



# Level III Predatory Offender Concentration in Minneapolis: Looking Forward

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## Offender Characteristics

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Hennepin County Department of Community Corrections and Rehabilitation (DOCCR), Office of Policy, Planning and Evaluation provides a biannual memo detailing the status of Level III predatory offenders in the county. The following data is from, “Hennepin County Level 3 Predatory Offender Concentration: *Level 3 Offenders Residing in Hennepin County on January 20, 2016* (March 2016).”

- 143 Level III predatory offenders in Hennepin County
  - Increase of 22, or 15%, over July, 2015
  - Increase in both number supervised and number who have completed sentences
  - 70 out of 143 = Under DOCCR supervision
  - 73 out of 143 = Not under DOCCR supervision
    - Not under supervision = free to live wherever they choose. Must report location to local police and abide by local ordinances related to housing
- Level III predatory offenders not under supervision are more likely to have been convicted in another county (i.e, Level IIIs not under supervision moved to Hennepin County after finishing supervision elsewhere)
  - 40% (29 out of 73) of those not under supervision were originally committed from another county
  - 30% (21 of 70) of those currently under supervision were committed in from another county.
- Level IIIs not under supervision were also more likely to be homeless:
  - 4 of the 70 Level IIIs under supervision were listed as homeless (6%)
  - 25 of the 73 Level IIIs not under supervision were listed as homeless (34%)

## Concentration

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Minnesota State Statute: MS. 244.052, subd. 4 states, “the agency responsible for the offender’s supervision shall take into consideration the proximity to schools and, to the greatest extent feasible, shall mitigate the concentration of level three offenders and concentration of level three offenders near schools.”<sup>1</sup> *Concentration* is not defined. Due to severely limited placement options, identifying residential options that are not in proximity to schools, parks, or other offenders, and also near employment, transit, and service providers is extremely difficult.

Minneapolis Resolution 2013R-109: “Whereas, defining concentration as the number of sex offenders relative to the vulnerable community is meant to control the density of sex offenders, and the exposure of the community to these potentially problematic populations.”<sup>2</sup>

Action Research Team: Documenting Predatory Offender Concentration in Minneapolis report (2015): “The density of predatory offenders in an area relative to the population of that area.”<sup>3</sup> “Concentrated areas” are described as communities in which predatory offenders are clustered at disproportionate levels. “Community”

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<sup>1</sup> MS. 244.052, subd. 4

<sup>2</sup> City of Minneapolis Resolutions 2013R-109

<sup>3</sup> Action Research Team, “*Documenting Predatory Offender Concentration in Minneapolis*” July, 2015

refers to both a shared geographical location and shared characteristics and circumstance of geographic locations. Community exists at the neighborhood level.

Hennepin County: Level 3 Predatory Offender Concentration: *Level 3 Offenders Residing in Hennepin County on January 20, 2016*, March 2016: “The number of level 3 predatory offenders per 1000 residents in a particular geographic area, as reported in the 2010 census. This provides the ability for comparison between different sized neighborhoods and communities within the county.”<sup>4</sup>

## Causes of Concentration

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The real and perceived concentration of sex offenders within certain areas of cities has been extensively studied over the years. It is an issue that impacts virtually every large urban city throughout the country, and one for which there is no easy solution. And the issue cannot be examined in a vacuum; it cannot be disentangled from the myriad of other potentially negative characteristics impacting certain communities.

A recent study published by Valerie Clark and Grant Duwe in the *Criminal Justice Policy Review* noted, “Overall, areas with increased levels of economic disadvantage, residential instability, and racial and ethnic heterogeneity, among other factors, tend to have higher rates of all criminal activity.... Just as criminal activity is not randomly distributed, neither are former prisoners and parolees.”<sup>5</sup> The Urban Institute’s multistate longitudinal study of newly released prisoners found that “many prisoners are returning to a small number of neighborhoods marked by multiple indicators of concentrated disadvantage.”<sup>6</sup> In studying Chicago and Baltimore, for example, the study found neighborhoods where ex-offenders returned to all had similar characteristics of higher levels of unemployment, above-average rates of poverty and disrupted households, and below-average rates of high school graduation compared with the rest of the city.

In short, if the concentration of sex offenders in a given area is a problem, then that problem cannot ever be completely addressed while other more intransigent problems of poverty, housing, education, opportunity and access are also unaddressed.

