Criminal Law

Parole bill another example of government fear mongering

By Jacob Stilman

In keeping with the Conservative Party's dictum that there is no such thing as too much "tough-on-crime" legislation, a private member's bill put forward by a British Columbia Conservative MP officially has government support. Read Global News

This latest crime bill, introduced by MP Mark Warawa, amounts to complete and utter sophistry. It is yet another case of the Harper government resorting to the same tired nostrum that our system is "soft" on criminals and that the public is at perpetual risk due to the hordes of deviant criminals who lurk around every corner.

What it is, really, is simply another cynical ploy to garner votes - one which will be costly to the taxpayer, meaningless in terms of any measurable augmentation of public safety, and counter-productive to the cause of rehabilitation of offenders.

The bill in question, Bill C-489, would require that persons convicted of sexual offences who are on probation, conditional sentences, or parole, be prohibited from coming within two kilometres of a victim's dwelling. Furthermore, they are not permitted to have contact with their victims.

First, I would posit that sexual offenders and sexual offences generally have received a hugely disproportionate amount of legislative attention since the Harper ascendency, without any evidence that sexual offences are on the increase, or that the harsher sentences and procedural provisions are effective.

However, fear mongering in the public sphere, particularly when it comes to that omni-present boogeyman, the " sexual offender," is perceived to be a winning number for this government.

Were the public actually made aware of the fact that overwhelmingly, the vast majority of sexual offences involve individuals who know or are acquainted with one another, that they are largely limited in scope (i.e., an unwanted touch, grab, etc., as opposed to a full-on rape), and that very rarely do they involve aggravating features, such as the use of a weapon, physical injury, or forcible confinement? If yes, then perhaps the public would begin to ask itself whether the amount of attention being paid to this area of the criminal law is really merited. However, this is a government that has rarely permitted facts and evidence to stand in the way of its agenda.

Secondly, there are the substantive provisions of this bill. Offenders are required to remain two kilometres away from their victims. Huh? Leaving aside the obvious issues of enforceability, this provision makes little sense.

In a dense urban area such as Toronto or the GTA, draw a two-kilometre radius from your dwelling and estimate how many people live within that circle. The number is in the tens, if not hundreds of thousands. The likelihood of a chance encounter between a sexual assault victim and a his or her attacker is minimal.

In fact, given these numbers, the odds would dictate that within any two-kilometre radius in a major urban centre there are, at any moment, likely to be scores of persons with records for sexual offences living among us. Feel threatened? You shouldn't.

But take this to the other extreme. What is the offender living in a small community to do? Imagine trying to enforce this provision in Nunavut, where communities are geographically tiny. Is an offender supposed to take up residence on the tundra to ensure that he lives

outside of the two-kilometre restriction zone? How many small towns and cities are there in the country where it would be equally physically impossible to avoid breaching this law, by virtue simply of geographic size?

What this law really does is impose a banishment order on every class of offender, without the vaguest demonstration of the necessity for such.

Offenders will also be required to avoid contact or communication with the victims. Guess what? These types of terms are routine in any event. Seldom will a probation or conditional sentence order not impose such a restriction. In most cases currently, the court will include a term that contact is prohibited except with the express revocable consent of the complainant. This makes fundamental sense, especially in cases where the parties are spouses, or otherwise closely connected. Will this legislation contemplate the need for such a reasonable accommodation? Don’t count on it.

Thirdly, there is the cost. Not unlike the Truth In Sentencing Act, which statutorily eliminated two-for-one pre-trial custody calculations, or the imposition of radical mandatory minimum sentences brought in through recent changes in the drug laws, the government has heedlessly forged ahead with legislation that will have a profound impact on the taxpayer, without turning its mind to the budgetary consequences.

The equation is simple: More offences equals more people in jail; more people in jail equals more direct cost to taxpayers. Not to mention the harder to calculate cost to society, health care, and our moral fabric as a nation. But don’t let such trivial concerns stand in the way of this government. For Stephen Harper, Justice Minister Rob Nicholson, Public Safety Minister Vic Toews, and the rest of the “tough on crimers,” there is no such thing as too much punishment.