

# ‘THE SUPERVISION OF SEX OFFENDERS IN THE COMMUNITY – AT WHAT COST?’

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## *Abstract*

*The intention of this dissertation was to examine the effectiveness of current practises in place by the criminal justice system to supervising sex offenders in the community. While treatment techniques within a custodial setting have been investigated in previous research, there has been a deficiency in research once sex offenders are released. It considered legislation which has introduced such measures to monitor sex offenders upon their release from custody and analyses the methods and accuracy of risk assessments before reverting back to a debate which highlights the difficulties in balancing the human rights of the sex offender against the rights protecting the public.*

*A literature review was employed throughout the paper to gain a wide scale of knowledge from varying sources made accessible via Nottingham Trent University. This allowed the dissertation to develop a stance which was well educated and researched from differing angles.*

*The research identified that there are several bodies included in ensuring sex offenders in the community setting are supervised effectively with minimal consequences for public protection. While this dissertation attempted to include all agencies and risk tools used in determining management plans for sex offenders this became of great difficulty due to the extensive amount. Demonstrated throughout this paper it can be seen that although developments in legislation and assessment tools due to evidence based practise have improved the implementation of such measures, there still remain challenges within the system. These challenges are formed by shortfalls within reformed legislation as well as human rights rulings which contrast the idea of public protection. Most recently however government spending cuts have had repercussions for the system and have disrupted a desired approach.*

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## 1. Introduction

The public's demand to know about sex offenders in the community is by no means a moral panic episode but rather an ongoing affair. It too can be understood as a manifestation of the 'risk society' (Beck, 1992 cited in Power, 2003). 'A few years ago, public opinion functioned as an occasional brake on policy initiatives, now it operates as a privileged resource. The importance of research and criminological knowledge is down-graded and in its place is a new defence to the voice of 'experience', of 'common sense', of 'what everyone knows' (Garland, 2001 cited in Thomas, 2008: 235).

Public opinions about sex offenders in the UK vary according to events and media focus; thus were likely to be higher during the News of the World newspaper campaign for Sarah's Law in 2000. A milestone that particularly catalysed these opinions was the murder of nine year old Sarah Payne by Roy Whiting, a convicted sex offender, in July 2000. Sexual offending against a person when compared to other offences 'is considered to involve violations of the self that damage the very core of victims. Such damage can often involve a sense of moral pollution' (Hebenton, 2008:332).

While public attitudes mainly influenced by the media (McCartan, 2004 cited in Erooga, 2008) and estimations of reconviction of sex offenders are significantly high, in actual fact they are not so prevalent (Brown, Deakin and Spencer, 2008 cited in Erooga, 2008). This is evident in research which demonstrated 4.3% of sex offenders were reconvicted after four years of release (Hood, Shute, Reizler and Wilcox, 2002 cited in Erooga, 2008). Compare this to 60% of male respondents in Brown et al's research which estimated the recidivism rate to be above 25%. This overestimation in risk, authors suggest, is down to "feelings of fear, anger, insecurity and antipathy towards sex offenders" (Erooga, 2008).

It is significant to bear in mind that while this dissertation will use examples documented in the media, cases of such seriousness are much rarer and are much more difficult to legislate against.

This dissertation will investigate the provisions of management available to convicted sex offenders who have been released into the community. This has decided to be looked at due to media attention surrounding cases of reoffending, in specific the case of Anthony Rice. Many are quick to criticise the level of supervision given to these sex offenders; however on release from prison sex offenders are open to a new level of temptation and a reduced level of monitored restrictions. In this respect the whole of the criminal justice enterprise is concerned with 'harm minimisation' and risk reduction (Thomas, 2001).

Supervision in the community raises ethical questions of what it is trying to do in terms of punishing, protecting the public and helping the offender. It has been argued that because community penalties are self-evidently less restrictive than custodial ones, there has been little incentive to examine their impact on offenders with the same degree of attention given to those custodial penalties (Thomas, 2001). This paper will seek to fill this void.

The United Kingdom is currently recovering from one of the worst recessions they have experienced which has substantially affected agencies involved in supervising sex offenders in the community. Spending cuts have been made quite dramatically which have resulted in thousands of job losses within the police and National Offender Management Service

(NOMS) (The Guardian, 2010). Therefore at the time this dissertation was written budgets were being altered having repercussions for effective management of this type of offender.

### 1.1. Aims of the research

This undergraduate paper will explore the key practices currently in place in the UK, which are designed to prevent convicted sex offenders from reoffending. The main objective of this dissertation is to determine whether the supervision of sexual offenders in the community is effective for reasons which are twofold; in protecting the public and managing offenders. The research will centre on the elements which determine the supervision of offender's, the practise of supervision and will discuss whether the human rights of the offender are as important as the protection of the public and how best to strike a balance between the two.

### 1.2. Structure

*Chapter two* provides a methodological overview of the choice of research tool used in this dissertation. This section will detail both the advantages and disadvantages of a literature review. It is imperative to identify where other methods could and should have been utilised.

*Chapter three* commences with current legislation which heavily involves the co-operation of agencies in order to effectively supervise sex offenders. Multi-Agency Public Protection Arrangements will be explored in respect of their role in maintaining public protection. As well as its successes, shortfalls will be highlighted with reference to existing cases. Other reformations such as the Sex Offender Register will be developed in its function also. Recently public support groups have been put into place to encourage the rehabilitation of sex offenders into the community. These will also be explored.

*Chapter four* focuses primarily on the assessment of risk of sex offenders. A historical context will be given in relation to first and second generation risk tools which have developed to an evidence based practise of third generation tools. This chapter will also discover the accuracy of parole board decisions prior to a convicted offender's release and the pilot scheme of polygraph testing as a supervision requirement. With respect to the effectiveness of these assessment tools, comparisons will be made to recidivism and reconviction data.

*Chapter five* looks to evaluate the *overarching* debate which is integral in passing both a fair and just sentence. The human rights of the sex offender will be considered against the protection of the public, and the balance of which will be investigated and critiqued. Specific reference will be made to the case of Anthony Rice who murdered Naomi Bryant. Recent developments in legislation, in particular the Child Sex Offender Disclosure scheme will be explored.

*Chapter six* endeavours to draw together the key matters broached across all chapters to provide a conclusion which briefly details any issues for future concern and recommendations for future workings. It is within this chapter that clarification will be made as to whether the supervision of sex offenders in the community is successful in protecting the public from the risks these perpetrators present.

## 2. Methodology

### 2.1. Reasons for choosing a Literature Review

At an early stage of this research project, the possibility of conducting interviews with probation staff, regarding their role in supervising sex offenders in the community, was considered; however, after careful deliberation, this was decided against in favour of the time honoured literature review. The literature review has been described as a 'report of primary scholarship' (Cooper, 1988 cited in Adolphus, 2011) and an 'interpretation and synthesis of published work' (Merriam, 1988 quoted by Murray, 2002 cited in Adolphus, 2011). With regard to the latter, a literature review allows the researcher to analyse existing resources and embrace a wider volume of information. The decision to conduct library-based research was largely centred on the realisation that conducting interviews with offender managers on issues such as the supervision of sex offenders could be incredibly time consuming due to its complexity and could potentially pose a number of ethical constraints upon the researcher (Bryman, 2004: 203). A further consideration would be that if primary research was adopted in this dissertation it would only produce small scale qualitative data which would be difficult to generalise. Reviewing pre-existing research findings as opposed to generating new information is also less obtrusive in conduct, reducing the possibility of researcher bias which can typically occur when embarking on a new investigation (Webb et al, 1966).

