

REGISTERING THE RISK

*Review of Notification Requirements, Risk Assessment
and Risk Management of Sex Offenders*

Registering the Risk

Foreword

Since introduction in September 1997 the Notification and Registration Scheme for specified categories of sex offenders has been subject to various legislative and procedural amendments.

In response to public concerns regarding the management and supervision of sex offenders within the community, heightened following the tragic murder of a child by a registered sex offender in 2004, the Minister for Justice requested that I undertake a review of the current arrangements. This I commenced in February 2005 and concluded with submission of this report in July 2005.

In submitting my report I acknowledge and appreciate the co-operation and contribution of over fifty colleagues from various agencies I interviewed and consulted, particularly senior and front line police officers in Scotland and England. The Association of Chief Police Officers in Scotland Sex Offender Working Group made a very significant contribution and commented and advised on my initial findings. The various contributors are acknowledged in Appendix 1.

I reviewed, assessed and analysed twenty-four research documents and reports. Elements of my report follow on from the Report of the Expert Panel on Sex Offending "Reducing the Risk" 2001 hence the title "Registering the Risk".

I also considered current and proposed legislation and procedures as detailed in the appendix 2. I record my appreciation to a wide range of staff in the Scottish Executive for making such information so readily available and in particular to Ian Fleming, Justice Department, Police Division, for co-ordinating the entire exercise.

The resultant report is designed not for academic interest but for practical application. I trust that my recommendations will lead to improvements in the current system; for improvements are certainly required.

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July 2005

Registering the Risk

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Introduction

1. *The Remit.*

“To review the operation and effectiveness of the sex offenders notification regime in Scotland, to seek the views of the agencies involved, to make recommendations for improvement and to advise on any other relevant issues relating to sex offenders subject to registration.”

2. *The Scale of the Issue.*

In June 2003 there were 1931 registered sex offenders in Scotland. As at June 2005 this had risen to 2809. In terms of current and proposed legislation it is anticipated that registration figures will continue to rise significantly.

While research may have found that recidivism and the rate of reconviction for sex offenders is lower than for other types of offending, the fear and harm they inflict is incalculable. As the Expert Panel on Sex Offending observed: “the cost (to the community) of sexual offending is high, both in terms of the emotional and psychological damage done to the victims - - “.

The Expert Panel further cautioned that “Sex offenders are manipulative individuals who will exploit any gaps in the system. It is essential for all those agencies and organisations who work with sex offenders to work together to overcome the risks which they present.”

3. *The Police.*

In accordance with current legislation the police have the primary role in relation to Notification and Registration Requirements and related responsibilities in terms of assessing and managing risk.

The Scottish Executive recently promoted extension of the monitoring role of the police to other sex offenders who are not required to formally register but are considered to be a risk to the community. In addition most police authorities retain information on sex offenders under various categories of “informal registration” as considered in Section 1. There is, however, a wide variation in practice but it is suggested that such “other categories” exceed the number of formal statutory registrations. What is not in dispute is that registration and subsequent monitoring of sex offenders is a major and increasing issue.

The role of the police is, therefore, the principal focus of this report.

4. Overview of Current Situation.

As many police officers observed, currently there is little obligation on sex offenders to cooperate other than in terms of very basic registration and notification requirements.

Police have, for example, no specific powers to require a sex offender to undertake a risk assessment or to monitor the offenders conduct or activities within the community.

Conversely it is public expectation that registered sex offenders will be assessed in terms of risk and thereafter managed appropriately within the community.

There is an obvious wide disparity between expectation and current reality.
Improvements are required.

5. In pursuit of such improvements this Report follows the sequence of the current Notification and Registration Scheme.

- The Register
- Risk Assessment
- Risk Management

and concludes by highlighting significant national and operational

- Policy Issues

Each section contains an outline and assessment of the current position, identification of current weaknesses and specific recommendations. It is an approach designed for practical application and, therefore, the report has been kept as brief and focused as possible.

Before proceeding further I would again refer to the report from the Expert Panel: "It is important to acknowledge that the problem of sex offending is one which cannot be eradicated. There are, however, steps which can and should be taken to make communities safer".

I hope that my report will be a step along the way.

SECTION 1.

The Register

Overview of Current Situation

1.1 *Notification Requirements*

Broadly the Sexual Offences Act 2003 imposes a requirement on certain categories of sex offenders, if so ordered by a Court, to notify the police and provide specific information for registration purposes.

Notification and thereby registration periods relate to the sentence or order imposed by a Court and can vary from the duration of a probation order, to 5 years, 7 years, 10 years or for an indefinite period i.e. life.

Currently in the case of young persons aged under 18 but over 16 the notification and registration period up to 10 years is halved.

A Notification and Registration Requirement is, therefore, a significant Court disposal which should have major implications for the sex offender and the police.

When introduced the notification and resultant registration scheme was viewed “as an increasingly effective means of increasing public protection”. But is it?

1.2 *Current Obligations.*

Basically, a notifiable sex offender must report in person within three days to a police station in his or her local area and in so doing provide the following information:

- ◆ His name and any other names used.
- ◆ His home address and or the address of any other premises at which he regularly resides.
- ◆ His date of birth.
- ◆ His National Insurance number.

In addition the police may require the sex offender to provide fingerprints and be photographed.

Should any of the above circumstances change the now registered sex offender should notify the police in person within 3 days. Further requirements relate to periods of residence away from the registered address within and outwith the United Kingdom.

Registered sex offenders are required to reconfirm the accuracy of the above information on an annual basis.

Non-compliance with the above requirements may result on summary conviction in a period of imprisonment not exceeding 6 months or on indictment to a term not exceeding 5 years.

In summary it is noted that sex offenders are required to provide only very basic information and thereafter, unless substantial changes result, to update same only on an annual basis.

1.3 *The Register*

Currently the format and administration of Sex Offender Registers varies among the eight Scottish police authorities. Some are maintained as manual systems, others are computerised.

Major improvements are now, however, underway. Following the successful piloting and subsequent introduction of VISOR (Violent and Sex Offender Register) system in England and Wales, it was introduced to Scotland in 2004. By March 2005 all eight Scottish police authorities had adopted the VISOR scheme. Implementation throughout the Scottish Police Service is now complete.

The system will be linked to and will become an integral part of the Scottish Information Database (SID) and Police National Computer (PNC). A longer-term objective is to co-ordinate and integrate local authority Criminal Justice (Social Work) and Scottish Prison Service data and intelligence information with the police controlled VISOR system. This should facilitate information exchange (referred to later in this report) and more effective monitoring and tracking of sex offenders.

VISOR will also facilitate cross checking with other established databases, for example, Department of Work and Pensions, DVLA, Passport Office, Automatic Number Plate Recognition system (ANPR).

VISOR will progressively become the Sex Offender Register maintained by individual police authorities. It will replace the previous variable systems.

VISOR should, however, be more than just a register. It can be adapted to be a case management tool, a workload planning system, a contact record, a monitoring device and a work diary.

The introduction of VISOR is very much welcomed and the current development plans endorsed.

1.4 *Categories.*

All current systems contain statutorily required Notifiable Registered cases or as specified in the 2003 Act "Relevant Offenders". Thereafter there are variations. Some

police authorities include “unregistered” cases, mainly sex offenders whose period of notification requirement has expired. Some include “non-registered” cases primarily persons who have been convicted of a sex-related crime but were not made subject to statutory notification requirements. Some register “un-convicted” persons whose behaviour had given reasonable cause for concern.

