
RECENT ORDINANCE

HOUSING LAW — CRIMINAL SCREENING OF TENANTS — SEATTLE BANS THE USE OF CRIMINAL HISTORY IN RENTAL DECISIONS. — Seattle, Wash., Ordinance 125393 (Aug. 23, 2017).

As a result of their convictions, ex-offenders face many collateral consequences, including lack of access to housing. Landlords increasingly rely on background screens of prospective tenants to identify criminal history.¹ Sex offenders may have an even harder time obtaining housing. Those on a sex offender registry for life are barred from federally assisted housing,² and sex offenders may also be subject to residency restrictions³ and community notification requirements.⁴ Recently, Seattle adopted the Fair Chance Housing Ordinance,⁵ which prohibits housing providers from making rental decisions on the basis of an individual's criminal history, except for sex offenses committed as an adult for which the individual is on a registry.⁶ Seattle's ordinance will likely protect many ex-offenders in their search for housing. But its exception for registered sex offenders is inconsistent with the ordinance's goals.

Seattle's sweeping law follows the efforts of several jurisdictions to prevent or reduce housing discrimination against ex-offenders. These range from a complete ban on considering criminal history in Urbana, Illinois,⁷ enacted in 1979,⁸ to the more recent and limited laws in Newark, New Jersey; Washington, D.C.; Champaign, Illinois; Richmond, California; and San Francisco, California, which restrict what criminal

¹ According to a 2005 National Multi-Housing Council survey, eighty percent of its members (mostly “larger property owners”) screened tenants’ criminal histories. David Thacher, *The Rise of Criminal Background Screening in Rental Housing*, 33 LAW & SOC. INQUIRY 5, 12 (2008) (citing Jeanne Delgado, *Security Survey Shows Current Premise-Protection Practices of M-H Owners*, MULTI-HOUSING NEWS, June 2005, at 9). No similar survey is available for small property owners, although “how-to” manuals, “which are mainly targeted at smaller owners,” similarly recommend screening tenants. *Id.*

² 42 U.S.C. § 13663(a) (2012).

³ *Sex Offender Residency Restrictions: How Mapping Can Inform Policy*, NAT'L INST. OF JUSTICE, (July 25, 2008), <https://www.nij.gov/topics/corrections/community/sex-offenders/pages/residency-mapping.aspx> [https://perma.cc/SZ9M-9RCL].

⁴ HUMAN RIGHTS WATCH, NO EASY ANSWERS: SEX OFFENDER LAWS IN THE US 47–53 (2007).

⁵ Seattle, Wash., Ordinance 125393 (Aug. 23, 2017), <http://seattle.legistar.com/View.ashx?M=F&ID=5387389&GUID=6AA5DDAE-8BAE-4444-8C17-62C2B3533CA3> [https://perma.cc/Z5RV-R3PU] [hereinafter Fair Chance Ordinance].

⁶ *Id.* § 2 (to be codified at SEATTLE, WASH., MUNICIPAL CODE §§ 14.09.010–025).

⁷ KATE WALZ & MARIE CLAIRE TRAN-LEUNG, SARGENT SHRIVER NAT'L CTR. ON POVERTY LAW, WRITTEN STATEMENT OF THE SARGENT SHRIVER NATIONAL CENTER ON POVERTY LAW BEFORE THE UNITED STATES COMMISSION ON CIVIL RIGHTS, HEARING ON COLLATERAL CONSEQUENCES: THE CROSSROADS OF PUNISHMENT, REDEMPTION AND THE EFFECT ON COMMUNITIES 14 (2017) (citing URBANA, ILL., CODE §§ 12-39, 12-64 (2016)).

