

In a free society the only sex offenders we can control are the ones we catch and convict.

Once we have caught and convicted a sex offender, shame on us for allowing that same sex offender to continue to sexually abuse us. But that is what is happening.

More than 50 percent repetitive sex offenders go on to commit more sex crimes.\*

There is no evidence that treatment lowers this number.\*

Clearly we are doing something wrong.

The business of sex offender management and treatment is the problem.

### ***The Problem – The Situation:***

First we must understand what we are doing wrong.

Sixty-five percent of convicted sex offenders go straight onto probation. The vast majority of the remaining sex offenders get out of prison.

Sex offenders correctly assume that if they are convicted, they will be placed in the community on probation, not prison. Sex offenders assume community placement to be a given, not a privilege.

Right here is where we start to lose the battle for control and public safety.

The judge is in a bind. He or she cares about humaneness and wants to protect future victims. Because of in-prison hatred of sex offenders, the sex offender is the only clear next victim he can see in the courtroom at the time of sentencing. So ironically, the judge is inclined to want to protect the sex offender as well as punish him. All the sex offender has to do is demonstrate that he knows he has a problem, hates the way he is and wants help. Most defense attorneys will already have the sex offender client ensconced in treatment where the therapist will vouch for how he can rehabilitate the sex offender. Next, the judge knows that Colorado prisons are overflowing and every effort must be made to stem the influx of convicts. Not to give probation and treatment a try seems foolish. Thus the sex offender gets the kind of second chance the defense attorney should have been able to promise.

Society has lost round one.

All the sex offender has to do is put on a pretense, and he is out of prison and back in the community.

Take a minute to stop and consider what that means to the victim. The victim knows that this repetitive criminal is out there and incensed for being reported. The effects of the trauma from the sexual assault not only continue but are now worsened because clearly reporting did no good.

Due to the significant freedom enjoyed by the sex offender on probation, probation is a win for the sex offender and a loss for the victim and society.

The sex offender wins the next round for control and public safety is diminished.

Unfortunately, largely due to a lack of resources, Colorado Sex Offender Management Standards are hard to enforce. But there is a more insidious problem. Probation officers frequently explain that they preserve the use of the more “controlling,” and thus public-safety- oriented, programs so they have some place other than prison to refer noncompliant sex offenders. But that means that these sex offenders have to fail out of less safe programs to get into a safer program. This approach saves the sex offender and Probation work and money. But this way of doing things is backward. We should be automatically starting sex offenders out in programs that offer the highest assurance of public safety and stepping down the control on the sex offender as he proves that he can be accountable and safe.

One of the things that the community has no awareness of is that their safety is mostly in the hands of a treatment provider. It is the treatment provider’s judgment about a case that carries the most weight. While it is true that the probation officer is legally the one with the court order to control the sex offender, the probation officer relies on the mental health professional’s opinion about what to do, what freedoms to give or take away. This is the case, in part, because the therapist has a much higher level of education and is the one who is supposed to best know the sex offender. After all, they are the ones “treating” the sex offender.

At this point sex offender management becomes a really bad business. Here’s the situation:

The average convicted adult sex offender has many crimes and victims before he enters treatment. Treatment is supposed to bring about the change in the sex offender and make society safe. Probation is mostly an administrative function that does (and only has the resources to do) a minimal amount of supervision.

***Here is what the controls on the average convicted sex offender consists of:***

- Each week the sex offender gets one 90-minute group-therapy session and office or field visits by a probation officer: the total time is approximately two hours of contact time.
- The sex offender is supposed to be given homework assignments that are no more demanding than junior high school and only randomly checked by therapists who have time to do nothing more.
- Twice a year the sex offender is polygraphed to determine if he is being safe. Note, in each polygraph exam the sex offender can be asked only three or four relevant questions because of the limited nature of polygraph.
- Society must rely on eight polygraph questions per year to catch what the therapist and probation officer miss in determining whether or not the sex offender has become a truthful human being.

To be fair, the probation officer can order more rounds of polygraph testing but not many, and they are reluctant to do so because of cost.

Regarding the use of global positioning systems (GPS), less than 10 percent of sex offenders in Colorado are on it and only for about 120 days. Cost is the stated reason, but the other reason is, GPS produces too much additional work for the already overworked probation officer.

Meanwhile most sex offenders live with family, friends or alone. He has been manipulating all of these conditions since before he was caught.

The amount of polygraph testing and treatment is determined by what the sex offender can pay the therapist and polygrapher, because that is where those professionals get their money.

The sex offender puts the food on the therapist's plate and that is a huge detriment to public safety. Given that the average sex offender is a lying, deviant con-artist and a loser because he got caught, we have to assume that real and substantive change is not likely, no matter how good the therapist is. The problem for public safety is that every time the therapist kicks a sex offender out of treatment for failure to comply or failure to take treatment seriously the therapist loses a revenue stream; food leaves the therapist's plate. The result is that therapists do not kick the sex offenders out of treatment any more than they can afford to. For their sake, public safety concerns cannot be allowed to drive them out of business.

