

# **SEX OFFENDERS IN THE NYC HOMELESS SYSTEM**

*A Survey of New York City Family Shelters*



**State Senator Jeffrey D. Klein  
Assemblyman Matt Titone**

**August 2012**

## **Introduction**

Sex offenders can enter the homeless system in a number of ways. A sex offender can be released from prison and have no resources for housing. The New York State Division of Parole requires the sex offender to report to the Department of Social Services. Sex offenders can also enter the homeless system when their existing housing ceases to exist after they have already been released and are on parole, probation or still required by law to register their residence every 90 days. This happens due to normal eviction situations, condemnation of their building, or a change in the financial support structure of the individual.<sup>1</sup> This situation becomes increasingly dangerous though, when the registered sex offender's last address is that of a NYC Family Provider.

In August of 2007, the office of Senator Jeff Klein determined that there were six convicted sex offenders residing at six different family shelters in the Bronx, Manhattan and Brooklyn areas. These were level 2 and 3 sex offenders, with one having a conviction date as early as May 11, 2005. Each family shelter had a different operating procedure regarding the confidentiality of their residents, but at least three were confirmed to actually have been living or still residing in the shelters at this time. The response from NYC Department of Homeless Services at the time was not to commit to determining why addresses of six of its shelter locations listed as family residences were the last known reported addresses of level 2 or 3 sex offenders or to commit to investigate the matter. They simply refuted the evidence claiming that 4 of the 6 were no longer there.<sup>2</sup> Yet what the investigation raised and what was never answered was -- Should these sex offenders have ever been there in the first place?

## **June 2011 Review of Family Shelters in New York City**

Concerned that the problem uncovered in 2007 regarding level 2 or 3 sex offenders in family shelters had not been resolved, the offices of Senator Jeff Klein conducted a second survey of family providers listed on the New York City Department of Homeless Services Website. A list of family providers was downloaded from the New York City Department of Homeless Services Website. After ascertaining all of the correct addresses for the providers, these addresses were cross referenced with the New York State Sex Offender Registry. If a match was found, the provider was called to establish that it is still a family provider. What was uncovered was that still, even four years after the 2007 report, level 2 and 3 sex offenders were living in shelters specifically determined by the Department of Homeless Services and the Department of Human Resources of New York City to be family shelters. In total 11 sex offenders were found in five separate facilities with crimes ranging from sodomy in the first degree of a five and seven year old to statutory rape with a 16 year old.

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<sup>1</sup> Suffolk County Task Force on Homeless Sex Offenders: Final Report, January, 2005

<sup>2</sup> [http://www.nydailynews.com/news/ny\\_crime/2007/08/23/2008](http://www.nydailynews.com/news/ny_crime/2007/08/23/2008)

## **June-August 2012 Review of Family Shelters in New York City**

In April 2012, the Coalition for the Homeless reported that 40,000 New Yorkers were homeless, including 17,000 children.<sup>3</sup> In response to the new numbers, the office of Senator Jeff Klein and Assemblyman Matt Titone conducted a follow-up survey of family providers. The results demonstrated that the issue regarding sex offenders living in family shelters had not been resolved, and instead had continued to deteriorate. Since the 2011 survey was completed, nine registered sex offenders, with convictions as recent as July 2008, reside in five different New York family shelters. Four of these men have child related crimes including sexual abuse, sodomy, and rape. Furthermore, two sex offenders discovered in the 2011 survey have been re-incarcerated for violating parole, further proving the necessity of removing these men from the presence of homeless children.

*Since the first study was released in 2007, a total of twenty-six registered sex offenders have resided in thirteen different New York family shelters. Of those twenty-six registered sex offenders, seventeen of them had been convicted of crimes against children. These crimes include 1st degree rape of a seven year old girl, as well as incest involving an eleven year old girl.*

### **Located Sex Offenders in NYC Family Shelters 2012<sup>4</sup>**

Name	Level	Crime	Registered Address	Provider	Description of Facility <sup>5</sup>
Randolph Holton	2	Sexual Abuse 1 <sup>st</sup> degree- Female Age Unknown	1675 Broadway, Brooklyn, New York Apt 331,	Bushwick Family Residences	Tier II facility; Families with Children
Adonis Suazo	2	Rape 3 <sup>rd</sup> Degree with Victim 16 years old	501 New Lots Avenue, Brooklyn, New York, 11207	Linden Family Residence*	Tier II facility, Family has own room, 2 families per bath, share kitchen, available also to pregnant females with 1 to 3 children
Angel Rios	3	Sodomy 1 <sup>st</sup> Degree; Rape 1 <sup>st</sup> Degree; Female 5 years Female 7 years			
Jonathan Freeman	2	Non NYS Felony Sex Offense	78 Catherine St. Apt 443 New York, NY 10038	Catherine St. Shelter *	Hotel Families with Children
Landell Ellis	3	Sexual Abuse 1 <sup>st</sup> Degree-	661 Caldwell Ave	Caldwell Family Shelter*	Hotel Families with Children

