PALGRAVE STUDIES IN
RISK, CRIME
& SOCIETY

CONTEMPORARY SEX OFFENDER RISK MANAGEMENT, VOLUME I

Perceptions

Edited by

Kieran McCartan and Hazel Kemshall

Palgrave Studies in Risk, Crime and Society

Risk is a major contemporary issue which has widespread implications for theory, policy, governance, public protection, professional practice and societal understandings of crime and criminal justice. The potential harm associated with risk can lead to uncertainty, fear and conflict as well as disproportionate, ineffective and ill-judged state responses to perceived risk and risky groups. Risk, Crime and Society is a series featuring monographs and edited collections which examine the notion of risk, the risky behaviour of individuals and groups, as well as state responses to risk and its consequences in contemporary society. The series will include critical examinations of the notion of risk and the problematic nature of state responses to perceived risk. While Risk, Crime and Society will consider the problems associated with 'mainstream' risky groups including sex offenders, terrorists and white collar criminals, it welcomes scholarly analysis which broadens our understanding of how risk is defined, interpreted and managed. Risk, Crime and Society examines risk in contemporary society through the multi-disciplinary perspectives of law, criminology and socio-legal studies and will feature work that is theoretical as well as empirical in nature.

More information about this series at
http://www.palgrave.com/series/14593

Kieran McCartan • Hazel Kemshall
Editors

Contemporary Sex Offender Risk Management, Volume I

Perceptions

palgrave
macmillan

Editors
Kieran McCartan
Dept of Criminology
University of the West of England
Bristol, United Kingdom

Hazel Kemshall
Community and Criminal Justice
De Montfort University
Leicester, United Kingdom

Palgrave Studies in Risk, Crime and Society
ISBN 978-3-319-63566-8 ISBN 978-3-319-63567-5 (eBook)
https://doi.org/10.1007/978-3-319-63567-5

Library of Congress Control Number: 2017957263

Cover illustration: Getty/LPETTET

Printed on acid-free paper

This Palgrave Macmillan imprint is published by Springer Nature
The registered company is Springer International Publishing AG
The registered company address is: Gewerbestrasse 11, 6330 Cham, Switzerland

Preface: Perceptions of Sex Offender Risk Management

Sexual harm is an international policy, practice and personal issue that impacts the lives of victims, perpetrators and their social networks. For many years we considered sexual harm to be solely a criminal justice issue, but now that perception is starting to change. This edited collection will address and consider the changing notion of sexual harm, sex offender risk management and community engagement with sex offender reintegration as these topics move from being solely criminal justice issues to a hybrid comprising both public health and criminal justice approaches. All the chapters presented in this volume are characterised by a focus on the changing perceptions and nature of sexual harm and risk management. The chapters presented here present critical reviews of existing practice, alternative responses and innovatory approaches that can be replicated 'on the ground'.

Kemshall (Chap. 1) starts the collection with a concise history of sex offender risk management in Western society, focusing on the UK, USA and Canada. The chapter highlights the similarities across Western countries in the development of more punitive, risk-averse sex offender management strategies in the name of greater public protection. Kemshall invites us to consider whether increased punitive policies, restrictive management plans and a risk-averse culture have allowed us to balance

risk management and public protection more effectively. Her chapter sets the tone for subsequent chapters by presenting an overview of the criminal justice policies that frame many of the later practice chapters.

In his chapter **Brown** (Chap. 2) presents the other side of the sex offender management coin—the public health approach. He introduces the concept of a public health approach to sexual harm and explains how it marries with ideas around prevention. Brown suggests that a wholly criminal justice approach is problematic and that we need to look at the issue holistically, not just at the perpetrator and the victim, in order to obtain the best outcomes for all concerned.

The first two chapters are key to the rest of the edited collection as they provide the context for the public, practitioner and policy debates that follow.

Tabachnick and McCartan (Chap. 3) follow on from Kemshall and Brown by placing the debates that they raised into a practice-focused, public education context. This chapter focuses on how public education can alter, inform and change sex offender risk management approaches. It highlights some of the main issues attached to public education and engagement in general, before going on to discuss how improved engagement can help society shift towards a better understanding of sex offenders and sex offender risk management which is based in the public health/criminal justice hybrid approach. This chapter also ties in neatly with the chapters by Williams (Chap. 6) and Corcoran and Weston (Chap. 8), which highlight the practical issues of community partnership working and the political realities in which it operates.

The next two chapters, by **Padfield** (Chap. 4) and **Gailey et al.** (Chap. 5), discuss prevention in terms of sentencing, with Padfield discussing the challenges and issues relating to preventative sentencing in respect to sex offender risk management, and Gailey et al. looking at lifelong restrictions in Scotland. Both chapters look at the extreme end of the offender spectrum and the risk management challenges posed by the most challenging and complex offenders. A balance, as both chapters suggest, has to be struck between public protection, victim rights, appropriate legal sanctions, safeguarding and perpetrator rehabilitation. These two chapters provide stark examples of the broader issues debated by Kemshall and

Brown, and complement later chapters by Williams and Corcoran and Weston.

In his chapter **Williams** (Chap. 6) discusses the reality of the current social and moral panic surrounding child sexual abuse. Although he mainly focuses on the UK, his chapter can be related to other Western countries (i.e., Europe, USA, Canada, Australia, New Zealand and South Africa). Williams highlights the issues related to discussing child sexual abuse in modern society, the role of the media in this, the political context of prevention policies, and the inherent need for a dynamic, multifaceted approach. His chapter builds on the earlier chapters by Kemshall, Brown, and especially Tabachnick and McCartan. Interestingly, Williams devotes time to discussing the rise of 'activist' groups, and certain members of the public's personalised approach to managing/responding to sex offenders in their communities, which acts as a counterpoint to the prosocial engagement discussed in Corcoran and Weston's chapter.

In their chapter, **Corcoran and Weston** (Chap. 8) highlight the prosocial role that the community can take in assisting with the management of sex offenders and their reintegration into the community post-release. Their chapter argues that charities, NGOs and third sector organisations can make positive contributions to sex offender risk management as long as this is conducted in a structured and appropriate way. They illustrate their arguments through case examples of both good and bad practice. Corcoran and Weston argue that sex offenders, sexual offending and all the related consequences are so closely tied to communities that the public should be involved and management responses should not be left to the state.

In what, at first glance, may seem like a chapter that is not neatly linked to the rest of the collection, **Guthrie** (Chap. 7) highlights the issues faced by professional staff working in the arena of sex offender risk management. She reflects the messages conveyed in the other chapters and suggests that professional perceptions need to be heard, sometimes altered and supported through greater investment (i.e., financial, training and emotional support). This chapter highlights the need for a better-developed, more supported and better-enabled workforce to ensure the safe and stable management of sexual abusers.

This edited collection highlights the changing perceptions of sex offenders and their risk management. It suggests that as we move towards a more collaborative, hybrid approach between public health and criminal justice we need to develop a more rounded perception of this offending group. We need to shift the policy, practice, politics and social construction of sex offender risk management.

May 2017

Kieran McCartan
Hazel Kemshall

Contents

Notes on Contributors

Jon Brown is a qualified social worker with a Master's in Social Policy from the LSE. During his career as a probation officer and social worker, he has been responsible for setting up and managing a range of sexual abuse services, including therapeutic services for child victims, services for children and young people with sexually harmful behaviour and services for adult sex offenders. He is also a trustee of the Loudoun Trust, which promotes evidence-based research and practice in the field of sexual aggression against children, a board member of eNACSO (European NGO Alliance for Child Safety Online; www.enacso.eu), a peer reviewer for the Economic and Social Research Council (www.esrc.ac.uk), the Australian Royal Commission into Child Sexual Abuse (www.childabuse-royalcommission.gov.au) and the Children's Commissioner, and co-chair for the Office for the Children's Commissioner's Inquiry into Child Sexual Abuse in the Family Environment.

Mary Corcoran is Senior Lecturer in Criminology at Keele University. She has published widely on women in the criminal justice system, multi-agency offender management and the marketisation of criminal justice. She is co-editor (with Anthea Hucklesby) of *The Voluntary Sector in Criminal Justice* (2016). Her current, grant-funded projects include a national study of the penal voluntary sector in England and Wales and disenfranchised bereavement among young prisoners.

Yvonne Gailey is chief executive of the Risk Management Authority. Her background is in criminal justice social work, training and the development of

evidence-based risk practice for multi-agency application. She led the development of the Framework for Risk Assessment, Management and Evaluation (FRAME), which has been implemented in Scotland.

Lydia Guthrie, BA (Oxon), MSc, Dip SW is a systemic practitioner, co-director of Change Point Learning and Development, and works as a trainer and supervisor across social work, criminal justice, mental health, secure forensic and voluntary sector settings. She qualified as a social worker in 1998, and spent ten years working for the Probation Service in a range of specialisms, including work with long-term prisoners, victims of serious crime, and group work with men who have committed sexual abuse and domestic abuse. She has worked as a treatment manager on community-based sexual offending behaviour programmes and as a senior probation officer, and has developed and delivered programmes with the non-offending partners of men who had sexually harmed others. From 2008 to 2012, she was contracted as co-lead national trainer for the UK's community-based sexual offending treatment programmes. She is the co-author, with Clark Baim, of *Changing Offending Behaviour* (2014). She completed an MSc in Attachment Theory in 2014, and is currently training as a systemic psychotherapist. She has worked with the Latvian Probation Service on two projects: setting up a community-based group work programme for men who have sexually offended; and supporting Latvian probation and prison officers to work motivationally with men and women who have committed offences. She has contributed to numerous radio programmes, including Radio 4's *Today* and *PM*, on the theme of community responses to sexual crime.

Hazel Kemshall is currently Professor of Community and Criminal Justice at De Montfort University. She has research interests in risk assessment and management of offenders, effective work in multi-agency public protection, and implementing effective practice with high-risk offenders. She has completed research for the Economic and Social Research Council, the Home Office, the Ministry of Justice, the Scottish Government, the Risk Management Authority and the European Union. She was appointed to the Parole Board Review Committee in 2011, and is a board member of the Risk Management Authority Scotland. She has over 100 publications on risk, including *Understanding Risk in Criminal Justice* (2003) and *Understanding the Community Management of High Risk* (2008). She led the Serious Offending by Mobile European Criminals (SOMEC) EU project, which investigated information exchange and management systems for serious violent and sexual offenders who travel across the EU member states.

Lesley Martin was educated at Glasgow University and the Glasgow Graduate School of Law. She qualified as a solicitor in 2009, and after five years of private practice, including criminal defence work, she took up an appointment with the Risk Management Authority as an Order for Lifelong Restriction case worker. She has wide-ranging knowledge of criminal procedure, risk assessment and offender management policy and practice.

Kieran McCartan is an associate professor in Criminology at the University of the West of England, where he is the leader of the Social Science Research Group and joint coordinator of the Sexual Violence Research Network. Previously, he was leader of the Criminology Program (2010–2014), deputy director of the Criminal Justice Unit (2010–2012) and associate head of the Department for Sociology and Criminology (2015–2016). He has developed an international reputation and a wide-ranging, multi-disciplinary network around sex offender management and reintegration and has a track record of public, academic and professional engagement on criminological issues, including the origins and causes of sex offending, and societal responses to sex offenders (including policy, practice and public engagement). He has experience of qualitative, quantitative and mixed-method research from funders including the Ministry of Justice, the Cabinet Office, Public Health England, the ESRC, the Leverhulme Trust, Bristol City Council and Wiltshire Probation Service. He previously co-led a national ESRC-funded knowledge-exchange network on the limited disclosure of sex offender information (2012) and an international Leverhulme Trust-funded network on sex offender management (2014–2016). He is currently an adjunct associate professor in Criminology at Queensland University of Technology and a visiting research fellow at the University of Huddersfield.

Nicola Padfield is Reader in Criminal and Penal Justice at the Law Faculty, University of Cambridge, and has been a fellow of Fitzwilliam College since 1991. She has held a number of posts in the college, including President, Director of Studies and Admissions Tutor. Her publications include *The Criminal Justice Process: Text and Materials* (5th edition, 2016), *Criminal Law* (10th edition, 2016) and *Beyond the Tariff: Human Rights and the Release of Life Sentence Prisoners* (2002). She has edited and contributed to a number of recent collections of essays on parole and early release (which has involved research in a number of European countries). While maintaining a wide academic lens, her recent research has explored how the law on release from, and recall to, prison works in practice, and how it is perceived by offenders and those who work in

the system. She has been active in a number of pan-European research networks and writes the monthly editorials in the *Criminal Law Review*.

Joan Tabachnick Over the past 25 years, Joan Tabachnick has developed educational materials and innovative programmes for national, state and local organisations. She created the programming for Stop It Now! before starting her own consulting practice. Since then, she has been the director of NEARI Press and executive director of MASOC, and she is currently a fellow with the Department of Justice, SMART Office. Joan is also on the executive committee of the National Coalition to Prevent Child Sexual Abuse and Exploitation, is founding co-chair of ATSA's prevention committee and serves on a number of state-wide task forces. Her recent written work includes a National Sexual Violence Resource publication titled *Engaging Bystanders in Sexual Violence Prevention*, another titled *Family Reunification after Child Sexual Abuse* and a publication for the Association for the Treatment of Sexual Abusers titled *A Reasoned Approach: The Reshaping of Sex Offender Policy to Prevent Child Sexual Abuse.*

Rachel Webb is an Order for Lifelong Restriction case worker at the Risk Management Authority. Her background is in psychology: she has a Master's in Forensic Psychology and graduated with distinction from Glasgow Caledonian University. She has undertaken research with at-risk young people and presented at conferences in the UK and abroad.

Samantha Weston is a graduate of Staffordshire University, Keele University and the University of Manchester. She has a BA (Hons) in Law and Accounting, an MA in Criminology, an MRes in Criminology and Socio-Legal Studies and a Ph.D. in Criminology. Before coming to Keele University as an academic member of staff, she worked for eight years as a research associate at the National Drug Evidence Centre, University of Manchester. There she was involved in a number of Home Office- and Department of Health-funded research projects and had a leading role in the largest UK evaluation of drug treatment to date—the Drug Treatment and Outcomes Research Study (DTORS). She has also worked as a field researcher for Matrix Knowledge and as a research associate for the University of Birmingham.

Andy Williams is a principal lecturer and Director of Postgraduate Research at the Institute of Criminal Justice Studies, University of Portsmouth. Having completed his doctorate in 2003, which consisted of an ethnography of the Paulsgrove demonstrations in 2000, he has developed academic courses and

practitioner training in understanding risk and dangerousness for violent and sexual offenders. He is co-author (with Mike Nash) of *The Anatomy of Serious Further Offending* (2008) and *The Handbook of Public Protection* (2010). His more recent books are (with Bill Thompson) *The Myth of Moral Panics* (2014) and *Forensic Criminology* (2015). He has undertaken numerous evaluations of public protection systems, including the Integrated Management IRiS model for Avon and Somerset Police and Probation Services (2014) and the Violent Offender Intervention Programme for Hampshire's Police and Crime Commissioner (2016). His current research primarily focuses on an online ethnography of online grooming and anti-child sex offender activist groups.

List of Figures

List of Tables

1

The Historical Evolution of Sex Offender Risk Management

Hazel Kemshall

1 Introduction: The 'Discovery' of Sexual Offending

Concerns about sexual offending have a long history, with policy, legislative and practice responses developing over time. This chapter reviews these developments primarily within the UK, illustrating an overriding concern with public protection resulting in responses dependent upon exclusion, surveillance, control management and preventive sentencing. More recently this trend has been partly mitigated by an increased focus on desistance approaches with individual offenders, paralleled by broader public health prevention methods focused on groups and communities. However, the journey towards prevention, integration and desistance has been long. The 1990s, for example, saw an increased penal policy focus on sexual offending in both the UK and the USA, extending in the

H. Kemshall (✉)
Community and Criminal Justice, De Montfort University, Leicester, UK

K. McCartan, H. Kemshall (eds.), *Contemporary Sex Offender Risk Management, Volume I*, Palgrave Studies in Risk, Crime and Society,
https://doi.org/10.1007/978-3-319-63567-5_1

following decades to other Anglophone jurisdictions, and to a limited extent to countries within Continental Europe (e.g. France, Germany, the Netherlands), Japan and Korea (see SMART SURVEY 2016 for a full review).

Sexual offending of course predates this era, and had previously generated media coverage and public outcry. For example, Victorian England saw a florid media campaign by W. T. Stead, in 1871 the youngest editor of the *Northern Echo* in Darlington, and later the *Pall Mall Gazette* in London. Stead actively used these newspapers to campaign against child prostitution, which he described as: 'the ghastliest curse which haunts civilised society, which is steadily sapping the very foundations of our morality' (Stead, *Northern Echo*, 27 October 1871). In *The Maiden Tribute of Modern Babylon* Stead opened the eyes of respectable Victorian society to the world of London vice, where 'vicious upper-class rakes' could enjoy to the full 'the exclusive luxury of revelling in the cries of an immature child' (Stead, *Pall Mall Gazette*, 6 July 1885). In order fully to demonstrate the sex trade in under-age girls he bought a 'Five Pound Virgin', Eliza Armstrong, and was subsequently tried and imprisoned for doing so, providing compelling newspaper stories as a result. His campaign resulted in the Criminal Law Amendment Act of 1885, which, among other things, raised the female age of consent from 13 to 16.

Kitzinger (1999a, b) identified the critical role of print media in the rediscovery of sexual offending, particularly paedophilia in 1990s Britain. Importantly, Kitzinger also highlighted the crucial role of TV media in providing the initial impetus for the BBC's *Childwatch* programme, and subsequently Childline, used by children to self-report,[1] which received 55,000 attempted calls during its first night (Harrison 2000). Media coverage, public outcry and political disquiet were fuelled by a series of high-profile cases (e.g. the release of Sydney Cooke and Robert Oliver in 1998; the murder of James Bulger in 1993) and the perception of organised sexual offending against children, such as the 'satanic abuse' inquiries in Orkney (Clyde 1992) and Cleveland (Butler-Sloss 1988; for an overview of these cases see Ashenden 2004). By the end of the 1990s 'paedophile' had become a household word, with a computer search of newspapers revealing the word in '712 articles in six leading British newspapers' in

the first four months of 1998, 'whereas the word had only appeared 1,312 times in total in the 4 year period between 1992–1995' (Cobley 2000: 2). Kitzinger (1996) found from focus groups in the early 1990s that fear of the 'predatory paedophile' was strongly embedded in the consciousness of parents. Added to this was a feeling of siege and abandonment on 'sink estates', where residents resented the relocation of released sex offenders, and a heady combination of fear and resentment fuelled vigilantism (Williams and Thompson 2004). By the end of the decade sex offending and paedophilia had merged (Soothill et al. 1998). The 'spectre of the mobile and anonymous sexual offender' was portrayed as particularly demonic (Hebenton and Thomas 1996: 429), an influence pervasive to the present day with significant impact on policy and practice (Brayford and Deering 2012). By 2016 the UK had established the Independent Inquiry into Child Sexual Abuse to investigate the extent to which institutions and public bodies had failed in their duty to protect children (see: https://www.iicsa.org.uk/).

Similar trends occurred in the USA and Canada. For example, since its launch in 1989, Canada's Kids Help Phone, has provided free, confidential counselling to children over 7 million times[2] (Kemshall and Moulden 2016). High-profile abductions and murders of children also fuelled both policy and legislative developments in the USA, resulting in a raft of measures and numerous 'memorial laws', such as the Jacob Wetterling Act in 1994 and 'Megan's Law' in 1996 (for a full review see: Terry 2015).

2 Identifying the 'Dangerous' Sexual Offender

Against this backdrop the desire to identify, assess and *know* those sexual offenders who presented a risk to children intensified. The initial response in the USA and shortly after in Canada, the UK and Australia was the introduction of sex offender registries (although the first registry was instituted in California in 1947; see Thomas 2010). All American states were mandated to produce one by Federal Law under the Jacob Wetterling Act of 1994. In the UK a sex offender register was introduced in 1997 under the Sex Offenders Act, an initiative originally

proposed by the Police Superintendents Association (see *Hansard* HC Debates, 27 January 1997, columns 23–24), and enthusiastically taken up by the Home Office and Conservative Government of the day (see Thomas 2010: 62).

However, there are subtle differences in how registries are set up, accessed and used. For example, Australia has a designated agency—Australian People's Records—and holds the Australian National Child Offender Register (ANCOR) centrally (see: http://www.australian-people-records.com/Sex-Offenders.php). ANCOR is part of a wider National Child Offender System, established to protect children. The Australian Criminal Intelligence Commission described the National Child Offender System thus:

> An Australian Child Protection Offender Reporting scheme was established by legislation in each Australian State and Territory. This national scheme requires child sex offenders, and other defined categories of serious offenders against children, to keep police informed of their whereabouts and other personal details for a period of time after they are released into the community. This register is not intended to be punitive in nature but is implemented to protect the community by reducing the likelihood that an offender will reoffend and to facilitate the investigation and prosecution of any future offences that they may commit. The NCOS consists of the Australian National Child Offender Register (ANCOR) and the Managed Person System (MPS). (https://www.acic.gov.au/our-services/child-protection/national-child-offender-system; accessed 11 January 2017)

Registration requirements across Australian states and the legislation to regulate sexual offenders in the community can vary. These are outlined in a review prepared for the Royal Commission into Institutional Responses to Child Sexual Abuse (see: https://aifs.gov.au/cfca/offender-registration-legislation-each-australian-state-and-territory; accessed 11 January 2017). By 2011 there were some 12,596 sex offenders on ANCOR, and by 2012 most state police services were reporting resource difficulties (see: 'Child Predators Flout Rules as Police Plead for More Resources', http://www.couriermail.com.au/news/queensland/child-predators-flout-rules/news-story/d04e5fc9d5416cf413e743ab2f4dd5cd?nk=e4ca8aad2a626eedf011efd506791203-1484144040; accessed 11 January 2017). In 2014

Australia set up a Royal Commission into Institutional Response to Child Sexual Abuse (see: https://www.childabuseroyalcommission.gov.au/ accessed 11 January 2017).

In Canada information is made available only to law enforcement agencies, not to the general public. This is seen as critical to the higher levels of compliance with Canadian registries. The latter seek to balance public protection with individual rights to privacy, and Murphy et al. (2009: 70) argue for the development of sex offender registries that are 'optimally effective and minimally intrusive'. Importantly, the operation of a sex offender register does not necessarily imply community notification of any type (i.e. disclosure to the public), and some countries only operate sex offender registries without community disclosure (e.g. France). The French sex offender register (Fichier Judiciaire National Automatise des Auteurs d'Infractions Sexuelles [FIJAIS]) was implemented on 30 June 2005, following a high-profile case in which 66 people were charged with raping, prostituting and failing to protect 45 children (Thomas 2011). The French register has been challenged in the European Court of Human Rights (ECHR) on the grounds of being punitive, but this was dismissed as it was seen as having a 'purely preventive and dissuasive aim'. Registration was considered insufficiently onerous to justify the label 'punishment'. The retrospective nature of the register was also upheld, again because the register was seen only as a crime prevention measure, not as punishment. The right to privacy (Article 8) was not contravened as the register is confidential and only open to certain professionals in the course of their duty (see Thomas 2011: 84; Bouchacourt *v.* France [Application no. 5335/06]; Gardel *v.* France [Application no. 16427/05]; and MB *v.* France [Application no. 22115/06]). The Czech Republic initiated a sex offender register following the case of Antonin Novak, who entered the country from Slovakia with a history of serious sexual offending but was unknown in the Czech Republic. Novak sexually assaulted and murdered a nine-year-old boy.

In the USA a range of state registries are in place, and searches by the public are facilitated by the National Sex Offender Public Website (see: https://www.nsopw.gov/; accessed 11 January 2017), which provides access to nationwide sex offender data, even via a mobile phone app. By 2015 there were some 843,260 registered sex offenders in the USA (see: https://journalistsresource.org/studies/government/criminal-justice/

sex-offender-laws-registries-and-gender-research-roundup; accessed 11 January 2017).

These registries require sex offenders to register their personal details and whereabouts with police or other agencies, such as probation/corrections/parole services, and were primarily envisaged as management tools to strengthen the oversight of such offenders in the community and improve information exchange between agencies such as police and probation (Kemshall and Maguire 2001). Indeed, the UK Home Office Consultation Document argued that the primary purpose of the register was to 'ensure that the information on convicted sex offenders contained within the police national computers was fully up to date' (Home Office 1996: para. 43, 1997). There were limited claims about prevention, deterrence or management (Thomas 2010: 63). Compliance with the basic requirements to register whereabouts within the specified timescale was good, with a 94 per cent rate in the first year (Plotnikoff and Wolfson 2000), and 97 per cent in year two (Home Office and Scottish Executive 2001). Despite the additional work and lack of resources, police in England and Wales were generally supportive of the register (Plotnikoff and Wolfson 2000), although the Home Office-commissioned evaluation was unable to comment on the overall effectiveness of the register (Plotnikoff and Wolfson 2000).

However, difficulties were quickly identified, in particular the sheer numbers involved and the expected practical management that such registration could demand.[3] In the UK this resulted in a 'strengthening' of the register in the 2003 Sexual Offences Act, with more requirements placed upon registered offenders—extending registration to more offences, placing offenders who had offended abroad on the register, and making notification of foreign travel obligatory for those on the register were the most significant of these (Thomas 2010: 65). Over time, additional legislation has expanded the range of requirements and obligations (see: Thomas 2010: Table 4.3, pp. 68–70, for a full review).

Nevertheless, from the outset, gathering robust evidence that registration prevented reoffending and enhanced public safety proved difficult. Moreover, differences in registration schemes across and within countries make comparison difficult, and challenge the methodological robustness of some studies (Tewksbury et al. 2011; for a full background and literature review, see Harris et al. 2016). There have also been arguments

against an uncritical adoption of US schemes on the grounds that there are potential obstacles, penal and legal differences, and philosophical challenges (Lieb et al. 2011). Newburn (2011), for example, contends that US registration laws are 'invasive and ineffective'; socially excluding and socially isolating; and detrimental to rehabilitation. While there are methodological challenges to conducting robust evaluation studies, notably the use of recidivism (rearrest and reconviction) rates that may not accurately reflect reoffending rates, a number of robust studies on recidivism are worth considering. A few of these methodologically robust studies have shown significant reductions in sexual offending (see, particularly: Kernsmith et al. 2009: Letourneau et al. 2010; Levenson et al. 2010). However, Tewksbury et al. (2011) compared a group of 247 sexual offenders prior to the introduction of sex offender registration and notification (SORN) and a group of 248 following introduction. They found that SORN status is 'not a significant predictor of sexual or general recidivism' (p. 324). Their study also confirmed previous studies by Sandler et al. (2008); Schram and Milloy (1995); Tewksbury and Jennings (2010); Vasquez et al. (2008); Zgoba et al. (2008, 2010); and Zimring et al. (2007, 2009). Day et al. (2016) examined cases supervised by Australian Police and found that risk classifications were less than robust, and not necessarily effective in assisting offender management or judgements about future risk (Harris et al. 2016 found similar issues during their examination of US registration).

At present the evidence for registration reducing recidivism is debatable. There are also a number of negative consequences associated with registration, including: residence exclusions and the contribution these make to homelessness (Levenson 2016); the challenge to social justice caused by indefinite registration and the exclusion such a label necessarily brings (Levenson et al. 2016); and concerns about the reliability and effectiveness of registration as a law enforcement tool (Harris et al. 2016; O'Sullilvan et al. 2016).

Despite the questionable evidence of effectiveness in offence prevention and effective risk management of sexual offenders, registers have grown in terms of requirements and usage, with largely uncritical transfer of US-style registers to a range of other countries (Terry 2015; Thomas 2011). However, by the end of the 1990s, politicians, media and practitioners were already bemoaning the limitations of registration as a sex

offender management tool and further legislative and policy changes were pursued on both sides of the Atlantic.

3 Extending Surveillance and Regulation

By the early 2000s both legislation and policy sought to extend surveillance and regulation of sexual offenders as a route to more effective risk management in the community. In the UK these developments should be understood against a backdrop of considerable public unrest about the release of paedophiles such as Sydney Cooke and Robert Oliver in 1998 (Thomas 2010: 166), the *News of the World*'s campaign for a 'Sarah's Law' in 2000 ('Named and Shamed', *News of the World*, 23 July 2000, p. 1),[4] and the riots in Paulsgrove, Hampshire, in the same year (Williams and Thompson 2004).

Three discernible developments can be identified. In brief, these are:

- community notification and public disclosure measures;
- extension of community-based orders and civil prevention methods; and
- preventive sentencing.

These will now be reviewed in turn.

3.1 Community Notification

Community notification originated in the USA, beginning as a 'Memorial Law' named for Megan Kanka, a young girl who was sexually assaulted and murdered by a known sexual offender in 1994. It was extended into a Federal Law by Congress in 1994 as the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, Title 17, 108 Stat.2038, as amended, 42 U.S.C. § 14071, which requires all US states to make information on released sex offenders known to the public. In effect, the amendment to the Jacob Wetterling Act, signed by President Bill Clinton on 17 May 1996, strengthened the use of Megan's Law across the country.

However, the Act does not mandate how this should occur, and in practice there are at least four different models of community notification (Cohen and Jeglic 2007). In brief these are:

1. Active notification based on a three-tier model of risk. Tier 1 is low risk and is not required to notify; tier 2 is moderate risk and requires notification to specific persons and groups, such as schools or scout groups; and tier 3 is high risk and requires notification to all persons with whom the offender may come into contact, a process that may include the use of posters, placards and press releases (see Russell 2005).
2. Notification by a designated agency, according to state-determined categories of risk. The agencies carry out the process but do not necessarily participate in assessing categories of risk.
3. Notification by sex offenders themselves under the supervision of state agencies. This can include personally telling neighbours and/or distributing letters, leaflets, posters and placards.
4. The fourth model is a passive system where members of the public are required to make applications themselves, and can do so in a number of ways, for example directly to the police, or to dedicated websites and call centres (the system that is used in the UK).

(Adapted from Cohen and Jeglic 2007: 374; see also Thompson and Greek 2010)

Some commentators have argued that US community notification laws would benefit from a shift to the passive model employed by the UK on the grounds of reducing the operational costs (in some US states this is significant) and improving effectiveness in reducing recidivism (Hynes 2013).

The variation of models has made evaluation and comparisons across studies difficult. However, the weight of current evidence would indicate that:

- Community notification has minimal value in protecting children from sexual assault by adults they know (Catalano 2005).
- There is questionable impact on recidivism (Adkins et al. 2000; Cohen and Jeglic 2007; Pawson 2002; Terry 2015; Tewksbury and Lees 2007).

- There is some evidence of negative impact, for example vigilante action, social isolation and offenders 'going underground' (Scholle 2000; Zevitz and Farkas 2000); and offenders consigned to deprived neighbourhoods with limited employment and resettlement opportunities (Mustaine and Tewksbury 2011; Tewksbury 2005). Lasher and McGrath (2012) reviewed eight quantitative studies (sample 1503) to establish the impact of community notification on sexual offender reintegration. They concluded that sexual offenders were rarely subjected to vigilante action, but a substantial minority reported exclusion from accommodation, job loss and some degree of social exclusion. In some cases there is a positive impact: for example, some sex offenders have stated that they benefit from knowing their behaviour is being monitored. The most intrusive notification schemes appear to have the most negative social consequences for sexual offenders (Lasher and McGrath 2012).
- Difficulties in administration, accuracy and implementation of the schemes (Fitch 2006, 2007).
- Negative public perceptions and responses to notification over time. For example, Cohen and Jeglic (2007: 377) warn that numerous notifications over time may result in 'fatigue' as members of the public are unable to respond actively. Bandy (2011) found that community members do not take precautionary measures, and that knowing does not result in action. Rather, notification may inadvertently reinforce public fear of sex offenders (e.g. reinforcing 'stranger-danger'; see Kernsmith et al. 2009). Finally, Anderson and Sample (2008) found that most citizens do not access registry information (see College of Policing 2016 for UK figures).

The difference in notification schemes also reflects different philosophical approaches, ranging from 'naming and shaming' to public protection and risk elimination (Thompson and Greek 2010: 295). Policy and legislative initiatives from the late 1990s demonstrate an increasing focus on foresight, future orientation and prevention, driven particularly by a political desire to avoid public censure in the light of risk management failures. Further legislative developments have occurred particularly in the USA (for a full review, see: https://ojp.gov/smart/legislation.htm; accessed 11 January 2017).

3.2 Extension of Community-Based Orders and Civil Prevention Methods

Prevention and risk elimination was the major focus of a growing raft of community-based orders and the increased use of civil prevention orders from the late 1990s onwards. Within England and Wales the orders are principally:

- The Sex Offender Order, introduced by the Crime and Disorder Act 1998, was used retrospectively to capture those sex offenders not placed on the sex offender register introduced in 1997.
- The Restraining Order, introduced by the Criminal Justice and Court Services Act 2000, was made at the point of sentencing and at the discretion of the court. Such orders could, for example, prohibit child contact for life.
- The Sexual Offences Prevention Order (SOPO), introduced by the Sexual Offences Act 2003, replaced both the Sex Offender Order and the Restraining Order. Police can apply for a SOPO, which contains prohibitions on an offender's activities in order to protect the public or an individual from serious sexual harm.
- Foreign Travel Order (FTO), introduced by the Sex Offences Act 2003, prevents 'qualifying offenders' from travelling abroad.
- The Notification Order, introduced by the Sex Offences Act 2003, is applied for by police on anyone known to have committed a relevant sexual offence abroad. It enables registration requirements to apply.
- The Risk of Sexual Harm Order, introduced by the Sex Offences Act 2003, prevents 'grooming' activitie0s. Again the police have to make an application based on evidence of relevant behaviours.
- The Serious Crime Prevention Order, introduced by the Serious Crime Act 2008. The order can be issued only by the High Court and in relation to serious sexual crime, including:
  - arranging or facilitating a child sexual offence;
  - causing or inciting sexual exploitation of a child;
  - arranging or facilitating sexual exploitation of a child; and
  - trafficking for sexual exploitation.

- In 2015 all of these orders were consolidated into just two orders: the Sexual Risk Order and the Sexual Harm Prevention Order (see the Anti-Social Behaviour, Crime and Policing Act 2014, with the orders available from March 2015).

(Adapted from Thomas 2016: 82–85)

Similar community measures have been developed in the USA, with policy framed largely by public and political concerns rather than evidence of effectiveness (Tewksbury et al. 2011; Thomas 2010, 2011). The use of residence restrictions, for example, has attracted much policy and research evaluation. Studies have shown that child sexual offenders who live closer to schools and other places where children congregate do not reoffend at a higher rate than those who do not (Colorado Department of Public Safety 2004; Zandbergen et al. 2010). Research has also shown negative consequences of residence restrictions, including homelessness (Levenson 2016; Levenson and Cotter 2005; Mercado et al. 2008), with some offenders residing in 'ghettos' and 'camps' (Terry 2013); economic disadvantage (Suresh et al. 2010); and stigmatisation and unemployment (Levenson et al. 2007; Mustaine and Tewksbury 2011).

GPS tracking has also been used to monitor the movements of sex offenders (Nellis et al. 2013). However, there are limits to tracking as it can indicate only where an offender is, not what they are doing. In addition, the impact on sex offence recidivism is minimal, with current research indicating no significant difference between sex offenders who are subject to GPS tracking and those who are not (Meloy and Coleman 2009; Tennessee Board of Probation and Parole 2007; Turner et al. 2007). Moreover, two further studies question its impact on recidivism generally, and argue that further evidence is required to justify such a costly intervention (Payne and De Michele 2011; Nellis et al. 2013). In addition, Payne and Buhon (2011: 355) concluded that GPS tracking cannot take the place of supervision; rather, it should be seen as a tool in any 'well-designed case management plan'.

3.3 Preventive Sentencing

Preventive sentencing exists in a number of jurisdictions, predominantly the USA, UK, Canada (to some extent), Australia and the Netherlands, with civil commitment used in Germany (for a review of preventive sentencing in Germany, New Zealand, the UK and the USA, see Keyzer 2013). Such sentencing represents a considerable departure from traditional sentencing, allowing for sentencing on the basis of the risk of future harm as well as current offending (Ashworth and Zedner 2014; McSherry 2014). However, the moral and ethical challenges of preventive sentencing are considerable, not least because prediction is, by definition, somewhat uncertain (see Cole 2015; Padfield [Chap. 4], this volume). Despite significant improvements over time, risk assessment technologies are arguably not sound enough for the purpose of preventive sentencing (McSherry 2014). Sentencing utilising a 'precautionary principle' is seen as contrary to prevailing concerns with individual rights and rule of law (Lippke 2008), and has generated concerns about an overly intrusive 'preventive state' attempting to reduce risk at the cost of individual rights (see Janus 2006; Krasmann 2007; Slobogin 2003, 2011). Few jurisdictions have been able to balance rights and risks, although the Scottish system is viewed as a key exemplar (McSherry et al. 2006; McSherry 2014; McSherry and Keyzer 2010; see also Gailey et al. [Chap. 5], this volume, for a full discussion of the Scottish system).

In practice, sentencing on the grounds of prevention can take a number of forms, including:

- Longer prison terms for specific categories of offenders (e.g. sex offenders; see, for example, The Sentencing Act 1991, Victoria, Australia, as amended in 1993, which allows for longer than proportionate prison sentences in order to protect the community); indefinite sentences for specific offences, again based on risk and in order to protect the public (Orders for Lifelong Restriction [OLR] in Scotland, Criminal Justice Scotland Act 2003; and see Gavin 2012 on England and Wales).

- Post-sentence preventive detention aimed at those who have completed a determinate sentence but are deemed too risky for release (for example, Dangerous Prisoners [Sexual Offenders] Act 2003, Queensland, Australia, s 3). These latter sentences apply retrospectively and detain persons beyond proportionate punishment parts of sentence on the grounds of risk of serious harm and the need to protect the public. The bar for the imposition of such sentences is necessarily high, with the Supreme Court of Western Australia requiring that a court must be satisfied 'by acceptable and cogent evidence' and 'to a high degree of probability' that the offender is a serious danger to the community (Dangerous Sexual Offenders Act 2006 [WA], ss 7[1]–[2]; see McSherry et al. 2006: 32). 'Serious danger' is defined as: 'an 'unacceptable risk that the offender will commit a serious sexual offence' if released from custody or if released from custody without imposition of a supervision order (s 13[2]; see McSherry et al. 2006: 32; also see Keyzer and McSherry 2015 for a current review of Australian provision; and McSherry and Keyzer 2010 for a cross-country comparison).

