



## **Public Protection: What works in the safe management of sexual offenders?**

Presentation made to Members of the Legislative Assembly, Stormont, April 24th, 2012, sponsored by NIACRO.

### **Introduction**

High profile failures in the community management of high risk sexual offenders always raise questions about the conduct of those agencies tasked with their safe management, and cast doubts onto the effectiveness of current responses to sexual offending. Can we manage sexual offenders safely in the community is asked by public, politicians and media alike. The answer to that question is a resounding yes if the right things are done. This short article derives from a presentation made to Members of the Northern Ireland Assembly at Stormont in April 2012 as part of the 'Justice Series' of seminars organised by NIACRO. The article reviews some of the effective strategies for the safe community management of high risk offenders, and also considers the benefits and limits of adopting the scheme for sex offender public disclosure, or 'Sarah's Law' as it is colloquially known.

### **Multi Agency Management of high risk sex offenders**

In Northern Ireland multi agency information sharing and management of high risk sex offenders is done by the Public Protection Arrangements Northern Ireland (PPANI). In brief, such multi agency working provides shared risk assessment, creates a 360 degree view of the offender's risk and behaviours, and provides a mechanism to jointly plan and jointly deliver a risk management strategy. A typical risk management plan might comprise:

- Electronic tagging
- Supervised accommodation in a probation hostel or other approved premises
- Restriction from school locations and monitoring of compliance via the electronic tag
- Intensive one to one work on criminal attitudes, motivations and behaviours
- Use of police surveillance
- Victim empathy work.

Currently in England and Wales, the forerunner of such multi agency work, evaluations of effectiveness have been positive. Some important facts and figures:

- At March 31<sup>st</sup> 2011 there were 51, 489 offenders supervised under the Multi Agency arrangements in England and Wales, of which 94% were managed at level 1, the lowest level possible.

- 7,962 managed at level 2.
- 734 at level 3.
- Out of 8696 offenders at levels 2 and 3, only 1,008 were returned to custody for breaching licence conditions.
- Out of the 51, 489 offenders supervised under these arrangements, only 134 offenders charged with a serious further offence. Of these 108 were at level 1, 23 at level 2, and 3 at level 3.
- Of these 134 SFOS only 8 proceeded to a serious case review, with 7 at level 2, and only 1 at level 3 (the highest level of risk).

(From Multi Agency Public Protection Arrangements Annual Report 2010/11, available at: <http://www.justice.gov.uk/downloads/statistics/mojstats/mappa-annual-report-2010-11.pdf>)

In addition, a Ministry of Justice evaluation in England of a cohort pre the Multi Agency supervision arrangements and a cohort post these arrangements found that:

*Offenders released from custody between 2001 and 2004 (i.e. after the implementation of MAPPAs) had a lower one-year reconviction rate than those released between 1998 and 2000. This remained true at the two-year follow-up for those cohorts where this had been calculated. The one-year reconviction rate had been declining before 2001, but fell more steeply after MAPPAs were implemented.*

*Immediately either side of MAPPAs implementation, the one-year reconviction rate fell 2.7 percentage points for MAPPAs-eligible offenders. Pre- to post-MAPPAs implementation there was a comparatively large fall in the proportion of violent offenders reconvicted after one year, and among those calculated to pose a high risk of reoffending.*

*These findings should be considered in the context of an increase in the national one-year reconviction rate for adult offenders released from custody from 2000 to 2002 and then a fall thereafter.*

*The results of this study show a reduction in reconviction rates among sexual and violent offenders released between 2001 and 2004 compared to 1998-2000, which coincided with the introduction of MAPPAs in 2001. Though the methodology used cannot evaluate the specific impact of MAPPAs on reconvictions, this reduction may be associated in part with MAPPAs. As many offenders managed under MAPPAs represent the most serious offenders released into the community from custody, this is an encouraging finding for those involved in their management.*

(Mark Peck for Ministry of Justice 2010, with further details on pages 13 and 14; available at: <http://www.justice.gov.uk/downloads/publications/research-and-analysis/moj-research/patterns-reconviction-mappa.pdf>).

These effectiveness findings justify the use of such arrangements in Northern Ireland, and also help to contextualise the often traumatic, deeply tragic individual cases that can easily bring such systems into disrepute if such individual cases are not considered within the broader context of general effectiveness.

### **Programmes of intervention, resettlement and monitoring**

The safe community management of sex offenders must also draw upon the most effective intervention programmes, focus on resettlement into communities and provide adequate monitoring of the offender. In an international review of programmes that work, the English National Offender Management Service (NOMS) concluded that:

*Large scale research indicates that sex offenders who receive treatment, in both prisons and community settings, have a lower sexual reconviction rate than those who do not receive treatment. (NOMS 2010, What works with Sex Offenders, a briefing note, available at: <http://www.swmprobation.gov.uk/wp-content/uploads/2010/06/what-works-sex-offender-treatment.pdf>).*

Such programmes can provide up to 27% reduction in reconviction, and well targeted programmes such as the Sex Offender Treatment Programme can be effective, with treated offenders having statistically lower reconviction rates at 2 years than untreated ones- 4.6% compared to 8.1% (NOMS 2010).

