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Sex Offender Management

The Public Policy Challenges

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ABSTRACT: Few issues within the crime policy arena are as volatile as those involving sex offending, yet there is an enormous “knowledge gap” between research, science, and clinical practice, on the one hand, and the policy and criminal justice practitioner communities, on the other. Recent highly publicized cases involving sex offending, which have elevated the issue in the public eye, provide an opportunity for experts in this field to play an aggressive role in informing this debate. In particular, high priority should be given to developing more effective means of communicating to policymakers, practitioners, the media, elected officials, and the public what is known from science and clinical practice about sex offending and about what works in addressing it. A strong commitment to greater cross-disciplinary collaboration is also needed, as is federal leadership, particularly in supporting a cross-department research agenda. Researchers and other experts in this field can play a valuable role in helping ensure rational and effective public policy relating to sex offending that can achieve public safety and help reduce future victimization.

KEYWORDS: sex offender; crime policy; public policy; victimization

INTRODUCTION

Public policy relating to crime is clearly central to the foundations of a civil society; effective governance in this area demands deliberate and informed consideration of options. Within the broad arena of crime policy, few issues are as volatile, or as likely to trigger emotion in elected officials and the public, as the question of sex offending. The goal of encouraging responsible and measured public policy in this area is thus a special challenge.

The recent spate of allegations concerning the Catholic clergy has made this issue a timely one on the national policy agenda. Significant questions have been thrown into the public forum for discussion: Why do some human beings engage in this behavior? How should we, as a society, deal with the perpetrators? What about the victims? And—most important—how do we prevent the creation of future sex offenders and avert future victimization?

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This storm of attention provides an opportunity for experts to help inform the on-going policy dialogue.

BACKGROUND

In 1993, it seemed clear that the issue of sex offending demanded the attention of the U.S. Department of Justice. At that time, a number of well-publicized criminal case “horror stories” (like those involving Polly Klaas in California and Megan Kanka in New Jersey) were spurring public officials to institute “three strikes” laws, new mandatory minimum sentences, and sex offender registration and community notification statutes, among other measures. In addition, public leaders, as well as citizens, were questioning the capacity of the criminal justice system to meet its core mission of providing public safety.

Much of the public’s *general* disenchantment about the criminal justice and sentencing systems, I believed, was being driven by fears *in specific* about how sex offenders in these high-profile cases were being handled. It thus seemed crucial to better understand this subset of criminal offenders and what measures were being, or could be, used to address (and prevent) this behavior. A number of experts in the field, such as Robert Prentky and Fred Berlin, were requested to educate the U.S. Department of Justice and to provide counsel on what the Department could do to address this issue constructively.

What was learned from those consultations was that, as experts in this field are well aware, much is known about sex offending from research, science, and clinical practice. But, just as clearly, there was a huge “knowledge gap” on the part of those in criminal justice and the policy arena charged with finding solutions to the problem. Also, it was noted that multidisciplinary approaches were needed and punitive criminal justice solutions *alone*—longer, tougher sentences—would not solve the problem. Experts underscored that “you can’t punish sex offending away.”

As a result of these consultations, a National Summit on Promoting Public Safety Through the Effective Management of Sex Offenders in the Community was convened by the U.S. Department of Justice in late 1996. Two goals were envisioned for this gathering: first, to highlight promising practices and research on the topic, assess the “state of the art,” and identify gaps in existing practice and research; and, second, to serve as a forum for developing recommendations on potential action steps for the Justice Department’s Office of Justice Programs (OJP), which I headed.

The 180 participants at the Summit, a diverse group of criminal justice practitioners, legislators, policymakers, victim advocates, treatment specialists, and researchers, made three recommendations:

- (1) That more knowledge needed to be developed and disseminated;
- (2) That technical assistance and training were needed for every part of the criminal justice system;
- (3) That broad public education was essential, including establishment of a national resource center as a repository of best practices, treatment strategies, and research findings (<http://www.csom.org/about/about.html>).

Spurred by these recommendations, grant funding was set aside through the OJP to launch a Center for Sex Offender Management, headed then and now by Madeline

Carter. The mission of this center was to provide information, training, and technical assistance on this issue. (Since 1999, the center has also taken on the function of supporting Justice Department–funded pilot sex offender management programs around the country.)

