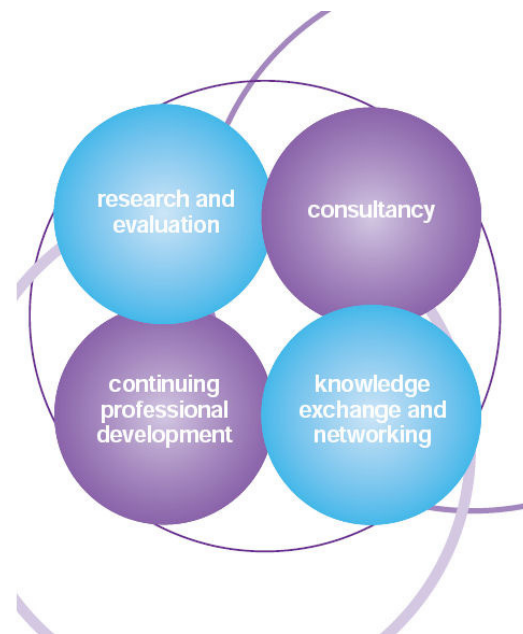


Hallam Centre for Community Justice Briefing Paper:

Sex Offender Registration - a Review of Practice in the United Kingdom, Europe and North America

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Sex offender registration can be traced to the USA where sex offender registers began in Arizona and California in the 1940s, but it was not until the 1950s that increased public awareness of sexual offending caused politicians to introduce registers for all states and ultimately public access to those registers (Thomas 2003: 218-219). Views on the use of sex offender registration differ across countries, with the USA at one end of the spectrum, revealing the details of sex offenders on a searchable website. The UK and Canada, although not at this stage yet are moving in the direction of the approach taken by the USA (Petrunik and Deutschmann 2007: 508). Europe, at the opposite end of the spectrum favours the combination of medical and psychological approaches. This briefing paper provides an overview of the background to sex offender registration, in the UK, Europe, the USA and Canada as well as the current situation, potential future directions for the practice and alternative approaches to dealing with sex offenders.

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Background and Introduction

Sex offender policy is one of the most controversial areas of criminal justice policy. The hatred of sex offenders as a group is unequalled by popular attitudes to any other kind of offender (Sampson, 1994; Wakefield, 2006 in Jung and Nutley 2008: 189). Therefore policies and procedures relating to sex offenders have been said to be driven by public outcries following highly publicised sex offences (Radford 2007 in Jung and Nutley 2008: 189).

Purpose of Sex Offender Registration

The ultimate goal of sex offender legislation is to create safer societies (Meloy et al. 2007: 439). Petrunik and Deutschmann (2007: 509) note that Europe, the UK, the USA, Canada, Australia and New Zealand have all had triggers for public outrage against sex offender. The assumption that sex offenders recidivate more than other offenders is a central motivation for registration and notification laws. The public will support surveillance of those it believes poses them a threat, in order to feel secure, particularly in a society where anxiety is linked to perceptions of crime, disorder and the dangerous classes. However, many crime control initiatives may actually serve to heighten their sense of fear and insecurity (Petrunik and Deutschmann 2007: 501).

Rates of Recidivism

- Hanson and Bussiere (1998: 357) noted that as a group, sex offenders have a low rate of recidivism. 13.4% of 23,393 were known to have committed a new sexual offence within the average 4-5 year follow up. Even in studies with thorough record searches and long follow up periods (15-20 years) the recidivism rates almost never exceed 40%.
- There is a lack of support for the idea that notification reduces recidivism. Firstly there are difficulties around reliably estimating whether notification statutes have worked and there is only limited support for the reduction of recidivism as a result of registration (Welchans 2005 in Mercado et al. 2008: 189). Schram and Milloy (1995 in Mercado et al. 2008: 189) found that the sexual recidivism rate of sex offenders was not significantly different from that of a comparison group of sex offenders who were not subject to notification.
- In the UK, the compliance rate for the sex offender register was high; by 2000 it was estimated at 94.7%, (Plotnikoff and Woolfson 2000: 6 in Thomas 2008: 229) rising to 97% by 2001 (Home Office/Scottish Executive 2001: 12 in Thomas 2008: 229). The numbers on the 'register' also rose steadily, reaching from about 15,000 in 2001 to just under 30,000 in 2006 (Thomas 2008: 229).
- In the USA, it is reported that stigma associated with community notification may inadvertently increase the likelihood of recidivism among some sex offenders, in particular those who are low-risk by making it more difficult for them to achieve meaningful stability in important areas of their lives and facilitate positive relationships (Meloy et al. 2007: 438).