In addition, safe reintegration through approved premises can be critical, as many sexual offenders are social isolates. Such safe reintegration can provide not only support, but added vigilance. Similarly safe employment can have rehabilitative impact and NGOs such as NIACRO are often in a position to provide safe and supported employment within appropriate safeguards and checks. Stable long term accommodation is also critical to success, supported by regimes of frequent visiting by either police or probation. The key to supervision is an appropriate balance of support and vigilance about the offender's lifestyle and risk factors.

### **The use of disclosure**

It is important to recognise that the law already allows for disclosure to third parties on a need to know basis. The general rule is that this is justified by the level of risk and what is required to prevent further offending and carry out the effective and safe management of the offender. This can and does include members of the public, and is done through the PPANI arrangements by either police or probation. In 2007, Jenny Cann carried out an evaluation of third party disclosure via the multi agency arrangements in England and Wales and found that disclosure was well and appropriately used, did contribute to effective and safe management, and added to the safety of children. The recommendation in Cann's report was that third party disclosure should always be a key consideration of multi agency meetings, and that it should be used to its fullest extent.

## **Do we need public disclosure?**

In 2009-10 a limited 'Sarah's Law' was piloted in England and Wales evaluated by researchers at De Montfort University, Leicester (Kemshall et al 2010). Both the pilot and the current English and Welsh scheme operate quite differently to many of the schemes in the USA. They rely on a parent, carer, guardian or concerned adult making an enquiry of local police about a specific person and in relation to a specific child. There are no public meetings, and the identities and whereabouts of sexual offenders are not generally disclosed or displayed. Members of the public, initially parents, guardians and carers but later, in March 2009, extended to include anyone who had a concern about an individual could make an enquiry under the scheme by phone, by walking into a police station or by contacting the police to register a concern about an individual. Upon completion of initial questions and risk assessment checks, enquiries meeting the criteria proceed to an application stage. Here, further checks are undertaken and a face-to-face interview with the applicant is used to confirm identity, seek consent for information sharing and to clarify the boundaries of confidentiality. Following a final risk assessment, a decision is made whether or not to make a disclosure to the applicant or to take further action where necessary. A number of enquiries do not proceed to this stage as they are not about a known sex offender against children, the risk level is not met, or the enquiry is either mistaken or not genuine.

The outcomes of the pilot were mixed, with lower than anticipated take up of the scheme being the main finding. Only 585 enquiries were made in total across the four pilot areas against a Home Office expectation of around 600 per pilot area (i.e. 2400). Formal applications actually dealt with in total across the four pilots were 315. Of these only 21 disclosures in total across the four pilot areas were made, 7% of all the applications actually processed. Whilst a Home Office claim that 60 children had been protected by these disclosures this is actually rather difficult to prove, and is simply extrapolated from the potential number of children those 21 offenders may have potentially come into contact with. It is also difficult to establish how many of these offenders would have been disclosed about via the multi agency arrangements, and how many families and children would have been informed via the multi agency third party disclosure route anyway. The scheme did go national in 2010, but has continued to have low take-up, with recent figures indicating that a total of 160 disclosures have been made. Whilst there is some argument that the role and responsibilities for public disclosure carried out by police have been absorbed into local functioning and costs, it is important to recognise that the pilot cost £482,000 to run, and that every area has initial set up costs and ongoing costs to sustain the scheme no matter how many or few enquiries are made, and no matter how many applications are processed or disclosures are actually made. Interestingly there was no discernible impact on sex offender compliance with supervision, and this was attributable to the preparation and support of their offender managers, again taking time and resource (Kemshall, Dominey and Hilder 2011). Equally there were no severe breaches of confidentiality, again due to the preparation and care taken in applicant interviews by police disclosure officers.

From the pilot data it is possible to identify groups who are under-represented in enquiries, particularly Black and Minority Ethnic groups and those classified as 'socially disadvantaged'. To some extent marketing and publicity does not appear to reach these groups, and there is no direct correlation between the amount of time, effort and money spent on marketing and subsequent take up (Kemshall and Weaver 2012). Broader issues affecting take up may be a policy misunderstanding of what the public wants, in particular mistaking media clamour for public appetite. It may be that the public want reassurance that the statutory agencies work effectively, and that this mitigates any broader appetite for public disclosure. In addition, both the English and Scottish pilots found that the operation of the scheme itself could create barriers to access and use (Kemshall and Weaver 2012). For example, making applications via police or social services, and undergoing personal checks were seen as off putting. Finally, some applicants found the weight of knowing about a risk difficult to manage over the long term, particularly in the absence of clear advice and long term support for how to manage living in relatively close proximity to someone they knew was a sex offending risk to children (Kemshall, Kelly and Wilkinson 2011). Conversely, the message that there is nothing to disclose wasn't always seen positively, with some applicants reporting a residual anxiety, and that nothing to disclose didn't necessarily mean no risk.