PUBLIC POLICY CHALLENGES

Numerous public policy issues surround the problem of how our society, and its criminal justice system, should handle sex offenders. From my experience as Assistant Attorney General, I see six key challenges requiring attention from academics, researchers, clinicians, and other experts in this field.

First, and perhaps most centrally, is the issue of education, communication, and translation. Despite the fact that research knowledge about sexually coercive behavior and treatment approaches has grown tremendously over the last decade (Becker & Hunter, 1997; Gilligan & Talbot, 2000; Hanson, 1998; Gallagher, Wilson, Hirschfield, Coggeshall & MacKenzie, 1999), the fact remains that policymakers, elected officials, the media, and criminal justice practitioners still know *relatively little* about sex offending and how to deal with it. In fact, the response by government officials is still too often driven by anecdote and rhetoric rather than by facts, research, and successful practice.

Experts in this field thus have a critical leadership role to play in aggressively informing this national discussion. Policymakers and the press need solid information. But the research community has not done enough to communicate to that audience—in plain-language explanations—what is known about sex offending and what works in treating it.

In my current work with the University of Pennsylvania's Lee Center of Criminology, I see the value of, and need for, better bridging between academia, on the one hand, and policymakers and practitioners, on the other. These worlds speak different languages, work at different paces, and value different things. Researchers in any field are good at talking to each other, but often are less effective—or interested—in communicating with those outside the academic realm. Yet it is clear that publishing in scholarly journals is not a successful route to educating legislators and busy practitioners and prompting them to embrace, and act on, new research findings.

This step of *translation* must therefore be a high priority if the important work emerging in this field is going to have a broad impact. For every research study undertaken, the question of how its findings will be communicated must be an integral part of the undertaking. Professionals in this field should give focused, ongoing attention to questions like these: How can key research findings better reach decision makers and opinion leaders? How can research findings be distilled into language that those audiences can understand and “own”? Even where, ideally, one would await the results of additional research, is there more that can be done *now* to summarize for policymakers what *is* known, recognizing that public officials do not have the luxury of waiting years for more refined research to emerge?

Public education—to help dispel the myths and misunderstandings about sex offending—also has to be an essential piece of this. The public (and its elected representatives) need to understand, for example, that all sex offenders will not be locked up for life; that most of them will return to the community; and that much *is*

known about risk assessment, treatment, and management options. The National Institute of Justice is to be commended for requiring as a product of this conference a practitioner-friendly summary of the proceedings for publication and dissemination.

New approaches are also needed in how key issues are framed. Every Washington policy debate on crime is still haunted by the ghost of Willie Horton, and the label every politician most fears is that of “soft on crime.” So, as policy proposals regarding sex offending are discussed, it is important to articulate explicitly the overarching goal of public safety and to acknowledge openly the powerful reality of public fear.

Language, too, is important: In encouraging treatment for sex offenders, for example, it is helpful to clarify its use as a tool to help reduce future victimization, and not to describe it as a therapeutic service to be provided to offenders.

This is thus an opportune time for experts in this field to play a leadership role, whether nationally or in their local communities, in shaping wise and science-based approaches in this emotionally charged public policy area.

CROSS-DISCIPLINARY APPROACHES

A second public policy challenge is the need for greater cross-disciplinary collaboration. Reflecting progress that is being made, representation at the conference included a broad cross section of attendees from the academic and treatment communities, law, social work, criminal justice, and public health.

Yet have we done enough? Are experts on the academic and research side talking with judges, prosecutors, public defenders, state corrections directors, and probation officials? Are public health professionals regularly part of the discussion? What about local elected officials, victim advocates, and juvenile justice experts? While few would dispute the value of comprehensive collaborations, implementation of such approaches is often not easy; they require breaking out of the comfort zone of professional niches and embracing new ways of doing business. The rewards, however, can be substantial. Experts in this field can do much to help inform the work of law enforcement leaders, elected prosecutors, and local judges in their communities. Local police chiefs, in particular, are an important group to which outreach should be made; many law enforcement leaders around the country today are public servants with advanced degrees and with a strong commitment to problem solving, community policing, and citizen-responsive government. They can be important allies in this work.

The sex offender management demonstration programs currently underway with U.S. Department of Justice OJP funding underscore the importance of cross-disciplinary work. The Center for Sex Offender Management has identified 19 “resource sites” around the country, jurisdictions that have implemented promising practices and innovative sex offender management and supervision techniques (<http://www.csom.org/resource/resource.html>). The underlying principle at each of these sites is their collaborative, multidisciplinary and multiagency approach to both case management and policy development.