Approaches to the Registration of Sex Offenders

The United Kingdom

In the UK, sex offenders are treated as criminals who have a choice. The Home Office believed that a UK register would:

- a) Help (the police) identify suspects once a crime had been committed
- b) Possibly help them to prevent such crimes and
- c) It might act as a deterrent to potential re-offenders

'The register was not a form of punishment or a sentence of the court, but an add on additional feature designed in the interests of public and child protection. It was a regulatory feature that followed automatically from a conviction and a sentence, and the Home Office has always been quite clear that it is: 'a measure aimed at helping to protect the community from sex offenders not an additional penalty for the sex offender' (Home Office 1996 in Thomas 2008: 228).

Europe

Europeans believe that sex offenders are sick but curable (Petrunik and Deutschmann 2007: 502). Their approaches focus more on psychiatry in assessment, treatment and management (CEP Workshop Publication 2003). Nordic, Baltic and Germanic countries favour chemical castration and psychotherapy and behavioural therapies (Petrunik and Deutschmann 2007: 502). 'Europeans generally have systems that although moving toward more surveillance, remain focused on the medical model and are less stigmatising and less likely to involve permanent exclusion from society' (Petrunik and Deutschmann 2007: 505).

United States of America

North America's approach to sex offenders is that they are 'evil' and incurable (Petrunik and Deutschmann 2007: 502). Community notification through Megan's Law is not seen as an additional punishment but as a form of regulation to achieve greater community safety and public protection (Thomas 2003: 217). There has been an increasing trend among 'Anglo-American' societies to widen their social control nets by creating new kinds of sexual offences, such as sexual exploitation and invitation to sexual touching (Jenkins 1998 in Petrunik and Deutschmann 2007: 500).

Canada

Canada is 'in the middle' in terms of its approach to the registration of sex offenders (Petrunik and Deutschmann 2007: 508). Canada rely on the parole system to help manage the gradual and supported release of offenders; sex offenders tend to be let out on the last day of their sentence as they are considered to present the highest risk, however this approach may not be helpful for the offenders as they have no time in which to be re-introduced into life in the community. Canada has two sex offender registration systems, both at regional and national levels, however notification is limited and details of sex offenders are only revealed where necessary. Canada has also developed restorative community justice approaches (Petrunik and Deutschmann 2007: 505).

Landmark Decisions for Sex Offender Registration

The United Kingdom

Sex Offenders Act 1997 - The sex offenders register contains details of anyone convicted, cautioned or released from prison for sexual offence against children or adults since 1997 (Batty 2006):

- Part I of the Act imposes a requirement on certain sex offenders to notify the police of their name(s) and address and any changes to these details in order to ensure that the information on sex offenders contained within the police national computer is kept fully up to date (Home Office Press Release 1997).
- The purpose of Part II of the Act is to give United Kingdom courts jurisdiction to deal with those who commit certain sexual acts against children abroad (Home Office Press Release 1997).

Sexual Offences Act 2003

- A new order to make those known to have been convicted of sex offences overseas register as sex offenders when they come back to the UK, whether or not they have committed a crime here
- All those on the sex offenders' register to confirm their details in person annually
- Offenders on the register to provide NI details as a further safeguard against evasion. And new powers to enable the police to cross-check details of offenders on the register with passport, NI and driving licence records, once the infrastructure is in place, so that the breaches can be identified more quickly.
- The period within which a sex offender must notify the police of a change of name or address to be reduced from 14 days to three.
- Sex Offender Orders and Sex Offender Restraining to be amalgamated into a Sexual Offences Prevention Order (SOPO) and made available for anyone convicted of a violent offence where there is evidence they present a risk of causing serious sexual harm (Home Office Press Release 2003).

Violent Crime Reduction Act 2006

- New powers for the police to enter and search the house of a person on the sex offender 'register' in order to assess the risk they might pose by way of reoffending (Thomas 2008: 233).
- Also in 2006, the Home Office announced the widening of the number of designated offences leading to inclusion on the register. Including: outraging public decency, inflicting grievous bodily harm or do unlawful damage and child abduction (Thomas 2008: 234).

Review of the protection of children from sex offenders - 2007

- Suggested a series of measures that might be looked at including polygraphs, medication to reduce sexual desires, and the use of satellite tracking to monitor high-risk offenders. Also suggested the need for more information to be notified to the police by those on the 'register'. This included: email addresses, passport numbers, bank account numbers, details of any children living in the same household, notification of any foreign travel - rather than travel over three days as at present, to report regularly to a police station if offenders register as homeless and the provision of DNA samples if not already given (Home Office 2007: 18 in Thomas 2008: 234).

