving county of the offender's presence and status. However, the jurisdiction will remain with the agent in the sending county unless the counties jointly make a decision to initiate a Transfer Investigation Request prior to the resolution of the pending violation. If the sentencing court in the sending county or the Hearings and Release Unit (HRU) declines to act on the violation, the offender will be eligible for transfer.

## **B. Transfer of Case Assignment**

1. For those counties using CSTS, all transfers of case assignment and related communication will use the electronic transfer feature within CSTS. Condition statuses, addresses, employment, predatory offender information, and chronos will be updated within CSTS prior to the initiation of the transfer process.

(When policy directs electronic activity in CSTS, it is understood Hennepin County will accomplish the procedure by postal mail, e-mail or telephone.)

2. Transfer Investigation Process
  - a) A Transfer Investigation Request will be initiated before an offender moves to another county when practical, but never more than 30 days before the offender plans to move to the second county.
  - b) When an offender takes up residency in another county without the prior approval of the receiving county, a Transfer Investigation Request will be initiated within fifteen days.
  - c) When an offender is living in another county at the time of sentencing, the sending county will initiate a Transfer Investigation Request within 30 days.
  - d) Permission must be received from the receiving county before a Level III or an intensive supervised release (ISR) offender moves to another county unless the offender has been off ISR supervision for a minimum of two years without experiencing revocation or restructure.

- e) When an offender under supervision with an assigned end-of-confinement (ECRC) Level II or III advises the supervising agent of intent to move or moves from a sending county to a receiving county, the agent in the sending county will notify the liaison in the receiving county as soon as possible. Notification will occur by telephone if necessary to accomplish prompt notification.
  - f) To the extent possible, the sending county will verify the existence and legitimacy of the proposed residence prior to submitting a Transfer Investigation Request.
3. The Transfer Investigation Request will include:
- Completed Form 269
  - Signed, legible probation or supervised release agreement
  - Appropriate assessments/evaluations
  - Attachments identified as required on Form 269
  - Updated status information on each condition for every transferring sentence
  - Balances on unpaid financial obligations
  - Chronological case record of past year
  - Pre-sentence investigation/s
  - Recent, relevant progress report, violation report and/or restructures
  - Victim information and protection order history for person offenders
  - Updated criminal history when necessary
  - Explanation of un-provided information
  - Information in the "Recommendation and Summary of Adjustment to Date" section will identify offender's compliance with conditions, employment status and history and note any legal, chemical use, mental health, relationship, victim or other issues.
4. If the absence of a program or service or another circumstance in the receiving county makes it impossible for the offender to comply with special conditions of the supervision, the situation will be resolved before transfer occurs.
5. The receiving county will:
- a) Identify and electronically request information perceived to be missing or needed in addition to that provided.

- b) Electronically advise the sending county of the name and telephone number or e-mail address of the assigned agent within thirty days of the initiation of the Transfer Investigation Request.
  - c) Return a Reply to Transfer Investigation Request within 45 days of receipt of the Transfer Investigation Request or advise electronically of the status of the investigation. Upon completion of the Reply to Transfer Investigation Request accepting supervision, the receiving county will place the offender in a status in the county's data base to indicate the identity of the new agent in the Statewide Supervision System. Supervision jurisdiction transfers to the receiving agent at this point.
6. The sending agent will:
- a) Upon receipt of a Reply to Transfer Investigation Request accepting supervision, electronically send any new file material not previously sent to the receiving agent.
  - b) Place the offender in a status in the county's data base that maps to a transfer status in the Statewide Supervision System upload and verify the offender's supervision is accurately reflected in the Statewide Supervision System.
6. The level of supervision in the receiving county will be determined by the receiving county.

#### **C. Transfer of Case Assignment Special Issues**

1. When an offender is eligible for transfer to a county that is served by the Department of Corrections and a County Probation Office and there are companion cases, which meet the transfer eligibility criteria established by this policy and they are supervised by both systems in the receiving county, all cases will be formally transferred to the agency providing the supervision for the highest-level offense.
2. When the supervision of an offender is transferred to another county:
  - a) It is the responsibility of the sending county to arrange jail service required as a condition of the supervision being transferred.
  - b) If the receiving county has been the offender's primary county of residence, it is the responsibility of the receiving county to arrange STS, electronic monitoring and uncompleted assessments ordered as a condition of supervision, the costs of which will be determined and

assessed by the receiving county. This circumstance occurs most frequently when the offender is a resident of the receiving county when an offense is committed and is convicted of the offense in the sending county.