⁸ Urbana, Ill., Ordinance 7879-92 (May 10, 1979).

history a landlord can consider and require the landlord to perform an individualized assessment.⁹ Not all developments have been in favor of ex-offenders, though: similar ordinances in Wisconsin were preempted in 2011 when the state legislature prohibited localities from placing these restrictions on landlords.¹⁰ On the federal level, the Department of Housing and Urban Development (HUD) issued a 2016 guidance noting that, because African Americans and Hispanics face “disproportionately high [conviction] rates,”¹¹ they are likely “disparate[ly] impact[ed]” by tenant criminal screenings,¹² which violates the Fair Housing Act¹³ unless the screenings are justified by a “substantial, legitimate, nondiscriminatory” reason.¹⁴ The HUD guidance stated that “[a] housing provider must . . . be able to prove through reliable evidence that its policy or practice of making housing decisions based on criminal history actually assists in protecting resident safety and/or property.”¹⁵

The Seattle Fair Chance Housing Ordinance is a comprehensive restriction on landlords’ ability to consider criminal history.¹⁶ Its goals include reducing discrimination, reducing recidivism, and promoting re-integration through access to housing.¹⁷ First, the ordinance prohibits landlords from automatically rejecting tenants because of their criminal history, and from “[advertis[ing or] publiciz[ing]] that they will not accept tenants with criminal histories.¹⁸ Second, the ordinance prohibits housing providers from asking about or “requir[ing] the disclosure” of

⁹ WALZ & TRAN-LEUNG, *supra* note 7, at 14 (citing NEWARK, N.J., REV. GEN. ORDINANCES, tit. 2, §§ 31-1 to -9 (2016); Wash., D.C., Act 21-677 (Feb. 15, 2017); CHAMPAIGN, ILL., CODE §§ 17-2, -3 (2016); Richmond, Cal., Ordinance 20-16 N.S. (Dec. 20, 2016); S.F., CAL., POLICE CODE art. 49 § 4906 (2016)). San Francisco and Richmond’s ordinances apply only to landlords who receive public funding. *Id.* at 14 n.78 (citing Richmond, *supra*; S.F., *supra*).

¹⁰ 2011 Wisconsin Act 108 (codified at WIS. STAT. § 66.0104 (2015–2016)); WALZ & TRAN-LEUNG, *supra* note 7, at 15.

¹¹ HELEN R. KANOVSKY, U.S. DEP’T OF HOUS. & URBAN DEV., OFFICE OF GENERAL COUNSEL GUIDANCE ON APPLICATION OF FAIR HOUSING ACT STANDARDS TO THE USE OF CRIMINAL RECORDS BY PROVIDERS OF HOUSING AND REAL ESTATE-RELATED TRANSACTIONS 3 (2016); see also Nina Kucharczyk, Note, *Thinking Outside the Box: Reforming Employment Discrimination Doctrine to Combat the Negative Consequences of Ban-the-Box Legislation*, 85 FORDHAM L. REV. 2803, 2805 (2017) (“[C]riminal-record rates are much higher in African American and Latino populations . . .”).

¹² KANOVSKY, *supra* note 11, at 2.

¹³ 42 U.S.C. §§ 3601–3619 (2012).

¹⁴ KANOVSKY, *supra* note 11, at 4.

¹⁵ *Id.* at 5.

¹⁶ The ordinance applies to anyone in Seattle who leases rental housing, except those renting out part of the “single family dwelling unit” in which they reside or the “accessory dwelling unit” on the same lot on which they reside. Fair Chance Housing Ordinance § 2 (to be codified at SEATTLE, WASH., MUNICIPAL CODE § 14.09.115(C)–(D)).

¹⁷ See *id.* pml. (noting that criminal convictions disproportionately affect minorities and emphasizing the importance of housing in reducing recidivism and helping offenders “re-enter into society”).

¹⁸ *Id.* § 2 (to be codified at SEATTLE, WASH., MUNICIPAL CODE § 14.09.025(A)(1)).

criminal history.¹⁹ Third, the ordinance prohibits landlords from carrying out any “adverse action” based on nearly all criminal history, except for sex offenses that were committed as an adult and are listed on a registry.²⁰ Adverse actions include “[d]enying tenancy,” falsely “[r]epresenting that . . . property is not available,” “[t]erminating a lease,” and “refusing to add a household member to an existing lease.”²¹

Housing providers can consider sex offenses that the tenant, prospective tenant, or household member committed as an adult²² when the provider obtained knowledge of the offenses “solely . . . from a county, statewide or national sex offender registry.”²³ Before taking an adverse action based on such information, the landlord must show a “legitimate business reason”—that the action is “necessary to achieve a substantial, legitimate, nondiscriminatory interest.”²⁴ To meet this burden, the landlord “must demonstrate, through reliable evidence, a nexus between the policy or practice and resident safety and/or protecting property” while considering six factors.²⁵ This individualized assessment is similar to the standard set out by HUD in its guidance on the consideration of criminal records under the Fair Housing Act.²⁶ If the landlord does take

¹⁹ *Id.* § 2 (to be codified at SEATTLE, WASH., MUNICIPAL CODE § 14.09.025(A)(2)).