### 2.2. Resources of Literature

Although a formal systematic review was not employed, research was gained and viewed from a systematic approach. This was practised using a variety of sources and search terms. These sources included online research from websites including the Home Office and Ministry of Justice which produce media publications. Principally however research was collected from printed texts which included books and journals. The journals were sourced from databases accessible via Nottingham Trent University's e-search option. Databases of use included Nexis UK, Criminal Justice Abstracts and Academic Search Elite. Such analysis of existing research has been hailed by many in the social science domain as having historical importance as a method of discovery (MacDonald, 2001:204) and is made functional in this instance by the production of a literature review.

Whilst the internet is considered 'an invaluable tool of accessing data' (Noaks et al, 2004:129), using information acquired from websites is often fraught with issues of validity as there is little regulation of the accuracy of information displayed online (Bryman, 2004). Statistics published by official agencies such as the Home Office and the National Probation Service are often shrouded by much controversy due to the idea that research is contrived in order to depict a certain scenario (Bell, 1960 cited in Reiner, 1996). Thus some research findings may be missing due to it not fitting with the original aim.

A further critique of a literature review is with regard to accessing electronic reference databases. These databases tend to reveal dominant discourses and of course are necessarily shaped by discourses that exist. This therefore limits the wealth of information that is able to be presented during the review (Mackay, 2007).

Media references are used throughout this dissertation and while there is a wealth of information in this area it can often be misleading. As Reiner (1996) mentions the media's interpretations of crime are not necessarily accurate. This is also supported in the early work

of radical criminologists during the 1960's and 70's which highlighted the lack of neutrality in media reporting and the sometimes sinister manipulations (Cohen and Young, 1973, Hall, 1979 cited in Reiner, 1996).

The advantages of why a literature review was favoured will now be discussed.

### 2.3. Advantages of a Literature Review

A major advantage of the literature review is it being less time consuming than the process of gaining new information from primary research (Kamins and Stewart, 1993:1). The process of gaining consent to do such research is also extremely time consuming and could entail the need for ethical approval from a number of professional bodies including the University's ethical review board. This excludes the time taken to collect data and then analyse it. Secondly, given that there is already a wealth of literature in this area, it would seem to be a drain on the time and energy of the researcher to collect further data when there is already a large evidence base to work with. Indeed, it might also be argued that collecting data unnecessarily is unethical. The opportunity of reviewing existing literature presents the opportunity to make un-foreseen discoveries (Adolphus, 2011) which could help future research to identify areas where the need is greater.

Nevertheless, while a literature review has been favoured in this research project, it is not without its disadvantages.

### 2.4. Disadvantages of a Literature Review

All primary research is composed with a precise intention; this presents an issue for the researcher conducting the literature review because they have 'no control' over the collection of data and therefore are vulnerable to potential biases which may be intentionally or unintentionally produced (Kamins et al. 1993). This is particularly true if an objective outlook was not originally adopted. A second disadvantage would be the secondary researchers lack of control over the quantity of the data already collected (Bryman, 2008). In the topic of this dissertation there is an already extensive volume. This presents difficulties because it lacks considerable feasibility to review it all. Therefore the secondary researcher has to use a systematic approach in identifying and eliminating what research to review (Mackay, 2007). In this dissertation there was a heavy reliability on electronic databases searching a very large amount of literature. A further issue with this regard is the opportunity for the secondary researcher to place emphasis on incorrect conclusions which may in effect lead to the publication of 'unjust' information (Reichmann, 1962). This would suggest in selecting primary resources conclusions should not be taken literally.

Thus, there should be no attempt to make bold claims of the literature review being exhaustive but open about sources and search terms.

### 2.5. Summary

Despite the issues mentioned, a literature review was preferred for reasons mainly concerning time limitations regarding ethical approval and extensive research already being in existence. The issues were overcome by a systematic approach being adopted in order to aim to cover all or most areas on this topic to provide a well researched, highly objective discussion, while also providing the opportunity for future research to be developed from the particular methodology and for the hypothesis to be tested.

### 3. Supervision in the community

#### 3.1. Multi-Agency Public Protection Arrangements

Power (2003:72) expressed that the criminal justice system is in the grip of a 'public protection' agenda, at the core of which, being multi-agency co-operation. Recent developments under governmental legislation have meant that the use of multiple agencies has replaced single agency management. The organisation which integrates these agencies is called Multi-Agency Public Protection Arrangements (MAPPA). The role of MAPPA is to assess and manage the risk posed primarily by certain sexual and violent offenders who have been released from custody into the community. McAlinden (2007:29) regarded these purposes as the 'pivotal focus of interagency policy and practice'. MAPPA was arranged under the Criminal Justice and Court Services Act 2000 and became active in April 2001. In accordance with the guidelines issued under the Act, agencies were now required to co-operate more closely using individual expertise to identify, assess, monitor and manage the risk presented by registered sex offenders in the interests of public protection and a better exchange of information (Home Office, 1997b cited in McAlinden, 2007). The United Kingdom uses agencies from voluntary, statutory and community sectors in order to effectively manage sex offenders and protect the community from such dangers (Kemshall and Maguire, 2001; Maguire et al 2001, cited in McAlinden, 2007). The central role in the inter agency approach is played by the statutory agencies of the police, probation and prison service.

All criminal justice agencies have their strengths and weaknesses; the integration of them all has the aim to create a solution to the weaknesses and to develop greater strengths so that the management of sex offenders is dealt with in order to protect the public from danger and successfully rehabilitate offenders into the community. Previously informal initiatives by various agencies have been reinforced by the adaptation of 'joined up' working (Cowan et al, 2001 cited in McAlinden, 2007:29) and 'the end to end management of the offender' (McAlinden, 2007:29). In demonstrating the latter, an offender who is soon to be released from prison will be monitored in accordance with their release requirements. Their progress within the prison is reported via senior probation officers to offender managers. This ensures that the offender is receiving the necessary supervision in order to maintain a non-criminal future. An example of the 'joined up' working can be seen in the 2008 Violent Sex Offender Register (ViSOR) being rolled out to every probation area and prison establishment in England and Wales (Ministry of Justice, 2008). The provisions of the 'register' will be discussed later in this chapter.