- c) If an offender's primary county of residence has been the sending county or a county other than the receiving county, it is the responsibility of the sending county to arrange electronic monitoring and uncompleted assessments ordered as a condition of supervision whenever possible, and it is the offender's responsibility to arrange STS.
  - d) DNA testing is the responsibility of the sending county in recognition of the short time allowed for completion.
  - e) Exceptions to responsibility for the arrangement of special conditions will be justified in the Transfer Investigation Request or by the receiving county.
3. Pursuant to M.S. 244.18, Subd. 3, Community Corrections Act and County Probation Officer counties will not impose additional fees on an offender after the offender's supervision has been transferred to the Department of Corrections.
4. Offenders referred for transfer:
- a) Will not be denied transfer as a result of a single positive drug test.
  - b) Will not be denied transfer as a result of a single missed appointment and the agent in the receiving county will make a diligent effort to establish contact and to assess the proposed plan.
5. When a plan is denied, the Reply to Transfer Investigation Request will:
- a) clearly articulate the reason/reasons for denial,
  - b) when appropriate include supporting discovery and ample information to enable the sending county to compose a violation report,
  - c) and include the approval of the denial by the relevant supervisor in the receiving county.
6. If an offender moves from one county to a second county and later to third county, it is the responsibility of the second county to arrange the transfer to the third county, since the agent in the second county is the agent of record. Similarly, if an offender moves from one county to a



second and later to another state, it is the responsibility of the second county to arrange the interstate transfer. Once the third county or another state has accepted the offender, the originating county will be notified via a copy of the Form 279.

7. If an offender moves from a sending county to a receiving county and later returns to the sending county, the receiving county will verify the offender's address in the sending county before returning supervision via the Form 269. For Hennepin County, a progress report will accompany the Form 269 and will detail the offender's compliance with conditions, employment status and history in the receiving county; note any legal, chemical use, mental health, relationship, victim or other issues; and include the chronological record of the past year. If the offender is in violation status, a violation report will accompany the Form 269.
8. If an offender moves from one county to a second county, becomes ineligible for transfer pursuant to this policy during residency in the second county, and moves to a third county, the second county will return supervision to the first county via Form 279. A progress report will accompany the Form 279 and will detail the offender's compliance with conditions, employment status and history in the receiving county; note any legal, chemical use, mental health, relationship, victim or other issues; and include the chronological record of the past year. If the offender is in violation status, a violation report will accompany the Form 279.
9. If an offender violates the conditions of supervision, subsequent to the transfer of supervision:
  - a) The supervising agent in the receiving county will submit a violation report to the corrections agency in the sending county.
  - b) The sending county will prepare orders and distribute the violation report according to the practice of the sending county.
  - c) Supervision will be returned to the sending county via Form 279 only:
    - after 60 days have lapsed with no communication from the sending county or
    - the court in the sending county has issued a warrant for the offender and the offender is not apprehended within 60 days.
  - d) If supervision is continued, the agent in the sending county will advise the agent in the receiving county of the court's ruling and provide the documentation available from the court.

10. Offenders deported to another country from a receiving county by Immigration and Customs Enforcement (ICE) may be returned to the sending county via a Form 279. A progress report will accompany the Form 279 and will detail the offender's compliance with conditions, employment status and history in the receiving county; note any legal, chemical use, mental health, relationship, victim or other issues; and include the chronological record of the past year. If the offender is in violation status, a violation report will accompany the Form 279.

#### 11. Discharges

- a) The receiving county may transfer supervision of an offender back to the sending county by a 279 when:
  - The offender has satisfied all the conditions of probation, and
  - has met the condition for discharge in the receiving county, and
  - a report recommending discharge has been submitted, and
  - the corrections agency in the sending county has advised that it does not permit early discharge.
- b) If the sentencing court in the sending county refuses to discharge an offender, the receiving county will continue to supervise according to the supervision standards of the receiving county.
- c) If the receiving county recommends discharge, the receiving county will not close the case or return it to the sending county via Form 279 until they have received notice from the supervision authority in the sending county or 60 days has lapsed without communication from the sending county.

#### 12. Expiration Reports

For all felony and stay of adjudication gross misdemeanor and misdemeanor level offenders, ninety days prior to expiration of an offender's supervision, the receiving county will provide the corrections agency in the sending county with information including the results of a criminal history check and the offender's compliance with the conditions of supervision and general adjustment. For misdemeanor level offenders, the sending county may request an update on compliance with conditions ninety days prior to expiration which the receiving county will provide.

#### **D. Dispute Resolution**

When there are disputes relative to the transfer of offenders, agents will attempt to resolve matters by referring to the processes and standards identified in this policy. If they are unable to do so, they will refer the matter to their respective supervisors and/or administrators. If necessary, disputed matters will ultimately be resolved by the DOC Deputy Commissioner of Community Services or his/her designee.

**Minnesota Department of Corrections**

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<b>Policy:</b>	<b>203.018</b>	<b>Title: Release Planning – Agent Assignment</b>
<b>Issue Date:</b>	<b>12/7/10</b>	
<b>Effective Date:</b>	<b>12/7/10</b>	

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**AUTHORITY:** Minn. Stat. §§241.01 and 401.02.