²⁰ *Id.* § 2 (to be codified at SEATTLE, WASH., MUNICIPAL CODE § 14.09.025(A)(2)–(5)).

²¹ *Id.* § 2 (to be codified at SEATTLE, WASH., MUNICIPAL CODE § 14.09.010) (defining “[a]dverse action”). During committee discussion, the council members noted that landlords would still be able to terminate a tenancy or evict a tenant pursuant to state law, including for engaging in criminal activity on the rental premises. Seattle City Council, *Civil Rights, Utilities, Economic Development, and Arts Committee*, at 1:21:40, SEATTLE CHANNEL (July 25, 2017) [hereinafter July 25 Committee Video], <http://www.seattlechannel.org/mayor-and-council/city-council/2016/2017-civil-rights-utilities-economic-development-and-arts-committee/?videoid=x79283> [<https://perma.cc/4B3Y-HPXE>]; see WASH. REV. CODE § 59.18.180 (2010).

²² Fair Chance Housing Ordinance § 2 (to be codified at SEATTLE, WASH., MUNICIPAL CODE § 14.09.025(A)(3)–(5)).

²³ *Id.* § 2 (to be codified at SEATTLE, WASH., MUNICIPAL CODE § 14.09.010) (defining “[r]egistry information”). Washington’s sex offender registry consists of individuals who have committed sex and/or kidnapping offenses. WASH. REV. CODE § 4.24.550(1) (2010). Offenders are categorized based on risk: Washington provides information about Level II, Level III, and noncompliant Level I offenders online, while information about compliant Level I offenders is not available online but may be obtained from law enforcement. *Id.* § 4.24.550(3) (disclosure by law enforcement); *id.* § 4.24.550(5)(a) (public posting). Regulations have not yet specified whether Level I information obtained through law enforcement could be considered under this ordinance.

²⁴ Fair Chance Housing Ordinance § 2 (to be codified at SEATTLE, WASH., MUNICIPAL CODE § 14.09.010).

²⁵ *Id.* The factors are: “[t]he nature and severity of the conviction,” “[t]he number and types of convictions,” “[t]he time that has elapsed since the date of conviction,” the “[a]ge of the individual at the time of conviction,” “[e]vidence of good tenant history before and/or after the conviction occurred,” and “supplemental information related to the individual’s rehabilitation, good conduct, and additional facts or explanations provided by the individual.” *Id.*

²⁶ Seattle City Council, *Civil Rights, Utilities, Economic Development & Arts Committee Special Meeting—Public Hearing*, at 26:50, SEATTLE CHANNEL (July 13, 2017), <http://www.seattlechannel.org/mayor-and-council/city-council/2016/2017-civil-rights-utilities-economic-development-and-arts-committee/?videoid=x78912> [<https://perma.cc/M4YW-DZQN>] (comment of Nick Straley, Columbia

an adverse action based on an individual's sex offense, then she must notify the individual of the registry information "that was the basis for the adverse action."²⁷ In accordance with federal requirements, providers of federally assisted housing can deny tenants who have been convicted of making methamphetamine on public housing property or who are on a sex offender registry for life.²⁸

The Seattle Office for Civil Rights can issue guidelines and rules²⁹ and investigate complaints³⁰ related to the ordinance. The Office can also attempt conciliation if it finds "reasonable cause . . . to believe a violation has occurred."³¹ If no conciliation is reached, the City Attorney can file a charge, which will be decided by a Hearing Examiner and can be appealed to Superior Court.³² The Hearing Examiner may grant compensatory and injunctive relief³³ and may assess civil penalties up to \$11,000 for a single violation and up to \$55,000 for multiple recent violations.³⁴

A draft of the ordinance originally allowed landlords to consider criminal convictions issued within the previous two years (referred to as the two-year lookback), with the same requirement of having a "legitimate business reason" for taking an adverse action based on such records.³⁵ This two-year lookback was removed for several reasons: First, getting rid of the lookback would help to decrease recidivism rates in the first two years because individuals newly released from prison would have greater access to housing.³⁶ Second, there was no evidence of a relationship between having a criminal record and being a bad tenant.³⁷ And third, before the ready availability of criminal records, there had

Legal Services) (noting that the individualized assessment in the ordinance is similar to existing federal law); *see* KANOFSKY, *supra* note 11, at 4–5.