Under the current arrangements, the relevant agencies meet, share information and formulate co-ordinated risk management plans relating to those individuals who pose a serious risk to public safety. This rigorous risk assessment and management procedure usually consists of specialists grading sexual offenders as low, medium or high risk based on their likelihood of reoffending. In England and Wales these decisions are made by Multi-Agency Public Protection Panels (MAPPPs). MAPPPs have the authority to disclose information about offenders to schools, voluntary agencies and other groups in the community when the risk posed outweighs the offender's right to confidentiality. Most recently members of the public are also being recruited to contribute to the strategic risk management of the MAPPP arrangements (Home Office, 2002 cited in McAlinden, 2007). This came within days of the

conviction of Roy Whiting in 2001. The Home Secretary announced the allowance of lay members to sit on the MAPPs in an advisory role. Its purpose was to inject an element of public involvement by seeking public opinion in strategy formulation. Pilot schemes started and were successful which led to its formal introduction in 2003. In 2007, however, the Home Office voiced the need for a 'clearer definition of the lay advisor role' (Home Office, 2007 cited in Thomas, 2005: 231).

There are three categories of MAPPA offenders. Category 1 is registered sexual offenders, Category 2 is violent offenders and Category 3 is other dangerous offenders. Under each of these categories are three levels. MAPPA level 1 is the lowest risk in the bracket, which usually involves a single agency. The majority of offenders monitored by MAPPA are so by this level. The next level is MAPPA level 2, which is active multi-agency management, usually involving a minimum of three agencies. MAPPA 3 is for the offenders which pose the highest risk and are likely to reoffend and do greater harm. They receive enhanced active multi agency management. This applies for the 'critical few' and is for offenders who pose the highest risk of causing serious harm or whose management is so problematic that multi-agency co-operation at a senior level is required (Ministry of Justice, 2010, 27 October). The number of such offenders in 2005-06 was 1,267 (National statistics for MAPPA 08/09).

### 3.2. Multi Agency Public Protection Arrangements: Problems

Co-ordination is clearly the touchstone of interagency processes which are based around a federation rather than a unification of agencies with the same core goal of public protection (Kemshall and Maguire, 2001; Parton et al, 1997 cited McAlinden, 2007:32). However it is vital to remember that these agencies vary in aims for a reason, they all have their core practices. This is evident with the core agencies that provide the foundation of MAPPA. They are marked by very different training, occupational socialisation, philosophies and working practises (Crawford, 1999 cited in McAliden, 2007). These contrasting aspects can almost cause competition between such agencies, which can be manifested in the form of mutual suspicion and distrust and differential power relations. This may jeopardise the supervision of sex offenders due to conflicting management plans.

A further problem in this area is the exchanging of information between the agencies. The paradoxical nature of inter-agency work is that it simultaneously requires organisations to co-operate to share information across organisational boundaries, but at the same time recognises the need for individual organisational autonomy with clearly defined responsibilities. This aspect can be perceived to be the key aim of MAPPA (Wood et al, 12/07). The blurring of organisational boundaries may cause concern among professionals as they may lose their own distinct organisational autonomy and identity. This again can give rise to conflicts between 'project loyalties' and 'organisational loyalties' (Crawford, 1999, cited in McAlinden, 2007). Evidence to support the limitations of information exchange can be seen in the Bail Hostel Scandal documentary in 2006 (Panorama, 2006). Frank Parker, a predatory paedophile who had served thirty nine years in custody for murder, was observed by the documentary as approaching young females. Two days after, the undercover reporter contacted the police as, to his concern; they had failed to inform the probation service and hostel that Parker continued to spend time with the children. According to the police Parker did not pose a high risk to children (Panorama, 2006). This is extremely concerning regarding what these agencies supposedly regard as high risk.

In a Home Office review of MAPPA conducted in 2007, discrepancies regarding post release supervision were underlined. This was concerning the completion of the statutory

supervision and offenders' monitoring thereafter. It was reported that its management varied in ways; including the reliance on police contact and using the probation to continue working with the offender on a voluntary basis (Wood et al 12/07). With regard to the latter it must be considered whether the offender managers have the spare time to spend monitoring MAPPA offenders. It is continuously seen that there are strains on probation staff because of limited resources. This is especially true in the current economic climate.

Wood et al (2007) said that MAPPA coordinators and supervision staff reported the level and intensity of supervision, and that management practises used within the arrangements were subject to on-going risk assessment and the availability of resources.

Other legislation has also been in keeping with service provisions.

### 3.3. The Sex Offender 'Register'

Prior to the 1997 Sex Offenders Act there was no formal measure of keeping track of sex offenders in the community once they had served their sentence. The sex offender 'register' was introduced by Part 1 of the 1997 Act. The attempt for such failed, due to legislation making no provision for the creation of a separate 'register' but rather notification requirements (Thomas, 2008). The original purposes of the 'register' in the mid 1990s was to help the police identify suspects once a crime had been committed, possibly help them to prevent such crimes and the potential for it to act as a deterrent to potential re-offenders (Home Office, 1996 Para 43 cited in Thomas, 2008). The 'register' was designed as an add-on in the interests of public protection. Following the 1997 Act the national rate of compliance with the requirement to 'register,' which was documented in its first evaluation, was said to be 94.7% (Plotnikoff and Woolfson, 2000 cited in Power, 2003.) While this appears positive, Thomas (2005) said that the evaluation felt unable to comment on the overall effectiveness of the register. The evaluation, which took place between August 1998 and April 1999, did however identify areas for improvement. These included the need for greater multi-agency communication, registration notification procedures to be reviewed and refined and the repercussions of failure to register to be understood and put into action (Plotnikoff et al, 2000). The requirements for the sex offender 'register' have since been substantially tightened. This was following Charles Clarke's review which flawed the Sex Offender Act 1997 (Matravers, 2003). Alterations were made as part of the Criminal Justice and Court Services Act 2000 that included the time scale for initial reporting being reduced to three days from fourteen days. New powers were also introduced to photograph and fingerprint offenders on the initial registration visit. Non-compliance with the register also altered from six months to a possible five years imprisonment. Sex offenders who are required to 'register' must give their name, date of birth; permanent address and national insurance number (BBC News, 2006). In 2001 following a review, consultation paper 'Strengthening the sex offender act' was released. This altered, in particular, the need for offenders to confirm their details in person annually. With these changes the compliance of the 'register' rose to 97% (Home Office/Scottish Executive, 2001 cited in Thomas, 2008). These were all integrated as part of the Sexual Offences Act 2003. In 2006 there were 30,000 individuals of the sex offender 'register'.

In practice the efficacy of the sex offender 'register' is dependent on two factors: first, offenders' compliance with the notification requirements and secondly the use made of that information by the agencies responsible for the risk assessment and risk management of the offender. There appears to be a high reliance on the offender to comply with the 'register' which is worrying in the respect that sex offenders can be extremely manipulative. A new

'register' has since been introduced, which includes violent offenders and 'controversially includes details on people who have not yet been convicted but are still considered a public danger' (BBC News, 2005).

This new database, called the Violent Offender and Sex Offender Register (ViSOR), came into place following the Bichard Inquiry. The inquiry highlighted how two police forces failed to properly 'vet' Soham killer Ian Huntley (BBC News 2005). ViSOR provides the police, probation and prison services with a shared, confidential, national database which is designed to support MAPPA (NPIA, 2007) and overcome difficulties raised in the case of Huntley. Although it is used as an offender management system it can also help to identify potential suspects for violent or sexual crimes and act as a tool to assist in the management of information (NPIA, 2011). ViSOR contains photographs of the offenders, including any tattoos or distinguishing marks. In 2005, it was recorded that there were 47,000 individuals on the register, with 25,000 being registered sex offenders (BBC News, 2005). Again this demonstrates a further development in the surveillance measures in place to protect the public. It also gives a central database, to which the probation service and police can refer to and update, providing a lesser chance of duplication and a greater display of multi agency working and increased efficiency.