**PURPOSE:** To guide and direct the selection and approval of a residence location for offenders released from Minnesota Department of Corrections (DOC) facilities in order to provide the highest level of public safety and an opportunity for offenders to optimize their success potential for re-entering society with a crime free lifestyle.

**APPLICABILITY:** Adult facilities, field services and the Hearings and Release Unit (HRU).

**POLICY:** Case managers will utilize the following factors in determining an offender's release plan; stable and appropriate residence, employment, education, career development, corrections programming, family, support systems and community supervision. All entries in the case record must be dated.

**DEFINITIONS:**

Case managers (caseworker) - facility staff responsible for coordinating programming and release planning and assisting offenders in facility adjustment.

Commissioner – the Commissioner of Corrections and includes those authorized by the commissioner to approve the release of offenders from any department correctional facility.

County of commitment – the county in which the offender was convicted and sentenced for a crime that required commitment to the Commissioner of Corrections.

County of history / support – the county in which the offender has a significant history as indicated by residence; family members, extended family (wife, children, step-parents, etc.); community group or individual(s) who has indicated and documented a willingness and meaningful ability to assist the offender upon release.

Document Exchange Manager (DEM) – an electronic mechanism located in COMS to send requests for agent assignments to counties. The business rules outlining the DEMS process are available on the DOC Extranet Portal under the DEM Steering Committee site.

Initial Facility Program Review Team (PRT) Report; Projected release plan - the portion of the Initial PRT Report that addresses County of history/support, release notification, sex offender conditional release, sex offender registration, sex offender DNA testing, end of confinement review, psychopathic personality commitment and risk level assignment, as applicable.

Program review team (PRT) - a team designated by the warden to conduct program reviews. The team makes directives or recommendations for facility programming, makes recommendations to the HRU on discretionary releases and release plans, and gives Disciplinary Confinement Legislation directives.

Proposed residence – a location where the offender can reside upon release that has been verified by a community supervision agent. To establish “proposed residence” outside the county of commitment motels, hotels, homeless shelters, as well as treatment programs, adult foster care homes and

health/nursing home placements for less than six (6) months may not be used for the purposes of this policy.

Support systems – includes, but is not limited to, relatives, friends, religious groups, other volunteer organizations, or positive influences in the community.

**PROCEDURES:**

- A. The case manager will determine if the offender meets mandatory or discretionary criteria for Intensive Supervised Release (ISR) as outlined in the Criteria for Placement on ISR (attached).
  1. If the offender meets mandatory criteria for ISR, the case manager will send the request for agent and a referral for placement on ISR to the designated individual within the jurisdiction where the offender intends to reside. The case manager must identify the mandatory placement criterion or criteria the offender meets for ISR.
  2. If the offender meets discretionary criteria for ISR, the case manager must identify the discretionary criterion or criteria the offender meets for the referral and provide a written justification for the ISR referral in addition to the request for agent to the ISR supervisor.
- B. The case manager will meet with the offender to determine residency options and verify the address of the option most suited to the offender's release plan. The case manager will submit the Request for Agent Assignment in the following sequence and document the policy reason for the selection.
  1. The county containing the proposed residence. Acceptance of supervision by this county is presumptive absent specific identifiable risks to the victim(s) of the offender's offense(s) and others in the victim pool of the offender.
  2. The county in which the offender has documented history/support. History must include residence, family members, extended family (spouse, children, step-parents, etc.), community group or individual(s) who have indicated a willingness and meaningful ability to assist the offender. The dispute resolution section of this policy will be pursued prior to referral to the county of commitment, and the dispute will not be referred to HRU for resolution. The determination of placement will take into account the general absence of ideal placements for most of this offender population as well as the preferred supervision, public safety and adjustment possibilities resulting from a residence with liabilities over homelessness.
  3. If the offender has none of the community support systems or options listed in 1 and 2 above, release planning will be the responsibility of the local corrections agency responsible for adult felons in the county from which the current commitment resulted. If no practical residential placement option can be made in the county where the offender was convicted, the local corrections agency for adult felons in the county of commitment will attempt to arrange for housing and supervision.
    - a) This housing and supervision may occur within any county where the offender can most effectively be provided appropriate correctional programming. However, the corrections agency responsible for adult felons in the county from which the current commitment resulted is responsible for arranging and funding the placement.