Society loses again.

On to the next public safety destroying lie sold to the community: "Some treatment and probation control is better than none. We cannot afford some ideal."

"We can-not afford some ideal" is a red herring argument and a deflection from answering the question: "What will get the job done? What will produce reliable public safety at a reasonable price?" For a practical better business model, see below: A Better Business Model.

Moving on to what happens at revocation-of-probation hearing – another loss for public safety.

Despite the loss of revenue to the treatment providers, many sex offenders are so irresponsible and unaccountable that the therapist is virtually forced to terminate treatment. This act results in an automatic revocation-of-probation hearing. The revocation hearing is essentially a trial where the therapist has to defend terminating the sex offender from treatment. The therapist has to prove that the offender has messed up enough to warrant being taken off probation. This means the therapist has to cut off his revenue stream, cause a lot more work for the probation officer and prove to the judge that his original thinking was flawed. It does not take an MBA in business to see how counter to public safety this business situation is. The result is that both probation officers and therapists do whatever they can to keep the sex offender in the community despite how unaccountable he is. The treatment program that can keep the most sex offenders in the community gets the most sex offender referrals. After all, Probation's job is to re-integrate criminals and send as few as possible to prison.

Most sex offenders come out of revocation getting a chance at another, supposedly stricter, treatment program.

Chalk up one more victory for the sex offender.

Move on to the end of treatment – another loss for society.

We know the business model is no good because the sex offender stops buying it the minute the court order (i.e., probation) stops. After years of treatment designed to help the sex offender have a good and productive life, he has not fallen in love with treatment; rather, he wants out. Virtually every sex offender nearing the end of treatment swears that his life is changed and he will seek further treatment because treatment is so valuable to him. Then he vanishes into the woodwork of society. He reclaims secrecy and personal control – two privileges of a free life he could not handle in the past and used to score victims.

But society is led to believe that this sex offender is now treated and therefore safe.

Finally sex offender business leadership has totally flown out the window in favor of the sex offender. For example, at the annual fall convention of the Association for the Treatment of Sexual Abusers this past 2007, William Marshall, past president of ATSA, said “Rehabilitation is primary, and public safety can wrap itself around that.” The entire 2000-plus listeners got up and cheered their agreement. ATSA is the single most prestigious professional international organization regarding sex offender evaluation and treatment. ATSA is a hair’s breadth away from declaring the sex offender to be the victim of criminal justice.

So much for an honest handling of society’s legitimate concerns. The return on investment of the current sex offender management business is high if you value obscuring dangerousness — and low if you value public safety.

### ***Recap of the Basic Evidence That the Current Business Model Is a Failure.\****

- Less than 1 percent of repeat sex offenders stay in treatment post-probation.
- More than 50 percent of sex offenders eventually commit more sex crimes. ATSA professionals obscure this by mudding the gigantic difference between recidivism and real reoffense rates.
- It is against the self-interest of sex-offender professionals to be public about how dangerous their clients remain.

### ***A Better Business Model***

At this point, let us outline how public safety can be achieved and with responsible management of the public dollar. What follows is a brief description of a good business model that could replace our current bad business model.

Public safety can be achieved from the time of sentencing, going forward throughout the entire lifetime of a repeat sex offender. For the sake of organization and simplicity, we think of this as using the “four pillars of public safety.” These four pillars consist of:

#### ***1. The right sentence:***

An indeterminate sentence with criteria-based release vs. time-based release where offenders simply “do time” and are not required to change. Once a sex offender has been caught and convicted, only indeterminate sentencing can allow for all of the necessary other aspects of his management to effectively happen. The indeterminate sentence properly launches everything that follows and this much has been achieved.

#### ***2. The right standards for management:***

Colorado Sex Offender Management Board’s standards and Colorado Probation go a long way to outline much of what is needed to guide management and treatment.

#### ***3. The right resources:***

These do not currently exist. Rather, the professionals working for the state criminal justice system and the mental health professionals who receive their referrals and revenue via the criminal justice system are working with sex offenders as if they can teach sex offenders tools that they will voluntarily use to prevent further victimization. Our experience is that when the sex offenders get off probation, the first thing they do is stop using tools taught used in treatment because the tools are a hassle.

The principal resource that does not exist: community-based, 24/7 staffed, residential setting designed to house sex offenders for life or until they reliably change.

Another example, GPS is used on less than 10 percent of sex offenders and for only about 120 days.

The Watch House project will correct these and the other resource problems in an extremely cost-efficient way.

#### **4. *The right business model:***

The current business model is seriously flawed.

Criminal justice is basically a time-limited business: convicts serve their sentences and then the case is closed. Current criminal justice is not set up to manage dangerous people in the community with no-known-cure sexual deviancy problems. Criminal justice and its associated mental health professionals are not oriented toward demanding real personality change. Criminal justice is based on “something is better than nothing” interventions, not on a “what is enough” basis.