<sup>3</sup> [http://articles.nydailynews.com/2012-06-08/news/32107000\\_1\\_shelter-residents-average-shelter-shelter-system](http://articles.nydailynews.com/2012-06-08/news/32107000_1_shelter-residents-average-shelter-shelter-system)

<sup>4</sup> Stars (\*) by Residences indicated that there was verbal confirmation that these shelters allowed children in addition to the description obtained from NYC Human Resources Administration documents.

Landell Ellis	3	Sexual Abuse 1 <sup>st</sup> Degree- Female 21 years	661 Caldwell Ave Bronx 10455	Caldwell Family Shelter*	Hotel Families with Children
Fred Scott	3	Sodomy 1st Degree- Female 8 years	88-55 161 <sup>st</sup> Street, Jamaica, Queens, 11432	Colonial Hotel	Hotel Families with Children Only
Charles Brown	3	Sodomy 1 <sup>st</sup> Degree- Female 9 years			
Andre Smith	3	Sexual Abuse 3 <sup>rd</sup> Degree; Age unknown			
Rene Rivera	2	Deviate			

### **Re-Incarcerated Sex Offenders Previously At Family Shelters**

			<b>Previous Address</b>	<b>Current Status</b>
Anthony Johnson	2	Rape 3; female 14 Years	501 New Lots Avenue Brooklyn, NY 11207	Re-incarcerated for Parole Violation
DeMarcus Thompson	3	Criminal Sexual Act 1 <sup>st</sup> Degree- Female 17 years	501 New Lots Avenue Brooklyn, NY 11207	Recently Released from Prison  Previously Incarcerated due to Parole Violation

### **Located Sex Offenders in NYC Family Shelters - 2011**

<b>Name</b>	<b>Level</b>	<b>Crime</b>	<b>Registered Address</b>	<b>Provider</b>	<b>Description of Facility<sup>6</sup></b>
Robert Lujan	3	Rape 1st Degree with a female of 14 years	2720 Broadway, Apt. 1815, New York, NY 10025	Regent Family Residence	Tier II facility; family has own apartment
<b>Anthony Johnson REPEAT - OFFENDER</b>	2	Rape 3 <sup>rd</sup> degree; Victim 14 years old did not consent	501 New Lotts Avenue, Brooklyn, New York, 11207	Linden Family Residence	Tier II facility, Family has own room, 2 families per bath, share kitchen, available also to pregnant females with 1
Adonis Suazo	2	Rape 3 <sup>rd</sup> Degree with Victim 16 years old	501 New Lotts Avenue, Brooklyn, New York, 11207	Linden Family Residence	

<sup>5</sup> Form W-145UUU Temporary Housing Facilities Form NYC Human Resources Administration

<sup>6</sup> Form W-145UUU Temporary Housing Facilities Form NYC Human Resources Administration

Kevin Tillman	2	Sexual Abuse and Rape – 1 <sup>st</sup> Degree; Female 5 Years	501 New Lotts Avenue, Brooklyn, New York, 11207	Linden Family Residence	to 3 children
Frank Ballance	2	Rape 1st Degree - Female Age Unknown	1270 Pacific Street, Apt 313, Brooklyn, New York 11216	Pacific Place	Hotel Families with Children Only

### **New York State Sex Offender Registry<sup>7</sup>**

The Sex Offender Registration Act (SORA) was signed into law on January 21, 1996. SORA applies to all individuals who commit a sex offense or a sexually violent offense on or after January 21, 1996. SORA also applies to an individual who committed an offense before January 21, 1996 if that individual was on parole or probation or incarcerated on January 21, 1996.

A sex offender is required to annually verify his or her address on or about the anniversary of the original registration date, by signing an annual verification form and mailing it back to DCJS within 10 days. A level 3 sex offender or a sexual predator, in addition to signing an annual verification form, is required to personally verify his or her address every 90 days with the local law enforcement agency having jurisdiction over the sex offender's residence.

