

JUSTICE 2 SUB-COMMITTEE

Tuesday 3 October 2006

Session 2

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CONTENTS

Tuesday 3 October 2006

	Col.
CHILD SEX OFFENDERS INQUIRY	11

JUSTICE 2 SUB-COMMITTEE

3rd Meeting 2006, Session 2

CONVENER

*Jackie Baillie (Dumbarton) (Lab)

DEPUTY CONVENER

*Mr Kenny MacAskill (Lothians) (SNP)

COMMITTEE MEMBERS

*Alex Fergusson (Galloway and Upper Nithsdale) (Con)

*John Home Robertson (East Lothian) (Lab)

*Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Margaret Ann Cummings

Donald Dickie (Sacro)

Yvonne Gailey (Risk Management Authority)

Professor Roisin Hall (Risk Management Authority)

Professor George Irving

Simon Kinghorn (Scottish Criminal Record Office)

Paul Martin (Glasgow Springburn) (Lab)

Andrew Morrall (Disclosure Scotland)

Ian Todd (Scottish Criminal Record Office)

CLERK TO THE COMMITTEE

Jennifer Smart

SENIOR ASSISTANT CLERK

Claire Menzies Smith

LOCATION

Committee Room 5

Scottish Parliament

Justice 2 Sub-Committee

Tuesday 3 October 2006

[THE CONVENER *opened the meeting at 09:38*]

Child Sex Offenders Inquiry

The Convener (Jackie Baillie): Good morning, everybody, and welcome to the third meeting of the Justice 2 Sub-Committee. We have not received any apologies this morning. I remind everyone—including myself—that mobile phones and pagers are to be switched off. I introduce Professor Alec Spencer, who has been appointed as an adviser to the sub-committee.

This is the first evidence session in our child sex offender inquiry. I welcome our first witnesses, Ms Margaret Ann Cummings and Paul Martin, her constituency MSP. I welcome you both to the sub-committee. In particular, I congratulate you, Ms Cummings, on bringing petition PE862 to the Parliament. I commend you for your courage, as that is not an easy thing to do. Paul Martin has lobbied his fellow members tirelessly on your behalf to ensure that your petition has been properly considered.

You have the opportunity to make a brief opening statement. We will then move to questions.

Margaret Ann Cummings: The murder of my son, Mark, in 2004, at the hands of a convicted paedophile, not only robbed me of my beautiful son; it showed me the massive flaws in the system that should have protected him. Despite my personal tragedy, which I hope no one here ever has to experience, I decided to launch the Mark's law campaign. The campaign has peacefully followed the correct procedures to try to bring about changes in this country, and I welcome the opportunity to have my views heard today.

The current system for handling child sex offenders in Scotland is not working. You need only look at the newspapers or turn on the television to find evidence of that. Barely a year after Mark's death, another schoolboy, Rory Blackhall, was murdered by a child sex offender, who was clearly not being managed properly. Just last week, registered sex offender Peter Tobin hit the headlines having been linked with the murder of an innocent student, Angelika Kluk. With echoes of Stuart Leggate, Tobin hid behind an alias and the police had no idea that he was in their midst. The whole issue of how best to manage sex offenders is clearly difficult, but it is a

matter of huge public concern and it must be tackled head on.

Controlled access to information is central to Mark's law. It would give parents and carers the right to know about predatory sex offenders in their area. The current climate is one of fear and suspicion, which is a direct result of parents being kept in the dark. In America, a system known as Megan's law has operated with huge success. For example, in the 10 years in which the system has operated in California, there have been no vigilante attacks. California, particularly Los Angeles, is a state with high crime rates, especially of gun and gang crime, yet there have been no violent reactions.

I want the right to apply to my local police office for information on child sex offenders living within a 1-mile radius of my home. I would happily be vetted to check that I was entitled to such information, and I would be prepared for tough penalties, including jail time, if such information was abused.

I believe in my heart and soul that Mark would still be alive today if Stuart Leggate had known that parents were watching. On a more basic level, my son would have known to stay away from him. Sex offenders can be very manipulative. They can lure children out of safety and into danger. Neither I nor Mark had the information that we needed to stop his death.

Police and social workers admit that they do not have the time or resources to monitor the thousands of sex offenders who are living in our communities. When I first reported Mark missing, I was told that he was probably out playing, and officers took more than half an hour to come out. The officers on the ground had no clue that Leggate was a convicted child sex offender. No alarm bells rang when I reported Mark missing.

Communities should be trusted to help themselves within a strictly controlled system. It would simply be a matter of keeping a close eye on individuals in the community. That would free up police resources to concentrate on dealing with offenders who are not yet registered. In America, the fact that communities have been aware of offenders' presence has helped many sex offenders to rehabilitate and avoid reoffending. When sex offenders are in hiding or underground, as they tend to be now, there is little incentive to change behaviour.

Following Professor Irving's recommendations, a system of targeted disclosure has been proposed, which would mean that police chiefs could give certain community members and families details of nearby sex offenders on a case-by-case basis. However, the proposed system would be entirely unregulated, with no system of penalties for any

misuse of information. The proposal goes further than the type of controlled disclosure that is being called for today, and it carries greater risk.

I ask that we place more faith in the Scottish people. The system could be rolled out gradually over time, and could go hand in hand with an education programme. That might take the form of police and social work open days, or setting up stalls and making information available at various events. With proper education and tight controls, a system of disclosure could be successfully rolled out in this country.

There must be a radical rethink of how paedophiles are housed. Under the current system, offenders are placed in cheap, available housing, often in tower blocks like the one where I live. The sad reality is that many children in those areas are vulnerable and could become a target. A far broader strategy is needed to place high-risk paedophiles in secure, appropriate accommodation. If a system of notification was in place, that would go hand in hand with multi-agency monitoring and co-operation, complemented by members of the community.

We need a reclassification of sex offenders to help to manage them better. Currently, sex offenders can include anyone from a flasher to a child attacker, and that causes much public confusion. Current laws struggle to cover all sex offence cases, rather than there being a more tailor-made system. With a new classification, paedophiles, or child sex offenders, could come before specialised courts so that they could be processed faster and receive far tougher sentences.

When an individual is convicted of causing a child sexual harm, the sentence should provide a tough response, regardless of whether it is a first offence. Drug dealers are given 10 to 15-year sentences for their crimes, and sentences for sex offenders should value our children as highly. If Stuart Leggate had been given appropriate sentences for the string of crimes that he had committed against children, he would not have been on the streets to murder Mark. Tougher sentences would help to act as a deterrent and putting paedos behind bars, where they belong, would solve monitoring problems. If we had a regulated system of disclosure, proper housing policies and tougher sentences, I believe that we would give our children the protection that they deserve.

I am just an ordinary mum who has been thrown into the spotlight. I did not ask for any of this to happen. My son's death haunts me every day and I do not want any other family to suffer in the way that my family has suffered. I have tried to put the issue in the public eye and have done everything

possible to bring about positive changes peacefully.

09:45

The Convener: Thank you very much, Margaret Ann. That was a powerful statement.

I will ask the first question, if that is okay. On community notification, as I understand it, you seek full disclosure to parents of information about any sex offenders who pose a risk to their children and who live within a 1-mile radius.

Margaret Ann Cummings: Yes, that is true.

The Convener: Some people say that that measure might put more children at risk because the paedophiles would go underground or because their supervision, treatment and rehabilitation would be harmed. What is your view on that?

Margaret Ann Cummings: The paedophiles are already underground in that they hide behind aliases in communities where there are children. It has been proved that they do not receive the 24-hour supervision that they need, whereas a community would work together to ensure that it could remove a child from danger.

The Convener: I should say that if Paul Martin wants to respond to any of our questions, it would be helpful for him to do so.

Paul Martin (Glasgow Springburn) (Lab): It might be helpful for Professor Spencer to examine the quite detailed information that is provided by the 50 states in the United States. As recently as this morning, I looked at what is available there as a result of the way in which Megan's law is enforced. Specific information on offenders is provided not just to people who live within a 1-mile radius, but to people throughout the state. Sex offenders are required to register themselves, and their names, addresses and details of the crimes that they committed are available. That system has been in place in the States for more than 10 years. It was implemented in 1996, following the introduction of Megan's law, although legislation on the management of sex offenders had been in place since 1947.

I have always said to Margaret Ann that my view is that the Parliament should investigate carefully that way of disclosing information before coming to an opinion on it. I support all the other aspects of Margaret Ann's petition. For example, I find it astonishing that a sex offender can assume an alias—I think that that is wrong—and many other elements of the system need to be addressed. I have told Margaret Ann that I believe that the Parliament should investigate the systems that are in place in the US and in other parts of the world. Members around the table would probably be

astonished to learn what a wide range of information is provided. Many of us probably thought that such information would never be provided on the internet, but in the States it is. We must look into that further.

The Convener: I put on record the fact that it is the committee's intention to conduct such wider investigation and to pick up on some of the points that Paul Martin has made.

Mr Kenny MacAskill (Lothians) (SNP): We know that, tragically, the majority of offences are committed not by convicted sex offenders or people who are on the sex offenders register, but by friends of the family or other acquaintances. How can parents and carers take steps to be forewarned or forearmed to best protect children from people who have no previous convictions and who are not on the sex offenders register?

Margaret Ann Cummings: I am sorry, but will you explain what you mean?

Mr MacAskill: The majority of attacks are carried out by people who are not convicted or on the register—friends of the family and people who are known but on whom information is not necessarily available. How can we advise parents or carers on how best to protect their children?

Margaret Ann Cummings: I am not an expert on these issues and I get confused. The majority of attacks are carried out not by members of the family but by strangers who work their way into the family in order to get at the children. They gain the trust of the family so that they can abuse the children. If the system were up and running, the police would have the opportunity and the resources to concentrate on people who are not yet on the register, because it would free up their time. It would open doors and provide information to parents, who are in the dark. We are all in the dark about how close sex offenders can be to us.

Paul Martin: We must develop a strategy. Unfortunately, now more than ever children have had to become aware of the challenges that they face both within the family and externally. As a Parliament and a community, we must decide how we want to address that issue. That can be difficult, because none of us wants to talk to our children when they are very young about the challenges that they face within the family. We must look at how staff of the various agencies that are involved—for example, housing agencies—are trained. Sometimes families' experience is that they do not get external support when they try to identify issues at an early stage. We would welcome progress in that area.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I want to ask about one of the fundamental issues relating to who would be notified. My question concerns the robustness of

the register. You have referred to people who are registered and to people who are not on the register. People may not be on the register because they have given false names to authorities or communities or because they are not registered at all. I have looked at published research from America for St Louis, Missouri, where there are 700 registered sex offenders. About half of them were not on the list, so the public authorities did not know about them. Is not one of the more fundamental points that if the public authorities know about an individual, they can monitor them?

Margaret Ann Cummings: Our concern relates to the more dangerous, predatory paedophiles. We want the police to be able to go through the information that they have so that unregistered paedophiles and sex offenders can be put on a proper list. People get confused when they hear the term "sex offender"—they think the worst, because the term is not clear. It does not distinguish between a paedophile and an average person who has peed in the street and does not pose the same danger.

Jeremy Purvis: I do not want to put words into your mouth, but do you take the view that notification should apply only to violent offenders and those who have been convicted of a more serious offence? In some states in America, all sex offenders are listed on the internet.

Margaret Ann Cummings: We are not asking for that. We are asking for the more dangerous ones to be placed on a list. That would free up police and social work resources to go back over all their logs, bring them up to date for sex offenders who are not yet registered and put those names down on their forms.

Jeremy Purvis: I know that the convener wants to move on to other areas, but I have one further matter for clarification.

I have had meetings in my constituency with the council and the police, the latest of which was yesterday. I was told that if a parent or anyone in the community is concerned about an individual, and the council, the police or a housing association—they all work together now—receive a complaint or are also concerned about the situation, or if the behaviour of someone on the register is such that they are concerned about it, there are under current law two ways in which they can notify, for example, parents, an employer, other members of a club or swimming pool staff. They can use either the police route, because a chief constable has the legal power to make such notification, or the local authority route, because local authorities have similar powers to protect children. Were you aware of the existence of those powers under current legislation?