Other jurisdictions have used similar definitions and thresholds (e.g. Scotland for OLRs). However, ethical and practical considerations remain in the use of preventive sentencing, not least in applying and robustly evidencing risk and threshold definitions, and in achieving sufficiently accurate risk assessment tools and sufficiently competent practitioners to make such assessments for courts (Cole 2015; Coyle 2011).

Some countries have adopted the mental health route for preventive strategies with sexual offenders, either in conjunction with criminal justice sentencing or in place of it. For example, in the USA civil commitment and mental health detention have become prevention routes for 'dangerous offenders'. For instance, the Adam Walsh Child Protection and Safety Act of 2006 authorised the Federal Government to create a civil commitment programme for sex offenders (see Harris and Lobanov-Rostovsky 2010 for a review). This law allows for the civil commitment, incarceration in secure mental health facilities and compulsory treatment of high-risk sexual offenders. Such civil commitment can be made only if the offender has a mental abnormality or personality disorder which predisposes him/her to commit future acts of sexual violence. Although Germany

does not practise preventive sentencing because the German High Court deemed it unconstitutional in May 2011, it persists with the notion of preventive treatment and 'treatment detention' under mental health legislation (Lieb et al. 2011; Kelly 2008). Preventive 'treatment detention' has also been much critiqued, not least because detainees are often hard to treat, posing significant treatment challenges due to their psychiatric disorders. Basdekis-Jozsa et al. (2013: 355) concluded that preventive detention orders were largely used to keep 'dangerous offenders' out of the community rather than to treat them effectively. This is supported by Kelly (2008), who compared civil and treatment detention use in Germany and the USA and found that pharmacological treatment for sexual deviancy ('chemical castration') and compulsory treatment detention figures for containment in civil psychiatric facilities were too high. Other studies have found that those under civil commitment are detained for longer than if they had received a custodial sentence (see Duwe 2013).

McLawsen et al. (2012) found that sex offenders in Nebraska under civil commitment were assessed as at a lower risk of recidivism when compared to analogous groups of sex offenders in other states, implying that Nebraska is using civil commitment at too low a risk level, and at the very least that there is a lack of consistency across US states. US civil commitment targeted at 'sexually violent predators' at the end of their prison sentences in effect prevents their release (see Janus and Prentky 2008 for a full review). Such approaches are justified on public protection grounds and because they are said to provide treatment, although the benefits of this treatment are hotly disputed (see Miller 2010). Arguably, civil commitment under mental health legislation in the USA has resulted in 'psychiatric gulags', with asylums used as 'preventive prisons' (La Fond 2008: 169–170; see also McSherry 2014, who makes a similar point; and Slobogin 2006).

4 Interventions and Prevention

Intervention and treatment for sexual offenders have been largely framed by the community protection approach (Connelly and Williamson 2000; see Corcoran and Weston [Chap. 8], this volume), resulting in compulsory

programmes targeted at 'high-risk' offenders which attempt to 'challenge', 'change' and 'control' sexual offenders (Brayford et al. 2012). Such interventions gained ground from the late 1990s onwards, rooted in cognitive behaviouralism. McAlinden has described this approach to programmes as a key strategy in 'preventative governance' (McAlinden 2006: 199, 2016; Petrunik and Deutschmann 2008; and see Corcoran and Weston [Chap. 8], this volume, on Multi Agency Public Protection Arrangements (MAPPA) and community protection), in which compulsion and sentencing to treatment are justified by levels of risk and public protection concerns. Programmes focus on 'straight thinking' and prudent actions by targeting behaviours and cognitions and enhancing positive choices (see Baird 2009; Bonta and Andrews 2007; James 2015). Such programmes are theoretically and methodologically rooted in Cognitive Behavioural Therapy (CBT) and have been the most frequently evaluated programmes, often meeting the robust standards of random controlled trials; therefore, the weight of evidence is extensive (see Hanson 2014). CBT has consistently demonstrated positive, albeit at times moderate, outcomes (see Albracen et al. 2011; Beech et al. 2012; Schumuker and Losel 2008; Kim et al. 2015 for a recent meta-analysis). Kim et al. 2015 noted that community programmes were more effective than custodial ones, but, given prevailing public and political sentiment, it was unlikely that more sexual offenders would be treated in the community. They also found that 'chemical and surgical treatments are more effective than psychological treatments' (p. 115), but that psychological interventions were more likely to be promulgated for moral and ethical reasons.

However, CBT programmes have been critiqued on a number of grounds, most notably that they individualise risk and ignore social factors (Farrall et al. 2010); that they fail to respond adequately to issues of diversity (Hannah-Moffat and O'Malley 2007); that reintegration into the community remains challenging for sexual offenders post-programme (Wilson et al. 2009); and that enforcement can be counterproductive (Ugwudike 2012). Significant challenges to CBT as the most effective method for sex offender programme interventions began in earnest in the 2000s with increased focus on desistance (Maruna 2001) and the introduction of the 'Good Lives Model' (Ward 2002), epitomised by the mid-2000s in Ward and Maruna's critique of the prevailing risk-dominated

CBT approach of 'risk–needs–responsivity' (RNR; Ward and Maruna 2007). The concept of desistance is concerned with the change processes involved in ending offending, described by Burnett (2010) as the actual processes involved in a person becoming an ex-offender. The desistance research to date has been largely theoretical, small scale and qualitative (Kruttschnitt et al. 2000 is a notable exception). Arrigio and Ward (2015) provide a helpful introduction to the concept of 'desistance journey' for offenders.

By drawing on extant research in Australia, the USA, Canada and the UK, Weaver (2014) identified a diverse range of potential factors that are critical to desistance, including, for sexual offenders:

- parenthood, most notably becoming a father, particularly for young male offenders;
- marriage, as a stabilising factor in desistance from crime;
- employment;
- investment in a significant intimate relationship;
- strengthening social relationships;
- positive social capital
- resilience, particularly to disappointment and failure; and
- hope, particularly that one's life may change, and that other non-offending possibilities may be achieved.

These findings were in part complemented by those of Farmer et al. (2011), who in a detailed study of ten convicted child abusers found the following factors important to reducing sexual offending: involvement in a social group or positive social network; change in negative, pro-offending attitudes and beliefs; participation and commitment to treatment; and the expression of hope, optimism and willingness to change (see also Willis and Ward 2011).

By the late 2000s, academics were advising the National Offender Service in England and Wales on desistance (see Maruna 2010), and the approach was gaining traction in Scotland (McNeil and Weaver 2010; Sapouna et al. 2011), the Republic of Ireland (Healy 2010) and Australia (Laws and Ward 2010). From the mid-2000s onwards, an academic and practitioner focus on a 'strengths-based' approach started

to gain impetus, most notably focused on the Good Lives Model and the work of Tony Ward and Richard Laws (Ward and Laws 2010; Willis et al. 2014). For example, the 'Moving Forward Making Changes' programme was launched in Scottish prisons in 2014, although at the time of writing it was awaiting an outcome evaluation (RMA 2016). The Good Lives Model is an approach to offender rehabilitation in which treatment aims to equip offenders with the skills and resources necessary to satisfy primary goods, or basic human values, in personally meaningful and socially acceptable ways. It is suggested that this model can address some of the limitations of RNR, including influencing levels of treatment attrition (Ward and Willis 2016; Willis and Ward 2011); and Fortune et al. (2015) helpfully outline a 'positive treatment' approach to sex offenders. Importantly, it should be recognised that the Good Lives Model is not offered as an alternative to risk reduction approaches; rather, 'The GLM was designed to augment the RNR and incorporates the dual aims of risk reduction and well-being enhancement' (Willis et al. 2014: 60). There is now an extensive website with numerous publications and a range of researchers testing and critically evaluating the approach (see: http://www.goodlivesmodel.com/publications; accessed 18 January 2017).

4.1 Prevention

Paralleling the increased focus on strengths, rehabilitation and successful reintegration, there has been an increased focus on prevention, particularly as criminal justice responses are seen as acting retrospectively (the harm has already happened), and deal with only a fraction of the overall sexual crime occurring across the population as a whole (Beier et al. 2009). Prevention is therefore understood as early intervention to prevent sexual crime, and is located within a public health discourse (Tabachnick 2013; see also Brown [Chap. 2], this volume). It can take a number of forms, such as targeting those at risk of sexual offending and encouraging them to come forward for treatment, and universal campaigns aimed at the community or societal level (see McCartan et al. 2015). The most notable prevention campaign for those at risk of

offending is the Dunkelfeld Prevention Project (https://www.dont-offend.org), a social marketing campaign that targets perpetrators and aims to engage them in early treatment and prevention (see Beier et al. 2009, 2015 for evaluations). The project illustrates that those at risk of causing sexual harm will come forward for treatment and disclose behaviours during treatment. However, the impact on reoffending is less clear (Beier et al. 2015).

Similar initiatives have been launched in the USA ('Stop It Now!'; and see http://www.toolsofchange.com/en/case-studies/detail/183; Tabachnick and Dawson 2000) and the UK (Brown et al. 2014). The latter study found that over 31,000 telephone calls were made to Stop It Now! UK and Ireland between 2002 and 2013. In 2012–2013 some 48 per cent of calls were from people who had committed a sexual offence, and 8 per cent were from potential abusers. The study found that the key benefits were challenging risky behaviours and providing techniques to control such behaviours. The cost–benefit analysis was also positive (Bowles 2014). However, due to the nature of the study, the overall impact of the helpline on recidivism could not be calculated. While such approaches offer promise, they require further outcome-orientated research to establish their full utility in sexual offence prevention.

Both universal and targeted public health prevention campaigns at community or societal level have gained ground over the last twenty-five years (see Brown [Chap. 2], this volume, for a full review). Such campaigns aim either to educate specific groups, such as parents, or the general public about sexual abuse and how to prevent it (for example, by identifying and containing 'grooming behaviours') or take specific steps to safeguard children. The empirical evidence is growing, and research indicates that 'appropriate targeting of audiences, points of intervention and outcomes are important' (Kemshall and Moulden 2016: 11). To date, the biggest challenge has been how to turn public awareness and public education into effective action. Simply put, attitudinal change does not necessarily lead to behavioural change.

More recently, multifaceted campaigns providing targeted, specific instruction and training to different groups, such as bystanders or parents, combined with broader universal messaging to communities at large have generated greater success (Kemshall and Moulden 2016: 11;

Massachusetts Citizens for Children 2001, 2010). Such campaigns, while larger in scale and more costly, have shown that they have the capacity to turn public awareness campaigns into public *action* campaigns (Kemshall and Moulden 2016: 11). Again, while this approach shows promise, there are significant challenges in the current political climate in transferring both funds and focus from criminal justice responses to public health approaches.

5 Conclusion

A common theme in the historic evolution of sex offender management has been an overriding concern with public protection, often deeply rooted in the political discourse prevailing at the time. This has often resulted in a divergence between evidence and policy-making (Freiberg and Carson 2010), and on occasion a preponderance towards policy-led evidence. A particularly strong driver in the development of sex offender management has been the voices of the victims and their relatives, with victim/survivor advocacy playing a key role in legislative development, particularly in the USA. Protection and prevention have become increasingly meshed, so the former can be delivered only through ever-increasing levels of the latter. Within the community protection discourse this has come to mean the use of exclusion, surveillance, control management and preventive sentencing. In recent years this trend has been partly mitigated by desistance approaches, a focus on strengths promotion and the broader approaches of public health prevention methods. However, the desistance and strengths-based approaches have less weight in countering the community protection approach as the empirical research base is weaker. More recently, these alternative approaches have been partly subsumed within the prevailing strategies, thus 'augmenting' RNR and CBT but also helping to refine risk management by focusing on dynamic risk factors and social context.

Broader public health approaches show considerable promise, and the case for such an alternative would be strengthened by a more robust evidence base. However, choices about 'the best way forward' are often made on political rather than evidential grounds, and while we continue to see 'monsters', we shall continue to demand 'protection'.

Notes

1. Founded by Esther Rantzen in 1986.
2. See the Service Evaluation Report at: http://kidshelpdev.org/khp-org/proofpositive/en/; accessed 12 December 2016.
3. By 2016 there were 49,322 registered sex offenders in England and Wales (College of Policing 2016); and 1465 registered sex offenders in Northern Ireland (PPANI 2016).
4. For an excellent review of the role of the News of the World campaign in the formation of 'Sarah's Law' in the UK, see Savage, S. and Charman, S. (2010) Public Protectionism and 'Sarah's Law': Exerting Pressure through Single Issue Campaigns. In M. Nash and A. Williams (eds), *Handbook of Public Protection.* Cullompton: Willan, pp. 434–453.

References

Adkins, G., Huff, D., & Stageberg, P. (2000). *The Iowa Sex Offender Registry and Recidivism*. Des Moines: Iowa Department of Human Rights.

Albracen, J., Loomen, J., Ferguson, M., Harkins, L., & Mailloux, D. (2011). Recidivism among Treated Sexual Offenders and Comparison Subjects: Recent Outcome Data from the Regional Treatment Centre (Ontario) High-intensity Sex Offender Treatment Programme. *Journal of Sexual Aggression*, *2*, 142–152. Available at: https://doi.org/10.1080/13552600903511980. Accessed 18 Jan 2017.

Anderson, A., & Sample, L. (2008). Public Awareness and Action Resulting from Sex Offender Community Notification Laws. *Criminal Justice Policy Review, 19*(4), 371–396. Available at: http://cjp.sagepub.com/content/19/4/371.abstract. Accessed 11 Jan 2017.

Arrigo, B., & Ward, T. (Eds.). (2015). Response, Rehabilitation, and Reconciliation: The Normative Dimension of Offenders Desistance Journey. *Criminal Justice and Behavior, 42*, 5–124. https://doi.org/10.1177/0093854814550022.

Ashenden, S. (2004). *Governing Child Sexual Abuse: Negotiating the Boundaries of Public and Private, Law and Science*. London: Routledge.

Ashworth, A., & Zedner, L. (2014). *Preventive Justice* (Oxford Monographs on Criminal Law and Justice). Oxford: Oxford University Press.

Baird, C. (2009). *A Question of Evidence: A Critique of Risk Assessment Models Used in the Justice System.* National Council of Crime and Delinquency. Available at: http://www.nccdglobal.org/sites/default/files/publication_pdf/special-report-evidence.pdf. Accessed 23 Nov 2016.

Bandy, R. (2011). Measuring the Impact of Sex Offender Notification on Community Adoption of Protective Behaviors. *Criminology & Public Policy, 10*(2), 237–263. https://doi.org/10.1111/j.1745-9133.2011.00705.x.

Basdekis-Jozsa, R., Mokros, A., Vohs, K., Briken, P., & Habermeyer, H. (2013). Preventive Detention in Germany: An Overview and Empirical Data from Two Federal States. *Behavioral Sciences and the Law, 31*, 344–358. Published Online 14 May 2013 in Wiley Online Library.

Beech, A. R., Mandeville-Norden, R., & Goodwill, A. (2012). Comparing Recidivism Rates of Treatment Responses/Non-Responders in a Sample of 413 Child Molesters Who Had Completed Community-Based Sex Offender Treatment in the United Kingdom. *International Journal of Offender Therapy and Comparative Criminology, 56*, 29–49. https://doi.org/10.1177/0306624X10387811.

Beier, K., Neutze, J., Mundt, I., Ahlers, C., Goecker, D., Konrad, A., & Schaefer, G. (2009). Encouraging Self-identified Pedophiles and Hebephiles to Seek Professional Help: First Results of the Prevention Project Dunkelfeld. *Child Abuse and Neglect, 33*(8), 545–549. Available at: http://www.sciencedirect.com/science/article/pii/S0145213409001562. Accessed 15 Jan 2017.

Beier, K., Grundmann, D., Kuhle, L., Scherner, G., Konrad, A., & Amelung, T. (2015). The German Dunkelfeld Project: A Pilot Study to Prevent Child Sexual Abuse and the Use of Child Abusive Images. *Journal of Sexual Medicine, 12*(2), 529–542. Available at: http://onlinelibrary.wiley.com/doi/10.1111/jsm.12785/abstract. Accessed 15 Jan 2017.

Bonta, J., & Andrews, D. A. (2007). *Risk–Need–Responsivity Model for Offender Assessment and Rehabilitation*. Public Safety Canada, June 2007. Available at: https://www.publicsafety.gc.ca/cnt/rsrcs/pblctns/rsk-nd-rspnsvty/index-eng.aspx. Accessed 23 Nov 2016.

Bowles, R. (2014). Economic Analysis of the UK and NL Stop It Now! Programmes: Summary Report. Available at: http://www.stopitnow-evaluation.co.uk/. Accessed 19 Jan 2017.

Brayford, J., & Deering, J. (2012). Media Influences on Public Perceptions of Sex Offenders: Impact on Policy and Practice. In J. Brayford, F. Cowe, & J. Deering (Eds.), *Sex Offenders: Punish, Help, Change or Control? Theory, Policy and Practice Explored* (pp. 52–68). Abingdon: Routledge.

Brayford, J., Cowe, F., & Deering, J. (2012). *Sex Offenders: Punish, Help, Change or Control: Theory, Police and Practice Explored*. Abingdon: Routledge.

Brown, A., Jago, N., Kerr, J., McNaughton Nicolls, C., Paskell, C. and Webster, S. (2014). *Call to Keep Children Safe from Sexual Abuse: A Study of the Use and Effects of the Stop It Now! UK and Ireland Helpine*. Available at: http://www.stopitnow.org.uk/files/stop_it_now_evaluation_uk_findings.pdf. Accessed 19 Jan 2017.

Burnett, R. (2010). The Will and Ways of Becoming an Ex-offender. *International Journal of Comparative Offender Therapy, 54*, 663.

Butler-Sloss, B. E. (1988). *Report of the Commission of Inquiry into Child Sexual Abuse in Cleveland.* Presented to the Secretary of State for Social Services by the Right Honourable Lord Butler-Schloss, DBE, Cm 412. London: HMSO.

Catalano, S. (2005). *Criminal Victimization, 2004 (NCJ 210674)*. Washington, DC: US Department of Justice.

Clyde, L. J. (1992). *Report of the Inquiry into the Removal of Children from Orkney in February 1991: Return to an Address of the Honourable the House of Commons Ddated October 1992*. Edinburgh: HMSO.

Cobley, C. (2000). *Sex Offenders: Law, Policy and Practice*. Bristol: Jordans.

Cohen, M., & Jeglic, E. (2007). Sex Offender Legislation in the United States: What Do We Know? *International Journal of Offender Therapy and Comparative Criminology, 51*(4), 369–383. https://doi.org/10.1177/0306624X06296235.

Cole, D. (2015). The Difference Prevention Makes: Regulating Preventive Justice. *Criminal Law and Philosophy*, *9*(3), 501–519. https://doi.org/10.1007/s11572-013-9289-7

College of Policing. (2016). *Current Figures on Sex Offender Registration and CDOSD Usage.* Private communication. Reproduced from O'Sullivan et al. (2016).

Colorado Department of Public Safety, Sex Offender Management Board. (2004). *Report on Safety Issues Raised by Living Arrangements for and Location of Sex Offenders in the Community*. Denver: Colorado Department of Public Safety.

Connelly, C., & Williamson, S. (2000). *A Review of Research Literature on Serious Violent and Sexual Offenders*. Edinburgh: Scottish Executive Central Research Unit. Available at: http://withscotland.org/resources/a-review-of-the-research-literature-on-serious-violent-sexual-offenders. Accessed 19 Jan 2017.

Coyle, I. R. (2011). The Cogency of Risk Assessments. *Psychiatry, Psychology and Law*, *18*, 270–280. https://doi.org/10.1080/13218719.2010.543406

Day, A., Darwinkel, E., & Vess, J. (2016). The Characteristics of Registered Sexual Offenders in an Australian Jurisdiction. *Psychology and Offender Profiling.* https://doi.org/10.1002/jip.1461. Available at: http://psychsource.bps.org.uk/details/journalArticle/9680711/The-characteristics-of-registered-sexual-offenders-in-an-Australian-jurisdiction.html. Accessed 2 Mar 2017.

Duwe, G. (2013). To What Extent Does Civil Commitment Reduce Sexual Recidivism? Estimating the Selective Incapacitation Effects in Minnesota, *Journal of Criminal Justice.* Available at: https://doi.org/10.1016/j.jcrimjus.2013.06.009. Accessed 12 Jan 2017.

Farmer, M., Beech, A. R., & Ward, T. (2011). Assessing Desistance in Child Molesters: A Qualitative Analysis. *Journal of Interpersonal Violence, 5*, 930–950. Available at: http://jiv.sagepub.com/content/27/5/930.abstract. Accessed 18 Jan 2017.

Farrall, S., Bottoms, A., & Shapland, J. (2010). Social Structures and Desistance from Crime. *European Journal of Criminology, 7*(6), 546–570. https://doi.org/10.1177/1477370810376574.

Fitch, K. (2006). *Megan's Law: Does it Protect Children?* (2nd ed.). London: NSPCC.

Fitch, K. (2007). Sex Offender Management: Children's Rights, Megan's Law and the Child Sex Offenders Review. *Child Right, 238*, 18–21.

Fortune, C. A., Ward, T., & Mann, R. (2015). Good Lives & the Rehabilitation of Sex Offenders: A Positive Treatment Approach. In A. Linley & S. Joseph (Eds.), *Positive Psychology in Practice* (2nd ed.). Chichester: Wiley.

Freiberg, A., & Carson, W. (2010). The Limits to Evidence-based Policy: Evidence, Emotion and Criminal Justice. *Australian Journal of Public Administration, 69*(2), 152–164. https://doi.org/10.1111/j.1467-8500.2010.00674.x. Accessed 18 Jan 2017.

Gavin, P. (2012). A Policy of Mandatory Sentencing for Dangerous Offenders: Lessons from England and Wales. *CRIMSOC: The Journal of Social Criminology, 1*(1), 1–5. Available at: http://crimsoc.org/the-journal/volume-i-issue-1/72-6-a-policy-of-mandatory-sentencing-for-dangerous-offenders-lessons-from-england-and-wales-paul-gavin?showall=&limitstart=. Accessed 17 Jan 2017.

Hannah-Moffat, K., & O'Malley, P. (2007). *Gendered Risks*. London: Routledge Cavendish Publishing.

Hanson, R. K. (2014). Treating Sex Offenders: How Did We Get Here and Where Are We Headed?. *Journal of Sexual Aggression, An International, Interdisciplinary Forum for Research, Theory and Practice, 20*(1), 3–8. https://doi.org/10.1080/13552600.2013.861524. Accessed 18 Jan 2017.

Harris, A. J., & Lobanov-Rostovsky, C. (2010). Implementing the Adam Walsh Act's Sex Offender Registration and Notification Provisions: A Survey of the States. *Sexual Abuse: A Journal of Research and Treatment, 21*(2), 202–222. https://doi.org/10.1177/0887403409346118.

Harris, A. J., Levenson, J. S., Lobanov-Rostovsky, C., & Walfield, S. M. (2016). Law Enforcement Perspectives on Sex Offender Registration & Notification:

Effectiveness, Challenges, and Policy Priorities. *Criminal Justice Policy Review*. https://doi.org/10.1177/0887403416651671.

Harrison, H. (2000) Childline: The First 12 Years. *Archives Disease in Childhood*. http://adc.bmj.com/content/82/4/283.full. Accessed 13 Dec 2016.

Healy, D. (2010). *The Dynamics of Desistance: Charting Pathways Through Change*. Cullompton: Willan.

Hebenton, B., & Thomas, T. (1996). Tracking Sex Offenders. *Howard Journal of Criminal Justice, 35*(2), 97–112.

Home Office. (1996) *Sentencing and Supervision of Sex Offenders: A Consultation Paper* (Cm 3304). London: Home Office.

Home Office. (1997). *Sex Offenders Act 1997*. London: Home Office.

Home Office, & Scottish Executive. (2001). *Consultation Paper on the Review of Part 1 of the Sex Offenders Act 1997*. London: Home Office.

Hynes, K. (2013). The Cost of Fear: An Analysis of Sex Offender Registration, Community Notification, Civil Commitment Laws on the United States and the United Kingdom. Penn State. *Journal of Law and International Affairs, 2*(2), 351–379. Available at: http://elibrary.law.psu.edu/cgi/viewcontent.cgi?article=1058&context=jlia. Accessed 7 Apr 2017.

James, N. (2015). *Risk and Needs Assessment in the Criminal Justice System* (Congressional Research Service, 7-7500). Available at: https://www.fas.org/sgp/crs/misc/R44087.pdf. Accessed 23 Nov 2016.

Janus, E. (2006). *Failure to Protect: America's Sexual Predator Laws and the Rise of the Preventive State*. Ithaca: Cornell University Press.

Janus, E., & Prentky, R. A. (2008). Sexual Predator Laws: A Two Decade Retrospective. William Mitchell College of Law, Legal Studies Research Paper Series, Paper 115. *Federal Sentencing Reporter*, *21*(2). Available at: http://www.fjc.gov/public/pdf.nsf/lookup/NSPI201246.pdf/$file/NSPI201246.pdf. Accessed 12 Jan 2017.

Kelly, M. (2008). Lock Them up and Throw Away the Key: The Preventive Detention of Sex Offenders in the United States and Germany. *Georgetown Journal of International Law, 39*(3), 551–572.

Kemshall, H., & Maguire, M. (2001). Public Protection, Partnership and Risk Penality: The Multi-agency Risk Management of Sexual and Violent Offenders. *Punishment and Society, 3*(2), 237–264. https://doi.org/10.1177/14624740122228311.

Kemshall, H. & Moulden, H. (2016) Communicating about Child Sexual Abuse with the Public: Learning the Lessons from Public Awareness Campaigns. *Journal of Sexual Aggression*. https://doi.org/10.1080/13552600.2016.1222004. Accessed 18 Jan 2017.

Kernsmith, P., Comartin, E., Craun, S., & Kernsmith, R. (2009). The Relationship between Sex Offender Registry Utilization and Awareness. *Sexual Abuse: A Journal of Research and Treatment, 21*(2), 181–193. Available at: http://sax.sagepub.com/content/21/2/181.abstract. Accessed 4 Mar 2014.

Keyzer, P. (Ed.). (2013). *Preventive Detention: Asking the Fundamental Questions*. Portland: Intersentia.

Keyzer, P., & McSherry, R. (2015). The Preventive Detention of Sex Offenders: Law and Practice. *University of New South Wales Law Journal*, 28; 2015, *38*(2), 792–822. Available at: http://www.austlii.edu.au/au/journals/UNSWLawJl/2015/28.html. Accessed 12 Jan 2017.

Kim, B., Benekos, P., & Merlo, A. (2015). Sex Offender Recidivism Revisited: Review of Recent Meta-analyses of the Effects of Sex Offender Treatment. *Trauma Violence Abuse, 17*(1), 105–117. https://doi.org/10.1177/1524838014566719. Accessed 18 Jan 2017.

Kitzinger, J. (1996). Media Representations of Sexual Abuse Risks. *Child Abuse Review, 5*(5), 319–333.

Kitzinger, J. (1999a). Researching Risk and the Media. *Health, Risk and Society, 1*(1), 55–70.

Kitzinger, J. (1999b). The Ultimate Neighbour from Hell: Media Framing of Paedophiles. In B. Franklin (Ed.), *Social Policy, Media and Misrepresentation*. London: Routledge.

Krasmann, S. (2007). The Enemy on the Border: Critique of a Programme in Favour of the Preventive State. *Punishment and Society, 9*(3), 301–318. https://doi.org/10.1177/1462474507077496.

Kruttschnitt, C., Uggen, C., & Shelton, K. (2000). Predictors of Desistance among Sex Offenders: The Interaction of Formal and Informal Social Controls. *Justice Quarterly, 17*(1), 61–87.

La Fond, J. Q. (2008). Sexually Violent Predator Laws and the Liberal State: An Ominous Threat to Individual Liberty. *International Journal of Law and Psychiatry, 31*, 158–171. https://doi.org/10.1016/j.ijlp.2008.02.005.

Lasher, M. P., & McGrath, R. J. (2012). The Impact of Community Notification on Sex Offender Reintegration: A Quantitative Review of the Research Literature. *International Journal of Offender Therapy and Comparative Criminology, 56*(1), 6–28. Available at: http://www.ncbi.nlm.nih.gov/pubmed/21123209. Accessed 11 Jan 2017.

Laws, R., & Ward, T. (2010). *Desistance from Sex Offending: Alternatives to Throwing Away the Keys*. New York: Guilford Press.

Letourneau, E. J., Bandyopadhyay, D., Armstrong, K. S., & Sinha, D. (2010). Do Sex Offender Registration and Notification Requirements Deter Juvenile Sex Crimes? *Criminal Justice and Behavior, 37*, 553–569. https://doi.org/10.1177/0093854810363562.

Levenson, J. S. (2016). Hidden Challenges: Sex Offenders Legislated into Homelessness. *Journal of Social Work*. https://doi.org/10.1177/1468017316654811.

Levenson, J. S., & Cotter, L. P. (2005). The Impact of Sex Offender Residence Restrictions: 1,000 Feet from Danger or One Step from Absurd? *International Journal of Offender Therapy and Comparative Criminology, 49*(2), 168–178. https://doi.org/10.1177/0306624X04271304.

Levenson, J. S., D'Amora, D. A., & Hern, A. L. (2007). Megan's Law and Its Impact on Community Re-entry for Sex Offenders. *Behavioral Sciences and the Law, 25*, 587–602. https://doi.org/10.1002/bsl.770.

Levenson, J., Letourneau, E., Armstrong, K., & Zgoba, K. M. (2009). Failure to Register as a Sex Offender: Is it Associated with Recidivism? *Justice Quarterly, 27*(3), 1–27. https://doi.org/10.1177/1079063211421019.

Levenson, J., Letourneau, E., Armstrong, K., & Zgoba, K. M. (2010). Failure to Register as a Sex Offender: Is It Associated with Recidivism? *Justice Quarterly, 27*(3), 305–331. https://doi.org/10.1080/07418820902972399.

Levenson, J. S., Grady, M. D., & Leibowitz, G. (2016). Grand Challenges: Social Justice and the Need for Evidence-based Sex Offender Registry Reform. *Journal of Sociology and Social Welfare, 43*(2), 3–38. http://cautionclick.com/docs/2016_Grand_Challenge_Registry_Reform.pdf. Accessed 19 Jan 2017.

Lieb, R., Kemshall, H., & Thomas, T. (2011). Post-release Controls for Sex Offenders in the US and UK. *International Journal of Law and Psychiatry*, *34*, 226–232. https://doi.org/10.1016/j.ijlp.2011.04.006

Lippke, R. L. (2008). No Easy Way Out: Dangerous Offenders and Preventive Detention. *Law and Philosophy, 27*(4), 383–414.

Maruna, S. (2001). *Making Good: How Ex-convicts Reform and Rebuild Their Lives*. Washington, DC: American Psychological Association Books.

Maruna, S. (2010). *Understanding Desistance from Crime*. London: Ministry of Justice/National Offender Management Service (NOMS). Available at: http://www.safeground.org.uk/wp-content/uploads/Desistance-Fact-Sheet.pdf. Accessed 18 Jan 2017.

Massachusetts Citizens for Children. (2001). *A State Call to Action: Working to End Child Abuse and Neglect in Massachusetts*. Available at: http://www.aecf.

org/upload/publicationfiles/massachusetts%20state%20call%20to%20action.pdf. Accessed 19 Jan 2017.

Massachusetts Citizens for Children. (2010). *Enough Abuse Campaign: Join the Movement*. Available at: http://www.enoughabuse.org/index.php?option=com_content&view=article&id=18&Itemid=22. Accessed 19 Jan 2017.

McAlinden, A.-M. (2006). Managing Risk: From Regulation to the Reintegration of Sexual Offenders. *Criminology and Criminal Justice, 6*(2), 197–218. https://doi.org/10.1177/1748895806062981. Accessed 11 Jan 2017.

McAlinden, A.-M. (2016). Risk, Regulation and the Reintegration of Sexual Offenders. In C. Trotter, G. McIvor, & F. McNeill (Eds.), *Beyond the Risk Paradigm in Criminal Justice* (pp. 129–138). Basingstoke: Palgrave Macmillan.

McCartan, K. F., Kemshall, H., & Tabachnick, J. (2015). The Reality of Community Understandings of Sexual Violence: Rethinking Public, Practitioner and Policy Discourses. *Journal of Sexual Aggression*, *21*(1), 100–116. Available at: https://doi.org/10.1080/13552600.2014.945976. Accessed 11 Jan 2017.

McLawsen, J., Scalora, M., & Darrow, C. (2012). Civilly Committed Sex Offenders: A Description and Interstate Comparison of Populations. *Psychology, Public Policy and Law, 18* (3), 453–476. Available at: https://www.ncjrs.gov/pdffiles1/nij/grants/243551.pdf. https://doi.org/10.1037/a0026116.

McNeil, F., & Weaver, B. (2010). *Changing Lives: Desistance Research and Offender Management.* Available at: http://www.sccjr.ac.uk/pubs/Changing-Lives-Desistance-Research-and-Offender-Management/255. Accessed 17 Jan 2017.

McSherry, B. (2014). *Managing Fear: The Law and Ethics of Preventive Detention and Risk Assessment*. London: Routledge.

McSherry, B., & Keyzer, P. (2010). *Sex Offenders and Preventative Detention: Politics, Policy and Practice*. Annandale: Federation Press.

McSherry, B., Keyzer, P., & Frieberg, A. (2006). *Preventive Detention for 'Dangerous Offenders' in Australia: A Critical Analysis and Proposals for Policy Development* (Report to the Criminology Research Council). Available at: http://www.criminologyresearchcouncil.gov.au/reports/200405-03.pdf. Accessed 12 Jan 2017.

Meloy, M. L., & Coleman, S. (2009). GPS Monitoring of Sex Offenders. In R. Wright (Ed.), *Sex Offender Laws: Failed Policies, New Directions*. New York: Springer.

Mercado, C. C., Alvarez, S., & Levenson, J. S. (2008). The Impact of Specialized Sex Offender Legislation on Community Re-entry. *Sexual Abuse: Journal of Research & Treatment, 20*(2), 180–205.

Miller, J. A. (2010). Sex Offender Civil Commitment: The Treatment Paradox. *California Law Review*, *98*(6). Available at: http://scholarship.law.berkeley.edu/californialawreview/vol98/iss6/10. Accessed 12 Jan 2017.

Murphy, L., Fedoroff, J. P., & Martineau, M. (2009). Canada's Sex Offender Registries: Background, Implementation, and Social Policy Considerations. *The Canadian Journal of Human Sexuality, 18*(1–2), 61–72.

Mustaine, E. E., & Tewksbury, R. (2011). Residential Relegation of Registered Sex Offenders. *American Journal of Criminal Justice, 36*(1), 44–57. https://doi.org/10.1007/s12103-010-9102-2.

Nellis, M., Beyens, K., & Kiminski, D. (Eds.). (2013). *Electronically Monitored Punishment: International and Critical Perspectives*. London: Routledge.

Newburn, K. (2011). The Prospect of an International Sex Offender Registry: Why an International System Modelled after United States Sex Offender Laws is not an Effective Solution to Stop Child Sexual Abuse. *Wisconsin International Law Journal*, *28*(3). https://hosted.law.wisc.edu/wordpress/wilj/files/2011/10/Newburn_Final_8.2.11-ISSUE-28-3.pdf. Accessed 11 Jan 2017.

O'Sullivan, J., Hoggett, J., McCartan, K., & Kemshall, H. (2016). Understandings, Implications and Alternative Approaches to the Use of Sex Offender Register in the UK. *Irish Probation Journal, 13*, 84–101. Available at: http://www.probation.ie/EN/PB//WebPages/WP16000177. Accessed 9 Jan 2017.

Pall Mall Gazette. Available at: http://www.britishnewspaperarchive.co.uk/search/results?newspaperTitle=Pall%20Mall%20Gazette. Accessed 19 Jan 2017.

Pawson, R. (2002). *Does Megan's Law Work? A Theory-driven Systematic Review* (Working Paper 8). London: ESRC UK Centre for Evidence Based Policy and Practice, University of London. Available at: http://www.google.co.uk/url?url=http://www.leeds.ac.uk/realistsynthesis/Supread7.doc&rct=j&frm=1&q=&esrc=s&sa=U&ved=0ahUKEwipgLGQnNPRAhXLAsAKHT4aCu8-QFggWMAA&sig2=Pa20M1IEMyYBvkDckK-eEw&usg=AFQjCNEar3xVcIr-VQNVqboxE7vHmkH-SA. Accessed 21 Jan 2017.

Payne, D. M., & Buhon, D. K. (2011). Sex Offender Policies: Concerning Unanticipated Consequences of GPS Sexual Monitoring. *Aggression and Violent Behavior, 16*(177), 119–135. https://doi.org/10.1080/10509670802143383.

Payne, B., & De Michele, M. (2011). Sex Offender Policies: Considering Unanticipated Consequences of GPS Sex Offender Monitoring. *Aggression and Violent Behaviour, 16*, 177–187. Available at: http://fulltext.study/preview/pdf/94706.pdf. Accessed 18 Jan 2017.

Petrunik, M., & Deutschmann, L. (2008). The Exclusion–Inclusion Spectrum in State and Community Response to Sex Offenders in Anglo-American and European Jurisdictions. *International Journal of Offender Therapy and Comparative Criminology, 52*(5), 499–519. https://doi.org/10.1177/0306624X07308108.

Plotnikoff, J., & Wolfson, R. (2000). *Where Are They Now? An Evaluation of Sex Offender Registration in England and Wales* (Police Research Series Paper 126). London: Home Office.

PPANI (Public Protection Arrangements Northern Ireland). (2016). *PPANI Annual Report 2015–2016*. Available at: http://www.publicprotectionni.com/uploads/images/PPANI_Annual_Report_2016_v4.pdf. Accessed 29 Aug 2017.

RMA. (2016). *An Evaluation of the Moving Forward: Making Changes Training Programme in the Community: End of Study Report*. Paisley: Risk Management Authority. Available at: http://www.rmascotland.gov.uk/files/5314/6246/7391/MFMCTrainingevaluation.pdf. Accessed 19 Jan 2017.