A sex offender is required to notify DCJS, in writing, no later than ten days after a change in address. A sex offender is required to notify DCJS, in writing, if he or she is enrolled at, residing at, attending or working at an institution of higher education. Any change in status must be reported to DCJS, in writing, no later than ten days after the change.

A Level 1 or Level 2 sex offender is required to personally appear at the law enforcement agency having jurisdiction within 20 days of the third anniversary of the sex offender's initial registration and every three years thereafter during the period of registration for the purpose of providing a current photograph of the offender. A Level 3 sex offender is required to personally appear at the law enforcement agency having jurisdiction within 20 days of the first anniversary of the sex offender's initial registration and every year thereafter during the period of registration for the purpose of providing a current photograph of the offender.

### **Intake Procedures at NYC Family Shelters<sup>8</sup>**

Most NYC family shelters receive their referrals through the Department of Homeless Services (DHS). Others may receive referrals through DHS as well as Housing Preservation Development (HPD). In order for a family to be found eligible for placement, the DHS investigates whether there is a need for immediate temporary shelter or if there is another safe place to stay.

<sup>7</sup> Division of Criminal Justice Services, New York State Sex Offender Registry Offender Responsibilities

<sup>8</sup> Department of Homeless Services, Family Services

Documents which aid in the support of this investigation are eviction papers, marshal's 72-hour notices, letters from landlords or managing agents, letters of past roommates, and/or documents which can establish that your former living situation is no longer available.

There is a broad definition of "family" as it would be applicable in the case of DHS determining placement in a family shelter. DHS defines a family as legally married couples with or without children, single parents with children, pregnant women, and unmarried couples, with or without children, who have cohabited for a substantial period of time and demonstrate the need to be sheltered together. On December 2009 DHS implemented further guidelines separating out those families that are considered adult families ( without children or having children above the age of 21) . Adult families are:

**Applicants who are legally married and present a valid marriage certificate or are domestic partners and present a valid domestic partnership certificate;**

**Adults who provide, as part of their application, proof establishing the medical dependence of one applicant upon another;**

**Adults who share one of the following relationships: (i) aunt/uncle to niece/nephew; (ii) grandparent to grandchild; (iii) parent to child; and (iv) siblings; and have resided with one another for one-hundred and eighty days within the year immediately prior to the date of their application or can provide birth certificates to prove a parent/child or sibling family relationship ( Applicable only to families with children who are 21 years of age or older)**

These adult families are directed to the Adult Family Intake Center located in Manhattan. All other families ( presumably the ones with children or with children on the way) are directed to the Prevention Assistance and Temporary Housing Office in the Bronx

After conducting a review of the intake procedure at the Prevention Assistance and Temporary Housing (Path) Office, it has been determined that there is no criminal background checks done on these individuals when they are presenting all of their paperwork for family shelter assistance. Furthermore, there is no requirement for the individual shelters to check the sex offender registry when a new family or adult couple is admitted to the actual shelter.

### **Public Housing Restrictions on Sex Offenders**

Under federal law, public housing authorities must deny admission to individuals who are lifetime registrants of a sex offender list. Specifically this refers to Level 2 and Level 3 sex offenders. Federal Law states "an owner of federally assisted housing shall prohibit admission to such housing for any household that includes any individual who is subject to a lifetime registration requirement under a State sex offender registration program."<sup>9</sup> Furthermore, federal law requires "a public housing agency to conduct criminal history background checks on applicants for federally assisted housing and make further inquiry with the State and local

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<sup>9</sup> Title 42, Chapter 135, section 13663(a)

agencies, as necessary, to determine whether an applicant for federally assisted housing is subject to a lifetime registration requirement under a State sex offender registration program.”<sup>10</sup>

In conjunction with this law, more than three years ago, Operation Safe Housing was instituted in New York City to reduce crime in public housing. This program included **seeking out registered sex offenders who claim they live in public housing** and a special hearing process that expedites the eviction process for criminals who pose the greatest risk. It also provided for registered sex offenders with a public housing address to be visited by police every six months to verify their address.

In early January, to address the issue of convicted sex offenders in New York City’s public housing, investigators from HUD’s Office of Inspector General in New York and DOI’s Office of Inspector General for the New York City Housing Authority (NYCHA) partnered to compare a list of sex offender addresses to a list of addresses from NYCHA. Using the names and addresses from the match list, over 50 agents and law enforcement officers were organized into teams to go door-to-door in NYCHA housing to **verify residents’ identities and determine if there were any convicted sex offenders living at the residences**.<sup>11</sup>

While through this action, HUD reiterated its commitment to uphold current regulatory requirements and encourage the establishment of standards and processes with a zero tolerance approach to prevent lifetime sex offenders from receiving federal housing, more was needed to help maximize the safety of public housing residents.