- b) To access funding for those offenders identified as eligible in DOC Policy 205.130, "Adult Halfway House/Emergency Housing Fund Use," agents and case managers will follow the processes contained in the policy. If the offender is deemed ineligible under the guidelines the case manager shall document decision in the Corrections Operations Management System (COMS) pre-release report. An offender may challenge the ineligibility decision under Policy 303.100, "Grievance Procedure."
  - c) Residential placement, outside of the county of commitment as arranged by the local corrections agency responsible for adult felons in the county from which the current commitment resulted, requires timely notification of the corrections agent supervisor in the receiving county regarding the residential placement in their county.
- 4. If the offender is sentenced to incarceration for an offense stemming solely from the offender's residential placement and the residential placement was originally established outside the offender's county of commitment; the subsequent release planning responsibility for the recent offense will revert to the original county of commitment for the old offense.
- 5. **Dispute Resolution**  
Case managers and agents should attempt to resolve disputes relative to offender release planning by referring to the processes and standards identified in this policy. If they cannot reach resolution, case managers and agents should refer the matter to their respective supervisors and/or administrators. If necessary, disputed matters will be referred to the Minnesota Department of Corrections Deputy Commissioner of Community Services for final resolution.
- C. The case manager will generate a pre-release report from COMS that includes a primary release plan as well as an alternative release plan. The report must note the offender's facility adjustment during incarceration, any recommended conditions of release, release notification, ISR recommendation, DNA analysis, sex offender risk assessment, predatory offender registration and End of Confinement Review Committee (ECRC) level assignment, if applicable, and releasing transportation.
- D. Requests for agent assignments will be sent via DEM by the case manager or records as determined by each facility. The request for agent assignment and pre-release report will be sent to the supervisor of the county of the releasee's intended residence at least 120 days prior to the offender's supervised release date, if time permits. If the case manager determines the offender meets ISR criteria, the request for agent assignment must be sent at least 120 days prior to the offender's SRD to the ISR supervisor who oversees the region where the offender intends to reside. Interstate requests will be similarly processed at least 120 days prior to the offender's supervised release date via the Interstate Compact Offender Tracking System (ICOTS) if time permits.
- E. Refusal by the offender to cooperate in determining the place of residence or employment plans may result in an extension of the offender's term of incarceration through the facility disciplinary process.
- F. If the offender is referred to the ISR supervisor for placement on ISR, the ISR supervisor will determine whether or not to accept the offender on ISR. If accepted, the assigned ISR agent will

contact the case manager. If not accepted, the ISR supervisor will forward the request for agent assignment via DEM to the next supervisor of the offender's county of intended residence and notify the case manager.

- G. The county of referral will respond to the Request for Agent Assignment within 30 days or within one-third (1/3) of the time remaining to release, whichever is less. The supervising agent will investigate the release plan and reply within 30 days of receipt of agent assignment by the supervisor. The supervising agent will contact the case manager if circumstances prevent response within 30 days.
- H. Once the community investigation of the release plan has been returned to the facility, an approved plan will be submitted to the program review team (PRT) for a re-entry review.
- I. The offender will be notified of the agent assignment and the scheduled PRT re-entry review, which will be held approximately 60 days prior to the offender's release date. The offender may attend the re-entry review, which finalizes the placement, special conditions of release and reporting instructions. The offender may waive his/her program review team appearance by signing and returning the Program Review Team Appearance Waiver form to the case manager.
- J. After the re-entry review, the release plan will be entered into COMS for final approval by Hearings and Release Unit within 45 days or as soon as possible before the release date.
- K. If any changes to the release plan occur to Interstate cases that have already been approved by the Hearings and Release Unit, the institution case manager/designee will contact the Records staff via email notifying them of the changes. The Records staff will make the appropriate changes to the release plan and fax the signed Conditions of Release to the Interstate Unit on the date of the offender's departure.

**REVIEW:** Annually

**REFERENCES:** ACA Standards 4-4304, 4-4428, 1-ABC-1E-03, 1-ABC-4F-01.  
Policy 203.010, "Case Management Process"  
Policy 203.012 "Transfer Health Care Summary"  
Policy 203.040, "DNA Analysis of Offenders"  
Division Directive 203.110, "Interstate Corrections Compact (Facility)."  
Policy 205.130, "Adult Halfway House/Emergency Housing Fund Use"  
Policy 205.140 "Offender Transitions"  
Policy 205.200, "Sex Offender Civil Commitment Screening"  
Policy 205.220, "Predatory Offender: Registration, Community Notification, Victim Notification, Level Three Site, and Risk Reduction"  
Minn. Stat. §§243.251; 241.26, 242.19, 243.05; 243.1605; 244.05; 244.065.

**SUPERSESSION:** All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

**ATTACHMENTS:** Program Review Team Appearance Waiver form (203.010A)  
Criteria for Placement on Intensive Supervised Release (ISR) (203.018A)

/s/

Chris Bray, Deputy Commissioner  
Community Services

/s/

David Crist, Deputy Commissioner  
Facility Services



## **SEX OFFENDER RESIDENCY RESTRICTIONS**

Reduced sexual violence is the goal. There are several factors to suggest residency restrictions do not help the situation (and thereby divert resources from practices that do help) and in some cases may create a more dangerous situation.