Russell, B. Z. (2005). Idaho Leaves Most Violent Sexual Predators Unsupervised. *Spokesman Review, 1*.

Sandler, J., Freeman, N., & Social, K. (2008). Does a Watched Pot Boil? A Time-series Analysis of New York State's Sex Offender Registration and Community Notification Law. *Psychology, Public Policy and Law, 14*, 284–302.

Sapouna, M., Bisset, C., & Conlong, A.-M. (2011). *What Works to Reduce Reoffending: A Summary of the Evidence*. Justice Analytical Services, Scottish Government. Available at: http://www.scotland.gov.uk/Resource/0038/00385880.pdf. Accessed 18 Jan 2017.

Scholle, A. D. (2000). Sex Offender Registration. *FBI Law Enforcement Bulletin, 69*(7), 18–24.

Schram, D. D., & Milloy, C. D. (1995). *Community Notification: A Study of Offender Characteristics and Recidivism* (Washington State Institute for Public Policy). Seattle: Urban Policy Research.

Schumuker, M., & Losel, F. (2008). Does Sexual Offender Treatment Work? A Systematic Review of Outcome Evaluations. *Psicothema, 20*, 10–19.

Slobogin, C. (2003). A Jurisprudence of Dangerousness. *Northwestern University Law Review, 98*, 1–62.

Slobogin, C. (2006). *Minding Justice: Laws that Deprive People with Mental Disability of Life and Liberty*. Cambridge, MA: Harvard University Press.

Slobogin, C. (2011). Prevention of Sexual Violence by Those Who Have Been Sexually Violent. *International Journal of Law and Psychiatry*, *34*, 210–216. https://doi.org/10.1016/j.ijlp.2011.04.010

SMART SURVEY. (2016). *Global Survey of Sex Offender Registration and Notification Systems*. Available at: https://smart.gov/pdfs/global-survey-2016-final.pdf. Accessed 2 Mar 2017.

Soothill, K., Francis, B., & Ackerley, E. (1998). Paedophilia and Paedophiles. *New Law Journal, 148*, 882–883.

Stead, W. T. (1871) Bishop Frazer on the Social Evil. *The Northern Echo,* 27 Oct 1871. Available at: http://www.attackingthedevil.co.uk/echo/frazer.php. ccessed 19 Jan 2017.

Stead, W. T. (1885) *The Maiden Tribute of Modern Babylon 1: The Report of Our Secret Commission*. Available at: http://www.attackingthedevil.co.uk/pmg/tribute/mt1.php. Accessed 19 Jan 2017.

Suresh, G., Mustaine, E. E., Tewksbury, R., & Higgins, G. E. (2010). Social Disorganization and Registered Sex Offenders: An Exploratory Spatial Analysis. *Southwest Journal of Criminal Justice, 7*(2), 180–213. http://swacj.org/swjcj/archives/7.2/Suresh%20Article%20(4).pdf. Accessed 7 Apr 2017.

Tabachnick, J. (2013). Why Prevention? Why Now? *International Journal of Behavioral Consultation and Therapy, 8*, 55–61. Available at: http://files.eric.ed.gov/fulltext/EJ1017932.pdf. Accessed 7 Apr 2017.

Tabachnick, J., & Dawson, E. (2000). Stop It Now! Vermont: A Four Year Program Evaluation (1995–1999). *Offender Programs Report, 1*(4), 49.

Tennessee Board of Probation and Parole. (2007). *Monitoring Tennessee's Sex Offenders Using Global Positioning Systems: A Project Evaluation*. Nashville: Tennessee Board of Probation and Parole. Available at: http://www.correcttechllc.com/uploads/document39.pdf. Accessed 7 Apr 2017.

Terry, K. J. (2013). *Sexual Offenses and Offenders: Theory, Practice and Policy* (2nd ed.). Belmont: Wadsworth.

Terry, K. (2015). Sex Offender Laws in the United States: Smart Policy or Disproportionate Sanctions? *International Journal of Comparative and Applied Criminal Justice, 39*(2), 113–127. https://doi.org/10.1080/01924036.2014.973048.

Tewksbury, R. (2005). Collateral Consequences of Sex Offender Registration. *Journal of Contemporary Criminal Justice, 21*, 67–81. https://doi.org/10.1177/1043986204271704.

Tewksbury, R., & Jennings, W. (2010). Assessing the Impact of Sex Offender Registration and Community Notification on Sex-offending Trajectories. *Criminal Justice and Behaviour, 37*, 570–582. https://doi.org/10.1177/0093854810363570.

Tewksbury, R., & Lees, M. (2007). Perceptions of Punishment: How Registered Sex Offenders View Registries. *Crime and Delinquency, 53*(3), 380–407. https://doi.org/10.1177/0011128706286915.

Tewksbury, R., Jennings, W. G., & Zgoba, K. M. (2011). A Longitudinal Examination of Sex Offender Recidivism Prior to and Following Implementation of SORN. *Behavioural Science and the Law, 30*(3), 308–328. https://doi.org/10.1002/bsl.1009. Epub 5 Sep 2011.

Thomas, T. (2010). Sex Offender Register, Community Notification and Some Reflections on Privacy. In K. Harrison (Ed.), *Managing High-Risk Sex Offenders in the Community* (pp. 61–78). Cullompton: Willan.

Thomas, T. (2011). *The Registration and Monitoring of Sex Offenders: A Comparative Study*. London: Routledge.

Thomas, T. (2016). *Policing Sexual Offences and Sex Offenders* (Palgrave Studies in Risk, Crime and Society). London: Palgrave Macmillan.

Thompson, B., & Greek, C. (2010). Sex Offender Notification: Policy Impertatives, Effectives and Consequences. In M. Nash & A. Williams (Eds.), *Handbook of Public Protection* (pp. 295–315). Cullumpton: Willan.

Turner, S., Hess, J., Myers, R., Shah, R., Werth, R., & Whitby, A. (2007). *Implementation and Early Outcomes for the San Diego High Risk Sex Offender GPS Pilot Program*. Irvine: Center for Evidenced-Based Correction.

Ugwudike, P. (2012). Probation Enforcement Practice with Sex Offenders. In J. Brayford, F. Cowe, & J. Deering (Eds.), *Sex Offenders: Punish, Help, Change or Control?* (pp. 287–304). Abingdon: Routledge.

Vasquez, B. E., Maddan, S., & Walker, J. T. (2008). The Influence of Sex Offender Registration and Notification Laws in the United States: A Time-series Analysis. *Crime & Delinquency, 54*, 175–192. Available at: http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.934.2661&rep=rep1&type=pdf. Accessed 7 Apr 2017.

Ward, T. (2002). Good Lives and the Rehabilitation of Sexual Offenders: Promises and Problems. *Aggression and Violent Behavior, 7*, 513–528. Available at: https://ccoso.org/sites/default/files/import/WArd-2002.pdf. Accessed 7 Apr 2017.

Ward, T., & Laws, R. (2010). Desistance from Sex Offending: Motivating Change, Enriching Practice. *International Journal of Forensic Mental Health*, *9*(1), 11–23. Available at: https://doi.org/10.1080/14999011003791598. Accessed 18 Jan 2017.

Ward, T., & Maruna, S. (2007). *Rehabilitation. Key Ideas in Criminology*. London: Routledge.

Ward, T., & Willis, G. (2016). Dynamic Risk Factors and Offender Rehabilitation: A Comparison of the Good Lives Model and the Risk–Need–Responsivity Model. In D. R. Laws & W. O'Donohue (Eds.), *Treatment of Sex Offenders:*

Strengths and Weaknesses in Assessment and Intervention (pp. 175–190). New York: Springer.

Weaver, B. (2014). Control or Change? Developing Dialogues between Desistance Research and Public Protection Practices. *Probation Journal, 61*(1), 8–26. Available at: http://journals.sagepub.com/doi/full/10.1177/0264550513512890. Accessed 19 Jan 2017.

Williams, A., & Thompson, B. (2004). Vigilance and Vigilantes: The Paulsgrove Riots and Policing Paedophiles in the Community, Part 1: The Long Slow Fuse. *Police Journal, 77*(2), 99–119. Available at: http://journals.sagepub.com/doi/abs/10.1350/pojo.77.2.99.39125. Accessed 9 Jan 2017.

Willis, G. M., & Ward, T. (2011). Striving for a Good Life: The Good Lives Model Applied to Released Child Molesters. *Journal of Sexual Aggression*, *17*, 290–303. https://doi.org/10.1080/13552600.2010.505349

Willis, G., Ward, T., & Levenson, J. (2014). The Good Lives Model (GLM): An Evaluation of GLM Operationalization in North American Treatment Programs. *Sexual Abuse: A Journal of Research and Treatment, 26*, 58–81. Available at: http://journals.sagepub.com/doi/pdf/10.1177/1079063213478202. Accessed 19 Jan 2017.

Wilson, R. J., Cortoni, F., & McWhinnie, A. J. (2009). Circles of Support & Accountability: A Canadian National Replication of Outcome Findings. *Sexual Abuse: A Journal of Research and Treatment, 21*, 412–430. https://doi.org/10.1177/1079063209347724.

Zandbergen, P. A., Levenson, J. S., & Hart, T. C. (2010). Residential Proximity to Schools and Daycares: An Empirical Analysis of Sex Offense Recidivism. *Criminal Justice and Behavior, 37*, 482–502. https://doi.org/10.1177/0093854810363549.

Zevitz, R. G., & Farkas, M. A. (2000). The Impact of Sex Offender Community Notification on Probation/Parole in Wisconsin. *International Journal of Offender Therapy and Comparative Criminology, 44*(1), 8–21. https://doi.org/10.1177/0306624X00441002.

Zgoba, K., Witt, K., Dalessandro, M., & Veysey, B. (2008). *Megan's Law: Assessing the Practical and Monetary Efficacy* (Report on Grant Award 2006-IJ-CX-0018). Washington, DC: National Institute of Justice. Available at: https://www.ncjrs.gov/pdffiles1/nij/grants/225370.pdf. Accessed 7 Apr 2017.

Zgoba, K., Veysey, B., & Dalessandro, M. (2010). An Analysis of the Effectiveness of Community Notification and Registration: Do the Best Intentions Predict the Best Practices? *Justice Quarterly*, *27*, 667–691. https://doi.org/10.1080/07418820903357673

Zimring, F., Piquero, A., & Jennings, W. G. (2007). Sexual Delinquency in Racine: Does Early Sex Offending Predict Later Sex Offending in Youth and Adulthood? *Criminology and Public Policy, 6*, 507–534. Available at: https://www.ncjrs.gov/App/publications/abstract.aspx?ID=241863. Accessed 7 Apr 2017.

Zimring, F., Jennings, W. G., Piquero, A., & Hays, S. (2009). Investigating the Continuity of Sex Offending: Evidence from the Second Philadelphia Birth Cohort. *Justice Quarterly, 26*, 58–76. Available at: http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1590&context=facpubs. Accessed 7 Apr 2017.

2

Public Health, Prevention and Risk Management

Jon Brown

1 Introduction

This chapter will examine the development of thinking and some emerging practice in relation to the prevention of sexual abuse using a public health approach. It will then discuss the implications for risk management of conceptualising prevention in this way. It will argue that prevention should lie at the heart of risk management thinking and planning, and will suggest a way in which a public health approach to prevention can help inform risk management at strategic and operational levels

J. Brown (✉)
National Society for the Prevention of Cruelty to Children (NSPCC), London, UK

K. McCartan, H. Kemshall (eds.), *Contemporary Sex Offender Risk Management, Volume I*, Palgrave Studies in Risk, Crime and Society,
https://doi.org/10.1007/978-3-319-63567-5_2

2 Prevention: A Long History, Different Meanings

In the UK the history of prevention within the context of public health can be traced back to the mid-nineteenth century and the heyday of Victorian public works. As the population of London, Manchester and other major cities began to burgeon there was little or inadequate infrastructure in place. Raw sewage flowed through streets and inevitably this resulted in major outbreaks of cholera and other waterborne diseases. The "Great Stink" of London in the summer of 1858 brought a problem that had been literally festering for several years to a head (see: http://www.choleraandthethames.co.uk/cholera-in-london/the-great-stink/; accessed 2/3/2017). Sir Joseph Bazalgette—a civil engineer—proposed, designed and led the building of a comprehensive network of brick sewers and pumping stations for London, much of which still exists today (Cook 2001). This formed the blueprint for the UK's sewerage system and was responsible, along with advances in medical and especially epidemiological knowledge (led, among others, by the physician John Snow), for a significant reduction in cases of cholera (Bazalgette 1865; Shephard 1995).

These early pioneers in public health recognised that certain diseases are easily spread, particularly in areas of high population density, and that with a clear recognition and understanding of the problem often relatively simple steps can be implemented to prevent outbreaks from occurring in the first place. In this period of increased thinking about collective social responsibility as the UK's towns and cities began to expand rapidly there was a concurrent growing concern about the health and physical and moral (to use the parlance of the time) welfare of children, particularly from poor families (Daniels 2003; Mayhew 1851). At the time it was generally believed that children from higher-class families with more income and means could not be subject to abuse or neglect. Unsanitary and often cramped housing combined with poor diet, long working hours for adults and increased demand for child labour as a result of industrialisation meant increasing numbers of children were vulnerable as their parents struggled to provide the necessary care and oversight (Greenwood 1869; Humphries 2016). This, combined with much shorter life expectancy (in 1841 the average newborn girl was not expected to see

her forty-third birthday), meant that many more children were orphaned at a young age.

The response to this gradual recognition of the impacts and consequences of industrialisation on children was the founding of the big national children's charities that remain in existence today (Hendrick 1994). Dr Barnardo founded his first orphanage in 1866, the National Children's Home (now Action for Children) was founded in 1869, the Church of England's Children's Society was launched in 1881 and the National Society for the Prevention of Cruelty to Children was established in 1884. The primary concerns of these charitable institutions were to remove children from situations where they were neglected, physically harmed and/or in moral danger (which usually referred to sexual abuse, although this phrase was rarely used) and/or to provide safe and healthy homes for orphans. So the care and protection of children in the main focused on tertiary prevention: addressing and dealing with problems after the event to stop the situation deteriorating and the abuse or maltreatment continuing. However, the seeds of prevention had been planted by the great Victorian public health projects that dealt with the spread of disease, and with hindsight it is possible to see the beginnings of a prevention philosophy and a practical approach to prevention.

In the following years and decades the care and protection of children was provided largely by the Church and charities. The primacy of the family was emphasised and a cautious attitude towards external intervention remained (Hendrick 1994). It was only after the Second World War that there were significant increases in state expenditure and state provision of social care and health services in the UK. The National Health Service was founded in 1948, and in the same year the Children Act established a children's committee and a children's officer in every local authority. Responsibility for investigating child abuse was passed to the local authorities in 1968, and two years later local authority social services departments were formed (Starkey and Lawrence 2001). There was the beginning of a recognition of the importance of early intervention to prevent abuse, but most service provision was still tertiary and remained focused on after-the-event protective measures. It was across the Atlantic, in the United States, that prevention in the field of social care began to be considered in terms of service provision, with the development of the

notion that adverse childhood experiences could be identified; that their impact could be ameliorated; and, crucially, that interventions could be devised and tested to reduce the risk of adverse experiences occurring in the first place.

The concept of the family nurse practitioner (FNP; or nurse family practitioner) was developed in the early 1960s by Professor David Olds and his colleagues at the University of Colorado, and in 1965 the first FNP programme was developed by Loretta Ford and David Sliver (see: http://www.nursefamilypartnership.org; and http://www.nursefamilypartnership.org/about/program-history). The programme focuses on working with young mothers (aged under twenty) on health promotion, a healthy pregnancy and planning a positive future (see Eckenrode n.d.). This preventative programme has been positively evaluated (Eckenrode et al. 2000; Olds 2002) and it is now delivered in many countries, including the UK, where an FNP unit provides coverage to many parts of the country (see: http://fnp.nhs.uk/sites/default/files/contentuploads/fnp_information_pack_-_the_evidence_for_fnp_-_appendix_11.pdf; and Department of Health n.d.).

Preventative initiatives in the form of early-years-orientated services developed further with, for example, the work of Caroline Webster Stratton in the United States and the resulting "Incredible Years" parenting programme (see: http://www.incredibleyears.com/team-view/carolyn-webster-stratton/). This, and especially the development of the "Promoting Positive Parenting" attachment-based programme, was influential in the development of the "Sure Start" initiative during the late 1990s and early 2000s in England, together with similar preventative early-years initiatives in Wales, Scotland and Northern Ireland (Juffer and Bakermans-Kranenburg 2007). This was followed by the establishment of the Early Intervention Foundation, which is dedicated to the identification, verification and dissemination of best evidence-based practice in early-years work (http://www.eif.org.uk/), and then by the Big Lottery-funded "Better Start" initiative, which is testing a place-based approach to preventing abuse in families who are experiencing multiple adversities in several parts of England (https://www.biglotteryfund.org.uk/betterstart).

In the field of sexual abuse the developing focus on prevention and early intervention did not follow a similar trajectory. The focus remained

on tertiary interventions, with a strong "What Works" approach (Senior 2015). During the 1990s, particularly in the UK, there was significant investment in the evaluation and accreditation of sexual offender treatment programmes and a considerable body of evidence was gathered on assessment, individual and group-based treatment and relapse prevention (see: http://webarchive.nationalarchives.gov.uk/20110218135832/http:/rds.homeoffice.gov.uk/rds/pdfs/occ-step3.pdf). This learning and service provision remained largely confined to the criminal justice system, with very little effective assessment of and interventions with the vast majority of known or alleged perpetrators outside of that system.

3 Sexual Abuse as a Public Health Problem

This tertiary focus did, however, promote a recognition of the need to begin to think about how we can and should get on the "front foot" in preventing sexual abuse before it happens. The idea of conceptualising sexual abuse as a public health problem started to gain some traction in the United States during the late 1980s and early 1990s, especially through Richard Laws' research into relapse prevention among sex offenders (Laws 1989). In his work Laws discusses the value of thinking about sexual abuse from a public health perspective (Laws 2000).

The Centers for Disease Control (see: https://www.cdc.gov/), founded as the Communicable Disease Center in 1946 by Dr Joseph Mountin, a visionary thinker in public health and disease prevention, began to recognise that the four-step approach to disease control—define and monitor the problem; identify risk and protective factors; develop and test prevention strategies; and assure widespread adoption of successful interventions—could be transposed to the problem of sexual abuse. Clearly, sexual abuse is not a communicable disease, but the two problems share features that make it appropriate to think about their prevention in similar ways:

- treat the symptoms and consequences with tertiary interventions after the problem has taken hold;

- try to stop or at least inhibit the problem's spread through secondary prevention interventions among higher-risk individuals and groups; and
- implement population-wide primary prevention strategies focused on reducing the risk of the problem taking hold in the first place by increasing resilience and target hardening.

4 What Do We Mean by Prevention?

There are two dimensions to most definitions of prevention: first, when the intervention occurs (at primary, secondary or tertiary point) in the life of the problem; and, second, whom the intervention targets (e.g., individuals, families, communities or whole societies). A dimensional grid can therefore be developed to assist in mapping where interventions can and should be developed and delivered, and for and with whom.

Smallbone and Rayment-McHugh's Comprehensive Framework for preventing sexual abuse sets out a variety of interventions and approaches that can be employed across the prevention continuum, starting with offenders, then victims, situations and communities, with the interventions clustered into primary, secondary and tertiary approaches (Smallbone and Rayment-McHugh 2013: 8). It therefore offers a useful mechanism for planning and mapping prevention approaches in a systematic way.

Key factors which indicate that sexual abuse is a public health problem

1. It is prevalent in all societies

As far as we know, sexual abuse is a global problem, as is evidenced, for example, by the work of Pinheiro. We are beginning to learn what can contribute to its reduction, but there do not appear to be any parts of the world, or any particular communities, that are immune from the problem.

2. Its effects and impacts are significant

Much has been learned about the impact of sexual abuse over the last five decades. Finkelhor's *traumagenic dynamics* summarise these key

impacts: traumatic sexualisation, betrayal, stigmatisation and powerlessness, all of which are overlaid by an often acute sense of shame.

3. Its costs are significant

In addition to the psychological and emotional costs, sexual abuse has a significant economic cost, recently estimated at £3.2 billion per year in the UK economy.

4. We understand the causes and drivers of sexual abuse

Sexual abuse is fundamentally driven by the abuse of power. It is also informed by biological, situational and other contextual factors, such as adverse childhood experiences, including exposure to neglect, domestic violence, bullying and physical and sexual abuse.

5. Action can be taken to stop these drivers resulting in abuse

Many actions along the primary, secondary and tertiary continuum can be employed to interrupt, inhibit, treat and disrupt these drivers.

6. Action can be taken to ameliorate the effects and impacts of sexual abuse

Much has already been learned about effective interventions with those who perpetrate sexual abuse, and we are now learning more about which interventions are most effective with children and young people who have been abused.

7. Much sexual abuse can be prevented

Interventions designed to be delivered along the prevention continuum can be combined to act as effective prevention of and deterrence against sexual abuse.

5 NOTA's Definition of Sexual Abuse Prevention

The National Organisation for the Treatment of Abusers (NOTA) has developed a definition of sexual abuse prevention which attempts to summarise and distil the key features of effective prevention.

NOTA recognises that sexual abuse and sexual violence can be uniquely damaging and can have lifelong impacts. Sexual abuse and violence can be perpetrated against people of all ages; the key differentiating factor between sexual abuse and sexual violence is that grooming and emotional and psychological manipulation and coercion predominate in the former and instrumental and expressive (physical) force in the latter. Whilst perpetrators and victims may be of all genders, the majority of perpetrators are male (both adult and adolescent) and the majority of victims are female.

Sexual abuse and violence can best be understood as a public health problem; it affects at least one in ten citizens from all sectors of society; causes both immediate as well as long-lasting damage; can contribute to a replication of the problem; has significant financial consequences to society; and, crucially, with coordinated action, much of it can be prevented.

The Center for Disease Control in the United States describes the public health approach as a four-step process:

Step 1: Define and monitor the problem
Step 2: Identify risk and protective factors—where risk factors are those that increase the likelihood of a person becoming a victim or perpetrator of sexual abuse or sexual violence, and protective factors are those that decrease those likelihoods
Step 3: Develop and test prevention activities—this step involves implementing and evaluating interventions that prevent the public health problem
Step 4: Ensure widespread adoption of successful interventions

Sexual abuse and violence are most effectively prevented through a combined approach of developmental, educational and situational prevention activities, deterrence activity and messaging, and therapeutic interventions with victims and survivors and the treatment of perpetrators. NOTA recognises that the prevention of sexual abuse and violence is best understood by dividing it into three broad categories, as proposed, for example, by Laws (2000) and more recently by Smallbone et al. (2008). Primary (or universal) prevention comprises population-wide interventions, for example to all children or all parents; secondary (or "selected") prevention involves interventions targeted at "at-risk groups"; and tertiary (or "indicated") prevention comprises after-the-event interventions to ameliorate the impacts of sexual abuse and violence and to reduce the risk of it reoccurring.

Together, and in response to local and national data, these three component parts of prevention can be combined under local and national abuse and violence prevention strategies to offer the best prospect of reducing the overall incidence of the problem. (http://www.nota.co.uk/nota-prevention-committee/)

The social–ecological model of sexual abuse prevention also fits well with the public health model and emphasises a similarly comprehensive model, with activities focused simultaneously at different levels (Smallbone et al. 2008). This model emphasises the individual, key relationships and the community within which the individual lives and interacts, and the society within which the community resides and which provides a meta-context and influence in relation to values and mores.

Smallbone et al. (2008) have integrated the public health and social–ecological models in Fig. 2.1, which has proved useful in mapping and planning prevention responses.

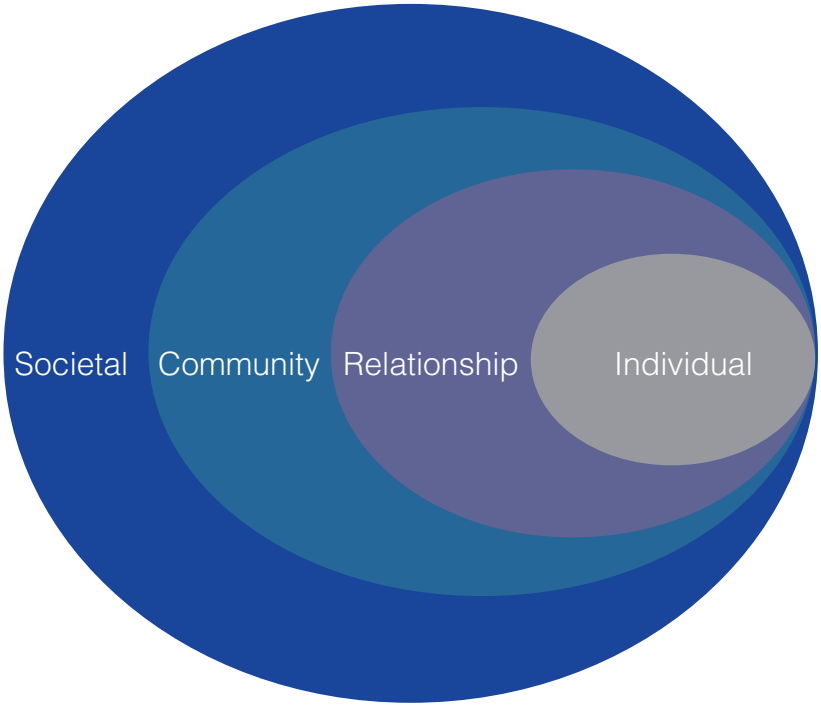

Fig. 2.1 The social–ecological model

6 The Role of the National Society for the Prevention of Cruelty to Children (NSPCC) in the Prevention of Child Sexual Abuse

The NSPCC has made a clear commitment to the prevention of child sexual abuse as part of its 2016–2021 strategy. It is working to create generational change so that in twenty years' time children who are born in the UK will be less likely to be the victims of sexual abuse. This will necessitate changing the behaviours, structures, cultures and interventions that surround children, and that will take time. However, it is thought that changes can be made over the next five years that will help to achieve this goal. These will comprise improvements for children in the short term but also, crucially, progress towards making the long-term changes that are necessary to ensure sustained, meaningful impact.

To achieve its ultimate goal, the NSPCC proposes the adoption of a *public health approach* employing a range of integrated interventions across the prevention spectrum. This will require working with children, parents, families, communities, professionals and the government. It will involve primary prevention activities aimed at communities as a whole and targeted activities focused on higher-risk groups. It will necessitate understanding which groups are most vulnerable and/or least likely to be reached and working with them. This plan will work on the basis that every member of society has a part to play in helping to keep children safe from sexual abuse and therefore there needs to be a robust network of activities and interventions (whether provided by the NSPCC or other organisations) to help support this mission.

When talking about sexual abuse, the NSPCC is referring to a broad range of behaviours, including contact sexual abuse, online abuse and child sexual exploitation, perpetrated by either adults or other young people.

6.1 The Need for a Coordinated Response

The NSPCC aims to focus its activities on three key population groups:

1. Offenders and potential offenders (including harmful sexual behaviour by young people).
2. Victims and potential victims.
3. Protectors and potential protectors (including families, peers, professionals and communities).

As key measures of success, within five years the NSPCC is aiming for:

1. Acceptance of child sexual abuse as a public health issue by the public and the government.
2. Acceptance and recognition that child sexual abuse can be prevented.
3. An understanding of which interventions are most effective in the prevention of sexual abuse.
4. A range of primary prevention activities which have been developed, delivered and tested.

The NSPCC's six key building blocks towards achieving these aims within the next five years are:

- public campaigning;
- lobbying;
- Sexual abuse hubs and Together for Childhood prevention centres;
- communities-based work;
- schools; and
- work with offenders/potential offenders

There is significant overlap between these blocks. For example, public campaigning and lobbying will be tightly linked, and the Together for Childhood centres have developed from the earlier sexual abuse hubs. The Together for Childhood centres will adopt a place-based approach to preventing sexual abuse and will form the foundation for much of the

community-focused work. The working assumption that will be tested and evaluated is that a network of centres that bring together primary, secondary and tertiary prevention activities, and combine local campaigns, consultation and training for local professionals, service delivery and community education and capacity-building, offers the best prospect of reducing the incidence of sexual abuse in the longer term. It is contended that well-trained and well-informed professionals, along with more aware families, engaged local councils, businesses, other partners and—most importantly—children themselves will gain the confidence to speak out. These measures should all contribute to the creation of an environment in which sexual abuse cannot take place.

6.2 Together for Childhood: Creating a Partnership to Support Families and Prevent Child Sexual Abuse

In developing and testing this place-based approach to preventing sexual abuse and building on the work of the sexual abuse hubs, the NSPCC's ambition is to:

- build local partnerships that can drive preventative activities and services that are both innovative and based on the best available evidence;
- create sustainable change at a systems level; and
- increase public and professional confidence in recognising and tackling child sexual abuse.

Together for Childhood seeks to understand and address problems at a local level in a truly integrated way, with a focus on community capacity-building and evidence-based development, in order radically to improve the prevention of child sexual abuse. By working together, the aim is to combine the NSPCC with local resources and expertise to realise a shared vision of keeping children safe.

By acting together, children's safety can be secured if each person plays their part, and we can make sexual abuse less likely. We can all make a difference by:

- improving our own knowledge about abuse, why and how it happens and what we can do to prevent it;
- educating children, so they know what abuse is, that it is never their fault, and that if it happens, they should tell a trusted adult;
- protecting children online by talking to them about online risks and explaining how they can stay safe; and
- protecting children in the places where they spend time, working with schools, sports clubs, faith groups and others to keep children safe.

There are many ways in which the NSPCC can support local partnerships to achieve this shared vision in the context of ongoing spending cuts and increasing pressure on workforce capacity. These include the organisation's national expertise in knowledge and information; implementation science; evaluation; service design and development; work with schools; local campaigns and safeguarding in communities; and innovative public health approaches to sexual abuse prevention.

The key intended outcomes of this place-based prevention approach are fourfold, with attention paid to:

6.2.1 Service Delivery and Professionals

- More evidence-based sexual abuse services are available for families and children.
- Professionals who work with children are more confident in identifying, addressing and preventing sexual abuse.
- More evidence-based services are available for children and young people with harmful sexual behaviour and adult perpetrators to prevent them from reoffending.

6.2.2 Systems

- Local agencies work together in a coordinated and sustainable way to help prevent sexual abuse.

6.2.3 Communities

- Community members know what sexual abuse is and recognise that it can be prevented.
- Community members respond appropriately if they have concerns relating to sexual abuse about a child or family.

6.2.4 Children and Families

- Children and families know about healthy relationships and what sexual abuse is.
- Children and families know where to access support and services if they are concerned about sexual abuse.
- Children and families take action if they are concerned about sexual abuse.

6.3 How Can Together for Childhood Prevent Child Sexual Abuse?

We know that there is not a typical victim or a typical perpetrator of child sexual abuse, but there are factors that can help prevent sexual abuse in any community. A community where there is less sexual abuse is one where the places where children spend time are made safer; adults take action to keep children safe; children know what abuse is and are able to speak out; and there is early and effective action if problems emerge. We need to address all of these issues to make children safer. Work in four key areas is likely to improve children's safety, and these will be addressed in turn.

6.3.1 Creating Safer Environments

By making changes to the places where children spend time, we can make them safer.

Situational safeguarding is an approach to safeguarding children and young people that recognises the risks to those outside the home and promotes ways of preventing, identifying, assessing and intervening. For example:

- Schools can be made safer if they create a culture where it is clear what is and what is not acceptable behaviour between students, so there is no tolerance of sexual harassment. The risk can be reduced by making simple changes to the physical environment of the school.
- Local authorities and police forces can work with hotels and taxi firms to identify situations where sexual exploitation may occur.
- The online environment can be made safer by improving the knowledge of children and those who care for them with respect to privacy settings, reporting procedures and filtering functions. Educating schools in the latest guidance on sexting and technology-assisted harmful sexual behaviour can improve confidence in dealing with these increasingly prevalent issues.

Such changes work because they increase the effort needed to commit the crime, increase the risk of detection and remove the excuses for inappropriate behaviour.

6.3.2 Adults Taking Action

We can keep children safer if adults understand what sexual abuse is, what a risky situation looks like and what to do if they are concerned.

Better-informed communities are safe communities. Sexual abuse is more likely to occur when families fail to recognise the risks involved and therefore do not take the action required to keep a child safe. Some people think sexual abuse never happens in "their kind of family" so they do not think through the risks they may be facing. Adults taking action starts with listening to children in order to pick up on warning signs; this lets the child know that if they voice a worry, they will be listened to and believed. Parents may use the NSPCC's PANTS materials—a simple way to talk to children about sexual abuse. Neighbours can call the NSPCC's helpline if they see something that does not seem quite right.

6.3.3 Children Can Speak Out

Children need to know what sexual abuse is, that it is never OK, and that it is never their fault.

It is never the responsibility of children to protect themselves from sexual abuse, but helping them to understand that they deserve respect, can speak out and will be kept safe will better protect them. For example, the NSPCC's "Speak Out. Stay Safe" programme visits primary schools to teach children about the kinds of behaviour that are not OK and who to turn to if they are ever worried. Meanwhile, Childline gives children access to a confidential place if they are worried that something is not right.

6.3.4 Earlier and More Effective Help if Problems Emerge

Children need effective help when problems are first identified.

If sexual abuse has happened, we need to make sure it never happens again by providing the victim with whatever help and support they need to keep safe and to get their life, and their healthy development, back on track. This might mean looking at the environment where the abuse happened and thinking about whether any changes can be made to make it safer for all children in the future; or looking at what support parents or carers may need in order to protect children from future abuse. It also means finding out who abused the victim and taking steps to ensure they do not abuse any other children. We need to ensure that sexual abuse is recorded and investigated, that justice is served, that abusers have access to treatment that will make them less likely to abuse children in the future, and that those who are concerned about their own abusive thoughts have access to help before they go on to commit an offence.

While most children who experience sexual abuse do not go on to abuse others, some do, so we need to offer support which includes *the rehabilitation of young people who have sexually abused others.* We need to help those young people to understand and address their behaviour through programmes such as "Turn the Page" (see: www.nspcc.org.uk/services-and-resources/) and by working with children and young people

who have displayed harmful sexual behaviour. In doing so, we can help children find ways to move away from their harmful sexual behaviour and embark on a positive, safe future.

7 What Makes for Effective Prevention Work?

From the accrued experience of delivering prevention activities to date, it is clear that a number of factors and interventions need to be in place to ensure effectiveness. It should also be noted that there is a need for more qualitative and quantitative (in particular longitudinal) evaluation of prevention activities.

The Factors Most Likely to Contribute to Prevention of Child Sexual Abuse

- Prevention should be scoped and planned as part of a place-based approach—that is, within a defined geographic area (see: https://www.nspcc.org.uk/globalassets/documents/research-reports/preventing-child-sexual-abuse-towards-a-national-strategy.pdf).
- Prevention activity needs to be delivered across the prevention continuum, with interventions spanning the primary, secondary and tertiary levels (see: https://www.nspcc.org.uk/globalassets/documents/research-reports/preventing-child-sexual-abuse-towards-a-national-strategy.pdf).
- Primary prevention activity in schools should be embedded within Personal Social and Health Education and Sex and Relationships Education classes. This curriculum-embedded activity should proceed in an age-appropriate way from the age of five and should include elements of peer-to-peer education and, for younger children, materials such as the NSPCC's Underwear Rule. It is encouraging that the UK government has now finally committed to making Sex and Relationships Education compulsory in all schools.
- Parents, parents-to-be and families need to be fully involved and engaged in prevention work as those who are closest to children can be their most effective protectors. Having a good understanding of the warning signs and symptoms of sexual abuse can provide a critical protective barrier against others within the family environment who may be motivated to act in a sexually inappropriate and harmful way against children.

- Effective prevention should offer good-quality advice, information and consultation to professionals who are involved with the protection of children.
- Online engagement should run as a theme throughout prevention interventions. The barrier between the online and offline worlds is becoming increasingly indistinct, and children and young people in particular routinely learn and engage online. Newer approaches, such as virtual-reality and gaming innovations, should also be used to enrich and add additional dimensions to prevention activities.
- Situational prevention strategies from other areas of crime prevention can be utilised to target-harden the environment. For instance, attention should be paid to street lighting and building design in local prevention strategies. There is developing evidence to suggest that environmental management can play a key role in reducing the risk of sexual abuse (Wortley 2006).
- Bystander intervention techniques should be promoted, taught and evaluated on the same basis as situational prevention: that reducing the opportunity to abuse at the earliest opportunity can play a key role in successful prevention (see: http://www.nsvrc.org/projects/engaging-bystanders-sexual-violence-prevention/bystander-intervention-resources).
- Improved public understanding of how abuse occurs, its effects and impacts, the warning signs and the roles we all play in prevention is key. The media can be influential in public opinion forming and public education, so the engagement of local and national media in positive prevention stories can pay great dividends. The NSPCC has contributed to several soap opera storylines on sexual abuse which have been important in helping to advance public understanding of the issue.
- While prevention activity must have a strong upstream focus, it should also include tertiary interventions. Effective help for children who have been sexually abused is critical prevention work if their resilience is to be increased; the biggest single risk factor for future sexual abuse of a child is if they have been abused previously.
- A commonly understood prevention language is critical in ensuring that there is buy-in and engagement at the local as well as the national level. People need to understand what is meant by a public health approach. They also need to understand the difference between child sexual abuse and child sexual exploitation, and what this looks like in practice. The Frameworks Institute has undertaken some work to gauge and analyse people's understanding of sexual abuse and whether they believe it can be prevented (see: http://www.frameworksinstitute.org/child-abuse-and-neglect.html). This kind of work can provide important evidence of commonly held beliefs and misconceptions that can be used to inform campaigns and information dissemination exercises. Much work is still to

be done in relation to attitudinal change: a recent (unpublished) NSPCC survey showed that 51 per cent of professionals believe sexual abuse can be prevented, compared to 47 per cent of the general public.

An understanding of prevention of sexual abuse should have relevance and resonance across many different environments and communities. The prevention strategy for an inner-city community in Birmingham will look very different from the prevention plan for a rural area in Scotland. If communities are not engaged and have no clear understanding of why and how sexual abuse can be prevented and the roles they can play in making this happen, it is unlikely that initiatives will be successful. Ultimately, the goal should be that communities own and shape prevention responses so it gets integrated into day to day life and problem solving and becomes "the way we do things round here."

