Paul Heroux, State Representative, Massachusetts

The Failure of Sex Offender Policy

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The public expects and deserves evidence-based practices when it comes to public safety. This is true for any aspect of public policy but perhaps none so much as sex offender policy. With sex offenders, there is a sense of moral outrage at the depravity of their crimes, and rightly so. Virtually any sex crime makes the news headlines because the public has a very high interest in this crime. Too often politicians not only capitalize on the fear that is caused by sex offenders, but they inadvertently create more of it.

The manner in which this happens can be seen in sex offender registries and residence restrictions. Using the law to require that someone has to register to be on a registry, politicians are effectively saying that the person who previously offended is someone you need to be afraid of for future re-offending, even though the research says the likelihood is the lowest of the crime categories. Or by requiring through law that sex offenders cannot live in certain places, politicians are saying that if the converse were true, children would not be safe, even though place of residence has virtually nothing to do with who will be victimized.

Why Do Politicians Use Fear?

Sometimes they may do it on purpose to boost their popularity in being proactive on important issues. But I think the main reason is that politicians are regular people who got elected but who are not experts in this field and they just don't know what they don't know. Crime policy and the science of correcting criminal behavior is very complicated. We tend to think that what would deter us (the non-criminal population) from committing a crime is the same thing that would deter them (the criminal population) from committing a crime. This is incorrect thinking.

Moreover, we tend to confuse 'punishment' with 'crime prevention.' They two may be the same, but are not necessarily the same. We tend to think that sticking it to criminals with harsh punishments will teach them not to re-offend. Other times we think that the harsh punishments are what is deserved, which is a fair argument, but let's not confuse it with what works. In the criminological research it is undisputed that the 'certainty' of punishment is far more important than the 'severity' of punishment. Think about it like this: it doesn't matter how severe a punishment is because if the criminal doesn't think that he or she is going to get caught, the punishment doesn't matter.

Sex Offender Residence Restrictions

Too many of the things that politicians encourage have either 'unknown' because we don't measure them for effectiveness or 'no effect' on sex offender recidivism. I have written in the past about how, contrary to common perception, sex offenders have a low rate of recidivism; how most sex offenders are unknown to the public; how sex offender registries are not really keeping your children safe; how sex offender registries don't reduce recidivism; and how parents are the best protection against sex offenders, not laws that punish and hopefully deter.

Still, there is another area of sex offender crime prevention that is lagging in evidence-based approach: sex offender residence restrictions, which are also known as child safety zones or buffer laws. For example, Richard Tewksbury of the University of Louisville wrote:

The logic of such restrictions is built on public safety--if sex offenders do not reside within sight or easy walking distance of places children gather, then those children will be spared sexual victimization. The logic falls apart, however, for sex offenders who do not target children, sex offenders who (as most do) target victims they know and with whom they interact, and for those who victimize in ways other than luring nearby children into their homes.

Tewksbury is not making this up; his statement is based on a real world analysis of the effect of sex offender residence restrictions, one of which was done by Beth M. Huebner of the University of Missouri--St. Louis and her colleagues who found that prohibitions on sex offenders residing within 1,000 feet of a school or daycare has little to no effect on...
recidivism. This was not an isolated finding. Other research found that "residential proximity to schools and daycares explains virtually none of the variation in sexual recidivism."

I am a politician saying that when we impose these measures, I and my colleagues across America are failing at keeping people safe on this issue. Doing something doesn't necessarily mean we are doing something effective.

Why Then Do Politicians Do This?

First, we got to where we are because fear of the sex offender harming again, anger that the sex offender offended in the first place, and punishing the sex offender is the driving force behind the thinking about what to do. All of this is normal expected human reaction. However, it is not a strategy for public safety.

The critical element that has been left out is the use of the research. It is far more newsworthy to hear that a politician "is going to increase penalties for sex offending" than a politician who is going to "factor in that the limitation of residence restrictions when the distances to schools and daycares were entered along with risk factors into a logistic regression model, neither proximity measure was a significant predictor of recidivism." Let's be real -- Who are most voters going to vote for? Or put another way, who do politicians think voters are going to vote for?

Moreover, think about it like this. Once residency restriction laws or sex offender registries are put into place, who is going to support repeal of these laws with the ever present thought that if someone gets harmed after the law has been repealed, blame is going to fall on said politician. The problem with this thinking is that doing more of the same isn't going to keep people safe.

