

STATE + LOCAL

# Freed sex offenders in a Catch-22 amid community backlash

As they're released from MSOP, communities take action to keep them out.

By Chris Serres Star Tribune      OCTOBER 29, 2016 — 8:30PM

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Growing numbers of sex offenders are still being confined in Minnesota's controversial treatment program even after courts approved their release, amid an intensifying local backlash against state efforts to return them to the community.

Across the state, anxious communities are rushing to pass extraordinary rules aimed at banning sex offenders from moving in, with far-reaching ordinances that would effectively bar them from any residential neighborhood. More than 40 localities have adopted such bans, and emotions have reached such a pitch that Human Services Commissioner Emily Johnson Piper, whose agency oversees the sex offender program, recently received a threat of violence against her children.

Last week the city of Dayton, about 25 miles northwest of the Twin Cities, became the latest flash point. On Friday, the city passed one of the most restrictive measures yet, barring offenders from living near churches, pumpkin patches and apple orchards. In an emotional three-hour hearing, residents lashed out at the state for attempting to move three convicted rapists to a private group home in Dayton, as City Council members called for a statewide movement against such placements.

Looming over these hearings is the haunting memory of 11-year-old Jacob Wetterling, whose remains were found last month, 27 years after his abduction along a country road in Stearns County.

"Jacob was abducted in a sprawling, wide-open place just like this," said Malina Hruby, a mother of two children in Dayton, gesturing toward nearby farm fields. "He is on all of our minds."

The backlash is confounding state officials, who are running out of places to house sex offenders even as they face mounting court pressure to release more of them. Including Dayton, roughly four dozen jurisdictions across Minnesota have now passed measures barring convicted sex offenders from living near schools, day care centers and other places with children. Some measures are so sweeping that the towns have become effectively off-limits to offenders, state officials said. The city of Dayton's ordinance even bars offenders from handing out candy on Halloween, or leaving an exterior porch light on to invite trick-or-treaters.

The rush to craft such ordinances intensified late last year, after U.S. District Judge Donovan Frank issued a ruling, now under appeal, that the state can no longer confine offenders indefinitely without a clear path toward release, and ordered the state to develop options for housing offenders in the community.

While similar local laws have been struck down by courts in several states, including California, Massachusetts and New York, they have gone largely unchallenged here.

"It's spreading like wildfire," said Richard Weinberger, a clinical director for a Twin Cities residential program for adult male sex offenders. "At some point, the state will have to step in and strike these down. These people have to live somewhere, and we can't keep saying, 'No.'"

The backlash is complicating efforts to move individuals currently in the Minnesota Sex Offender Program (MSOP) who are legally entitled to live in the community under close supervision. There are now six offenders at MSOP who have been provisionally



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BRIAN PETERSON

Malina Hruby of Dayton, Minn., with her two children. Memories of Jacob Wetterling are top of mind, she said.

discharged by state judicial panels but remain under confinement. Another 84, a record number, are moving toward release, in a less-restrictive program in St. Peter that prepares them for reintegration into society.

In an interview, state Commissioner Piper said the situation is unprecedented. She warned of a possible legal challenge to the local ordinances. The ordinances, she said, are unfair to poorer municipalities that may lack the resources to fight placements.

"It's never going to be the 'north Minneapolis' of the world that get the first ordinance developed with a cadre of lawyers advising them," said Piper, who grew up on Minneapolis' North Side. "What that does is increase the over-concentration of sex offenders in less-affluent areas of the state."

Yet state lawmakers have been loath to address the issue. A Senate bill introduced this year would have required counties to provide appropriate sex offender housing based on the number of offenders committed to the MSOP from their jurisdictions. In addition, Gov. Mark Dayton's bonding bill would have funded two, 20-bed community facilities at a cost of \$12.4 million. Both proposals failed to pass the 2016 Legislature.

### **'Monsters'**

The state's dilemma was on display last week at Dayton City Hall, where about 80 residents gathered on Wednesday night to discuss plans by the state to move three convicted rapists to a private group home.