8 What More Do We Need to Know about Prevention?

While significant progress has been made in our understanding of sexual abuse and what can be done to prevent it, we need to learn and understand much more. For example, what is the optimum intensity and length of prevention provision before the flywheel starts to gain momentum and spin of its own accord? What is the best means of measuring the effectiveness of prevention activity? What are the unintended consequences of focusing on preventing sexual abuse in a specific area? And to what extent should the prevention strategies be different in different communities? We are seeing an acceleration in thinking about preventing sexual abuse in the UK. NOTA has established a Prevention Committee with close links to the Association for the Treatment of Sexual Abusers (ATSA) Prevention Committee in the United States (see: http://www.atsa.com/prevention), and there is increasing recognition of the psychological and economic costs of sexual abuse. Recent high-profile historic abuse cases and current cases of child sexual exploitation have also served to galvanise thinking and action. The UK government now recognises child sexual abuse as a national threat, wide-ranging inquiries (see: https://www.iicsa.org.uk/ and https://www.childabuseinquiry.scot/) have been established

in all four nations of the UK, and Public Health England and the National Institute for Health and Care Excellence (see: https://www.nice.org.uk/) are both showing an interest in the prevention of child sexual abuse. A Home Office-funded National Centre of Expertise on Child Sexual Abuse has been established, but it is important for this organisation to focus on prevention (see: https://www.gov.uk/government/news/government-delivers-40-million-to-tackle-child-sexual-abuse-and-child-trafficking; accessed 8/3/17).

9 The Role of Prevention in Risk Management

Risk management should have prevention thinking and activity at its core, and there are number of ways in which the developing thinking on prevention can be utilised to enhance risk management. Using a prevention grid that spans the primary, secondary and tertiary interventions and strategies with a focus on offenders, victims, communities and situations can assist in planning a comprehensive risk management approach for individuals and also more broadly for geographic areas (Fig. 2.2).

Case Example Lucas, aged thirty-one, was sentenced to five years' imprisonment for creating and distributing child abuse images and for indecent assaults on three girls aged thirteen and fourteen. He participated in a sex offender treatment programme while in prison and is now out of prison on

	Primary	Secondary	Tertiary
Offenders			
Victims			
Communities			
Situations			

Fig. 2.2 The prevention grid—case application

licence. He is living in the town where he committed the offences, and his live-in partner has just learned that she is expecting his child. Lucas is currently working for a software design company.

How could a risk management plan be informed by prevention thinking and specifically by utilising the prevention grid?

	Primary	Secondary	Tertiary
Offender		What external controls need to be put in place to manage Lucas' assessed ongoing risk? What work needs to be undertaken with Lucas' partner to help her understand the role she can play in supporting him and managing his assessed ongoing risk?	What further treatment does Lucas need?
Victim	What information and education can be provided via schools in the area and through community awareness-raising events to ensure that local children, families and community members are confident about speaking out if they have concerns?		What are the ongoing support needs of the children whom Lucas abused?
Situation	What are the key at-risk situations which can be controlled and mitigated to reduce the risk of Lucas reoffending? Can any changes be made in schools and other public areas to reduce the risk of abuse?		Do any changes need to be made to Lucas' home environment to contain and manage the assessed ongoing risk?

(*continued*)

(continued)

	Primary	Secondary	Tertiary
Community	What is the viability of a local campaign on speaking out about and preventing sexual abuse, increasing community awareness of warning signs, and stressing that we can all play a role in preventing sexual abuse?		

This grid, which is indicative and can be developed further, highlights how a comprehensive prevention plan could be developed to address the assessed risk for Lucas himself while also extending the prevention focus to the community level. The community-level changes are based on the assumptions that we can all play a role in the prevention of abuse and that the task before us is challenging. The Office for the Children's Commissioner (2016) has estimated that only one in eight cases of child sexual abuse in the UK are known to the authorities. We are therefore confronted with a significant and hidden challenge that will never be addressed successfully by statutory agencies alone. If we are really serious about preventing abuse in the long term, we need to understand and learn how a *place-based*, community-wide approach can effect long-term behavioural and attitudinal changes. Looking out for the welfare and protection of children should become the norm, and everyone should be committed to speaking out and blowing the whistle if necessary. In other words, the goal should be a zero-tolerance approach to all abuse and exploitation.

While abuse-tolerant cultures can be infectious, the same is true of abuse-*intolerant* cultures. If enough people speak out about it, if the message is sufficiently consistent and if people believe that most abuse can be prevented, then it will be. The ultimate goal must be to reach a point where people think, "This is usual; this is the way we do things round here." We have some way to go, as the NSPCC's recent research illustrates

(see above). The animation recently produced by the NSPCC on how we can all play a role in prevention is an excellent example of a resource that can be used in many different ways to increase public understanding and awareness of child sexual abuse (see: https://www.nspcc.org.uk/preventing-abuse/child-abuse-and-neglect/child-sexual-abuse/preventing-child-sexual-abuse/).

While the earlier example of a prevention grid combines a risk management approach with a focus on prevention for both Lucas and the community where he lives, it is also a comprehensive approach to prevention and risk management. Specific elements of it could be used, so, for example, there could be an initial focus on Lucas and a later plan to develop more community-wide approaches if resources and/or other constraints allow. There will be an increased likelihood of concurrent employment of the individual and macro approaches if the area/town/city/county has made a strategic commitment to developing a comprehensive approach to preventing child sexual abuse.

The grid also explicitly discusses "assessed risk." Well-informed, good-quality assessment is *the* critical foundation stone in any effective prevention approach. The assessment should also follow the grid segments to ensure a rounded, comprehensive and informed view, and there should be a clear agreement on coordination of the assessment and who will contribute to it.

Finally, we remain in the early stages of developing a prevention evidence base, and evaluation should be a key theme throughout any prevention approach and strategy.

10 Conclusion: The Road Ahead

There is growing momentum towards thinking about how sexual abuse can best be prevented and this needs to continue. The government's recognition of sexual abuse as a national threat on a par with terrorism has undoubtedly galvanised thinking and provided some focus for effort. A key next step is to marshal this energy and the resources that have been made available into a national child sexual abuse prevention strategy. This strategy should build upon the child sexual exploitation action plans that

have been developed in many areas of the country, and it should identify and then develop emerging good practice across the UK. Two urgent tasks are: to develop an evidence base in relation to what is most effective in the prevention of sexual abuse; and to begin a national conversation (as well as many local conversations) so we can work out how best to frame and discuss prevention in schools, workplaces, communities and families. It is important to move from understanding that there is a national threat to developing a national strategy.

Preventing sexual abuse will be a generational endeavour. It will require resilience and a long-term view among the government and other key influencers and stakeholders. But, given the enormous costs of sexual abuse and its legacy, preventing it and reducing the harm it causes to children, adults and society as a whole must become a priority for us all.

References

Association for the Treatment of Sexual Abusers. (n.d.). Available at: http://www.atsa.com/prevention. Accessed 7/3/17.

Bazalgette, J. W. (1865). *On the Main Drainage of London: and the Interception of the Sewage from the River Thames*. London: William Clowes and Sons. Available at: https://books.google.co.uk/books?hl=en&lr=&id=O407AQAAMAAJ&oi=fnd&pg=PA1&ots=8PzlMPDTGV&sig=EfEmVnMHJfHHtJNqvnZHYRuwrMU&redir_esc=y#v=onepage&q&f=false. Accessed 2/3/2017.

Brown, J. (2015). *Preventing Child Sexual Abuse: Towards a National Strategy*. NSPCC. Available at: https://www.nspcc.org.uk/globalassets/documents/research-reports/preventing-child-sexual-abuse-towards-a-national-strategy.pdf. Accessed 7/3/17.

Browne, A., & Finkelhor, D. (1986). Impact of Child Sexual Abuse. A Review of Research. *Psychological Bulletin, 99*(1), 66–77.

Cholera and the Thames. Available at: http://www.choleraandthethames.co.uk/cholera-in-london/the-great-stink/. Accessed 2/3/2017.

Cook, G. C. (2001). Construction of London's Victorian Sewers: The Vital Role of Joseph Bazalgette. *Postgrad Medicine*, *77*, 802–804. https://doi.org/10.1136/pmj.77.914.802

Daniels, B. (2003). *Poverty and Families in the Victorian Era.* Available at: https://www.hiddenlives.org.uk/articles/poverty.html. Accessed 2/3/2017.

Department of Health. (n.d.). *FNP Evidence Summary Leaflet.* FNP National Unit. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/215542/dh_128008.pdf. Accessed 2/3/2017.

Eckenrode, J. (n.d.). *Nurse-Family Partnership Program Demonstrates Results.* Available at: http://www.bondingandbirth.org/uploads/5/4/1/5/5415260/nurse-family-partnership-eckenrode.pdf. Accessed 2/3/2017.

Eckenrode, J., Ganzel, B., Henderson, C. R., Smith, E., Olds, D., Powers, J., Cole, R., Kitzman, H., & Sidora, K. (2000). Preventing Child Abuse and Neglect with a Program of Nurse Home Visitation: The Limiting Effects of Domestic Violence. *Journal of the American Medical Association, 284*, 1385–1391.

Frameworks Institute. (n.d.). *Talking about Child Abuse and Neglect Prevention*. Available at: http://www.frameworksinstitute.org/toolkits/canp/. Accessed 7/3/2017.

Greenwood, J. (1869). *The Seven Curses of London*. London: Stanley River.

Hendrick, H. (1994). *Child Welfare: England 1872–1989*. London: Routledge.

Home Office. (1998). *An Evaluation of the Prison Sex Offender Treatment Programme.* Available at: http://webarchive.nationalarchives.gov.uk/20110218135832/http:/rds.homeoffice.gov.uk/rds/pdfs/occ-step3.pdf. Accessed 7/3/2017.

Humphries, J. (2016). *Childhood & Child Labour in The British Industrial Revolution*. Cambridge: Cambridge University Press.

Independent Inquiry into Child Sexual Abuse. Available at: https://www.iicsa.org.uk/. Accessed 7/3/2017.

Juffer, F., & Bakermans-Kranenburg, M. J. (2007). *Promoting Positive Parenting: An Attachment-based Intervention* (Monographs in Parenting Series). London: Routledge.

Laws, R. (1989). *Relapse Prevention with Sex Offenders*. New York: Guilford Press.

Laws, R. (2000). Sexual Offending as a Public Health Problem: A North American Perspective. *Journal of Sexual Aggression, 5*(1), 30–44. https://doi.org/10.1080/13552600008413294

Mayhew, H. (1851; reprint 1985). *London Labour and London Poor.* London: Penguin.

National Criminal Justice Reference Service. (2006). *Situational Prevention of Child Sexual Abuse.* Available at: https://www.ncjrs.gov/App/AbstractDB/AbstractDBDetails.aspx?id=236880. Accessed 7/3/2017.

National Institute for Health and Care Excellence. Available at: https://www.nice.org.uk/. Accessed 7/3/2017.

National Organisation for the Treatment of Abusers (NOTA). (n.d.). Available at: www.nota.co.uk/nota-prevention-committee/. Accessed 7/3/2017.

National Sexual Violence Resource Center. (n.d.). Available at: http://www.nsvrc.org/projects/engaging-bystanders-sexual-violence-prevention/bystander-intervention-resources. Accessed 7/3/2017.

NSPCC. (n.d.). Available at: www.nspcc.org.uk/services-and-resources. Accessed 7/3/2017.

Office for the Children's Commissioner for England. (2016). Available at: http://www.childrenscommissioner.gov.uk/news/inquiry-child-sexual-abuse-family-environment. Accessed 7/3/2017.

Olds, D. L. (2002). Prenatal and Infancy Home Visiting by Nurses: From Randomized Trials to Community Replication. *Prevention Science, 3*, 153–172.

Pinheiro, P. S. (2006). *Rights of the Child. Report of the Independent Expert for the United Nations Study on Violence Against Children*, New York.

Scottish Child Abuse Inquiry. Available at: https://www.childabuseinquiry.scot/. Accessed 7/3/2017.

Senior, P. (2015). *Implementing What Works in the Community: The Challenge for Research on Probation Policy and Practice.* Available at: http://www.cep-probation.org/wp-content/uploads/2015/03/Parallel-III-A-Effective-interventions-Senior2.pdf. Accessed 7/3/2017.

Shepard, D. A. E. (1995). *John Snow: Anaesthetist to a Queen and Epidemiologist to a Nation*. Cornwall/Canada: York Point Publishing.

Smallbone, S., & Rayment-McHugh, S. (2013). Preventing Youth Sexual Violence and Abuse: Problems and Solutions in the Australian Context. *Australian Psychologist, 48*(1), 3–13.

Smallbone, S., Marshall, W. L., & Wortley, R. (2008). *Preventing Child Sexual Abuse: Evidence, Policy and Practice*. Cullompton: Willan.

Starkey, P., & Lawrence, J. (Eds.). (2001). *Child Welfare and Social Action in the Nineteenth and Twentieth Centuries: International Perspectives*. Liverpool: Liverpool University Press.

Wortley, R. (2006). *Situational Prevention of Child Sexual Abuse.* Criminal Justice Press. Available at: https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=236880

3

Sexual Harm, Public Education and Risk Management

Joan Tabachnick and Kieran McCartan

1 Introduction

Sexual harm is an individual, community, societal and global issue (National Sexual Harm Resource Center 2016; UNICEF 2014) that is political in nature and has a high profile in modern society. This means that we need to understand public perceptions, societal engagement and societal responses to it before we can truly start to engage with it and change the surrounding narratives. Sexual harm exists in many forms, with wide diversity in both the people who commit the crimes and the individuals who are harmed; consequently, there is a raft of related legislation, policies and laws. The reality of sexual harm becomes particularly complicated if one looks at the issues internationally, as opposed to

J. Tabachnick (✉)
DSM Consulting, Nothampton, MA, USA

K. McCartan
Dept of Criminology, University of the West of England, Bristol, UK

K. McCartan, H. Kemshall (eds.), *Contemporary Sex Offender Risk Management, Volume I*, Palgrave Studies in Risk, Crime and Society,
https://doi.org/10.1007/978-3-319-63567-5_3

nationally, with different countries defining offences differently, imposing different tariffs and advocating different approaches to treatment and community management as well as public education.

This chapter will start with a general discussion of both the reality and the social construction of sexual harm; public attitudes to sexual harm and how they are formed; and the interrelationships between public, media and professional attitudes to sexual harm. It will then go on to discuss how we might change attitudes to sexual harm, related policy and the surrounding social construction by taking a holistic approach that combines public health and criminal justice approaches, rather than relying solely on a criminal justice approach.

2 Social Construction of Sexual Harm

Society is a socially constructed reality that adapts and changes depending on the cognition of the individuals involved (Giddens 1991), which is especially true in respect to our attitudes, interpretations, perceptions and societal structures (i.e., policies, practices and legislation), more so than the actual actions that we perform (i.e., activities; see McCartan 2008, 2010a, b). A popular Broadway play reflected this view in the words of Lily Tomlin: "What is reality anyway? It really is only a collective hunch" (Tomlin and Wagner 1985). This is why society adapts over time and space. Central to this, it is argued that the core of the social constructionist position revolves around four basic premises:

1. that knowledge is developed through experience;
2. that everything is culturally and historically specific;
3. that social processes sustain current knowledge; and
4. that the complex processes of social interaction construct reality.

Language, communication and context are central to social construction, which means that central players in social construction are individuals, peer networks, organisations, communities and the mass media. All social concepts, including sexual harm, are in part socially constructed. Sexual harm is a complex area as it has widespread social and cultural

ramifications, both nationally and internationally, as well as deep-seated personal consequences (McCartan et al. 2015; Tabachnick et al. 2016). When we discuss sexual harm, we typically describe the harm as a one-time event within the binary context of "offenders" and "victims." However, given that those who abuse, the people they harm and the latter's friends and families are all members of society, plus the fact that the offences and the responses (both legitimate and illegitimate) are social constructions, the discourses that are created around sexual harm are very important to understanding the problem and to seeking solutions (see McCartan et al. 2015 for a longer discussion). Societal understandings and responses to sexual harm, the crimes perpetrated by adults, adolescents and even children, and the impact upon the vulnerable people in our communities are shaped by social discussions involving individuals, peer networks, cultural/social groupings and professionals (i.e., treatment providers, advocates, academics and policy-makers) through the media, the publication of empirical research, public debate and public policies.

Consequently, the myriad ways in which we think about, talk about and respond to sexual harm make it, in part, a constructed and contested term, and therefore difficult to use consistently in a variety of settings. This reflects Giddens' (1991) idea of reflexive modernisation, which argues that society and the individual constantly re-evaluate life (social, technological and scientific) in relation to new information. Society, the community and the individual are all constantly adapting. Modern social life is a socially constructed reality which can adapt and change over time, in regard to the meaning and power attributed to it by its members. Society may be unable to agree upon definitive and comprehensive truths, leaving only temporary truths which at times may be open to falsification (Giddens 1991). This means that our understanding of the world is always open to review, critique and adaptation. Consequently, there is a link between modernity and radical doubt. This creates social uncertainty and anxiety for people living in the "risk society" (Giddens 1991), which is crystallised though specific issues, including sexual harm, child sexual harm, child neglect and child protection (Scott et al. 1998). Therefore, in order to improve our understanding of and responses to sexual harm, we need to recognise how the concept is constructed, maintained, processed and ultimately transformed (Fig. 3.1).

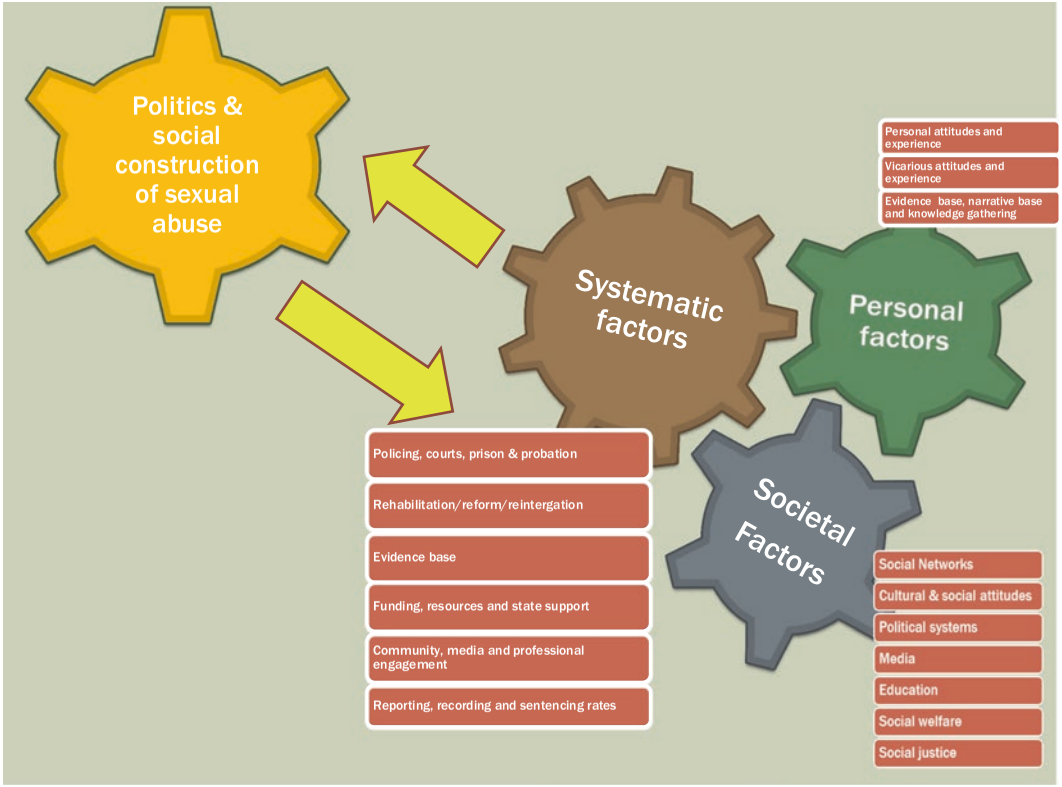

Fig. 3.1 The social construction of the politics of sexual harm and sex offender management

3 Public Attitudes, Social Construction, Crime and Criminal Justice Policy

Societal attitudes towards crime and punishment are becoming less tolerant and more punitive, which has resulted in the management of a sizeable (and growing) sex offender population in the community in both the UK (Crown Prosecution Service 2016; Ministry of Justice 2016) and the USA (Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tacking 2017). Roberts (1992) argued that increases in custodial sentences were due to the perception that politicians are more successful when pushing for stronger law enforcement and more punitive sentencing. However, there is a disconnection between the realities of public opinion and public attitudes to crime and punishment (Yankelovich 1991), as well as between public opinion and government interpretation and enforcement of these attitudes (Maruna and King 2004). This is particularly salient with respect to sexual harm, given that the public is concerned about the perpetrators of such offences and does not believe that the state responds appropriately to them or to the related risks (McCartan 2013). This presents a perfect storm of increased punitive polices (see chapters by Kemshall and Williams [Chaps. 1 and 6], this volume, for a broader discussion), high-profile cases (e.g., Sarah Payne [UK], Jacob Wetterling [USA], Daniel Pelka [Australia], Megan Kanka [USA] and Adam Walsh [USA], among many others), changing sentencing procedures and changes to community management.

The government and the public have a complex relationship with respect to sexual harm, sex offender management and reintegration that is both informed and mediated by the media. Public attitudes towards individuals who abuse are beginning to change, with studies showing that the public wants more information than they currently possess about how to *prevent* sexually abusive behaviour (Bumby et al. 2010), rather than simply respond to it after the event. It is increasingly apparent that both the public and legislators rely on the media for their information, and the personal opinions that form out of these media stories, images and snapshots of sexually abusive behaviour directly affect the kind of legislation that is introduced (Sample and Kadleck 2008; McCartan

2010a, b). It is apparent that government reactions to public opinion are fed by the media (Wood and Gannon 2009; Centre for Sex Offender Management 2010), and that, although there is a growing awareness of the realities of sexual harm among the public (National Sexual Harm Resource Center 2017), the current understanding is simplistic, reflecting the media's very broad and non-nuanced depiction of extremely complex issues (McCartan 2010a, b). This simplistic depiction is clearly reflected in the current one-size-fits-all risk management policies and practices related to the sex offenders register and disclosure schemes (see McCartan et al. 2017). All of this is played out via the media and the notion of public concern, public protectionism and risk aversion.

In addition, the social construction and the related reflexive modernisation of ideas and practices relating to crime and punishment have been led and directly influenced by government policy, with specific agendas pushed at different times. The Jacob Wetterling Act of 1994, which established a sex offender registry, was the first of a series of laws relating to sex offenders in the United States. Over the next twenty years, further legislation (e.g., Megan's Law, Jessica's Law and most recently the Adam Walsh Act) has added community notification, civil commitment, residency restrictions and other procedures to monitor and contain this specific population (Tabachnick and Klein 2011). Meanwhile, in the UK, different governments have held different attitudes to crime, "penalty," rehabilitation and social justice policy, resulting in contrasting periods of crime policy, ranging from: "nothing works," espoused by Conservative/Republican/right-leaning governments in the 1980s and early 1990s; through liberalism and "something works," espoused by Labour/Democratic/left-leaning governments in the late 1990s and 2000s; and now to increased community partnership and privatisation in the UK ("big society" and the civil society; see McCartan 2012 and chapters by Kemshall and Williams [Chaps. 1 and 6], this volume, for further discussion). These changing government attitudes to crime, criminal justice and social control are complicated in both the UK and the USA by the reality and implications of local versus national policy and practice. However, given that prison populations have increased dramatically over the past twenty years and that penal populism continues to dictate penal policy formation, one overriding

belief clearly still predominates: that delinquents and offenders must be controlled and punished.

The notion of social control and the methods of achieving it are high on every government's agenda, with the UK government arguing that the community should have more engagement in all aspects of governance, including criminal justice. Over the past ten years, the UK has shifted from attempting "to create a climate that empowers local people and communities, building a big society that will take power away from politicians and give it to people" (Cabinet Office 2010) to espousing a shared society that will focus "rather more on the responsibilities we have to one another. It's a society that respects the bonds that we share as a union of people and nations. The bonds of family, community, citizenship and strong institutions" (May 2016). UK communities now have more responsibilities, in line with a continued decentralisation of large government responsibility. This is evidenced by the promotion of greater community partnership, greater civil/social responsibility, including for crime management, and the promotion of an increased role for the public and the third sector in both the prevention of offending and the reintegration and management of offenders (see Corcoran and Weston [Chap. 8], this volume). This trend has been more pronounced in the UK than in either the USA or Canada.

While positive on both personal and societal levels, the "upskilling" of community members in relation to sexual harm runs the risk of decoupling responsibility for the management of sexual harm from the state, allowing governments to abrogate responsibility for the management and prevention of sexual harm. This "responsibilisation" of public and communities is also reflected in the current UK approach to policing, which aims to reduce the number of paid officers and increase the number of police volunteers. Cumulatively, these policies shift criminal justice system (CJS) responses to an increased public as well as victim focus, and make sex offender management (and indeed general crime management) a partnership responsibility rather than simply a state responsibility. This was reflected in the UK coalition government's "rehabilitation revolution," which contracted out a considerable amount of offender management to the third sector and private providers, incentivised through a payment-by-results system (see Corcoran and Weston [Chap. 8], this

volume). Hence, independent contractors will take on traditional CJS roles in a similar vein to what happened when the National Health Service was privatised by the previous Conservative government, albeit this time the process is defined as community partnership and engagement (McCartan 2012).

When the idea of the rehabilitation revolution is married to notions of the big society, the shared society and greater partnership working, it is apparent that the public, community groups, charities, NGOs and private companies (i.e., partner agencies) will be increasingly responsible for offender management. For this to work, there needs to be implicit and reciprocal trust between the public, communities, partner organisations and the CJS. However, in reality, the state does not trust these groups, and they do not trust the state. Moreover, professionals believe that the public cannot be trusted with this work and remain convinced that handing responsibility to them will lead to community conflict (McCartan 2012).

4 Public Attitudes to Sexual Offenders and How They Are Formed

Public opinion polls show that individuals generally hold punitive attitudes towards sex offenders (Bollinger et al. 2012; Brown 1999; Katz Schiavone et al. 2008; Katz Schiavone and Jeglic 2009; Kleban and Jeglic 2012; McCartan et al. 2015; Mears et al. 2008; Olver and Barlow 2010; Rogers and Ferguson 2011; Rogers et al. 2011; Shackley et al. 2014; Sundt et al. 1998; Willis et al. 2013) and support punitive and exclusionary policies (Brown et al. 2008; Comartin et al. 2009; Center for Sex Offender Management 2010; Katz Schiavone and Jeglic 2009; Mears et al. 2008; Thakker 2012). More specifically, the public supports harsher penalties for sexual than non-sexual offenders (Rogers and Ferguson 2011), and for child sex offenders than those who offend against adults (McAlinden 2007; McAvoy 2012; Mears et al. 2008; Rogers et al. 2011; Viki et al. 2012). Despite these punitive attitudes, the research also clearly demonstrates that the public supports treatment for sex offenders (Brown 1999; Kleban and Jeglic 2012; Levenson and D'amora 2007; Mears et al.

2008; Willis et al. 2010), including child sex offenders (Esser-Stuart and Skibinski 1998; Rogers et al. 2011), despite doubting its efficacy (Katz Schiavone et al. 2008; Mancini 2014; McCartan et al. 2015; McCorkle 1993; Payne et al. 2010; Sundt et al. 1998; Willis et al. 2010). As Esser-Stuart and Skibinski (1998: 101) put it, "the social response is complex" (see, generally, Rogers et al. 2011). In the past, the public has believed that all sex offenders, and particularly child sex offenders, are evil, dangerous and a constant threat, arguing that treatment does not work and that a punitive response linked to sex offenders' isolation is essential to public safety (McCartan 2004, 2010a, b, 2013). These attitudes are important to understand because the public's understandings of crime, offenders and offending often feed into the creation of government policy in this area. For instance, in the UK, the impact of public and media reactions to the abduction and murder of Sarah Payne, the killing of Baby P and the abduction and murder of Holly Wells and Jessica Chapman created a different trajectory in public policy towards a punitive response. In the United States, the public and media reactions to the abduction and murder of Jacob Wetterling, Megan Kanka, Jessica Lunford, Dru Sjodin, Adam Walsh and many others have generated similar punitive national policies. In fact, all of the major national policies in the USA can be linked to public reactions to individual cases.

Public perceptions and how they are perceived and understood by politicians and policy-makers are critical, as "public opinion" is often used as a mandate for legislative and policy change (see Thomas 2005). It is important to note that nearly all of the laws created to stop sexual offending and sex offenders are focused on adults who sexually assault children (or, in some cases, very young women) outside of the family, with the offender usually unknown to both the child and the family. As a result, our construct of the sex offender does not reflect what is known about the adults, adolescents and even children who cause the sexual harm in our communities. This means that problematic policy is created based on unrealistic understandings (see Fig. 3.2).

However, to gain a deeper understanding of the way these policies are created, Kitzinger (2004) explained that we are not defining the "public" appropriately, as there are actually "multiple publics" rather than one amorphous public. This notion is reinforced by the different cultural,

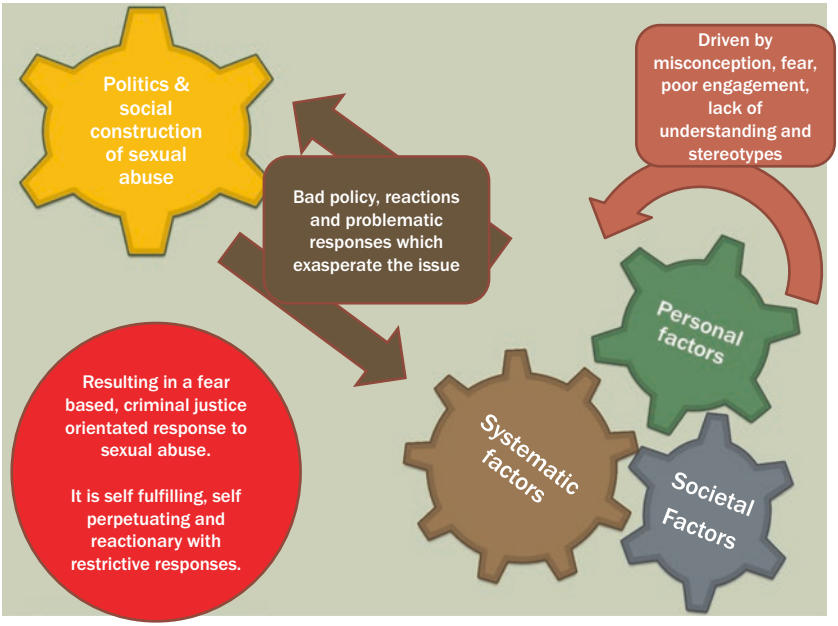

Fig. 3.2 The social construction of problematic sex offender management policies

socio-demographic and political publics that make up our multicultural societies. These multiple publics require different levels of engagement on the issue of sexual harm, and all have different attitudes to the state and the criminal justice system that impact community engagement. This means that some publics are interested and invested in understanding sexual offending behaviours, and that these engaged publics read the available literature, engage with the relevant media and get involved with the associated charities and NGOs (i.e., NSPCC [UK], Circles of Support and Accountability [UK, USA, Canada, etc.] Prevent Child Abuse America [USA], Darkness 2 Light [USA], Stop It Now! [UK and Ireland, USA, Netherlands]). Consequently, there is no overarching "public" or any overarching "public" perspective on the individual who commits a sex offence, short of a generally accepted dislike and rejection of them (McCartan 2009). This dislike and rejection has been fuelled by media representations of sex offenders as monsters, personal experience that is

truly horrific for the individual, or professional experience that is limited to the most sensational situations with multiple victims and significant trauma (Hanvey et al. 2011).

One area where there is a more nuanced response is within any discussion of adolescents or children who sexually abuse other children. When this distinction between adults and adolescents is made, the public often has a much more varied response and the policies affecting adolescents and children are not as punitive as they are with adults. In fact, victim advocacy groups in the USA are now including training about children who sexually abuse as part of their trauma-informed approach to working with children in sexually abusive families.

Debates about sex offender punishment, treatment and reintegration are therefore often premised by questions relating to which public will participate in the discussion, how much they know about this issue, which images they hold of "sex offenders" and the sources of their information.

The lack of consistent public understanding is not due to any shortage of material in the public sphere (McCartan et al. 2012; http://www.stopitnow.org.uk; http://www.stopitnow.org.uk/Scotland; http://www.NSPCC.org.uk; http://www.ceop.police.uk) or any lack of professional engagement (McCartan 2011; McCartan et al. 2012), but the disconnection of information and public understanding is much more complex. The lack of public understanding may be a result of the complexity of the issue, the overwhelming information without a clear direction about "what to do" except report, and because the public may not want to engage with the emotional difficulties involved when trying to become more informed on the topic (McCartan 2011). When this is situated in debates around sexual harm, public perceptions of sex offenders are often not in line with professional understandings and research findings (McCartan 2004, 2010a, b, 2011, 2012; McCartan et al. 2012), are combined with a mixture of stereotyping, misperception, fear and personal experience, and in part are societal constructions created between the public and the media (Silverman and Wilson 2002).

One of the main driving forces in the social construction of sexual harm is the media. In its loosest sense, the media helps to report, discuss,

shape and create current affairs, especially in respect to crime (McCartan 2010a, b; McQuail 2011). This means that the media can—and does—affect, create and change social and personal ideas (Bohner and Wanke 2009), which is particularly salient as modern society is a media-saturated society (McQuail 2011) in which sexual harm is a high-profile issue (McCartan 2010a, b).

Strategic Frame Analysis is a relatively new research approach utilised in the United States to help explain how the public views complex social issues (FrameWorks Institute 2016). The *American Perceptions of Sexual Harm: A FrameWorks Research Report* (2010) identified significant gaps between experts' understanding of sexual harm and the ideas and beliefs that are commonly held by the general public. These cognitive gaps or misunderstandings include: the causes of sexual harm; what we know and do not know about the people who commit sexual harm and the adults and children who are victimised by sexual harm; the impact and trauma caused by sexual harm; and maybe most importantly the range of possible solutions (O'Neil and Morgan 2010).

The FrameWorks Institute identified two key concepts or widely held go-to frames related to sexual harm and many other social issues:

1. The Mentalism frame. People perceive actions as the sole responsibility of individuals as a result of personal weakness, moral or character flaws, and negative motivations (e.g., "a few bad apples" or "evil monsters").
2. The Family Bubble frame. This is the idea that family, primarily parents, is the only significant source of influence on a child's growth and development, with little or no consideration given to the influence of outside sources (e.g., peers, media, organisations, culture, community, etc.).

Taken together, these two predominant frames lead people to conceptualise sexual harm as being the result of poor parenting, resulting in "bad actors" *or* dangerous criminals. When these are the dominant images of the individuals who perpetrate sexual crimes, it is difficult for other people to understand that they have a role to play in responding to or preventing sexual harm. Even more problematic is that it is difficult for

people to accept that the adults, adolescents and children they love are at risk of causing harm or sexually abusing a child (O'Neil and Morgan 2010; Tabachnick and Baker 2018).

The people who use these frames are left with only a handful of logical solutions: punishment, parental education and teaching children to avoid strangers and dark alleys. In fact, these have been the primary solutions in the United States and around the world for decades. Unless an alternative frame is formulated, alternative solutions will not seem viable (Tabachnick and Baker 2018). Until professionals learn to provide alternative frames that the various publics can understand, solutions that encourage public engagement and personal responsibility, such as bystander intervention, may not receive widespread support or be successfully implemented.

The media's impact is therefore limited, to a certain degree, by both society and the individual's level of engagement (Kitzinger 2004) and type of engagement (Howitt 1998) with it. Individuals, communities and society may choose to accept, reject or alter media messages as they see fit, or they may be unable to take in the messages at all. Hence, the media feeds into, but does not solely construct, changing societal perceptions. This is particularly salient when we recognise that the public is not one homogeneous mass of people who all consume media, information and narratives in the same way. Thus, any conversation about crime, criminal justice, risk management and reintegration becomes multifaceted and unique. Therefore, we need to recognise the impact and influence of different "publics" on the social construction of crime and criminal justice. A good example of this in the UK is volunteering in the criminal justice system—some publics are more likely than others to volunteer to work with offenders. These volunteers are not necessarily representative of the wider public; rather, they comprise a self-selected sample with their own motivations (see Corcoran and Weston [Chap. 8], this volume, for a broader discussion). Research relating to Circles of Support and Accountability highlights that, although some members of the public volunteer to work with sex offenders to aid their reintegration into the community and provide support for them, these volunteers tend to be university students, retired criminal justice staff, religiously orientated individuals and female (Hanvey et al. 2011; McCartan 2016).

Consequently, changing public understandings of sexual harm and the individuals who cause the harm and are impacted by the harm (e.g., perpetrators, victims and their families) is beyond simply the media. Increasing contact and conversations with researchers, professionals and practitioners, for example through the use of "public criminology" (see Loader and Sparks 2010), is equally important, as is challenging these groups to "translate" their information in a way that enables the public to understand them. Public criminology comprises the engagement of criminologists and related professionals with the public on topics concerning all criminal activity, including sexual harm, for the purposes of education (Groombridge 2007). The ultimate goal is to shift social norms towards an understanding that everyone has a role to play in responding to and preventing crime.

This interaction between social construction, media influence and reflexive modernisation (i.e., the idea that society defines itself through modernisation) is central to changing the way that we think about crime, criminal justice, offenders and offender management. Society's perception of and response to certain groups that have been considered deviant or antisocial (e.g., youth offenders and drug users) has changed over time because of research, policy, practice and expert engagement that have offered alternative information and framing and more feasible solutions. Currently, we are at a tipping point in respect to societal views and approaches to sexual harm: we are re-examining the perpetrators so that we can start to look at the issue in a different light and offer new as well as adaptive strategies (Fig. 3.3).