In some police areas the Non-Notifiable cases covered by the above sub-categories exceed the number of statutorily required registrations. In one force area, for example, 60% of the sex offenders on the register were in non-statutory categories. This has implications for the subsequent monitoring responsibilities of the police and is returned to later in this report (Section 3).

Again the VISOR system should remove such variables and anomalies. VISOR contains 5 main classifications.

- ◆ Registered Sex Offender
- ◆ Non-registered Sex Offender
- ◆ Violent Offender
- ◆ Dangerous Offender
- ◆ Potentially Dangerous Person

It is believed, however, that in relation to sex offenders further refinements are necessary as recommended later in this section.

1.5 Notification of Requirement to Register.

Currently the onus is correctly placed on the sex offender to comply with notification and registration requirements as instructed by a Court and as subsequently advised by the Scottish Prison Service or supervising Social Worker (Criminal Justice) or hospital authority as appropriate. Personal responsibility.

It is noted that 97% of sex offenders meet such personal obligations. Less than 100% compliance is, however, a matter of major concern and highlights weakness in the current arrangements.

The Sex Offenders Register (contained within VISOR) is the starting point for risk assessment and subsequent risk management within the community as detailed in Section 3. It follows, therefore, that information contained within the register should be robust and appropriate for such purposes. Currently it is inadequate.

RECOMMENDATION 1

Notification Requirements in relation to provision of information should be **extended** to include the following:-

- ◆ Household details – partner, other occupants, children.
- ◆ Main associates.
- ◆ Leisure activities.
- ◆ Employment.
- ◆ Vehicle and or access thereto.
- ◆ Telephone numbers.
- ◆ Computers – Internet access.
- ◆ Bank account details (for tracking purposes if necessary).
- ◆ Passport details.
- ◆ Provision of a DNA sample if not already taken at time of charge or conviction.

The above recommendation accords with much of the information required by VISOR in terms of intelligence gathering.

RECOMMENDATION 2

Notifiable Sex Offenders of no fixed abode should be required to report daily or on a frequency set by the police to the office holding the Register.

It has been found from practice that many sex offenders initially claim to be homeless but that a requirement to report frequently often results in rapid disclosure of an address. Few have been found to be genuinely homeless.

RECOMMENDATION 3

Notification of change of address should be in advance wherever possible and at a maximum within 24 hours of the event. Currently the period allowed is three days.

Specific but more flexible arrangements should be applied in cases where sex offenders frequently change address due, for example, to employment patterns. Nonetheless at any given time the Register holder should be aware of the sex offender's address, very temporary or otherwise.

RECOMMENDATION 4

It should be reaffirmed that the Scottish Prison Service, Court or Social Services must inform the police of any Notification Requirement in respect of an individual sex offender. The obligation to register should remain with the latter but the authorities concerned should also ensure that the police are fully aware of such individual requirements.

RECOMMENDATION 5

At present hospitals do not routinely disclose information about discharged or transferred Relevant Sex Offenders to the police. Currently the patient is requested to consent to such disclosure on discharge but, if he refuses, clinical managers can consider whether the public interest justifies such a refusal. It is suggested that this is an unclear and untenable situation.

It is, therefore, recommended that the obligations placed on other authorities, as detailed above, apply also to all hospital and health settings and further that the police be informed of any transfer of a notifiable patient (relevant sex offender) to another institution or any discharge exceeding three days.

RECOMMENDATION 6

In accordance with the recommendations of the Information Sharing Steering Group (ISSG) the categories of sex offenders should be further refined as follows:-

- ◆ Registered Sex Offender – currently registered.
- ◆ Registered Sex Offender – required to register but has not yet done so, for example, those serving prison sentences or detained in hospital.
- ◆ Non-registered Sex Offender – not required to register but about whom there are significant concerns.
- ◆ Non-Registered Sex Offender – previously registered but the period for same has expired.

Note: it is acknowledged that some of the above recommendations could be challengeable in terms of the European Convention on Human Rights (Article 8) or under the Data Protection Act. It is, however, argued that the human rights of potential victims or vulnerable persons must prevail and that persons should be able to reside in communities in conditions of protection and safety. This is the main purpose of the Notification Requirement scheme.

1.6 Disclosure of Information

In relation, however, to further means of public protection I endorse the views expressed by the Expert Panel on Sex Offending that “while public concerns are understandable given that most sex offenders are living alongside us all in the community, there is convincing evidence that disclosure of information about convicted sex offenders does not promote community safety. We, therefore, do not support general notification of such information to communities”.

There is evidence that when such information has become available in communities some sex offenders have been driven into hiding and, as a result, child protection and criminal justice agencies have lost contact with them and supervision of them albeit temporarily. Some such instances have had tragic consequences.

The duty to protect communities and the public lies with criminal justice agencies and this report endeavours to identify further methods by which this can be achieved.

SECTION 2

Risk Assessment

2.1 *Risk*

Risk in any situation is uncertain. In the case of sex offenders such uncertainty is exacerbated by their propensity for deviousness as highlighted by the Expert Panel on Sex Offending. Risk can escalate or reduce frequently in response to changing circumstance. The only certain thing about risk is its uncertainty.

The major challenge is to assess risk as accurately as possible, avoiding either over prediction or under prediction. The importance of risk assessment cannot be overstated but neither should claims for its complete credibility.

In a recent report from the Social Work Inspection Agency, following investigation of a very serious incident, it was noted that; "It is important to recognise that even the most accurate forms of risk assessment will be wrong in a percentage of cases".

2.2 *General Overview of Current Situation*

Current Scottish Executive guidance places primary responsibility on the police to assess the risk posed by Registered Sex Offenders to individuals and communities. It is noted that such responsibility is also extended to cover other categories of sex offenders who, while not formally registered in terms of Notification Requirements, are nonetheless included in the registration system. The various categories as identified in Section 1. It is again noted that such additional responsibilities are currently not accompanied by related powers.

Experience to date would suggest that at any given time approximately 33% of Notifiable Registered Sex Offenders (relevant offenders) will also be subject to supervision by Local Authority Social Services (Criminal Justice) in terms of licence, probation orders etc. Such supervised offenders will also be subject to further risk assessment processes.

The guidance previously referred to and now established practice expects Police and Social Services authorities to co-operate and collaborate in terms of risk assessment. The importance of such joint arrangements for the assessment and management of risks posed by sex offenders is reaffirmed in the current Management of Offenders etc (Scotland) Bill and is an imminent statutory duty.

The one party in the process who has no duty to participate or co-operate is the Sex Offender himself. The Expert Panel on Sex Offending commented on the "- lack of any requirement on individuals to comply with the risk assessment process and the potential for non-compliance to increase". **This is a major weakness.**

RECOMMENDATION 7

It should be obligatory that relevant sex offenders participate in the risk assessment process by making themselves available for interview including access to their accommodation.

2.3 Current Methods

Currently there are two basic approaches to risk assessment: clinical and actuarial.

Actuarial risk assessment is based largely on known factual information and employs statistical techniques to predict the likelihood of re-offending.

Clinical risk assessment is essentially diagnostic and is based on detailed interviewing and observation; an approach common to medical, mental health and social work services.

It is acknowledged that, while the actuarial method has a better track record for accuracy, the clinical approach can provide important indicators of risky behaviour and possible resultant harm.

Until very recently most police authorities and many social services departments used the TAYPREP risk assessment model. By national agreement this has been superseded by the Risk Matrix 2000 (RM2000) system. The RM2000 model is currently used by all police authorities in England and Wales and links directly into the national VISOR system.

The Scottish Executive committed resources to train police and social work officers in the use of RM2000. This is well underway in all eight police authority areas. In the near future there will be a nationally compatible risk assessment system. This is very much welcomed.