### **Factors To Consider**

#### **1. Convicted Sex Offenders Are 10% of The Problem**

Approximately 90 % of sex offense convictions are perpetrated by individuals who have no prior sex offense history. Residency restriction has no impact on these individuals because at the time of their offense they are not subject to residency restrictions.

#### **2. It's About Relationship, Not Residence**

In approximately 90% of sex offenses the victim knows the offender. Residence is not the issue. Offenders access the victim through relationship, ie. dating, coach, teacher, minister, uncle, stepparent, sibling etc.

#### **3. Sex Offenders Sexual Recidivism Rates Are Relatively Low**

<http://www.doc.state.mn.us/publications/documents/>

#### **4. Research Shows Residency Restrictions do Not Reduce Recidivism or Improve the Safety of Children.**

<http://ccoso.org/papers/ResidenceRestrictionsPaper.doc>

Research does not indicate children are more likely to be victimized by strangers at places such as schools, daycares, playgrounds. Study by MnDOC at:

<http://www.doc.state.mn.us/publications/documents/>

Studies in other states show similar conclusions.

#### **5. Residency Restrictions Give a False Sense of Security.**

Residency restrictions often allow for complacency under the belief 'there are no sex offenders in my circle' which is most likely false because:

90% of sex offenses are done by people who have no sex offense conviction, therefore they are not subject to residency restriction.

Most sex offenders access their victims through relationship not residence.

The best safety procedure to protect children is knowledgeable and alert parents who intervene when potential warning signals appear.

#### **6. Different Types of Sex Offender Require Different Rules**

The best conditions placed on sex offenders are based on the offense behavior. For example conditions for those who have assaulted children are different than those who assaulted adults. General residency conditions impose pointless conditions on some offenders.

Some offenders are physically or mentally disabled. For public safety purposes the most appropriate residence for them is with family members.

#### **7. Residency Restrictions Reduce Registration Compliance**

Residency restrictions tend to result in more offenders refusing to register and thereby avoiding law enforcement knowledge of their whereabouts. This increases risk to the public.

California Coalition on Sexual Offending

<http://ccoso.org/papers/ResidenceRestrictionsPaper.doc>

Iowa County Attorneys Association "Statement on Sex Offender Residency Restrictions in Iowa"

<http://iowa-icaa.com/>

#### **8. Instability Leads to Recidivism**

Residential restrictions restrict and eliminate housing options for sex offenders. Studies show that residential instability is associated with increased recidivism.

## **Sex Offender Residency Restrictions May Create More Danger**

### **Transience and Recidivism**

- In Georgia, residential instability was found to be a robust predictor of reoffending; the likelihood of re-arrest increased by 25% each time a parolee moved (Meredith, Speir, Johnson, & Hull, 2003).
- Released prisoners living in temporary shelters in New York were more likely to use drugs and alcohol, to be unemployed, and to abscond from probation or parole (Nelson, Deess, & Allen, 1999).
- An unstable living arrangement was the strongest predictor ( $r = .29$ ) of parole absconding in a sample of over 4,000 parolees in California (Williams, McShane, & Dolny, 2000).
- National sample ( $n = 2,030$ ): Probationers who moved more than once during probation were almost twice as likely to have had a disciplinary hearing (Schulenberg, 2007).

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Pittsburgh Post-Gazette

## Residency restrictions for sex offenders popular, but ineffective

Sunday, October 28, 2008

By Paula Reed Ward, Pittsburgh Post-Gazette

Despite research that shows sex offender residency requirements actually hamper the rehabilitation of offenders, jurisdictions across the country continue to pass them, including Allegheny County last year.

Experts say the laws, which prohibit convicted sex offenders from living within a certain distance of schools, day care centers and parks, also don't work to help cut down on recidivism.

These types of residency restrictions have been passed in at least 30 states and thousands of municipalities nationwide. Even as prosecutors, criminal justice researchers and child advocates say they don't work, parents and legislators continue to push for the tough laws.

County Councilman Vince Gastgeb, R-Bethel Park, who was the primary author of the local bill passed in October 2007, said he wrote the law that parents wanted.

Mr. Gastgeb said he originally intended for the restrictions to apply only to offenders whose victims were children. But after the American Civil Liberties Union filed a federal lawsuit against the county this month, Mr. Gastgeb learned that the law actually applies to all registered sex offenders, no matter their victims' ages.

The ACLU filed the lawsuit on behalf of six sex offenders who said they could not find anywhere to live because of the restrictions.

At the time the suit was filed, Mr. Gastgeb said he would amend the law so that it applied only to sex offenders whose victims are children.

But days later, he changed his mind.