5 A Different Approach to Sexual Harm

When so few sexual crimes are reported and so few families spend significant time talking about the issue, a critical question is how we might generate a national discussion about existing but under-reported events that never reach the public's consciousness. Additionally, given that the volume of offenders, austerity cuts and current criminal justice issues make it impossible to arrest, convict and imprison our way out of the problem of sexual harm (*Guardian*, 28 February 2017), how can we

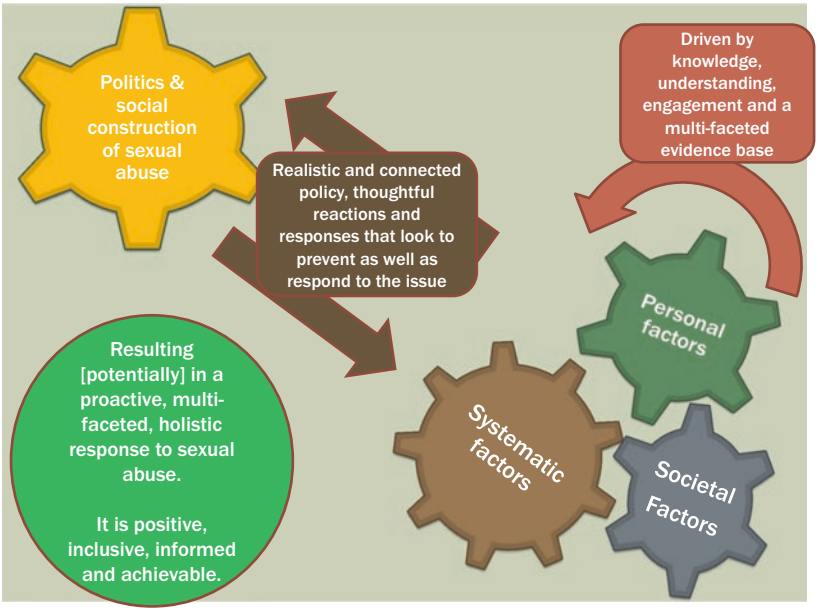

Fig. 3.3 The social construction of proactive and holistic sex offender management

change the way we address sexual harm and prevent individuals from causing harm in the first place?

Although there is growing recognition among professionals and some publics that we need more effective alternatives to traditional CJS approaches, especially with respect to medium- and high-risk offenders, difficulties remain. Non-punitive alternatives require trust between the public, communities, partner organisations and the CJS. Unfortunately, the relationship between individuals, communities, society and the government is often fraught, particularly in sensitive policy-making areas (Wood 2009). Crime is a high-profile socio-political issue, and in most cases the public(s) look to politicians and community leaders for a clear vision for community safety and response (McQuail 2011). However, there is often disagreement and misunderstanding between government officials, politicians and the public(s) on crime policy (Wood 2009), especially in relation to emotive issues, such as sexual and/or interpersonal crimes. Moreover, vested interest in the success—or perceived

success—of crime policy can exacerbate disagreement, public mistrust and misunderstanding between communities and government officials (Wood 2009). Such heightened mistrust was evident in the public reactions to the recent Jimmy Savile and Ian Watkins cases in the UK and the Jerry Sandusky case in the USA.

The replacement of incorrect and outdated stereotypes of sexual offenders with coherent and evidence-based understandings of sexual offending and the adults, adolescents and children who commit these crimes is a critical step in promoting better societal understanding of the issue, and can form the basis of more effective public policy and community engagement in the reintegration of these individuals. Public health approaches to both sexual and violent offence reduction are important examples of such a step (see Brown [Chap. 2], this volume, for further discussion).

6 A Public Health Approach

In recent years, many people have started to advocate for a public health approach to stopping sexual violence. The solutions that have worked in other public health issues form the basis of a comprehensive approach to the problem (see Brown [Chap. 2], this volume, for a broader discussion of a public health approach). Public health offers a unique insight into ending sexual harm by focusing on the safety and benefits for the largest group of people possible and providing a comprehensive response to the problem (Laws 2000; Smallbone et al. 2008; Wortley and Smallbone 2006; McCartan et al. 2015; Tabachnick 2013; Kemshall and Moulden 2016). It is essential for society to respond to the urgency and crisis of sexual harm by providing adequate services to victims and their families, as well as adequate funding for both the prosecution of sexual crimes and the treatment and management of sex offenders. However, a public health focus on prevention expands the immediate and long-term responses to sexual crimes by also addressing the health of an entire population. A public health approach adds into this mix an exploration of how to prevent the violence before anyone is harmed (Laws 2000; Centers for Disease Control and Prevention 2004). Public health campaigns have

been used successfully to address a variety of simple and complex public health problems, from stopping smoking in public places to eradicating foot-binding and encouraging the use of car seats for infants. Many of these began as educational campaigns with a visible messaging component. However, such campaigns are rarely successful if the messages are not linked directly to changes in attitudes, behaviours, beliefs, strategies and policies (Tabachnick and Newton-Ward 2010). Furthermore, these messages must be linked to behaviours and policies at the individual, relationship, organisational, community and society levels (Krug et al. 2002).

It is important to recognise that most public health campaigns are successful only when their messages are linked to specific actions that are supported by peer and other relationships and reinforced by community and societal policies and norms (Kemshall and Moulden 2016). For example, in the United States, efforts to stop drink-driving were tied to clear behaviours at the individual level (don't drink and drive), the relationship level (don't let friends drive drunk—either offer them a ride or confiscate their keys), the community level (bar tenders are trained to cut off a customer who has drunk too much and to ask a group for the designated driver) and the society level (people who drink too much and then drive can be arrested and prosecuted). Only a limited number of people will respond when simple messages are targeted at individuals (e.g., some smokers will stop smoking when they hear of the health risks). By contrast, a comprehensive public health approach (e.g., higher taxes on cigarettes and the introduction of laws to stop smoking in public places) tends to have a far greater impact.

Sexual harm prevention campaigns are most effective when the public thinks that they relate directly to them and when they are supported by families, peers and communities. Otherwise, individuals may disengage from or dismiss the material. As discussed earlier, the public has existing frames with which they are comfortable, so the presentation of additional material must in some way pull people out of their comfort zones and into a new and more complex understanding of the issue. The traditional frames and their messages were simple (e.g., don't talk with strangers; don't walk alone at night), but they were ineffective in reducing sexual violence. These simple messages did not address the reality or

the complexity of sexual harm, given that most victims are harmed by someone they know and often someone they trust. Many sexual violence prevention campaigns begin by focusing on the negative impacts of the abuse on a single individual or a group of people in a specific situation (e.g., victims of sexual abuse within the Catholic Church), which makes it easy for outsiders to disengage (e.g., that sort of thing does not happen in my home or my faith community). When campaigns expand their frames of reference and start to talk about trends rather than individuals (e.g., shift the focus from one particular priest or football coach or TV personality), they can raise the issue of what the community should do while also discussing the best systemic response.

People may be saturated with stories of abuse, find them too painful to hear or feel powerless/unwilling to help, even if a specific story resonates with their personal experience. By contrast, if sexual abuse prevention campaigns focus on trends, systemic responses, structure and function, the results may be more positive, as has happened with other crime-related public health campaigns. If communities and their institutions are given effective tools, strategies, policies and messages about how to respond to and prevent sexual abuse, they may feel empowered, which will make them more likely to act. A community conversation and a societal response also help to counter the isolation that many people feel when they themselves are sexually abused or when they are aware of sexual abuse.

The recent cases of Jimmy Savile in the UK and Jerry Sandusky in the United States (as well as ongoing investigations into the Catholic Church and other organisations that work with children and adolescents) have highlighted how organisations should respond when they see problematic behaviours. There is no need for organisations to wait for reports of sexual abuse—they can intervene earlier, especially with children and youth, whenever they see anything that may be considered untoward. A relatively new field of study is emerging about what policies and programmes organisations should put in place to prevent sexual harm. It is becoming increasingly clear that, while educational campaigns are important, these must be linked to concrete changes in policies and protocols, so the organisation knows how to respond effectively if someone reaches out for help.

All public messages, educational campaigns, programmes and policies must be simple, easy to understand and framed as both positive and hopeful—not mired in the pain of sexual harm but supported by the promise that adults will intervene to protect children and youth, and that all victims will be believed and resources will be made available to them. In addition to changing the public's understanding of sexual harm, the messages and strategies must be linked to simple changes in behaviour, such as what to look out for, how to talk about sexual harm and how to intervene when warning signs or risks of sexually harmful behaviours are seen. These individual behavioural changes must then be reinforced by wider changes in organisations that work with children and youth, in the community in relation to how people look after each other, and in society through the introduction of legislation that encourages individuals to come forward and eliminates the possibility of revictimisation in the courts. Finally, changes are required in how the media reports incidents of sexual harm, and how intervention policies are formulated. While it is true that the media tends to portray sexual abuse as a crisis, the reporting of recent cases has also included at least some discussion of potential solutions. These solution-focused reports encourage people to talk about the impact of abuse on everyone involved and present alternative solutions outside of the traditional victim/offender binary, such as early intervention and prevention strategies.

7 Conclusions

The reality of sexual harm is that the causes and consequences are beyond the individual and include impacts on families, friends and communities in multiple ways, with each of these possibly affected quite differently. This makes this emotive issue even more complicated and difficult to communicate or construct in a simple, easily understandable fashion. Furthermore, as the public starts to appreciate that people who sexually abuse can be adults, adolescents or even children, there is likely to be a shift in the way the issue is constructed socially. For example, in the UK and the USA, as people begin to recognise the prevalence of sexual assaults

on college campuses (Durham University 2017; Fenton et al. 2016; National Sexual Violence Resource Center 2015), the traditional perception of the sex offender as a monster may be replaced by the fear that "this could be my son." And when that shift occurs and the diversity and complexity of the issue are discussed, the public will begin to ask for alternative solutions. They may even ask how they might become more engaged in those solutions. Consequently, professional, public, policy and media engagement in education and discussion around sexual harm becomes essential for a realistic construction to emerge.

In the past, most public engagement and education campaigns to stop sexual harm focused on strengthening individual knowledge and skills within the traditional perpetrator/victim paradigm (i.e., all perpetrators are atypical monsters who employ snatch and grab techniques, and all victims are easily manipulated, vulnerable children). Such campaigns raised awareness of sexual abuse, but they also reinforced a simplistic understanding of the issue and promoted simplistic "solutions" that were never likely work. Therefore, a broader, more comprehensive approach is needed if we are to have any chance of eliminating sexual abuse. On an individual level, any new public health response needs to address and talk directly with a variety of different publics. On a community and society level, this will require a multifaceted, multidirectional approach using evidence-based messages, programmes and policies that are grounded in personal stories from people who have caused harm, people who have suffered sexual abuse and their friends, families and communities, delivered by trusted and reliable sources (i.e., opinion makers and opinion reinforcers).

Given the prevalence of sexual abuse and the profound impact of sexual harm in our society, the various publics need to be guided through both the emotional impact of these crimes and the practical, evidence-based solutions that professionals have started to formulate. The sharing of personal stories is one feasible strategy that can help disperse the shame and isolation of individuals and their families. However, to be truly successful, any first step must be linked to a comprehensive public health campaign that includes individual behavioural change, community and organisational engagement, as well as public policies and strategies as a systemic approach to preventing sexual harm.

References

Bohner, G., & Wanke, M. (2009). The Psychology of Attitudes and Persuasion. In J. Wood & T. Gannon (Eds.), *Public Opinion and Criminal Justice* (pp. 3–32). Cullompton: Willan.

Bollinger, J., Katie, S., & Richard, K. (2012). Who Thinks What about Child Protection: Community Perceptions and Awareness of Child Protection Strategies and their Effectiveness for Reducing Sexual Offending. *Sexual Abuse in Australia and New Zealand, 4*(1), 33–40.

Brown, S. (1999). Public Attitudes toward the Treatment of Sex Offenders. *Legal and Criminological Psychology, 4*, 239–252.

Brown, S., Deakin, J., & Spencer, J. (2008). What People Think about the Management of Sex Offenders in the Community. *Howard Journal of Criminal Justice, 47*, 259–274.

Bumby, K., Carter, M., Gilligan, L., & Talbot, T. (2010). *Exploring Public Awareness and Attitudes about Sex Offender Management: Findings from a National Public Opinion Poll*. Silver Spring: Center for Sex Offender Management, Center for Effective Public Policy.

Cabinet Office. (2010). *Building the Big Society*. http://www.cabinetoffice.gov.uk/news/building-big-society. Accessed 18 Aug 2011.

Center for Sex Offender Management. (2010). *Exploring Public Awareness and Attitudes about Sex Offender Management: Findings from a National Public Opinion Poll*. http://www.csom.org/pubs/CSOM-Exploring%20Public%20Awareness.pdf. Accessed 23 Jan 2017.

Centers for Disease Control and Prevention. (2004). *Sexual Violence Prevention: Beginning the Dialogue*. Atlanta: Centers for Disease Control and Prevention.

Comartin, E., Kernsmith, P., & Kernsmith, P. (2009). Sanctions for Sex Offenders: Fear and Public Policy. *Journal of Offender Rehabilitation, 48*(7), 605–619.

Crown Prosecution Service. (2016). *Violence against Women and Girls: Crime Report 2015–16*. http://www.cps.gov.uk/publications/docs/cps_vawg_report_2016.pdf. Accessed 3 Sept 2016.

Durham University. (2017). *Durham University's Sexual Violence Task Force: A Higher Education Initiative to Address Sexual Violence and Misconduct on Campus*. https://www.dur.ac.uk/resources/svtf/SVTFbrochurePROOF.pdf. Accessed 5 Apr 2017.

Esser-Stuart, J., & Skibinski, G. (1998). Child Sexual Abuse Intervention: An Exploratory Study of Policy Concerns and Implications for Program Development. *Journal of Child Sexual Abuse, 7*(2), 87–103.

Fenton, R., Mott, H., McCartan, K., & Rumney, P. (2016). *A Review of Evidence for Bystander Intervention to Prevent Sexual and Domestic Violence in Universities*. London: Public Health England.

FrameWorks Institute. (2016). *Strategic Frame Analysis*. Retrieved from: http://www.frameworksinstitute.org/sfa-overview.html

Giddens, A. (1991). *Modernity and Self-Identity: Self and Society in the Late Modern Age*. Cambridge: Polity Press.

Groombridge, N. (2007). Criminologists Say ...: An Analysis of UK National Press Coverage of Criminology and Criminologists and a Contribution to the Debate on "Public Criminology". *Howard Journal, 46*, 459–475.

Hanvey, S., Philpot, T., & Wilson, C. (2011). *A Community-Based Approach to the Reduction of Sexual Reoffending*. London: Jessica Kingsley Publishers.

Katz Schiavone, S., & Jeglic, E. (2009). Public Perceptions of Sex Offender Social Policies and the Impact on Sex Offenders. *International Journal of Offender Therapy and Comparative Criminology, 53*(6), 679–695.

Katz, S., Levenson, J., & Ackerman, A. (2008). Myths and Facts about Sexual Violence: Public Perceptions and Implications for Prevention. *Journal of Criminal Justice and Popular Culture, 15*, 291–311.

Kemshall, H., & Moulden, H. (2016). Communicating about Child Sexual Abuse with the Public: Learing the Lessons from Public Awareness Campaigns. *Journal of Sexual Aggression*, online first.

Kitzinger, J. (2004). *Framing Abuse: Media Influence and Public Understandings of Sexual Violence against Children*. London: Pluto.

Kleban, H., & Jeglic, E. (2012). Dispelling the Myths: Can Psychoeducation Change Public Attitudes towards Sex Offenders? *Journal of Sexual Aggression, 18*, 178–193.

Krug, E., Dahlberg, L., Mercy, J., Zwi, A., & Lozano, R. (2002). Violence: A Global Public Health Problem. In Word Health Organization (ed.), *World Report on Violence and Health* (pp. 3–21). Geneva: World Health Organization. Retrieved from: http://www.who.int/violence_injury_prevention/violence/world_report/en/chap1.pdf

Laws, D. R. (2000). Sexual Offending as a Public Health Problem: A North American Perspective. *Journal of Sexual Aggression, 5*, 30–44.

Levenson, J. S., & D'Amora, D. (2007). Social Policies Designed to Prevent Sexual Violence: The Emperor's New Clothes? *Criminal Justice Policy Review, 18*, 168–199.

Loader, I., & Sparks, R. (2010). *Public Criminology?* London: Routledge.
Mancini, C. (2014). Examining Factors that Predict Public Concern about the Collateral Consequences of Sex Crime Policy. *Criminal Justice Policy Review, 25*(4), 450–475.
Maruna, S., & King, A. (2004). Public Opinion and Community Penalties. In A. Bottoms, S. Rex, & G. Robinson (Eds.), *Alternatives to Prison: Options for an Insecure Society* (pp. 83–112). Cullompton: Willan.
May, T. (2016). *The Shared Society: Prime Minister's Speech at the Charity Commission Annual Meeting*. https://www.gov.uk/government/speeches/the-shared-society-prime-ministers-speech-at-the-charity-commission-annual-meeting. Accessed 11 Jan 2017.
McAlinden, A. M. (2007). *Public Attitudes towards Sex Offenders in Northern Ireland: Research and Statistical Bulletin 6/2007*. Belfast: Northern Ireland Office.
McAvoy, J. (2012). *Birds of a Feather? Irish Public Attitudes towards Sex Crime and Sex Offender Reintegration. Is There a Publicly Perceived Scale of Sexual Deviance?* Unpublished Master's Thesis, Dublin Institute of Technology, Dublin.
McCartan, K. F. (2004). "Here There Be Monsters": The Public's Perception of Paedophiles with Particular Reference to Belfast and Leicester. *Medicine, Science and the Law, 44*, 327–342.
McCartan, K. F. (2008). Current Understandings of Paedophilia and the Resulting Crisis in Modern Society. In J. M. Caroll & M. K. Alena (Eds.), *Psychological Sexual Dysfunctions* (pp. 51–84). New York: Nova Publishers.
McCartan, K. F. (2009). Paedophilia: The Actual vs. the Constructed? Is a Change of Terminology Needed? *ATSA Forum, 21*(2), 16–21.
McCartan, K. F. (2010a). Student/Trainee–Professional Implicit Theories of Paedophilia. *Psychology, Crime and Law, 16*, 265–288.
McCartan, K. (2010b). Media Constructions and Reactions to Paedophilia in Modern Society. In K. Harrison (Ed.), *Managing High-risk Sex Offenders in the Community: Risk Management, Treatment and Social Responsibilities*. Cullompton: Willan.
McCartan, K. F. (2011). Professionals' Contemporary Theories and Understandings of Paedophilia. *International Journal of Police Science and Management, 13*(*4*), 322–335.
McCartan, K. F. (2012). The Management of Sexual Offenders in the Community: Austerity, Engagement, Interaction and the "Big Society". *Prison Service Journal, 201*, 39–43.

McCartan, K. F. (2013). From a Lack of Engagement and Mistrust to Partnership? Public Attitudes to the Disclosure of Sex Offender Information. *International Journal of Police Science and Management, 13*, 219–236.

McCartan, K. F. (2016). *Circles of Support and Accountability Social Impact Evaluation: Final Report*. Cabinet Office.

McCartan, K. F., Hudson, K., & Kemshall, H. (2012). Public Understandings of Sexual Abuse and Sexual Abusers. *ATSA Forum, 24*, 3.

McCartan, K., Kemshall, H., & Tabachnick, J. (2015). The Construction of Community Understandings of Sexual Violence: Rethinking Public, Practitioner and Policy Discourses. *Journal of Sexual Aggression, 21*(1), 100–116.

McCartan, K., Kemshall, H., & Hoggett, J. (2017). Reframing the Sex Offender Register and Disclosure: From Monitoring and Control to Desistence and Prevention. In H. Kemshall & K. McCartan (Eds.), *Contemporary Sex Offender Risk Management*. Palgrave. Chapter 8.

McCorkle, R. C. (1993). Research Note: Punish and Rehabilitate? Public Attitudes toward Six Common Crimes. *Crime and Delinquency, 39*((2)), 240–252.

McQuail, D. (2011). *Mass Communication Theory* (6th ed.). London: Sage.

Mears, D., Mancini, C., Gertz, M., & Bratton, J. (2008). Sex Crimes, Children, and Pornography: Public Views and Public Policy. *Crime and Delinquency, 54*(4), 532–559.

Ministry of Justice. (2016). *Multi-agency Public Protection Arrangements (MAPPA) Annual Report 2015 to 2016*. London: The Stationery Office.

National Sexual Violence Resource Center. (2015). *Media Packet: Campus Sexual Assault*. http://www.nsvrc.org/publications/nsvrc-publications-fact-sheets/media-packet-campus-sexual-assault. Accessed 20 Mar 2017.

National Sexual Violence Resource Center. (2016). *Key FINDINGS on Sexual Violence from the "Global Status Report on Violence Prevention 2014."* http://www.nsvrc.org/publications/nsvrc-publications-research-briefs/key-findings-sexual-violence-global-status-report. Accessed 4 Apr 2017.

National Sexual Violence Resource Center. (2017). *New Data Reveals High Awareness among US Adults on What Constitutes Sexual Assault*. http://www.nsvrc.org/news/press-releases/new-data-reveals-high-awareness-among-us-adults-what-constitutes-sexual-assault#.WOPGvzGYt8k.twitter. Accessed 4 Apr 2017.

O'Neil, M., & Morgan, P. (2010). *American Perceptions of Sexual Violence: A FrameWorks Research Report*. Retrieved from FrameWorks Institute: http://www.frameworksinstitute.org/assets/files/PDF_sexualviolence/AmericanPerceptionsofSexualViolence.pdf

Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tacking. (2017). *Raising Awareness about Sexual Abuse: Facts and Statistics*. https://www.nsopw.gov/enGB/Education/FactsStatistics?AspxAutoDetectCookieSupport=1. Accessed 4 Apr 2017.

Olver, M. E., & Barlow, A. A. (2010). Public Attitudes toward Sex Offenders and Their Relationship to Personality Traits and Demographic Characteristics. *Behaviour, Science and Law, 28*(6), 832–849.

Payne, B., Tewksbury, R., & Mustaine, E. (2010). Attitudes about Rehabilitating Sex Offenders: Demographic, Victimization, and Community-level Influences. *Journal of Criminal Justice, 38*(4), 580–588.

Roberts, J. V. (1992). *Public Opinion, Crime and Criminal Justice*. In M. Tonry (Ed.), *Crime and Justice: A Review of Research* (Vol. 16). Chicago: University of Chicago Press.

Rogers, D., & Ferguson, C. (2011). Punishment and Rehabilitation Attitudes toward Sex Offenders versus Nonsexual Offenders. *Journal of Aggression, Maltreatment and Trauma, 20*(4), 395–414.

Rogers, P., Hirst, L., & Davies, M. (2011). An Investigation into the Effect of Respondent Gender, Victim Age, and Perpetrator Treatment on Public Attitudes towards Sex Offenders, Sex Offender Treatment, and Sex Offender Rehabilitation. *Journal of Offender Rehabilitation, 50*(8), 511–530.

Sample, L. L., & Kadleck, C. (2008). Sex Offender Laws: Legislators' Accounts of the Need for Policy. *Criminal Justice Policy Review, 19*, 40–62.

Scott, S., Jackson, S., & Backett-Milburn, K. (1998). Swings and Roundabouts: Risk Anxiety and the Everyday Worlds of Children. *Sociology, 32*, 689–705.

Shackley, M., Weiner, C., Day, A., & Willis, G. (2014). Assessment of Public Attitudes towards Sex Offenders in an Australian Population. *Psychology, Crime and Law, 20*(6), 553–572.

Silverman, J., & Wilson, D. (2002). *Innocence Betrayed: Paedophilia, the Media and Society*. Cambridge: Polity.

Smallbone, S., Marshall, W. L., & Wortley, R. (2008). *Preventing Child Sexual Abuse: Evidence, Policy and Practice*. Cullompton: Willan.

Sundt, J., Cullen, F., Applegate, B., & Turner, M. (1998). The Tenacity of the Rehabilitative Ideal Revisited: Have Attitudes toward Offender Treatment Changed? *Criminal Justice and Behavior, 25*(4), 426–442.

Tabachnick, J. (2013). Why Prevention? Why Now? *International Journal of Behavioral Consultation and Therapy, 8*, 55–61.

Tabachnick, J., & Baker, K. (2018). Engaging the Public Through Messaging and Bystander Actions. In M. Erooga (Ed.), *Protecting Children and Adults*

from Abuse After Savile: What Organizations and Institutions Need to Do. London: Jessica Kingsley Publishers.

Tabachnick, J., & Klein, A. (2011). *A Reasoned Approach: Reshaping Sex Offender Policy to Prevent Child Sexual Abuse*. Association for the Treatment of Sexual Abusers: Beaverton.

Tabachnick, J., & Newton-Ward, M. (2010). Using Social Marketing for Effective Sexual Violence Prevention. In K. Kaufman (Ed.), *Sexual Violence Prevention*. Holyoke: NEARI Press.

Tabachnick, J., McCartan, K. F., & Panero, R. (2016). Changing Course: From an Offender/Victim Duality to a Preventative One. In R. Laws & W. O'Donohue (Eds.), *Treatment of Sex Offenders: Strengths and Weaknesses in Assessment and Intervention*. Cham: Springer. Chapter 14.

Thakker, J. (2012). Public Attitudes to Sex Offenders in New Zealand. *Journal of Sexual Aggression, 18*, 149–163.

Thomas, T. (2005). *Sex Crime: Sex Offending and Society* (2nd ed.). Cullompton: Willan.

Tomlin, L. & Wagner, J. (1985). *The Search for Signs of Intelligent Life in the Universe*. Theatre Production. http://www.playbill.com/production/the-search-for-signs-of-intelligent-life-in-the-universe-plymouth-theatre-vault-0000009565. Accessed 15 Mar 2017.

UNICEF. (2014). *Hidden in Plain Sight*. Retrieved from: http://files.unicef.org/publications/files/Hidden_in_plain_sight_statistical_analysis_EN_3_Sept_2014.pdf

Viki, G., Fullerton, I., Raggett, H., Tait, F., & Wiltshire, S. (2012). The Role of Dehumanization in Attitudes toward the Social Exclusion and Rehabilitation of Sex Offenders. *Journal of Applied Social Psychology, 42*(10), 2349–2367.

Willis, G. M., Levenson, J. S., & Ward, T. (2010). Desistance and Attitudes towards Sex Offenders: Facilitation or Hindrance? *Journal of Family Violence, 25*, 545–556.

Willis, G. M., Yates, P. M., Gannon, T. A., & Ward, T. (2013). How to Integrate the Good Lives Model into Treatment Programs for Sexual Offending: An Introduction and Overview. *Sexual Abuse: A Journal of Research and Treatment, 25*(*2*), 123–142.

Wood J. (2009). Why Is Public Opinion of the Criminal Justice System Important. In J. Wood & T. Gannon(eds), *Public Opinion and Criminal Justice* (Chap. 2). Cullompton: Willan.

Wood, J., & Gannon, T. (2009). *Public Opinion and Criminal Justice*. Cullompton: Willan.

Wortley, R., & Smallbone, S. (2006). Applying Situational Principles to Sexual Offenses against Children. In R. Wortley & S. Smallbone (eds), *Situational Prevention of Child Sexual Abuse* (Crime Prevention Series 19, pp. 7–35). Monsey: Criminal Justice Press.

Yankelovich, D. (1991). *Coming to Public Judgement: Making Democracy Work in a Complex World* (The Frank W. Abrams Lectures). Syracuse: Syracuse University Press.

4

Preventive Sentencing

Nicola Padfield

1 Introduction

Criminal lawyers and judges do not deal comfortably with the concept of 'risk', and often struggle with the language and effects of 'risk management'. Indeed, judges are trained to give the 'right' sentence, according to the law, and are not trained to understand contemporary risk management practices.[1] They accept that their job finishes with the imposition of the 'right' sentence. They may be comfortable today with the language of 'dangerousness' and with the idea that the law can somehow be used to protect 'the public' from 'dangerous' or risky people. This chapter shows how judges are imposing increasingly punitive sentences in the name of public protection, in part encouraged by the language of 'risk'. An alternative vision would be a more critical and individualistic, human-rights-based perspective that would encourage more reflection by lawyers and judges on the impact of their sentences (McSherry 2014).

N. Padfield (✉)
University of Cambridge, Cambridge, UK

K. McCartan, H. Kemshall (eds.), *Contemporary Sex Offender Risk Management, Volume I*, Palgrave Studies in Risk, Crime and Society,
https://doi.org/10.1007/978-3-319-63567-5_4

The total number of people sentenced for sexual offences in the year ending June 2016 was 7100, up from 4800 in the year ending June 2006.[2] This dramatic increase doubtless reflects improved reporting and recording of sexual offences, as well as increased public attention. But the focus of this chapter is not simply on the increasing number of sex offenders in the 'system', but on the sentences imposed on them, which have become longer and 'deeper' in recent years.[3] Not only do sentences last longer, but their 'weight' and 'bite' are more intense. At the end of September 2016, there were 12,771 sentenced sex offenders in the prison population, a rise of 9 per cent in just twelve months. The average sentence length had increased from 40.6 months in June 2006 to 62.1 months in June 2016.[4] The number of convicted sex offenders in the community is perhaps even more surprising: on 31 March 2016, there were 52,770 MAPPA-eligible registered sex offenders.[5]

This chapter looks behind these numbers, at recent changes in both law and practice, and questions why 'preventive' sentencing seems to equate to more 'punitive' sentencing, with an initial focus on the traditional 'preventive' sentence—imprisonment—before developing a wider picture of 'ancillary' sentences. It will become clear that the label 'sex offence' covers a huge range of human activities and the term 'sex offender' a huge array of individuals who do not fit comfortably into one, apparently simple, category. Recent changes to law and practice have resulted in a 'system' which is overburdened and overinclusive in ways that are wasteful in terms of money, but also deeply unjust.

2 Imprisonment

The classic preventive sentence is a life sentence. At present there are people serving at least eleven different forms of life sentence in the UK's prison population,[6] but just three of these—all of which are imposed purely for incapacitative or preventive reasons—are important for our purposes. First, there is the automatic life sentence for a second 'listed' offence. This was created by s. 122 of the Legal Aid Sentencing and Punishment of Offenders Act (LASPOA) 2012, which added a new s. 224A to the Criminal Justice Act (CJA) 2003. It was brought into effect

for offences committed after 3 December 2012. This represents a new 'two strikes' policy,[7] imposing a mandatory life sentence for anyone convicted of a second 'listed'[8] offence involving serious sexual or violent crime.

Second, the courts continue to impose discretionary life sentences, both under s. 225 of the CJA 2003, applicable to those convicted of specified offences to be found in Schedule 15 of that Act, and under the common law, on those who are considered 'dangerous'. As far as the common law is concerned, if the offence has a statutory maximum sentence of life, as many sex offences do, the 1967 *Hodgson* criteria[9] still apply:

> When the following conditions are satisfied, a sentence of life imprisonment is in our opinion justified: (1) where the offence or offences are in themselves grave enough to require a very long sentence; (2) where it appears from the nature of the offences or from the defendant's history that he is a person of unstable character likely to commit such offences in the future; and (3) where if the offences are committed the consequences to others may be specially injurious, as in the case of sexual offences or crimes of violence.

Let us look at some recent examples of life sentences imposed on sex offenders.[10] First *P* [2013] EWCA Crim 1143, in which the Court of Appeal upheld a discretionary life sentence on a man convicted of several offences (including assault by penetration on a child under thirteen) who had previous convictions for sexual offences against children. Described by the Court as a 'serial predatory paedophile', the defendant had developed a long-term relationship with his victim's mother, who was unaware of his previous convictions.[11] The minimum term was fixed at five years. The Court noted that defendant would be included 'in the relevant list by the Independent Safeguarding Authority' under the Safeguarding Vulnerable Groups Act 2006, but added no other post-sentence orders. Second, there is *Burinskas* [2014] EWCA Crim 334. The defendant had been released from prison in Lithuania in August 2012, having served a ten-year prison sentence for rape, and pleaded guilty to a ferocious 'stranger rape' committed some five months later in England. The Court of Appeal quashed an extended sentence, increasing the sentence to life,

with a minimum term of six years. Heard in the same appeal was a third example, the case of *Anthony P*. He was convicted of rape and serious offences of violence against his partner, and the Court upheld a life sentence, although it reduced the minimum term from eleven to ten years.

These three recent examples of life sentences reflect three different types of offender: the predatory paedophile, the stranger rapist and the domestic abuser. Each received a life sentence, with minimum terms of five, six and ten years, respectively (the equivalent of determinate sentences of ten, twelve and twenty years[12]). In England & Wales, over 7000 people are serving life sentences at the moment, although it is not known how many of these are serving life for sexual offences. It seems to me appropriate that these people should serve very lengthy sentences. However, whether indeterminate sentences are 'fair' is a question to which we will return later.

The next category of preventive sentencing was introduced by the Criminal Justice Act 2003. This Act's new approach towards 'dangerous'[13] offenders had a particularly dramatic effect on the prison population as its introduction of Imprisonment for Public Protection (IPP), particularly in its original form, resulted in a steep increase in the number of offenders receiving an indeterminate sentence. IPP was simply a life sentence by another name.[14] By June 2012, 6080 prisoners were serving an IPP sentence. If the offender met the statutory test of 'significant risk of serious harm', IPP was available for those convicted of a long list of specified offences, many of which did not otherwise carry life imprisonment terms.[15] Moreover, the sentence was more or less mandatory for those with a previous relevant conviction. The rules were made significantly more flexible in 2008, and the sentence was abolished in 2012.

Let us look at an example. In 2008, Woodward was convicted of a number of counts of inciting a child to engage in sexual activity: over a number of months he had hosted an 'open house' for adolescent boys and paid them money to masturbate in his presence. He sometimes asked if he could touch them, but they always refused and he never forced himself upon them. He was sentenced to IPP with a minimum term of two and a half years. In 2016, he was one of thirteen offenders who applied for extensions of time in which to apply for leave to appeal against their sentences. All of these cases were considered together by the Court of Appeal

in *Roberts and Others* [2016] EWCA Crim 71.[16] In Woodward's case, the Court (paras. 94–96) concluded that there was no viable alternative to IPP:

> In the face of Woodward's continued denials, an extended sentence would not provide any protection to teenage boys, since he would not have been eligible for any of the sex offending treatment programmes and he would be released presenting precisely the same risk as he did before. Nor could one say with confidence that the making of a SOPO[17] would suffice, since he had already offended when on bail. So, in our judgement, the judge was really driven to conclude that Woodward posed a risk that could not be safely addressed other than by an indeterminate sentence.
>
> The simple fact is that he presented too great a risk of committing similar crimes against teenage boys to be safely released into the community and the commission of further offences might cause serious harm. As with the other applicants, arguments as to the danger he now presents should be directed to the Parole Board; in its decision of 6 October 2014, the Parole Board declined to order release or a move to open conditions.
>
> In all the circumstances, any appeal was bound to fail and the proper course is to refuse to extend time for appealing.

The reasoning here is unconvincing. The Court of Appeal concludes that Woodward is dangerous, and that a determinate extended sentence (see below) is unsuitable simply because he is ineligible, as a denier, to undertake a sex offending treatment programme (SOTP) in prison. Because he cannot participate in the SOTP, he remains dangerous and must continue to serve an indeterminate sentence. This is particularly harsh, given that the Court agreed with the trial judge that the deserved sentence was five years: hence the minimum term of two and a half years. By the time of the Court of Appeal's ruling, Woodward had already served eight years—the equivalent of a sixteen-year determinate sentence. Would an extended sentence not have been fairer for what were certainly not the most serious offences? This is an example of a case where the Court of Appeal looks at the implications of the sentence in order to take the 'harsh' route. Normally, sentencers are advised to ignore the implications of their sentences; rather, they should focus on imposing the 'right' sentence.

As well as life sentences of various sorts, there has long been provision for extended sentences. It would appear that these are becoming particularly popular with judges, especially since the abolition of IPP in 2012. According to the Sentencing Council, in 2015 a total of 668 offenders were given an extended sentence.[18] According to the Ministry of Justice, as at 30 September 2016, 3164 prisoners were serving an extended determinate sentence (EDS), representing an increase of 44 per cent over the previous 12 months.[19] The extended sentence provided for by the Criminal Justice Act 2003 was broadly similar to previous forms of sentence with the same name. It consisted of a commensurate determinate term plus an elongated period of licence. It did not involve a longer than commensurate term of imprisonment. Rather, the extension was to the period of licence, which was set at what the court deemed necessary for the purpose of protecting the public from serious harm, subject to a maximum of five years in the case of a specified violent offence and eight years in respect of a specified sexual offence. The type of extended sentence introduced by the Criminal Justice Act 2003 became known as the extended sentence for public protection (EPP). Since the amendments of LASPOA 2012, the new version of this sentence has been known as the extended determinate sentence (EDS). The two sentences are very similar, but not identical. The differences were usefully summarised by Lord Hughes in the Supreme Court in *Docherty* [2016] UKSC 62 (para. 14):

(i) EPP could be imposed only for an offence committed after the commencement of the CJA 2003 (4 April 2005), but EDS is expressly made available by section 226A(1) for an offence whenever committed. EDS but not EPP is thus available when sentencing so-called historic cases, especially those of sexual abuse, which are often uncovered many years after the event.

(ii) EPP was available only (unless the custodial term would be at least four years) where the defendant has previously been convicted of an offence listed in Schedule 15A to the CJA 2003, but EDS is available when he has previously been convicted of one listed in Schedule 15B. Those two lists are not the same, and neither is the same as Schedule 15. The EDS list in Schedule 15B is appreciably wider and covers

many offences for which EPP was not available. These include many sexual offences (sections 7, 9, 10, 11, 14, 15, 25, 26, 48 and 49 Sexual Offences Act 2003), a number of terrorist offences, of which there are none in the EPP list in Schedule 15A, the very common offence of possessing (etc.) indecent photographs of children contrary to section 1 Protection of Children Act 1978 and an entirely new category of offence consisting of abolished offences which amounted to the same as listed ones (no doubt inserted because of point (i) above); moreover two of the sexual offences which are listed in both Schedules (sections 4 and 47 Sexual Offences Act 2003) are, for the purposes of EPP, confined to cases where the defendant would be eligible for life imprisonment, but that restriction is removed from the EDS list in Schedule 15B. In short, EPP and EDS are not available for the same offences.

(iii) An EDS extension period must be for at least one year (for offences committed after the commencement of amendments brought about by the Offender Rehabilitation Act 2014 on 1 February 2015), but there was no minimum length for an EPP extension period.