## Effects of Concentration

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The most important questions when attempting to tackle any public policy issue are “what is the problem you are trying to solve,” and “is the proposed solution the correct one for that specific problem?” In this case, the question is whether the concentration of Level III sex offenders in a given area is a problem, and if so, what are potential solutions?

A 2003 Minnesota Department of Corrections (DOC) report to the Minnesota Legislature examined the 13 Level III offenders released in 1997, 1998, or 1999 who were known to have been rearrested for a new sex offense by March 2002. Each case was reviewed to determine what the offender’s circumstances were at the time of the

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<sup>4</sup> Hennepin County Level 3 Predatory Offender Concentration: *Level 3 Offenders Residing in Hennepin County on January 20, 2016*. March, 2016.

<sup>5</sup> “*What Predicts Where Sex Offenders Live? An Examination of Census Tract Data in Minnesota*,” *Criminal Justice Policy Review*, 2015. Valerie A. Clark and Grant Duwe, July 2015.

<sup>6</sup> “*Understanding the challenges of prisoner reentry: Research findings from the Urban Institute’s prisoner reentry portfolio*,” Washington, D.C: Urban Institute, 2006.

new sex offense. This included examining whether the re-offense was related to the offender's proximity to a school or park, and whether the offender was living with another sex offender at the time that he re-offended.<sup>7</sup>

The examination revealed that a Level III sex offender living with another Level III sex offender did not produce negative effects. In fact, supervising agents in both Hennepin and Ramsey County noted benefits from having more than one Level III offender living in one location. Such arrangements ease administrative burdens for agents, and Level III offenders who live with other Level III offenders experience more visits from supervising agents. Additionally, it was found that offenders tend to inform on each other when supervision restrictions are violated for fear of being associated with the offense of housemates, and possible return to incarceration for such violations.

The same DOC report found that the two Level III offenders studied, whose re-offenses occurred near a park, drove to the location from their residences several miles away. The report concluded that "sex offender[s] attracted to such locations for the purposes of committing a crime [are] more likely to travel to another neighborhood in order to act in secret rather than in a neighborhood where [their] picture is well known."

If the concern over disparate concentrations of Level III sex offenders in given areas stems from a concern over re-offense and recidivism, then policymakers should direct their attention not simply to deconcentration efforts, but rather to policies and programs that have a demonstrated impact on reducing repeat offenses.

There appears to be a concentration contradiction: virtually all evidence and research identifies the co-habitation of Level III sex offenders as having a positive impact on outcomes: lower recidivism rates, reduced conditional release violations, enhanced stability, and more frequent compliance checks. Yet the public perception is the opposite – believing that concentration leads to increased negative consequences. This perception leads to real negative consequences in possible impacts on property values, feeling unsafe, and negative opinions of a community. Clark and Duwe noted that while the risk of victimization by a sex offender living in close proximity may be minimal, the presence of sex offenders in neighborhoods has measurable effects on communities. There is evidence that community notifications may increase fear among residents and have an appreciable negative effect on home values.<sup>8</sup>

## Policy Options

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Two sets of policy suggestions are:

- 1) Policies to reduce recidivism and improve actual community safety; and
- 2) Policies to improve the community's perceived lack of safety and residual consequences of this perception

### Improving Safety:

- Support reentry programs that provide enhanced case planning, housing assistance, employment assistance, mentoring services, cognitive behavioral programming, and transportation assistance. This may include specific, joint requests to the legislature, applying jointly for state and federal grants, working together to influence state DOC policy, and working with nonprofit and foundation leadership.

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<sup>7</sup> "Level Three Sex Offenders Residential Placement Issues: 2003 Report to the Legislature," Minnesota Department of Corrections, February 2004.

<sup>8</sup> "What Predicts Where Sex Offenders Live? An Examination of Census Tract Data in Minnesota." Valerie Clark and Grant Duwe, July 2015.