Thomas (2008) argued that as the 'register' has evolved it has increased punitive measures but makes no demonstrable contribution to greater community protection. This raises a significant debate, which will be addressed more fully in chapter 5, but is necessary to mention now. Challenges to the Sex Offenders Act 2003 on human rights grounds have been successfully resisted because the regulation requirement has been seen as an administrative consequence of a sentence passed by the court, rather than being an isolated sentence. Were the registration requirement to become more burdensome, there could come a point at which the act could no longer be seen as such as requirement (Home Office/ Scottish Executive, 2001 cited in Thomas, 2008). The question remains whether the sex offender 'register' has moved from being a public protection measure to become a punishment in its own right. The efficacy of the 'register' still remains unknown and is almost impossible to measure in terms of making communities safer (Thomas, 2008).

In consideration of the offenders rights in recent debate it has been suggested by the Supreme Court of Appeal that sex offenders directed to be on the sex offenders 'register' for life should be allowed to appeal this requirement. The new ruling allows these offenders, once released from custody for fifteen years, to appeal their sentence if they feel it is unjust and then every five years thereafter (BBC News 2011, 17 February).

Witham's MP is said to be appalled by the sex offender 'register' appeal. MP Priti Patel voiced 'this is yet another appalling example of how human rights laws are giving convicted and dangerous criminals gold-plated rights while neglecting the victims of some of the most vile and disturbing crimes'(Morgan, 2011). Prime Minister David Cameron was also angered by this ruling and said it 'seems to fly completely in the face of common sense' (The Telegraph, 2011). This ruling has encouraged the conservative party to carry out a review of human rights legislation in order to make it a key issue for the next general election (The Telegraph, 2011). This is an instance where the rights of extremely dangerous criminals are being placed above the rights of the public to be safe in their community, which quite honestly seems unjust.

Moving away from punitive measures, a scheme which aims to operate towards restorative justice has recently been introduced to the UK, and aims to rehabilitate sex offenders.

### 3.4. Circles of Support and Accountability

Circles of Support and Accountability (CSA) are described as providing ‘an innovative and successful community contribution to reducing sex offending, working in close partnership with criminal justice agencies’ (Circles UK, 2011). This organisation was viewed positively according to Home Office findings where it was used in one area as a form of post licence supervision. CSA offer a ‘community’ of four to six voluntary members to one sex offender who is regarded as the ‘Core Member’. Its suitability is for offenders assessed as being high risk with very little support from a caring social network of friends and family (Hudson 2005 cited in Wood, 2007). CSA are thought to be effective due to this type of offender having a high potential of reoffending. When sex offenders are released into the community they are commonly ostracised for fear of harm. However this can be counter-productive in that the loneliness the offender experiences creates a void in their life meaning they are likely to reoffend again (BBC Radio 4, 2010). CSA seek to fill this void. CSA also assist offender management by enabling the sharing of information between volunteers and statutory agencies. Research from Canada where CSA originated shows reduced recidivism among high risk offenders (Wilson, Pichesa and Prinzo, 2005 cited in Wood, 2007). It was introduced in Canada due to released sex offenders causing the ‘greatest degree of professional concern’ (Wilson 2007: 6). A particular case which caused the need for a creative solution concerned Charlie Taylor in 1994. Upon his release from custody as a repeat child molester, Charlie received a considerable amount of public and media frenzy, highlighting the disgust of his release. In a final attempt to reintegrate Charlie back into the community, whilst maintaining their safety, a reverend formed a support group made up of volunteers in order to rehabilitate him back into the community. This approach continued until it was eventually formalised in 1996 in Canada and much of the United States. It is now practised in the UK and worldwide. ‘What started out as an ad hoc response to a difficult situation has become something of an international *cause celebre* in the toolbox of innovative community options for managing sexual offender risk’ (Wilson et al, 2007:7).

However, public spending cuts may jeopardise CSA’s work. At the time of the ‘The Friend’ article the cuts had not yet been specified, however the Chief Executive Stephen Hanvey expressed great concern if that was the case (Ekklesia, 2010). The article also highlights that if cuts were to be made it would have a greater financial cost with respect of costs of imprisonment and other aspects of criminal justice. Not only would the direct cutting of funds be critical, but Hanvey also highlighted that cuts to probation and police budgets would also be consequential to local CSA projects (Ekklesia, 2010). Subsequently, while CSA offers hope to be reducing sex crimes and rehabilitating sex offenders into the community, public spending cuts will reverse these efforts. Only time will tell, if sex offender reconviction rates rise, as to whether the cuts are more important than public protection.

### 3.5. Summary

While major developments have been made to working towards competent management of sex offenders with the introduction of MAPPA, and sex offender ‘registers’ difficulties remain. While some can be overcome with enhanced training and clearer boundaries, other problems require alteration in current legislation such as being able to appeal the sex offender ‘register’. Positive steps have been made towards restorative justice through the CSA scheme. This focus could prospectively encourage further research if budgets allow. The detriment of budget cuts to the whole criminal justice system and also how standardisation of the procedures and increased efficiency within the multiple agencies may, in the long run, be cheaper, not to mention more effective, than people being left to reoffend and ending up back

in prison, thus triggering the whole costly cycle again, which is costly fiscally as well as emotionally for the public.

In determining risk management plans risk assessments are made on each sex offender.

#### 4. Risk Assessment

Ulrich Beck first used the term 'risk society' in 1986 with the intent to highlight that society in its advanced era of modernity, is dominated by the ubiquity of risks (Hopkins-Burke, 2005). Ericson and Haggerty (1997) argue that risk society is fuelled by surveillance, which provides us with the power to make biographical profiles of individuals in order to determine likelihood of them presenting a risk to society (Hopkins-Burke, 2005).

The assessment of the risk posed by convicted sexual offenders is a very important aspect in determining their management plan, both in terms of their incarceration and their release into the community (Hanson et al, 2000). Beech et al (2003) supported this, whilst also arguing that the assessment of whether a sex offender is likely to reoffend was necessary within the criminal justice sector, due to it aiding a later evaluation of interventions (Mandeville-Norden, 2006). Although many decisions require risk assessments, the procedures used for making such assessments only have limited validity. Some researchers have even argued that the accuracy of prediction is sufficiently low that it threatens the very basis of risk-based legal sanctions for sex offenders (Hanson et al, 2000: 119). 'On average, the accuracy of expert opinion in predicting sexual reconviction is only slightly above chance levels' (Hanson and Bussiere, 1998 cited in Hanson, 1998:63). Does this suggest that we need to move away from risk prediction and towards management?

No single 'criminogenic need' is strongly enough related to reoffending, that it can be used in isolation. With this in mind the development of risk assessments has proliferated over the past two decades (Inside a prison, 2006). There are three plausible ways in which risk factors can be combined: empirically guided clinical judgement, pure actuarial and adjusted actuarial prediction (Hanson, 1998). These form the three generations of tools. The management of sex offenders within the criminal justice system can be substantially influenced by the offender's perceived risk for recidivism (Hanson et al, 2000).