"I do think it's legally sound, and I do think we'll prevail in court," Mr. Gastgeb said. "So a certain section of the county is off-limits. That's the way it is.

"There's plenty of places for people to live."

Even if there are "plenty of places for people to live," those who have studied the issue know that residency restrictions push sex offenders outside of metropolitan areas into rural communities.

That means less access to family, housing, employment and treatment programs, said Dr. Jill S. Levenson, a professor at Lynn University in Boca Raton, Fla., who has been studying sex crime policy for six years.

"At first glance, these laws sound good in theory," she said. "But it's much more complex than that."

The visceral reaction of "not in my neighborhood," needs to be balanced with pragmatism, she said.

Part of the problem, she continued, is that residency restrictions are often one-size-fits-all.

They often don't distinguish among the types of crimes that have been committed, Dr. Levenson said. Just because someone is designated a sex offender under state law does not necessarily mean that that person is a sexually violent predator or a pedophile.

Further, studies conducted by the Minnesota Department of Corrections and Colorado Department of Public Safety have not shown any correlation between sex offender recidivism and living near schools or parks.

And though residency restrictions might prohibit a sex offender from living in a certain neighborhood, they can't keep such a person from sitting across the street from a playground.

"They really do nothing at all to stop sex offenders from having access to children during the day," Dr. Levenson said.

On the other hand, there is ample scientific evidence that shows residency laws do interfere with the reintegration of sex offenders into society.

"Criminal offenders who have stable housing, stable employment and support systems in their lives, those people are less likely to go on and commit new crimes," Dr. Levenson said.

Sex offender residency restrictions were approved in Iowa in 2002, though the law was put on hold pending the outcome of a court case. In 2005, the state Supreme Court upheld the law there.

#### Law enforcement opposition

Almost from inception, law enforcement entities have been fighting to get it repealed, said Corwin Ritchie, the executive director of the Iowa County Attorneys Association.

The prosecutors' group issued a policy statement on the issue, outlining what it sees as numerous problems.

In addition, residency restrictions have made it less likely for people charged with sex offenses to plead guilty, for fear that they will lose their homes.

That means that more cases must go to trial -- potentially causing additional trauma for victims -- or more offenders go free because sex crimes can be hard to prove.

Another important factor to be considered, Mr. Ritchie said, is the vast amount of resources being spent to enforce residency laws with few tangible results.

In Iowa, according to his organization, the state has lost track of more than half of its registered sex offenders since restrictions went into place, making the jobs of probation and parole officers much more difficult and time-consuming.

Also, Department of Justice research shows that at least 90 percent of children who are abused are victimized by someone they know and trust.

"[The incidence of] stranger danger is tiny," Mr. Ritchie said. "It's tragic, but its incidence is really, really small."

And despite public opinions to the contrary, research shows that sex offenders are among the least likely criminals to re-offend, Dr. Levenson said.

But in Iowa, legislators don't want to hear any of that, Mr. Ritchie said.

"We ran into the politics of it," he continued. "No one wants to be seen as soft on sex offenders."

"It's just politically untenable."

Soon after Iowa's law went into effect, a small panel of legislators who wrote it told Mr. Ritchie that they were wrong and that it should be overturned, he said.

But those same lawmakers said they would not be the ones to do it, he said. Instead, they left it up to the courts.

"They're a fearful bunch," he said. "They've done such a good job of selling it, they can't turn and go the other way."

Advocates for repealing Iowa's law came close two sessions ago, Mr. Ritchie said. They will take up the fight again in 2009.

"The general public doesn't really care if it's good public policy," Mr. Ritchie said.

#### Parents insistent

The decision by Mr. Gastgeb to write the local law was influenced by listening to many parents in Mt. Lebanon speak at community meetings.

They were outraged last year to learn that a convicted sex offender was living near Howe Elementary School in the Sunset Hills neighborhood.

Last week, parents there continued to support the residency restriction law.

"It would be very difficult to have a whole lot of sympathy for sex offenders at all, having three children," said Kathy Graziano, who lives in the community.

One of the reasons she feels so strongly about the restriction is that the Mt. Lebanon School District does not have a busing system. Many students walk to and from school, she said, which makes them more vulnerable.

"There were children passing his residence at any time of the day," Ms. Graziano said. "We don't have buses . . . or designated adults that would be one more set of eyes."

She doesn't care if local sex offenders have access to housing or jobs.

"Then I suppose they should work out in a cornfield in the middle of Iowa," she said.

Another neighbor, Bill Crock, who has four children, believes the residency restriction should stick.

"From what I've read, these guys don't get better," he said. "It's a lifelong problem."

A teacher, who also lives in the community, was the only one to express mixed feelings on the issue.

She wouldn't give her name for fear of reprisal from her school district, but the woman said she felt sorry for the offenders.