²⁷ Fair Chance Housing Ordinance § 2 (to be codified at SEATTLE, WASH., MUNICIPAL CODE § 14.09.025(B)).

²⁸ *Id.* § 2 (to be codified at SEATTLE, WASH., MUNICIPAL CODE § 14.09.115(B)); *see also* 42 U.S.C. § 1437n(f)(1) (2012) (methamphetamine convictions); *id.* § 13663(a) (sex offender registry).

²⁹ Fair Chance Housing Ordinance § 2 (to be codified at SEATTLE, WASH., MUNICIPAL CODE § 14.09.035(B)–(C)).

³⁰ *Id.* § 2 (to be codified at SEATTLE, WASH., MUNICIPAL CODE §§ 14.09.045, 14.09.060).

³¹ *Id.* § 2 (to be codified at SEATTLE, WASH., MUNICIPAL CODE § 14.09.080).

³² *Id.* § 2 (to be codified at SEATTLE, WASH., MUNICIPAL CODE §§ 14.09.085, 14.09.095).

³³ *Id.* § 2 (to be codified at SEATTLE, WASH., MUNICIPAL CODE § 14.09.090(C)).

³⁴ *Id.* § 2 (to be codified at SEATTLE, WASH., MUNICIPAL CODE § 14.09.100(B)(1)–(3)).

³⁵ Memorandum from Patricia Lally, Director, Seattle Office for Civil Rights, to Lisa Herbold, Council Member (July 10, 2017), <http://seattle.legistar.com/View.ashx?M=F&ID=5305441&GUID=B950F462-C8C4-4DC3-9B12-1Bo485B70EE6> [https://perma.cc/5WAB-KNLF].

³⁶ July 25 Committee Video, *supra* note 21, at 1:18:05–1:24:55.

³⁷ Seattle City Council, *Civil Rights, Utilities, Economic Development, and Arts Committee*, at 1:03:13, SEATTLE CHANNEL (Aug. 8, 2017), <http://www.seattlechannel.org/mayor-and-council-city-council/2016/2017-civil-rights-utilities-economic-development-and-arts-committee/?videoid=x79673> [https://perma.cc/A2SU-CQPD].

never been “an outcry” that housing “was severely compromised”—this problem never “existed.”³⁸

The legislative history is mostly silent as to why there is an exception for registered sex offenders, although statements by Seattle Mayor Ed Murray when introducing the proposed legislation suggest it was a compromise to placate landlords. Mayor Murray noted that the legislation was “balanced,” giving the sex offender exception as an example.³⁹ Also, the ordinance lists the low recidivism rates of juvenile sex offenders as a reason for not allowing consideration of those sex offenses,⁴⁰ implying that the (perceived⁴¹) high recidivism rates of adult sex offenders prompted their exclusion from the ordinance’s complete ban.

Seattle’s ordinance might be “the most progressive housing policy passed by any major U.S. city to date.”⁴² It will likely do much to help ex-offenders find affordable housing. But the exception for adult sex offenders is inconsistent with the ordinance’s stated goals of reducing discrimination, reducing recidivism, and encouraging reintegration into society.⁴³ The exception calls for an individualized assessment that

³⁸ *Id.* at 1:03:45.

³⁹ Office of the Mayor, *Mayor’s Press Conference on Fair Chance Housing Proposal*, at 5:55, SEATTLE CHANNEL (June 21, 2017), http://video.seattle.gov:8080/media/mma_062117V.mp4 [https://perma.cc/LHP7-G9LS].

⁴⁰ Fair Chance Housing Ordinance pmb.

