

3. *In re J. (E.) on Habeas Corpus (S156933); In re P. (S.) on Habeas Corpus (S157631); In re S. (J.) on Habeas Corpus (S157633); and In re T. (K) on Habeas Corpus (S157634) (consolidated cases)*

Individuals who have been convicted of certain sexual offenses are required to register as sex offenders under Penal Code section 290. In 2006, the voters enacted Proposition 83, the “Sexual Predator Punishment and Control Act: Jessica’s Law.” Among its other provisions, Proposition 83 added subdivision (b) to Penal Code section 3003.5 as follows: “Notwithstanding any other provision of law, it is unlawful for any person for whom registration is required pursuant to Section 290 to reside within 2000 feet of any public or private school, or park where children regularly gather.”

In August 2007, the Department of Corrections notified all registered sex offenders who were paroled for any crime after November 8, 2006 — the effective date of Proposition 83 — that they had to find housing that complied with the 2000 foot residency restriction or face revocation of parole and reincarceration. The four petitioners in this case were served with that notice. Each of them had been convicted of a registerable sex offense long before Proposition 83 was passed and, although each of them was on parole November 8, 2006, none was on parole for a sex crime.

Each of the four petitioners claims he will be forced to leave his home (three of them from homes currently shared with family members) in order to comply with the residency restriction. Each asserts that there is virtually no area in his city where he can live in compliance with the law. Therefore, the petitioners have brought a petition for writ of habeas corpus seeking permanent injunction of the law.

The petitioners challenge the residency restriction on a number of grounds. They contend that enforcement of the statute as to them constitutes impermissible retroactive application and, if enforced retroactively, violates the ex post facto clause. Each also contends that section 3003.5(b) constitutes an unreasonable condition of parole that also infringes various federal and state constitutional rights, including the right to privacy and to travel.