Though the most important thing is to protect children, she also added that sex offenders do have to live somewhere.

That's a notion that Dr. Levenson backed up.

"When sex offenders become homeless, they do become more difficult for probation and parole to track," she said. "That, in itself, defeats the very purpose of Megan's Law."

Though most jurisdictions pass residency restrictions when they are introduced, the Kansas legislature in 2006 chose not to after listening to expert testimony during two days of hearings.

"This is not about sympathy for criminal offenders," Dr. Levenson said. "Housing instability is one of the strongest indicators of recidivism in the criminal justice literature."

If jurisdictions want to enforce some residency restrictions, Dr. Levenson suggests that it be done only after an evaluation is performed to assess the person's potential for future danger.

Parents should not rely simply on sex offender registries to keep their children safe, she said.

"With the reliance on sex offender registries, we do parents a disservice," she said. "They need to be aware of what to look for in anyone who spends time with their child."

Paula Reed Ward can be reached at [pward@post-gazette.com](mailto:pward@post-gazette.com) or 412-263-2620.

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# Iowa County Attorneys Association

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## **STATEMENT ON SEX OFFENDER RESIDENCY RESTRICTIONS IN IOWA**

December 11, 2006

The Iowa County Attorneys Association believes that the 2,000 foot residency restriction for persons who have been convicted of sex offenses involving minors does not provide the protection that was originally intended and that the cost of enforcing the requirement and the unintended effects on families of offenders warrant replacing the restriction with more effective protective measures.

The ICAA has the following observations concerning the current restriction:

1. Research shows that there is no correlation between residency restrictions and reducing sex offenses against children or improving the safety of children.
2. Research does not support the belief that children are more likely to be victimized by strangers at the covered locations than at other places.
3. Residency restrictions were intended to reduce sex crimes against children by strangers who seek access to children at the covered locations. Those crimes are tragic, but very rare. In fact, 80 to 90 percent of sex crimes against children are committed by a relative or acquaintance who has some prior relationship with the child and access to the child that is not impeded by residency restrictions. Only parents and caretakers can effectively impede that kind of access.
4. Law enforcement has observed that the residency restriction is causing offenders to become homeless, to change residences without notifying authorities of their new locations, to register false addresses or to simply disappear. If they do not

register, law enforcement and the public do not know where they are living. The resulting damage to the reliability of the sex offender registry does not serve the interests of public safety.

5. There is no demonstrated protective effect of the residency requirement that justifies the huge draining of scarce law enforcement resources in the effort to enforce the restriction.
6. The categories of crimes included in the restriction are too broad, imposing the restriction on many offenders who present no known risk to children in the covered locations.
7. A significant number of offenders have married or have been reunited with their victims; and, in those cases, the residency restriction is imposed on the victims as well as the offenders.
8. Many offenders have families whose lives are unfairly and unnecessarily disrupted by the restriction, causing children to be pulled out of school and away from friends, and causing spouses to lose jobs and community connections.
9. Many offenders are physically or mentally disabled but are prohibited from living with family members or others on whom they rely for assistance with daily needs.
10. The geographic areas included in the prohibited 2,000 foot zones are so extensive that realistic opportunities to find affordable housing are virtually eliminated in most communities. The lack of transportation in areas not covered by the restriction limits employment opportunities. The adoption of even more restrictive ordinances by cities and counties exacerbates the shortage of housing possibilities.
11. The residency restriction has no time limit; and, for many offenders, the restriction lasts beyond the requirement that they be listed on the sex offender



registry. For this reason, there are many offenders who are subject to the residency restriction but who are not required to inform law enforcement of their place of residence, making enforcement nearly impossible.

12. There is no accommodation in the current statute for persons on parole or probation supervision. These offenders are already monitored and their living arrangements approved. The restriction causes many supervised residential placements to be unavailable even though they may be the most appropriate and safest locations for offenders to live.
13. Many prosecutors have observed that the numerous negative consequences of the lifetime residency restriction has caused a reduction in the number of confessions made by offenders in cases where defendants usually confess after disclosure of the offense by the child. In addition, there are more refusals by defendants charged with sex offenses to enter into plea agreements. Plea agreements are necessary in many cases involving child victims in order to protect the children from the trauma of the trial process. This unforeseen result seriously jeopardizes the welfare of child victims and decreases the number of convictions of sex offenders to accurate charges. Consequently, many offenders will not be made fully accountable for their acts and will not be required to complete appropriate treatment or other rehabilitative measures that would enhance the safety of children. Similar unintended negative effects often accompany well-intended efforts to increase prison sentences with mandatory provisions.
14. The drastic reduction in the availability of appropriate housing, along with the forced removal of many offenders from established residences, is contrary to well-established principles of treatment and rehabilitation of sex offenders. Efforts to rehabilitate offenders and to minimize the rate of reoffending are much

more successful when offenders are employed, have family and community connections, and have a stable residence. These goals are severely impaired by the residency restriction, compromising the safety of children by obstructing the use of the best known corrections practices.