Margaret Ann Cummings: They probably do exist, but they are not put into practice properly. Leggate was brought to the attention of individuals in my area, but nothing could be done because the authorities did not know he was there. Nobody brought the matter to the attention of the local police, which is probably what should have happened. I was notified that he was hanging about in areas where he should not have been, but no police were around to monitor him. It was evident that he had a free run of our streets and could do what he wanted. In his mind, he had the power to do that and no police officer could make him change what he said or did.

Paul Martin: I want to add a point on the notification issue. When someone is placed on the sex offenders register, my understanding is that that in itself is a public process because it is done through the judicial system. We act as if sex offenders are a secret that we put away somewhere, but they are placed on the register and the fact that that has been done is sometimes widely publicised. We do not disclose sex offenders' names and addresses when they are placed on the register, but my understanding is that that information could be provided.

Anonymity is not necessarily an issue at the start of the process. The issue is where they move to after their prison sentence, and it would probably be more difficult to get the kind of information that Margaret Ann Cummings is seeking if they had served their sentence. I wonder whether, under the provisions of the Freedom of Information (Scotland) Act 2002, somebody could ask how many people are on the sex offenders register at whatever state of play.

We must keep it in mind, though, that sex offenders are not some kind of secret. The legislation regarding them is enforced publicly when they are placed on the sex offenders register.

Alex Fergusson (Galloway and Upper Nithsdale) (Con): Good morning, Ms Cummings. I echo the convener's remarks when she welcomed you. We all think that you are extraordinarily courageous in doing what you have done.

I want to expand a bit on what Paul Martin said. I feel that there is a process leading up to someone taking the step of becoming a sex offender. I wonder whether you have any thoughts on whether information could be provided to parents and carers of children that might make them more aware of how people build up to becoming a sex offender. I am thinking of how potential victims are groomed—I think that that is the proper expression. Indeed, I wonder whether there could be better education for parents about how they could supervise their children at out-of-house and out-of-school activities. If that could be improved,

would that help the whole process? I wonder whether we should almost treat our children as if there were at least one sex offender in the community, because that would make them more completely aware of the dangers. More generally, could more information be given to help with that process and how best could it be given?

10:00

Margaret Ann Cummings: Yes, it could be; for example, schools could take part. We put our kids into school so that they are educated and taught right from wrong. I agree that schools teach children about stranger danger, but they do not hit home the message that kids should watch out for someone who just wants to show them a puppy or something like that. They make out as if kids should watch out for strangers who offer to do nice things like take them to the park and so on.

If schools got involved, teachers could become involved in properly educating children so that they would know what to watch out for. Basically, we cannot always be scaring children; we cannot always be saying, "There might be a danger out there." We have to teach our children—and adults, too—that there are people out there who work on getting to know children. When Leggate was first sentenced, the charge was lewd and libidinous behaviour. There was no way that that charge fitted what he did. Leggate did not accept the blame for the sex act that he had committed on a child.

Education must teach us how to assess these people. We cannot do that on our own; we are not qualified psychologists or psychiatrists. If the information that others have been made available to parents, we could use it to teach our kids. We can teach them the alphabet and help them with their school work, but we cannot teach them about strangers unless we understand how patterns of offending can become more serious.

Alex Fergusson: Would it be beneficial if parents were better informed about how people groom potential victims?

Margaret Ann Cummings: Yes.

Alex Fergusson: You think that there is a big potential in doing that and that it would be helpful.

Margaret Ann Cummings: Totally helpful. If we knew that we were getting the trust and information that we deserve, we would have the peace of mind to let our kids go out and about in the community.

Alex Fergusson: Thank you.

The Convener: Do you have anything to add, Paul?

Paul Martin: I return to a point that was made earlier. If anything is to come out of this sub-committee, it should be a recommendation to encourage the Executive to bring forward a national campaign. The Executive would have to do that sensitively. As Margaret Ann said, some parents want information at a certain level whereas others want to go further. We need to strike a balance. Children need to be told that a minority and not the majority of adults undertake these activities. If we get anything out of this process, it should be a measure that ensures that the right balance is struck.

Margaret Ann set the context. We must be careful that the process does not become one in which things are done in a politically correct way—the dangers are raised, but we do not give parents the detailed information that they need. The sub-committee needs to give further consideration to some of those areas.

John Home Robertson (East Lothian) (Lab): I join colleagues in thanking Ms Cummings for the way in which she has put her case to the committee. If the new Scottish devolved government system is to work, it depends on citizens such as you having the courage to put difficult subjects on the agenda. You have done that. Thank you. The issue could not be more important.

In your proposal for the provision of information about sex offenders, you suggest that the area within a 1-mile radius of the concerned parent or carer should be used.

Margaret Ann Cummings: Yes.

John Home Robertson: You do not need to worry about how that will be done; that is for us to worry about. However, when we start to draw lines on maps, we can come up with absolutely ridiculous situations. Do you envisage an area that takes in the block of flats, street, neighbourhood, village or the whole town?

Margaret Ann Cummings: A neighbourhood. A community is a community. I agree that that would mean that the line might be drawn further than 1 mile from the home. However, if I were to leave my children with a relative in a different area, I would be able to check on the computer that it was safe for them to be there. The system would not give information just on someone's own street; it would let them check a different area as well. I am talking about being able to check not a full city, but the area in the local community where you know your children will be. It would be far-fetched to make it tower blocks of flats because just one of those would take up the whole 1-mile radius, but the area should be widened out to include the surrounding areas that people go to.

John Home Robertson: So you are talking about the immediate neighbourhood, where kids are likely to be playing and hanging about. We can certainly consider that. However, to put the other side of the story, we live in a very mobile society in which people get on buses and trains and drive.

If you had been able to use the system that you propose, you might have been aware that Stuart Leggate was in the same block as you, which would have helped. That said, if someone went into the system and it said that no registered sex offender was within a 1-mile radius, it might lead them into a false sense of security, because people who come to the area from elsewhere could be hanging around on the street, by the bus station or wherever it might be. Are you worried about that?

Margaret Ann Cummings: It is true that people have cars and it is easy for them to jump on and off buses, but is it not the Parliament's or the police's duty to ensure that the sex offenders who break their curfews are brought back to where they should be? It seems that it is left to the sex offender to decide how far to keep to their curfew conditions and how much information they supply about themselves.

Surely if we saw them jumping on a bus, we could say, "We saw them going on this bus in that direction." Then if a child went missing, we would be able to provide that information. Sex offenders should not be allowed to travel anywhere. If they were given special bus passes to show to the driver, the driver could say that they travelled on that bus. Their registration plates could be noted by speed or closed-circuit television cameras, which could be checked to see whether the offender had moved out of their area.

Alex Fergusson: Will you clarify something that I thought you said earlier? I might have picked it up wrong, but did you suggest that if we had the 1-mile system that you propose and your child went to stay or play with somebody, say 3 miles away, you would want to be able to check that area through the internet?

Margaret Ann Cummings: Yes—if my kids were going to live with relatives for a break.

Alex Fergusson: Right, I did pick you up slightly wrongly—I am sorry.

Paul Martin: All disclosure systems that operate in other parts of the world adopt a blanket approach. I live in Scotland, but I can access information about sex offenders in Ohio. Specific information is provided on the internet regardless of any radius that might be in operation. We need to interrogate the possibility of our potential system going in that direction. If we are seeking disclosure about sex offenders in an area, I see no other way than to seek full disclosure. If parents

and the wider community were unaware of all the information, it could lead to displacement of the offender.

The Convener: I appreciate that point.

Jeremy Purvis: I seek clarification on a comment by Margaret Ann Cummings. I have read your submission to us, which contains the view that the information should be available for a limited geographical area, which is not the same as Paul Martin's suggestion of a national register that anyone could see on the internet. Do you still hold to the view in your submission? I just want to be clear on the matter, because Paul Martin's suggestion does not seem to be what you suggest in your submission.

Margaret Ann Cummings: We have been told that, if too many people get the information, that will lead to vigilante attacks and sex offenders going underground. I have tried to work it so that parents in Scotland could take it on themselves to get the information. Obviously, they would have to be willing to be vetted. I know that people can misuse information on what others are doing, but that surely should not cover everybody. We are told that sex offenders are individuals, but surely all the people of Scotland are individuals in relation to how they handle information. Not all of them will go out and fight.

In my heart, I would love everybody to have the information, because we all deserve it. We bring our children into the world and protect them and do everything we can for them. I suppose that knowing that other people might have information that I cannot get and that somebody else is looking out for my children and ensuring that they are kept away from sex offenders in an area would be beneficial for me and for every other parent in Scotland.

Jeremy Purvis: In your submission, you make the point that sex offenders are often put in cheap housing. Do you have any thoughts about how the housing issue could be approached differently?

Margaret Ann Cummings: That is a tricky question. If the majority of sex offenders were doing tougher sentences for their crimes, they would be in prison for longer and would not be out to wander the streets and offend. If people in the community know that the offenders are there—if they have that information—they might be more accepting, so the offenders would be able to do a lot more. The issue of where offenders are housed might not be a big issue if information was provided to parents.

Paul Martin: To add to that, prior to the Stuart Leggate case and the tragedy of young Mark, I had the perception that housing organisations were closely involved in the process—I am sure that Margaret Ann Cummings thought that, too.

We all thought that when a sex offender as dangerous as Stuart Leggate was released, they would be placed—and managed—carefully in the community. However, I was astonished to learn that the director of the local housing organisation that was responsible for the Charles Street tower blocks was not aware of Stuart Leggate's past or that he had any criminal history. If anything comes out of the sub-committee's inquiry, it should be that people must take responsibility for ensuring that that information is provided.

There is a debate on the issue in the housing sector. Some housing managers do not want to have such information because they feel that it gives them incredible responsibility and the difficult task of deciding how to place such individuals. I appreciate that, but people make difficult judgments every day. We need some closure on the issue.

Of course such individuals are dangerous and will continue to evade authorities in different ways. If we close down a loophole in one system they will possibly start looking for others. However, if sex offenders are not released into supported accommodation—there is an argument for that approach—we should at the very least ensure that housing managers and officials know where they are. That is clear from Margaret Ann Cummings's petition and is something that I have picked up locally. To be fair, the Executive is considering the issue and wants to ensure that that happens, but no legislation is in place and offenders continue to be placed in communities without local housing providers' knowledge.

10:15

Jeremy Purvis: The sub-committee is considering that matter. In the Borders, the homelessness unit at Scottish Borders Council and all registered social landlords ask the question when an application is made, but that is not a uniform approach throughout Scotland.

I have a final question for Margaret Ann Cummings. Forgive me for asking this, but could the disclosure of the whereabouts of registered sex offenders create a false sense of security among parents in communities? There is no equivalent approach to adults who have committed violent offences that have involved children, for example in the context of domestic violence, although there are considerably more such offences than there are sex offences that involve children.

Margaret Ann Cummings: There is already a false sense of security.

Mr MacAskill: You feel strongly about sentencing. What do you think about current

sentencing arrangements? Do you have suggestions for changes?

Margaret Ann Cummings: Leggate was sentenced to 20 years, which means that he will be 48 or 49 when he gets out—if he gets out. I have been assured that he will not get out, but I do not entirely believe that he will never walk our streets again. I was stunned to find out that sex offenders are not charged with everything that they have done; they are just charged in relation to their final acts. Sentencing policy should take everything into consideration.

The time that offenders spend behind bars should be increased, so that they can receive the help that they need and scream out for. They talk about their human rights and say that they have served their time and should be freed, but whether they get sentenced to 20 years, four years or six months, they serve only half their sentences. The procedure is not correct and does not show them that what they did was wrong.