⁴¹ Adult sex offender recidivism rates are not as high as is generally believed. See CTR. FOR SEX OFFENDER MGMT., EXPLORING PUBLIC AWARENESS AND ATTITUDES ABOUT SEX OFFENDER MANAGEMENT: FINDINGS FROM A NATIONAL PUBLIC OPINION POLL 2–3 (2010) (finding that most respondents in a national survey “presumed that at least half, if not most, convicted sex offenders will commit additional sex crimes,” *id.* at 2); Tamara Rice Lave, *Inevitable Recidivism — The Origin and Centrality of an Urban Legend*, 34 INT’L J.L. & PSYCHIATRY 186, 186–88 (2011) (noting similar findings). Although research findings vary based on methodology, five-year sexual recidivism rates range from 6.5%, Lisa L. Sample & Timothy M. Bray, *Are Sex Offenders Dangerous?*, 3 CRIMINOLOGY & PUB. POL’Y 59, 74 (2003) (measuring sex offender re-arrest rates in Illinois), to 14%, ANDREW J. R. HARRIS & R. KARL HANSON, PUB. SAFETY & EMERGENCY PREPAREDNESS CAN., SEX OFFENDER RECIDIVISM 3, 8 tbl.2 (2004) (conducting a meta-analysis of ten studies in Canada, the United States, and the United Kingdom; about half of the studies measured rates of rearrest in addition to reconviction). By comparison, the five-year violent recidivism rate for all offenders is, according to one study, 28.6%. MATTHEW R. DUROSE ET AL., U.S. DEP’T OF JUSTICE, RECIDIVISM OF PRISONERS RELEASED IN 30 STATES IN 2005: PATTERNS FROM 2005 TO 2010 9 (2014), <https://www.bjs.gov/content/pub/pdf/rprts05p0510.pdf> [https://perma.cc/DF7N-GEXX]. The underreporting of sex crimes likely means that sexual recidivism rates are actually higher than the studies show. HARRIS & HANSON, *supra*, at 11. However, the “intensive supervision methods” in place for registered sex offenders may make it “more difficult for identified offenders” to reoffend “without somebody noticing,” reducing some underreporting concerns. Robin J. Wilson & David S. Prescott, *Community-Based Management of Sexual Offender Risk: Options and Opportunities*, in RESPONDING TO SEXUAL OFFENDING 20, 30 (Kieran McCartan ed., 2014).

⁴² Nadra Nittle, *Can Seattle Lead the Way in Creating Fair Housing Policy for Renters Across the Nation?*, ATLANTA BLACK STAR (Aug. 30, 2017), <http://atlantablackstar.com/2017/08/30/can-seattle-lead-way-creating-fair-housing-policy-renters-across-nation/> [https://perma.cc/X2M9-4GMG].

⁴³ See Fair Chance Housing Ordinance pmb.

might lead to arbitrary or discriminatory outcomes. Denying housing to sex offenders may also increase their likelihood of reoffending. Additionally, lack of access to housing for sex offenders frustrates their reentry into society by reducing their feelings of dignity and their stability. Proponents of the exception might argue that sex offenders are particularly dangerous offenders. But that is likely not true, and evidence suggests that allowing sex offenders to live in rental housing would not lead to an increase in sex crimes.

The application of the legitimate business reason test might lead to discriminatory results because minorities are disproportionately represented on sex offender registries and the test's subjectivity leaves room for bias. The racial disparity in criminal convictions that the City Council aimed to address also exists in sex offender registrations: a recent study found that "black sex offender registration rates were at least three times as high as white rates" in three states, including Washington,⁴⁴ so even nondiscriminatory application of the test will likely disproportionately impact African Americans. The test is also subjective: although a landlord will need to show that her screening policies "accurately distinguish between applicants that pose an unacceptable level of risk and those that do not,"⁴⁵ this standard leaves a lot of discretion to the landlord, such as in assessing the "nature and severity" of the crime or the extent of the prospective tenant's rehabilitation.⁴⁶ Fair housing testing in Seattle has revealed that landlords already screen tenants differently based on race.⁴⁷ This discrimination, coupled with the difficulty of risk assessments,⁴⁸ may lead to racial bias in the application of the legitimate business reason test.

Denying housing to registered sex offenders might also increase sex offenders' recidivism rates, making Seattle less safe. Given the correlation between access to stable housing and reduced risk of reoffending,⁴⁹

⁴⁴ Trevor Hoppe, *Punishing Sex: Sex Offenders and the Missing Punitive Turn in Sexuality Studies*, 41 LAW & SOC. INQUIRY 573, 584 (2016).