## Improving Perceptions:

- *Community outreach and education:* As concentration alone shows no correlation to re-offending or actual public safety, policy makers should work to educate the community about the true predictors of sex offenders reoffending in a neighborhood, such as lack of stable housing and employment.
- *Community notification:* The City of Minneapolis should work with the Department of Corrections to examine the community notification process. Many neighborhoods are fatigued by notification meetings. They only serve to inflame concerns, perpetuate negative perceptions of an area, and are not productive in actually improving community safety. The content and process for conducting these statutorily required meetings should be reexamined and more productive content be considered.
- *Partner with Hennepin County:* As the Action Research Team (ART) Report notes, there is not an overconcentration of Level III offenders in Hennepin County as compared to the rest of the state, but rather an overconcentration of offenders in certain areas (Minneapolis) within Hennepin County, as compared to the rest of the county. City of Minneapolis officials should meet on a regular basis with elected officials from Hennepin County and HCDCCR staff to discuss pending placements of offenders, and strategize on options for helping these offenders find housing options outside of already burdened areas. (more detail in Housing section)
- *Non-Hennepin commits:* Support Hennepin County's efforts to not accept offenders for County supervision who do not have substantial ties to the community and who originate from a different county of commit.
- *Release conditions:* Petition the DOC to include additional special conditions on offender release plans, such as no residence in a particular area based on certain concentration criteria.
- *Increased state housing options:* Encourage the state to expand the support provided to halfway house beds and expand emergency housing funds. This would allow offenders more time to identify housing and employment outside of concentrated areas.
- *Local code compliance:* Share compliance rates with licensing and building codes with the DOC.

## City Ordinances

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Municipalities have sought to address the placement of sex offenders through ordinances aimed at restricting residency and through regulations addressing “congregate living” generally.

Residency Requirements: Some Minnesota cities have adopted ordinances that attempt to limit the locations where registered sex offenders may reside. In March 2016, for example, the City of Brooklyn Center amended the city code to make it unlawful for any predatory offender to establish a permanent or temporary residence within any of the following locations: within 2,000 feet of any school, child care facility or public playground; or within 2,000 feet of the permanent residence of another designated predatory offender, unless the designated predatory offenders are residing within a licensed treatment facility. The City of Minneapolis does not have an ordinance that restricts where registered predatory offenders may or may not live.

The 2003 Minnesota DOC report on concentration also stressed the difficulty caseworkers face in finding an appropriate residence for Level III offenders upon release. The report states,

[r]esidential choices are already limited under current statutes that do not prohibit Level III offenders from living near schools. Additional restrictions would severely affect already meager placement choices. Minneapolis...[has] a well-disbursed system of neighborhood schools that would create a restriction on

the majority of residential property.

The report also concludes that adoption of a 1,500-foot restriction would exclude every residential area of Minneapolis with few exceptions. The Appendix of the report provides graphical depictions of a 1,500-foot residency prohibition within the City of Minneapolis. The City cannot legally adopt an ordinance that has the practical effect of eliminating the ability of a sex offender from locating his or her residence anywhere within the City.

The American Planning Association published commentary by Dwight Merriam on residency restrictions in October 2008.<sup>9</sup> In the commentary, Merriam states that “residency restrictions do not reduce recidivism, do not offer any real protection for potential victims, are generally not legally defensible, and thwart efforts to reform offenders and return them to society.” Furthermore, Merriam states “residency restrictions likely increase the potential for re-offending.”

The strongest criticism of residency restrictions for sex offenders is “that they do not reduce recidivism or provide any substantial additional protection for potential victims.” Merriam cites a study that concludes “high-risk sexual offenders living in shared living arrangements had significantly fewer violations than those living in other arrangements, even though this type of residence had significantly more high-risk sex offenders.” (citing Colorado Department of Public Safety, Division of Criminal Justice, Sex Offender Management Board, available at <http://dcj.state.co.us/odvsom>.) The study states that “placing restrictions on the location of correctionally [sic] supervised sex offender residences may not deter the sex offender from reoffending and should not be considered as a method to control sexual offending recidivism.”

Further, the commentary references the Minnesota DOC study from April 2007, which “tracked 224 recidivists released between 1990 and 2002 who were reincarcerated for a sex crime prior to 2006.” Four criteria were used: the re-offenders had to have initiated contact directly with the victims, not through family relationships or acquaintances; the contact had to be within a mile of the offender’s residence; the first contact location had to be near a school, park, day care center, or other prohibited area; and the victim had to be under age 18. The study concluded, “[n]ot one of the 224 sex offenses would likely have been deterred by a residency restrictions law.” The findings suggest, “[i]t is not residential proximity but rather social or relationship proximity that matters with respect to sexual recidivism.” Finally, the study concluded that “by making it more difficult for sex offenders to successfully re-enter society, housing restrictions might promote conditions that work against the goal of reducing the extent to which they recidivate sexually...and that such restrictions would likely have...at best, only a marginal effect on sexual recidivism.”<sup>10</sup>

**Congregate Living Ordinances:** Congregate living is a broad term that generally describes facilities with a shared living environment designed to integrate the housing and supportive services needs of a specific population in a residential setting. There are federal and state regulations that affect congregare living facilities and provide parameters for local regulation. Relevant federal regulations include the Americans with Disabilities Act and the Fair Housing Amendments Act (FHAA). The FHAA prohibits local land use regulation that discriminates against individuals on the basis of disability. Sex offenders are not a recognized disability for purposes of the Act.