Finally, who doesn't want to know who the sex offender is in his or her neighborhood? Who wants a convicted sex offender living near them or their child's school? Clearly, no one. Politicians are expected to use their better judgement, but they are also expected be representatives of the people's wishes. It is a hard role to balance.

Conclusion

Preventing sex offender crimes is an important aspect of public safety that I believe every politician takes seriously. Unfortunately, not every politician is a criminologist and as such does not have an evidence-based frame of reference from which to approach this issue. Some even think that 'evidence-based' means if someone else does it, that is evidence we should do it, too. Evidence-based typically means that an intervention has been measured against a control group to make sure that the intervention is responsible for a statistically significant decrease in a specific crime. We are not going to get safer doing more of the same, getting tougher or using fear. We need to be very calculated in how we approach the science of criminal behavior modification.

Paul Heroux is a state representative from Massachusetts on the Joint Committee on Public Safety and Homeland Security. Paul worked in jail and prison before becoming a State Rep. Paul has a master’s in criminology from the University of Pennsylvania, and a master’s in public administration from Harvard, and a bachelor's in psychology and neuroscience from USC. Paul can be reached at paulheroux.mpa@gmail.com or 508-639-9511

COMMENTS

Gail Colletta · Fort Lauderdale, Florida

We need more politicians with the courage to do what’s right, not what's popular, to speak out about the myths and speak to their constituents as intelligent members of the community; who can understand we got it wrong, we know more now and it’s time to shift gears.. That's what I expect when I vote. I prefer they tell me what I need to know, not what I want to hear!!!! I don't expect them to be experts at everything, but I do expect them to ask the experts on best practice, become informed and use the empirical evidence in policy making. Vote based on fact not emotion. What do you expect from your legislators? Speak up, TELL THEM!!!! Those citizens required to register in Florida effect 1.3 million votes in the state of Florida even though they themselves may not be able to vote, and over 16 million votes nationally.(this by the way is a very conservative estimate.) The Legislature needs to begin to take notice to the real issues about SO policy. The public is not going to remain passive here as the facts come out. YOUR MONEY IS BEING SQUANDERED AND THEY ARE NOT MAKING YOU SAFER, THEY ARE ACTUALLY MAKING YOU LESS SAFE. Think about it. Thank you Representative for being courageous!

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Shelly Geree

Thank you Mr. Heroux for a fabulous article. I wish more politicians were as informed and willing to take a stand. Sanctions for crime should NEVER be based on emotion but that is exactly what sex offender laws are - punishments based on emotions. I wish more citizens understood that every time we (as a people) allow basic Constitutional rights to be trodden upon it may not affect them now but it erodes their own freedoms for the future. No one (regardless of the crime) should be continually punished and otherwise sanctioned after their court adjudicated sentence is completed. In addition, because of the political and media fear mongering about sex offenders I see people post things like we should kill them all etc. I find that frightening to say the least. Just curious what conversations take place about this subject in the Joint Committee on Public Safety and Homeland Security which Mr. Heroux is a part of - I wish there were more politicians like you - I for one would certainly cast my vote that way. Thank you again.

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Cayetano Scafidi · Top Commenter

The problem is most sex offender registries is a one size fits all situation. A person who urinates in a public park and someone who rapes a child is often on the same sex offender registry. This makes no sense. They are not the same crime. That would be as if we had a registry for all thieves and put shoplifters and armed robbers on the same list.

A solution would be a tiered sex offender registry. Level 1 being the lowest and 4 the highest. Level 1 would be non-violent, not predatory in anyway. Someone urinating in public, having consensual sex in public etc. Level 2 would be non-violent, but predatory. Someone masturbating in public, exposing himself to someone, showing someone lewd pictures etc. Level 3 would be non-violent, but extreme. Viewing child pornography, repeatedly exposing themselves, etc. Level 4 would be violent. Rape, child molestation, and I would put, distributing child pornography on that list as well. Each level would have a different requirement for reporting, length on the list, etc.

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Regardless of the crime, a public registry has been shown to be ineffective at achieving the desired goals as well as inhibiting rehabilitation and re-assimilation for those who are living law-abiding lives. A law enforcement-only registry would be a much better use of precious resources as well as more effective.

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Again, thank you, Mr. Heroux for being that rare politician willing to speak the truth. For more information on this subject, Reform Sex Offender Laws, Inc. is hosting its 7th annual conference in Dallas, Texas the 25th - 27th of this month. Several of the major speakers will address the same issues you have addressed.

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