Sex offenders present society and its criminal justice system a new business challenge. To have safety with sex offenders, we must set up the business of their management and treatment to match who they are and the total life management project they present.

Because of basic personality flaws, sex offenders are morally and deviantly handicapped. Sex offenders cannot be properly managed on a time-limited basis, any more than a paraplegic.

Criminal justice works reasonably well with a wide variety of challenges. However, because of the profound and permanent nature of the sex-offender management problem, a new business platform must be created. Fortunately, this can be done at a reasonable cost, and it can mesh well with existing corrections.

There are several key features to correctly set up the business of sex offender management. Primarily these changes in business approach are achieved by setting up a citizen-run, sex-offender-specific community corrections board. This board would operate as a non-profit board that would be a hybrid of already existing community corrections.

#### **Specific features of the new business model include:**

- Control of the business  
Using a hybrid of the existing community corrections model, we can correct the business and public safety alignment problems. The Watch House will be a sex-offender specific, community correction program. The control of The Watch House will be in the hands of a board made up of professionals, experts and community leaders who clearly have no agenda that competes with public safety. The Board will hire a firm to operate The Watch House facility and programs, and a panel of experts to serve its administrative roles and expertise needs.

Never before has our society tried to live with repeat sex offenders and do so openly and without the “benefit” of denying their level of ongoing dangerousness to us. Current bureaucracies are minimally exposed to public scrutiny. A citizen board that is sex-offender-specific in its function would operate in far more daylight and public examination.

- Flow of money

The flow of money has to change from the sex offender directly paying for his treatment program. Currently sex offenders are paying therapists and these therapists have control over the offender's freedom of movement. It is unwise to expect therapists to continuously withhold freedoms from, and frustrate, the person giving him his money to eat, yet that is the current situation. Again a hybrid of the current business model used by community corrections allows for useful a solution.

If the sex offender is in prison, we pay for all of his expenses. If the sex offender is living in the community, he should live in community-based sex-offender housing that is staffed 24/7. He should live there until he has proved he has reliably and sufficiently changed. If the sex offender is given the privilege of living in the community, he must be required to work and pay into an account to pay back the taxpayers for giving him the privilege of living in the community and for financially underwriting his second chance.

On the other hand, if the community thinks it can have safety with sex offenders living in the community and not have to pay for that safety up front, that is like asking the police to be paid by the criminals.

- Control of public awareness and knowledge

A hybrid of the current community-corrections model could allow daylight into what is happening with sex offenders in a fashion that does not exist today.

If a sex-offender professional works for an existing bureaucracy, public safety is also challenged because that professional can do nothing that creates agenda or policy for the bureaucracy. Sex offenders reoffend at rates above 50 percent. By any sensible standard, that is a dangerous failure. No bureaucracy has ever said its agency is failing. Bureaucracies simply do not blow the whistle on themselves; they duck and cover. The only thing more incurable than a repeat sex offender is a bureaucracy's narcissistic compulsion to protect its image.

One of the government's arguments for not being open about the truth about sex offenders and their reoffense rate is a fear of public vigilantism against the sex offender. At community notification hearings for sexually violent predators moving into neighborhoods, it is amazing how little vigilantism has resulted when locals know full well the police can not protect them. In actuality citizens are very patient even when they vehemently dislike a situation.

- Aligning professional interests with public safety

As previously explained, sex-offender clinical professionals must stop being paid by the number of sex offenders they keep in the community. Instead, the citizen board should hire programs on an as-needed basis.

But we must remember that treatment is critical to the business of sex offender management for the following reason: If you are going to control someone (without him being in prison), you have to talk to that person. If you are going to talk to that person, it must be in the service of preventing more abuse. If you are going to talk to a sex offender, it must be about his fantasies and behaviors, thoughts and all things that occupy his mind that could potentially lead to more sex-offending. Only treatment offers society an opportunity for this conversation. We must have it often and continuously if we are to intervene in time and be safe.

Treatment is critical not because it offers a cure but because it is an essential tool for safety. At the same time, treatment offers sex offenders a route to change and a better life. Treatment with the right controls can be successful in managing the willing-to-be-managed sex offenders in the community. But most sex offenders cannot be expected to remain safe once the controls are lifted.

- Continuous training on learning how to live with no-known-cure sex offenders  
The new citizen-run, sex-offender-specific community corrections board will have to ensure constant training for all of the professional staff and themselves on how live with and control the same sex offenders indefinitely. Sex offenders wear down professionals. Professionals want to see completion and traditional forms of success that exist in other professions. This very desire for success and completion gets used by sex offenders and their families to demand to be allowed to go back private, uncontrolled lifestyles.

Sex-offender management is serious business and it needs to be in the hands of people who can sustain a public-safety focus.

\* The research on these points can be found at [TheWatchHouse.org](http://TheWatchHouse.org) under the research section.