⁴⁵ *El v. Se. Pa. Transp. Auth.*, 479 F.3d 232, 245 (3d Cir. 2007). Although *El* discussed the employment context, the case "provides the most up-to-date guidance on . . . claim[s] of discrimination on the basis of criminal record." Rebecca Oyama, Note, *Do Not (Re)Enter: The Rise of Criminal Background Tenant Screening as a Violation of the Fair Housing Act*, 15 MICH. J. RACE & L. 181, 208 (2009).

⁴⁶ Fair Chance Housing Ordinance § 2 (to be codified at SEATTLE, WASH., MUNICIPAL CODE § 14.09.010) (defining "legitimate business reason").

⁴⁷ *Id.* pml.

⁴⁸ Even mental health professionals "cannot predict dangerousness with definitive accuracy," although they "can often identify circumstances associated with an increased likelihood of violent behavior." AM. PSYCHIATRIC ASS'N, POSITION STATEMENT ON ASSESSING THE RISK FOR VIOLENCE (Dec. 2017), <https://www.psychiatry.org/File%20Library/About-APA/Organization-Documents-Policies/Policies/Position-2012-Violence-Risk-Assessment.pdf> [https://perma.cc/ZPL6-NAQJ].

⁴⁹ Merf Ehman & Anna Reosti, *Tenant Screening in an Era of Mass Incarceration: A Criminal Record Is No Crystal Ball*, N.Y.U. J. LEGIS. & PUB. POL'Y QUORUM 1, 20 (2015).

providing full access to housing for sex offenders would likely reduce recidivism rates.⁵⁰ Indeed, this was the logic that, in part, led to the City Council getting rid of the two-year lookback. There are fewer studies on the effect of housing on the recidivism rates of sex offenders specifically,⁵¹ but a New Zealand study found that access to housing was correlated with nonrecidivism among sex offenders.⁵² Additionally, lack of housing may make life outside of prison less appealing, and therefore make any potential return to prison less costly.⁵³ This conception helps to explain why lack of access to housing — as well as other collateral consequences — makes it more likely an individual will recidivate.

The exception is also inconsistent with the ordinance's goal of promoting reintegration. First, the legitimate business reason test will likely work to deny a large percentage of sex offenders housing, given the fear of housing those on the registry, in part because of beliefs in high rates of recidivism.⁵⁴ Given its consideration of factors such as time since conviction and good rental history, the test will also serve to deny those who are likely most in need of housing, such as those recently out of prison or those without a history of stable housing.⁵⁵ Second, denials of housing to sex offenders may force them to live away from their support systems.⁵⁶ Third, lack of access to stable housing also makes it harder to get a job,⁵⁷ so sex offenders who are denied housing may have increased difficulties earning money and making connections with society.

⁵⁰ See Heather Ellis Cucolo & Michael L. Perlin, "They're Planting Stories in the Press": The Impact of Media Distortions on Sex Offender Law and Policy, 3 U. DENV. CRIM. L. REV. 185, 217 (2013).

⁵¹ AMELIE PEDNEAULT & EUNICE CHOI, REASSESSMENT OF RISK OF SEXUAL OFFENDERS LIVING IN THE COMMUNITY 13 (2016), https://www.ofm.wa.gov/sites/default/files/public/legacy/sgc/sopb/meetings/board/2016/07/project_one_final.pdf [https://perma.cc/PAA4-WS75] (explaining that while studies show the beneficial impact of housing on general offender reentry, more research is needed to establish that this is also true specifically for sex offenders).

⁵² Gwenda M. Willis & Randolph C. Grace, *The Quality of Community Reintegration Planning for Child Molesters: Effects on Sexual Recidivism*, 20 SEXUAL ABUSE: J. RES. & TREATMENT 218, 233–34 (2008).

⁵³ Cf. J.J. Prescott, *Portmanteau Ascendant: Post-Release Regulations and Sex Offender Recidivism*, 48 CONN. L. REV. 1035, 1063 (2016) (discussing how restrictions on released sex offenders "reduce [their] quality of life" and make reoffending "less costly").

⁵⁴ See CTR. FOR SEX OFFENDER MGMT., *supra* note 41, at 2–3.