For these reasons, the Iowa County Attorneys Association supports the replacement of the residency restriction with more effective measures that do not produce the negative consequences that have attended the current statute. For example, the ICAA would support a measure that includes the following:

- A statute creating defined protected areas (“child safe zones”) that sex offenders would be prohibited from entering except in limited and safe circumstances. Such areas might include schools and childcare facilities.
- Entrance into the protected areas would be allowed only for activities involving an offender’s own child and only with advance notice and approval from those in charge of the location.
- The restriction should cover offenses against “children” (under age 14), rather than “minors” (under 18).
- The statute should specifically preempt local ordinances that attempt to create additional restrictions on sex offenders. Such ordinances result in a variety of inconsistent rules and promote apprehension among local authorities that they must act to defend themselves from the perceived effects of the actions of other communities.
- Most important, any restriction that carries the expectation that it can be effectively enforced must be applied to a more limited group of offenders than is covered by the current residency restriction. This group should be

identified by a competent assessment performed by trained persons acting on behalf of the state. The assessment should be directed at applying the statutory restriction only to those offenders that present an actual risk in public areas to children with whom the offender has no prior relationship

- Children will be safer with clarification and strengthening of certain child sex abuse laws, including, sex abuse by deception, sexual exploitation of a person “reasonably believed to be a minor,” using a position of authority to cause children to engage in a sex act, and requiring admission at trial of a defendant’s prior acts of sexual abuse.
- Sex offender treatment both inside and outside of prison should be fully funded and improved.
- Measures should be enacted that aim at keeping all young people safe from all offenders. This should include programs that focus on the danger of abuse that may lie within the child’s family and circle of acquaintances. It is important to help children and parents recognize the signs and dangers of sex abuse by persons with ordinary access to children.
- Recognize that child safety from sex offenses is not amenable to simple solutions by creating a Sex Offender Treatment and Supervision Task Force to identify effective strategies to reduce child sex offenses.

These observations of Iowa prosecutors are not motivated by sympathy for those committing sex offenses against children, but by our concern that legislative proposals designed to protect children must be both effective and enforceable. Anything else lets our children down.

The Iowa County Attorneys Association strongly urges the General Assembly and the Governor to act promptly to address the problems created by the 2,000 foot residency restriction by replacing the restriction with measures that more effectively protect children, that reduce the unintended unfairness to innocent persons and that make more prudent use of law enforcement resources, and strengthen the child sex abuse laws and prosecution. The ICAA stands ready to assist in any way with this effort.

**Contact Information:**

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City of Grand Rapids

Offender Residency Questions/Scenarios

2/9/11 @ 9:00 a.m. at GRPD

1. When is the ordinance effective?
2. Offender committed to prison from Itasca County. They were living in Grand Rapids at the time of his offense. After serving his time in prison, will they be able to return to the community?
3. Offender is an Itasca County commit to prison with no place to go upon release from prison. This person is required to come back to the county of commitment and is homeless. Is this person allowed to be homeless in GR?
4. Will an offender be able to move within the community if they already have a residence within the City? In other words, if living at one location, will they be able to move to another?
5. With probation cases, if living in Grand Rapids at the time of the offense, after serving jail time, are they able to return to their home in GR, or to another location in GR.
6. Offender living outside of community. Parents (family) live within the community and offender for some reason isn't able to keep current residence (job loss as example). Will this person be able to stay with parents for a period of time?
7. If offender is currently living in Grand Rapids with family, moves to another community, will that person be able to move back in with family later if need be?
8. Predatory offenders (level 1 and 2) no longer under supervision as a result of successful completion of probation or expiration of sentence, but still need to register with BCA. Will they be able to reside in GR? The fact that they are registered offenders is confidential and only known by law enforcement.
9. Predatory Offenders are allowed secondary addresses (family, friends, etc) where they may stay at locations other than their primary residence. It appears that the RR does not account for these situations.
10. Are Stays of Adjudication a part of this Ordinance? There are several sex offenders who haven't been convicted on condition they follow probation conditions.
11. Offender participating in in-patient treatment at a local program/ facility-is this permitted?



# CITY OF GRAND RAPIDS

## Legislation Details (With Text)

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**File #:** 11-1256      **Version:** 1      **Name:**

**Type:** Agenda Item      **Status:** CC Worksession

**File created:** 1/19/2011      **In control:** City Council Work Session

**On agenda:** 3/26/2012      **Final action:**

**Title:** Review agenda for 5:00 p.m. regular meeting and other business as noted.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
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Review agenda for 5:00 p.m. regular meeting and other business as noted.