(iv) Within the sentence imposed, there are very significant differences in the rules for early release. For EPP (as amended in 2008) release was automatic at half the custodial term. By new section 246A, the rules for EDS are that there can be no early release before two-thirds of the custodial term has been served, and if either the offence was a Schedule 15B offence or the custodial term was ten years or more (and, after 13 April 2015, in all cases: section 4 of the Criminal Justice and Courts Act 2015) there can be early release only on the recommendation of the Parole Board. Thus an EDS prisoner must serve two-thirds in prison and may have to serve the whole of the custodial term imposed by the court.

This complexity is not untypical of our sentencing system, and is surely unwarranted. It will lead to many errors and expensive appeals. It is important to note that the basic principle on which both kinds of extended sentence are based is that an extended period of licence provides protection to the public, not a longer than commensurate custodial term. This is somewhat ironic, given the large number of EPP and EDS prisoners who are recalled to prison during their licence period: they are liable to spend the entirety of the extended period of licence in prison unless or until they are re-released by the Parole Board.

Let us look at two examples, both chosen from recent law reports. In *Wormleighton* [2016] EWCA Crim 815, the Court of Appeal upheld a thirty-year extended sentence, comprising a twenty-two-year custodial element and an eight-year licence period. Here, a sixty-one-year-old man pleaded guilty to thirty-three child sexual offences committed against three young girls over a forty-year period. The second example is *Bradbury* [2015] EWCA Crim 1176, where a doctor was convicted of twenty-four sexual offences carried out over several years against eighteen boys who were his patients. The Court of Appeal held that, although a total figure of twenty-two years was appropriate, the sentence should be restructured so that the custodial element was sixteen years,[20] with an extended licence period of six years. Therefore, both of these men will serve very long sentences: at least two-thirds of the custodial term, then an extended licence period, subject to many restrictive conditions.

Parliament continues to legislate further complexity. Yet another preventive sentence was introduced by s. 6 of the Criminal Justice and Courts Act 2015—a special custodial sentence for offenders convicted of 'offences of particular concern'. This has inserted a new section 236A into the Criminal Justice Act 2003, and has been available to the courts since 13 April 2015. As at 30 September 2016, 243 prisoners were serving such sentences, an 80 per cent increase compared to the previous quarter (prison population as at 30 June 2016). This rise may be due to the decision in *LF and DS* [2016] EWCA Crim 561, in which the Court of Appeal stated boldly (at para. 25):

> We understand anecdotally that the provisions of section 236A have not been applied by practitioners and judges in a significant number of cases. The case of LF below is one such example, and as will be seen, we are driven to the conclusion that we cannot intervene. It follows that the clear intention of Parliament has been thwarted in his case and that he has received a lesser sentence than the court was required to impose on him.

So what happened in *LF*? D was convicted of two offences of indecent assault against two different children: the first offence occurred between 1993 and 1995, and the second between 2001 and 2003. One of these offences involved the digital penetration of the vagina of a girl aged eight

or nine. Today, that would constitute an offence contrary to section 6 of SOA 2003. Therefore, the judge should have passed a sentence under section 236A. The Court found that the sentence of three years and four months' imprisonment passed on this count was appropriate, but that the judge should have added a further one-year period of licence. The second count was an indecent assault not involving penetration, which meant that an ordinary determinate sentence of two years and eight months' imprisonment was entirely proper. Since the Court of Appeal may not make the sentence more severe on appeal and did not wish to reduce the overall custodial term, 'to this applicant's good fortune', the sentence remained as it was. The appropriate method of sentencing would have been to impose the ordinary term of custody on the second count and then order the section 236A offence on the first count to run consecutively to it. The Court added (at para. 9):

> It is clear to us that the purpose of the new legislation was to ensure that such persons were subject to licence for a period after release even though, by definition, they had not been found to be dangerous by the sentencing judge. The effect, therefore, is not dissimilar to a modified form of extended sentence imposed under section 226A, although one important point of difference is that the case must be considered by the Parole Board once the offender under section 236A has served half rather than two thirds of the custodial term.

This is truly bizarre: a special sentence for someone convicted of an 'offence of particular concern', but because they are not 'dangerous', they are released after serving half of their term, rather than two-thirds, but with an additional year's licence. The Court offered a helpful checklist for struggling sentencers (at para. 27):

(a) Is the offence listed in schedule 18A?
(b) If the offence is a repealed historic sexual offence, did it involve rape or penetration of a child under 13?
(c) Was the offender aged 18 or over when the offence was committed?
(d) Section 236A cannot apply if the court imposes life or an extended sentence for the offence or an associated offence.

(e) A sentence is to be expressed as a single term comprising the custodial element and a further one year period of licence.
(f) Each offence qualifying for section 236A must be sentenced in the terms set out at (e) above.
(g) Are the section 236A sentences to run concurrently or consecutively to one another? If concurrently, the overall custodial term for those offences plus 1 year further period of licence should be stated at the end of sentencing.
(h) If consecutively, the total custodial term for those offences as well as the total further period of licence should be stated at the end of sentencing.

Undoubtedly, in practice, problems will arise. The court not only has to identify the right sort of extended sentence but has to impose its sentences in the right order. Many problems have arisen due to the difficulty of calculating release dates (or dates when a case should be referred to the Parole Board) when one sentence is ordered to run consecutively to another sentence which has an imprecise release date.[21]

We have reviewed the current law on life and extended sentences as the classic examples of preventive sentences. Of course, the discussion could have included lesser sentences, including community sentences with requirements attached. Again, there are many interesting examples in the law reports. In *Moxham* [2016] EWCA Crim 182, the Court of Appeal quashed a sentence of imprisonment and substituted a community order of three years' duration, with requirements of supervision and participation in a sex offender treatment programme, even though the offender (convicted of possession of indecent photographs of children) had already served most of what the Court decided was the appropriate custodial sentence (eight months). This smacks of double sentencing, as the Court admitted (para. 12):

> We take the view that, notwithstanding the fact that in a sense he will have to begin a new sentence, the issue of public protection requires the substitution of the sentence imposed by one involving the ability of the authorities to make the appellant the subject of a treatment programme.

This re-sentencing for reasons of public protection seems unduly harsh, especially since the offender was also subject to a five-year SOPO. Surely we should ask if it is right for the Court of Appeal to re-sentence in this way.

In summary, we have seen that Parliament has been particularly busy legislating in this area. Second, the judiciary, both trial judges and the Court of Appeal, have responded presumably as Parliament intended—with longer sentences. Preventive sentences are much in evidence, but before we discuss why this has happened, we should explore the increasing use of 'ancillary orders', which run alongside 'main' sentences.

3 'Ancillary' Orders[22]

3.1 The Case of Sexual Harm Prevention Orders

The list of possible ancillary orders is long. It includes Compensation Orders, Confiscation Orders, Deprivation of Property Orders, Non-molestation Orders, Domestic Violence Protection Orders, Restraining Orders and Sexual Harm Prevention Orders. The impact of any one of these measures can be enormous, but here we discuss only the Sexual Harm Prevention Order (SHPO), the most important ancillary order, which is imposed regularly on sex offenders.

SHPOs replaced Sexual Offences Protection Orders (SOPOs), which had been introduced in the Sexual Offences Act 2003. The Antisocial Behaviour, Crime and Policing Act 2014 added new sections 103A to 103K to the 2003 Act. In 2015/16 the courts imposed 3873 SHPOs. I know of no research into their imposition—who receives them, who does not, their length, or their terms and conditions. The law is very broad: a SHPO can be issued in relation to any person who has been convicted, found not guilty by reason of insanity or found to be under a disability and to have committed the act for which they have been charged, or cautioned and so on for an offence listed in either Schedule 3 or Schedule 5 of the Sexual Offences Act 2003 either in the UK or overseas. This includes offenders whose convictions (and so on) pre-date the

commencement of the 2003 Act. No application is necessary for the court to issue an SHPO at the point of sentence, although the prosecutor will often invite the court to consider making the order.

In order to issue an SHPO, the court must be satisfied that the offender presents a risk of sexual harm to the public (or particular members of the public) and that an order is necessary to protect against this risk. The main guidance of the Court of Appeal is to be found in *Smith and Others* [2011] EWCA Crim 1772, which reinforces the need for the terms of an SHPO to be tailored to the exact requirements of each case. As the guidance recognises, the behaviour prohibited by the order might well be considered unproblematic if exhibited by another member of the public—it is the offender's previous offending behaviour and subsequent demonstration that they may pose a risk of further such behaviour that make them eligible for an order.[23]

Many SHPOs, like SOPOs before them, are undoubtedly burdensome, and many are referred on appeal to the Court of Appeal, which has sometimes agreed to amend their terms. A typical example is *NC* [2016] EWCA Crim 1448, where the appellant appealed against an SHPO which had been imposed following his guilty pleas to three counts of sexual assault on a child and one count of causing a child to watch a sexual act. The SHPO is given in full below as its complex child and computer-related conditions are characteristic of such orders. It specifies:

> The defendant is prohibited from:
>
> (1) Using any device or computer capable of accessing the internet unless:
>
> (a) It has been installed with monitoring software that is approved and monitored by the Police Force in the area in which you reside unless such software is unavailable and this is confirmed in writing by the ViSOR officers responsible for the monitoring of the defendant; and
> (b) It has the capacity to retain and display the history of internet use, and you do not delete such history; and
> (c) You make the computer/device immediately available on request for inspection by a Police officer, or police staff employee.

This prohibition shall not apply to a computer at your place of work, Job Centre Plus, Public Library, educational establishment or other such place, provided that it has been notified and approved in writing by a Police officer responsible for monitoring you, prior to use.

(2) Interfering with the normal running of any such computer monitoring software.
(3) Purchasing, downloading or activating any evidence elimination software on any computer or device in your possession.
(4) Activating any encryption software, and/or installing any virtual machine on any device or computer such as VM Ware or Virtual box, and/or in any way bypassing any monitoring software installed under prohibition 1(a) above.
(5) Using or activating any function of any software which prevents a computer or device from retaining and/or displaying the history of internet use, for example using 'incognito' mode or private browsing.
(6) Allowing any person under the age of 16 into or to remain in his home, any other premises or private vehicle under his control unless such child is accompanied by their parent or legal guardian, who is aware of his conviction and this order.
(7) Being in the home of any person under the age of 16, if that person is present, unless in the presence of that child's parent or legal guardian who is aware of his convictions and this order.
(8) Having contact with any person under the age of 16, either in person, on the internet, or by any other means, unless that contact is unavoidable in the ordinary course of life without the permission of that person's parent or guardian who is aware of this conviction and order.
(9) Undertaking any activity, whether paid, voluntary or recreational, which by its nature is likely to bring him into supervisory contact with a child or young person under the age of 16 years.

The appellant submitted that some of the prohibitions contained in the order were unnecessary, oppressive or disproportionate. He argued that prohibitions 1–5 were unnecessary because none of his offences had involved the use of a computer or the internet, prohibitions 6–8 were too widely drawn as they would include his own daughter, and prohibition 9 was unnecessary because he had never worked with children and would, in any case, be on the banned list under the Safeguarding Vulnerable

Groups Act 2006 as a result of his conviction. The Court of Appeal simply amended prohibitions 6–8 to specify that they did not apply to the appellant's daughter and removed prohibition 9 as it did indeed add nothing. The rest remained in place.

By contrast, in *Robinson* [2016] EWCA 1546, where the Court of Appeal upheld a sentence of thirty-two months for arranging or facilitating a child sex offence, it quashed the SHPO. Robinson had taken a twelve-year-old to a hotel, where she was raped by his co-accused. The trial judge had held that there were 'genuine grounds for it to be possible for each defendant to conclude that she was older' than she was. As a result, the Court of Appeal was not satisfied that an SHPO was necessary to protect the public, or particular members of the public, or children or vulnerable adults generally. Given the widespread use of SHPOs, is this surprising?

What is the proper duration of an SHPO? The answers seem to be somewhat arbitrary. In *NC* (above), the ten-year SHPO was not challenged. In *Lewis* [2016] EWCA Crim 1020, D pleaded guilty to pornography offences, admitting he had developed a morbid fascination for child pornography. He was sentenced to a three-year community order, including a rehabilitative activity requirement and compulsory participation in an internet sexual offenders programme. The trial judge also imposed an indefinite SHPO, which included various prohibitions relating to the internet (which the defendant did not challenge) and prohibited him from:

> (i) Carrying out the role of a coach in any sporting environment with persons under the age of 18 years.
> (ii) Living in the same household as any child under the age of 16 unless with the express approval of Social Services for the area.
> (iii) Having any unsupervised contact of any kind with any child under the age of 16 other than (i) that is inadvertent and not reasonably avoidable in the course of lawful daily life or (ii) with the consent of the child's parent or guardian (who has knowledge of his convictions) and the express approval of Social Services for the area.

Furthermore, the trial judge ordered the forfeiture and destruction of certain items of computer equipment, and the offender was ordered to

pay various costs. The offender argued on appeal that the SHPO should be limited to no more than five years (and the Crown appear to agree). The Court of Appeal ruled that an indefinite order was disproportionate. However, it also held that a period of more than five years was desirable, not least because the judge had referred to the appellant as a 'weak' man who, by his own admission, had become obsessed with pornographic images of young children. Therefore, it was appropriate for the order to run for ten years. The Court also quashed the terms cited above on the grounds that they were unnecessary. The appellant would not be able to serve as a rugby coach without falling foul of the Safeguarding Vulnerable Groups Act 2006; nor were the child-related prohibitions necessary. The Court (at para. 10) held that 'where a defendant was convicted of an offence of viewing child pornography, a SHPO should only contain provisions preventing contact with children where there was a real risk that the offending would progress to contact offences'.

Why are preventive orders such as SHPOs always described as 'ancillary'? When the Court of Appeal considers whether a sentence is 'manifestly excessive' or indeed 'unduly lenient', it seems to consider only the length of the sentence, not the additional punitive 'weight' of the SHPO. Let us look at another recent example. In *AG's Reference (Howard)* [2016] EWCA Crim 1511, the defendant, aged twenty-six, had met the victim, aged fourteen, at a skate park. He knew that she was fourteen, and she believed that he was in his twenties. Their meeting led to a friendship, which led to a relationship. She visited his flat several times, and then their relationship became sexual. They had intercourse on three occasions. Her father discovered Facebook messages between the two and the matter was reported to the police. Howard has significant mental health and cognitive function problems. He has been diagnosed with ADHD and has an IQ of 75, meaning that he performed better than just 0.1 per cent of adults in his age group. The judge rejected the prosecution's submission that Howard had 'groomed' the girl, and imposed a suspended sentence.

The Attorney General referred the case to the Court of Appeal on the grounds that the sentence was 'unduly lenient'. He submitted that Howard's learning difficulties should have been taken into account at Step 2 of the sentencing guidelines, namely after the offences had been

placed in the relevant category. He argued that, given the significant disparity in the ages of the defendant and the girl, the defendant's culpability should have been placed in Category 1A, with a starting point for a single offence of five years' imprisonment, as opposed to Category 1B, where sentences for a single offence can range from a high-level community order to two years in custody. The Court of Appeal disagreed. While it accepted that the sentence was both lenient and compassionate, it ruled that it was not *unduly* lenient.

What is interesting for our purposes is that the argument in the Court of Appeal focused solely on the correct application of the guidelines—the differences between the various categories, and between Step 1 and Step 2. The offender was also made subject to a six-year SHPO and a six-year Restraining Order. I feel that these were burdensome penalties that should have been weighed in the balance when deciding Howard's overall sentence, yet they were not discussed.

In many cases, the Court of Appeal simply ignores the SHPO that was imposed by the trial judge. However, many questions should be asked about these ancillary penalties. In the extended sentence cases discussed above, if an SHPO has been imposed, when and why should the sentence be extended, too? Should the period of extension match the length of the SHPO? In *Byrnes* [2016] EWCA Crim 1942, the appellant had been convicted of a single count of sexual assault, and was sentenced to an extended sentence comprising a custodial term of two years and eight months, with an extension period of three years. In addition, an SHPO of five years and eight months from the date of sentence was imposed, meaning it would run concurrently with the whole term of the extended sentence. However, while the Court of Appeal quashed the finding of dangerousness and consequently the extended sentence element of the sentence, it made no mention of the SHPO, which presumably continues to stand. I find it astonishing that the SHPO was not even discussed. In some cases, at least, surely the mere existence of an SHPO might be an argument for why an extended sentence is unnecessary?

The legal and criminological literature does not appear to have explored the increasing number of people who are being prosecuted for breaking the terms of their SHPOs. This raises important questions of fairness, to which we turn below.

3.2 Release from Prison and Less Visible Penalties: Notification, MAPPAs and Licences

Once an offender is able to convince the Parole Board that 'it is no longer necessary for the protection of the public that the prisoner should be confined' (see s. 28[6][b] of the Crime [Sentences] Act 1997), he or she will eventually be released on strict licence conditions. Even those who are released automatically after serving half of their term are now subject to at least one year's post-sentence supervision. Licence conditions may well be onerous and may continue for many years (or even for life). Many sex offenders will start their life in the 'community' in approved premises—extraordinarily difficult places in which to live and from which to lead a law-abiding life (see Cowe and Reeves 2012; Reeves 2016).

However, formal licence conditions are just the start of the legal constraints which surround released sex offenders. Sex offender notification laws mean that anyone convicted of certain offences must notify the police of specified information for a specified period, without any need for an explicit court order (see sections 80–88 of the Sexual Offences Act 2003, as amended). All sex offenders are required to maintain their details on the register for considerable periods of time. Anyone imprisoned for thirty months or more must remain on the register indefinitely. The notification periods are as follows:

- Imprisonment for a fixed period of thirty months or more, imprisonment for an indefinite period, imprisonment for public protection (IPP), or admission to hospital under a restriction order, or subject to an Order for Lifelong Restriction: indefinitely.
- Imprisonment for more than six months but less than thirty months: ten years.
- Imprisonment for six months or less, or admission to hospital without a restriction order: seven years.
- Caution: two years.
- Conditional discharge or (in Scotland) a probation order: period of discharge or probation.
- Any other: five years.

Finite notification periods are halved if the person is under eighteen when convicted or cautioned.

In *R (on the Application of F and Thompson)* v. *Secretary of State for the Home Department* [2010] UKSC 17, the Supreme Court upheld an earlier decision of the Court of Appeal and issued a declaration of incompatibility under section 4 of the Human Rights Act 1998 in respect of notification requirements for an indefinite period. The Court ruled that such indefinite notification requirements were disproportionate. As a result, the government introduced a review and appeal process for those who had been on the register for more than fifteen years (or eight years for juveniles).[24] However, those who continue to pose a significant risk will remain on the register for life. Failing to notify is itself a criminal offence.

Until recently, the Criminal Justice and Court Services Act 2000 empowered the courts to disqualify offenders from working with children. Then the Safeguarding Vulnerable Groups Act 2006 tightened the noose by automatically barring certain offenders from regulated activities relating to children or vulnerable adults, with or without the right to make representations, depending on the offence. The law on these matters is extraordinarily complex. In a series of cases, the Court of Appeal struggled with when the courts should continue to make a separate order under the 2000 Act to cover the time until the person was listed by the Independent Safeguarding Authority, which has now been replaced by the Disclosure and Barring Service.[25] The 2000 Act's provisions were eventually repealed with effect from 17 June 2013. This is not the place to explore these provisions in detail, but it is obvious that any individual on a 'barred list' will find their employment opportunities severely compromised. It is therefore vital that the lists should be accurate and not over-inclusive.

Sex offenders are also subject to Multi-Agency Public Protection Arrangements (MAPPAs): statutory arrangements which monitor, assess and manage the risk they pose. These were established by virtue of sections 325–327 of the Criminal Justice Act 2003. On 31 March 2016, there were 52,770 MAPPA-eligible registered sex offenders, each of whom was managed at one of three MAPPA levels, depending on the degree of multi-agency cooperation required to implement

their individual risk management plan effectively. The vast majority—51,978—were managed at Level 1 (ordinary agency management). The remainder were deemed more 'risky' offenders who required active multi-agency management: 743 at Level 2; and 49 at Level 3. It is difficult to know how well this system works in practice. So many ex-prisoners are subject to supervision in the community that identifying 'high-risk' offenders is enormously challenging work for the relevant authorities.

MAPPA data suggest that 765 offenders managed at Level 2 or 3 returned to custody after breaching a licence in 2015/16; and 53 Level 2 or 3 registered sexual offenders were sent into custody for breaching their SOPO or SHPO.[26] However, the total number offenders recalled to custody every year is huge: between April 1999 and June 2016, 218,638 of those released on licence were recalled to custody for breaching the conditions of their licence (e.g., failing to report to their probation officer).[27] In the period between April and June 2016 alone, 5512 offenders were recalled for breaching the conditions of their licence. Many of these will be sex offenders. The very real difficulties of living a law-abiding life on licence has been examined in a number of studies (Appleton 2010; Digard 2010; Padfield 2013; Thomas et al. 2014). For many sex offenders, the culture of what Laws (2016) calls the 'containment model' is hugely burdensome. Some offenders can do little that is not under some form of surveillance, so recall by risk-averse, overworked offender managers becomes highly likely (see Padfield 2016b, c).

4 Discussion

This chapter has described the complex sentencing law relating to sex offenders. This has been done by describing some laws in detail, but also case law. I chose to describe the law by focusing on individual cases in law reports in part because that is what lawyers do: the law is found in the judgements of appellate courts. However, more importantly, by focusing on individual cases, we remember that the law is imposed in real life on real people. Locking up some sex offenders for longer, or subjecting others to fierce containment in the community, poses ethical dilemmas

which have to be confronted. It remains for me simply to ask three questions, with the answers designed to provoke further debate.

4.1 Is It Sensible to Distinguish 'Preventive' Sentences from 'Punitive' Sentences?

My answer is a clear 'no'. So-called preventive sentences have been around for centuries: the death penalty, transportation, preventative detention for 'habitual criminals'[28]; 'longer than commensurate' sentences for certain offenders.[29] But even if history may help explain current practice, it cannot justify it. Preventive sentences are simply punitive sentences, justified on the grounds of prevention. As von Hirsh (2017: 12) puts it, 'severe penalties should bear an especially heavy burden of justification'. Lawmakers and judges should have the burden of explaining why such levels of punitiveness are required. Prevention may be a legitimate ambition of punishment, but that should not lead to a separate category of sentence. Sentences that are based on the likelihood of future behaviour are always unfair on the individual as we can never be sure who will reoffend. Predicting risk truly accurately is impossible because so much depends on the unpredictable social context in which the offender finds himself (Padfield 2010b; Crassiati and Sindall 2009). Even the best risk assessment tools cannot be reliable predictors of whether a specific individual will or will not reoffend, and they are even less reliable in predicting serious reoffending. The factual events which lead to much sexual offending is often troubling—most victims know their assailants—and better-informal social control by friends and family could in many cases be just as effective as formal criminal justice controls in preventing offending.

Clearly, many offenders are 'punished' for much longer than they 'deserve': the 'deserved' sentence is lengthened (often indefinitely) and 'tightened' for reasons of prevention. The implications of this should be disquieting for many reasons. For instance, these long sentences are costly not only for the offender but for society. They are also often inhumane, and may be counterproductive. There is a large literature on

sex offending, much of which is explored elsewhere in this book. Reintegration of sex offenders is fraught with difficulties and active supervision is likely to reduce recidivism only if it is rehabilitation focused (Maruna 2001, 2011; Wan et al. 2014). Indeed, excessive emphasis on enforcement may undermine attempts to resettle prisoners and to promote 'desistance' (Maguire and Raynor 2006). Rehabilitation will fail if the person is not motivated to cooperate and comply: people need support, encouragement, hope and respect. As is now widely accepted in the desistance literature, 'agency, motivation to change, positive goals and optimism are considered highly important factors' (Digard 2014: 443). It is difficult to be motivated when you live 'with an internal sense of isolation', and where 'rejection and harassment are constant possibilities (Laws 2016: 18; See also Rickard 2016).

4.2 Should Judges Consider the Full Implications of Their Sentences?

It seems to me that it should not only be criminologists, policy-makers and politicians who wake up to the implications of current sentencing trends, but the members of the judiciary themselves. Judges occupy an extraordinarily privileged position, presiding in court. Whenever they impose a punitive sanction, they do not simply impose the law but also communicate a message on behalf of society and hugely affect the future life of the offender. As humans, they have a duty to understand the full implications of what they do. As privileged citizens, they have a duty to explain to policy-makers and to the public when they see injustice. I would suggest that judicial training (or education) should extend much further into understanding what works to reduce reoffending; and that judges should receive much more feedback on the outcomes of individual cases. Currently they are much more likely to hear about the 'bad' outcomes than the 'successful' outcomes. I would suggest that one of the main advantages of 'problem-solving courts' and of the judicial supervision of the implementation of sentences is that it teaches judges about the reality of living a life bound by the restrictions of a punitive sentence (see Herzog Evans and Padfield 2015).

4.3 To What Extent Is the Current Fashion for 'Risk' and 'Risk Assessment' Responsible for the Increasing Use of Punitive Preventive Sentences?

This is a much more difficult question to answer. There are myriad pressures on judges. They are surrounded by complex laws, a culture of popular punitiveness and a political culture which demonises sex offenders. However, we know very little about individual judges' individual decisions. Are they moved by the culture of 'fear', by the culture of 'risk assessment', or do they stick blindly to the guidelines in front of them? Of course, they interpret cases in terms of their own cultural and social frames of reference (Hawkins 2003), but extraneous influences are also important: Danzigera et al. (2011) have famously shown how Israeli Parole Board judges can be swayed by factors that should have no bearing on their legal decisions, including whether they have had their lunch.

Arguably, law is the paramount instrument of social control. We have seen ever more law emanating from Parliament and upheld by an apparently punitive judiciary. Sex offenders are sorted into boxes according to different levels of 'risk'. However, people who sexually offend do so at different rates, pose different levels of risk and respond in very different ways to punishment, supervision, surveillance and treatment. The category of 'sex offender' itself may be unhelpful because it includes such a vast variety of people, convicted of a vast array of offences. I remain convinced that individualised sentencing, based on an individual human rights perspective, is essential. Hard questions about the impact of current sentencing law and practice demand widespread debate.

Notes

1. The main legal practitioners' text on the law of sexual offences is Rook and Ward (2016).
2. Ministry of Justice (2016) Criminal Justice Statistics: Quarterly Update to June 2016, at page 21.

3. A useful term, borrowed from Crewe (2011), to explain the 'pains' of imprisonment.
4. Ministry of Justice (2016) Criminal Justice Statistics: Quarterly Update to June 2016, Table 5.2c.
5. MAPPA is discussed later in this chapter.
6. See Padfield (2016a) for more details.
7. A predecessor was 'automatic life', introduced in s. 2 of the Crime (Sentences) Act 1997 for anyone convicted of a second serious offence, unless there were exceptional circumstances which permitted the court not to take that course. Section 2 was replaced by s. 109 of the Powers of Criminal Courts (Sentencing) Act 2000. The sentence was reduced in scope after the implementation of the Human Rights Act 1998, and abolished by the Criminal Justice Act 2003.
8. The list, to be found in a new Schedule 15B to CJA 2003 introduced by Schedule 18 of LASPOA 2012, includes, it should be noted, offences that do not result in life as their normal statutory maximum.
9. See (1967) 52 Cr App R 113; these criteria have been developed in many cases: for example, *Wilkinson* (1983) 5 Cr App R (S) 105, Attorney General's Reference No. 32 of 1996 (*Whittaker*) [1997] 1 Cr App R(S) 261; *Chapman* [2000] 1 Cr App R 77.
10. My examples are selected by searching on westlaw (which is one of the leading online legal research services in the UK, providing access to cases, legislation, journals, etc.), and they are fairly random. However, I have included what might be considered the more important appellate judgements.
11. The case raises important questions, to which we will return, about why she was not made aware of his record: he was on the sex offenders register, after all.
12. With any life sentence, including Imprisonment for Public Protection (IPP), the judge is required to specify a minimum period before which there is no eligibility for parole. He or she must identify what the hypothetical determinate or 'commensurate' sentence for the offence would have been, calculated purely by reference to the gravity of the offence and the culpability of the offender, without consideration of future risk. The minimum term is then half of that term (because the hypothetical prisoner sentenced to a determinate sentence serves only half of his or her term in prison and the second half on licence).

13. An offender was dangerous if the court assessed that there was 'a significant risk to members of the public of serious harm occasioned by him of further specified offences'.
14. The only difference is that, whereas a lifer is on licence for life, an ex-offender serving an IPP can apply to have his or her licence conditions removed after ten years in the community. This has not yet happened.
15. The main guidance on the application of IPP in its early days was *R v. Lang* [2005] EWCA Crim 2864; [2006] 2 Cr App R (S) 3.
16. Only one of the other appellants had been convicted of a sexual offence: rape as a sixteen-year-old. My examples are all adult offenders.
17. Sexual Offences Prevention Order: see the next section of this chapter.
18. https://www.sentencingcouncil.org.uk/about-sentencing/types-of-sentence/extended-sentences/.
19. *Offender Management Statistics Bulletin, England and Wales Quarterly*, April to June 2016; with prison population as at 30 September 2016.
20. Three seven-year terms for causing or inciting sexual activity with a child, sexual activity with a child and sexual assault of a child under thirteen were each reduced to five years, to run consecutively to each other and to a twelve-month term for making an indecent photograph. For criticism of the complexity of the extended sentence provisions, and of the Court of Appeal's logic in this case, see Padfield (2015).
21. See, for example, *C* [2007] 2 Cr App R(S) 98; *Francis and Lawrence* [2014] EWCA Crim 631; *DJ* [2015] EWCA Crim 563.
22. There are also a number of automatic orders on conviction which are not part of the sentence imposed by the court, but apply automatically by operation of law. These are discussed below.
23. See the guidance of the Sentencing Council in its *Magistrates Court Sentencing Guideline*, available at: https://www.sentencingcouncil.org.uk/explanatory-material/item/ancillary-orders/22-sexual-harm-prevention-orders/#.
24. See the Sexual Offences Act 2003 (Remedial) Order 2012.
25. *C* [2011] EWCA Crim 1872; Attorney General's Reference (No. 18 of 2011) [2011] EWCA Crim 1300, and so on.
26. Ministry of Justice (2016) Multi-Agency Public Protection Arrangements Annual Report 2015/16.
27. Ministry of Justice Statistics Bulletin, page 14.
28. Under s. 10 of the Prevention of Crime Act 1908.

29. Under the Criminal Justice Act 1991. See Ashworth and Zedner (2014) for a fascinating history of preventive sentencing.

References

Appleton, C. (2010). *Life After Life Imprisonment*. Oxford: Oxford University Press.

Ashworth, A., & Zedner, L. (2014). *Preventive Justice*. Oxford: Oxford University Press.

Cowe, F., & Reeves, C. (2012). Residential Work with Sex Offenders: Places of Collusion and Segregation or Preparation for Resettlement and Reintegration. In F. Cowe, J. Brayford, & J. Deering (eds) (Eds.), *Sex Offenders: Punish, Help, Change or Control? Theory, Policy and Practice Explored*. London: Routledge.

Crassiati, J., & Sindall, O. (2009). Serious Further Offences: An Exploration of Risk and Typologies. *Probation Journal, 56*, 9.

Danzigera, S., Levavb, J., & Avnaim-Pessoa, L. (2011). Extraneous Factors in Judicial Decisions. *Proceedings of the National Academy of Sciences of the USA.* Available at: http://www.pnas.org/content/108/17/6889.abstract

Digard, L. (2010). When Legitimacy Is Denied: Offender Perceptions of the Prison Recall System. *Probation Journal, 57*, 43.

Digard, L. (2014). Encoding Risk: Probation Work and Sex Offenders' Narrative Identities. *Punishment & Society, 16*, 428–447.

Hawkins, K. (2003). Conclusion. In L. Gelsthorpe & N. Padfield (Eds.). *Exercising Discretion: Decision-making in the Criminal Justice System and Beyond.* Cullompton UK: Willan.

Herzog-Evans, M., & Padfield, N. (2015). *The JAP: Lessons for England and Wales?* Criminal Justice Alliance. http://criminaljusticealliance.org/wp-content/uploads/2015/04/cja_policy-briefing3_200315.pdf

Laws, D. R. (2016). *Social Control of Sex Offenders*. London: Palgrave Macmillan.

McSherry, B. (2014). *Managing Fear: The Law and Ethics of Preventive Detention and Risk Assessment*. New York: Routledge.

Padfield, N. (2010a). Discretion and Decision-making in Public Protection. In M. Nash & A. Williams (Eds.), *The Handbook of Public Protection*. New York: Routledge/Willan.

Padfield, N. (2010b). *The Sentencing, Management and Treatment of 'Dangerous' Offenders.* Council for Penological Co-operation on 'Dangerous' Offenders,

Council of Europe: see http://www.coe.int/t/dghl/standardsetting/cdpc/PC-GR-DD/PC-CP(2010)10%20rev%205_E%20_vs%2026%2001%2011_%20-%20THE%20SENTENCING%20MANAGEMENT%20AND%20TREATMENT%20OF%20DANGEROUS%20OFFENDERS.pdf

Padfield, N. (2013). *Understanding Recall 2011*. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2201039

Padfield, N. (2015). Bradbury: A Tangle of Extended Sentences? *Sentencing News*, 5–8.

Padfield, N. (2016a). Justifying Indeterminate Detention – On What Grounds? (2016). *Criminal Law Review*, 795–820.

Padfield, N. (2016b). The Magnitude of the Offender Rehabilitation and "Through the Gate" Resettlement Revolution (2016). *Criminal Law Review*, 99–115.

Padfield, N. (2016c). Legal Constraints on the Indeterminate Control of 'Dangerous' Sex Offenders in the Community: The English Perspective. *Erasmus Law Review, 2*, 55–66.

Maguire, M., & Raynor, P. (2006). How the Resettlement of Prisoners Promotes Desistance from Crime: Or Does It? *Criminology and Criminal Justice, 6*, 19.

Maruna, S. (2001). *Making Good: How Ex-Convicts Reform and Rebuild Their Lives*. Washington, DC: American Psychological Association Books.

Maruna, S. (2011). Re-entry and a Rite of Passage. *Punishment and Society, 13*(1), 3–28.

Reeves, C. (2016). Everyday Life in UK Probation Approved Premises for Sex Offenders. In C. Reeves (Ed.), *Experiencing Imprisonment: Research on the Experience of Living and Working in Carceral Institutions*. London: Routledge.

Rickard, D. (2016). *Sex Offenders, Stigma and Social Control*. New Brunswick: Rutgers University Press.

Rook, P., & Ward, R. (2016). *Sexual Offences: Law and Practice*. London: Sweet & Maxwell.

Thomas, T., Thompson, D., & Karstedt, S. (2014). *Assessing the Impact of Circles of Support and Accountability on the Reintegration of Adults Convicted of Sexual Offences in the Community: Final Report.* Leeds University. http://www.law.leeds.ac.uk/assets/files/research/ccjs/CoSA/CoSA-Full-Report.pdf

Von Hirsch, A. (2017). *Deserved Criminal Sentences*. Oxford: Hart.

Wan, W.-Y., et al. (2014). *Parole Supervision and Reoffending* (Trends and Issues in Crime and Criminal Justice). Canberra: Australian Government, Institute of Criminology.

5

‘An Exceptional Sentence’: Exploring the Implementation of the Order for Lifelong Restriction

Yvonne Gailey, Lesley Martin, and Rachel Webb

1 Introduction

The Criminal Justice (Scotland) Act 2003 made a number of provisions for the protection of the public, including the introduction of a new sentence, the Order for Lifelong Restriction (OLR), which was recommended by the MacLean Committee as an exceptional sentence (Scottish Executive 2000) for those serious violent and sexual offenders who require ‘concerted lifelong efforts’ (Scottish Executive 2001: 16) to manage the risk of endangerment to the public at large.

In the late 1990s and early 2000s, Scotland was one of many international jurisdictions grappling with the issue of the management of the minority of people who pose a serious risk of harm to others, and the associated public, political and media interests and influences. Following

The authors are employed by the Risk Management Authority; the views expressed in this chapter are their own and do not necessarily represent those of the Authority.

Y. Gailey (✉) • L. Martin • R. Webb
Risk Management Authority, Paisley, UK

K. McCartan, H. Kemshall (eds.), *Contemporary Sex Offender Risk Management, Volume I*, Palgrave Studies in Risk, Crime and Society,
https://doi.org/10.1007/978-3-319-63567-5_5

trends described as 'precautionary logic' (Hebenton and Seddon 2009) and 'preventive justice' (Ashworth and Zedner 2014), Scotland was not alone in addressing these issues by extending state control through forms of indeterminate sentences or preventive detention. However, Scotland did somewhat set itself apart by asserting at the outset that its concern was the 'exceptional' offender, and by not focusing primarily on those who perpetrate sexual offences. The particular attention given to sex offenders in other civil and criminal arrangements in various jurisdictions is not based on evidence about serious harm but rather, it is argued, by the perpetuation of a culture of fear and blame (McSherry 2014).

However, the Scottish policy went further by incorporating a range of measures that distinguished its approach as unique at the time: for example, risk assessments undertaken by persons accredited by an independent body and external monitoring of statutory risk management plans to ensure that they comply with practice standards and are implemented as intended. Despite this, the Scottish policy has not been subjected to a great deal of critical review in the international literature, although one exception was a comparative analysis conducted by McSherry and Keyzer (2010) at a relatively early stage of policy implementation. Comparing the Scottish approach with the detention of 'sexually violent predators' in the United states and preventive detention of sex offenders in Australia, McSherry and Keyzer identified features of the Scottish policy which, in their opinion, rendered it the most appropriate response. Nevertheless, they also identified a number of concerns, particularly with regards to the potential for net-widening, especially in relation to young people, and the incorporation of information in risk assessments that has not been proven in court.

In February 2014, the Council of Europe's Committee of Ministers adopted Recommendation CM/Rec (2014) 3, which concerns the preventive detention and supervision of 'dangerous offenders' (Committee of Ministers 2014). This non-binding legal instrument is intended to provide a set of guiding principles for legislation, policy and practice in line with the standards of the Council of Europe (COE). The COE recommended a number of broad principles and definitions that aim to promote proportionality, restrained and cautious application of preventive detention and supervision as a means of last resort, and practices of risk assessment and management that afford the opportunity for external,

objective review. As such, there is striking consistency with the Scottish policy; however, a number of differences are worthy of exploration.