Evidence presented suggested that RM2000 is an appropriate risk assessment model in relation to sexual offending and sexual violence. It is reportedly not difficult to use but must be followed without deviation. It primarily considers and assesses static factors, for example, age, offending record. It is viewed as a basic but basically reliable assessment tool.

RM2000 does, however, have significant limitations. Apparently it is not so appropriate in relation to female sex offenders, young offenders, people with learning disabilities or those convicted of internet offences.

It does not consider dynamic factors, for example personality traits, or behavioural and environmental influences.

Research evaluation of the already established system in England and Wales confirmed that RM2000 is relatively accurate in identifying high-risk offenders in terms of predicting re-offending but limited in relation to potential levels of harm.

Not surprisingly the research report recommended a combined approach linking actuarial calculations of probability with detailed clinical interviewing to establish the conditions and circumstances under which risky behaviour might occur.

Nonetheless the introduction of RM2000 to Scottish Police, Social Services and the Scottish Prison Service has brought a consistency previously lacking. All three major criminal justice agencies will progressively undertake compatible and interchangeable risk assessments. This is to be welcomed albeit there are identified weaknesses in the current methods.

It is interesting to note that in England and Wales probation authorities use the Offender Assessment System (OASys) to risk assess sex offenders. OASys employs more clinical techniques and covers fifteen offending related factors including, for example offending history, accommodation, education and training, employment possibilities, emotional well-being, behaviour etc.

OASys is designed to:

- ◆ Assess how likely an offender is to be reconvicted.
- ◆ Identify and classify offending related characteristics, for example personality, behavioural problems etc.
- ◆ Assess risk of serious harm to specific individuals and others.
- ◆ Measure change during the period of supervision.

As with RM2000 OASys grades level of risk as either low, medium, high or very high.

In acknowledgement of the lead role of the police in relation to risk assessment, should there be a disparity between the probation service (OASys) assessment and the police (RM2000) results, the latter prevails.

There is, however, consensus among all agencies involved that risk assessment is in itself a dynamic continuous process.

2.4 Information Sharing

Research has reaffirmed that exchange of appropriate information is crucial to effective risk assessment and risk management. This was confirmed in the MacLean Committee report and reaffirmed by the Expert Panel on Sex Offending who recommended that a statutory duty be placed on appropriate agencies to establish joint arrangements for risk assessment and risk management. Such a duty already applies in England and Wales where in terms of the Criminal Justice Act (2003) a range of prescribed agencies have a Duty to Co-operate in accordance with the Multi-Agency Public Protection Arrangements (MAPPA).

MAPPA requires that information be exchanged where necessary for the purposes of assessing and managing the risks posed by sex offenders. The specific purposes for information sharing within the MAPPA system are:

- ◆ To identify those offenders who present a serious risk of harm to the public.
- ◆ To ensure that the assessment of the risk they present is as accurate as possible.
- ◆ To enable the most appropriate plans to be drawn up and implemented to manage the assessed risks and protect the public.

The Expert Panel on Sex Offending highlighted the “professional sensitivities that can restrict the exchange of information about individuals”. The Panel referred in particular to health professionals but noted that the General Medical Council had confirmed that “any doctor who, on discharging a patient, judges that the patient poses a risk of serious harm to others should disclose that information to the police”. The GMC made it clear that they would include in this category information about any sex offender considered to be at risk of re-offending. Such notification and provision of information is referred to in Section 1 of this report **Recommendation 5**.

In Scotland there have been a number of recent and reassuring developments. The Association of Chief Police Officers in Scotland (ACPOS) has produced a Memorandum of Understanding to facilitate the sharing of information with other appropriate agencies, for example, Scottish Prison Service, Social Services.

In response to the Expert Panel on Sex Offending report Scottish Ministers, in 2003, established the **Information Sharing Steering Group (ISSG)** chaired by the Solicitor General for Scotland.

The ISSG included all of the key agencies involved in the risk assessment and management of sex offenders.

The agencies represented on the ISSG agreed that a National Concordat be established to reinforce and state publicly the commitment of each of the signatory agencies to “work together to ensure public safety through the effective management of information about sex offenders”. The main agreements as set out within the National Concordat are:

- ◆ To work together to manage the risk to the public posed by sex offenders.
- ◆ To share any relevant information about sex offenders necessary to ensure that this objective is achieved, while ensuring that the rights of individuals are protected.
- ◆ To presume that all relevant information will be shared where it is legal to do so.
- ◆ To ensure that information is gathered and managed in a way that facilitates sharing.

In May 2005 all of the agencies represented on ISSG signed the National Concordat. **This development is very much welcomed.**

It is anticipated that underpinning legislation will result from the Management of Offenders (Scotland) Bill.

2.5 The Risk Management Authority.

In response to the findings of the MacLean Committee on Serious Violent and Sexual Offenders (2000) and the Expert Panel on Sex Offending (2001) the Scottish Executive established, in 2005, the Risk Management Authority as a non-departmental public body accountable to the Scottish Parliament through the Minister for Justice.

The main functions of the RMA are:

- ◆ “To develop policy and carry out and monitor research in risk assessment and risk minimisation.
- ◆ To set standards and accredit those people, methods and practices involved in risk assessment and management and to issue guidance to those involved.
- ◆ To approve and monitor risk management plans for those offenders receiving an Order for Lifelong Restriction sentence.
- ◆ To provide education and training in relation to the assessment and minimisation of risk.”

According to Scotland’s Criminal Justice Plan 2004 the RMA “will be a national centre of excellence in the field of risk assessment and risk management of offenders”.

This development, while in its embryonic stage, is very much welcomed.

RECOMMENDATION 8

In accordance with notification requirements and administration of the register, the police should be acknowledged as the lead authority in relation to risk assessment. Their role and capacity should, however, be clarified. The police should complete the initial risk-assessment based, currently, on RM2000 but should also expect and receive further information and intelligence from partners agencies, particularly social work services. Police officers alone should not be expected to undertake comprehensive and complex risk assessments. They should be fully involved in any subsequent joint risk assessments.

RECOMMENDATION 9

It follows that in situations where the police RM2000 assessment has rated a sex offender as:

- ◆ **High Risk:** There are indicators of risk of serious harm. The potential event could happen at any time and the impact could be serious.
- ◆ **Very High Risk:** There is an imminent risk of serious harm. The potential event is more likely than not to happen and the impact would be serious.

Social services and or health services should be requested and **required** to provide a further risk assessment and advise the police accordingly.

Note: - Low and Medium Risk is defined as follows:

- ◆ **Low Risk:** The offender has the potential to re-offend but is very unlikely to do so unless there is a major change in circumstances, for example, relationship breakdown, loss of accommodation.
- ◆ **Medium Risk:** The offender has the potential to re-offend and cause harm but is unlikely to do so unless there is a change in circumstances, for example, relationship breakdown, loss of accommodation.

Note: The above definitions are currently widely used, for example, in relation to VISOR. Based on experience more refined versions are anticipated.

RECOMMENDATION 10

Following from Recommendation 8:- Police authorities should also have ready access to academic and clinical advice in relation to risk assessment. This is currently available to the Scottish Prison Service.

RECOMMENDATION 11

Where registered sex offenders are also subject to social work supervision, risk assessment should always be on a joint basis and the police should be informed of any subsequent changes affecting the categorisation of risk. On termination of social work involvement a joint risk reassessment should again be undertaken.