One by one, residents approached the front of the room, their voices often shaking with emotion. A mother pointed out that her two young children ride a school bus that travels within two blocks of the proposed house. "A busload of kids is a sitting target," said Erin Prest, the mother.

The Wetterling case cast a long shadow over the hearing. "When my children were little, the Jacob Wetterling story came out, and you couldn't let your kids walk to the park alone for fear that someone in a van would leap out and grab them," said Anne Ziebell, a city council member who has lived in Dayton since 1988. "Now here we are, 27 years later, and these monsters are moving into our town."

As the night wore on, the discussion shifted toward more and more restrictions. A draft ordinance barring offenders from living within 2,000 feet of a school, day-care center or park — similar to ordinances passed in other cities — was deemed insufficient. As residents weighed in, multiple "prohibited areas" were added to the measure, including any amusement park, recreation center, youth athletic field, public library, golf course, swimming pool and bowling alleys. The ordinance even prohibits offenders from living within 2,000 feet of "any seasonal pumpkin patch or apple orchard."

"If a Chuck E. Cheese opens up in the middle of Dayton, that should be covered," added Tim McNeil, mayor of Dayton.

Council members seemed undeterred when Dayton's city attorney, looking uncomfortable at times, suggested that such a far-reaching ordinance could draw a legal challenge.

The mood in Dayton is tense in part because residents feel they are in a race against time. A state judicial panel had already approved a plan for moving the offenders to the group home in Dayton. Their criminal histories are familiar to many in this city of about 5,000 residents. One of the men had raped his 6-year-old niece and admitted to "digitally penetrating" a 3-year-old girl. Another forced himself into a woman's home and forced her to have oral sex, within weeks after being released from a treatment program. All three of the offenders are over 50 and have cognitive disabilities or diagnosed mental illnesses.

"Why not put them in the middle of 10,000 acres in northern Minnesota?" asked Dayton City Council member Scott Salonek. "I don't want 'em, period, under any circumstances."

### **How dangerous?**

State officials note that Minnesota already has 15,775 registered sex offenders living in local communities, and that the 723 inmates at the MSOP are just a tiny fraction of that total. Many of these are Level 3 offenders who have assaulted minors, yet live under far

less surveillance than the handful of offenders released from the MSOP. The three offenders being transferred to Dayton, for example, would be subject to 24-hour surveillance, random searches and would be unable to leave the home without staff, among other restrictions.

Studies on sex offender re-offense rates vary widely depending on the time covered and the offenses measured. A 2013 study by the Minnesota Department of Corrections tracked 220 sex offenders who were released from Minnesota prisons in the early 1990s. Within four years, 12.3 percent were reconvicted of a new sex offense; by 2010, 18.6 percent had been reconvicted.

Yet because of MSOP's reputation for holding the "worst of the worst" offenders, the public reaction to releases from the program can be highly charged and even threatening.

Piper, the Human Services commissioner, said someone posted a comment on Facebook suggesting the rape of her children after her agency decided in September not to appeal the release of a young man held in the MSOP. A state Supreme Court appeals panel ruled that the man, Eric Terhaar, 26, was no longer a threat to the public and that his confinement was unconstitutional.

"The [Facebook] comment said, essentially, 'Why don't they go rape Emily Piper's children,'" she said. "It becomes very aggressive and very ugly and very scary for people who, like me, are trying to defend the constitutionality of the program."

Gene Lewis of Le Center, Minn., also found himself on the receiving end of threats. Four years ago, he wanted to rent a room in a fourplex near St. Peter to a Level 3 sex offender from MSOP. When local residents learned of the plan, Lewis said, he received more than 100 telephone calls and threats of violence. In one case, an anonymous caller threatened to go after his grandchildren. Another threatened to destroy his business.

Lewis, who owns a title company and rental properties in central Minnesota, said he canceled the plan after several hundred people showed up at a public hearing and residents pointed out how close the property was to homes with young children.

"They'll come at you with pitchforks and daggers," Lewis said. "There's really no way to explain it, except there was fire in their eyes when they talked about what they were going to do."

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