

Putting Sex Offender Specific Legislation in Perspective:

The Importance of Primary Prevention

To date in an effort to protect the public and reduce sexual violence, Massachusetts has allocated the vast majority of available resources to implementing specific sex-offender crime control strategies that focus on reducing the recidivism of identified sex offenders. Evaluating the efficacy of these efforts is the primary purview of the Sex Offender Recidivism Commission (SORC). The current brief presentation attempts to contextualize the focus of the state's efforts within a broader overview of the estimated problem of sexual aggression in general and to evaluate the extent of the state's initiatives. We then examine how effective the sex offender specific legislation has been in achieving its goal of reducing recidivism and decreasing the frequency of sexual aggression.

Contextualizing the Focus of Sex Offender Specific Legislation within the General Problem of Sexual Aggression

Sex offender specific legislation includes registration and community notification laws, residency restrictions for sex offenders, electronic monitoring laws, and sexually violent persons (SVP) civil commitment statutes. All of these laws target offenders who have been convicted of sexual crimes, and they strive to protect the public by reducing the likelihood that these offenders will recidivate.

For a clear perspective on the overall effect of these policies, it is essential to place the present legislative efforts within the frame of reference of the overall problem of sexual aggression in the state. One way to do this is to consider the proportion of offenses each year that are perpetrated by repeat offenders, who are the sole target of all these legislative efforts. We begin that contextualization by focusing on the proportion of all arrests in a state for sexual

crimes that are committed by repeat offenders. Two studies assessing offenders in a total of five states (Sandler, Freeman, & Socia, 2008; Zgoba et al., 2015) suggest that this rate is approximately 5 percent. This means that if the current legislative strategies were completely effective, they would prevent only 5 percent of the arrests for sexual assaults in each year.

We know from other sources that arrests capture only a portion of the sexual violence problem. Only approximately a fifth of all *reported* sexual assaults lead to arrest (e.g., FBI, *Uniform Crime Reports, Arrest Data: 2006-2010*—22% of reported lead to arrest). If we assume that most reports involving repeat offenders would likely lead to arrest because of the high law enforcement profile of such offenders, we can estimate that only 1.1% of repeat offenders would be involved in reported sexual crimes, so current legislative strategies would prevent only approximately 1 percent of reported sexual assaults.

Reported sexual assaults unfortunately represent only a small portion of all sexual crimes. It is estimated that 32% of actual sexual assaults are reported (e.g., Justice Department, *National Crime Victimization Survey: 2008 - 2012*). Here we would have no reason to believe that repeat offenders would be a smaller percent of reported than non-reported crimes, so their percent of all *estimated* crimes would remain at approximately 1%. Hence, we can conclude that all of sex offender specific legislation is focused on approximately 1% of the general problem of sexual aggression.

Efficacy of Sex Offender Specific Legislation

There is now a growing empirical literature evaluating the costs and consequences of recent sex offender specific legislative initiatives (cf. Calkins, Jeglic, Beattey, Zeidman, & Perillo [2014] for a review). The literature indicates that in addition to focusing on only a small part of the general problem as documented above, current strategies to reduce the recidivism of

known offenders have not been effective. We briefly consider these results for each legislative initiative in turn.

Registration and Community Notification Laws (RCNL). There is no evidence that RCNLs have reduced sexual recidivism (e.g., Zgoba & Bachar, 2009), and there are some data that suggest these laws may have increased recidivism (Prescott & Rockoff, 2011). The only advantage of such laws may be that they contribute to more rapid detection (Freeman, 2012), an advantage that would likely be achieved solely with law enforcement notification. RCNL's negative effects both on offender reintegration into the community and on their employment opportunities are factors that increase life stress and potentially contribute to increased recidivism.

Residency Restrictions. There is no evidence that links residential proximity to child-dense areas and sexual recidivism (e.g., Duwe, Donnay, & Tewksbury, 2008). Analyses of geographic locations of sexual crimes have indicated that few sexual offenses occur in child-dense areas (4.4%; Colombino, Mercado, Levenson, & Jeglic, 2011). Moreover, further analysis of offenses in child-dense areas has revealed that stranger perpetration against a minor in child-dense, restricted areas accounts for only .05% of sexual offenses (Calkins, Colombino, Matsuura, & Jeglic, 2015). The infrequent occurrence both of sexual crimes in child-dense locations and the extremely low prevalence stranger molestations in these areas question the usefulness of residency restrictions. Moreover, such laws make it difficult for sex offenders to find suitable housing, contribute to their homelessness, and remove offenders from the essential social services and personal supports that foster desistance (e.g., Levenson, 2008).

Global Position Systems Monitoring (GPS). The empirical assessment of the effects of the use of GPS technology on recidivism has been limited and mixed (cf. Calkins et al., [2014]

for a review). Only one study (Gies et al., 2012) has found that the use of GPS reduces recidivism, and several studies have found no effect (Calkins et al., 2014). All agree that the technology is expensive, substantially increases staff work time, is plagued by a serious false alarm problem, and falsely increases the public sense of security (Armstrong & Freeman, 2011; Payne & Demichele, 2011). Its negative consequences include isolating the offender and reducing offender employment opportunities, thereby precluding factors that increase desistance. Although the present data are inconsistent, even if its technological problems were to be solved, most agree that because of its cost GPS should be used sparingly on only the highest risk offenders with attention to individual offender proclivities.

Civil Commitment Statutes. The history of civil commitment of sex offenders has been considered in detail in another summary document submitted to the SORC, and its pros and cons have been discussed. Because it ultimately incapacitates so few offenders, it has negligible effects on overall sexual offense rates. It is a costly strategy with a high false positive commitment rate.

Conclusion

Current sex offender specific legislative strategies prioritize prediction over prevention and focus substantial resources on addressing a small part of the problem of sexual aggression. Unfortunately, the strategies thus far adopted have been aimed more at assuaging public fears than using empirical research to guide effective public policy. The SORC has the opportunity to recommend a change in direction and the beginning of a public policy that implements best practices in the management of sex offenders and encourages an increased focus on primary prevention. As indicated in the other presentations to the SORC, primary prevention offers the

best hope for reducing the overall problem of sexual violence, and ultimately it will be the most cost-effective strategy.

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