RECOMMENDATION 12

The National Concordat and its implications should be fully observed by all signatory agencies. The National Advisory Body and Community Justice Authorities proposed within Scotland's Criminal Justice Plan 2004 should monitor and oversee implementation of the measures prescribed by the Information Sharing Steering Group.

RECOMMENDATION 13

As a matter of priority the Risk Management Authority should:

Review and reassess the suitability of RM2000 and introduce measures to overcome weaknesses in the current model.

Consider whether the different agencies involved require different levels and intensity of risk assessment models, while ensuring compatibility between same.

Introduce an accreditation system for risk assessors, particularly police officers.

Provide ongoing training and guidance recognising the dynamic changing nature of risk assessment.

SECTION 3

Risk Management

Current Situation

3.1 *Police Role*

The Police (Scotland) Act 1967 reaffirmed the primary role of the police service “as the prevention and detection of crime”. The Sex Offenders Act 1997, superseded by the Sexual Offences Act 2003, placed additional duties on the police and extended their role and function.

In relation to sex offender legislation the extended role of the police includes the administration of the register, assessment of risk and monitoring individuals within the community. In relation to such responsibilities the police have the Lead Role. In England and Wales they are the designated Responsible Authority.

As previously stated the Scottish Executive has further promoted the monitoring role of the police by encouraging inclusion of other sex offenders and those suspected of such activities who, while not subject to registration, are believed to be a risk within the community.

It is important, however, to clarify the concept of monitoring. The police monitoring function regarding the whereabouts and activities of sex offenders should be in terms of public protection, crime prevention, intelligence gathering and where appropriate investigation.

It is acknowledged that in execution of such duties the police may, on occasion, act in a supportive advisory capacity, especially to lonely, isolated sex offenders. They should not, however, act as social workers or confuse their monitoring function with that of supervision and support.

3.2 *The Role of Social Work Services*

As previously stated at any given time around 33% of Registered Sex Offender cases will also be subject to social work supervision. The primary role of Social Work Services is the supervision and rehabilitation of sex offenders within the community. Monitoring is, of course, an element of such supervision.

The respective roles are compatible and should be integrated. Specific functions should, however, be clearly defined to ensure that the respective agencies are fully aware of their individual responsibilities.

Throughout Scotland there are many examples of very sound collaboration between police and social work services in the monitoring and supervision of sex offenders. This must be continually encouraged and developed.

3.3 *Overview of Current Situation.*

It should be acknowledged, as highlighted by the Association of Chief Police Officers in Scotland, that while the police have been required to undertake additional and to them new functions, police powers have not been similarly extended. They have, for example, no specific powers in relation to their monitoring duties. This is a major weakness and is returned to later.

Nonetheless it should also be acknowledged that the Police authorities throughout Scotland have endeavoured with considerable success to meet the requirements and duties placed on them by sex offender legislation. In the current circumstances it is a tribute to the commitment of senior and front line officers and to the ACPOS Sex Offender Working Group that an effective service has been established in terms of public protection, crime prevention and detection.

As ACPOS further observed “the 2003 Act offers no powers to police officers to enforce the participation of offenders in the process”. This is particularly pertinent to risk assessment, as previously highlighted in Section 2, and is of very significant concern in relation to risk management.

3.4 *Sexual Offences Prevention Orders.*

According to the Sexual Offences Act 2003 the purpose of a SOPO is to “Protect the public or any particular members of the public from serious sexual harm”. Such orders place specific restrictions on the activities or circumstances of offenders, for example, in relation to employment, in not frequenting public parks or certain leisure activities.

Currently a SOPO can only be obtained by application of a Chief Constable to a Court in relation to an offender who has previously been dealt with by the Court and who is continuing to exhibit sexually risky behaviour of significant concern. The application must relate to current situations. Application by a Chief Constable is normally based on a multi-agency risk assessment. The process can be a lengthy one, involving legal advice and there are few SOPOs in Scotland.

The Protection of Children and Prevention of Sexual Offences (Scotland) Bill proposed an amendment to the Sexual Offences Act 2003 whereby Courts could impose a SOPO at the time of sentence. This development is welcomed. It is anticipated that the Court will be advised regarding the need for a Sexual Offences Prevention Order in an enhanced Social Enquiry Report prepared and presented by Social Work Services (Criminal Justice) following a joint risk assessment.

On first consideration it would appear that SOPOs would enhance the monitoring powers of the police. There are, however, obvious resource implications for the police in monitoring such orders.

Conceivably a sex offender could also be subject to a probation order and a SOPO and, while this would enhance and require close joint working between police and social work services, it is questionable if the latter order is in fact required. In terms of probation supervision or licence those subject must “comply with such requirements as the officer may specify for the purposes of supervision”. Social workers can already require that those under supervision do not engage in specific activities.

While, therefore, the principle and extension of SOPOs is welcomed it is believed that there are more direct and less convoluted measures which can be employed to restrict the activities of sex offenders in the public interest. Such measures are recommended under 3.7 Monitoring.

3.5 Risk of Sexual Harm Orders.

The Protection of Children and Prevention of Sexual Offences (Scotland) Bill (now Act) proposed a new civil order, the Risk of Sexual Harm Order (RSHO). The purpose initially was to protect children under the age of 16 from sexual harm from adults aged 18 or over. A subsequent Amendment to the Bill removed the age restriction of 18 and as a result RSHOs may now be applied for in respect of persons and young persons of any age. This has significant policy implications as outlined in Section 4.

RSHOs may be imposed by a Court on application from a Chief Constable. The application should be in respect of a person or young person who is believed to be acting in such a way as to present a risk of sexual harm to children.

The person subject to the application need not have been previously convicted of a sexual offence. The alleged inappropriate sexual behaviour must, however, have occurred on at least two occasions and fall within specific categories. A degree of evidence is, therefore, required since the Court must be satisfied that such an order is necessary to protect a child or children from harm by the person to whom the order would apply.

Application for such orders will again require multi-agency risk assessment involving in particular the police and social work services child protection and criminal justice units.

If granted RSHOs can prohibit a person or young person from engaging in any activity described in the order. Such orders will be for a fixed period of not less than two years.

The introduction of Risk of Sexual Harm Orders is cautiously welcomed as a further protection to vulnerable persons. Such orders would empower the monitoring role of the police. Monitoring will require very close collaboration between police and social work services particularly in relation to young persons.

3.6 New Offences

The Protection of Children and Prevention of Sexual Offences (Scotland) Bill became an Act in June 2005 to be implemented in the Autumn of 2005. The Act contains a new sexual offence relating to children and young people namely Grooming. The new offence will be added to schedule 3 of the Sexual Offences Act 2003 which means that, with certain qualifications, persons so convicted will be subject to Notification Requirements and registration with the police. In addition a Sheriff will have discretion to impose Notification Requirements whenever he or she determines this to be appropriate. An increase in notifiable cases is therefore, anticipated with attendant resource implications. This is returned to in Section 4.

Recommendations for Improvement.

3.7 Monitoring.

Managing risk within the community requires that registered, relevant and other categories of sex offenders are appropriately monitored. Effective monitoring should identify changes in individual and situational factors which could increase the likelihood of risk and sexual harm to others. Monitoring can also assist offenders to gain insight into their own situations and develop techniques for self-risk management.

To monitor effectively police will require to regularly validate the information contained on the register (the enhanced information as recommended in Section 2). Monitoring will involve verifying the information received and assessing the risk represented by sex offenders on an ongoing basis.

RECOMMENDATION 14

On each occasion a sex offender is interviewed he should be served with a copy of the registration requirements, asked to verify that the information is still valid and / or to inform of any change of circumstances.