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<sup>9</sup> See Dwight H. Merriam, Commentary, *Residency Restrictions for Sex Offenders: A Failure of Public Policy*, Planning & Environmental Law, Oct. 2008, Vol. 60, No. 10, at 3.

<sup>10</sup> *Id.* (citing Minnesota Department of Corrections, *Residential Proximity & Sex Offense Recidivism in Minnesota*, April 2007, available at <http://www.doc.state.mn.us>).

The City's Zoning Code defines seven categories of congregate living, including supportive housing, community correctional facilities (CCFs), and community residential facilities (CRFs). The definitions of CCFs and CRFs are largely tied to state licensure. A CCF is defined as:

A facility where one (1) or more persons placed by the court, court services department, parole authority, or other correctional agency having dispositional power over a person charged with or convicted of a crime or adjudicated delinquent reside on a twenty-four (24) hours per day basis, under the care and supervision of the Department of Corrections (DOC) or Hennepin County, or licensed by the Department of Corrections as a corrections facility, excluding detention facilities. The maximum capacity shall not exceed thirty-two (32) persons.

CRFs are facilities licensed by the Department of Human Services. Supportive housing functions as somewhat of a "catch-all" category for other forms of residential programs where state licensure is not required. With the exception of CRFs with a maximum occupancy of six persons (permitted in all residence, office residence, and commercial zoning districts), CRF and supportive housing proposals require a conditional use permit (CUP) in the various zoning districts where they are allowed to locate. CCFs or any residential program whose primary purpose is to treat persons who have violated criminal statutes, except those relating to sex offenses, are prohibited within 300 feet of any zoning district other than an industrial district. Minneapolis Code of Ordinances § 535.130 states, "[a] residential program whose purpose is to treat persons who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall be prohibited." These congregate living uses are also subject to a ¼ mile spacing requirement from each other.

## Policy Options

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While the City likely has the requisite authority to adopt an appropriately drafted sex offender residency restriction ordinance, it is not advisable if the goals truly are community safety and offender rehabilitation. Although such ordinances restrict where an offender may reside, they do not restrict where an offender may frequent. The ordinances also do not restrict offenders from being physically at a park, near a school, in areas where children frequent, nor do they prevent offenders from engaging with other Level III offenders. As such, they offer a false sense of security for residents, while also having negative impacts on the goals of reduced recidivism and actual community safety.

If the City seeks to legislate in this area, it must take time to determine the scope and expanse of a restriction with regard to selected institutions or locations, whether schools, parks, bus stops, etc. It also must include provisions such as grandfather clauses to help insulate the ordinance from challenges.

## Housing

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### Level III Predatory Offenders Re-entry Process

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Offenders released from prison have the right to live in any private residence within any county of Minnesota, subject to a corrections agent's approval. DOC policy dictates three factors play a significant role in any predatory offender housing decision:

- Minnesota Statute;

- Promulgated Rules; and
- Judicial mandates

State law provides, “the agency responsible for the offender’s supervision shall take into consideration the proximity to schools and, *to the greatest extent feasible*, shall mitigate the concentration of level three offenders...”<sup>11</sup> Promulgated Rule 2940 requires DOC to involve the offender in the preparation of a release plan in the best interest of the offender transition and public safety. Finally, the Minnesota Court of Appeals ruled that “if housing is not available in the community where the offender was released, the supervising agency has responsibility to help locate suitable housing in nearby areas.”<sup>12</sup>

The ART Report describes the release process for offenders with plans to be released in Hennepin County:

Agents from Hennepin County Department of Community Corrections and Rehabilitation (DOCCR) work collaboratively with MnDOC release planners. The agent works with MnDOC to assist offenders in locating residences, on a case-by-case basis, according to available resources. DOC is responsible for the review and final approval of prison release plans that have been approved by DOCCR supervising agent. Typically, DOC relies upon the agent’s determination that the proposed release plan meets the standards of good practice and the residence is suitable.

