California’s Sane New Approach to Sex Offenders -- And why no other state is following its example.

By Leon Neyfakh

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Rates of sexual abuse neither increased nor decreased as a result of the sex offender registry.

Last week, California officials announced that the state would allow some sex offenders to live within 2,000 feet of schools and parks for the first time since 2006, making it easier for them to find housing. High-risk sex offenders and those whose crimes involved children under the age of 14 will still be subject to the residency restrictions, which were introduced as part of a voter-initiative known as as Jessica’s Law—but all others will be granted exemptions on a case-by-case basis.

The new policy, passed by California’s Department of Corrections and Rehabilitation, will help combat a growing problem of homelessness among sex offenders out on parole, who have had a difficult time finding places to live because Jessica’s Law has made so much of the state off-limits to them. According to the Orange County Register, the number of paroled sex offenders living on the street jumped from 88, when the residency restrictions were passed, to almost 2,000 five years later.

The new rule, which comes on the heels of a decision from the California Supreme Court that found the Jessica’s Law residency restrictions unconstitutional as applied in San Diego County, stands out as one of the only policy changes in memory that makes life for sex offenders in the United States easier rather than harder. To put the move in perspective, I called Emily Horowitz, a criminologist at St. Francis College in Brooklyn and the author of the new book, Protecting Our Kids: How Sex Offender Laws Are Failing Us.

How often does it happen that states become more lenient toward sex offenders rather than more punitive?

Never, that I can think of. This is really significant. I just wrote this book on it, and I can’t think of any other example—except for small little triumphs, like in Orange, California, where they defeated a proposed law where registered sex offenders would have had to put a sign on their front doors that said “Sex offender at this residence, no candy or treats allowed.” That ordinance was successfully fought back.

Why is it significant?

They said they’re going to look at sex offenders individually, and see who actually would pose a threat to children. And that’s what anybody who advocates for sex offenders has always said makes sense. So it seems pretty radical. Obviously, everyone wants to protect children, and no one wants dangerous sex offenders who are at high risk to reoffend to be in communities near children. But there are very, very few of those people.

Is it part of any broader shift in thinking on sex offender laws that you’ve noticed?

Not really. There has been a little bit of rationality about it in the last year. But it’s been mostly in academia and in the legal community. There have been a lot of law review articles that challenge it.

Why did you write a book about the sex offender registry?

When I saw the research on the registry I was really shocked at how pointless it is. And it was shocking because usually, when you research something, there’s ambiguity—there are some good things and there are some bad things. But with the registry, there’s really no research that shows it’s effective at all.

You previously had believed the registry was doing something worthwhile?

As a kid I’d heard about Etan Patz and Adam Walsh and so, when I first heard about sex offender laws I thought, oh, well these makes sense — you’ll have a registry and kids will be safer. And I had the sense that stranger danger was this profound problem. But then I found out that, statistically, it was a completely insignificant problem—that these cases were really anomalous—and that the registry really didn’t protect kids at all.
How do the studies you read show the registry’s effectiveness, or lack thereof?

If the registry was effective, you’d want to see that, after 1996, when Megan’s Law was implemented, there was a big drop in sex offense cases. But the rates didn’t change, or they’d already started going down before Megan’s Law was implemented. Rates of sexual abuse neither increased nor decreased as a result of the registry.

Why?

Because more than 90 percent of child sexual abuse cases—some say 96 percent—involves the family. And the registry only targets stranger danger. It prohibits people from going to parks and malls—whereas most child sexual abuse takes place in the home. Also, most people on the registry have adult victims. It’s just all the rhetoric around the registry is about children.

So what does the registry accomplish?

It’s just a form of public, permanent shaming to make us feel better. ... I mean, I think a lot of these people deserve to go to prison. They’re sex offenders who do things that are against the law, and they should go to prison and they should be on parole and they should get treatment. But I don't think they should be publicly branded for life.

If there’s all this research showing that the sex offender registry doesn’t drive down rates of sexual abuse, why has it survived all these years?

Because it’s politically really popular. And because it’s political suicide to say you don’t want the registry.

What did the people you talked to for your book say about how being on the sex offender registry affects their lives?

I talked to a lot of people on the registry but I also talked to a lot of wives and mothers, because a lot of times the people on the registry are so traumatized that they don’t even want to talk about it. Basically they all talk about this constant fear. Because, you know, a lot of times your address is on the Internet so people look you up—and everyone knows. The ones who have jobs just wait for the day that people they work with find out. And they worry that somebody’s going to come and throw eggs at their house or throw beer cans at them or scream and yell at them. Some people have kids, and so they dread the other parents finding out. They just all talk about this constant dread and fear and always looking over their shoulder.

Do you think there will be more policy action on making registry laws more lenient or forgiving, along the lines of what we’ve just seen in California?

I think there’s going to be some success on fighting back for people who were juveniles when they were added to the registry. I think people are sympathetic to that. Some people go on the registry at like, 10 or 12. Very young. But then they’re in their 30s and they’re still on it because they’re subject to lifetime registration.

In Missouri there was some hope that they were going to get juveniles off the registry, but then at the last minute the governor, I believe, was like “forget it.”

This interview has been edited and condensed.