RECOMMENDATION 15

It should be clearly established at the onset which cases will be monitored only or primarily by the police (Level 1) and those sex offenders who should be subject to joint or multi-agency monitoring (Level 2).

It is proposed that Level 1 include those assessed as low or medium risk; Level 2 those assessed as high or very high risk.

RECOMMENDATION 16

In all situations where there is joint involvement in terms of recommendation 15 or in relation to licence or probation orders the first visit to the sex offender should involve the Police **and** Social Services. The joint visit should reinforce the lead role of the police in relation to Notification and Registration requirements and monitoring and clarify the social work role in relation to supervision.

At the conclusion of formal social services involvement, for example, termination of a probation order or licence requirements, a joint visit should again be undertaken to reinforce the ongoing police role and responsibilities.

RECOMMENDATION 17

The police should nominate a Sex Offenders Co-ordinator to link with and be a link for other police colleagues and appropriate agencies.

RECOMMENDATION 18

In relation to police authorities it is proposed that their specialist Sex Offender Units (VISOR Teams) monitor sex offenders subject to Notification Requirements (Registered Cases), those subject to SOPOs and RSHOs and other categories of sex offenders **only if assessed as medium, high or very high risk**. This would focus scarce specialist resources on cases of significant concern. Other sex offenders of low risk contained within the Register and VISOR system should be monitored by other police teams or divisions in accordance with their normal policing activities. Should any significant concerns be identified, these should be referred to the Co-ordinator as proposed in Recommendation 17 above. He / she should then link with the specialist Sex Offender Team and other agencies as appropriate.

3.8 Access.

In a recent report the Investigation Team observed that; "police officers are frustrated at being powerless to take action should a sex offender refuse to co-operate or open his door to communicate" and further that "- at present a police officer can check on a

sex offenders situation by calling at his house, however, he (the officer) cannot enter the premises to make any further checks that might give an indication of risk". The Association of Chief Police Officers in Scotland further commented that; "It is now eight years on from the introduction of the initial requirement for registration and there is still no actual power to compel a sex offender to co-operate; yet it is quite clear that society expects those individuals who have been registered to be carefully and closely managed".

It is, however, noted that the majority of sex offenders do allow access to their homes or places of residence but there is major concern regarding those who do not.

In addition, if Registration is to be a meaningful requirement in terms of public protection and as ordered by a Court then frequent checking of the information contained therein is essential.

It is acknowledged that currently the police may obtain a warrant to gain access to premises but such powers must be for a clearly specified investigative purpose and involve search. Such powers would not, however, be appropriate and would be excessive in terms of routine monitoring. Rightly such powers could be resisted as an infringement of the human rights to privacy of the registered sex offender.

Nonetheless it is believed that a police officer should have the right of access to the home or accommodation of a registered sex offender for monitoring and information validation purposes. This should not include the power of search. If as a result of such monitoring activity the police officer has reason to suspect that a crime has been committed or is being committed then normal investigation procedures should apply including, if appropriate, a request for a warrant to access **and** search

For the purposes of monitoring and validation of registered information it is also essential that the police have access to sex offenders outwith their homes or places of residence.

RECOMMENDATION 19

It is recommended that police officers have the power to enter the home or place of residence of sex offenders for the purposes of undertaking a risk assessment, monitoring their activities and validating the information contained in the Register. Such powers of access should not, however, include the power to search premises.

RECOMMENDATION 20

It is further recommended that, for the purposes of risk assessment, monitoring of activities and validation of information contained in the Register, police officers be empowered to require sex offenders to attend for interview at a specified place and time.

3.9 *Internet Crime.*

It has been estimated that crimes relating to abuse of the Internet involving communication between sex offenders, transfer of pornographic images and contact with vulnerable persons and children are increasing by around 15% per annum. A report published by the Internet Crime Forum recommended that legislation be kept under continual review to ensure that it can adapt to meet changing circumstances and that loopholes in the law should be identified and remedied. **This is welcomed.**

Currently the police can only request access to a sex offender's computer equipment but this can be refused. Thereafter a warrant could be obtained to remove and search the equipment. In the interim there is evidence of images and data being removed by sex offenders.

It is understood that a recent innovation is a laptop device which police officers can use on site to preview material stored in computers.

RECOMMENDATION 21

It is recommended that the availability and effectiveness of the new laptop preview device be investigated. If suitable it should be available to police officers monitoring sex offenders to be used on site during visits with the offenders agreement. Refusal could justify formal request for warrant and search.

3.10 *Warnings.*

It has been suggested that police officers should have powers similar to social workers in relation to probation orders, parole supervision, licence orders etc. In terms of such orders the sex offender is required "to comply with such requirements as the officer (social worker) may specify for the purposes of supervision". Social workers can thereby direct that a sex offender cease from specific activities or undertake others. Such powers are in relation to supervision and rehabilitation; the function of social work services.

It is not believed that such powers are appropriate to police officers in terms of their monitoring and risk management functions as previously outlined in 3.1. The respective roles should not be confused.

Again as outlined in 3.4 and 3.5 above there are or will be formal court sanctioned powers to prevent specified activities by individual sex offenders on application by Chief Constables. While previously welcomed in principle the process for obtaining a SOPO or RSHO prevents such powers from being quickly available. It is believed that more spontaneous powers are required to deal with issues of immediate concern, for example, the residence of a sex offender in an unsuitable household in terms of the risk he presents or his engagement in risky leisure activities or inappropriate employment in terms of access to vulnerable persons. Accommodation, leisure activity and employment situations can change rapidly and so too the risks involved.

Currently police have the power of disclosure of information regarding a sex offender to a third party. Such powers are in terms of specific criteria and processes; there should, for example, be a risk of serious harm to an individual or to those cared for by the third party and or other agency; there is no other practicable, less intrusive means of protecting the individual(s) and failure to disclose would place them at risk. The risk to the offender and his rights should also be considered although this should not outweigh the potential risk to others were disclosure not made.

It is believed that by adapting and by careful use of existing disclosure powers an effective **Warning System** could be introduced to promptly regulate the activities of sex offenders and enhance public protection.

Currently where police officers have valid concerns regarding the accommodation, employment or activities undertaken by sex offenders they normally advise the latter to make alternative arrangements or desist from such activities. Many sex offenders respond positively to such **advice** but many others do not. **Those who do not present ongoing risks.**

RECOMMENDATION 22

Where a sex offender has rejected the advice of the police officer to, for example, find more suitable accommodation and or household circumstances or employment or to desist from certain activities, for example, membership of swimming clubs etc he should be **warned** that information regarding his circumstances may be disclosed to the parties involved.

If he rejects such a **warning** and after an appropriate time has elapsed (at the discretion and as recorded by the police officer) then he should be issued with a further and **final warning**.

If the final warning is again rejected disclosure should proceed.

RECOMMENDATION 23

The above disclosure should be carefully considered and require the approval of a senior police officer. If authorised disclosure should be carefully applied, for example,

- Before disclosing information to an employer, householder etc, the police officer should first ascertain if they have any prior knowledge of the sex offender. If they have the information should be checked for accuracy and supplemented if necessary.
- The person, for example, employer or householder or manager of a leisure activity should be informed regarding confidentiality and the use of such information. It should be clearly conveyed that disclosure is for public protection and specific purposes only.

*The proposed **warning system** places the onus on the sex offender to protect his own situation and thereby protect the public. It reinforces the principle of self-management by the sex offender. It avoids placing the police in an inappropriate supervisory role for which they have no powers or sanctions. It makes the sex offender responsible for the results of his own actions or inactions.*

SECTION 4

Policy Issues

National policy proposals if enacted will have implications for the Notification, Registration, Risk Assessment and Monitoring of specified Sex Offenders. This section of the report endeavours to assess and forecast such implications.