Additional special restrictions on proximity to victims may be applied to the supervision plan. Special conditions may include restrictions on proximity to victims, minors, or vulnerable adults. Special conditions are applied on an individual basis to each offender. Common conditions subject to agent approval may be:

- No residence in a building where children are present;
- No direct or indirect contact with minors;
- No direct or indirect contact with vulnerable adults;
- No direct or indirect contact with victims;
- No membership in groups or organizations;
- Must not be in any location where children or minors tend to congregate; or
- Other variations as determined by supervising agent”<sup>13</sup>

## Housing is Key

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As noted by the Council of State Governments Justice Center (CSGJC),

when individuals are released from prison or jail, the ability to access safe and secure housing within the community is crucial to their successful reentry...and without a stable residence, it is nearly impossible for newly released individuals to reconnect to a community. More often than not, when these individuals are

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<sup>11</sup> MS. 244.052, subd. 4, (emphasis added).

<sup>12</sup> Marlow v. Fabian, 2008  
 Bottomley v. Fabian, 2010  
 Aguilera v. Fabian, 2010  
 Truelson v. Fabian, 2008  
 Johnson v. Fabian, 2008

<sup>13</sup> “Level Three Sex Offenders Residential Placement Issues: 2003 Report to the Legislature. Minnesota Department of Corrections, February, 2004.

not linked to the services and support that could facilitate their successful reintegration, they end up reincarcerated for their violating the conditions of release or for committing a new crime...and there are significant costs to public safety in the form of increased crime and victimization.<sup>14</sup>

Residential placement is dependent on the offender's personal and financial resources in the community. The caseworker and supervising agent attempt to assist the offender to find placement, but limited options exist if the offender does not provide an acceptable supervision location.

Generally, the housing options available to offenders are limited and known to supervising agents. An extensive network of information sharing also exists within the pre-release Level III offender population of the housing opportunities available. The names of willing landlords and available units are shared amongst the population, leading to many properties becoming reoccurring providers for offenders in need of housing. In Minneapolis, certain landlords have developed a sort of specialty in renting units to Level III offenders, which has contributed to the concentration of these offenders in certain areas of the City. Many landlords have identified Level III offenders as valuable tenants, as many are under strict County supervision, undergo drug/alcohol testing, maintain employment, and must meet many other conditions or risk returning to incarceration (for those still under supervision).

DOC agents note that when a landlord rents one unit of a duplex to a Level III offender, occupants of the other unit often feel uncomfortable and seek other housing. The resulting vacancy is likely to be filled by another Level III sex offender. Subsequent vacancies are also filled by sex offenders. Landlords often post information about vacancies at halfway houses, and the information spreads by word-of-mouth. Such housing is a limited resource in Minneapolis, but is even scarcer in other counties, driving even more offenders to the City.

The CSGJC recommends several preliminary steps to help guide policymaker decision making, regardless of the approach a jurisdiction decides to pursue to increase housing capacity for individuals released from prison or jail, including<sup>15</sup>:

- Documenting the housing options available in a community and categorizing them by eligibility criteria;
- Collaborating with housing experts to obtain feedback about past strategies to expand the housing options available to released individuals, including both tenant-based and project-based assistance, as well as any concerns about engaging in new efforts;
- Exploring the feasibility of coordinating governmental and private entities to develop and manage affordable housing, including integrated financing;
- Meeting with criminal justice supervision authorities to determine if resources can be leveraged to help housing providers manage the risks associated with providing residences to recently released individuals;
- Educating elected officials and community leaders on the need for housing for released individuals and the challenges in securing it; and
- Enlisting the help of community-based organizations to determine their capacity to locate the most appropriate housing options for identified individuals in prison or jail well in advance of their release.

In their study, the CSGJC identified three key policy approaches to aid offender reintegration and enhance public safety: Creating Greater Access, Increased Housing Stock, and Revitalized Neighborhoods.