In order to increase communication between public housing and local law enforcement agencies, Senator Klein passed legislation which was signed into law in July of 2010 (Chapter 278 of the laws of 2010) that requires the Division of Criminal Justice Services to make sex offender registry information available to municipal housing authorities in order to ensure that such persons do not live in public housing projects as provided for under federal law. In addition, this law adds “municipal housing authorities” to the list of “vulnerable organizations” that need to be notified by law enforcement about the presence of registered level two and level three offenders.

The question then remains: Where then is the protection for those families that truly are the most vulnerable in today’s society? Populated mainly by single mothers with children, these family shelters are the only normalcy in an otherwise hectic and scary life. Furthermore, these places are only transitional. Therefore, the added burden of having to find work and housing strengthens the need to eliminate any factors that increase family stress and worry regarding the safety of their children. Despite reports claiming a lack of recidivism of sex offenders and the arguments made that many cases of sexual molestation of children are by a family member or close family friend, if the Federal Government can provide safeguards for those low income New Yorkers who live in public housing facilities, why can’t New York City provide the same protection for the most vulnerable New Yorkers---the children in our homeless family housing system?

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<sup>10</sup> Title 42, Chapter 135, Section 13663(b)

<sup>11</sup> U.S. Department of Housing and Urban Development, News Release 2/8/2007

## **Legal Considerations Regarding Restricting Sex Offenders in Homeless Shelters**

### **A. Confidentiality**

Section 136(2) of the New York State Social services law restricts a social services agency from divulging that a sex offender is being housed in a temporary homeless shelter

#### **§ 136. Protection of public welfare records**

(2) All communications and information relating to a person receiving public assistance or care obtained by any social services official, service officer, or employee in the course of his or her work shall be considered confidential and, except as otherwise provided in this section, shall be disclosed only to the commissioner, or his or her authorized representative, the commissioner of labor, or his or her authorized representative, the commissioner of health, or his or her authorized representative, the welfare inspector general, or his or her authorized representative, the county board of supervisors, city council, town board or other board or body authorized and required to appropriate funds for public assistance and care in and for such county, city or town or its authorized representative or, by authority of the county, city or town social services official, to a person or agency considered entitled to such information. Nothing herein shall preclude a social services official from reporting to an appropriate agency or official, including law enforcement agencies or officials, known or suspected instances of physical or mental injury, sexual abuse or exploitation, sexual contact with a minor or negligent treatment or maltreatment of a child of which the official becomes aware in the administration of public assistance and care nor shall it preclude communication with the federal immigration and naturalization service regarding the immigration status of any individual.

Therefore, those families entering the shelter will never be able to fully know who they are living with because the sex offender is protected by NYC law from having their identity divulged. While the rights and privacy of that individual outweighs the right of others to know in an all male or all female shelter, the rights of the child should outweigh the right to privacy of the status of the individual in a family shelter. Barring the city reconsidering this position, level 2 or 3 sex offenders should not be allowed to be housed in homeless family shelters.

### **B. Attempted New York State Legislation**

In June of 2006, Bill No A09044/S 5526-A “An act to amend the social services law and the correction law, in relation to temporary emergency housing for sex offenders” was proposed. The purpose was to insure that local law enforcement agencies were notified of the names and addresses of sex offenders who are placed in temporary housing by County Departments of Social Services. This bill would have required Social Services to provide the names and whereabouts of these offenders within twenty-four hours of a placement.<sup>12</sup> The legislation passed

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<sup>12</sup> SuffolkJournal.com, August 2, 2007 “Fitzpatrick Critical of Spitzer Veto of Sex Predator Legislation”



with unanimous bipartisan support in both the Assembly and Senate. The Bill was vetoed by Governor Spitzer on 7/18/2007.

The bill would have amended section 136 of the Social Services Law, and closed any loopholes that allow confidentiality when homeless sex offenders are placed in temporary housing.

The Governor's major concern which led him to rejecting the bill was that the language was too vague. Governor Spitzer determined it was unclear whether the social service providers must notify local law enforcement only when they actually knew that the person being placed in the shelter was a registered sex offender or if they were required to identify whether a person was a registered sex offender from the beginning. The Governor did add that he has enlisted the Division of Criminal Justice Services (DCJS) and the Office of Temporary and Disability Assistance (OTDA) to work out the problems he found with the bill as proposed.<sup>13</sup> That has still not occurred. Since that veto, many legislators have carried some form of this bill failing to secure its passage coming up against the same privacy concerns and implementation concerns expressed year after year.