It is also acknowledged that some of the recommendations previously conveyed in this report could have more localised policy implications, for example, in relation to the organisation and administration of Police Sex Offender Units. The report, therefore, concludes with some policy recommendations in relation to police operational activity.

National

The Scottish Executive has recognised: “ – that there is no system of public protection that can eliminate totally the risk of predatory sexual offending” but believes that “everything possible must be done to ensure that adequate safeguards are in place and that public authorities have closed gaps and loopholes that could result in avoidable victimisation”. This has led the Scottish Executive to consider significant policy changes in relation to procedures and sentencing in pursuit of: “- a major improvement in the protection and safeguards available to potential victims of sex offenders”.

Such commitment to and continual review of policy initiatives is very much welcomed. This report focuses only on those of direct relevance to the Notification, Registration, Risk Assessment and Monitoring of Sex Offenders.

4.1 *Joint Working*

Over the years inquiries and inspections into a variety of cases have identified inadequate communication and collaboration between agencies as a common factor contributing to the incidents investigated. A recurrent recommendation has been the need for closer co-operation and communication between key agencies.

The most recent investigation into the management of a sex offender (April 2005) recommended that: “Social work and police services should ensure effective operational collaboration between social workers and police officers carrying out risk assessment and risk management duties. Staff should routinely share knowledge and expertise and work in partnership to deliver shared action plans to reduce risk”.

A policy proposal to such effect as contained in the Management of Offenders etc (Scotland) Bill is, therefore, much welcomed. The Bill: “ - requires responsible authorities in the area of a local authority to establish joint arrangements for the assessment and management of risks posed by specified categories of offenders, namely sex offenders subject to the notification requirements of the Sexual Offences Act 2003 - - “.

The Multi-Agency Public Protection Arrangements (MAPPA) introduced to England and Wales in April 2003 appear to be a prior enactment of the Scottish proposals. As their Guidance observes "The MAPPA are often understood as co-operation between police and probation locally, focused almost exclusively on the assessment and management of risk posed by offenders in the community. In fact the MAPPA are much broader and more complex than this. While much of their strength depends upon local police/probation joint working the MAPPA form the basis of public protection through a genuinely multi-agency partnership throughout the forty two areas of England and Wales. - - the MAPPA contribute significantly towards the integration of the work of a number of criminal justice agencies together with social care agencies such as health, social services and housing - - ".

MAPPA is a national policy and framework operated on an area basis.

RECOMMENDATION 24

It is suggested that development of a system similar to MAPPA be remitted to the proposed National Advisory Board and that subsequent implementation be a responsibility of the Community Justice Authorities proposed within the Management of Offenders etc (Scotland) Bill since it is noted that: "Community Justice Authorities will be responsible for the planning, co-ordination and monitoring of the delivery of community offender services - - ".

It is further recommended that any such Scottish developments take into account and implement the recommendations of the Information Sharing Steering Group and adhere to the already agreed National Concordat, which provides a structure for the management of risk and sharing of information in relation to sex offenders.

4.2 *The Responsible Authority*

The MAPPA framework, as described above, also defines the role and responsibilities of specified Responsible Authorities; primarily the police, probation service and the prison service. As Responsible Authorities their basic remit is to:-

- Co-ordinate the involvement of different agencies in assessing and managing risk.
- Enable every agency, which has a legitimate interest, to contribute as fully as their existing statutory role and function requires in a way that complements the work of other agencies.

Such agencies have in turn a **duty** to co-operate with the Responsible Authority.

4.3 *Duty to Co-operate*

In England and Wales, as underpinned and required by the Criminal Justice and Court Services Act (2000) and by the Criminal Justice Act (2003), a **duty** is imposed on a wide range of relevant agencies to co-operate, for example, local health authorities, housing authorities and registered social landlords, social services departments, social

security and employment service departments, youth offending teams, local education authorities, providers of electronic monitoring schemes etc.

The 2003 Act requires that the Responsible Authorities in each area and the Duty to Co-operate agencies together to draw up a memorandum setting out ways in which they will co-operate.

As the MAPPA Guidance observes: “Placing co-operation on a statutory basis underpins the good practice that has already developed and locates it clearly within the now established framework”.

4.4 *The Practicalities of Co-operation.*

In practice the Responsible Authority provides a point of contact for other agencies. Most areas have appointed a MAPPA Co-ordinator to whom any Duty to Co-operate Agency can refer concerns and or request advice. The Responsible Authority Co-ordinator could be a police officer or probation officer.

If required the Responsible Authority Co-ordinator will arrange a case discussion, conference or review and each MAPPA area has established clear referral criteria and protocols.

RECOMMENDATION 25

In relation to the Scottish situation it is proposed, in terms of joint working, that clear **duties** be placed on specified agencies to **co-operate** and on specific agencies to lead as **Responsible Authorities**, for example, police or social work (criminal justice services) as appropriate. It is further recommended that such arrangements be governed by the proposed Community Justice Authorities. This builds on Recommendation 17.

4.5 *Housing*

Accommodation for sex offenders is a vitally important issue. If sex offenders are to be monitored and or supervised effectively then they require to be housed in stable and appropriate accommodation.

It is acknowledged that there are a number of issues in relation to housing or accommodating sex offenders, for example, the supply of appropriate housing, the location, community concerns.

Sex offenders do, however, have the same housing needs as any other person. Current legislation does not allow for specific prescription of address but any proposed arrangements must be subject to appropriate risk assessment.

Current practice guidance on Housing of Sex Offenders in Scotland produced by the Chartered Institute for Housing in Scotland (April 1999) reaffirmed the importance of

community safety. The guidance recommended that all local authorities should develop a corporate sex offender management strategy as part of a wider community strategy. Any decision to offer or not to offer housing to a sex offender should be taken with the advice and input of the police and social work services. It was further recommended that any sex offender released into the community should have their accommodation arrangements examined by the police and or social work services as part of the risk assessment process.

The guidance concluded that environmental scanning or neighbourhood mapping should be used in planning for community safety.

The Expert Panel on Sex Offending supported the principle that :-

- “Sex Offenders should normally be accommodated in mainstream housing in the public and independent sectors within the local authority area from which they originate if appropriate.
- Any additional or unusual arrangements made to accommodate a particular offender should be in the context of managing risk and improving public safety.
- Blanket exclusions of sex offenders are not helpful but;
- Sex offenders should not be given special treatment merely because they are sex offenders”.

The Expert Panel advocated the need for a National Strategy in relation to the housing and accommodation of sex offenders.

It would appear, however, that there has been inconsistent practice by housing providers and other key agencies. As a result the Scottish Executive has commissioned the Chartered Institute for Housing in Scotland to review the situation and produce updated practice guidance by Autumn 2005. It is understood that the Scottish Executive has also requested the Chartered Institute for Housing in Scotland, in conjunction with the Convention of Scottish Local Authorities and the Scottish Federation of Housing Associations, to consider and report on the development of a proposed National Accommodation Strategy for Sex Offenders. At the time of writing this report both responses were still awaited. No further comment in relation to housing is, therefore, appropriate or possible at this stage.

4.6 Risk of Sexual Harm Orders.

As previously described in Section 3, RSHOs are designed to restrict potential sex offenders from engaging in certain activities, for example, making contact with or visiting a particular person’s home. Prior to and following the imposition of an RSHO a risk assessment should be undertaken by the police and social services involving other agencies as appropriate. RSHOs will be granted and imposed by a Court and will give the police or social services powers to monitor the activities of the person specified. Since, however, the person specified will not have been convicted of a related offence the Court cannot impose Notification Requirements. It will not be possible, therefore, to include the specified person in the formal statutory Sex Offenders Register. This is viewed as a weakness albeit a legislatively understandable one.