In considering the adoption of public disclosure a number of key points need to be addressed:

- Do we need this scheme and what is the evidence that it will work?
- Will it be implemented and used as expected?
- What is the expected cost?
- What is the likely impact and benefit for the costs?
- What is the value-added of the scheme to our existing strategies to manage sex offenders safely in the community?
- What else are we doing that contributes to public safety and can we strengthen them?
- What else could we do to achieve public safety?

## **Conclusion**

The community management of sex offenders can be done safely in the majority of cases if the right things are done, and done well. Multi agency arrangements such as PPANI in Northern Ireland have much to offer, and recent research (albeit in an adjoining jurisdiction), support this. Programmes of intervention, supported by supervised accommodation, safe employment and well monitored re-integration are successful, with

persuasive impacts on further reconviction rates. Disclosure, particularly third party disclosure through police and probation can provide added safety for children and their families, but general public disclosure, whilst politically attractive, may have a rather more limited take up and consequently lower levels of impact for the costs involved. The safe management of sex offenders in the community requires a number of strategies to be brought together in a coherent, well resourced and cost effective way. Politicians, policy makers and practitioners all have a responsibility for ensuring that these strategies are effective, properly used, and well co-ordinated.

### References and additional reading

- Brown, S. (2010) An introduction to sex offender treatment programmes and their risk reduction efficacy. In: Harrison, K. (ed.) *Managing High-Risk Sex Offenders in the Community: Risk management, treatment and social responsibility*. Willan.
- Cann, J. (2007) Assessing the extent of discretionary disclosure under the Multi Agency Public Protection Arrangements (MAPPA). Home Office, Findings 286, available at: [http://www.insidetime.org/resources/Findings/F286\\_AssessingExtentofSelfDisclosureunderMAPPA.pdf](http://www.insidetime.org/resources/Findings/F286_AssessingExtentofSelfDisclosureunderMAPPA.pdf)
- Hanson, R. K., Bourgon, G., Helmus, L. and Hodgson, S. (2009) The Principles of effective correctional treatment also apply to sexual offenders: A meta-analysis. *Criminal Justice and Behaviour*, Vol. 36, pp. 865-891.
- Kemshall, H. , Wood, J. and Westwood, S. (2010) *Child Sex Offender Review (CSOR): Public Disclosure Pilots, A Process Evaluation*. London: Home Office. Available at: <http://webarchive.nationalarchives.gov.uk/20110218135832/rds.homeoffice.gov.uk/rds/pdfs10/horr32c.pdf>
- Kemshall, H., Dominey, J. & Hilder, S. (2011): Public disclosure: Sex offenders' perceptions of the pilot scheme in England. Compliance, legitimacy and living a "Good Life", *Journal of Sexual Aggression: An international, interdisciplinary forum for research, theory and practice*, available at: <http://www.tandfonline.com/doi/abs/10.1080/13552600.2011.603062>
- Kemshall, H., Kelly, G. & Wilkinson, B. (2011): Child Sex Offender Public Disclosure Scheme: The views of applicants using the English pilot disclosure scheme, *Journal of Sexual Aggression: An international, interdisciplinary forum for research, theory and practice*, available at: <http://www.tandfonline.com/doi/abs/10.1080/13552600.2011.552987>
- Kemshall, H. and Weaver, B. (2012) The sex offender public disclosure pilots in England and Scotland: Lessons for 'marketing strategies' and risk communication

with the public. Criminology and Criminal Justice, available at: <http://crj.sagepub.com/content/early/2012/02/01/1748895811433190>

- Mann, R. E., Ware, J. and Fernandez, Y. M. (2010) Managing Sex Offender Treatment Programmes. In: Boer, D., Craig, L. A., Eher, R., Miner, M. H. and Pffalin, F. (eds.) *International Perspectives on the Assessment and Treatment of Offenders: Theory, Practice and Research*. Oxford: Wiley.
- Ministry of Justice/NOMS (2010) *What works with sex offenders*. MoJ Briefing Paper, May 2010, available at: <http://www.swmprobation.gov.uk/wp-content/uploads/2010/06/what-works-sex-offender-treatment.pdf>
- Ministry of Justice (2011) *Multi Agency Public Protection Arrangements Annual Report for 2010/11*. Ministry of Justice Statistics Bulletin, available at: <http://www.justice.gov.uk/downloads/statistics/mojstats/mappa-annual-report-2010-11.pdf>
- Peck, Mark (2010) *Patterns of reconviction among offenders eligible for Multi Agency Public Protection Arrangements (MAPPA)*. Ministry of Justice Series 6/11, June 2011, available at: <http://www.justice.gov.uk/downloads/publications/research-and-analysis/moj-research/patterns-reconviction-mappa.pdf>

Hazel Kemshall is

Professor of Community and Criminal Justice at De Montfort University.

She has a long career evaluating effective practice with high risk offenders, evaluating multi agency management arrangements, and public disclosure.

She can be contacted on: [kemshall@dmu.ac.uk](mailto:kemshall@dmu.ac.uk)



#### Partner Organisations