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<sup>14</sup> *Reentry Housing Options: The Policymakers' Guide.* Council of State Governments Justice Center, 2010

<sup>15</sup> *Reentry Housing Options: The Policymakers' Guide.* Council of State Governments Justice Center, 2010

The success certain landlords in Minneapolis found in attracting and retaining sex offenders as tenants may actually serve as a model to be replicated in other parts of the county and state. As noted, these landlords identified sex offenders as a stable and reliable tenant pool, as their very freedom depends on their responsible behavior. In addition to “stick” approaches that attempt to push sex offenders out of already concentrated communities, policymakers should also consider creating “carrots” to attract sex offenders to live in other communities. Tools such as rental subsidies, vouchers, state or county owned housing, and aggressive outreach to landlords should be considered.

For example, the Minnesota Legislature passed the Governor Mark Dayton’s *Ex-Offender Rental Subsidy Pilot Program* in 2013, which authorized \$1 million for the biennium. The DOC received \$500,000 for a two-year pilot program, and Better Futures Minnesota received \$500,000 for a two-year program. An evaluation of this initiative is currently underway and a report is expected in 2016. If successful, programs such as this should be expanded at the state, county, and local levels.

To make the most of existing housing stock and most effectively facilitate returning individuals’ finding and maintaining affordable housing, the CSGJC suggests jurisdictions partner with nonprofit housing agencies that have worked successfully with landlords in the past to secure housing opportunities for special-needs populations. The nonprofits may serve as mediators between tenants and landlords to help with screening and placement processes, and administer any voucher or subsidy programs.

Utilizing existing housing stock has the benefits of filling potentially vacant properties, is flexible with rental assistance available on an as-needed basis, and makes better fiscal sense rather than building new projects. Low vacancy rates in certain areas can make this approach challenging, however.

Both housing placement and rental assistance are critical to the success of achieving greater access for hard-to-house individuals. Currently throughout Minnesota, agents from county community corrections agencies are responsible for helping those reentering the community identify housing options. While such agents have a good understanding of the housing market in their area and possible relationships with willing landlords, they are not full-time housing placement professionals. It is vital that local units of government partner with nonprofit organizations with extensive knowledge of housing availability in the community and strong relationships with area landlords. This requires long-term, ongoing relationships with landlords; not just case-by-case outreach on an as-needed basis.

Without rental assistance, those leaving incarceration face significant challenges and are highly unlikely to be able to pay the high costs associated with a new rental agreement such as security deposits, first month’s rent, and often, last month’s rent. As the CSGJC notes, “when tenants who have recently been released from corrections settings default on rent, landlords are less likely to accept future tenants with criminal records, further tightening the housing market for this group of individuals.”

For example, Salt Lake County, Utah partnered with the Housing Authority of the County of Salt Lake (HACSL) through an intergovernmental agreement for HACSL to provide housing placement services to eligible candidates and to serve as an intermediary between tenants and landlords. HACSL’s housing placement process involves

identifying landlords who are willing to rent to candidates (with the backing of HACSL). HACSL subsidizes (with funds from the county) the share of the rent above what the tenant is able to pay. As part of the

agreement, HACSL mitigates landlord risk by insuring landlords against damage or eviction proceedings – which can be costly –and mediating landlord or tenant concerns.<sup>16</sup>

## Increasing Housing Supply

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If existing housing market is too limited, or if available housing stock is otherwise inaccessible, communities may elect to develop new properties or convert existing buildings into housing units specifically for the reentry population, and more specifically for hard-to-place sex offenders.

Benefits to building new housing include the ability to channel various existing local, state, federal and nonprofit or foundational funding streams to subsidize housing units for specific populations. This helps avoid potential tenant exclusions that may exist in the private market, and ensures constant number of dedicated, affordable units that are accessible to this high-needs population. “Congregate” housing (multiple independent units in one location) that prioritizes people released from prison allows supervision and services to be concentrated and made available in the same location.

This approach may prove a challenge within communities resistant to placing such facilities in their areas, particularly those which already face many economic and social challenges. This type of housing with supportive services is also costly, and requires long-term commitments from developers, service providers, and the community.

In Illinois, the City of Chicago, Illinois Department of Corrections, the Illinois Housing Development Authority, St. Leonard’s Ministries (nonprofit service provider), and Lakefront Single Room Occupancy (SRO) partnered together to build a long-term housing facility specifically for men recently released from prison. By working together, the partners were able to leverage the knowledge and skill needed to undertake housing development (such as assembling financing, siting, constructing/buying/renovating a building).