It is, however, noted that a breach of RSHO requirements would be deemed a criminal offence for which any subsequent conviction could entail compliance with Notification Requirements.

RECOMMENDATION 26

To ensure and reinforce the importance of RSHOs it is proposed that details of the specified person be contained within the Sex Offender Register (VISOR) in the non-registered category.

4.7 Grooming.

The Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 will introduce a new offence of grooming. A person could be prosecuted for the offence of grooming if he;

- Has met or communicated with a child on at least two occasions and then;
- Intentionally meets or travels with the intention of meeting the child and
- Intends to do anything to or in respect of the child which could be a sexual offence.

Persons convicted of grooming will be subject to Notification Requirements and will increase the number of Registered cases. This will have implications for police resources as referred to later.

Note: In relation to **Risk of Sexual Harm Orders** (4.6) and **Grooming** (4.7) very recent amendments to the Bill/Act of 2005, as outlined in 3.5, will have major implications. It is understandable why the previous age restriction i.e. relating to those aged over 18 has been removed since as the Expert Panel on Sex Offending observed: “Young people commit a significant proportion of all sexual offences. It is estimated that around 30% of all sexual offences are committed by young men under the age of 21. Sex offending or sexually aggressive behaviour tends to start in adolescence and be a precursor to later sex offending”.

Since RSHOs and the new offence of Grooming can now relate to young persons this will have implications for the Courts, Children’s Panels, Police and Social Services in particular.

As the time of writing this report no further information or guidance was available. The only conclusion reached at this stage, therefore, is that adults subject to RSHOs should be registered in accordance with Recommendation 26.

4.8 Sexual Offences Prevention Orders (SOPOs).

As previously noted in this report a SOPO, whether full or interim, can only impose restrictions on the behaviour of a sex offender. It cannot require the sex offender to comply with conditions requiring positive action other than a Notification Requirement in terms of the Sexual Offences Act 2003.

Powers to the police to impose proactive conditions on sex offenders in terms of their activities and or circumstances was previously considered in this report but rejected.

The power of a Court to impose a SOPO at time of sentence is, however, welcomed providing the requirements of the order are relevant and realistic and can be effectively monitored by the police. Offenders' circumstances do, however, change; some rapidly. While there is legislative provision to facilitate variation of a SOPO, to accommodate change of circumstances, current procedures to obtain amendments to conditions are a lengthy process and thereby a risky one in terms of public protection.

RECOMMENDATION 27

It is proposed that the Courts Administration introduce a fast track system to enable a Court to consider and, where appropriate, amend a SOPO on application from a senior police officer. It is essential that any prohibitions within a SOPO are relevant and current.

4.9 Early Release.

It is understood that the Scottish Executive proposes to end the unconditional early release of sex offenders sentenced to imprisonment of six months or more and that this change will be introduced by the Management of Offenders etc (Scotland) Act currently at the Bill stage. It is thereby intended that offenders will be released on licence subject to conditions and be supervised for the remainder of their sentence.

The above proposal is welcomed but the anticipated increase in Notification Requirements will have resource implications for the police. This is referred to later.

It is further understood that the Scottish Executive has requested the Sentencing Commission to undertake a wider review of early release arrangements. At the time of this report the results were unknown.

It is, however, believed that the objectives of any change in early release and or supervision requirements will be to ensure that :-

- Other than in low risk cases no sex offender will be released into the community without some form of post-release supervision in terms of public protection.
- There is discretion about the timing of release for a person serving a custodial sentence of significant length for a sexual offence to ensure the risk to the community can be minimised.

Such objectives are welcomed.

4.10 *Compliance with Notification Requirements.*

As previously stated and now reaffirmed Registration and the provision of relevant information for monitoring purposes is of fundamental importance. Again, as previously noted, a number of sex offenders subject to Notification Requirements are also subject to licence conditions.

RECOMMENDATION 28

To reinforce the importance of Notification Requirements it is proposed that where appropriate such requirements be incorporated as a condition of licence. Failure to Notify and Register could then result in revocation of licence and recall arrangements in accordance with the Prisoners and Criminal Proceedings (Scotland) Act 1993. This could be a quicker method of dealing with the offence of failing to comply with Notification Requirements and have major implications for subsequent licence arrangements. Such a process may need further legislation requiring the Parole Board to instruct recall for such a breach of licence conditions.

4.11 *Electronic Monitoring*

Much has been said and claimed for electronic monitoring. Current systems can only establish that an offender is not where he is meant to be but cannot identify where he actually is. It is understood that the Home Office is piloting, in the Greater Manchester Police area, tracking technology by which the actual location of offenders can, in fact, be identified and monitored via a satellite controlled device. The pilot project in relation to satellite tracking has only recently commenced and it will be some time before results regarding effectiveness are known.

It is further understood that the extension or otherwise of compulsory electronic monitoring for sex offenders has been remitted to the Sentencing Commission for review and recommendation. Again their report is awaited and, therefore, no further comment is made at this stage.

Local Policies

The following considerations and recommendations relate to police authorities. It is believed that these are fundamental and operational policy issues.

4.12 Resources.

The introduction of Risk of Sexual Harm Orders, extension in the use of Sexual Offences Prevention Orders, the new offence of grooming, changes in early release arrangements, etc, potentially all have resource implications for the police.

It is already very apparent that the Sexual Offences Act 2003 resulted in a significant increase in the workload of the police but without commensurate increase in operational resources.

A similar situation is evident in England and Wales where in the course of a research investigation, a senior police officer observed: "If we are going to take on more sex offender monitoring we have to have the resources to deal with it. It would appear that no one has thought out the full operational implications. This work calls for specialist officers who can be proactive and conduct their own investigations because it is not possible to devote resources to this in terms of day to day policing". Another senior police officer observed: "how much priority does work with sex offenders actually have. Where does it rate in terms of drugs, youth crime and house breaking?".

RECOMMENDATION 29

It is, therefore, proposed that each police authority review the strengths and weaknesses of their current operational arrangements and establish whether there is a need for increased specialisation and or additional resources.

Such a review should also:-

- Reassess the priority accorded to work with sex offenders..
- Evaluate the contribution of sex offending intelligence to wider crime prevention and detection systems.
- Consider the benefits of a combined Violent Persons and Sex Offender (VISOR) Team

The results of the review in each police authority area should be reported to and carefully considered by the Scottish Executive.

4.13 Sex Offender Units

There are apparently around sixty operational police officers deployed throughout the eight Scottish police authorities to focus on the registration and monitoring of sex offenders. In addition a significant number of senior officers are involved in a supervisory and management capacity.

Police authorities use different terminology to identify their specialist units; in some it is the Sex Offender Unit, in others the Offender Assessment Unit. Some are in turn attached to Family Protection Units, others to the general CID system. Such internal

arrangements are, of course, a matter for the Chief Constable, given the scale and organisational nature of his/her police authority.

It is of concern that in some police authority areas major difficulties have been encountered in recruiting officers to sex offender units. Apparently some operational staff view such attachments as “a backwater, a diversion from real policing, a job for officers approaching retiral”.

Some police authority areas require officers to serve for a specific period, for example, three years. Others have no set arrangements.

There was general agreement that serving in sex offender units must be made more attractive, if at all possible, to police officers. It should be viewed as a positive move in career development terms. It is believed that this could be achieved.