##### 4.1. Risk Assessment tools

When referring to the evolution of risk assessment, the current stage the system is at is the use of first generation tools. This has come from a combination of first and second generation tools which will briefly be described. First generation was the use of expert clinician judgement. While it has been regarded as having poor accuracy, an advantage to this method was it treated the risk of offenders on a case-by case basis reducing generalisations. This is significant because no two cases will be identical. Nevertheless, because of its dependence on the assessment and not the instrument used, it was deemed inherently unreliable (Inside a prison, 2006). This prompted a move towards an evidence based practice using actuarial methods. This technique is still a common form of assessment due to it using a selection of risk factors proven to cause criminal behaviour. Static 99 (Hanson and Thornton, 2000): As the name suggests is the assessment based purely on static factors. Static 99 was created by amalgamating two risk assessment instruments, Rapid Risk Assessment for Sexual Offender Reconviction (RRASOR) and Structured Anchored Clinical Judgement (SAC-J). Static 99 is considered to have high validity due to it evaluating items which are shown to be empirically associated with sexual reconviction. However it does fail, along with all actuarial assessments, to address dynamic factors which should be included in a wide ranging risk assessment (Mandeville-Norden et al, 2006). The Offender Assessment System (OASys) which is used by both the prison and probation takes into account factors which fall into three categories, including dynamic. Dynamic factors are vital because they

can be altered and include items such as the offenders thought processes and deviant sexual interests (Mandeville- Norden et al, 2006). OASys is an electronic process developed as a common tool across the prison and probation service. It was rolled out in July 2003 and was completed in December 2004 (HMPS, 2005). In early summer 2011 there is to be an OASys Replacement Project (OASys-R). While the current systems are connected allowing the transfer of assessments between probation officers and prisons, the OASys-R will replace both systems and deliver a single web-based OASys (Ministry of Justice, 2010, see Appendix A).

Moving forward from these two generations of risk assessment is the modified use of Structured Professional Judgement (SPJ). This combines the 'subjective, professional interpretation of the severity, frequency or duration of those predetermined risk factors by the individual clinician' from the first generation tool and the evidence based practise from second generation tools (Inside a prison, 2006). SPJ states that it is more effective and accurate to assess individuals in isolation, rather than being generalist while identifying dynamic, changing or current risk factors, which could be easily implemented into a treatment plan (Inside a prison, 2006). Since its introduction is fairly modern, further research could be conducted in this area to review its value.

Whilst third generation tools are useful at predicting overall recidivism and categorisation for offender treatment, their ability to predict the harmful reoffending has been more limited (Raynor et al 2000, McIvor et al 2001 cited in Kemshall, 2003). This means that alternative risk assessment procedures need to be investigated. This is particularly true for cases involving highly dangerous offenders.

Whilst so far, reference has been made to risk assessments determined to specify the level of supervision needed in the community, prior to this is the decision to release convicted sex offenders into the community.

#### 4.2. Parole Board

For high risk offenders emerging from prison the parole board determine their eligibility to be released into the community. Just how valid are these decisions and should blame be focused on these practitioners for a sex offender reoffending?

In a six year follow up of offenders assessed as 'high risk,' at least one panel member successfully identified them as such, excluding one case. In contrast, 92% of those identified as high risk by a member of the parole board panel turned out not to have been convicted of a sexual offence by the end of the four year follow up period; thus producing false positives. Where the prisoner was not identified as a 'high risk' by any member of the parole panel, the prediction turned out nearly always to be correct. The prisoner that was an exception was reconvicted of a sexual offence (Hood et al, 2002). This case is described below:

*Case F: Aged 49, he had a Reconviction Prediction Score of 13% and is serving 8 years in prison for rape on young girls aged 6, plus indecent assault on other. A judicial member commented that is constantly says throughout the documents that he is full of remorse. The psychiatric report does not assess his risk (Hood et al, 2002:385).*

Taking into consideration his reconviction his prediction score would suggest that the method employed to assess his risk was inaccurate for this case. Questions may be asked as to why his risk was not discussed in the psychiatric report.

The comparison will now be made between parole board decisions and Static 99. In a four year follow up only 1% of the sex offenders classified as low or medium risk were reconvicted of sexual crime, where as many as 14% were reconvicted of a similar offence who were classified as high risk (Hood et al, 2002). It has been argued however based on statistical evidence that if Static 99 had been used to predict more serious reconvictions it would have produced many more false negatives than that of the parole board (Hood et al, 2002). This demonstrates that parole board decisions by comparison are more accurate with respect to the assessment of high risk sex offenders. Thus it could be seen to support first generation tools with the involvement of professional clinical judgement.

Risk assessment is based upon the balance of probabilities and how large the margin of error should be. It can never be guaranteed that predictions are 100% accurate. The debate these methods highlight is whether it is 'better to be safe than sorry' or does this jeopardise human rights. In this context is it preferred to over-predict than under-predict risk for the sake of public protection?

Turning back now to risk management in the community, in 2009 the National Offender Management Service (NOMS) began a pilot of mandatory polygraph testing

#### 4.3. Polygraph testing

The trial was made available for sex offenders aged eighteen plus following their custodial sentence release. The sentence length minimum was twelve months. Previous research suggested that polygraph testing might contribute to the effective treatment and supervision of sex offenders by encouraging the offenders to disclose information (Grubin, 2006 cited Wood et al, 2010). Professor Grubin said 'disclosures made during polygraph examinations, as well as conclusions drawn from passed and failed examinations, let probation officers and the police intervene to reduce risk' (The Observer, 2009). The research that will now be explored was based on in-depth interviews with fifty six criminal justice practitioners. Generally disclosures were self reports that revealed new offender risks and offending profiles. Formal risk categories rarely changed as a result of disclosures. Instead the polygraph tests acted as a trigger for actions that could result in changes to an offenders' risk management plan. The four typologies of disclosure were risky situation and behaviour, historical information, thoughts, feelings and fantasies and sexual behaviour. Upon the exchange of concerning confessions, MAPPAs would be expected to review supervision, via the communication with necessary agencies, if the disclosure had the potential to present a risk to public protection. It could be argued however, that the extent to which an offender discloses information is dependent on their perception of the consequence (Wood et al, 2010). Wood et al (2010) also suggests that there needs to be more training given to the practitioners regarding their reaction to disclosures.

During the piloted polygraph testing in the West Midlands which became active as of the 1<sup>st</sup> April 2009, probation workers claimed those offenders who took part disclosed more information which was vital in assessing risk, addressing beliefs and behaviours and keeping partner agencies informed. Under the new pilot, staff can recommend that a condition be included in the release licence of certain adult sexual offenders- this can require them to take

regular polygraph tests (West Midlands 09-10:MAPP Annual Report). This information appears to be encouraging in contributing to efficient risk management.

Grubin et al (2003) also examined polygraph efficacy in England and Wales. The purpose of the research was to observe whether the expectation of taking a polygraph test would discourage the temptation to engage in risky behaviours. Of the total thirty two tested all but one disclosed concerning behaviours. The one exception failed the test. This therefore shows that the 'threat' of taking a polygraph makes no difference to their desired behaviour (Grubin, 2003).