Europe

Individual European countries have always had their own laws on sexual offending reflecting the cultures and expectations of those countries (Hebenton and Thomas 1999: 151).

France

1990s

- French sex offenders who had served their sentences were offered anti-depressants and oestrogen to reduce their sex drive but this was not effective (Smith Duval 2004).

Denmark

1920s

- Authorised preventive confinement legislation in 1925 (Lieb 2000: 433)

Netherlands

1920s

- Addressed dangerous offenders in legislative initiatives, allowing combinations of criminal sentences, commitment to psychiatric institutions and special indeterminate sentences (The Netherlands, Ministry of Justice 1994 in Lieb 2000: 433).

Italy

- Introduced indeterminate confinement for socially dangerous recidivists, legislation that was modified in 1953 and 1975 (Lieb 2000: 434).

Germany

1933

- A law created indeterminate preventive confinement in a penal institution for habitual offenders and dangerous sex offenders (Lieb 2000: 434).

1997 - Natalie's Law

- Significantly changed sex offender sentences and reduced the criminal history prerequisites for incapacitation sentences (Lieb 2000: 434).

The United States of America

1995 - Child Molester Identification Line

- Information on the whereabouts of registered sex offenders was made available to the public (Megan's Law Website, accessed on 31/10/08).

1991- Minnesota Sex Offender Registration Act

- The first organised and compiled list of sex offenders which came out of the search for Jacob Wetterling (Stevens unknown).

1994 - Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act

- Requires states to implement a sex offender and crimes against children registry (US Department of Justice Website, accessed on 9/10/08).

1996 - Megan's Law

- Amends Wetterling Act; requires states to establish a community notification system (US Department of Justice Website, accessed on 9/10/08).

1998 - Amendments to the Jacob Wetterling Act

- Include heightened registration requirements for sexually violent offenders and participation in the National Sex Offender Registry (US Department of Justice Website, accessed on 9/10/08).

2000 - The Campus Sex Crimes Prevention Act

- Amends Wetterling Act; requiring offenders to report information regarding any enrolment or employment at an institution of higher education and to provide this information to a law enforcement agency whose justification includes the institution (US Department of Justice Website, accessed on 9/10/08).

2006 - Adam Walsh Child Protection and Safety Act

- The purpose of this act is to try and protect children from exploitation and violent crime (Stevens, unknown).

Canada

Christopher's Law - 2001

- Ontario was the first jurisdiction in Canada with a sex offender's register (Friscolanti 2008a).

Sex Offender Information Registration Act - 2004

- Canada's national sex offender's registry which was introduced (Friscolanti 2008a).

Current Arrangements

The United Kingdom

In the UK, the sex offenders register contains details of anyone convicted, cautioned or released from prison for sexual offence against children or adults since 1997, when it was established with the introduction of the Sex Offenders Act. The register is run by the police and is not retroactive. All convicted sex offenders must register within 3 days of their release or conviction. This is monitored by the police, who receive notification from the courts following conviction, and both the prison and probation service following an offender's release into the community (Batty 2006). The Home Office allows information to be disseminated by police in a 'controlled' fashion to other professionals (for example, housing officials, schools, social services departments) and occasionally members of the public, for example, victims of offenders but a general public right of access does not exist (Thomas 2003: 218).

Europe

France

France piloted the inhibition of sex offenders' sex drives via the use of drugs in 2004. The pilot involves a two year trial where repeat offenders will be offered counselling and treatment using two drugs that inhibit the development of male sex hormones. France will not make the treatment obligatory and would not consider voluntary chemical castration of sex offenders (Smith Duval 2004).

Sweden

Under the Criminal Code, indeterminate preventive detention is authorised. The internment sentencing allows a minimum of one and a maximum of twelve years institutional confinement. Extensions may be permitted by the court for three years at a time, with lifetime sentences possible if requested by the board (Sansone 1976 in Lieb 2000: 434). Sweden

offer drugs to repeat sex offenders on a voluntary basis after they have left prison and in combination with psychotherapy (Smith Duval 2004).

Denmark

Offer drugs to repeat sex offenders on a voluntary basis after they have left prison and in combination with psychotherapy (Smith Duval 2004).

Italy

In Italy there is no national register of sex offenders (Fraser 2006).

The United States of America

Despite the implementation of the Jacob Wetterling Act, increased mobility within society has led to sex offenders being 'lost', i.e. those who fail to comply with registration duties yet remain undetected due to inconsistencies among state laws (missing kids.com, accessed on 23/10/08). The introduction of the Adam Walsh Child Protection and Safety Act should see more accurate and up to date registries and increased ability of the state to provide support (US Department of Justice Website). Final guidelines were published for the Act in 2008; they provide direction and assistance to all jurisdictions in their efforts to meet the minimum standards of the Act (US Department of Justice Press Release 2008).

