

# Keeping Sex Offenders Out of Public Housing 2.0



**Senator Jeffrey D. Klein**  
Deputy Majority Leader

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Report by  
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## BACKGROUND

In 1998, Congress banned subsidized housing for the most serious sex offenders after a convicted sex offender was charged with assaulting and molesting a 9-year-old neighbor girl who lived in the same public housing building. Also known as the Quality Housing and Work Responsibility Act, this new legislation prohibited housing authorities from admitting any household that included a person subject to the lifetime sex offender registration requirement. In New York State, lifetime sex offenders are designated with a risk level of two or three.<sup>1</sup>

In accordance with federal law, the U.S. Department of Housing and Urban Development (HUD) established regulations requiring all public housing authorities (PHAs) to “perform necessary criminal history background checks to determine if an applicant, or a member of an applicant’s household, is subject to a lifetime registration requirement under a State sex offender registration program.”<sup>2</sup> If, during the course of the screening process, the PHA discovers that an applicant is either a lifetime registered sex offender, or if the applicant withholds or falsifies information on the application, the PHA must deny admission to the program.

While both federal law and HUD regulations clearly restrict public housing to lifetime registered sex offenders, a report released by Councilman Eric Gioia in March 2009 found 126 sex offenders living in New York City public housing facilities – a 12% increase from the year before. 42 of the city’s 3,432 registered sex offenders were found to live in projects in Brooklyn, 37 in Manhattan, 26 in the Bronx, 8 in Queens and 3 in Staten Island.<sup>3</sup>

A few months later, in August 2009, the HUD Inspector General issued a further report estimating that 2,094-3,046 households currently residing in federally subsidized housing include a serious sex offender.<sup>4</sup> In conducting this internal review, “inspectors identified 4,784 households in which one or more members’ Social Security numbers matched an offender in the FBI’s national sex offender registry.”<sup>5</sup> A sample of 67 households revealed that 36 included a lifetime registered sex offender, who had been

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<sup>1</sup> The Sex Offender Registration and Notification Act (SORNA) of 2006 provides a comprehensive set of minimum standards for sex offender registration, including standards for requiring lifetime registration.

<sup>2</sup> U.S. Department of Housing and Urban Development, Notice: PIH 2009-35 (HA) / H 2009-11, retrieved April 8, 2010, from National Housing Law Project Website, available at: <http://www.nhlp.org/resourcecenter?tid=128>.

<sup>3</sup> New York Daily News, “Councilman Eric Gioia: Keep Sex Offenders Out of Public Housing,” published 29 March 2009, available at: [http://www.nydailynews.com/news/ny\\_crime/2009/03/30/2009-03-30\\_councilman\\_eric\\_gioia\\_keep\\_sex\\_offenders-1.html](http://www.nydailynews.com/news/ny_crime/2009/03/30/2009-03-30_councilman_eric_gioia_keep_sex_offenders-1.html).

<sup>4</sup> U.S. Department of Housing and Urban Development, Audit Report #2009-KC-0001, published 14 August 2009.

<sup>5</sup> Ibid.

convicted for a variety of offenses, including rape, sexual assault and lewd or lascivious acts, some of which involved children.

According to investigators, the primary reason why HUD failed to meet the law's objective was that HUD failed to ask prospective residents if they were subject to a lifetime registration requirement and did not require housing authorities to check the national sex offender registry prior to recertifying the eligibility of its current residents.<sup>6</sup> Initially, the Inspector General suggested that legislation might be needed to ensure the termination of tenant agreements for those improperly allowed into subsidized housing. However, HUD officials disagreed, claiming that public housing authorities already had both the authority and protocols in place to remove lifetime registered sex offenders.

Shortly after the report, HUD published Notice PIH 2009-35 (HA) to reiterate its commitment to uphold current regulatory requirements and to encourage the establishment of standards and processes with a zero tolerance approach towards lifetime sex offenders. Included in this notice were recommendations to use the Dru Sjodin National Sex Offender Website when screening households not just during the initial application process but during recertification as well, and to "aggressively pursue termination of tenancy or assistance, as appropriate."<sup>7</sup>

## **SENATOR KLEIN'S INVESTIGATION**

In April 2010, Senator Klein conducted an investigation to determine whether, six months later, PHAs had actually addressed the concerns and followed the recommendations put forth by the Department. The study was conducted over the course of 6 weeks, between March 1, 2010, and April 12, 2010, and published in the Senator's May 2010 report. For NYCHA residences alone, Senator Klein's staff searched through 91 zip codes and 2,822 sex offender profiles listed on the New York State Sex Offender Registry. The investigation discovered 74 registered sex offenders, including 52 with a risk level 2 and 22 with a risk level 3, who were illegally residing in NYCHA facilities (Fig.1 & Appendix).