Paul Martin: Margaret Ann elaborates on tariffs in her petition. When a sex offence is committed against a child, the child is at a great disadvantage because they do not have the maturity to be able to make the decisions that an adult might make. We have always argued that offences against children should attract significantly higher tariffs than do offences against adults—that is not to detract from the significance of crimes against adults. We feel strongly that the tariffs should be reconsidered. We should also acknowledge that the system releases individuals who have not undergone effective treatment or have refused to take part in a treatment programme. That is a challenge for society.

The real question is why we are releasing such individuals if there is a very clear professional consensus that they are dangerous and, in that light, we need to take another look at our sentencing policy, among other areas. Margaret Ann Cummings said earlier that, as a result of the political agenda, Scotland's judiciary has moved more and more towards giving heavy sentences to those who have been involved in drugs. For example, in my constituency, an individual received 19 years for being caught with £2 million-worth of drugs. We should compare that with what happened to Leggate, who received a 20-year sentence for his crime. Of course, any activity involving drugs is unacceptable and should be tackled with the longest possible sentences. However, Margaret Ann Cummings and I argue that the sentences for the crimes that we are talking about should be increased to make certain that the individuals involved receive effective treatment. After all, if we are not sure that they have been treated effectively, why should we release them?

Margaret Ann Cummings: After what Stuart Leggate did to my son Mark, the local police told me that, as far as they were concerned, Leggate had been a model citizen. However, it also turned out that his social worker did not want him to be left after his probation was up. People had to decide whether Leggate had done everything that he had to do in the two years that he was on probation. Of course he would do the right things and follow the correct procedure, because he knew that everyone would be on his back and he did not want to go back into prison. That is what sex offenders do: they bide their time and gain everyone's trust. After all, the wool must have been pulled over the police's eyes if they thought that Leggate was a model citizen. It says something when all sex offenders have to do is tell police officers and social workers that they have pulled themselves together and that they will not do anything else. The phrase "model citizen" certainly does not ring true as far as Leggate is concerned.

Alex Fergusson: The fact that I represent a very rural constituency might well be important in my raising this issue, which I do not think has been touched on. In your opening statement, you said that since the introduction of Megan's law in America there has been no vigilante activity of any kind. Some years ago, a released sex offender arrived in my constituency and presented himself as homeless to the council, which then had a statutory duty to house him. With his big bushy beard, he was very recognisable and, indeed, soon became well known locally. In effect, he chose to disclose himself because he believed that if everyone knew about his past the community could monitor him more easily and would know where he was at any given time.

Margaret Ann Cummings: He should be given the help to change.

Alex Fergusson: However, for about a year, he was hounded out of every community in which he was housed until he was eventually persuaded that it would be better for him to keep a low profile. In the end, he was housed in the largest town in the region and simply drifted into anonymity. Why are you so certain that vigilantism will not be a problem, particularly in small rural communities?

Margaret Ann Cummings: Is it not better to know about these people? Vigilante attacks have happened only because the public are scared. They feel that the police's resources are so tied up that they are unable to do anything and social workers cannot be there 24 hours a day.

Adults need to be taught—you have been taught about everything. Working with sex offenders and—[*Interruption.*] Sorry.

Alex Fergusson: Not at all—you are doing fine.

Paul Martin: Sara Payne went through the same experience as Margaret Ann. When she met the Minister for Justice and members, she said that she had found the system in Canada—the buddy system—to be the most effective way of monitoring individuals. Coming from Sara Payne, that speaks volumes. In that system, people in communities are aware of who sex offenders are. Many such individuals live among the public, and if they are different that can cause difficulties. Some people have argued that, because of freedom of information, so much information is available that people will not have the appetite to find it out. That may be what happens in North America: because the public is provided with so much information, vigilante attacks would have to be targeted against a vast number of individuals, which would make them more difficult. Margaret Ann has made that point on a number of occasions.

In the area that I represent, there have been no vigilante attacks following Mark's tragic death. Margaret Ann and elected members have made a constructive case for a change in the law, to give children and adults maximum protection. People have been willing to move forward on the issue.

With Megan's law, people have sometimes taken advantage of the information provided. However, I would argue that people are targeted in court, where sentencing is a public process. We have to investigate that further, so that we know what can happen after a wide range of information is made available.

Alex Fergusson: So you are saying that for one-off situations—which the example that I gave certainly was—general disclosure would become more acceptable.

Paul Martin: I am not sure; we have to investigate what the public appetite for information would be in a country the size of Scotland.

Some people are very sophisticated in using computers to access information, but some people are not. If there were a family in my constituency with learning difficulties, I would be concerned if they were not able to access information. We have to consider how information would be provided to them. Although we could provide information that some people in communities could access and others could not, would that lead to disadvantage?

As Margaret Ann and I have often discussed, we have to ensure that people are given maximum protection. If giving more information is the answer, we have to look into it carefully.

Alex Fergusson: Thank you.

The Convener: I thank both Paul Martin and, in particular, Margaret Ann Cummings. Your evidence will be very helpful in our deliberations.

After giving evidence, many witnesses say to us, "Oh, I forgot to say something," or, "I missed something out." If there is anything that you wanted to say, please feel free to write back to us. We would be happy to accept evidence from you again.

Margaret Ann Cummings: Thank you very much.

10:30

The Convener: I now welcome to the committee Ian Todd, the acting director of the Scottish Criminal Record Office; Simon Kinghorn, the head of the criminal justice information bureau at the Scottish Criminal Record Office; and Andrew Morrall, the acting deputy disclosure bureau manager for Disclosure Scotland.

I propose to go straight into questions, and I have the task of asking the first one. Please bear with me, as I am not as steeped in the matter as you are. My question comes in three parts. First, what does the Scottish Criminal Record Office do and what volume of work does it deal with? Secondly, we have encountered loads of different terms so far, and I would be delighted to explore with you the relationship between them. For example, we have heard about the Scottish Criminal Record Office, the Scottish intelligence database, the criminal history system, Disclosure Scotland, the disqualified from working with children list, the violent and sex offenders register and the sex offenders register. If you could clear up the mystery and chart us through those terms, that would be helpful. Finally, how does the sex offenders register operate and what categories does it use?

Ian Todd (Scottish Criminal Record Office): You ask a number of questions, and I hope that we can answer some of them. The Scottish Criminal Record Office has existed since 1960 and is a support organisation that provides a number of services to the Scottish police service and the wider criminal justice community, and it has developed over that period of time. It consists of a number of sections and a quite disparate range of bureaux. Our current structure—although there are moves to change it—includes the Scottish fingerprint service, Disclosure Scotland, an information technology bureau that maintains and supports the various computer databases that operate within the SCRO, and a criminal justice information bureau the specific task of which is to oversee the criminal history system. We also have an intelligence support bureau that oversees the Scottish intelligence database and the automatic number plate reader system.

As you can see, there is quite a wide range of services within the SCRO, all of which are

interconnected in a way. They exist to provide a service to Scottish forces and to the wider criminal justice community. There are a large number of acronyms, and having been in post for a year I am still learning them. The criminal history system is essentially a computer system that houses what would once have been a paper-based system containing people's criminal histories or records. In addition, we have the Scottish intelligence database, which police forces feed information into. We house the database and maintain and support it.

You asked about how the sex offenders register operates but, because that is essentially an operational matter, we are not in a position to answer that question. Police forces operate the register; we maintain the computer systems, which forces, the courts and various other bodies update. We can tell you how information is recorded on the various systems that the forces access, and perhaps Simon Kinghorn and Andrew Morrall will be able to go into that in detail.

The Convener: Thank you for that helpful answer.

Alex Fergusson: Being a simple person, I am still confused, but I will get there in the end. I have a much simpler question for the witnesses.

My interest is coloured by a constituency case involving how potential sex offenders can be identified. How much information do you get, what do you do with information and intelligence on potential sex offenders and how is that information used to best protect communities from a possible sex offence in future?

Ian Todd: Forgive me if I repeat myself, but the forces get that intelligence and put it into the Scottish intelligence database. How that intelligence is used is a matter for the forces. We monitor and audit the data to ensure that they are accurate and that, when they have to be removed, that is done in line with various weeding rules. However, how that intelligence is used is a matter for forces. They own it—it is their material; we merely maintain and support the system.

Alex Fergusson: So it is a bottom-up process.

Ian Todd: Yes. I am sure that you will get the answers that you are looking for from the Association of Chief Police Officers in Scotland when you speak to its representatives.

Alex Fergusson: We will certainly ask them the questions.

Mr MacAskill: We are trying to find out whether you get the appropriate information from all the relevant bodies at the outset or during the course of the process. We want to know whether the relevant information is being put in initially and is being added to by relevant organisations such as

the courts, social work departments, health boards and so on. Perhaps you might know the answer to our question from an audit perspective.

Ian Todd: If someone does not give us information or does not put it on the computer, we will not necessarily be aware of it.

Simon Kinghorn (Scottish Criminal Record Office): With regards to sex offenders, we have had no problem with the information that is relayed from the police, who put it on to the criminal history system. The information goes to the courts and the courts return it on conviction. Since the Sex Offenders Act 1997 came into force, we have encountered few instances of data being incorrect or having been modified but, nevertheless, we have checks and balances to ensure that the information is correct, given the sensitive nature of the cases that we deal with.

John Home Robertson: Are you saying that it is your job actively to compile the register and ensure that the information is on the database?

Ian Todd: No. We do not have something that looks like a register. We have people's criminal histories on the system. If they have been placed on the sex offenders register, that will be part of their criminal history, which is contained on the CHS. Forces have their own lists of registered sex offenders in their force area, which might be broken down by operational unit. We have all the registered sex offenders on the CHS. If you wanted us to list them all, we could run a programme that would do so. However, we do not have a paper list of all registered sex offenders.

The Convener: I had assumed, in my naivety, that there was a national list. Bearing in mind the fact that it is possible to step over the boundary between one force and another, why are there separate lists? Do the forces not, through you, maintain a national list?

Ian Todd: The national list exists in the computer. All the registered sex offenders are on the system and a complete list of their names could be brought up quite quickly. However, we do not hold a paper list of their names.

The Convener: If a sex offender happened to be living in, say, the Central Scotland police force area, would Strathclyde police know about them?

Ian Todd: Strathclyde police has access to the criminal history system and would be able to get that individual's details wherever he lived, for whatever reason. If they wished to interrogate the system using someone's name or date of birth, they could find out the person's address.

The Convener: Let me just get this clear. The system lists every individual in Scotland with any criminal record rather than highlighting the fact

that certain people are known sex offenders. Is that correct?

Ian Todd: A sex offender's record would have a marker on it that would highlight the fact that they were a sex offender.

Simon Kinghorn: That is correct. The forces have access to the CHS but have the responsibility for monitoring their own sex offenders, depending on the category of the offender. With regard to those who are on the boundaries, ACPOS will be able to tell you more about the detail of the procedure, but the relevant forces will be in contact with one another.

John Home Robertson: I think that I might have stumbled on an issue that we might want to pursue further.

You are in the business of actively maintaining information. However, it is up to the police to access that information if they want it. I have heard the chilling evidence of Ms Cummings, and it seems that, when her son went missing, the local police were not aware that there was a convicted sex offender in the immediate neighbourhood. Is there any way in which you can proactively ensure that the local police are aware of people who have this problem on their patch, or is it always up to the police to come and ask for that information?

Ian Todd: Monitoring sex offenders is an operational procedure for the police. On the criminal history system, there is a marker against the names of registered sex offenders. From our point of view, it is important to ensure that those markers are there. That information comes to us from the courts and from forces. When I say that it comes to us, I mean that it goes on to a computer system that can be accessed by forces locally. Simon Kinghorn's team ensure the validity of information on the system.

John Home Robertson: But it is up to local police offices to come and get the information from you.

Simon Kinghorn: They do not have to come to us; they have access to the criminal history system. When a person appears in court for committing a sexual crime, that information goes on to the criminal history system and the case is marked as pending. Information about what happens in court—for instance, if the person is released on bail—goes back to the force, which is the data controller. If the person is convicted and is required to go on to the register, that information goes from the court to the force, which is duty bound to update the system to ensure that people are aware of the sex offenders in their area. We are there to ensure that the data are processed according to the rules and conventions of the criminal history system so that no mistakes are

made. Every day, we examine records that have been amended for whatever reason, so we are able to ask forces why changes have been made or inform them that the details are not correct. The forces are the data controllers; we are there to audit and check for compliance.

