

# No crime, charge, or conviction? No problem; you could still be punished

written by Sandy | March 15, 2019



By Sandy . . . Everyone will not agree, but it is my belief that much sexual offense policy is driven by a sincere desire to protect children and reduce the risk of harm to them. The fact that the greatest part of such policy is ineffective, often actually harmful, and at times appears to be blatantly unconstitutional is very often a function of ignorance of the facts.

However, when the town of Foxborough, MA, developed its [Policy Addressing Sexual Predatory Behavior/Actions Against Minors, some of the stakeholders](#) were aware enough of some of the very questionable aspects of the proposed ordinance to question it.

And no wonder.

Quoting from the policy itself, its purpose is to be able to address behaviors "which do not rise to the level of actionable criminal conduct." In other words, it will enable

the Foxborough Board of Selectmen to exercise power and authority in place of law enforcement in dealing with situations where no one has broken any law.

And, depending on how they dealt with it, that might be fine. "Hey, Joe; Pastor Brown feels like you are stepping over the bounds with some of the things you've been saying to some of the kids in the youth group you help with that meets in the basement at city hall. You don't want to upset the kids or ruin your own reputation. Maybe back off some; the pastor said he would be glad to talk with you about it, and he's going to be keeping an eye out and so are we."

But the town of Foxborough has something a little more forceful in mind.

"When there is a report of a specific incident, or a pattern of conduct, involving a particular person that does not rise to the level of actionable criminal conduct, but meets the standard of reasonable suspicion, the Town may act to prevent access by that person to potential child or adolescent victims" and may, if he is a town employee, "...remove that person from all children and adolescent programs and contacts that are within the Town of Foxborough's jurisdiction and control."

"Reasonable suspicion" is not always reasonable. And "prevent access"? The notice states that they would serve "suspicious" persons with a "notice of disinvite," which would bar them from attending "...any event held on any Town property where there are activities involving minors." The article cited above explains it this way: This "... legal document known as...a 'letter of disinvite' " would bar suspicious persons from places such as "...schools, playgrounds and even conservation property." (My understanding of conservation property is things like parks and wildlife or nature sites.)

So now Joe, instead of being told to cool it with the kids, is

told that city hall is off-limits to him when the youth group is meeting or a school group is taking a tour, as well as all activities at any of the schools such as drama and musical performances, all sporting games and events, and the carnival where he takes his own kids – and, oh yeah, the zoo all the time and probably the hiking trails also.

And if Joe chooses not to be disinvited, “...the Town may on the advice of Counsel consider pursuing injunctive relief in the Superior Court.” In other words, they could seek a restraining order prohibiting his presence in any town owned properties specifically designed for the use of children and all town owned properties at any time that children or youth are present.

Additionally, if he is a city employee, this ordinance will allow the town of Foxborough not only to remove him from programs under its control but also to terminate his employment altogether.

And there could be more. The policy states that the remedies at their disposal “may include but not be limited to” the ones actually specified.

Several civil right groups in Massachusetts are extremely concerned about the potentials for abuse and violation of constitutional rights inherent in this ordinance. They sought the participation of ACSOL attorney Janice Belluci, who wrote [a letter to the township officials](#) expressing very legitimate concerns and asking for methods to be found to protect children without implementing procedures against those who have not been charged with any criminal activity that will surely and severely negatively impact their lives.

Encouraged by a concerned Foxborough resident, several attorneys and members of civil rights and advocacy groups, NARSOL among them, [wrote a letter](#) in support of Ms. Belluci’s letter and informing the authorities in Foxborough that the

individuals and the organizations represented by the signatories of the letter were interested in working with the Child Sexual Abuse Awareness Committee to develop policy that aided in the protection and safety of children without the risk of damage to individuals who were, by every standard of our judicial system, innocent of a crime.

In a meeting of the Foxborough Child Sexual Awareness Committee the evening of March 14, the decision was made to remove the proposed policy from the agenda of the Foxborough Board of Selectmen March 19 meeting, where it had been scheduled, and to consider various alternatives and options before proceeding; the options range from forming a sub-committee to study the issue further to keeping the policy but making it even more punitive. One of the signers of the second letter, Susan, who is a Foxborough resident, spoke eloquently against the policy at the meeting. Other town residents who were present then spoke out against the policy, expressing many concerns.

Those on the registry are accustomed to being restricted as to where they may or may not go or be, and they are certainly accustomed to having their employment restricted or being terminated – or non-existent – due to their registry status.

With this Massachusetts town's proposal of this ordinance, the sex offender witch-hunt, in seeking to extend restrictions and life-altering consequences to those who are not only **not** on the registry but have not even been charged with a crime, let alone convicted of one, has reached a new high – or, more appropriately, a new low.