The zip code with the highest percentage of sex offenders living in public housing was 11354 in Queens with 40% followed by 11102, also in Queens, with 25% (Fig.2). 11212 in Brooklyn ranked 8<sup>th</sup> with 15.6%; yet it had the highest number of sex offenders with public housing addresses discovered in any zip code at all (Fig.2).

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<sup>6</sup> CBS News, "Sex Offenders Illegally Get Public Housing," published 20 August 2009, available at: <http://www.cbsnews.com/stories/2009/08/20/national/main5256158.shtml>.

<sup>7</sup> U.S. Department of Housing and Urban Development, Notice: PIH 2009-35 (HA) / H 2009-11, retrieved April 8, 2010, from National Housing Law Project Website, available at: <http://www.nhlp.org/resourcecenter?tid=128>.

**Fig.1 May 2010 Study Results: Sex Offenders Residing in Public Housing**

Public Housing Authority (PHA) Location			# of Level 2 & Level 3 Sex Offenders	
Borough	# Zip Codes	# in Zips Searched*	# in Public Housing	% in Public Housing
Bronx	21	840	15	1.8
Brooklyn	25	1,054	35	3.3
Manhattan	23	567	15	2.6
Queens	15	180	5	2.8
Staten Island	7	124	4	3.2
<b>Total</b>	<b>91</b>	<b>2,765</b>	<b>74</b>	<b>2.7</b>

\*Excludes sex offenders who are either incarcerated or designated with a risk level 1.

Considering the percentage of sex offenders by borough, Brooklyn fared the worst with 3.3% of sex offenders in the 25 zip codes searched residing in public housing (Fig.1). The next worst borough was Staten Island with 3.2% of sex offenders in 7 zip codes followed by Queens with 2.8% of sex offenders in 15 zip codes.

**Fig.2 Top 10 Zip Codes with Highest Percentage of Sex Offenders in Public Housing**

Rank	Borough	PHA Zip Codes	# Level 2 & Level 3 Offenders Per Zip	# Sex Offenders in Public Housing	% of Total
1	Queens	11354	5	2	40.0
2	Queens	11102	4	1	25.0
3	Brooklyn	11206	39	7	17.9
4	Brooklyn	11229	6	1	16.7
5	Manhattan	10019	6	1	16.7
6	Manhattan	10038	6	1	16.7
7	Brooklyn	11205	19	3	15.8
8	Brooklyn	11212	64	10	15.6
9	Bronx	10473	32	4	12.5
10	Manhattan	10029	33	4	12.1

Brooklyn also stood out as the worst in terms of the number of sex offenders residing illegally in federally subsidized housing. According to Senator Klein’s May 2010 report, PHA developments in Brooklyn were home to at least 35 unlawful sex offenders, including 23 level 2 and 12 level 3 offenders – more than twice as many as in Manhattan and the Bronx (Fig.1 & Appendix). The total number of unlawful sex offenders residing in public housing as a percentage of level 2 and level 3 sex offenders listed in each of New York City’s 5 boroughs was 2.7% for the 91 zip codes searched or 2.1% for the City as a whole (Fig.1 & Appendix).

## IMPLICATIONS

Since the release of Councilman Gioia's report in March 2009, the number of sex offenders residing in NYCHA developments seemed to have dropped by nearly 41%, from 126 to 74. While one reason for this discrepancy could have been the fact that the information contained on the New York State Sex Offender Registry is extremely fluid – it is updated on a daily basis to account for newly registered sex offenders as well as changes in existing sex offenders' addresses – it appeared that NYCHA had taken steps to address the concerns raised by the 2009 HUD report. A 41% drop in unlawful sex offender residents over the course of 12 months was certainly a significant achievement.