The financing needed to develop and maintain these units came from a variety of sources, including both traditional housing organizations and criminal justice agencies. The Illinois Housing Development Authority provided a loan of federal HOME funds, and Chicago’s Department of Housing and the National Equity Fund both provided federal housing tax credit equity. The Illinois Department of Corrections subsidizes the cost of twelve of the forty-two housing units in the building that are reserved solely for men serving parole sentences. The subsidy remains constant even when the amount of rent collected from the tenant varies. The rent collected by the nonprofit provider from each of the twelve housing units is directly proportional to increases or decreases in resident wages.

## Revitalizing Neighborhoods

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Much attention in the research and in public discourse has focused on the vulnerability of impacted communities, and the multiple disparities that already exist regarding poverty, housing instability, education, lack of community connectedness, etc. that make them more likely to be locations for sex offenders to reside.

Yet multiple studies show that both extremes of income segregation (i.e., wealth relative to poverty and vice versa) can have unique effects on the same social phenomenon (sex offender concentration). Brooks-Gunn,

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<sup>16</sup> *Reentry Housing Options: The Policymakers’ Guide.* Council of State Governments Justice Center, 2010

Duncan, Klebanov, and Sealand found that the presence of affluent neighbors, and not neighborhood-level poverty and joblessness, had a significant effect on individual-level childhood development. Clark and Duwe found that the incident rates of sex offender residents decreased as levels of concentrated affluence increased. Clark and Duwe's research indicates, "that concentrated disadvantage helps explain why certain neighborhoods are more likely to have a higher population of convicted sex offenders. However...concentrated disadvantage may not fully account for the potential protective effects of affluent neighborhoods."<sup>17</sup>

While negative characteristics have a pull-effect (attracting sex offenders to these communities), the presence of affluence in neighborhoods has a converse, equally powerful push-effect (drawing sex offenders out of these communities). In addition to tackling the myriad of concentrated disadvantages facing communities, policymakers should take direct, pointed (often block-by-block) actions to proactively build wealth and stable housing markets in these neighborhoods.

The "Revitalized Neighborhood" approach discussed by the CSGJC focuses on the

combined recourses of government agencies and nonprofit and for-profit organizations on a specific geographic area to improve the services and supports available to all community residents...This approach seeks to transform these neighborhoods by increasing the community's capacity to integrate reentering individuals and by enhancing the quality of life and safety for all who reside there.<sup>18</sup>

This approach emphasizes broad redevelopment efforts which are viewed generally as benefiting anyone in the community regardless of their involvement in the criminal justice system. Such efforts "place reentry in an appropriately broad context of families and communities...it casts a wide net and has the potential to positively affect a larger number of reentering individuals, as well as their families and neighbors." This systemic, holistic approach is as challenging as it is costly and complex, and may take relatively long periods of time to develop.

In 2006, the State of Kansas was facing massive prison overcrowding and was at a crossroads: build a new prison or reform the existing system (much like Minnesota is currently). As a result, state policymakers enacted a comprehensive legislative package designed to increase access to community services, such as substance abuse treatment. The package offered incentives to community supervision authorities to appropriately decrease their rates of revocation when alternative treatment was available. The package also included a performance-based grant program to help reduce recidivism, a sixty-day program credit to encourage individuals to successfully complete educational, vocational, and treatment programs before release, and the restoration of earned time credits for good behavior for nonviolent individuals.

In addition, the City of Wichita made funds available to for-profit and nonprofit organizations who have redevelopment a small number of scattered-site properties to use as affordable housing. These organizations have also utilized federal financing programs such as housing tax credits.

## Federal Fair Housing Act

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A recently released set of guidelines from the Department of Housing and Urban Development could have an

<sup>17</sup> *What Predicts Where Sex Offenders Live? An Examination of Census Tract Data in Minnesota*, Criminal Justice Policy Review, 2015. Valerie A. Clark and Grant Duwe, July 2015.

<sup>18</sup> *Reentry Housing Options: The Policymakers' Guide*. Council of State Governments Justice Center, 2010

impact on the housing options for ex-offenders, including sex offenders. Released in April, the guidance states that a policy or practice that denies housing to anyone with a prior arrest or any kind of criminal conviction would violate the Fair Housing Act because it would have a discriminatory effect. Because of widespread racial and ethnic disparities in the U.S. criminal justice system, criminal history-based restrictions on access to housing are likely disproportionately to burden African Americans and Hispanics; thus, resulting in a discriminatory impact. In Minnesota, for example, African Americans comprise around 5.5 percent of the state's population, but represent 35 percent of the total incarcerated population and over 26 percent of Level III sex offenders.