Canada

Canada has two sex offender registration systems, the province of Ontario's registry and the national registry and five provinces have a limited form of notification under community safety legislation (Petrunik 2003 in Petrunik and Deutschmann 2007: 505). Under exceptional circumstances, extra controls can be applied that place limits on residency, association with others and movement in public places (Petrunik and Deutschmann 2007: 505). A prosecutor must ask the judge to order a defendant onto the database, which does not always happen, often due to human error (Friscolanti 2008c). Authorities are only allowed to access the database after an incident has occurred and are not permitted to search the database themselves; they have to contact a specialist agency. A registered offender has to inform police if they are going on holiday, but only if it is for longer than two weeks. Anything less than that does not need to be reported. Authorities are unable to share any information on the proposed visits of sex offenders to foreign countries. Additionally, correctional services do not inform registry officials when federal inmates are released, meaning that the RCMP is not aware of the fact that hundreds of offenders are expected to register (Friscolanti 2008a).

Future of Sex Offender Registration

The United Kingdom

The Home Office is piloting the limited opening up of sex offender information to parents worried about specific individuals who have access to their children. From June 2008, police can decide whether parents in Cambridgeshire, Cleveland, Hampshire, and Warwickshire can discover if a person who has access to their child has had any previous convictions for child sex offences, if it is in the child's best interests. All parents must first sign an affidavit (Oates 2008).

In August 2008 the Home Office announced new measures to strengthen restrictions against child sex offenders and build on the UK's existing regime. These new measures include:

- Removing the need for recent evidence when the police are seeking a Sexual Offences Prevention Order (SOPO)

- Requiring registered sex offenders to notify the police earlier of their intentions to travel abroad
- Automatic removal of an individual's passport when they are subject to a blanket foreign travel order
- Extending the duration of a foreign travel order from the current six months (Home Office Press Release 2008)

Also under consideration but yet to be approved are:

- Further restrictions on passport issuance and validity
- Raising the upper age limit concerning the child at risk (from 16 to 18) to allow for a Foreign Travel Order to be made for this age group in certain circumstances (Home Office Press Release 2008)

Europe

- European countries, such as France and Belgium have been slower to adopt registries than in the UK, USA and Canada although this is now beginning to change as the result of high profile incidents (Petrunik and Deutschmann 2007: 500).
- A popular poll (for the Madeline McCann campaign) found 84% of MPs agreed that sex offenders should be tracked across Europe and forced to register with local police. Nearly nine in ten also said that the Child Rescue Alert should be adopted across Europe. The initiative is in place within the UK and is designed to heavily publicise an abduction in the first few hours - described as the 'golden hour' by investigators (www.politics.co.uk, article - 23/8/07, accessed on 10/10/08).

The United States of America

- In the USA it appears that registration and notification requirements have been tightened, although it is questionable that community notification has actually led to a reduction in sex offences (Scott & Gerbasi 2003; Berlin 2003 in Weiss and Watson 2008: 117).
- The most up to date information available highlights that the USA is focused on ways to increase public protection from sex offenders, particularly in ways outside of the context of the criminal law. Citizens and governments are pushing for specialised remedies and powers. Risk assessment, in terms of, not the actual event, but which individuals in a group pose the highest risk of reoffending will be an important component of future directions for sex offender registration in the USA (Lieb 2000: 436-437).

Canada

- It has been revealed that hundreds of paedophiles and rapists are missing and hundreds more were never added to the system (Friscolanti 2008b). The sex offender registry is incomplete and there are problems with keeping track of those who are on the registry, many of whom are non-compliant (Friscolanti 2008b). Police and Government officials are now are working on a major overhaul of Canada's sex offender registry and increased communication with law enforcement after a magazine expose on the system (reported by Friscolanti 2008c).
- A recent study in Canada showed that of 47,000 offenders, after 15 years, fewer than one quarter were rearrested for another sex crime. Those who undergo treatment are even less likely to reoffend. Often, offenders on the system are on their first offence, therefore the registry has not done its job in their case, of helping to prevent them committing crimes in the first place (Friscolanti 2008a).

Alternative Options for Dealing with Sex Offenders

It is important to note that sex offender registration is not the only option available for dealing with sex offenders. This section provides a brief overview of alternative options in the United Kingdom and the United States of America.