#### 4.4. Problems

It has been argued that the criminal justice systems preoccupation with risk has meant there has been 'a failure to distinguish between the nature, content and mechanisms for the prediction of recidivism and of dangerousness' (Kemshall, 1998 cited in Wood, 2006:309). These failures are due in part to the difficulties faced when attempting to accurately predict dangerous people (Prins, 1995: Walker, 1991). However guidance for sentencing dangerous sex offenders has become simpler with the introduction of two new sentences designed to increase the level of risk management dangerous offenders receive. These sentences are Imprisonment for Public Protection (IPP) and the extended licence sentence. The IPP provides sentences of ten years or more and are indeterminate. The parole board are responsible for dictating when release is suitable for these offenders. Following release from IPP, offenders are supervised on license by the probation service for a minimum of ten years and a maximum of life. While this appears to be making steps towards improving sentences to enhance public protection, it has faced professional scrutiny in recent times (BBC Newsnight, 2007). During a review of the sentence it was found that the IPP sentence was being given to offenders found guilty of minor offences rather than those who pose a serious risk of future harm. This has resulted in extensive prison overcrowding and costs rising. Nichol, the Chairman of the Parole Board believed there should be the opportunity, prior to the prison accepting these offenders, for them to prove they are not of a suitable risk to warrant the IPP. This Newsnight report, which the article focuses, on reveals there are 145 new IPP sentences given every month (BBC Newsnight, 2007). This demonstrates that while the act gives a clear definition of what offences would warrant this sentence, there is an absence of clarification for the court to establish the offender as posing a 'significant risk of serious harm'. With consideration to the clear definition of the offences under the act, approximately a third of IPP sentences are given for robbery and not for highly risk offences such a murder or rape (BBC Newsnight, 2007). This is an area to be concentrated on for future reviews.

#### 4.5. Summary

The development of risk assessment resources has been ever evolving and will most likely continue to for the foreseeable future. There will also remain anomalies to evidence based risk factors and in effect will provide the continuity of research in this area. The preoccupation with risk rather than its management appears to be phasing out with the introduction of tools such as the polygraph. There needs to be a balance between assessment and management. When determining the risk of sex offenders, as this chapter demonstrates, accuracy is never fully satisfied which consequently results in cases of injustice and preventable offences.

As demonstrated in this chapter the lack of 100% accuracy in predicting risk has consequences, which can create a threat to either the offender human rights if risk prediction creates false positives or to public protection if the assessment results in a false negative.

## 5. Human Rights versus Public Protection

This debate is aimed at achieving a balance between the human rights of sex offender's and protecting the public from future harm. Ward (2007) believed that 'it should not be assumed that any interests of the community will always eclipse the interests and rights of sex offenders' (Erooga, 2007:181). Ward (2007) also observes that achieving the latter does not necessarily have to be at the expense of the former (Erooga, 2007). In achieving public safety, Erooga (2007) argues that there is an element of vulnerability to the possibility of implementing ineffective, counterproductive measures. In this sense, anomalies will always be likely due to the risk of striking the wrong balance. In achieving one outcome there remains the risk of jeopardising the other.

The public have a right to expect that the police and other agencies will exercise their powers to protect life (Article 2 ECHR cited in NPIA, 2007) and to protect individuals against inhuman and degrading treatment and punishment (Article 3, ECHR cited in NPIA, 2007). Police considerations when managing sex offenders, violent offenders and potentially dangerous persons (PDP) will include the rights of the offender or PDP (Article 2 and 3), and the right to liberty and security (Article 5) and to a fair trial (Article 6 cited in NPIA, 2007). The police must ensure the human rights of victims, the public and offenders are balanced and that attention to public protection responsibilities is not undermined by human rights considerations relating to individual offenders and PDP's (NPIA, 2007).

### 5.1. Human Rights

Individuals hold human rights for the simple reason that they are members of the human race and as such are considered to be actual or potential moral agents (Ward et al, 2008). Although disputed, it applies equally to sex offenders despite their immoral actions. It has been argued that by intruding the fundamental rights of these offenders can encourage a lonely and inhospitable environment, which can be counterproductive and cause the sex offender to reoffend as a coping strategy to their new lifestyle. 'Paradoxically, the combination of social stigmatisation and an exaggerated notion of risk can increase the chances of re-offending' (Ward, 2007 cited in Erooga, 2008: 180). The policing and sentencing of sex offenders are designed for protection from them, nevertheless it cannot be ignored that these offenders are entitled to the 'due process' of law and other rights enjoyed by all citizens (Thomas, 2005). For example, freedom of movement is usually considered a fundamental right. Sex offenders may find their freedom of movement curtailed in the UK by conditions attached to the supervisory arrangements such as electronic tagging or sexual offences prevention orders that require them to stay away from certain localities. Privacy is held to be another basic right contained in Article 8 of the European Convention on Human Rights (Council of Europe 1950; now incorporated into the Human Rights Act 1998 cited in Thomas, 2005). From privacy has emerged the additional right to 'information privacy' and 'data protection' when personal information is held on computer (Council of Europe, 1980 cited in Thomas, 2005). These are restrained by the likes of the sex offender 'register' and

recent legislation of the Child Sex Offender Disclosure scheme, which will be discussed later in this chapter, and has put this privacy factor in the limelight.

The right to rehabilitation or to be accepted back into society after a period of punishment-custodial or non-custodial- is another 'right' that is not clearly defined. The traditional saying of once you have 'paid your debt to society' you are a free man or woman has been stated more fully: 'Rehabilitation implies the action of re-establishing a degraded person in a former standing with respect to rank and legal rights, and to attempt to ensure that those rights are maintained over time' (McWilliams and Pease 1990 cited in Thomas, 2005: 178). However, this is heavily contradicted by public opinions and attitudes towards sex offenders. This was particularly true following the publication of the News of the World who printed the names and faces of convicted sex offenders which caused severe vigilante action from public members who were unable to react in a controlled manner. The idea of 'once a paedophile always a paedophile' also appears to support this uncertainty (Thomas, 2005: 178).

From a judicial perspective the adoption of a rights based approach is likely to be a complicating factor in sentencing decisions. While it's primary function is to protect the public from sex offenders it has a legal responsibility to adhere to human rights. Again the same difficulty arises of finding and maintaining the balance between the two. It appears that by observing sex offenders human rights there is risk that one impinges on public protection, which Article 3 of the Universal Declaration of Human Rights states that everyone has the right to security of a person (e-how, 2010). 'The process is self-justificatory and difficult to challenge without appearing to "side with" a highly unpopular group of people' (Kemshall and Maguire, 2002 cited in Power, 2003:75). These difficulties are exemplified in the case study of Anthony Rice.