⁵⁵ See Hensleigh Crowell, Note, *A Home of One's Own: The Fight Against Illegal Housing Discrimination Based on Criminal Convictions, and Those Who Are Still Left Behind*, 95 TEX. L. REV. 1103, 1114 (2017) (noting that the first month after release is the most critical time to get housing); *id.* at 1134 (noting that current reforms, including the HUD guidance, "will mostly benefit individuals who have already succeeded in reintegrating into society").

⁵⁶ See WALZ & TRAN-LEUNG, *supra* note 7, at 3–4.

⁵⁷ Sarah Golabek-Goldman, Opinion, *Homeless Shouldn't Face Job Discrimination Just Because They Lack an Address*, L.A. TIMES (Oct. 10, 2016, 4:00 AM), <http://www.latimes.com/opinion/op-ed/la-oe-golabek-goldman-homeless-address-job-application-20161010-snap-story.html> [https://perma.cc/6P5G-CT8U] (stating that some employers will not hire individuals without a stable address).

One logical reason to single out a group of offenders is if they are more dangerous, as sex offenders are perceived to be.⁵⁸ Such fears are understandable given the prevalence of sexual violence.⁵⁹ But two points caution against this argument. First, a large majority of sex offenders do not reoffend, and their recidivism rates are the same as or lower than other violent offenders.⁶⁰ Second, research on residency restrictions, laws that restrict how close sex offenders can live to places where children congregate, is telling.⁶¹ Studies suggest that these restrictions are largely ineffective, in part because child molesters often abuse children with whom they have preexisting social relationships, rather than those whom they are near.⁶² Similarly, perpetrators of sexual violence against adults are also more likely to have preexisting social relationships with the victim.⁶³ Although residency restrictions are in many ways different from the individualized denials of rental housing at issue in the ordinance, the failure of residency restrictions at least shows that what seem like commonsense policies aimed at reducing sex crimes may not work as intended (and, given the relationship between stable housing and recidivism, may even make communities less safe).

Seattle recognized that released offenders need housing and passed an ordinance to address that. The city even prohibited the consideration of juvenile sex offenses in housing decisions but for some reason stopped short of excluding all sex offenses. Sex offenders who have served their time need a place to live. Seattle's ordinance will likely help many ex-offenders; it is worth considering, though, why it could not help all.

⁵⁸ This is to say nothing of the public revulsion and anxiety provoked by sex offenders. Cucolo & Perlin, *supra* note 50, at 185–87.

⁵⁹ See generally CTRS. FOR DISEASE CONTROL & PREVENTION, SEXUAL VIOLENCE: FACTS AT A GLANCE (2012), <https://www.cdc.gov/violenceprevention/pdf/sv-datasheet-a.pdf> [https://perma.cc/5NC3-EVBW].

⁶⁰ See sources cited *supra* note 41; see also Melissa Hamilton, *Public Safety, Individual Liberty, and Suspect Science: Future Dangerousness Assessments and Sex Offender Laws*, 83 TEMP. L. REV. 697, 707–09 (2011).

⁶¹ See HUMAN RIGHTS WATCH, *supra* note 4, at 100–02 (describing residency restrictions); *id.* at 115–17 (describing research on their effectiveness).

⁶² SEX OFFENDER POLICY BD., STATE OF WASH. OFFICE OF FIN. MGMT., REVIEW OF POLICIES RELATING TO THE RELEASE AND HOUSING OF SEX OFFENDERS IN THE COMMUNITY 13–15 (2014), https://sgc.wa.gov/sites/default/files/public/sopb/documents/sex_offender_housing_201412.pdf [https://perma.cc/5ECE-2EAH]. A Minnesota study of 224 sex reoffenses found that the majority “involved offenders who gained access to their victims through another person,” such as by dating the parent of the child. MINN. DEP’T OF CORR., RESIDENTIAL PROXIMITY & SEX OFFENSE RECIDIVISM IN MINNESOTA 2 (2007). Neighbors, however, did account for 8 of the 224 (3.6%) offenses. *Id.* at 14. But most offenses where the offenders “established direct contact with victims” (rather than met the victim through another adult) occurred away from where the offenders lived, possibly because the “offenders are more likely to be recognized within their own neighborhoods.” *Id.* at 2.

⁶³ CTRS. FOR DISEASE CONTROL & PREVENTION, *supra* note 59.