The COE's recommendations incorporate in the title the much-criticised phrase 'dangerous offender'. In advising the COE, Padfield (2010) had documented the hazards of this means of classifying individuals due to the scope for unclear definition and stigmatisation. In fact, the COE's recommendations proceed to define the criteria in terms of 'risk' and as such resonate with the Scottish policy. However, the COE's definitions of 'dangerous offender' and 'risk' set a particularly high threshold in that a 'dangerous offender is a person who has been convicted of a very serious sexual or very serious violent crime against persons and who presents a high likelihood of re-offending with further very serious sexual or very serious violent crimes against persons' (Council of Ministers 2014: 1.a). Furthermore, the recommendations do not apply to children under the age of eighteen, for whom an alternative approach is recommended. We will return to those points of 'scope' later in this chapter.

The work of McSherry and Keyzer and the COE's recommendations provide objective means of reviewing the implementation of the OLR in the light of ten years of its application. In the course of this chapter we will review evidence on the application of the OLR to consider the issues raised by McSherry and Keyzer and the COE in terms of net-widening and young people, against the policy's stated intent to target exceptional sentences at exceptional offenders.

The Criminal Justice (Scotland) Act 2003 also established the Risk Management Authority (RMA) to undertake a range of duties in the general promotion of effective risk practice, including a number that are specific to the OLR. Therefore, in the course of its work, the RMA has collated a large amount of data relating to people who have been considered for and made subject to OLRs. In 2011, Fyfe and Gailey examined the early years of implementation, raised some questions for future consideration and made a number of recommendations for improvement. More recently, the RMA has consulted with key stakeholders to garner their experiences of involvement in the OLR process since 2006. The information arising from those exercises will be drawn upon in this chapter, and considered against the points raised by McSherry and Keyzer and the guiding principles recommended by the Council of Europe.

2 Important Features of the OLR

Fyfe and Gailey (2011) have already described the background to and details of the OLR in depth. In summary, such orders are available to the High Court of Justiciary (High Court) in cases where a person is convicted of an offence (other than murder) that is:

- a sexual offence;
- a violent offence;
- an offence which endangers life; or
- an offence the nature of which, or the circumstances of the commission of which, are such that it appears to the Court that the person has a propensity to commit any of the three foregoing types of offence.

Section 210B (2) of the Criminal Procedure (Scotland) Act 1995, as amended by the Criminal Justice (Scotland) Act 2003, requires the High Court to make a Risk Assessment Order (RAO) if it considers that the risk criteria *may* be met. The risk criteria are defined in Section 210E of the 1995 Act as follows:

> the nature of, or the circumstances of the commission of, the offence of which the convicted person has been found guilty either in themselves or as part of a pattern of behaviour are such as to demonstrate that there is a likelihood that he, if at liberty, will seriously endanger the lives, or physical or psychological well-being of members of the public at large.

An RAO allows for a Risk Assessment Report (RAR) to be prepared by a person accredited for this purpose by the RMA, in line with its Standards and Guidelines on Risk Assessment, as to what risk the person being at liberty presents to the safety of the public at large. Thereafter, if the High Court, having regard to all the information, including the information contained in the RAR, considers that, on a balance of probabilities, the risk criteria *are* met, it *shall* make an order for lifelong restriction.

The OLR is an indeterminate sentence, a proportion of which is served in custody, with a minimum period set by the sentencing judge and release to the community determined by the Parole Board for Scotland. The minimum custodial period is known as the 'punishment' part and is

set by a judicial calculation based on the index offence. Imprisonment beyond the punishment part is for the purposes of public protection and is based on regular assessment of risk by the Parole Board for Scotland.

A number of features distinguished the Scottish policy from other international models at the time:

- the overarching concept is 'risk' rather than psychopathology or dangerousness;
- the sentence is imposed by the High Court following a risk assessment conducted by a person accredited by an independent body as having the necessary expertise and competencies to be an 'assessor';
- the sentence entails the preparation and implementation of a risk management plan that is intended to protect the public and ensure that the subject has reasonable opportunity to reduce his/her risk and achieve release;
- the accreditation of assessors, the approval of risk management plans and the monitoring of their implementation are undertaken by the RMA, an independent body at arm's length from the Scottish Government and the other relevant agencies; and
- the RMA also sets standards for risk assessment and management against which such practice is judged.

These features amount to a uniquely Scottish approach which from the outset sought to address the challenges of balancing rights to ensure that the grave deprivation of liberty is justified by enduring, life-endangering risk to the public at large. Moreover, specific arrangements were made through the establishment of the RMA to ensure that oversight and review of the standard of risk assessment and risk management were conducted by a body that was independent of the state and at arm's length from frontline agencies and the Parole Board of Scotland. In all of the above, the Scottish policy exemplifies many of the COE's recommendations.

However, a number of features raise questions when examined through the lens of human rights:

- the index offence which triggers consideration of the OLR is not necessarily a serious violent or serious sexual offence, and herein lies scope for net-widening and the implications of short punishment parts;

- the OLR is applicable regardless of age;
- the RAR may include information, known as 'allegation information', about matters that have not been proven in court; and
- the OLR is a lifelong sentence for which there is currently no means of revocation.

3 Application of the OLR

At the outset, the MacLean Committee recommended the introduction of the OLR as an exceptional sentence intended for a minority of individuals who pose an enduring and life-endangering risk to the public at large, such that no other sentence would be adequate. The committee recommended that it should be available to the High Court regardless of age or gender, but projected that it was unlikely to be considered for women or young people under the age of twenty-one (Scottish Executive 2000). It was envisaged that the OLR would largely replace the Discretionary Life Sentence, which the High Court had imposed on average in fourteen cases a year where this was indicated by the seriousness of the index offence and future risk. As the risk criteria for the OLR are somewhat broader, the estimated number was fifteen to twenty a year. Ten years after implementation, those original assumptions could be tested against a substantial amount of data collected by the RMA.

3.1 Numbers

The OLR became available to the High Court in June 2006. By March 2017, the High Court considered that the 'risk criteria' may have been met in 220 cases, and consequently ordered the preparation of a Risk Assessment Report for each defendant. Subsequently, in 163 of those cases an OLR was imposed, six of which were overturned on appeal. Until 2015, no Discretionary Life Sentence had been imposed by the High Court in a case that was eligible for an OLR. A Discretionary Life Sentence imposed in 2014 was quashed and replaced with an OLR by the Appeal Court in 2016.

It has been noted that the introduction of new penal policy can have unintended net-widening consequences in that the new policy does not impact on the sentence that it was intended to replace but may displace lesser tariff options (McNeill and Whyte 2007). Therefore, the application of the OLR is broadly reassuring in that the average application of seventeen a year falls within the original estimate, and the new sentence has largely replaced the Discretionary Life Sentence.

Chart 5.1 demonstrates a trend that may be described as comprising build-up, peaks and troughs, and perhaps a levelling out phase. However, the annual numbers in Chart 5.1 merit some explanation. The OLR was introduced in 2006/7 with just four RAOs and a single OLR imposed in the latter stages of that year, so in Chart 5.1 it has been incorporated in 2007/8 in order not to reduce the annual average artificially. The second peak in OLRs—between 2014 and 2016—is explained by the build-up of RAOs awaiting disposal from the previous two years. Between 2014 and 2017, there is the prospect of a levelling out of numbers, as it appears that the number of RAOs is declining. However, it will take a further year or two to confirm or contest this. Nevertheless, data reveal that consideration of an overall average conceals variation in application that has occurred over ten years, while an annual average can be misleading.

The data provide a starting point for evaluation against McSherry and Keyzer's concerns about net-widening. The 'exponential' growth that they identified between 2006 and 2010 has not continued, and in line

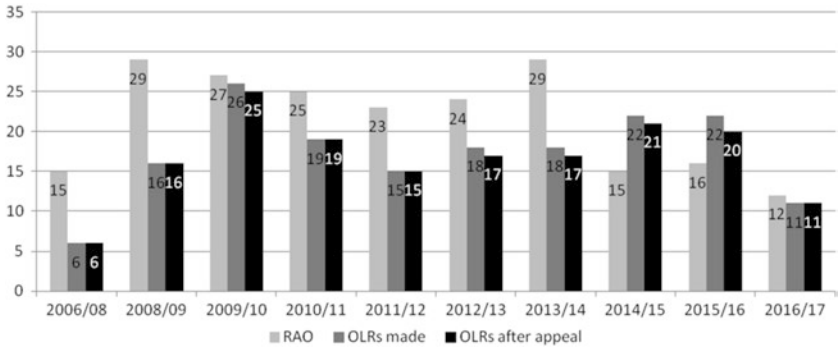

Chart 5.1 Numbers of RAOs and OLRs, 2006/7–2016/17

with the COE's recommendations appears to be contained within the projected number. On first sight, then, general net-widening is not occurring.

It should be noted that over the last three years appeal case law will almost certainly have shaped and influenced the landscape of judicial decision-making in this area as judges passing sentence take account of these significant cases when considering the applicability of the risk criteria. Such case law will be considered later in this chapter.

3.2 Age and Gender

As originally anticipated, the OLR has rarely been considered for application to women: just two have been considered under the auspices of an RAO, but in both cases an alternative sentence was imposed. However, the projection that it would be unusual for the OLR to be considered for young persons has proved less accurate: twenty-one people under the age of twenty-one have been considered under the auspices of an RAO, from which fifteen OLRs have been issued.

Again, in Chart 5.2 there is an indication that numbers have been tempered over time, particularly since 2013/14, but in this matter there is no dispute that significant change has occurred. No person under the age of twenty-one has been considered under the auspices of an RAO since January 2015, in which case an alternative sentence was imposed, and none has been made subject to an OLR since March 2014.

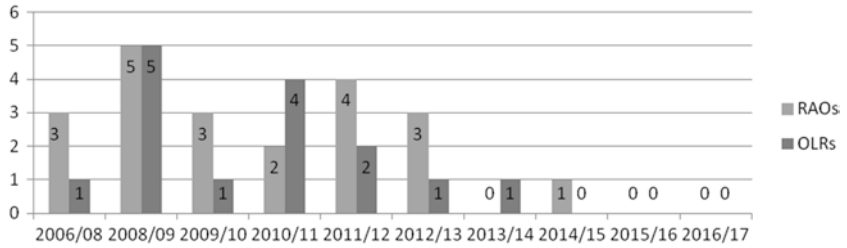

Chart 5.2 Young people (under twenty-one years of age)

4 Nature of Index Offences and Length of Punishment Part

As described above, the OLR may be considered in cases where the index offence is sexual, violent, otherwise endangers life or in its nature or the circumstances of its commission indicates a propensity to commit any of the three foregoing types of offence.

If the Court determines that the risk criteria are met, an OLR is imposed; thereafter, a calculation is undertaken by the judge to determine the punishment part, which is the minimum custodial period before eligibility for parole. Broadly, the punishment part reflects the seriousness of the offence and therefore the requirements for retribution and deterrence, as well as criminal record, but it does not contain a period for the protection of the public as it is for the Parole Board for Scotland to determine whether the degree of risk posed is such that the prisoner may be returned to the community under licence conditions.

The precise mechanism for determining the punishment part has been the subject of a long and complex judicial and legislative process involving the Appeal Court and Parliament. The consideration of the length of punishment part was brought to the fore by successful appeals against sentence by Morris Petch and Robert Foye, which subsequently led to the introduction of new legislation that came into force on 24 September 2012 (case information is listed at the end of the References). The Criminal Cases (Punishment and Review) (Scotland) Act 2012 provides for a calculation of the punishment part that addresses an issue of comparative justice whereby a person receiving a life sentence for a particular offence is eligible for parole earlier than someone who receives a determinate (fixed) sentence. Including Foye, there have been twenty-two successful appeals against the punishment part: nineteen on OLRs imposed between December 2006 and September 2012; one in October 2014; one in March 2015; and one in October 2016. The greatest change in the punishment part was from twenty years to eight years, while the smallest change was from three years to two years and three months.

The appeals which led to reductions in the required punishment part arguably tell us nothing, aside from the fact that the trial judge's process

for constructing the punishment part was flawed. The majority of the appeals simply utilised the Petch and Foye ruling to re-examine the minimum custodial period applied to their OLR sentence in order to strip out the public protection element, which was the purpose of the Petch and Foye ruling.

It is clear that the process of calculating the period of time a person should serve within custody as part of an OLR sentence is complex. The overall average length of the punishment part since 2006 has been 5.3 years, with 56 per cent less than five years, but this merits closer examination. It has been shown above that a number of factors at various points in time have a bearing on the mean length of the punishment part due to the process of judicial decision-making and the enactment of legislation: they may be considered as pre-Petch and Foye; post-Petch and Foye; and post-Criminal Cases (Punishment and Review) (Scotland) Act 2012. However, analysis in Table 5.1 shows that a further change occurred following *Ferguson v. HM Advocate* (see case information at the end of the References).

This demonstrates the complexity of addressing the concern raised by McSherry and Keyzer (2010) that in the early years the Court was 'willing' to impose relatively short punishment parts. First, as has been described above, judicial decision-making follows a legislatively prescribed process: a consideration against the risk criteria determines whether or not an OLR must be imposed; thereafter, the punishment part is calculated. Judicial opinion and subsequently legislation in fact reduced the mean punishment part.

McSherry and Keyzer's concerns in 2010 related to a number of cases in which they perceived that an OLR was disproportionate to the index

Table 5.1 Lengths of punishment part

Date OLR and Key cases	Mean	N	Standard deviation
Pre-Petch and Foye	6.0783	69	3.53850
Post-Petch and Foye	3.9861	18	1.85094
Post-CCPR Act 2012	3.5211	28	1.583744
Post *Ferguson v. HMA*	5.7598	42	2.34743
Total	5.2971	157	2.9639

$p < .001$

offence, as indicated by the punishment part. Considering the COE's recommendations on dangerous offenders, the Scottish policy differs in that the former's criteria stipulate that the index offence is a very serious sexual or violent crime. Against those two measures, it is possible to perceive that the Scottish legislation might promote net-widening by allowing less serious offences to meet the initial threshold.

However, this does not seem to be occurring. It is suggested that the judiciary resist both indeterminate sentences and measures that restrain their independence (Freiberg 2000). Moreover, Darjee and Russell (2011) identify two further influential factors in the Scottish policy—judicial decision-making is not prescribed by prior and current offences, and it is informed by comprehensive risk assessment—features that distinguish it from the truly exponential growth associated with the Indeterminate Sentence for Public Protection in England and Wales. However, it is apparent that a potential upsurge was tempered by the highly influential opinions delivered by the Appeal Court, which have had a significant influence on the more recent trend. Nevertheless, an important question remains as to whether a number of the offenders made subject to an OLR could have been adequately managed by less restrictive means, given that 32 per cent of those with a shorter or longer punishment part had not previously received a custodial sentence; and 8 per cent of those with a longer punishment part and 5 per cent of those with a shorter punishment part had no previous convictions.

5 Profile of OLRs

At the time of writing, detailed data on 188 cases subject to an RAO have been drawn from the resulting reports: in 145 of those cases an OLR was imposed; in 43 an alternative disposal was made (predominantly, an extended sentence). These data have been used to perform a number of, as yet, unpublished analyses. The risk profiles of the two groups reveal similarities and differences. However, looking at a wide range of descriptive information, the OLR group is distinguished by 'overall risk', psychopathy and the absence of protective factors that may mitigate risk (RMA 2016). Ahmet (2016) compared a subset of OLR and non-OLR

offenders on the outcomes of several applied risk assessment instruments. On the Hare Psychopathy Checklist—Revised (PCL-R) (Hare 1991), thirty cases from each group were compared. Comparative analyses showed that the PCL-R—in particular Factor 2, which explores antisocial personality/pattern—differentiated between those who were made subject to an OLR and those who were not. This provides a promising avenue for further examination.

Given that the High Court has considered that every individual subject to an RAO *may* meet the risk criteria, and that it has imposed OLRs on those offenders who *do* meet the risk criteria, it is expected that similarities as well as some differences will be found. However, comparison of those two groups does not really address the question of whether the OLR cohort is 'exceptional'. More recently, the RMA has acquired a dataset from the Scottish Prison Service which contains more routine assessments, conducted on long-term prisoners and using the national criminal justice social work method of risk assessment, which incorporates the Level of Service Case Management Inventory (LSCMI)[1] (Andrews et al. 2004) within a structured consideration[2] of risk of serious harm. This dataset contains assessment information on prisoners conducted between 2011 and 2017, of which 766 were subject to an extended sentence and 85 an OLR.

The breadth of information captured by the LSCMI which is applied routinely by criminal justice social workers gives a valuable and different perspective, and potential for further research. However, it is important to acknowledge the limitations of these data. The assessment system was introduced in 2011, five years after the introduction of the OLR sentence. As mentioned, the dataset contains assessments of 85 OLRs conducted since 2011, and, as such, provides a proportion but not the full cohort. Furthermore, this is 'real world' rather than research data, and as such it has inherent limitations. Nevertheless, it provides the first opportunity to compare the characteristics of those subject to an OLR and those serving other 'less exceptional' custodial and community sentences. However, we present the preliminary findings of a comparison between those serving an extended sentence and those subject to an OLR. The extended sentence is chosen for comparison as it is the closest in nature

to the OLR as it is intended for use when the period of supervision on licence, to which a person would otherwise be subject, would not be adequate to protect the public from serious harm. While the differences between those subject to OLRs and those subject to extended sentences can be expected to be less defined than with the more general population data available, we feel that this is a more legitimate and exacting comparison.

Across the sample, LSCMI scores ranged from 3 to 43. Those with an OLR were found to obtain a higher LSCMI scored than those with an extended sentence: the mean LSCMI score for those with an extended sentence was 20.62 (SD = 8.120); while the mean for OLRs was 25.07 (SD = 8.202). A risk/need score of 20–29 is considered to represent a high level of risk/needs. Of the OLR cases, the majority were rated on the LSCMI as either 'high' or 'very high' risk/need, with 32.9 per cent (n = 28) 'very high' and 43.5 per cent (n = 37) 'high'. In comparison only 15.1 per cent (n = 116) of those with an extended sentence were rated as 'very high' risk/need.

The LSCMI first reviews the well-established correlates of recidivism: criminal history; antisocial pattern, peers and attitudes; education and employment; family; alcohol and drugs; and leisure. The OLR cohort obtained a significantly higher mean score on most of those risk/need domains ($p < .05$), with the exceptions being attitudes, alcohol and drugs, and leisure. Small correlations were found between the domains of criminal history ($r = .144$, $p < .01$) and family ($r = .142$, $p < .01$), with the strongest correlation being with antisocial pattern ($r = .239$, $p < .01$). The antisocial pattern domain merits particular attention as it represents a distillation of all other domains in section 1 except alcohol and drugs, and provides a non-clinical means of identifying aspects of antisocial personality.

While these findings suggest small distinctions between the two groups, this is only an overview of the broad factors that predispose towards further offending. It does not explore the pattern of behaviour that would be expected to identify the OLR. Thereafter, the LSCMI reviews specific risk/need factors and explores both the history of perpe-

tration and problems with criminogenic potential that may have a particular bearing on the management of violence.

First, examining the nature and number of *types* of offences committed by each group allows for a consideration of criminal diversity or versatility, informing an initial understanding of the pattern, nature and seriousness of offending. Of particular note, OLR offenders were more likely than those with extended sentences (n = 760, due to missing data in 6 cases) to have a history of *both* sexual and violent offending (X^2 = 18.564, df = 2, p = < .001) (Chart 5.3).

The mean number of types of violent offences distinguished the two groups, with a mild correlation (r = .185, p = <.001); the correlation was minimal with sexual offence types (r = .085, p < .05) and other offence types (r = .110, p = .001) (Chart 5.4).

Considering the median number of sexual and violent (0 and 2, respectively) offence types, Chart 5.5 shows that in terms of both sexual and violent offending, more OLR offenders than those with extended sentences have a history of perpetrating a greater than 'typical' number of offence types.

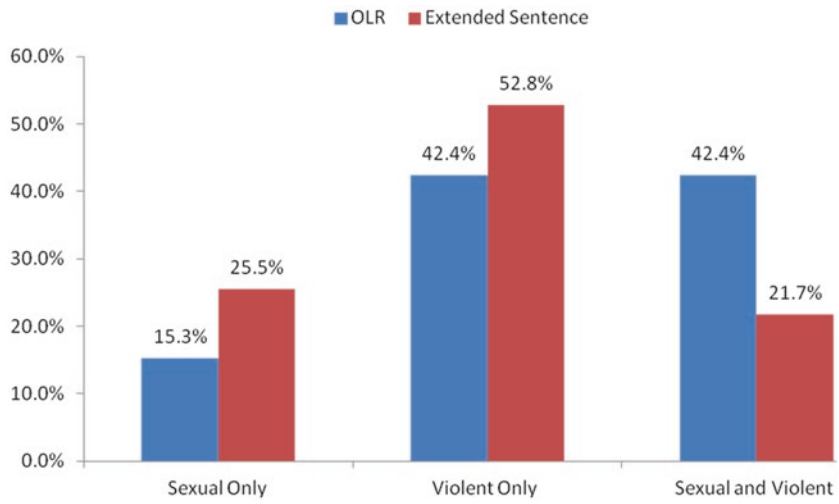

Chart 5.3 Nature of offending

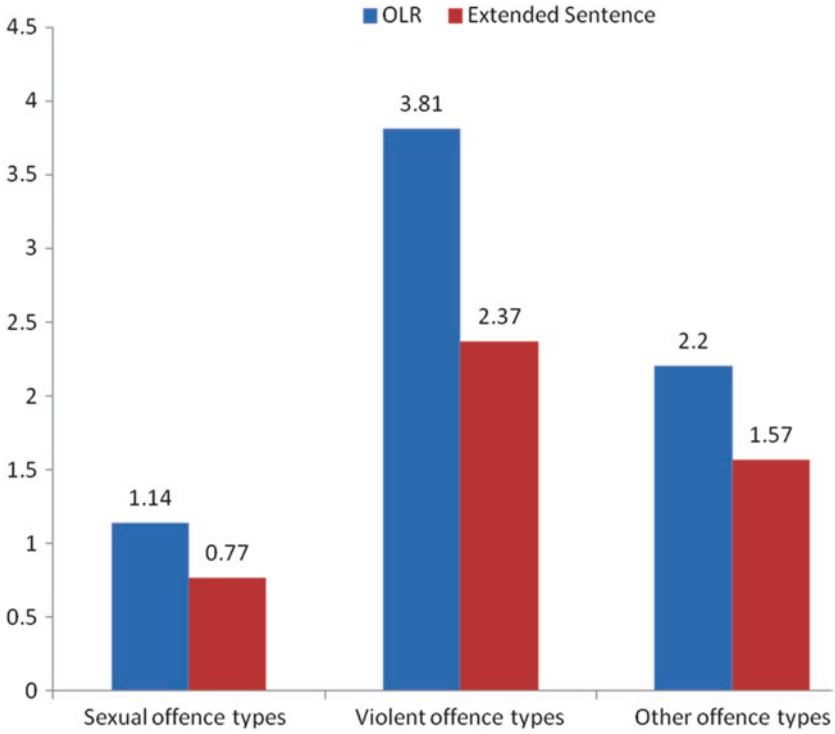

Chart 5.4 Mean number of offence types

6 Characteristics

The above findings suggest a *somewhat* elevated profile for OLR offenders in terms of risk/need levels and diversity of offending. However, to define the OLR, there is a need to identify characteristics, traits and behaviours that indicate long-term, enduring problems. Chi square analyses were conducted to examine the relationship between sentence type and a range of LSCMI items. A difference between those offenders with an OLR and those with an extended sentence was found on a range of items. For example, it was found that OLR offenders were more likely to be identified as requiring a specialised assessment for antisocial personality; to have evidence of early and diverse antisocial behaviour which includes severe adjustment problems in childhood, being arrested under the age of

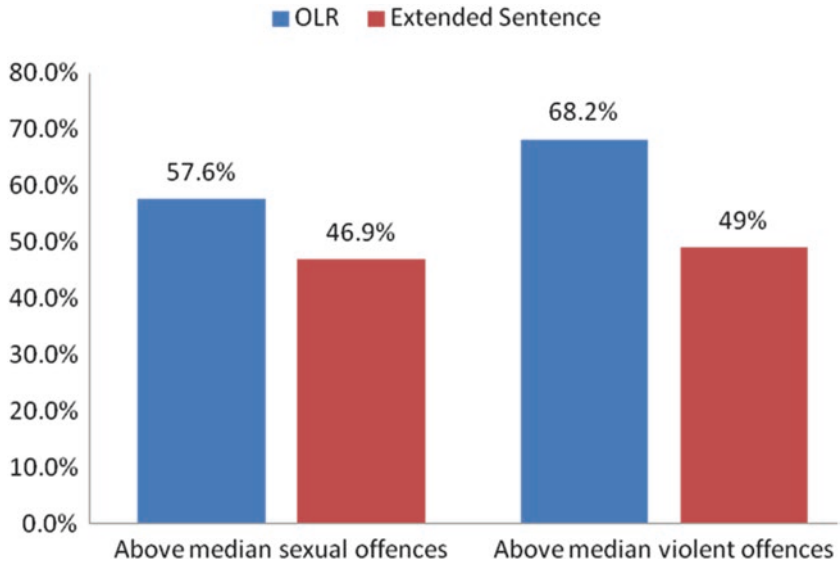

Chart 5.5 Above the median—sexual and violent offence types

sixteen and breaching a prior community licence or order; and to have a generalised pattern of trouble in a variety of life areas. Reviewing more detailed criminogenic factors, social history variables and responsivity issues reveals further indicators: diagnoses of psychopathy and personality disorder, issues of impulsivity, anger, poor interpersonal skills and intimidating and controlling behaviour all occur more frequently in the OLR group, as do suicide and self-harm and, in particular, being a victim of family violence. In terms of previous and current prison experience, it was found that those offenders with OLRs were more likely to have had previous prison sentences with post-release supervision; to have been detained as a young person; to have a history of absconding; and to have been sanctioned for serious misconduct reports.

However, despite a statistically significant difference in the frequency, for many of the items there was minimal correlation. Table 5.2 shows those factors that were at least mildly related to OLR status. It is noteworthy that the stronger correlations[3] capture the constructs of antisocial personality and/or psychopathy, resonating with the aforementioned

analyses (unpublished RMA data; Ahmet 2016), despite the data being drawn from a different source and assessment method. Those issues in themselves suggest persistent, pervasive and problematic behaviours; however, our aim here is to *describe* rather than categorise, so consideration of further variables that help to explain the presentation is helpful.

The above items describe early adversity and onset of adjustment/conduct issues, which endure into adulthood in terms of lifestyle, behaviours and manageability issues, and resonate with the social factors identified by Moffitt and Caspi (2001) as being related to life-course persistent offending. An aggregation of those items (selecting one of those that represents antisocial personality/pattern) produces a modest–strong correlation with OLR status (r = .34). Recognising the low base rate of OLRs, receiver operating characteristic (ROC) analysis produces an area under the curve (AUC) of .79, suggesting that this constellation of factors is predictive of OLR status.

Table 5.2 Correlations between selected LSCMI items and OLR status

LSCMI items	Correlation *r*
Section 1: General risk/need factors: antisocial pattern	
Specialised assessment for antisocial pattern indicated	.42***
Early and diverse antisocial behaviour	.16***
Pattern of generalised trouble	.11***
Section 2.1: Specific risk/need factors and problems with criminogenic/violence potential	
Psychopathy	.38***
Personality disorder	.39***
Anger management deficits	.12***
Intimidating/controlling	.25***
Poor interpersonal skills	.21***
Section 3.1: History of imprisonment	
Prior custody with post-release supervision	.13***
History of detention as a child	.10**
Serious conduct problems in prison	.14***
Section 4: Other client issues	
Victim of family violence	.20***
Section 5: Responsivity issues	
Psychopathy/personality disorder	.42***
Total of above items	.34***

**$p < .01$; ***$p < .001$

With further research there is the potential to formulate a typology of the OLR that may assist in various aspects of implementing and evaluating the current policy in Scotland. In the meantime, the above findings suggest a number of aspects of risk in which there appear to be distinctions between the OLR and the extended sentence.

7 Discussion

The OLR is intended to be an exceptional measure, with a number of distinctive features that are designed to encourage appropriateness in its application and have the capacity to mitigate the human rights issues associated with indeterminate sentences and preventive detention (McSherry and Keyzer 2010). Practice, since the introduction of OLRs in 2006, appears to have met expectations in terms of replacing the Discretionary Life Sentence in Scotland, while avoiding the net-widening effect that resulted from similar legislation in England and Wales. There is strong commitment in Scotland to ensure that the sentence is applied with due attention to proportionality; that practitioners with the necessary competencies prepare Risk Assessment Reports; and that risk management of those subject to OLRs is individualised and balanced.

However, this does not justify complacency: some refinement in the OLR's application has occurred over time, which may provide insights into the potential for reform. In 2014, in *Ferguson v. HM Advocate*, the High Court of Justiciary, sitting as the Court of Appeal (the Appeal Court), delivered a number of useful opinions that provide guidance on sentencing and may have been influential in the shift in numbers sentenced to OLRs. The Appeal Court considered potential ambiguities in the risk criteria set out in section 210E of the 1995 Act, in particular the terms 'likelihood' and 'at liberty':

> What the judge must therefore determine before making an OLR is that it is likely (in the sense of more likely than not) that, were the offender to have been sentenced otherwise than by the imposition of an OLR, he would seriously endanger the public once at liberty (95).

Importantly, this judgement captures a concept from the original policy that is not explicit in the wording of the 'risk criteria': that is, the need for 'concerted lifelong efforts' to manage risk; and, in the absence of such efforts, serious endangerment of others is more likely than not. The Appeal Court clarified this further by explaining that the potential for change should be considered:

> Where the offender is a young man or one whose actions on the particular occasion did not appear to be prompted by his underlying personality traits but by the ingestion of drink or drugs, the prospect of change over time as a result of maturity or rehabilitation measures would render it unlikely that a judge could reasonably consider that the statutory criteria were met (para 107).

It seems reasonable to conclude that the above judicial opinion may have prompted the general reduction in the number of OLRs, and specifically those imposed on young people.

In 2013, the RMA revised the Standards and Guidelines for Risk Assessment through refinement of the risk definitions of 'high', 'medium' and 'low' to which the assessor is required to have regard (RMA 2013a; see www.rmascotland.gov.uk). This was undertaken on the basis of learning from the application of the previous definitions published in 2006 in an effort to ensure that the precise nature of the OLR was conveyed. This revision may have had an indirect impact, too, as it influences assessor practice, and the rationale for the change in the definitions was acknowledged in *Ferguson v. HM Advocate* ([para 24] and [para 103]).

7.1 Young People

Amid their cautious endorsement of aspects of the Scottish policy in 2010, McSherry and Keyzer raised a concern that the OLR may disadvantage young people. The original policy proposal that the sentence should be 'available for any high risk offender regardless of age' disguises an array of complex professional and ethical issues (Johnstone 2011), and has been a consistent area of concern among stakeholders. The United Nations Convention on the Rights of the Child (1991) requires that legislation, policy and practice that may impact on children clearly

attend to the issues associated with age, and that the best interests of the child are a primary consideration. These principles have been elaborated by the Council of Europe, whose recommendations reinforce the fundamental principle that deprivation of liberty should be avoided wherever possible, should be a last resort and should be for the minimum feasible period of time (Hammarberg 2008). Evidence-based risk assessment and intervention are identified as means by which these principles may be promoted (Dunkel 2009).

The OLR is an exceptional deprivation of liberty without provision for review of the sentence and involves the potential for indeterminate and repeated incarceration. An appropriate candidate for the OLR is an individual with a pattern of behaviour that suggests the need for 'concerted lifelong efforts' to manage the risk of life-endangering harm posed to the public at large. However, there are profound challenges associated with accurately distinguishing between young people who do pose such a level of risk and those who do not. The uncertainty inherent in any estimate of long-term risk is compounded by various developmental influences associated with adolescence and maturation. It is acknowledged that early concerns about the application of the OLR to young people have been tempered by recent sentencing. However, it is suggested here that, in order fully to embrace the principles of the Convention on the Rights of the Child, a review of the original policy might usefully consider the incorporation of a 'presumption against' consideration of the OLR for offenders under the age of twenty-one.

7.2 A Pattern of Behaviour

The legislation provides for a punishment part that is commensurate with the index offence, while allowing for lifelong risk management due to evidence of a 'pattern of behaviour'. Exploring the onset, frequency and duration of offending should be a core aspect of all risk assessment;[4] however, the consideration is more challenging in relation to the OLR, where the question is whether an index offence which, in itself, is of a less serious nature forms part of a pattern of behaviour that indicates enduring risk of serious harm. In undertaking a risk assessment and seeking to

explore the presence of a 'pattern of behaviour', the assessor may consider information that has not been proven in court, but must undertake a number of steps in the use and presentation of such allegation information, demonstrating the extent of influence on the opinion on risk. In these aspects of the legislative provisions there lie the more contentious features of the sentence: someone may be sentenced based on what they *may* do, informed by what they may or may not have done. The intent behind allowing less serious index offences to be regarded as parts of a pattern of behaviour is laid out in the policy documents and is rational in terms of risk and prevention. Imagine an individual who has a history of gaining access to victims through housebreaking, robbing and raping them; in such a case a future episode of housebreaking may be considered part of a pattern of behaviour for the purposes of the risk criteria. Unless applied carefully, excessive use of the OLR could result, with the challenge lying in identifying the index offence as an antecedent to a pattern of behaviour that results in life-endangering harm.

This matter has been informed by an Appeal Court judgement in the case of *Kinloch and Quinn v. HM Advocate* in October 2015 (case information at the end of the References):

> The language of the legislation is clear in requiring not only that there be a serious risk posed by the offender but also a link between the offence and that risk. If there is no such link, the risk criteria cannot be satisfied, irrespective of the general level of risk posed by the offender in terms of the RAR.

> The risks of repeat offending by these appellants do not flow from the offence, but from their general recidivist tendencies. The problem with this, in terms of the statutory criteria, is that, whilst both appellants have significant records, it is not possible to fit this offence into a pattern of behaviour within the scope of the risk criteria. The offence is not similar to those in the appellants' records, other than in the most general of terms (27–28) - paragraphs.

Mr Kinloch had accumulated convictions for weapon possession and a single conviction for using one of those weapons. Mr Quinn had a serious record involving violence, but it was limited and linked to domestic

circumstances. The noted prior offending for both individuals was not linked to the index offence which occurred in prison and involved threatening another prisoner with a weapon and holding him captive in a cell. This offence was motivated to engineer a move to another prison for both prisoners. Therefore, it had a specific purpose and so was not part of a pattern of offending.

The extent of this judgement's impact on sentencing remains to be seen, but its importance is clear: the policy intent was precisely to allow for the identification of an offence that indicated a specific pattern of behaviour that presented life-endangering risk to the public at large. An alternative interpretation may easily lead to net-widening and human rights concerns.

There are also practical ramifications and human rights implications associated with shorter punishment parts that equate to less than two years. By dint of being made subject to an OLR, it should be concluded that concerted lifelong efforts are required to manage risk; however, an individual should have the opportunity to demonstrate the capacity to reduce risk prior to being eligible for release by the Parole Board. The complexity of risks and needs associated with an OLR cannot be reasonably expected to be addressed in a short time frame; however, the Scottish Prison Service generally regards those serving sentences of less than four years as short term prisoners.

7.3 Lifelong Risk Management

A defining feature of the Scottish policy is the focus on risk as defined by the policy intent embraced in the legislative risk criteria, as opposed to less tangible constructs, such as 'dangerousness', or tangential ones, such as psychopathology. However, there are two fundamental 'risk' uncertainties that underpin the imposition of an Order for Lifelong Restriction and cannot be avoided in any objective review. First, notwithstanding a progressively evolving evidence base, and the setting of rigorous standards for the competencies and methods of risk assessment, risk is by definition an uncertain entity, and individualised assessment of long-term risk is an inexact, if not immature, science.

Furthermore, and very importantly, there is the potential for change. It could be argued that if an OLR is applied appropriately, the potential for change may be unlikely, slight or at best very gradual—and this appears to be borne out in reality. At the time of writing, the Parole Board had released two OLR offenders into the community, while a number of others had progressed through the prison regime, reaching the point where they could be tested in less secure conditions. However, the motivation to achieve and advance such progress may be hampered by a sense of hopelessness if the outcome for the individual or the agencies involved remains lifelong risk management. The importance of hope has been raised in the context of the European Court of Human Rights' consideration of 'whole-life sentences'. There is no direct parallel between an OLR and a 'whole-life sentence': OLRs are subject to review by the Parole Board of Scotland, and rehabilitation and release are legitimate goals. Nevertheless, the concept of hope matters in the context of the OLR, because, in the event of release, there remains the prospect of the released prisoner being subject to a risk management plan for life, even though the Parole Board will have reached the conclusion, having had regard to the risk management plan, that the risk to the public no longer warrants continued imprisonment.

At present, on release, the OLR will progress as a mandatory life sentence, with life licence from which the supervision element may be removed after ten years of successful reintegration in the community. An important distinction between the OLR and the mandatory life sentence is that the latter is imposed on the basis of the seriousness of the index offence, while the OLR is imposed on the basis of risk. However, the legislation requires that a risk management plan is implemented and monitored annually by the RMA. While this risk management plan will be an important means to promote reintegration in the years following release, it should be considered that it may be counterproductive to the promotion of reintegration over time.

Furthermore, the accumulating resource demand and administration of risk management plans over coming years and decades merit consideration. The resource-intensive nature of the risk management plan's preparation, implementation and annual review is justified by the seriousness of the sentence, and by the balancing of public protection and individual liberty. However, projecting into the future, one can envisage a position

with numerous ex-OLR prisoners in the community, with some requiring active plans that focus on safe reintegration, and a gradually growing number that impose an administrative burden on vital resources.