Jeremy Purvis: Am I correct in thinking that any investigating officer is able to interrogate the system and immediately find out whether a police report has been compiled in advance of a trial, whether someone is on bail, whether they have a conviction and whether they are on the sex offenders register?

Simon Kinghorn: Yes, they can check all of that if they have access to the criminal history system.

Jeremy Purvis: Who has access to the criminal history system?

10:45

Simon Kinghorn: People who are trained have access to it, and it is a matter for the police to say who they want to be trained. Force operations rooms have access to the criminal history system. If somebody is acting suspiciously and the police have been contacted, they will check the criminal history system and the police national computer. The force intelligence bureaux, which compile packages for proactive policing to prevent crimes, have access to the information. Who else has access to it depends on who the police want to be trained.

Jeremy Purvis: We can put that question to the police.

Police intelligence that is held at force level might relate to cases in which a police report was made about an individual, but there were no proceedings. Such information is held on a force-by-force basis, under the chief constable's authority. Do you have any link with that information?

Ian Todd: The Scottish intelligence database mainframe sits within the SCRO.

Jeremy Purvis: That is a national database, but it comes under the authority of each force chief constable. Is that correct?

Ian Todd: Yes. They enter the data, because they are aware of the circumstances. We have a small team called the intelligence support bureau, which is headed up by an inspector and supported by a number of sergeants and four support staff. The intelligence support bureau oversees the Scottish intelligence database in the same way that Simon Kinghorn and his team oversee the criminal history system. Trained officers in police

stations with terminals have access to the information 24/7.

Jeremy Purvis: Offenders can have their criminal record weeded because of the time that has elapsed since the crime was committed. If someone appears on the sex offenders register for longer than the normal period for weeding a criminal record, is that information retained on the criminal record database?

Simon Kinghorn: It is highly unlikely that the period of registration would be greater than the weeding period. There is the 20/40, 30/70 weeding rule: if someone is convicted of a low-level crime, they have to have reached 40 years of age and the crime has to have been committed at least 20 years previously before the record is weeded; if someone is imprisoned, they have to have reached the age of 70 and the crime has to have been committed 30 years previously before the record is weeded. People might be on the register for life, but checks and balances are in place.

Paul Martin: Is there confusion about the system among the professionals who deal with inquiries? You have mentioned the various organisations that are involved and this and that working group. Has anybody ever thought about moving to a one-stop-shop approach to providing and accessing information?

Ian Todd: The sharing of information between agencies has become highly topical in the past few years. The Scottish intelligence database is clearly a police system. If someone is seeking a disclosure, they have access to various databases to check an individual's background.

Andrew Morrall (Disclosure Scotland): If an individual applies for a position in which they will be working with children or vulnerable adults, Disclosure Scotland will receive an enhanced disclosure. If, when we check the criminal history system, we find that someone is a sex offender, we will also find an intelligence marker. That means that we will ask the police force to investigate. We will advise it that the individual has applied for a position and it will investigate the information that it holds and make a disclosure to us. We will then produce the disclosure certificate, a copy of which goes to the applicant and the registered body, who will make a decision on the individual's suitability for a position working with children or vulnerable adults.

If someone makes a check for a child care position, they will access through a disclosure the list of those who are disqualified from working with children. If an individual is on that list, we will disclose that to the employer and they will know that that person cannot be employed in a child care position.

We also have access to lists in England and Wales that cover vulnerable adults. A Scottish list is being established for that area.

Paul Martin: So many agencies and people are involved that there are demarcation issues all over the place, which must lead to errors being made. It could also be the case that people just do not take the time to get hold of information because of the timescales involved. We are dealing with some of the most dangerous individuals on the planet. Is there a way to make access to the information a bit more sophisticated and user-friendly?

Ian Todd: The information on the criminal history system is on computer. The courts, social work services and various other bodies are linked through the ISCJIS loop—please do not ask me to tell you what that stands for because I am not quite sure whether I have got the acronym right. However, the electronic ISCJIS loop connects agencies, so information goes directly from the court when somebody is convicted and placed on the sex offenders register.

In that sense, the various agencies do talk to each other. They do so through the criminal history system, to which various bodies have different levels of access. It is a joined-up system that is constantly developing. A review group was set up under the national criminal justice board to consider how ISCJIS operates. ISCJIS is on the agenda and the question is whether the current operation can be improved and developed. There is always room for continuous improvement.

The Convener: I will not tax you to explain the ISCJIS loop just now, but perhaps you could write later to explain it to us.

John Home Robertson: Now we can get on to community notification. As the witnesses will know, it has been put to us that there is a case for creating a new right to enable parents and carers to have information about sex offenders who live in their neighbourhoods. The specific suggestion is that the names, addresses and descriptions or photographs of sex offenders who have offended against children and who live within a specified radius of a concerned parent or carer should be available to such people. Could that be done with available tools and information?

Ian Todd: We have a considerable amount of information on the criminal history system and the intelligence database. Decisions about what should or should not be disclosed are not for SCRO to make, but the information exists.

John Home Robertson: It exists, so if there were legislation or a direction from the Executive to disclose such information, you could do that—it is physically possible.

Ian Todd: The information could be divulged.

John Home Robertson: I just want to get my mind round what the bulk of such disclosure might come to. The specific radius being talked about is 1 mile, although that definition could be tweaked, and a circle with a 1-mile radius is just over 3 square miles. How many sex offenders would you expect to find in such an area in an urban area such as Glasgow or Edinburgh?

Ian Todd: We are asked, for example, whether we can identify individuals by postcode area, but the postcode is not a mandatory field of information. When it is supplied, a certain number of individuals might be thrown up, but it would not necessarily be 100 per cent of them. It would depend on how each police force had set up records for its own area. It would depend on whether the records were broken down by operational division or operational command. The information exists, but getting hold of it for a specific radius would not necessarily be done through the criminal history system. It might not be the easiest or most practical way of finding that specific kind of information.

John Home Robertson: You are not going to have a stab at how many individuals there would be within that type of radius in urban Scotland. It would probably vary.

Ian Todd: We have never had to do that exercise—run a script—for a force.

Simon Kinghorn: We know how many are in each force area.

John Home Robertson: That is public, is it not?

Simon Kinghorn: Yes, but we have not had to calculate how many there are in a 3-mile radius of Edinburgh.

Mr MacAskill: I am surprised that, in the 21st century, a postcode is not mandatory. Is that down to information we have heard privately in the committee—that a registered address could be a park bench? Should that be tightened up, so that a defined address, a postcode or some other defining information is given to you at the outset?

Ian Todd: It is my understanding that one of the reasons why a postcode has not been mandatory is that not everybody knows their postcode. If you ask people their name and date of birth, they will know that information, although they might give you a false name and date of birth. Those are mandatory fields for obvious reasons.

The Convener: And there are other mechanisms to check that information.

You guys hold the data—I am clear about that. If I wanted to interrogate the data in different ways, I could do it by name, because that is a mandatory field, but, according to you, I could not do it by postcode.

Ian Todd: You could do it by postcode, but you would not get a 100 per cent accurate response.

The Convener: In which case, I cannot do it by postcode. I understand all your checks and balances and I am therefore comforted about the veracity of the data you hold, but I cannot interrogate the data in a way that helps me because certain fields are not mandatory.

Ian Todd: That is correct.

The Convener: What are the mandatory fields?

Simon Kinghorn: Name, age, date of birth and address. Nationality has recently been added. Modus operandi is a mandatory field—that is important for sexual crimes. The criminal history system is not a statistical database; it is an investigative tool. It is used by police forces in inquiries to find a list of suspects who have committed similar crimes previously. The modus operandi field includes the date by which sex offenders are required to register and, once they have registered, the expiry date of registration. There are other mandatory fields, but if you were searching the personal details, those are the ones you would look at.

The Convener: I have a question about how all the different lists talk to each other. You have explained that the criminal history system is the big list, if you like, but I am interested in VISOR and its relationship to SID—I hate using acronyms—or the violent and sex offenders register's relationship to the Scottish intelligence database. I am keen to know whether there is a crossover; equally, I am assuming that VISOR operates in the same way as the sex offenders register.

Ian Todd: We have not got VISOR yet, or responsibility for VISOR. A development team is working hard to roll that out throughout the 32 local authorities. Even when it is rolled out, we will not house the computer system at the SCRO. It is hoped that a small team will come to us once the system is rolled out to do the job that Simon Kinghorn's team does for criminal history and that the intelligence support bureau does for the police intelligence database.

Following the same model, we will have a small team at the SCRO who will be responsible for the audit and compliance of Scottish data, although we will not hold the computer system. As to the link between VISOR and SID, we will come back with a written response if you allow us to go away and verify how that might operate in the future.

11:00

The Convener: Let us be clear. You are saying that VISOR will be operated by 32 local authorities and that the data will come in in the same way as

they do through the system that is operated by police forces with the sex offenders register—is that right?

Ian Todd: Local authorities will have access to VISOR as police forces have access to the Scottish intelligence database. A number of agencies, as well as the police, will have access to VISOR. We are happy to research that and to provide a more detailed response.

The Convener: Excellent. That would be very helpful.

Jeremy Purvis: I have a brief question. If there were a different classification of sex offender—for the offence of an attack on a child, for example—would that pose any difficulties for you or would it simply be entered into the database as a different offence?

Ian Todd: If we had to change the way in which information was recorded, that technical matter would involve a software change. That happens all the time as the system develops and new needs are identified. As I said in my letter, if somebody subcategorises in some way and that information has to be recorded, it is a matter of changing the system software.

The Convener: There are no remaining questions from committee members. I thank the three witnesses, Ian Todd, Simon Kinghorn and Andrew Morrall, for their attendance this morning. We will have a five-minute comfort break.

11:01

Meeting suspended.

11:10

On resuming—

The Convener: I welcome everybody back to the meeting. Our next witnesses are Professor Roisin Hall, the chief executive of the Risk Management Authority; Morag Slessor, a board member of the Risk Management Authority; Yvonne Gailey, the director of operations and development at the Risk Management Authority; and Professor George Irving. We will kick off with questions—I will ask the first one.

Your written submission is helpful, as it outlines the background, role, functions and work of the Risk Management Authority. Do you wish to add any general points at this stage?

Professor Roisin Hall (Risk Management Authority): No. Our written submission gives the context that we thought might be useful to the committee.

The Convener: It does.

Mr MacAskill: Your written submission talks about your responsibility to set standards, produce guidance, and so on. What is your view of the impact that public notification of sex offenders who have offended against children would have on the implementation of management plans or programmes for sex offenders in the community?

Professor Hall: I ask Yvonne Gailey to speak on that subject.

Yvonne Gailey (Risk Management Authority): We appreciate why the matter raises such public interest. We believe that communities have a right to be empowered and enabled to protect their children as well as they can, but we do not feel that community notification is necessarily the way to achieve it. We want to achieve it through a three-pronged approach in which robust services, in terms of risk management strategies and plans, are delivered consistently. Alongside that, we advocate education of communities in the best ways to protect children. I very much agree with Ms Cummings's points about the education of communities from the point of view of public health and primary prevention. The third aspect that is required is careful and considered case-by-case disclosure along the lines that are outlined in Professor Irving's report. That is how to provide the protection that is required.

There are dangers associated with public notification, and there is not an awful lot of evidence to suggest that that achieves much. In the United States of America, there have been difficulties with vigilante action in every state and there is no evidence that public notification has reduced the number of sexual offences. However, there have been positive results when certain states have used public notification to introduce a public health approach, through educating people and providing resources for educating the public. From my reading of the situation, those appear to be the most positive approaches.

