

Should Sex Offenders have Access to the Internet?

Over the last couple of years, after reading several articles and attending many presentations there seems to be common theme developing that we should not allow sex offenders, especially those where the underlining offense involves a computer, access to the Internet. In a field where we commonly use the terms evidenced based practices and best practices, we are encouraging our colleagues to re-examine their position and start an educated debate on what should be “best practices”. Even though there may be some research related to outlying factors, there is unfortunately very limited research specific to this issue.

A Zero Tolerance approach is an easy argument. The reality is that technology, including both hardware and software, is advancing by the minutes. It seems that every day another product is released which provides easy access to the Internet or gives offenders another option to hide their online activities. Even though there are tools that allow us to search or monitor some of these devices, there are still many that we have limited resources to effectively manage their usage. Additionally community supervision staff are challenged with staying on top of the latest and greatest technologies as they roll out, not to mention the difficulties faced by those of us who are electronically challenged.

An equally strong argument is that probation and parole departments are already maxed out on resources. Many of the searching and monitoring programs are very time consuming and staff do not have the extra time to attend the related training and to conduct the searches or analysis of the data resulting from the searching or monitoring software.

Staff safety is also a concern. Even though there are several searching and monitoring software that allow you to remotely access the device, there are many instances where the staff must conduct the search onsite. Staff often find themselves alone with their focus on the media device. The offender knows what is on the media and the consequences if something is found, which creates a potentially dangerous situation.

The final argument is that this group is dishonest and sneaky. They have already shown that they are unable to manage their Internet usage and only a zero tolerance approach can be used to ensure that they do not offend while under supervision or at least provide the proper technical violation to incarcerate the offender prior to him re-offending.

We would argue that even though the above arguments have merit, we feel that a zero tolerance approach could possibly increase recidivism while also hampering long term behavioral change. Both factors are counter intuitive to most, if not all, of our mission statements.

We are proposing that many offenders, based on risk, should be given access to the Internet. Shouldn't we apply the risk, needs, and responsivity model to this population as well? Even though there are currently no validated instruments to assess the risk of “cyber” sex offenders, there is now a body of literature and research that can guide us in

determining the general risk that an offender will re-offend online or with a contact offense. Even though popular belief is otherwise, the reality is that cyber sex offenders recidivate at an extremely low rate (Seto 2013). Offenders classified as low or medium and who are engaged in treatment are excellent candidates for access to the Internet. We would further argue that the level and extent of external controls (blocking, filtering, monitoring, searching, etc.) should be driven by the level of risk.

We are also suggesting that the decision to allow access and the level of access to the Internet be made in conjunction with the treatment provider. There should be an ongoing dialogue between the staff and the treatment provider before and during the supervision. This will allow the offender to have graduated exposure to the computer and the Internet. The reality is that the offender will have unfettered access to the computer and the Internet when they reach their expiration of supervision. This allows the offender to access the Internet and to develop responsible behaviors while under supervision and while in treatment. We can help the offender develop an understanding of their own risk factors/ triggers and to provide them with tools that can help them navigate those high risk situations. We can also teach them pro-social ways that they can utilize the Internet. This would be an example of “skill practice” that we often see highlighted as evidenced based practices with other offender populations.

There are also numerous problems associated with a zero tolerance approach to the Internet. The Internet has become an essential part of our society and the lack of access can lead to social isolation/rejection; difficulties with obtaining or maintaining employment; restrictions on educational opportunities; disconnect from the world; and inability to manage stress or boredom. These can all be dynamic risk factors that can lead to recidivism.

We are also concerned because we feel that a zero tolerance approach encourages secret keeping. The offenders are still going to use the Internet they are just doing it “under ground”. For those of us that work with sex offenders, we all recognize the dangerousness of secrecy.

The Appellate Courts in many jurisdictions have indicated that a complete ban of the Internet inflicts greater deprivation on liberty than is reasonably necessary. They recognize that the Internet has become an integral part of our society and that “a defendant might use the telephone to commit fraud, but this would not justify a condition of probation that includes an absolute bar on the use of telephones” (United States vs. Sofsky (2001) 2nd Circuit). In some jurisdictions, the Courts have ruled that a ban on the Internet is appropriate if there is a clear nexus between the underlying offense and the Internet. Jurisdictions should make sure they are aware of current precedents.

We hope that this article can stimulate some educated discussions on how agencies manage sex offender’s Internet use and, more importantly, show a need for further research in the area.