The new guidance was in part triggered by a U.S. Supreme Court ruling in June, 2015 that found a housing discrimination case can be based on disparate impact on people of color based on the Federal Fair Housing law. Under the new guidelines, property owners will have to more closely examine whether an applicant was arrested and if they were also convicted. And if an applicant was convicted, property owners have to weigh the nature and severity of the crime and conviction when considering an applicant's housing application. Failure to do so might mean the landlord could potentially face an investigation for discrimination and civil penalties.

Ex-offenders are not a protected class under the Fair Housing Act and HUD has stated that in some cases it might be legal and reasonable for property owners to reject them for housing. But landlords will have to prove their actions were done in order to keep their property safe. HUD Secretary Julián Castro has stated, "When landlords summarily refuse to rent to anyone who has an arrest record, they may effectively and disproportionately bar the door to millions of folks of color for no good reason at all."

## Housing Policy Options

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### Initial Steps:

- Documenting the housing options available in a community and categorizing them by eligibility criteria;
- Collaborating with housing experts to obtain feedback about past strategies to expand the housing options available to released individuals, including both tenant-based and project-based assistance, as well as any concerns about engaging in new efforts;
- Exploring the feasibility of coordinating governmental and private entities to develop and manage affordable housing, including integrated financing;
- Meeting with criminal justice supervision authorities to determine if resources can be leveraged to help housing providers manage the risks associated with providing residences to recently released individuals
- Educating elected officials and community leaders on the need for housing for released individuals and the challenges in securing it; and
- Enlisting the help of community-based organizations to determine their capacity to locate the most appropriate housing options for identified individuals in prison or jail well in advance of their release

### Creating Greater Access:

- Support the state and counties in creating full time positions solely dedicated to landlord and neighborhood outreach to encourage landlords outside of concentrated areas to rent to sex offenders, and residents to better understand the high level of supervision and low levels of recidivism of sex offenders;
- Partner with nonprofit housing agencies that have worked successfully with landlords in the past to secure housing opportunities for special-needs populations;
- Partner with Hennepin County and the State to develop a portable rental subsidy or voucher-based programs that sex offenders may use to better afford housing in higher cost areas of the state or county;

and

- Dependent upon the results of the pending study, support the expansion and increased funding for the state *Ex-Offender Rental Subsidy Program*.

### Increasing Housing Supply:

- Encourage the state to build and operate (through local providers) supportive housing with services specifically for released Level III predatory offenders. Such housing could be located in industrial areas near transit and jobs; and
- Collaborate with local, state, federal and nonprofit/foundational partners to more effectively channel various existing funding streams to subsidize housing units for specific populations.

### Revitalizing Neighborhoods:

- Increase market-rate housing and home values by investing more in homeownership programs;
- Efforts to counteract the conversion of single-family housing into rental housing, as well as programs that provide financial assistance to current and potential residents to purchase and/or maintain single family homes; and
- The same community-building activities that are currently utilized to build the community also impact the interest and ability of sex offenders to reside in those communities.

## Employment

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Release plans typically require offenders to maintain 40 hours per week of employment or another productive activity such as job training. Similar to the obtaining of housing, job opportunities are often found with certain employers who are known to be willing to hire released offenders. Corrections agents may refer offenders to employers who have a history of hiring.

The inextricable connection between work and housing means that limited housing options simultaneously limits job options. It is exceedingly challenging for offenders and the corrections agents attempting to assist in their re-entry to simultaneously identify both suitable housing and employment opportunities. Due to limited housing options in other areas of the state, availability of affordable housing in certain parts of Minneapolis, and the city's larger job market, the greatest chance to satisfy both of these conditions of release lies in Minneapolis.

## Employment Policy Options

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- Enhance ability of Level III offenders to obtain employment and job training opportunities elsewhere through collaboration with potential employers and training;
  - Similar to housing, the city can work with state, county and nonprofit partners to create full time positions solely dedicated to employer outreach outside of concentrated areas to hire to sex offenders;
  - Work with employers and trainers who are currently known to hire Level III sex offenders to expand opportunities; and
  - Partner with nonprofit employment agencies that have worked successfully with employers in the past to secure employment and training opportunities for special-needs populations
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