Alex Fergusson: I, too, thank you for your written submission, which is very useful. It states that you have commissioned a project to validate risk matrix 2000, which is the approved assessment tool for predicting reoffending by sex offenders. My understanding—please interrupt me if I have got this wrong, which I might well have done—is that risk matrix 2000 is made up principally of historical data, as is bound to be the case. Am I right in thinking that that means it cannot be used to predict any level of harm that might be inflicted, or what risk there might be from, for instance, a change of mood, circumstances or even location? If I have understood that correctly, what tools could or should be used for assessing the risk that is currently posed by sex offenders in any community?

Professor Hall: Robust risk assessment is the basis for good risk management of any offender, whether a sex offender or a violent offender. As Professor Irving's report suggests, we must consider what risk assessment is about. It is multifaceted and there are different levels of risk assessment.

We must be careful not to be overreliant on any one tool. Different methods of assessment have different applications, depending on what one is trying to discover. Risk matrix 2000 is a good actuarial measure of the probability of reoffending but, like insurance, it is based on groups. The method relies on historical factors and gives the likelihood of reoffending for a particular group of people; it does not tell us much about individuals. For that reason, it is an extremely useful first step in screening. It is good for resource allocation and for flagging up individuals on whom we might want further information or whom we might want to assess further, but we would never wish the method to be used on its own to determine how to classify or manage an individual offender. It is useful to remember that.

11:15

The system is useful for the police in deciding how to allocate resources. We are dealing with enormous numbers, so the police have to target their pretty scant resources. That is the most effective and efficient way of working. However, we must be careful that we do not tip over into using risk matrix 2000 as a tool for individual management. The crucial point is that, to manage individual offenders, we try to get an holistic picture and to understand and make sense of a range of information about the pattern of offending in the individual. That is true at all levels, from the screening and monitoring that the police have to do right up to consideration of an order for lifelong restriction for a serious sexual and violent offender.

Several features must be taken into account. Whereas risk matrix 2000 considers probabilities, the more sophisticated and specialist tools can be used to consider the features that Alex Fergusson talked about, such as likely offending behaviour and the situations in which it could happen. Those tools are used to consider the particular constellation of factors in which offending will happen, and the early warning signs in the individual for which we need to watch. The issues are complicated. We are working with the Executive and the police on new methods of assessment.

Alex Fergusson: I presume that the "early warning signs" that you talk about are signs of reoffending.

Professor Hall: Yes.

Alex Fergusson: As I said earlier, every sex offender was once a potential sex offender. Are there any tools that are used to identify potential sex offenders in the same way as risk matrix 2000 highlights those who are likely to reoffend? That question may be outwith your remit altogether, in which case just say so.

Professor Hall: We do not focus on that matter specifically, although people who work with young people or in mental health will look out for exactly the same factors and features in people whom they manage.

Alex Fergusson: Do you feed into other agencies to help them compile that sort of information?

Professor Hall: Yes. One of the most exciting things for the Risk Management Authority has been our interest in, and co-operation with, several responsible authorities. That involves not only the typical criminal justice people from the judiciary, the police and social work, but people from the national health service. That is an important part of our work. You talked earlier about education. Risk management is a 360° area.

John Home Robertson: Your submission states that no Scottish court has yet made an order for lifelong restriction, although I imagine that the disposal will be available for new cases. What type of sex offender would such orders be made against and how will we manage such risky people in the community?

Professor Hall: In a case that is currently being heard, the court will decide today whether to raise a risk assessment order. The order for lifelong restriction was introduced by a High Court judge and has been described as an extraordinary sentence for an extraordinary offence. An OLR can be imposed for a sexual, violent or life-endangering offence. It could not necessarily be imposed if murder had been committed; it is intended for serious violent and sexual offenders. The risk criteria are interesting, because consideration is given not just to the offence but to the pattern of the person's offending behaviour: for example, how the offending behaviour developed, whether it escalated and whether it is diverse. Consideration is also given to attributes of the person such as their attitudes and personality characteristics.

The crucial point is that an holistic look is taken at the person in an attempt to gain understanding of the situations in which they could be managed. The approach is not just about ticking off boxes in a test until a cut-off point is reached; it is about asking, "Have we got the right information to enable us to understand what leads this person to offend, and in what circumstances they become

likely to reoffend?" On the basis of such information, we can start to develop monitoring and intervention management plans.

John Home Robertson: How?

Professor Hall: You must prompt me.

John Home Robertson: I think that I understand the technicalities of the process. However, how can we ask police, social workers or anyone else to manage the risk that is posed by someone whom you regard as a significant danger to society?

Professor Hall: Within nine months of a risk assessment order being raised in court and perhaps an OLR being imposed, the lead authority, which might be the health service or the Scottish Prison Service, because the individual is likely to be in a secure or custodial setting, must submit a risk management plan to the Risk Management Authority for approval. We are producing standards and guidance on the features that we look for in an effective risk management plan. For example, there must be an understanding of the factors that need to be addressed in the long term, as well as contingency planning in the event of early warning signs.

Given the seriousness of the offences that we are talking about, the individual will spend the first part of their sentence—which might be quite extensive—in a high-security setting. Therefore some of the consideration will not be as vital in the first 10 years as it will be when the person moves back into the community, which is when early warning signs become incredibly important.

In the first instance, we look for an understanding of what the risk management plan will need to cover in the context of the contributions that different agencies will make. As Yvonne Gailey said, no single agency can ever address the risk management of a particular offender; a collaborative and multilayered approach is necessary. Members have discussed the need for information from many agencies. In Scotland, the introduction of community justice authorities and the multi-agency public protection arrangements—the MAPPA model—will help to implement systems whereby aspirations that are expressed in information concordats and duties to co-operate can be fleshed out by bringing people round a table to share relevant information. The sharing of information is probably one of the most important features of risk management—the committee has heard this morning about the need to ensure that information is available to the people who need it.

John Home Robertson: It is clear that imposing an order for lifelong restriction will be difficult for everybody.

Professor Hall: It is a massive undertaking. We have to consider not only the resources that are required to monitor people who are on the risk management plan for an OLR, but the resources that are required by the police to monitor people who are on the sex offenders register. The resources that are required are quite a lot more than the police have at the moment.

John Home Robertson: Forgive my ignorance, but is it possible to apply such orders to people who are already in the system? For example, could an order be applied to somebody who was convicted a long time ago but who was due for release and was still a concern?

Professor Hall: No—not unless they offended again. The order went live on 20 June and is intended primarily for people who offended after that date, unless they were at a very early stage in the Crown procedure.

John Home Robertson: Is there a case for making the orders apply retrospectively?

Professor Hall: For such offenders, there will be serious consideration of parole conditions when they are released from custody, or—if they are being released from a national health service setting—serious consideration will take place at the tribunal. Provisions are already in place.

The processes that are being put in place for orders for lifelong restriction are similar to the detailed and structured professional risk assessments that are carried out for parole purposes. The Custodial Sentences and Weapons (Scotland) Bill will end automatic early release, and people whose sentences were less than four years could be risk assessed before they leave a secure setting. There have been moves to ensure that people who are currently in the system and whose behaviour is cause for worry will undergo intensive risk assessment.

Paul Martin: I think Yvonne Gailey said earlier that Megan's law had not reduced the level of sexual offending in the United States. Where did that information come from? A number of people have said that the level of offending has not reduced since that law was introduced in 1996.

Yvonne Gailey: Only one study has been done—in Washington—and no significant change in the level of sexual offending was noted. However, in other states, there has been evidence of problematic aspects in Megan's law.

Paul Martin: Provision of that kind of detail to the public raises the profile of the particular crime. Could it be that people are more willing to come forward to report crimes of that nature because Megan's law has been introduced and because it has been in the public profile?

Yvonne Gailey: I am sorry—I am not catching the question.

Paul Martin: You are saying that Megan's law has not reduced offending. However, we have no specific figures; nobody has said, "Over the 10-year period, the level has increased by 25 per cent." All we are hearing is that a study was carried out in Washington—although we do not know when—which said that the law had not reduced the level of offending. However, could there be reasons for that finding that are not directly related to disclosure?

Yvonne Gailey: Are you suggesting perhaps that there is more reporting and that that is affecting the figures?

Paul Martin: Yes.

Yvonne Gailey: It is possible. Understandably, this issue attracts a lot of attention so it is interesting that there have not been more studies of the impact of Megan's law. Only one study has been carried out. I could not go into its details right now, but I could certainly supply the committee with a reference for the study, if that would be helpful.

Paul Martin: As far as we aware, there has been only one study in 10 years, and it suggested that the law had not made much difference. However, we have no scientific evidence to say that offending has increased because of Megan's law; it could be that more people are reporting offences because they are more aware of the subject.

Yvonne Gailey: I did not say that the level of offending had increased; I simply said that there had been no reduction. The level has stayed almost exactly the same.

11:30

Paul Martin: Do you acknowledge that one positive aspect of disclosure is that the public become more aware of the issue?

Yvonne Gailey: In the US, notification has had what could be described as positive spin-offs. For example, certain states tried to take a positive approach by building in primary prevention, education and public health policies. However, those elements can just as easily be covered without having to introduce notification.

The Convener: Before I bring in Alex Fergusson, I can confirm that the committee would appreciate seeing the study to which you referred.

Alex Fergusson: You said that the study showed that there had been no drop in the level of offending. What about the level of reoffending?

Yvonne Gailey: I am sorry; I was referring to the level of reoffending.

Alex Fergusson: Good—that is quite important.

The Convener: If the Risk Management Authority directly approves risk management plans only for people who are subject to orders for lifelong restriction, we are talking about an incredibly small number of people, even if such plans are backdated. What happens to everyone else? Who do you provide advice and help to?

Professor Hall: One of the Risk Management Authority's important functions is to act as a resource centre for advice on best practice. Although we have been functioning for only a year and are, in that sense, the new kids on the block, we have met many of the different agencies and have given presentations. I am pleased to say that as a result of our approach we have been asked to join a number of working groups, including the Minister for Justice's national advisory body on offender management, which considers overall policy and the implementation of, for example, the Management of Offenders etc (Scotland) Act 2005. We are also working on the implementation of the MAPPA group's recommendations and the violent and sex offenders register, which we will all find incredibly useful.

We have been working with the health service on the care programme approach and on how information on early warning signs for mentally disordered offenders can be linked into the MAPPA system to ensure that we begin to talk to each other and that no one tries to hide behind professional confidentiality. Moreover, we have been working closely with the Scottish Prison Service—which is a crucial first-step agency in the development of risk management plans not just with regard to OLRs but with regard to people serving shorter sentences for sexual and violent crimes—on helping with work that it needs to carry out on parole and on arrangements for the introduction of the risk assessment that will be required under the proposed legislation to end automatic release.

After hearing that, you might well say, "So you're having a lot of committee meetings." However, I hope that our work has a more practical effect than that. For example, we want other practitioners to use the information that we have published on the order for lifelong restriction, including standards and guidelines for the different types of risk assessment that need to be carried out, and the risk assessment tools evaluation directory, which highlights the strengths and limitations of the different tests. Indeed, the consultation exercise was remarkably fruitful in that respect. For example, some people told us, "Your material is too rarefied. We need practical details on how we could use it with those, for

example, serving community sentences". We are trying to be a resource centre that has some practical effect as well as airy-fairy ideas.

The Convener: I would not describe your ideas as "airy-fairy".

Yvonne Gailey: On a practical note, the standards and guidelines that we are developing for risk management plans will have training in assessment techniques associated with them. That training will be available to any practitioner in any agency around the country, not only to people who are going to work with people who are on orders for lifelong restriction. We want the material that we are developing to be used widely and not to be restricted to those few practitioners.

Jeremy Purvis: I have a brief question on the research that you have been looking at. I believe that it is research by Matson and Lieb from 1996, regarding the Washington law, which predated Megan's law, which came in 1990. It is not the only research that has been carried out on sex offenders and monitoring of disclosure information, but as far as we are aware it is the only work that has specifically addressed the level of offending. If you were able to give us not only that document's reference, but references for the wider research that has been done, that would be helpful.

Yvonne Gailey: Do you mean research on the other strategies?

Jeremy Purvis: Yes.