## 5.2. Case Study

Rice was a convicted sex offender who had been released from prison on a life license after serving fifteen years of a ten year minimum sentence for attempted rape in 1989 in an attack that lasted ninety minutes. Nine months following his release, whilst under the supervision of Elderfield probation service and living in the 'controlled' hostel he had a relationship with forty year old Naomi Bryant who he later murdered on the 17th August 2005. Part of Rice's license conditions consisted of him residing in the probation hostel and abiding to a night time curfew. This in effect allowed him to be unsupervised during the day time hours. Leading up to this fatal offence the consideration of certain factors must be disputed. A critical report headed by Chief Inspector Andrew Bridges in 2006 concluded that the decisions made in relation to the supervision of Rice were side tracked by the consideration of his human rights. In this instance it could be argued that Rice, an offender with twenty two previous convictions, most of which involved a sexual element was given human rights priority over protecting the public. Other evidence to support his dangerousness was self-admitted. During psychiatric assessments in prison Rice described himself as being 'a dangerous rapist' who found 'violence towards women arousing' (Mitchell, 2010). With respect to the risk tools available at the time of Rice's release, in 2001 Rice had a third review based on a structured risk assessment known as SRA-2000. The static factors identified a very high likelihood that Rice would reoffend, however when his dynamic factors were assessed he showed a significant improvement. This resulted in his risk level being reduced to high level rather than *very* high. Eight months following this review came a parole board hearing from which the panel received reports outlining that Rice's outstanding treatment needs had been addressed and a Penile Plethysmography (PPG) was no longer necessary. A PPG is a test used to measure physical sexual arousal. An independent review

following the case of Rice held the opinion that had PPG being done, it could have assessed whether there was still an arousal to violence (HM Inspectorate of Probation, 2006).

Reading this evidence would surely suggest the need for - if not continued incarceration - intense supervision and monitoring. MAPPA's role can also be questioned here. Detective Chief Inspector Robert Maker said during MAPPA meetings that Rice was not suitable for release to Elderfield hostel due to his level of risk. Maker who sat on the MAPPP contended that the hostel was not capable of coping with Rice's level of dangerousness due to limited and insufficient resources in place there. He also added that while he made his feelings clear as to Rice's risk to public safety, these were not reflected in the transcript which resulted from the meetings. At the inquest of Naomi's death, Maker spoke of the pressure it would have entailed to put into place necessary resources in order to monitor Rice 24/7 (Curtis, 2011).

The question this raises is where to make the balance: Rice's human rights or Naomi's safety? The guidance in this area of sentencing needs to be made clearer. If the belief was that Rice posed an extreme risk of reoffending and supervision in the community would not be sufficient, why would his incarceration not continue? Or what more could be done given the current economic climate? In maintaining his rights to freedom of movement, release was granted allowing Rice not just one opportunity but several to reoffend to a fatal degree. While new legislation has been introduced since this event, it has been aimed at keeping children rather than the community as a whole safe.

### 5.3. Public Protection: Sarah's Law

The public's interest in sex offenders is circumscribed by their beliefs that obtaining information about convicted sex offenders in the community is the best way to protect their children. A shift to recognising that they are all not demons but ordinary, responsible agents allows the development of a more holistic and contextualised approach to the issue. It also allows for a deployment of resources to primary measures such as treatment and rehabilitation (Matravers, 2003). Should this judgement be trusted?

The government accepted public protection should be placed as a priority before human rights. This was also supported by senior police officers, the probation service and other agencies. The prevailing wisdom as suggested previously is that widespread disclosure would drive sex offender's underground, decreasing compliance with registration and disrupting community treatment (Matravers, 2003).

Following the abduction and 'sexually motivated' (Facts on File World News Digest, 2001) murder of young Sarah Payne by convicted sex offender Roy Whiting, Sarah's loved ones campaigned for the allowance of every parent or guardian to have the availability of identifying serious child sex offenders living in their community who have unsupervised contact with their children. Although it has resisted legislation such as Megan's Law which is being practiced in the USA, it has made steps towards 'controlled' public disclosure which is entitled Sarah's Law or Child Sex Offender Disclosure Scheme (Woodcock, 2010). The development builds on existing, well-established third party disclosures that operate under MAPPA.

In June 2007, the Home Office piloted Sarah's Law which allowed members of the public to register their child protection concerns of a named individual. Where the individual has convictions for child sex offences and is considered a risk, there will be a presumption that this information will be disclosed to the relevant member of the public (Kemshall et al,

2010). It initially included parents and guardians but in March 2009 it extended the scheme to anyone with a concern about an individual contacting the police. The process of disclosure is extremely vigilant. It begins with questions being asked followed by a risk assessment. The second stage is face to face contact confirming the identity and content of information wish to be shared. Once a final risk assessment is completed the decision to disclose the required information is made (Kemshall et al, 2010).

Concerns have been raised by several expert bodies as to the way these disclosures are handled. Diana Sutton advised that the government 'tread cautiously'. She explained 'we remain concerned about the risk of vigilante action and sex offenders going underground. All new local schemes need close management and proper resourcing to avoid this.' However Association of Chief Police Officers president Sir Hugh Orde said 'with all other parts of the police service working also in this area, I do think we have got a real hope of keeping people safer and keeping young people safer, which is very important' (Woodcock et al, 2010).

The scheme originally started in 2008 in Cambridgeshire, Cleveland, Hampshire and Warwickshire. In total from these four areas were 600 inquiries which led to 315 applications and twenty one disclosures. This led to more than sixty children being protected from abuse. In August 2010 the scheme was rolled out to eight other force areas. Figures obtained by the BBC from twenty four forces covering 2008 to January 2011 showed that out of 878 inquiries, eighty four identified 'registered' sex offenders (BBC News, 2011, 4 April). The aim was for the scheme to be rolled out nationally by the end of March 2011.

However it has recently become apparent that the law may not work because it is too simple for paedophiles to change their name with failure to report it to the police. Under the current system sex offenders are allowed to change their name but have to report the change within three days of doing so, otherwise they can face up to five years in jail. It has been suggested that the failure to inform the authorities has an ulterior motive; to give them the opportunity to re-offend without being detected. This begs the question why sex offenders are given a) the opportunity to change their name and b) the responsibility to report the name change. Kidscape, a children's charity believe that the authorities need to be more proactive because 'we are dealing with a group that's known for trying to throw obstructions in the way of the truth' (BBC News, 2010). Mary Marsh, the director and chief general of the National Society of Cruelty to Children argued 'police background checks should be compulsory for anyone applying to change his name' (The Times, 2002). This appeal came after the discovery that James Alpine, a convicted paedophile who changed his name, committed a series of sex attacks and evaded the restrictions on the sex offender 'register'. This article also shockingly highlights that solicitors have no legal responsibility to tell the police when a client changes their name. Following this appeal, the Home Office said that the government had no intention of amending the principle of being allowed to change ones name. The Home Office did however seek to bring proposals that would require the DVLC and the Passport Office to check anyone seeking to obtain documents in a new name against the sex offender 'register' (The Times, 2002). In a news report in February 2011, Home Secretary Theresa May said there will be rules to ensure offenders remain on the 'register' if sex offenders change their name by deed poll (The Telegraph, 2011).

#### 5.4. Summary

The balance between the human rights of the sex offender and the rights of public protection seems unattainable. While it is argued by most, that the rights of the sex offender should be secondary to that of the community, the former will fundamentally remain. Similar to the

public's view that their knowledge of such offenders is necessary in maintaining their safety, recent legislation reflects these opinions. This could suggest a shift away from attempting to strike the balance and instead concern a focus on community safety.