The United Kingdom

- Surgical treatments - these procedures are now very rare due to the side effects and the fact that the procedure is irreversible. Includes chemical castration from which the evidence of effectiveness is ambiguous.
- Pharmacological treatments - studies have found that anti-libidinal medication can be helpful; it is necessary to gain the informed consent of offender and they have the ability to withdraw from taking the medication. However, this treatment is not suitable for all sex offenders and you have to assume that the medication is being taken.
- Psychological treatments - helping the offender gain insight into how they acquired their offending behaviour/personality, helping them to control or remove what is maintaining the offending behaviour and helping to prevent a relapse when under stress/in high risk situations in the community. Treatment includes skills based interventions, behaviour modification and insight interventions. Including cognitive-behavioural approaches (Perkins et al. 1998: 7-9).
- The Sex Offender Treatment Plan (STEP) began in 1991 as part of a national strategy for the integrated assessment and treatment of sex offenders; it is currently run in 25 establishments. The central part of the SOPT is the core programme whose primary purpose is to increase the offender's motivation to avoid re-offending and to develop the self-management skills necessary to achieve this. Comprehensive assessment is also an integral part of the programme which informs decisions about the nature of future risk of the offender. At the moment the core programme consists of 86 sessions including additional elements such as role play. Group work plays a large role, allowing offenders to publicly admit that they need to change. The treatment approach is a cognitive behavioural one which is considered the most effective for this group. The cognitive aspect involves recognising the patterns of distorted thinking which allow the contemplation of illegal sexual acts and understanding the impact that sexually abusive behaviour has on its victims. The behavioural component of treatment involves reducing sex arousal to inappropriate fantasies of forced sexual activities with children and adults (Beech et al. 1998: 5).
- An evaluation of this study carried out in 1998 found that of the 56 men, who agreed to be seen at the 9 month follow up period, 32 were still in prison and 24 had been released. Overall they found that the treatment changes brought about by the Core Programme were maintained. They found that the longer the therapy the more successful it was in changing attitudes and instilling effective relapse prevention techniques (Beech et al. 1998: 8).

Successful sex offender programmes are those which:

- Address developmentally generated dispositions to offend; past, present and future
- Address the development of offender insight, motivation not to offend and the skills necessary to avoid offending and achieve a non-offending lifestyle
- Utilise treatment methods geared to the needs and capabilities of the offender in treatment

- Utilise combinations of group and individual therapy as appropriate for different aspects of treatment and assessment (Perkins et al. 1998: 3)
- Perkins et al. (1998: 18) in an analysis of studies found that the cognitive behavioural approach can demonstrably improve survival rates.
- MAPPA (Multi-Agency Public Protection Arrangements) support the assessment and management of the most serious sexual and violent offenders. The aim of the MAPPA is to ensure that a risk management plan drawn up for the most serious offenders benefits from the information, skills and resources provided by the individual agencies being coordinated through MAPPA. Key features: Identifying offenders to be supervised under MAPPA - there are three categories- 1. Registered sex offenders, 2. Violent or other sex offenders and 3. Other offenders. Also, sharing of information, assessing the risks posed by offenders and managing the risk posed by individual offenders (MoJ Website).

Plotnikoff and Woolfson (2000 in Jung and Nutley 2008: 194) highlighted several shortcomings in and concerns about existing arrangements to deal with sex offenders. These related to:

- Deficiencies in the current legislation
 - Inadequate resources for monitoring offenders
 - Increased workloads
 - Fears that resources had been diverted away from other categories of higher-risk offenders
 - Timeliness and quality of the flow of information from courts, prisons and hospitals regarding offenders required to register
- The creation of unrealistic expectations on the part of the public and other agencies

The United States of America

- Options in the USA - sex offender registration, community notification, involuntary civil commitment (involuntary confinement of a 'mentally disordered' sex offender after the completion of a prison term (La Fond 2000 in Meloy 2007: 426)) and mandatory sex offender therapy (Meloy et al. 2007: 437).
- Residency restrictions laws - aim to increase public protection by limiting where sex offenders live. Their efficacy in reducing rates of sexual recidivism is unknown, their constitutionality has been questioned and their potential to increase re-offence risk has been noted. As yet there has been no research examining whether residency restrictions work specifically to reduce recidivism (Mercado et al. 2008: 190).
- The literature evaluating the public safety impact of sex offender registration and community notification laws is scant (Meloy et al. 2007: 425).

The most recent suggestions for dealing with sex offenders include:

- Mandatory life sentences for some sex offenders
- Global Positioning System which works in real time and also the possibility of incorporating exclusion zones so that the system sets off an alarm to law enforcement authorities if an offender enters into these restricted areas.
- Monitoring for released offenders
- Predator free child molester zones
- A national sexual predator monitoring proposal (Meloy et al. 2007: 424).

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