Yvonne Gailey: We can certainly do that.

Jeremy Purvis: I also want to ask specifically about RM2000. Professor Irving's report recommends that the risk assessment tools be used more widely in social work departments. Through other evidence that the committee has received, we have been learning about the MAPPA arrangements in local authority areas. Am I right in thinking that RM2000 is currently the tool that is being used through the MAPPA arrangements?

Professor Hall: RM2000 is being used for sex offenders by the police, social work and the prisons. MAPPA is not yet live, but RM2000 will contribute to the MAPPA arrangements.

Jeremy Purvis: You might be able to help us to establish a timeframe for that. Your written submission states that you have commissioned a project to validate the use of RM2000. Once that is complete, will local authorities be able to use RM2000 for their MAPPA arrangements?

Professor Hall: I am sorry—I am confusing the issue. Risk matrix 2000 is currently being used. It is a tool that is validated both internationally and in the UK. However, we want to ensure that it is appropriate for the Scottish population, which is

the purpose of the work that we are undertaking. We will report early next year, but the authorities are not dependent on our reporting for RM2000 to be used at present. It will be used in the MAPPA arrangements, and local authorities do not have to wait for us to report on our research.

Jeremy Purvis: Will all the local authorities use RM2000?

Professor Hall: It will be a first step for everybody who works in the field—the local authorities, the prisons and the police. Nevertheless, I stress that it is only a first step.

Jeremy Purvis: How will each local authority ensure that a consistent approach is taken? Will they be forced to use RM2000 as a first step so that every local authority will take a consistent approach?

Professor Hall: Risk matrix 2000 was introduced so that we could achieve some commonality. Quite often, people from different agencies have trained together, which is a useful way of doing things. We are now considering methods of assessment that will consider the more changeable and dynamic factors, with a view to a particular tool being used across the agencies. Although a standard approach is sensible, we must be careful not to say that it is the holy grail—it is not. It is a screening instrument on which we will want to build further methods of assessment to get more information.

Jeremy Purvis: What role and what powers does the RMA have in ensuring that best practice is disseminated across the local authorities and that a standard approach is taken? Professor Irving's report highlights areas in which there is no consistent approach, but I do not get the impression that either the RMA or the Executive will have a strong hand in the matter or be able to say that an authority is not operating best practice in a certain area.

Professor Hall: Yes, Professor Irving's report flags up those issues. Lord MacLean's committee flagged them up; every inquiry report that we read flags up the same issues. One of the important things that came out of Lord MacLean's innovative recommendations, which led to the Risk Management Authority's role, is our statutory function to approve risk management plans. As the convener said, the OLR is for only a small group of people; however, they will be high-profile people, and a certain standard must be set. If we feel that there has been inappropriate assessment, lack of information sharing or unrealistic plans, we have the facility not to say that the authority has got it wrong, but to negotiate with the authority. We can ask whether the authority has thought of doing this or that, which it

needs to do before we can approve its risk management plan.

The legislation also provides the facility for it to be considered that the Risk Management Authority should approve risk management plans for other offenders if required. That is a useful power. Nevertheless, my own feeling is that inter-agency debate, discussion and education seminars to build up a critical understanding of what we are trying to do are far more useful. We cannot force people to do things, but we can get them doing those things because they believe that they are the right things to do. It is about carrots and sticks.

Professor George Irving: I would like to take that a stage further. The community justice authorities, which will come fully into being on 1 April 2007, will have a duty to monitor standards of practice and to report to the minister when people are failing to reach those standards. My report refers to the community justice authorities having oversight of those arrangements. There will be eight such authorities throughout Scotland, which will bring all the local authorities, police and other services together. They will be the monitoring agents. They will have to satisfy themselves that the processes are being similarly followed by all, and they will be able to report to the minister any failings or discrepancies that they find.

The Convener: Let us move on to sentencing. I am not sure that you necessarily want to comment on sentencing other than from a slightly different angle that I will take to it. I hope that you have knowledge or experience of the intervention and change programmes that have operated. Do you think that minimum periods of custody or supervision would be beneficial in ensuring that people complete those intervention or change programmes?

Professor Hall: Yes, the timescale is crucial. When I worked with Professor Spencer in the prison service, it was frustrating when an offender did not have the time to work through some of the intensive intervention programmes that they were thought to need. However, we must see intervention programmes and intensive personal change programmes in the context of other risk management strategies. Sometimes, the system falls down because, although an intensive intervention programme has been carried out and quite a degree of change appears to have been achieved, that has happened in a rarefied setting. The crucial time is when the person goes back into the community and the risk potential shoots through the roof. We need to consider not just the length of the custodial part of the sentence, but the length of the supervision period. It must be long enough—and enough resources must be provided for it—to enable the person to be helped to

generalise in a real-life setting what they have learned.

The Convener: So there would be no set period—it would depend on the individual.

Professor Hall: All such matters must be assessed and managed individually.

11:45

Mr MacAskill: I turn to the proposal that there should be two classifications of sex offender: offenders who target adults and those who perpetrate offences against children. Is that suggestion practical and useful? Would it help or hinder? If the measure is brought in, are there assessment tools and management plans that should be invoked?

Professor Hall: If you talk to practitioners in the field, you will find that most of them have recognised that sex offenders do not fall neatly into one group or the other. The unfortunate murder that happened this last week is evidence of that. A more useful approach would probably be the introduction of the MAPPA model, which classifies offenders according to the complexity of cases and the risk of harm. The different levels in the MAPPA system provide us with an opportunity to focus on the risk of harm associated with particular people. We worked with the implementation group and we are pleased that it has recognised the need to focus on how the assessments are done.

Alex Fergusson: I want to return to inter-agency co-operation, communication and information sharing, which you have rightly flagged up as being fundamental to the management of offenders. I am still unclear about which agency is the driver in ensuring that that interagency co-operation happens. What steps is the RMA taking to examine such issues? How have you worked with the police, social work departments and other agencies so far?

Professor Hall: I will ask Yvonne Gailey to answer that.

Yvonne Gailey: There is a much stronger drive on interagency working than there has ever been in the past. Interagency working is vital, given that a lack of information sharing is almost invariably a feature of every tragic case that is reviewed.

There has been great improvement over the past 10 years. The position that we are in now—particularly the extent to which police and criminal justice social work are sharing information—would have been inconceivable 10 years ago. Following the Sex Offenders Act 1997 and up until quite recently, co-operation was based on relationships that developed between particular police officers and members of criminal justice teams.

More recently, with the introduction of multi-agency public protection arrangements and the work of the information-sharing group, a more collaborative approach has been adopted and more structures and processes have been put in place to support co-operation. Co-operation that is based on who individuals know in different offices is not enough because when those people leave, the co-operation ends. There are new processes to support co-operation. The MAPPA model has yet to be implemented, but one of its main functions will be to improve information sharing.

Alex Fergusson: Am I right in saying that the direct answer to my question is that no particular agency is the lead agency in ensuring that co-operation and information sharing take place and that that will be improved by the introduction of MAPPA and the CJAs?

Yvonne Gailey: It would depend on the case. The police take the lead in all cases involving registered sex offenders. When a case involves an element of supervision in the community by a social work team, there is joint responsibility, but the police continue to have the overall lead.

Professor Irving: All police forces now use the police's VISOR system and social services are contributing to it more, as they achieve compatibility with their systems. As the register, it will be the main vehicle for holding information on sex offenders, registered or otherwise. As I see it, VISOR is the key.

Jeremy Purvis: Will the Risk Management Authority or Professor Irving comment on the risk assessment for a sex offender who is known to the responsible housing authorities? By that I mean that the authorities have been notified that an individual in prison will seek private or social housing in their area on release. What role does the RMA have when risk assessments are made of the suitability of the location and type of accommodation and what should the balance be? There is a balance to be struck between not locating an offender, for example, near a park or school, and locating them near a police station in order to be monitored, which would be an issue in rural areas such as those that Mr Fergusson and I represent. What is the most appropriate way of assessing that? How is a consistent approach achieved?

Professor Hall: Yvonne Gailey has been considering seriously the issue of drawing up risk management plans. I ask her to speak to you about that.

Yvonne Gailey: I know that our strategy paper was made available to members, so I will not go into detail. However, it is an excellent document and a huge step forward. Much of the issue about housing comes back to information sharing and

multi-agency work. It is difficult to give blanket recommendations or instructions on where particular offenders ought to be housed. The issue must be assessed carefully, from different angles, on a case-by-case basis.

We often approach the issue in terms of not housing sex offenders near a school, but there is not much housing that is not near a school. Houses are built in locations that make it easy for kids to get to school, so that is an immediate difficulty. We must also remember that sex offenders are generally highly motivated, which means that they will walk out of their area. Nevertheless, the area in which they are housed must be one that addresses the particular risk factors that they pose, so consideration ought to be given to who already lives close by. Further, after an offender has been housed, consideration must be given to who might thereafter move into a particular block or area. Where an offender is housed is an on-going matter for assessment for housing providers.

Jeremy Purvis: I want to get that point clear. A registered social landlord in my area could be part of the discussion about housing a sex offender in a particular area and could house such an offender. Following that, there is the consideration of subsequent housing policy because people could become a neighbour of an offender or be in the same tenement block or two-up-two-down block, of which there are many in my area. That is an on-going matter, but a housing officer who was not the sex offender liaison officer would not necessarily know about that. Indeed, that might also be the case for another RSL. How is that to be co-ordinated?

Yvonne Gailey: I believe that the plan is for there to be a link officer, who will link with the SOLO. My understanding is that there would be a link officer in different associations and with different types of landlord.

Jeremy Purvis: There is an acute problem in many of our constituencies of young families seeking housing. If a young family puts in a housing application to a housing association, local council or RSL—although private let is difficult—what mechanism is there to ensure that, where the risk management process has identified that an offender should not be housed in an area that has an existing young family, associations would not offer a young family a property that was next door to, or in the vicinity of, a sex offender?

Yvonne Gailey: Again, that must happen through multi-agency liaison before an offender is released or before somebody is housed. However, the issue is not straightforward because many parts of the process can interfere. A plan could be made for somebody's release from prison—not somebody, though, who was on an order for

lifelong restriction—and the plan for where they would go could change. Plans can get messed up. Through liaison between all the agencies involved in advance of the move, addresses should be checked and housing should be risk-assessed. That is putting a lot of faith in the MAPPA model, but it should help by providing a structure for the liaison that needs to take place.

Professor Irving: We recently met the Scottish Federation of Housing Associations and registered social landlords. I am not an expert on housing, but I have seen the strategy that the SFHA is finalising. RSLs, housing associations and local authorities will have a combined social register for tenant mapping purposes. I do not know how far that has got, but it would give an overall picture of an area and not just little pockets within it.

The Convener: That is an initiative by the Scottish Executive that I believe will come to fruition by March 2007.

We move to questions to Professor Irving, who, as we all know, is the author of "Registering the Risk". Your report says that it is incumbent on the police to assess the risk posed by sex offenders in the community. How difficult will that be, given that, as part of that process, they are relying to a huge degree on historic information? How do we keep risk assessments up to date and dynamic?

Professor Irving: I will try to be brief—please interrupt me if I am not. The risk assessment by police, as I have recommended in my report, is quite a basic one on the RM2000 principle. That risk assessment is to be added to by consultation with colleagues who are involved in that particular matter, especially if social work supervision is also involved. If that were the case, I would be looking for a joint assessment. Thereafter, the updating of the risk situation very much depends on a change in circumstances of any of the offenders. That is why I further recommend in the report that the registered material available to the police should be much enhanced for monitoring and on-going risk assessment purposes. It is not a static situation. I see enhanced information being obliged of the offender; joint risk assessment with others where the police believe that necessary, although some are pretty straightforward; and expert clinical advice on very severe cases if they so require it. It can be done and some forces are actively going down that route.

Mr MacAskill: Once your recommendations are fully implemented, will the police and social workers be able to monitor sex offenders effectively? If not, what practical improvements are required?