RECOMMENDATION 30

Sex Offender Units should have a common designation and thereby be viewed as part of a national system. This will be enhanced by the introduction of VISOR.

RECOMMENDATION 31

Sex Offender Units should have “serious crime” status, have a clear offender focus and be clear about their monitoring and policing functions as previously stated in this report.

RECOMMENDATION 32

Officers involved should undertake nationally provided training on monitoring of sex offenders.

Building on the current requirement that police officers in sex offender units undertake risk assessment training, this should, in turn, lead to formal national accreditation by the Risk Management Authority. This would enhance the status of officers involved in such specialist units.

RECOMMENDATION 33

Since officers should be required to undertake the above training and receive the appropriate accreditation, they should also be required to complete a specified period of tenure. It is proposed that this be three years, subject to ongoing review, and be renewable on one occasion only to a maximum of six years in total.

Secondment of officers from other police activities into sex offender units should be considered as part of a professional development, recruitment and job enhancement process. Service within sex offender units should be acknowledged and viewed in positive terms in relation to career prospects.

RECOMMENDATION 34

Appointments to Sex Offender Units should have specific job descriptions and terms of reference clarifying the extended and specialised policing role.

RECOMMENDATION 35

The role of sex offender units within the police investigation and intelligence system should be continually reinforced and enhanced. The VISOR system should again facilitate this.

4.14 Support Staff.

Early in the investigations the possibility of support staff to assist qualified police officers was considered. It was, however, rejected in terms of the risk assessment and risk management of sex offenders. Civilian support staff would not have the necessary powers to undertake such functions or to deal with any further crimes identified. There is, however, a role for support staff.

RECOMMENDATION 36

It is proposed that support staff be recruited to input information to VISOR, to collect and analyse appropriate data and to undertake research as appropriate.

Summary

The remit issued by the Minister for Justice was very appropriate and sadly timeous. There are many weakness in the current system and urgent measures are required to reduce the likelihood of further tragic incidents. The identified weaknesses are mainly in terms of inadequate procedures and powers not in relation to the commitment and expertise of the police and other relevant agencies. They have striven hard to meet the duties placed on them.

It is, however, acknowledged by the writer and Expert Panel that no system will ever provide absolute protection from predatory sex offenders. A recent research study found that 36% of serious sex offenders had no corresponding previous convictions and, as accepted, risk assessment is not and may never be an infallible science.

Nonetheless the focus of my report has been on greater individual and public protection and harm reduction by more efficient risk assessment and more effective risk management. This requires much improved methods and increased powers.

In making the 36 recommendations for improvement I endeavoured to take account not only of current issues but of new or imminent legislative and procedural changes. I also attempted to keep the report as brief and focussed as possible as an aid to practical application and urgent improvement.

Finally, I accept that some of my recommendations may be open to challenge in terms of Human Rights legislation. I believe, however, that the community right to safety and an individuals right to protection outweigh such considerations.

I contend that if a sex offender is made subject to a Notification Requirements or other relevant order then a Court has registered ongoing concern for public and individual safety. The recommendations contained in my report are in response to such concerns and to the lessons learned from the tragic death of a child at the hands of a sex offender.

Professor George L Irving
July 2005

Persons and Agencies Interviewed and Consulted

Police

Special Acknowledgements.

Deputy Chief Constable Bob Ovens, Dumfries & Galloway and ACPOS Child Protection Portfolio Holder for his ongoing and unfailing support and advice.

Assistant Chief Constable John Corrigan, Strathclyde and ACPOS Crime Secretariat for facilitating and arranging contact with key personnel.

Detective Chief Superintendent Ian MacLeod and Detective Constable Elaine Stewart, Tayside for arranging my involvement with the ACPOS Sex Offenders Working Group.

Senior Officers.

Chief Constable Ian Latimer, Northern Constabulary.

Sir John Orr, former Chief Constable, Strathclyde.

Detective Superintendent Alex McAllister, Family Protection Co-ordinator, Strathclyde.

Detective Superintendent Ian McCandlish, Scottish Intelligence Database.

Detective Chief Inspector David Swindle, Strathclyde.

Detective Chief Inspector Carol Ashworth, Greater Manchester.

Detective Chief Inspector Tom Crozier, Fife

Detective Inspector Bill Sturgeon, Family Protection Unit, Dumfries & Galloway.

Detective Inspector Andrew Gosling, VISOR Team.

Detective Inspector Michael Sanderson, Greater Manchester.

Front Line Officers.

Detective Sergeant Gail McClymont, Strathclyde.

Detective Sergeant Edward Tweedie, Offender Assessment Unit, Strathclyde.

Detective Sergeant Nigel Orkney, VISOR Implementation Team.

Sergeant David Pate, Offender Assessment Unit, Strathclyde.

Detective Constable Barry Ivison, Fife.

Constable Kevin McCusker, Strathclyde.

Constable Caroline Rankin, Strathclyde.

Detective Constable Audrey Watt, Tayside.

Constable Gillian Wilson, Strathclyde.

Members of the ACPOS Sex Offenders Working Group.

Detective Inspector Coates, Tayside; Detective Inspector Riley, Grampian; Detective Sergeant Blackely, Dumfries & Galloway; Detective Sergeant Hendry, Central; Detective Sergeant Johnston, Strathclyde; Detective Sergeant Howie, Northern; Detective Constable Craig, Grampian; Detective Constable Ivison, Fife; Detective Constable Halliday, Central Scotland; Detective Constable Stewart, Tayside; Detective Constable Watson, Lothian and Borders.

The contribution of the ACPOS Sex Offenders Working Group by commenting on the initial findings and by responding to a detailed questionnaire is particularly appreciated.

Other Agencies and Individuals Interviewed and Consulted.

Crown Office.

Mr Andrew McIntyre, Procurator Fiscal Depute Policy Group.

Risk Management Authority.

Ms Roisin Hall, Chief Executive and Mr Robert Winter, Convenor.

Scottish Prison Service.

Mr Alex Spencer, Director of Rehabilitation and Care. Mr Tony McNulty, Senior Social Work Advisor.

Scottish Executive.

Ms Micheline Brannen, former Head of Criminal Justice Group; Dr George Burgess, Head of Division, Criminal Justice Group Projects; Mrs Elizabeth Carmichael, Head of Division Community Justice Services; Ms Sharon Grant, Head of Branch Community Justice Services; Ms Jo Knox, Former Inspector, Social Work Services Inspectorate

Social Services.

Mr Alan Baird, Director of Social Services, Dundee City Council and Chairman Association of Directors of Social Work, Criminal Justice Committee.

Ms Doreen Peat, Manager Criminal Justice Services, Fife; Mr Rennie McLean, Criminal Justice Manager, North Ayrshire Council; Mr Jim Murphy, Social Worker, North Ayrshire Council; Mr Jim Hunter, Criminal Justice Manager, South Ayrshire Council, Ms Anne Miller, Senior Social Worker, Inverclyde Council (HMP Greenock).

Ms Cathy Morrison, Service Manager, SACRO.

The contribution of each and everyone is very much appreciated.

I also convey my sincere apologies to any other contributors omitted from the above. Interviews and consultations were extensive and involved meeting teams of police officers, social work personnel and representatives of other agencies. Discussions were lively and as a result I may not have accurately recorded all those in attendance. For this I apologise.

Finally, my very sincere appreciation to Mr Ian Fleming, Police Division Scottish Executive, who acted as my administrative officer and in so doing arranged and co-ordinated a number of visits, provided background material on request and advice as required. His support was invaluable.

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