## 6. Conclusions and Recommendations

This dissertation set out to review current literature in relation to the supervision of sex offenders in the community. The three main foci were the provisions available to managing sex offenders risk once released after incarceration, the assessment of risk in determining their management level and the offender's human rights placed against the protection of the public.

When examining service provisions, it has become apparent that there has been considerable development in the last few decades. The introduction of the sex offender 'register' and MAPPA in particular have gone much further than previous legislation to managing sex offenders risk in the community. While some argue these developments have demonstrated a 'public protection agenda' (Power, 2003) others suggest that it has tended to promote a punitive approach with ignorance towards community safety (Thomas, 2008). Further critique is formed from the tightening of the sex offender 'register' which has recently being destabilised by allowing sex offenders to appeal their registration.

In respect of risk predictions, it seems that the 'risk society's' (Beck 1992) obsession with evidence based practise has been exhausted. Some however believe that risk tools can continue to be improved:

'Whether or not risk assessment – the prediction of the future behaviour of others – can ever be an exact science remains debatable. For some critics, it will only ever be a haphazard 'guessing game' that will inevitably draw in and label people who would never go onto be a risk to anyone. Advocates of risk assessment believe otherwise and have faith in their abilities to refine their techniques and make ever better predictions, but some people will inevitably be wrongly assessed and punished or constrained for crimes they never would have committed in the future, and we have to ask if this does not conflict with our notion of justice' (Thomas, 2005: 175).

This brings the conclusion to the final topic addressed with the key argument of balance. Ward (2007) suggests that a balance between offender rights and public protection can be gained yet there appears to be minimal evidence to suggest this is true. For example, when Anthony Rice's human rights determined his release into the community under practises unable to cope with his level of risk the right Naomi Bryant held to 'expect that the police and other agencies will exercise their powers to protect life' were lost. This seems highly unfair especially when put into perspective of Rice's previous offences. While it is tempting to criticise the criminal justice system in this respect it is necessary to keep in mind the state of the current economic climate. Government spending cuts have threatened several areas of criminal justice with regard to their effectiveness which consequentially means developments are restricted in line with budgets. For example CSA, who have been deemed as a pioneering tool for rehabilitating the sex offender and reducing sexual reoffending (Wilson et al, 2007), have been affected by cuts both directly and indirectly via probation and police service cut

backs. These developments in criminal justice practise need to be trialled with full compliance in order to gain an accurate perspective of future workings.

Items for consideration, which need more debate outside the remit of this discussion, have been suggested based on the conclusions of this dissertation.

**Items for consideration:**

- Current legislation which allows any person to change their name by deed poll needs to be reviewed. It could be suggested that criminal record bureau checks need to be made which would identify those on the sex offender 'register' or ViSOR. This would enable official notice to relevant agencies to ensure the name change is notified and communicated. Thus, promoting a safer environment and efficient workings of Sarah's law.
- A review of the IPP sentence. There needs to be greater clarity as to which offenders would qualify for this sentence. Thus avoiding prison overcrowding due to incorrect sentencing and increasing efficiency within the judicial system financially.
- The Child Sex Offender Disclosure Scheme should be extended to adults. While it is currently exclusive to maintaining child safety, consideration should be given concerning adult protection.
- The shift towards rehabilitation as well as punitive measures needs to be considered. Evidently CSA have had a positive impact on the rehabilitation of sex offender which leads one to wonder whether there should be a consideration of restorative justice. Clearly it would raise ethical issues as to the victim facing the offender; however there remains a void for research in this area.

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Appendix A



**Ministry of  
JUSTICE**  
National Offender  
Management Service

## OASys Replacement Project (OASys-R)

### What is OASys-R?

Currently there are two Offender Assessment Systems (OASys); one for probation and the other for prisons. These are connected to each other, allowing for the transfer of assessments between probation offices and prisons throughout England and Wales.

In early Summer 2011, OASys-R will replace both OASys systems to deliver a single web-based OASys across both services for the first time.

### Benefits of OASys-R

- Single system – shared access to offender records and assessments
- Robust platform – fewer support issues and reduced support costs
- New user interface - easier to use and navigate
- Flexible system design – easier to upgrade
- Provides 'like-for-like' functionality to minimise change for users
- Some new functionality to align the two existing systems
- Assistive Technology (AT) compliant – improved support for users of AT

### Improvements:

- Spell check facility. *New for both*
- Fast Delivery Report template available to complete in OASys. *New for probation*
- Access to pre-sentence reports completed by Probation. *New for prisons*
- Access to Risk Matrix 2000 (RM2000) assessments and ability for accredited assessors to complete. *New for both*
- Access to Spousal Assault Risk Assessment (SARA) assessments and ability for accredited assessors to complete. *New for prisons*
- Quality Assurance tool built into application. *New for both*
- Request for Information (RFI) functionality. *New for probation*
- OASys National Reporting Management Information System (ONR). *New for prisons*

## What will it look like?

The screenshot displays the OASys (Offender Assessment System) interface. At the top, it shows the user is logged in as NOMSPROB John, Essex. The main section is titled 'Offender Details' and contains a form with the following fields:

- Surname\*: Mercer
- Forename\*: Doreen
- Other Forenames: Kari
- Date Of Birth\*: 07/03/1979
- Gender\*: Female
- Ethnic Category\*: -- Select --
- RNC: 01/00122784A
- Merge PNC: [Empty]
- CRO: 393098/81V
- Probation CRN: PRB1401849
- Prison NOMIS No: W8476DX
- Prison LIDS No: [Empty]
- Owning Area/Est: Essex
- Location: [Empty]
- Deceased Ind: No

Below the form are several tabs: Assessments, Offender Address, Alias, Offender Management, Summary Sheet, Offender Owner History, RFI, and INTBDTTO. The 'Assessments' tab is active, showing a table with the following data:

Status	Date Completed	Purpose of Assessment	Lock Assessment
➔		CJA2003 - Start of Community Order	LOCK

## Business Preparation - what prisons and probation need to do

- All prisons and probation trusts have been asked to identify a single point of contact. They will co-ordinate all preparation and implementation activities.
- Communication
  - Start raising awareness about OASys-R
  - Share OASys-R updates with users
  - Identify user concerns and raise with the NOMS OASys team
- Co-ordinate local planning to ensure the OASys-R schedule fits with your IT and business change schedule
- Address data quality issues
- Ensure that all OASys users complete the conversion training

## Training

- Conversion training to be provided to all existing users (non-instructor led). This will be modular and role-based
- A new training package will be developed, for new OASys users, which will also be modular and role-based. This will be delivered to OASys Trainers via Train the Trainer events
- Help text will be updated and easily available to assist users

For queries about the OASys-R project or the NOMIS programme, please e-mail [OASys-R@justice.gov.uk](mailto:OASys-R@justice.gov.uk)

For queries about the OASys-R application, training and implementation, please contact [OASysQueries@justice.gov.uk](mailto:OASysQueries@justice.gov.uk)

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