Professor Irving: I am not being guarded, but although they can monitor effectively, they can never give guarantees. Let us be honest, we are

dealing with what is recognised by many who are more expert than I am as probably the most devious group of offenders in society. I approach them on the basis that we are dealing with devious and manipulative individuals who will exploit any gap in the system. The system could be much more effective than at present.

Going back to an earlier question on disclosure, we err in not putting sufficient onus on the offenders themselves being responsible and accountable for their conduct. It is always transferred to some other agency. The missing part of the jigsaw at the moment is refocusing personal responsibility on the offender, with powerful measures to back it up. That is what I would like to explore further.

Paul Martin: What kind of measures should be in place if the offender does not comply with the registration requirements? If they do not provide that information, should their parole be revoked or something?

Professor Irving: My understanding is that any breach of registration requirements can mean a minimum of six months in prison, or five years if it is on indictment. If we get into the matter of offenders' responsibility and accountability for their actions, we have to consider further penalties. The Sentencing Commission for Scotland has considered that matter. There has to be censure. There can be other censures on the conduct of an individual without court censure.

Paul Martin: Such as?

Professor Irving: I touched on it already for the whole matter of disclosure, which continually comes up in these cases. If someone's misconduct is liable to be such that it will be a danger to others, those others should have that information, with all the ramifications that that has for the offender.

Paul Martin: People may have conditions applied on their release, such as not making contact with certain individuals or with people of a particular age group. What happens if a person continues to offend after release? We try to correct the behaviour, but what happens if it is shown that an individual is not willing to correct their behaviour?

12:00

Professor Irving: Measures are available. For example, prior to someone's release, if there is reason to suspect that they will make immediate contact with a person who they should not contact, a sexual offences prevention order can be imposed immediately on release as a court disposal. A prevention order can also be applied for subsequent to release. The measure is

available to the police on application to the court. The orders specify what cannot be done and sanctions follow automatically if that is done.

Alex Fergusson: Recommendation 13 in your report states:

"As a matter of priority the Risk Management Authority should ... Introduce an accreditation system for risk assessors, particularly police officers."

Will you expand on why that should be such a priority?

Professor Irving: You touched earlier on the different assessment systems. In the past, the police made active use of the Tayprep system but, by national agreement, they have now moved to RM2000. That provides an opportunity to ensure that officers who use the system are accredited and can use it properly and effectively. The system is not complicated, but an accreditation process is required. We also have an opportunity to enhance the role of officers who use the system, so that they become accredited risk assessors. At present, a variety of officers, accredited or otherwise, can use the system, but the system should be used by those who can use it effectively. The process would also enhance the status of the police's sex offender units. It would be more attractive to police officers to get the skills if there was an accreditation system. An accreditation process would have many benefits.

Alex Fergusson: To clarify, and for my peace of mind, do you envisage all assessors coming from the police force?

Professor Irving: No. Social work departments, the Scottish Prison Service and the police will have assessors who use the RM2000 system, although some will be more advanced than others.

Alex Fergusson: Your report talks about an accreditation process for assessors, "particularly police officers."

Professor Irving: The report focuses purely on the role of police officers in registering and monitoring. Those were the confines within which I worked.

John Home Robertson: Your report states that the information that is contained in the sex offenders register should be "robust and appropriate", but you suggest that, at present, it is not entirely adequate in some respects. What are those comments driving at?

Professor Irving: I believe that the current register is basic and inadequate. Sex offenders are asked for their name, address, national insurance number, a photograph and, perhaps, fingerprints. That is an inadequate basis on which to monitor people's conduct in the community, so the register must be enhanced. For example, I

recommended that DNA samples should be included if they have not already been taken for another purpose. I am glad to say that that recommendation has been accepted. Passport details should also be required because, as we have heard, such individuals are mobile.

The register must go wider than that. With accommodation, the issue is not just its suitability but who is in the accommodation. The issue is still being debated, but I believe firmly that the register should contain offenders' accommodation details, by which I mean their household details. The police should also know about their main activities and their employment, as those are vulnerable areas. That information should be provided as part of the registration process and the updating process. That would put a clear onus on the offender to keep the register updated. Not to update the register is a criminal offence. We should expand the range of information that offenders are required to give, not just because we want it, but because it is vital that we have it.

John Home Robertson: That is a crucial issue. It has been highlighted in recent days how easy it is to disappear and turn up somewhere else with a different name. We will never reassure people unless they can have reasonable certainty not only that people who are known to be a risk are in a police computer somewhere but that the bobby in the neighbourhood knows where they are and the social workers can keep an eye on their behaviour.

Professor Irving: I am more confident about that wider recommendation, although some people had concerns about the infringement of civil liberties. My view on civil liberties is clear: of course sex offenders have human rights and the right to privacy but, when it comes to public protection, the interests of the vulnerable person and the community are paramount. The information that I have suggested is now included in VISOR, so it could be stored safely; the capacity is now there to do that.

Jeremy Purvis: In response to previous questions, you indicated your support of controlled notification, on a case-by-case basis—I hope that I have paraphrased accurately what you said. Do you think that a public notification scheme would be helpful in the management of sex offenders who have offended against children or in reducing offending? Would it be useful with regard to monitoring and public safety?

Professor Irving: I know that that is a contentious issue and, if I may, I will answer the question quite slowly. If I am getting too long-winded, I know that you will interrupt me—please do so.

Jeremy Purvis: The convener will.

The Convener: I would not dream of it.

Professor Irving: Never give a former social worker a microphone. I want to say, not in a patronising manner, that I acknowledge the tenacity of Mrs Cummings in bringing this issue to the forefront and focusing our attention on it. I can try to understand just how huge it is from her point of view.

I want to set my comments in context before giving you a straight answer to the question. First, I believe that the duty to protect communities lies with the public agencies—the police, social services and others. I do not believe that it is the duty of communities to protect or police themselves. However, as I have said, I believe that sex offenders are probably the most devious and manipulative individuals whom we try to monitor, supervise or control. I also believe that sex offenders should be required to take more responsibility for their own actions or inactions. I put all those parts together in coming up with the resolution that I have proposed.

I endorse the findings of the expert panel led by Lady Cosgrove, which produced its report, “Reducing the Risk: Improving the response to sex offending” in 2001, and the findings of the MacLean committee on serious violent and sexual offenders. Both those major research inquiries—they were much more major than mine—came out firmly against community disclosure, because they did not think that it would contribute to community safety. In fact, they thought that the identification of sex offenders would lead to their going to ground and disappearing, which would be even more dangerous. However, I do not discount the power of disclosure, which is a very important power that the police have at present. I believe that we can turn it to effective advantage if we adapt it into a formalised warning and control system, rather than a liberal communication system.

I will précis that as much as I can, because I know that your time is limited. I refer to what I said in sections 23 and 24, or thereabouts, of the report. I am more concerned about the practicalities. If a sex offender rejects the advice of a monitoring police officer to change their circumstances—for example to find more suitable accommodation; to refrain from certain activities, such as being an attendant at a swimming club; or to look for other, more suitable employment—and if the monitoring officer feels strongly that there is an element of public and personal protection in his advice, I suggest that the officer should move to the warning system. The sex offender would be warned that if they continued in such conduct, arrangements or household accommodation, disclosure to the vulnerable parties might follow.

We would have to give offenders the opportunity to remedy the situation. The remedy period could be set by the police officer, as authorised by a senior police officer. If an offender continued to reject the advice or warning, disclosure should follow. Sex offenders would have every opportunity to modify their conduct and to remove themselves and others from places of danger or harm. If disclosure then followed, the onus would be clearly and entirely on the sex offenders themselves if they had done nothing to remedy the situation or to protect those to whom they were believed to be a risk.

The disclosure could be made, as appropriate, to members of a household, if the registration extension is accepted. It could be made to an employer or to an activity centre manager. In extreme circumstances, it could be made to a community, but that would be a last resort and would have been discussed and agreed with a senior police officer.

We should not take a simplistic, blanket view of disclosure. We should turn it into a system that protects the public and places the onus on the sex offender. If disclosure then follows, it does so with all the ramifications that come with it. That is my suggestion.

Jeremy Purvis: The committee has been examining the MAPPA, the risk assessment arrangements and the practice guidance that will be made available. If a police officer is concerned enough to speak to someone who is being monitored and to ask them to change their conduct, why on earth should there be a warning system? If that officer is sufficiently motivated to tell the individual that their behaviour or conduct is unacceptable, that they should not be in the area where they have been identified, and that certain action now needs to be taken, why have a warning system? Ultimately, a choice for notification might be made by officers or through the sexual offences prevention order process, but why have a warning system?

Professor Irving: For a number of reasons. I do not discount the possibility that there may be cases in which there is no time for a warning and immediate action must be taken. There are cases in which an officer will want to go to court and get a SOPO prohibiting access to a particular person or situation, as has been mentioned. The warning system extends the powers of the police to other cases—the vast majority of cases—in which there is no need for immediate action but there is concern nonetheless. I believe that it plugs the gap, and it is also very quick. The warning could be issued one morning, the final warning could be issued that afternoon and the action could be taken that night. It would depend on the circumstances of the case. Warnings are another

power and another way of using disclosure effectively. I certainly do not discount the use of SOPOs or the recall of licence, but warnings are a method that is available to the police.

When the question was first raised, I discussed it in some detail with the ACPOS sex offenders working group, which is made up of members from the eight police forces in Scotland. The group is chaired by an assistant chief constable or a chief superintendent but peopled by front-line officers themselves. They were keen on the idea of a warning system for the vast range of cases that they deal with, rather than for extreme cases.

Mr MacAskill: Obviously, co-operation between various agencies is necessary and desirable, and co-location is suggested as one way of achieving that. Is co-location taking place and do you have a view on whether it is desirable?

Professor Irving: It is taking place and, yes, in my view, it is desirable. Co-location is also one of the objectives and priorities for the new community justice authorities. There is a good example in Fife of the co-location of police and social services and there are other examples elsewhere. The community justice authorities are in business to integrate, to share resources, to align budgets and to co-locate wherever appropriate. The Scottish Prison Service has appointed lead officers to each of the community justice authorities. Those officers will work directly with each of the community justice authorities. The national health service has appointed a lead officer at board level, to work directly to community justice authorities on a representative basis. One of the key features of that work is, of course, risk management of sex offenders, so that move is very much under way.

The first area plans from community justice authorities were submitted at the end of September, but they will become fully operational only in April next year, when we will see the roll-out of a greater level of co-location and a greater acceptance of each other's risk assessments, case assessments and single shared assessments. I am confident that that will happen.

12:15

John Home Robertson: In your report, you propose that there should be

"discretion about the timing of release for a person serving a custodial sentence of significant length for a sexual offence to ensure the risk to the community can be minimised."

Will you expand on that? What does that mean for sentencing and parole considerations? When is the right time to release someone who is a risk? Indeed, some of us might ask whether there is ever a right time to release such people.

Professor Irving: Again, I claim no great expertise on sentencing. My concern was about offenders being released automatically when their time came, regardless of whether they have been on and responded to a treatment programme. I shudder to think of some of the risk assessments that I did when I was a social worker and the clients that I did them on. However we are moving towards using much more sophisticated risk assessments and, with the focus on sex offending, we should be reaching the stage where the sentence is the period of time specified, but the offender's discharge depends on an appropriate and well-done risk assessment and on proven change through treatment. We have to get away from saying to offenders, "You have served two thirds of your sentence and you have done reasonably well, so out you go."

The Convener: With the benefit of hindsight gained since you wrote your report, would you change anything else?

Professor Irving: That is a difficult question. I am comfortable with the way in which my brief report—which had to be written very quickly in view of the tragic circumstances—has been tested and challenged. I want that to continue. I hope that I have not fallen into the trap of defending it in all circumstances. It is a single-handed view of the situation and I certainly do not claim to have more expertise than anyone else has. I hope that the committee will test the report rigorously, as others have done, and dispense with the bits that it does not believe to be suitable. I do not think that I personally am able to change anything in it.

The Convener: Thank you.

John Home Robertson: Are you happy with the response from Scottish Executive ministers?