## **SENATOR KLEIN'S BILL**

Yet, more needed to be done to address the threat that level two and level three sex offenders posed to the safety and well-being of children, families and residents of public housing. Even if only one sex offender was discovered as unlawfully residing in public housing, one was already one too many.

In order to increase communication between public housing and local law enforcement agencies, Senator Klein introduced legislation (S.2490-D) requiring the Division of Criminal Justice Services (DCJS) to make sex offender registry information available to municipal housing authorities in order to ensure that such persons did not live in public housing projects as provided for under federal law. The bill required DCJS to provide each public housing authority, at least monthly, with information about level 2 and level 3 offenders whose home address and/or expected place of domicile was listed within the corresponding municipality.

## **NYPD FOLLOW-UP**

One June 1, 2010, shortly after the release of Senator Klein's sex offender report, New York City Police Commissioner Ray Kelly issued a statement with the following information:

Of the 74 registered sex offenders identified by Senator Klein's office as residents of NYCHA developments:

- 12 filed address changes and now officially report addresses that are not in public housing;
- 12 remain subject of investigation for failure to register after investigations determined that they do not reside at their registry addresses. While DCJS notes on its public web site that these offenders' current address are under investigation, the Sex Offender Registry leaves the last known address on file as the current address, whether or not an offender ever lived there.
- 2 are currently incarcerated and their current registry addresses are City or State jails;

- 37 are actually in living in NYCHA buildings and have verified their current registry addresses as required by the State Sex Offender Registration Act (SORA). These individuals are subject to eviction by the New York City Housing Authority;
- 10 are among the 200 to 400 registrants under investigation by NYPD's Sex Offender Monitoring Unit on any given day for having failed their annual mail verification with DCJS;
- One of the 74 registrants identified – a level 3 sex offender – resides at an address currently not listed as public housing property.

## SENATOR KLEIN'S INVESTIGATION 2.0

So what has happened since then? Four months after Senator Klein's last report, and 2 months after the NYPD's follow-up investigation, the situation has not much changed. According to the latest findings, the number of lifetime sex offenders illegally residing in federally subsidized housing has stayed at about the same level. As of August 9, 2010, Senator Klein's office identified 75 registrants, including 53 level 2 and 22 level 3 sex offenders, who are currently residing in NYCHA facilities (Fig.3 & Appendix). That is one sex offender more than were identified in the investigation conducted 4 months ago.

**Fig.3 August 2010 Study Results: Sex Offenders Residing in Public Housing**

Public Housing Authority (PHA) Location			# of Level 2 & Level 3 Sex Offenders	
Borough	# Zip Codes	# in Zips Searched*	# in Public Housing	% in Public Housing
Bronx	21	840	19	2.1
Brooklyn	25	1,054	30	2.8
Manhattan	23	567	17	3.1
Queens	15	180	5	2.8
Staten Island	7	124	4	3.2
Total	91	2,765	75	2.7

\*Excludes sex offenders who are either incarcerated or designated with a risk level 1.

Considering the percentage of sex offenders by borough, this time it is Staten Island that fared the worst with 3.2% of sex offenders in the 7 zip codes searched residing in public housing (Fig.3). The next worst borough is Manhattan with 3.1% of sex offenders in 23 zip codes followed by Queens and Brooklyn, tied at 2.8% of sex offenders in 15 and 25 zip codes, respectively.

In terms of the number of sex offenders residing illegally in federally subsidized housing, it is still Brooklyn that is leading the way. While the number of sex offenders in NYCHA developments in Brooklyn has dropped by 7 since Senator Klein's last report (all of them level 3's), the borough is still home to at least 30 unlawful sex offenders (Fig.3).

**Fig.4 Top 10 Zip Codes with Highest Percentage of Sex Offenders in Public Housing**

Rank	Borough	PHA Zip Codes	# Level 2 & Level 3 Offenders Per Zip	# Sex Offenders in Public Housing	% of Total
1	Queens	11102	3	1	33.3
2	Queens	11693	3	1	33.3
3	Manhattan	10002	14	4	28.6
4	Manhattan	10038	4	1	25.0
5	Manhattan	10029	34	7	20.6
6	Brooklyn	10201	15	3	20.0
7	Queens	11354	5	1	20.0
8	Brooklyn	11205	19	3	15.8
9	Bronx	10473	32	5	15.6
10	Brooklyn	11224	20	3	15.0