However, this legislation provided a starting point in determining a way to require social services, like DHS, and the DCJS to work together in identifying those sex offenders who are registering their last known address to be that of a family shelter. Again the goal is not to restrict the residency of sex offenders so that they might not seek shelter, it is to protect the children who currently live in the temporary shelter system. The approach presented by Senator Klein and Assemblyman Matt Titone, provides a way to not infringe on the rights of the individual sex offender, does not add an additional burden to DCJS and allows the sex offender in question to still have access to transitional housing—however not transitional family housing.

### **S.990 (Klein)/ A. 7067 (Titone)**

Currently Senator Klein and Assemblyman Matt Titone have legislation designed at prohibiting the placement of level 2 or 3 sex offenders in any temporary emergency housing or homeless shelters used to house families with children. This legislation would require municipalities to place homeless level 2 and level 3 sex offenders in adult-only shelters or emergency housing where they will not be in close contact with children. As pointed out earlier in the report, sex offenders are already barred from living in public housing. This measure extends the same protection to homeless families with small children who deserve equal protection under the law.

There are two main arguments that have been made in opposition to this legislation which when examined closely either have no basis to be an oppositional point or can be dealt with in such a way to accommodate the needs of all involved in the debate. The first is that there is already a residency restriction on sex offenders around children suggesting that this legislation is in fact not needed. The second is that the interest of the family is the foremost priority when placing people in a homeless facility and to support this legislation would be in direct contradiction to this interest.

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<sup>13</sup> <http://swnsonline.com>, August 15, 2007 "Gov Nixes Sex Offender Tracking Bill"

## *Sex Offender Residency Laws in New York State*

There is no New York State residency restriction for unsupervised sex offenders. New York State does mandate as a **condition of parole** that Level 3 sex offenders or those sex offenders with victims under the age of 18 may not reside within 1,000 feet of a school.<sup>14</sup> They further mandate as a **condition of probation** that Level 3 sex offenders and those sex offenders with victims under the age of 18 may not reside within 1,000 feet of a school.<sup>15</sup> These are the only state laws regulating where sex offenders may live.

Furthermore the above restrictions for paroled offenders or offenders on probation are for school grounds or any facility or institution primarily used for the care or treatment of persons under the age of eighteen. Neither one of these restrictions fit the services and care provided by a family shelter which services adults, pregnant mothers and children together. This coupled with the fact that there are no residency restrictions in New York State for unsupervised sex offenders make the passage of the Klein/Titone legislation all the more imperative and necessary.

### *Interest of the Family Structure*

Another argument that is posed in opposition to this legislation is that the interest of keeping the family together should outweigh the interest in restricting the placement of level 2 or 3 sex offenders in family homeless shelters. While the needs to provide a structured and supporting family unit for a child are indeed great these needs can be met while simultaneously protecting the welfare and safety of our children.

First, transitional shelter is precisely that—transitional. Therefore these are temporary solutions for housing while the system works on achieving permanent and affordable housing for families. The separation of one level 2 or 3 sex offender from the family shelter from four to five months can help prevent a child in the system from a life time of pain and scarring if they are sexually abused or injured while staying in one of these facilities.

Secondly, consistently and constantly the amount of level 2 or 3 sex offenders found in the New York City family shelter system range from 4 to 14. There is an alternative to housing these families in a family shelter if the city truly believes the best interest of the child would be to live with all of the adults comprising the family including the level two or three sex offender. The low amount of families that would need to be placed outside of the shelter system would provide little or no burden on the city while simultaneously ensuring the welfare of the hundreds of children living in the family shelter system.

## **Conclusion**

While attempting to find housing for sex offenders is a challenge, the State has taken great pains in making sure burdensome and restrictive residency laws are not implemented to severely restrict the options of living arrangements for these offenders. However, in the reverse, it is the duty of the State and only the State to make decisions regarding the safety of our children when

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<sup>14</sup> New York Executive Law Article 12-B State Division of Parole Section 259-c (14)

<sup>15</sup> Section 65.10 of the New York Penal Law

it comes to sex offenders. As stated in Approval memorandum No 33 of Chapter 568 of the Laws of 2008, “the placement of these offenders in the community has been and will continue to be a matter that is properly addressed by the State.” Therefore, with the lack of adequate protection for children in the homeless system provided currently under New York State law, it is imperative that Senate Bill 990 and Assembly Bill 7067 be passed and enacted into law.