Professor Irving: The report has been tested in a variety of settings and I appreciate that. That is what it is for.

The Convener: I thank the witnesses for giving evidence this morning. It has been quite a marathon session, so we will have a one-minute suspension to allow our final witness to come before us. I thank Professor Hall, Morag Slessor, Yvonne Gailey and Professor Irving.

12:18

Meeting suspended.

12:20

On resuming—

The Convener: I welcome our final witness: Donald Dickie, who is Sacro's criminal justice adviser.

As usual, I get to ask the first question. Sacro offers a range of services, including bail hostels and supported accommodation. Have those services been used to accommodate sex offenders? If so, how successful has that been?

Donald Dickie (Sacro): The answer is yes. Supported accommodation has been used in our work with sex offenders. We also help by way of a group-work programme for sex offenders and the provision, in partnership with local authorities, of intensive support and supervision for high-risk sexual and violent offenders.

The Convener: I am sure that my colleagues will explore the detail of that with you as we progress our questioning.

Donald Dickie: I did not fully answer your question on how successful that work has been. It is often difficult to measure such work. There have been failures: people have re-offended when they were living in our supported accommodation. However, a considerable number have not re-offended either during their stay in our accommodation or over a fairly lengthy period of time after they left us. There is a degree of success.

The Convener: That is good to know.

Mr MacAskill: You provide not only a variety of accommodation but a substantial amount of accommodation. How easy is it to arrange accommodation for sex offenders, especially those who offend against children? What problems do you face in that work?

Donald Dickie: The problems are real and vary from one area of the country to another. The situation is particularly problematic in areas where there is already huge demand on the local housing stock. In the Inverness area, for example, we would immediately face obstacles if—in conjunction with social work in the Highland region—we were to approach the local housing authority to ask for accommodation for any sort of offender, let alone a sex offender.

There are other areas of difficulty, some of which the new national accommodation strategy for sex offenders may help to resolve. However, we wonder whether housing associations will be as prepared to receive sex offenders on to their lists as local authorities were—in the past, local authority housing departments were prepared to engage with us. In addition to the strategy, the Chartered Institute of Housing in Scotland has taken on board many of the views that people who are engaged in the management of sex offenders have expressed. We hope that things will improve.

Alex Fergusson: I understand the point that you make about the huge pressure on housing and that that can lead to problems in many parts

of Scotland. My area of Dumfries and Galloway is one such area; very little housing is available. I assume that that can lead to sex offenders being housed not where it is most suitable to do so but where there is accommodation.

Donald Dickie: That can happen. Some of the areas that have given us most concern are those where it has been necessary to house people in accommodation that is intended for the homeless. Of course, that group includes extremely vulnerable people. We get very concerned when that happens.

Jeremy Purvis: Do you have an overall view on community notification? If that were to be required, as Margaret Ann Cummings calls for in her petition, would it affect your work? I am thinking in particular of your work in finding appropriate accommodation for sex offenders who have offended against children.

Donald Dickie: Sacro's general view is that public and community notification is not helpful. It would create more problems than it solved and would increase the risk of fear and hatred in a community.

There is quite a lot of evidence of vigilante attacks on offenders and people who were mistakenly identified as offenders. Sacro thinks that community notification would risk creating a false sense of security, given that many sex offenders or potential sex offenders in the community have not been identified because they have not been convicted and are not on the sex offenders register. We doubt that public notification would make a huge difference and be effective, and we would much rather that preventive measures to do with education, the preparation of communities to receive offenders and supervision were considered. Lady Cosgrove proposed such measures in a chapter of the report that she produced several years ago.

Sacro is involved in finding accommodation for people and we became involved in intensive supervision several years ago, as a result of a notorious case in which a man was hounded out of the Raploch district of Stirling. No local authority was able to find housing for him that would not be easily identified by the media and potential vigilantes, so we became involved. We used the private sector to find accommodation and we continue to be involved in such cases. In the high-risk cases in which we are involved, it is a source of daily concern for our staff that the offender's location should not be widely known, because if it becomes widely known the person will have to be uprooted from treatment programmes or supervision arrangements that have been put in place and, as other witnesses have told the committee, will be likely to disappear.

John Home Robertson: How do you manage high-risk sex offenders? What do you do about a person who is likely to reoffend imminently?

Donald Dickie: Voluntary sector bodies such as Sacro are not the lead bodies with responsibility for risk assessment and risk management. In recent years, local authority and police case management of high-risk sex offenders has increased. The new MAPPA model is intended to ensure a uniform approach to case management throughout the country.

Our contribution is often the provision of information that we receive from our workers, particularly those who work in supported accommodation but also those who work in intensive support. Our staff see the supervised offender frequently, if not daily, and in high-risk cases there can be an element of supervision almost round the clock. We feed information into the risk assessment process. The committee heard about static risk assessment, which is about the offender's history, and dynamic assessment, which is about what is currently going on. Sacro and other agencies that work with offenders in connection with employment, rehabilitation, supported accommodation and housing feed in information about what is happening in their work with the offender, which contributes to risk assessment and risk management.

John Home Robertson: It is an enormous undertaking. How many sex offenders might Sacro be involved with at any given time?

Donald Dickie: At any given time we are probably dealing with as many as 60 sex offenders, but as Mrs Cummings rightly pointed out, sex offenders are not a homogeneous group. There is a huge range of offenders and we are probably dealing with only a handful of high-risk offenders at a given time, as well as with other people who have committed offences and are at differing risks of reoffending and harm. We deal with a combination of people.

12:30

Alex Fergusson: You mentioned earlier the group-work programme and we understand that Sacro provides alcohol education programmes in the field of domestic abuse. How are those programmes accredited and how successful have they been? Have they been properly, scientifically evaluated? If so, do you feel that similar programmes and a similar type of operation could be used with sex offenders with equal success?

Donald Dickie: There is an accredited sex offenders programme in Scotland. The community sex offenders group-work programme has been accredited by the national group-work accreditation panel—Professor Spencer can tell

you more about that. I believe that the programme has undergone close scrutiny after lengthy development based on programmes south of the border that have been evaluated as having more of the essential components of a successful programme. Although this is not my specialty, I know that Sacro is involved in the induction and relapse prevention modules of the programme in Fife and Forth valley. However, I am not sure whether the programme is available throughout Scotland—whether there is equal access to it in every part of Scotland. That question might be worth pursuing.

Alex Fergusson: We can do that.

Can you touch on the efficacy of your programmes for alcohol-related domestic abuse?

Donald Dickie: Sacro has run an alcohol change programme for a number of years, and we have published a report that suggests that it can be extremely successful. It is not an intensive, long-term programme, as is required for sex offenders; it is a very different animal from a sex offenders programme. The intensive, long-term programmes that are likely to meet with some success for sex offenders go on for months and involve many hours, whereas it is possible to complete an alcohol change programme in a matter of weeks at the rate of a few hours a week. The domestic violence probation programmes that we have been involved in are more like the sex offenders programme, as they address deep-seated, problematic cycles of often violent behaviour. There is a huge amount of denial, as there is in sex offending, so it takes an immense amount of work and resources to make those programmes work.

Jeremy Purvis: Your organisation advocates mediation and, in some cases, restorative justice. Would you consider it appropriate to have such programmes for sex offenders? If so, would a distinction have to be drawn between those who have offended against adults and those who have offended against children?

Donald Dickie: Sacro takes the view that mediation is not an appropriate tool or vehicle in working with sex offenders. Mediation is about conflict between two parties over a specific matter, whereas sex offending, including sexual offences against children, is about offenders and victims of crime. There is a power imbalance there and mediation would not work for all sorts of reasons. The nearest that we get to using mediation techniques is in a small number of cases in which an offender—for example, a prisoner who has committed a very serious offence—wants to have some sort of reconciliation with the victim or the family of the victim. That has even happened in murder cases. It is rare, but occasionally the victim or their family wants to meet the offender to find

out what happened. In those circumstances, mediation techniques can work.

Much more likely to have a positive input are measures to do with restorative justice, which is about trying to repair the harm that has been done to victims by offenders. We do not have huge experience of such measures in the field of sex offenders; however, we have examined closely the experience of the circles of support and accountability that have been employed in Canada and, in the past three years, in England—particularly in the Thames valley. Some encouraging signs are coming out of that system, whereby the sex offender is at the centre of a circle of people in the community who not only mentor and support them, but hold them to account.

I looked on the website for the Thames valley circles of support and accountability programme yesterday and saw that a report has just been published. Also, a Sacro and Children 1st seminar is soon to be held at the Parliament, at which the people who run the programme will talk about that approach, and I am sure that you will get an invitation to it. The statistics for the programme show that, over a three-year period, out of 28 high-risk offenders there were only three recalls to prison, and those were not for sexual offences. The recalls, which were for misconduct, were triggered by the people who were providing support in the community—people in the circle of support told the statutory agencies to which information was being fed that risk factors were appearing—and the statutory agencies then took the necessary steps to recall the offenders.

That approach is a positive way of reintegrating a sex offender into the community. Let us face it, the vast majority of—although not all—sex offenders will come back into the community at one time or another. Therefore, it is useful to look at ways of reintegrating them.

Alex Fergusson: Jeremy Purvis has touched on the possible need to differentiate between those who have offended against children and those who have offended against adults. You will have heard earlier evidence this morning that such a differentiation or official classification would be useful in the management of such people. What is Sacro's view of that? Would you find that helpful?

Donald Dickie: We feel that it is a bit of a red herring. We can classify offenders by various characteristics in order to study them. Indeed, a few years ago, Professor Waterhouse of the University of Edinburgh conducted a fairly major study of, I think, 500 offenders and was able to construct a classification of offenders with different characteristics. However, that does not help in the assessment and management of individual offenders. As our RMA colleagues pointed out,

although that information is interesting statistically, it does not help in dealing with an individual.

Statutory authorities commission us to provide services to support, monitor and supervise sex offenders, and we look to them to consider the individual's history and current circumstances—all the current risk factors—and to tell us what they think the risks are. It is not particularly helpful just to label an offender with one or other of those risks. Some of the most serious offenders are multi-type offenders—they are not just adult or child sex offenders but commit all sorts of offences, such as road traffic offences and other serious offences. I do not think that it would help a great deal to have a neat categorisation of an offender.

Alex Fergusson: If you started with two simple categories, it would be hard to know where to stop, given the different levels of offending that exist.

Donald Dickie: There are so many grey areas that it is best to use all our knowledge about the person and bring in gradually more sophisticated risk-assessment techniques to do the best that we can in identifying the risks that the individual offender poses.

The Convener: The last question goes to Kenny MacAskill.

Mr MacAskill: Does Sacro have any view regarding the sentences that are imposed on child sex offenders, whether on the range of sentences or the court disposal options for sentencing?

Donald Dickie: In recent years, the whole area of sex offending and the management of sex offenders has received a great deal of attention and there have been changes in the legislation. Although the order for lifelong restriction will affect only a small number of people, extended sentences will be used increasingly, which, through greater supervision, will help to afford a degree of security.

A new type of sentence is unnecessary, but we have to continue to ensure that the present sentencing options are firmly enforced. To ensure that that happens, the different agencies will have to work together—there is a lot of evidence that they already do so.

Earlier, someone asked about who was ensuring that such work is done. The Scottish Executive has done quite a number of things in which it has been assisted by the Social Work Inspection Agency, which I do not think has been mentioned so far. When the agency goes round local authorities, it looks hard to find out whether they are up to speed with RM2000 and other assessment tools. There is also an increasing amount of interagency training, with plans for

police and social workers to be trained alongside one another in the use of assessment tools, the sharing of information and other such matters. Many things are going in the right direction.

The Convener: Thank you for your evidence, Mr Dickie, and thank you for being so patient, holding on to the end.

Donald Dickie: That is quite all right.

The Convener: Your evidence has been valuable and the sub-committee will reflect on it.

That completes the public session, so I ask members of the public, the media and the official report to leave the meeting.

12:41

Meeting continued in private until 13:06.

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