**Sex Offender Policy**

At minimum a social policy should perform its intended function and be of greater benefit than harm. To determine the harm of a policy, the unintended consequences must be considered. Sex offender policy in Massachusetts is intended to provide information to citizens to educate them about people in their community that might pose a substantial risk of sexually inappropriate behavior.

Does our current sex offender policy meet the first prong: Providing information to the community that decreases the risk that children or others in the community will be sexually offended against?

When a person is convicted of a sexually related offense, the SORB is notified and begins the process of determining the person’s SO level. While the leveling process is occurring, the person is considered a level 0 (unclassified). What process is used to level the offender? The SORB gets all of the information about the crime and the court process, they have access to all DMH, DPH, DCF, DYS records which they utilize to determine risks. Persons who have CORI’s , have histories of mental health problems and are not stable, or substance abuse are considered to be at higher risk to reoffend. We tend to cast a net that catches everything; big fish, small fish, debris on the ocean floor.

In DMH, I have clients who are convicted sex offenders. I have never had a client who is a level I because of the aforementioned risk factors. I have level II and level III offenders, many for touching others non-aggressively, open and gross lewdness (i.e urinating in public). The impact that being a level II or III has on a DMH client is extensive. People who are level II or III are forbidden by statute to live in any housing that has Federal dollars attached to it. Their ability to find work is severely compromised, they are shunned by family and friends, they confront local ordinances in some municipalities that prohibit them from living near schools, churches, playgrounds etc.

Many people are unsympathetic to these unintended consequences or may be not so unintended, but the reality is we are creating an underclass of people, predominantly men, who cannot live or work anywhere and from a public safety perspective that is far more problematic than many criminalized sexually inappropriate behaviors.

People who cannot live anywhere and cannot work anywhere tend to drift into criminal activity. Many of these II and II SO’s have already exhibited criminal behavior in addition to their sexual offense. Many of the young men I have worked with have drifted into drug trade, theft, aggression.

Once SORB puts together all of the risk factors, they determine a recommended level. They send a letter to the person stating that they have been recommended to be a level III for example. The person can accept the level, complete the registration form and make an appointment with the sex offender unit of their local police for picture, addresses, etc. to go up on the internet.

If a person does not agree to accept the level, they can request a hearing. Generally, the level stays the same as the recommended level and the person who requested the level must wait a longer period of time before they can request a hearing to lower their level than if the just accepted the recommended level.

People stay on the registry for 20 years, lifetime in the conviction of rape and sexual offenses against children. A person can request their level be lowered but they must prove that they have not been in any kind of trouble for a minimum of two years. If a person is arrested for disturbing the peace and convicted they need to wait another two years from that offense to request that their SO level be lowered.

If one goes through the level III people on the internet, one often sees conviction for indecent A&B. An indecent A&B can be a rape and someone plead down or an indecent A&B can be rubbing up against someone. These are Very different risks. People tend to believe that all sexual offenders are a risk to children, but this is false. At minimum, child sexual offenders should be separated out from other offenders to make it clear who poses a risk to children.

Up until June 2013, level II offenders registered with the police and information about them was available, but not on the internet. Now those leveled as II after 2014 go on the SORB website.

The registration of sex offenders differs from level I to Level II’s and III’s. A level I offender must register every year in the month of their birth by filling out the SO registration form. This information is not publically available, but a potential employee or landlord viewing an individual’s CORI can observe that the individual was convicted of a sexually related offense. Level II and level III must go to their local police station to register, every year in the month of their birth, when the move, when they change jobs/schools, must register at any address where they spend more than 3 nights per month. Homeless offenders must register every 30 days. If individuals do not register properly, they can be charged with “Failure to Register,” which can result in state time, if a person is convicted twice of this charge. The Boston Police dedicate an entire unit to registration and tracking of sex offenders. In Boston, people must make an appointment to register, in other communities registration can be done by walk-in.

Sexually related offenses are a continuum of behaviors from exposing, open/gross lewdness (people often pick up this charge for urinating in public). Considering this continuum of behavior, those convicted of sexual offenses recidivate at a rate lower than other kinds of offenders. The commonsense notion that “Once a sex offender, always a sex offender” is not born out by the facts. That is not to say that there are not individuals who offend consistently, but they are amongst a tiny fraction of people convicted of sexual offenses. At the most extreme level, individuals can be referred to the treatment center at Bridgewater, which houses men determined by the court, based upon the testimony of two psychologists specially trained in sexual offending behavior, these people can be committed a day to life to the treatment center and then to gain their release, they have a burden of proving that they are no longer sexually dangerous.

Where can changes be made?

1. The sex offender registry should not include non-contact sexual offenses unless a person was a specific target
2. People should be charged with public urination rather than open and gross as public urination is not a sexual offense.
3. Determination of level should be based upon a through clinical review of the individual
4. The registry should separate out those who have been convicted of child sexual offenses from other offenders
5. People who touch, expose, rub up against others should never be LEVEL 3 offenders. Non-contact sexual crimes should never be on par with rape, assault with intent to rape.
6. Indecent Assault and Battery should be clarified as a criminal charge as it is so broad it provides no meaningful information.
7. Twenty years on the registry is way too long and longer than other states I have communicated with.
8. Local ordinances should not be allowed
9. There should be a public safety campaign to educate parents about how to educate their children about inappropriate contact with adults and “grooming behaviors” of potential abusers.
10. It is not blaming the victim to educate young women about not drinking with groups of men, nor accepting a drink from a stranger, always going to events with others, and not going home with a man they have just met when they are intoxicated

11.There should be a public education campaign about young men directed at their best selves and their self interest in not be accused of date rape and the impact that an accusation of date rape can have on their lives.

I have discussed this issue with many legislators, who agree that this current policy is not working, but I have been told many times that they will not file any bill that would alter this policy as they do not want to be accused of being soft on sex offenders.

Sexual offenders have become the lepers of our century. Our view of sexual behavior that is acceptable is incredible narrow. And, though we would all agree that seeing a man with his penis hanging out is open and gross, do we really want to put that man on a registry that will severely impact his ability to live and work for at least 20 years? In other countries touching a woman is not a criminal act. It is important that we begin to separate the wheat from the chaff.

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