Similar to the results of Senator Klein’s May 2010 report, the zip code with the highest percentage of sex offenders living in public housing was also located in Queens: 33.3% of sex offenders located in the 11102 zip code were listed as residing in public housing; the same was true of 11693, also in Queens (Fig.4). 10029 in Manhattan ranked 5<sup>th</sup> with 20.6%; it also had the highest number of sex offenders with public housing addresses discovered in any zip code at all (Fig.4). This finding differed from the results Senator Klein published 4 months ago, where Brooklyn’s 11212 was the #1 zip code for sex offenders in public housing.

A comparison of the two investigations reveals the following. Since Senator Klein’s May 2010 report,

- 37 lifetime sex offenders no longer list NYCHA addresses;
- 37 lifetime sex offenders are still living in NYCHA developments; and
- 36 lifetime sex offenders have been newly identified; i.e. they recently changed their address to one listed as NYCHA property.

The total number of unlawful sex offenders residing in public housing as a percentage of level 2 and level 3 sex offenders listed in each of New York City’s 5 boroughs is still approximately 2.7% for the 91 zip codes searched or 2.1% for the City as a whole (Fig.3 & Appendix).

## **CONCLUSION**

While Senator Klein greatly appreciates the NYPD’s assistance in enforcing civil regulations that prohibit sex offenders subject to lifetime registration from living in federally subsidized housing, the newest data demonstrates that the existence of New York’s sex offender registry and the presence of law enforcement are simply not enough.

More is needed to ensure the fullest cooperation between public housing authorities, law enforcement, and DCJS in order to protect our State's most vulnerable populations.

A major victory to all children and families, Senator Klein's sex offender bill S.2490-D was finally signed into law by the Governor on July 30<sup>th</sup>, 2010. The bill closes a longstanding loophole in New York's correction law that has allowed so many sex offenders to slip through the cracks and reside in federally subsidized housing for years before they are finally – if ever – detected.

Beginning September 28<sup>th</sup>, 2010, DCJS will be required to send at least monthly notifications to public housing authorities every time a registered level 2 or level 3 sex offender changes his home address or place of domicile to one within the respective municipality. Through greater communication between DCJS, public housing authorities, and law enforcement, the new law will ensure that lifetime registered sex offenders can no longer pose a threat to residents of New York's public housing developments.



**Appendix: Sex Offender Statistics by Borough & Risk Level**

**A. May 2010 Study Results**

Location	Registered Sex Offenders*				Sex Offenders in Public Housing			% of Total		
	Level 1	Level 2	Level 3	Total	Level 2	Level 3	Total	Level 2	Level 3	Total**
NYC Borough										
Bronx	540	533	372	1,445	11	4	15	2.06	1.08	1.66
Brooklyn	700	707	534	1,941	23	12	35	3.25	2.25	2.82
Manhattan	397	364	324	1,085	10	5	15	2.75	1.54	2.18
Queens	540	372	230	1,142	5	-	5	1.34	0.00	0.83
Staten Island	119	83	62	264	3	1	4	3.61	1.61	2.76
Total	2,296	2,059	1,522	5,877	52	22	74	2.53	1.45	2.07

\*Source: Division of Criminal Justice Services; excludes incarcerated sex offenders.

\*\* Includes only level 2 and level 3 sex offenders.

**B. August 2010 Study Results**

Location	Registered Sex Offenders*				Sex Offenders in Public Housing			% of Total		
	Level 1	Level 2	Level 3	Total	Level 2	Level 3	Total	Level 2	Level 3	Total**
NYC Borough										
Bronx	540	533	372	1,445	9	10	19	1.69	2.69	2.10
Brooklyn	700	707	534	1,941	23	7	30	3.25	1.31	2.42
Manhattan	397	364	324	1,085	13	4	17	3.57	1.23	2.47
Queens	540	372	230	1,142	5	-	5	1.34	0.00	0.83
Staten Island	119	83	62	264	3	1	4	3.61	1.61	2.76
Total	2,296	2,059	1,522	5,877	53	22	75	2.57	1.45	2.09

\*Source: Division of Criminal Justice Services; excludes incarcerated sex offenders.

\*\* Includes only level 2 and level 3 sex offenders.