Reflecting the adage of thinking globally, but acting locally, these demonstration sites are serving as creative laboratories for work with managing sex offenders in the community.

FEDERAL LEADERSHIP ROLE

A third public policy challenge is that of ensuring a strong federal leadership role on this issue. No one jurisdiction, whatever its deep commitment, is going to fund national research or provide technical assistance nationally to practitioners. These are uniquely federal, and federally supported, roles. But attention to the problem of sex offending should not be a political issue. At base, it is a “public safety for communities” issue. All appropriate federal agencies should thus be encouraged, if they have not done so already, to place the subject of sexually coercive behavior high on their agendas.

The federal role is particularly important in the area of research. Yet it is my view, from my years in government, that there is insufficient coordination between the Departments of Justice and Health and Human Services in this area, and even—within the Justice Department’s OJP—between the National Institute of Justice and the Office of Juvenile Justice and Delinquency Prevention. With federal budgets in this area likely to diminish in coming years, it becomes all the more important that there be a strong commitment to developing a cross-agency/cross-department research agenda on the range of issues relating to sex offending and response to it.

PRISONER REINTEGRATION

With growing national attention to the challenge of prisoner reentry (Travis, Robinson & Solomon, 2002), it is important that emerging initiatives in this area do not overlook the special challenges presented in dealing with the sex offender population as it returns postprison to the community. It would be easier for these programs to *exclude* sex offenders, believing them a difficult and risky group. One major reentry demonstration program in a large eastern city, for example, includes *every offender* returning to a small number of zip code areas—except sex offenders. It is unclear if the program’s leadership believes these offenders do not need services or help, or whether the hope is that they will somehow disappear!

There are promising developments, however. In Chittenden County, Vermont, for example, work is underway to encourage effective transition of incarcerated sex offenders back into the community (Little & Lyon, 2001). As part of a comprehensive statewide sex offender supervision and treatment program, Chittenden County’s approach couples the use of relapse prevention with an innovative program using trained community volunteers to support offender reintegration.

LISTENING TO VICTIMS

A fifth public policy challenge is the importance of ensuring that victim groups are part of the policy development process. Because of their powerful voice in helping shape crime policy in this country, victims should be drawn into both policy formulation and planning for programs and research.

When planning was underway for the Justice Department’s 1996 Summit, the strategic—and moral—importance of making the victim advocate community a key ally and focusing on the goal of reducing victimization became evident. Groups like

the National Center for Victims of Crime and the National Organization for Victim Assistance should be partners in this work. Equally important, state and local crime victim advocate groups can play a vital role.

Innovative efforts are underway to ensure victims a voice in community-based sex offender management initiatives. In New Haven, for example, a unique collaboration exists among the probation office, a sex offender treatment provider, and a victim advocate, with the advocate actually playing an integral role on the supervision team (Little & Lyon, 2001, p. 44). In order to ensure that we build knowledge about how this works, a researcher is documenting the process.

UNINTENDED CONSEQUENCES

Finally, it is crucial, as new policies are considered, that the potential for unintended consequences be examined.

When the Clinton Administration and Congress in the 1990s rushed to pass Megan's Law (1996) and similar statutes (The Jacob Wetterling Act, 1994; The Pam Lychner Act, 1996; CSJA Amendments, 1998), it reflected the familiar Washington race to see who can be tougher on crime. While definitive research is still lacking on whether these laws have increased public safety, there are incidents of vigilantism and harassment reported in almost every state (Matson, 2001), and anecdotal reports that, following the implementation of community notification requirements, some sex offenders may have gone "underground" (Matson, 2001, p. 14).

While no rigorous evaluations of these initiatives are apparently underway (it is curious why the National Institute of Justice is not supporting one), steps of this kind, like any other single response, are not a successful "quick fix." Instead, comprehensive, multidisciplinary approaches are needed.

As civil commitment proposals are now being considered around the country, potential consequences of such statutes should also be carefully examined.

CONCLUSION

Experts in this field have an opportunity to make important and much needed contributions to the ongoing public policy debate regarding sex offending. Working collectively, these experts can help ensure adoption of rational and effective approaches that can achieve public safety and also reduce the likelihood of future suffering.

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