Over and above those pragmatic issues sit more normative considerations. The values and ethos that underpinned the original policy rose above categorisations of dangerousness or mental disorder and were based on the concept of risk Darjee and Crichton (2002). Any risk-based policy has to embrace the uncertain and changing nature of risk and the dynamic nature of risk was acknowledged by the MacLean Committee. The RMA (2013b) also acknowledges this point and accordingly promotes practice standards that require plans to be prepared in such a way as to be alert to and capable of responding to positive or negative change. However, in the current legislative provision, the *response to positive change* in risk is dynamic to only a limited degree: sufficient reduction in risk may lead to release on licence, but lifelong risk management will remain. It is suggested, therefore, that consideration is given to the introduction of a review mechanism that would allow the High Court to revoke the OLR at a suitable point in time. The Committee of Ministers' (2000) Recommendation to Member States on Improving the Implementation of European Rules on Community Sanctions and Measures endorses such reform by suggesting that indefinite community supervision should be subject to review. A useful point of reference is the Sexual Offences Act 2003 (Remedial) (Scotland) Order 2010. This order introduced mechanisms for reviewing lifelong notification requirements in light of a Supreme Court ruling in England and Wales and a similar pending challenge in Scotland that lifelong notification without recourse to review infringed individual rights. Similar challenges in terms of the OLR may be anticipated, but in the interim a bizarre scenario might eventuate: an OLR subject with a history of sexual offending is released by the Parole Board; ten years later he is no longer required to present for supervision due to successful reintegration; and after fifteen years he is no longer subject to notification requirements. As such, he is no longer within the remit of the MAPPA arrangements, but is still subject to a risk management plan. Such pragmatic and operational considerations are important, but, returning to principles and the uncertainties of risk, a review mechanism would provide a vital and currently missing recourse for offenders who were consid-

ered on the balance of probabilities to meet the risk criteria at the point of sentencing but have since demonstrated that they have effectively reduced that risk over a reasonable period of time in the community.

It is suggested that the incorporation of a review mechanism may be accomplished without undermining the original policy intent and would demonstrate proactive consideration of human rights—essentially the Order for Lifelong Restriction would become an Order (with the Potential) for Lifelong Restriction. The precise arrangements for such a mechanism require further deliberation, but it is likely that it would be considered necessary for a submission by the lead authority (local authority) to the High Court, supported by a revised risk assessment.

8 Conclusions

There are strong indications that the Scottish policy, its legislative provisions and implementation have manifested in the broadly intended manner since 2006. The OLR has avoided the negative developments envisaged by McSherry and Keyzer (2010), while largely meeting, if not exceeding, the recommendations of the Committee of Ministers (2014). However, while such measures may be considered constitutional, indeterminate sentences involve serious deprivation of liberty and should be reviewed continually through the lens of international human rights law (Keyzer and McSherry 2015). There is no room for complacency when scope for reform and improvement is indicated. The recommendations of this chapter for a presumption against consideration of young people under the age of twenty-one and the incorporation of a review mechanism signal potential for such reform.

Notes

1. The LSCMI addresses the main risk/need factors associated with offending; specific criminogenic needs relevant to violent offending; history of perpetration; prison experience; a range of social, welfare, health and victimisation issues; and responsivity issues.

2. Risk Management Authority (2011) proposes a structured risk assessment process incorporating identification, analysis, evaluation and communication.
3. Andrews et al. (2011) and Hemphill (2003) provide guidelines for the interpretation of the magnitude of a correlation, acknowledging that the values set by Cohen (1988) occur infrequently in psychological research.
4. Risk Management Authority (2011) proposes that the assessment and evaluation of risk should consider the pattern, nature, seriousness and likelihood of further offending.

References

Ahmet, A. (2016). *The Order for Lifelong Restriction (OLR): Are Those Subject to the Sentence a Unique Set of Offenders?* Unpublished M.Sc. Thesis, Glasgow Caledonian University.

Andrews, D. A., Bonta, J., & Wormith, S. (2004). *The Level of Service Case Management Inventory (LS/CMI)*. Toronto: Multi-Health Systems.

Andrews, D. A., Guzzo, L., Raynor, P., Rowe, R. C., Rettinger, L. J., Brews, A., & Wormith, J. S. (2011). Are the Major Risk/Need Factors Predictive of Both Female and Male Reoffending? A Test with the Eight Domains of the Level of Service/Case Management Inventory. *International Journal of Offender Therapy and Comparative Criminology, 56*(1), 113–133. https://doi.org/10.1177/0306624X10395716. Epub 2011 Feb 13.

Ashworth, A., & Zedner, L. (2014). *Preventive Justice* (Oxford Monographs on Criminal Law and Justice). Oxford: Oxford University Press.

Cohen, J. (1988). *Statistical Power Analysis for the Behavioral Sciences* (2nd ed.). Hillsdale: Lawrence Erlbaum Associates Publishers.

Darjee, R., & Crichton, J. (2002). The MacLean Committee: Scotland's Answer to the 'Dangerous People with Severe Personality Disorder' Proposals? *Psychiatric Bulletin, 26*(1), 6–8. https://doi.org/10.1192/pb.26.1.6. Available at: http://pb.rcpsych.org/content/26/1/6. Accessed 5 Apr 2017.

Darjee, R., & Russell, K. (2011). The Assessment and Sentencing of High-risk Offenders in Scotland. In B. McSherry & P. Keyzer (Eds.), *Dangerous People: Policy, Prediction, and Practice* (pp. 217–232). London: Routledge.

Dunkel, F. (2009). Young People's Rights: The Role of the Council of Europe in Reforming Juvenile Justice. In J. Junger Tas & F. Dunkel (Eds.), *Reforming Juvenile Justice* (pp. 33–44). New York: Springer.

Freiberg, A. (2000). Guerrillas in Our Midst? Judicial Responses to Governing the Dangerous. In M. Brown & J. Pratt (Eds.), *Dangerous Offenders: Punishment and Social Order* (pp. 51–70). London: Routledge.

Fyfe, I., & Gailey, Y. (2011). The Scottish Approach to High Risk Offenders: Early Answers and Further Questions. In B. McSherry & P. Keyzer (Eds.), *Dangerous People: Policy, Prediction, and Practice* (pp. 201–216). London: Routledge.

Hammarberg, T. (2008). A Juvenile Justice Approach Built on Human Rights Principles. *Youth Justice, 8*(3), 193–196. https://doi.org/10.1177/1473225408096459.

Hare, R. D. (1991). *The Hare Psychopathy Checklist—Revised*. Toronto: Multi-Health Systems.

Hebenton, B., & Seddon, T. (2009). From Dangerousness to Precaution: Managing Sexual and Violent Offenders in an Insecure and Uncertain Age. *British Journal of Criminology, 49*, 343–362. https://doi.org/10.1093/bjc/azn085.

Hemphill, J. F. (2003). Interpreting the Magnitudes of Correlation Coefficients. *American Psychologist, 58*(1), 78–80. https://www.ncbi.nlm.nih.gov/pubmed/12674822.

Johnstone, L. (2011). Assessing and Managing Violent Youth: Implications for Sentencing. In B. McSherry & P. Keyzer (Eds.), *Dangerous People: Policy, Prediction, and Practice* (pp. 122–146). London: Routledge.

Keyzer, P., & McSherry, R. (2015). The Preventive Detention of Sex Offenders: Law and Practice. *University of New South Wales Law Journal, 38*(2.) Available at: http://www.austlii.edu.au/au/journals/UNSWLawJl/2015/28.html. Accessed 12 Jan 2017.

McNeill, F., & Whyte, B. (2007). *Reducing Re-offending: Community Justice and Social Work in Scotland*. Cullompton: Willan Press.

McSherry, B. (2014). *Managing Fear: The Law and Ethics of Preventive Detention and Risk Assessment*. London: Routledge.

McSherry, B., & Keyzer, P. (2010). *Sex Offenders and Preventative Detention: Politics, Policy and Practice*. Annandale: Federation Press.

Moffitt, T. E., & Caspi, A. (2001). Childhood Predictors Differentiate Life-course Persistent and Adolescence-limited Antisocial Pathways among Males and Females. *Developmental Psychopathology, 13*(2), 355–375. https://www.ncbi.nlm.nih.gov/pubmed/11393651.

Padfield, N. (2010). *The Sentencing, Management and Treatment of 'Dangerous' Offenders. European Committee on Crime Problems (PC-CP [2010] 10 rev 5).* Available at: http://www.coe.int/t/dghl/standardsetting/cdpc/PC-GR-DD/PC-CP(2010)

Risk Management Authority. (2011). *A Framework for Risk Assessment, Management and Evaluation (FRAME)*. Paisley: RMA. Available at: http://www.rmascotland.gov.uk/files/5713/0943/0052/FRAME_Policy_Paper_-_July_2011.pdf. Accessed 5 Apr 5 2017.
Risk Management Authority. (2013a). *Standards and Guidelines for Risk Assessment*. Paisley: RMA. Available at: http://www.rmascotland.gov.uk/standardsandguidelines/. Accessed 5 Apr 2017.
Risk Management Authority. (2013b). *Standards and Guidelines for Risk Management*. Paisley: RMA. Available at: http://www.rmascotland.gov.uk/standardsandguidelines/. Accessed 5 Apr 2017.
Risk Management Authority. (2016). unpublished data.
Scottish Executive. (2000). *Report of the Committee on Serious Violent and Sexual Offenders*. Chairman: Lord MacLean. Edinburgh: Scottish Executive. Available at: http://content.iriss.org.uk/throughcare/files/pdf/longterm/lt4_risk2.pdf. Accessed 5 Apr 2017.
Scottish Executive. (2001). *Criminal Justice: Serious Violent and Sexual Offenders* (White Paper). Edinburgh: Scottish Executive.

Legislation

Criminal Procedure (Scotland) Act 1995
Criminal Justice (Scotland) Act 2003

International Instruments

European Convention on Human Rights and Fundamental Freedoms
Recommendation CM/Rec (2014) 3 of the Committee of Ministers to Member States Concerning Dangerous Offenders (Adopted by the Committee of Ministers on 19 February 2014)
Recommendation Rec (2000) 22 of the Committee of Ministers to Member States on Improving the Implementation of European Rules on Community Sanctions and Measures
Recommendation CM/Rec (2008) 11 of the Committee of Ministers to Member States on the European Rules for Juvenile Offenders Subject to Sanctions or Measures

United Nations Convention on the Rights of the Child (1991)
United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)

Cases

(1) *Morris Petch* & (2) *Robert Foye v. Her Majesty's Advocate* [2010] HCJAC 2
(1) *James Ferguson*; (2) *Stuart Cameron*; (3) *Bruce James Balfour* & (4) *Thomas Nolan v. Her Majesty's Advocate* [2014] HCJAC 19
(1) *Andrew Kinloch* & (2) *James Quinn v. Her Majesty's Advocate* [2015] HCJAC 102
Sean Barry Moynihan v. Her Majesty's Advocate [2016] HCJAC 85
Myles Gibson Simpson v. Her Majesty's Advocate [2015] HCJAC 20

6

Panic or Placebo? Enterprise in the Construction of Risk and Fear of the Child Sexual Offender

Andy Williams

1 Introduction

Since the 2012 revelations of Jimmy Savile's alleged sexual offending,[1] the UK has been subject to a heightened period of concern over sexual offending in society. Problems that have been identified range from the continued prevalence of child sexual offending (McCartan 2014), historical cases of abuse and institutional abuse (McAlinden 2006, 2012; Salter 2014), child sexual exploitation (Jay 2014), online grooming of children for sexual purposes (Martellozzo 2013; McAlister 2014), the sexual abuse of children by politicians and other powerful people (Danczuk and Baker 2014), sextortion (Massey 2016) and sex trafficking (Manian and McCabe 2010). The latest issue to hit the headlines is the historical abuse of children by football coaches and scouts (Dodd 2016). At the time of writing, there seemed to be reports of new cases every week, uncovering more and more evidence of the magnitude of sexual

A. Williams (✉)
University of Portsmouth, Portsmouth, UK

K. McCartan, H. Kemshall (eds.), *Contemporary Sex Offender Risk Management, Volume I*, Palgrave Studies in Risk, Crime and Society,
https://doi.org/10.1007/978-3-319-63567-5_6

offending within society. As a result, there has been widespread condemnation of individuals who prey on children, the vulnerable and the elderly.

This, in itself, is not new. Most Western democracies have faced periods over the last 120 years when fears over sexual offending, and specifically child sexual offending, have come to the forefront of public concern after being identified and disseminated (sometimes even 'sensationalised') by politicians, social control agencies, charities and other interest groups (Jenkins 1998). With the help of the mass media disseminating the concerns of these moral entrepreneurs (Becker 1963), examples of 'horror' stories around some of the more extreme forms of sexual offending dominate the news. If you then add websites, hashtags, social media sites such as Facebook and Twitter, and charities' and interest groups' blogs, you will easily reach a million-plus references to child sexual offending.

While many of these organisations undertake important work with both offenders and victims and raise awareness of sexual offending within society, an 'unintended consequence' of their activity appears to be growing fear that has left society unwilling to respond to the problem with anything other than increased punitiveness and surveillance (Wacquant 2009). The societal response towards sexual offenders, especially child sexual offenders, is both emotive and full of rhetoric, with many authors suggesting that the child sexual offender is 'disposable or unredeemable' (Wilson and Prescott 2014: 14). Current research often suggests that fears and concerns have influenced the creation of a whole raft of legislation and social policy aimed at combating recidivism within the sexual offender population (e.g. Levenson and Cotter 2005; Robbers 2009; Hynes 2013; Williams and Nash 2014). Indeed, it appears as if the child sexual offender has become the modern-day *homo sacer* (Agamben 1998): an accursed, depoliticised figure that is exempt from the normal protections of the state.

This chapter considers several issues related to the social construction of the sex offender. Focusing, for the most part, on child sexual offenders, it looks at how various social constructions have fed numerous discourses on crime, fear and risk. It critically explores the framing (Goffman 1986) of child sexual offending by providing a historical overview of the paedophile 'panic' and comparing the USA with the UK. In doing so, it casts a critical eye on one particular area of the topic by questioning the framing of child

sexual offending as a moral panic. The moral panic paradigm produces an overly simplistic causal argument that fear and concern driven by the media leads governments to create populist criminal justice policy. It is argued that the mass media does play a small role in the construction of information regarding sex offenders, with cues taken from professional moral entrepreneurs who are the key constructors with respect to how child sexual offenders are viewed. The final section introduces online child sexual offending to illustrate how fears of online groomers do not necessarily correlate to the actual risks of becoming a victim. It also shows how these fears have created a 'policing vacuum', part of which is currently filled by cyber-activists.

2 The Risk and Fear of Crime Connection

Before discussing the link between the social constructions of the child sex offender and the resultant fear generated within the public, it is pertinent to outline the context within which these fears germinate. These issues sit within the broader framework of risk, neoliberal penality and fear of crime. The issues of risk and fear of crime have been well documented across many topics (see, for example, Hope and Sparks 2000; Stenson and Sullivan 2001; Hudson 2003; O'Malley 2010; Harrison 2011; Mythen 2014); however, the concept of risk itself has a long history, dating back to the beginning of the modern form of accountancy, which was established by the Italian mathematician Luca Pacioli in 1494. Since then, risk has become embedded in society, playing an important role in our daily lives. The 1990s heralded what Mythen (2014: 28) calls the 'risk thesis', with postmodernist theorists such as Beck (1992) and Giddens (1990) developing and debating the role of risk. Beck's (1992: 19) basic thesis was that we were becoming a risk society and that this was linked to the production of wealth, increased technological advancements, an increasing population and globalisation. In the *Risk Society*, Beck (1992) suggested that Western cultures have experienced a shift from first modernity (the rise of industrial societies) to second modernity (becoming risk societies). So, while the modern world has created much that is good, these advancements also have 'deleterious side effects' (Mythen 2014: 28) that create the conditions for our own destruction.

The risk thesis has spread to almost all aspects of our lives: from car insurance and health and safety legislation, to diet, exercise and healthy eating advice. More relevant for this chapter, ideas around risk and risk management have certainly become ingrained within criminal justice policy and practice (Kemshall 2003; Nash 2006; Harrison 2011), with areas such as terrorism and security, cyber-security, dangerous offenders and child sexual abuse using risk as a measure calculated to prevent harmful/criminal events. The risk thesis has also influenced the creation of neoliberal policy, which is currently the dominant philosophy within many Western criminal justice systems. Neoliberalism brought about a culture of control that was created through an intricate network of professionals and experts within policing, probation and social work (see Cohen 1985; Garland 2002). This resulted in the governance of crime moving away from a focus on reforming and rehabilitation to one of risk management using predictive behavioural risk assessment tools (Simon 1993; Nash 2006; Harcourt 2007; Wacquant 2009; O'Malley 2010; Harrison 2011). This has been labelled *neoliberal penality*, which Sullivan suggests is 'schizophrenic' (2001: 29), a term used to denote the splitting of the criminal justice system into two halves: deregulation and the alleged need for greater control and criminal justice sanctions (see Sullivan 2001: 43; Simon 2009).

It was within the contexts of risk and neoliberal penality—in all their different jurisdictional forms and control devices—that the *structural conduciveness* (Smelser 1962: 133–146) of fear of certain types of crime and criminals was cemented. Mythen (2014: 37–38) highlights that a culture of fear is simply another manifestation of how we can theorise risk, as it is a perspective that 'seeks to define the prevailing mood of the present age'. The fear of crime thesis, which was introduced in Furedi's *Culture of Fear* (2002), suggests that we are in a permanent state of panic (Thompson and Williams 2014: 4), because risk has become embedded within our everyday lives. Furedi (1997: 4) suggested that being at 'risk has become a permanent condition that exists separately from any particular problem. Risks hover over human beings.' For Furedi, this culture of fear is actively promoted by the state, social control agencies, charities and businesses in order to sell the perfect 'solution' to the general public. In short, fear is big business, and big business is where you find it. In recent years, fears over sexual offending have become very big business indeed.

3 Panic or Placebo?

The fears surrounding sexual offending have often been labelled as a moral panic (Jenkins 1992; Sampson 1994; Kitzinger 1999, 2004; Cohen 2002; Silverman and Wilson 2002; Critcher 2003; Greer 2003; Thomas 2005; McCartan 2014; PROOF 2016; Tartari 2016), despite the epistemological problems with the concept (Thompson and Williams 2014). Moral panic has become 'one of the most successful academic fads in history' (Thompson and Williams 2014: 2), moving beyond its initial discipline of sociology and spreading like a virus across such disciplines as criminology and criminal justice (Nash 1999; Silverman and Wilson 2002; Tonry 2004; Garland 2008), social work (Parton 1985), cybercrime (Akdeniz 1997), feminism (Gelsthorpe 2005), media and media history (Hunt 1997; Greer 2003; Jewkes 2004) and terrorism studies (Lacassagne 2016). Thompson (1989: 1) argued that it quickly became a form of 'sociological shorthand' that is thrown by academics in the hope that at least some of the elements stick to the problem under discussion (Thompson and Williams 2014: 2). Unfortunately, this misuse requires little time or analytical effort on the part of researchers and we clearly see this when it comes to the simplistic cause-and-effect model for child sexual offending: media reporting equals increased fear of child sexual crime, which equals the creation of various pieces of 'draconian' dangerous offender legislation. For a full empirical critical assessment of panic theory, see Thompson and Williams (2014).

Stan Cohen introduced his theory of moral panic, a term first used in Marshall McLuhan's *Understanding Media* (1964: 89), to explain the societal reaction towards the Mods and Rockers youth disturbances in the 1960s. Despite everyone using his opening statement as the 'definition' of a panic, the more pertinent part of his theory was the three-phase, nine-element sequential model that Cohen insisted must be present for a moral panic to exist (Cohen 1972: 11). The first phase—*Media Inventory*—consisted of the exaggeration and distortion, prediction and symbolisation elements. The second phase—*Reaction Phase One*—included the orientation, images and causation elements. Finally, *Reaction Phase Two* comprised the final three elements of sensitisation, societal control and the exploitative culture (Cohen 1972, 2003; see also Williams 2004; Thompson and Williams 2014). To put the theory in simple terms, an event or form of

group behaviour occurs or is identified as being a concern for certain members of society; the event or behaviour is reported within the media in a highly stylised, stereotypical fashion, involving exaggerated and distorted imagery and symbolisation; members of the general public become fearful and concerned as they supposedly gain much of their understanding and opinions of the event or group from the mass media reports; these fears and concerns are then directed towards the government and social control agencies, who have a responsibility to react accordingly; finally, the government 'overreacts' to the situation by creating increased punitive punishment, which is supposed to solve the identified problem. Therefore, a central theme running through Cohen's theory is that our 'social control' reaction to problems is disproportionate to the actual threat.

Since Cohen's original model was published, a number of academics have reduced it to a simple critique of the media in what can be described as 'media inducing disproportionate fear'. For example, the Centre for Contemporary Cultural Studies (CCCS) examined the 'mugging panic' in the 1970s (Hall et al. 1984) and altered the emphasis by suggesting 'that the muggers' *visibility* depended upon the press reports' (Thompson and Williams 2014: 87; original emphasis). Unfortunately, the consequence of the CCCS model was to 'dumb down' Cohen's original theory, miss the point of why old ladies feared black youths mugging them, and turn what should have been a defunct Frankfurt School theoretical paradigm into a call-to-revolutionary-arms thesis (Thompson and Williams 2014: 86–116). Other academics followed suit. For example, in summarising the 1984 'video nasties' panic, Newburn (1992: 183) claimed that the 'campaign had all the classic ingredients of a moral panic', even though these ingredients were 'classic' purely because they were the only ones being used (Thompson and Williams 2014: 3). Next came Goode and Ben-Yehuda's vision of moral panics. They reduced Cohen's nine elements to just five—concern, hostility, consensus, disproportionality and volatility (Goode and Ben-Yehuda 1994: 31–41). Within this model, concern is generated over a given issue, which leads to hostility towards the identified group or form of behaviour, which generates a consensus that the issue is threatening and that something must be done to eradicate the problem. The proposed solutions are disproportionate to the threat as Goode and Ben-Yehuda (1994: 36) suggest that there 'is an implicit assumption in the use of the term moral panic that there is a

sense on the part of many members of the society that a more sizeable number of individuals are engaged in the behaviour in question than actually are'. The final element—volatility—highlights the notion that moral panics can erupt at any moment and subside just as quickly.

It is not possible in this chapter to delve deeply into these three models. As previously mentioned, numerous authors have insisted that the fears surrounding child sexual offending constitute a moral panic (Jenkins 1992; Sampson 1994; Kitzinger 1999, 2004; Cohen 2002; Silverman and Wilson 2002; Critcher 2003; Greer 2003; Thomas 2005; Ost 2009; McCartan 2014; PROOF 2016; Tartari 2016). Many of their claims rest on a number of facts about child sexual offending: first, the public has very little understanding of the actual risk posed by child sexual offenders; second, the public's fear and concerns are usually directed towards the wrong targets, generally strangers, when a majority of child sexual offending is committed by someone known to the victim; third, recidivism rates are lower for this type of offender than average recidivism rates across the general offender population. Hence, many of these authors insist that the recent raft of punitive policies—such as sex offender registration, community notification and non-discretionary or extended/indeterminate sentences—are overkill in light of the actual risk posed by such offenders. Sampson's (1994: 42) excellent text neatly summarises the argument:

> The increase in the number of sexual offences being reported and recorded has created … a 'moral panic'. Media reporting has given the impression that there has been an unprecedented explosion in sexual crime, and that children are increasingly at risk of attack by sexual monsters. This has been supported by politicians anxious to play the law and order card … The result has been significant hardening of sentencing policy towards sexual offenders.

In short, the issues of *disproportionality*, *concern* and *hostility* have become central to practitioner and academic arguments, suggesting a gap between fear of crime and actual risk. By way of illustration, Richards' (2011: 7) sample of over 1.2 million victims found only 11.1 per cent of offenders were strangers (see Table 6.1).

Table 6.1 Victim–offender relationship

Relationship type	% in sample
Male relative (other than father or stepfather)	30.2
Family friend	16.3
Acquaintance or neighbour	15.6
Other known person	15.3
Father or stepfather	13.5
Stranger	11.1
Female relative (other than mother or stepmother)	0.9
Mother or stepmother	0.8
Total	**103.6**[a]

[a]Total equals more than 100 per cent as the sample included repeat victims

This type of data is often used to support the argument that the public places its fears and hostility in the wrong offender 'risk basket'. Unfortunately, there are several problems with these three elements. The first and most troubling element is disproportionality. We are never told how this is supposed to be objectively measured. What criteria should we use to measure whether the fear of a child being raped or sexually assaulted is out of proportion to the likelihood that this will happen? Most studies use recidivism rates as an 'objective' measure, which ignores not only the problems associated with operationalising the construct of recidivism (Maddan 2008; Barry 2017) but also the justice gap problem (Temkin and Krahe 2008), as attrition rates for sexual offending are notoriously high (Kelly et al. 2005). Furthermore, they ignore the contradictory problem that official recidivism rates for child sexual offenders are relatively low, yet at the same time argue that the true extent of child sexual abuse (and general sexual offending) remains largely hidden. Given that known child sexual offences are only a proportion of actual offences, it seems problematic to use recidivism rates as a counter-argument.

The second, related problem is why does any of this matter? Why should we care if the fear of child sexual offending is disproportionate to the statistical risk? Most human beings do not live their lives by statistical risk calculation but by inference (Thomas, cited in Volkart 1951). When Roy Whiting abducted and murdered Sarah Payne in July 2000, the fear and concern generated by the case itself and two subsequent naming-and-shaming reports by the *News of the World* (23 July 2000 and 30 July

2000) prompted a chorus of experts and practitioners to argue that people were overreacting to the wrong risks and threats (Silverman and Wilson 2002; Evans 2003). However, such contentions ignore a number of simple facts:

> Academics and child protection 'experts' who claim that the media emphasis on stranger danger masks the reality of the greater threat to children from within the family are clearly incapable of understanding why abduction–murder stories capture more attention and have greater salience for the majority. As most parents do *not* maltreat or molest their children, strangers *do* represent a greater threat than the family to most children. As most parents also see their primary duty as protecting their children, the statistical chances of abduction are far less meaningful to them than the fact that their children can be snatched like Sarah was within a hundred yards of her grandmother's house. The fear invoked by these random threats reflects that fact that one slip can lead to a lifetime's regret. (Thompson and Williams 2014: 214)

One of the senior investigating officers on the murder investigation (personal communication, November 2009) highlighted that Whiting grabbed Sarah within just eight seconds of her disappearing from the sight of her older brother. Such seemingly random events[2] do not fit well within statistical calculations of risk. By using the term 'moral panics' to describe society's reactions towards child sexual offenders, academics and practitioners are engaging in what amounts to *intellectual snobbery* that is far more reflective of professional agendas and a lack of analytical rigour than it is of the way in which individuals operate in the real world. This has led to a very confusing picture: our reactions are disproportionate to the threat; yet we have no clear idea of what the actual threat is or where it comes from; yet we do know that the threat is real and has long-lasting, damaging effects; yet our punishment and risk management policies are too harsh.

Another important aspect of media-oriented moral panics that should be mentioned is that technology and its use have developed dramatically since the models were introduced. Given the major changes in the delivery of news through new technologies such as the internet and especially social media sites, alongside the fact that the public can widely disseminate news reports regardless of their accuracy, is it not time to rethink the

archaic concept of moral panic? Since the invention of the World Wide Web in 1991 (Van Dijck 2013), the dramatic growth of the internet has undoubtedly been one of the greatest technological achievements in modern history. It has facilitated connecting and speaking to friends, family and colleagues, meeting new people and exchanging a multitude of digital information almost instantaneously. We now have blanket coverage (the 24/7 news media) that is far more reactive and immediate than it has ever been, and there are numerous methods of delivery and dissemination. Whereas previous generations would take time to dissect the stories within a newspaper, the current generation is epitomised by the fast sell: quick, immediate access to news stories and information from an infinite number of sources. Sometimes there is no way to tell where the information comes from, how accurate it is, or indeed whether the facts have been checked.

Moreover, the growth of social media has exacerbated this problem, with members of the public becoming an extended arm of the press. As the Pew Research Center (2017) contends, around seven in ten Americans now use social media to connect with each other, an increase from just one in twenty in 2005. This rapid expansion of social media has impacted upon the issue of public fear surrounding child sexual offenders. For instance, school staff have sometimes warned parents about potential offenders hanging around schools and parks via Facebook and Twitter.[3] Such information is then quickly posted around the network of community users. This rapid and wide dissemination of unsubstantiated claims no doubt heightens sensitivity and increases concerns over such offenders. In light of this, it is perhaps sensible to consider an alternative theoretical framework for understanding the link between risk, fear of crime and sexual offending.

4 Constructions of the Sex Offender: Risk, Fear of Crime and Moral Entrepreneurial Activity

Having outlined the core fears and concerns over child sex offenders, and highlighted why ‘moral panic’ is perhaps not the best theoretical lens through which to analyse such fears, this section examines how the con-

structed image of the sex offender has fed into our fears and resulted in our current punishment and risk management policies. It also posits that the gap between the perceived fear of crime and the actual risk is a consequence not only of media framing but also of the moral entrepreneurial and moral crusading activities of certain professions (Becker 1963; Cohen 1985; Abbott 1988; Holstein and Miller 1993; Best 1995; Rubington and Weinberg 1995; Spector and Kitsuse 2001; Loeske 2003; Loseke and Best 2003; Thompson 1994a, b).

More fruitful than moral panic theory are social problem research and the concept of moral enterprise, for these frameworks allow us to: understand why social problems and issues are identified when they are; what claims are made about the given issue and who makes them (which provides context and understanding of the motivations behind the claims); and how the claims can influence criminal justice policy through networks comprising victims, advocacy groups, professional/practitioner groups and government policy-makers (Rutherford 2006). This process has resulted in two broad approaches (see Jenkins 1992; Best 1995). The *objectivist* stance argues that a phenomenon exists as a 'social fact' (Durkheim 1982) and becomes problematic when it causes harm or disturbs a significant section of society (Jenkins 1992: 1). The problem is not critically examined because a more pragmatic approach to dealing with it is demanded. The *constructionist* approach questions how and why an incident becomes known as a problem and tends to concentrate on identifying the *claimsmakers* and examining the *claimsmaking* process. Figure 6.1 outlines a typical process for such activity.

In this process, the social group typifies the group/societal phenomenon as problematic to promote its own beliefs and values through numerous types of moral entrepreneurial activity (e.g. media campaigns, public events, criminal crusades and so on). These moral entrepreneurs then offer ready-made solutions to the problem that undermine values of the target of their concern. The third stage is to generate 'typical' horror stories, which usually include the consequences of the targeted behaviour and, at the same time, offer estimates of the extent of the threat to society. These imply dire consequences if the entrepreneurs' solution is not adopted, and help to generate fear among sections of public that could be affected by the identified threat. It is usually at this stage that the moral

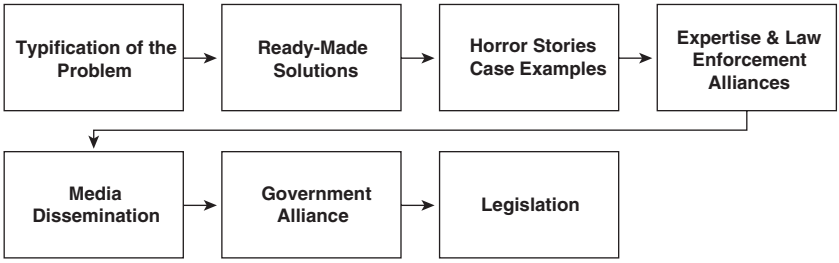

Fig. 6.1 Constructing a social problem (Adapted from Rubington and Weinberg 1995; Best 1995; Jenkins 1998; Spector and Kitsuse 2001)

entrepreneurs present the findings of an 'expert' (either an external academic or someone from their own organisation) and form alliances with law-enforcement agencies to confirm that the threat is real. Press and other media coverage, tabloid TV 'documentaries' and/or sensation-mongering chat-shows are then used to 'educate' the public about this new and dangerous social problem. Finally, the moral entrepreneurs seek allies in local, regional and/or national government to secure a legislative response (e.g. Annetts and Thompson 1992; Thompson 1994a; Best 2001; Williams 2006). By adopting this perspective towards child sex offenders, (contextual) constructionism can highlight some of the main ways in which the 'sex offender' has been constructed as the ultimate folk devil within contemporary society.

In *Moral Panic*, Philip Jenkins (1998) identifies four different periods in the social construction of the sex offender: discovering sex crime (1880s–1930s); the sex psychopath (1930s–1950s); the liberal period (1960s–1970s); and the child abuse revolution (1970s–1990s). Jenkins examines the moral entrepreneurial activity in each of these periods from the perspective of the key groups involved in claimsmaking activities that constructed our modern understanding of sexual offending and the child sex offender. In the first phase, Western societies began to discover sex crime as a social problem. The rising dominance of psychiatry and positive (scientific) criminology (Davie 2005; Rafter 2009; Williams 2015) followed the common ideas that criminality, imbecility and insanity were symptoms of the underlying condition of 'degeneration'. For example, J. Bruce Thomson, who was resident surgeon at the General Prison, wrote an article entitled 'Psychology of Criminals' for the *Journal of Mental*

Health Sciences in 1870, in which he built a bridge between degeneration and criminal anthropology (Davie 2005). These ideas established underlying medical or biological flaws within offenders, including sexual offenders, and suggested that the process of slow decay left them susceptible to 'base' instincts and perversions. New treatment methods were suggested, which led to higher levels of incarceration and medical surveillance (Jenkins 1998; Davie 2005). It was also during this period that the erroneous link between paedophilia and homosexuality began to emerge, and examples were rife within the media. For instance, in 1874 sixteen-year-old Jesse Pomeroy was labelled a 'Boy Fiend'; and in 1912 the press reported that Frank Hickey had been arrested for the sex killing of boys in New York and Massachusetts (Jenkins 1998: 35–37). Meanwhile, the UK was gripped by 'panic' over the Jack the Ripper murders in 1888.

The sexual psychopath phase (1930s–1950s) saw the first 'expert in sex crime'—psychiatrist Frederick Wertham—rise to prominence on the tide of the Albert Fish case. In 1934 Fish was arrested for the murder, mutilation and cannibalism of twelve-year-old Grace Budd. His trial the following year increased public awareness of sexual deviancy and its relationship with horrendous crimes, which was fuelled when Wertham published his case history of Fish (Jenkins 1998). At the end of the next decade, November 1949 was a 'horror week' in the USA: a seventeen-month-old toddler was raped and left to die in California; a seven-year-old was raped and drowned in Idaho; and in Los Angeles a six-year-old was murdered by her grandfather, Fred Stroble, a 'sex fiend' who became a symbol of evil (Jenkins 1998: 54). These three cases helped to generate the public belief that a new breed of criminal had arisen. One of the more powerful moral entrepreneurs at the time was FBI Director J. Edgar Hoover, who heightened the 'sex-maniac' theme in an article entitled 'How Safe Is Your Daughter?' He wrote that the 'most rapidly increasing type of crime is that perpetrated by degenerate sex offenders … depraved human beings more savage than beasts are permitted to rove America at will' (cited in Jenkins 1998: 55–56).

This was an intense period of moral entrepreneurial activity. In *The Sexual Offender and His Offenses*, Karpman (1954) claimed that the sex offender was invariably a sex psychopath and connected sexual deviation to aggressive sexual crime (also see Barnes and Teeter 1960). Of course,

because of the criminal status of homosexuality at the time, this became a serious problem for homosexuals. All of this fed into socially constructed notions of the sex offender and was highly influential in the creation of the United States' sexual psychopathy laws (Sutherland 1950; Grubin and Prentky 1993). On the other hand, some researchers—most famously Alfred Kinsey—did attempt to examine the heterogeneous nature of sexuality. Among other things, Kinsey highlighted that paedophilia, sexual deviance and homosexuality (not causally related) were more prevalent in society then had previously been thought (Kinsey et al. 1948, 1953). His studies also established that children had their own sexuality, and that sexual perversions and child sexual knowledge were far more widespread than society acknowledged (Kinsey et al. 1948; Ernst and Loth 1949).

While Rohloff et al. (2016: 24) claim that 'no researchers supported child abuse', detailed study of the liberal period (1960s–1970s) provides some evidence to the contrary. This was an era of cultural revolution during which the permissive society and more liberal attitudes towards subcultural deviance and sexuality started to emerge (Davies 1975). It also had a major impact upon how we understand the abuse of children. Prior to the 1960s, there were few studies covering child sexual abuse, so we knew very little about its incidence, prevalence or effects on victims. This changed with the publication of Glegg and Mason's *Children in Distress* (1968), which claimed that at least 12 per cent of children needed protection from physical abuse. This book was highly influential in the debate that led to the introduction of the Children and Young Persons Act 1969, and it also led to an increasing awareness of child physical abuse, with more doctors, psychiatrists and social workers reporting cases. Meanwhile, however, several studies were published and conferences held that debunked claims about child abuse. For example, Gagnon and Simon's *Sexual Encounters between Adults and Children* (1970) argued that the 'societal reaction' caused more harm than the abuse itself. Other liberal therapists and academics challenged claims about rape, incest and sexual violence. Constantine's review of 130 literature sources concluded:

> A careful review of the literature on adult–child encounters clearly indicates that immediate negative reactions are minor or completely absent in the majority of cases and significant long-term psychological or social

> impairment is rare, truly remarkable findings considering that most studies have dealt with criminal or clinical samples. (Constantine cited in Cook and Wilson 1979: 505)

This position seems astonishing, given our current understanding of the effects of child sexual abuse, although Constantine rightly highlighted that the level of trauma and impact felt by the victim, as well as their ability to recover, depended on a number of social and psychological variables (e.g. age of victim and offender, victim's previous relationship with offender, social class, type of offence and so on). As this period was dominated by the 'sociology of deviance', with labelling theory pre-eminent (see Lemert 1951; Becker 1963; Wilkins 1964; Scheff 1966; Young 1971), the idea that the societal reaction to sexual offences against children was more detrimental than the crime itself gained credence. For example, in the 1970s a number of well-respected individuals, including Jean-Paul Sartre, Simone de Beauvoir, Michel Foucault and Roland Barthes (as well as Bernard Kouchner and Jack Lang, two heavily influential individuals who later became the French Health Minister and Education Minister respectively), signed petitions calling for the abolition of age-of-consent laws, which would have had the effect of decriminalising paedophilia (Kritzman 1988: 271–285). These ideas and actions were undoubtedly influenced by the emergence of a number of pro-paedophile groups in the 1960s and 1970s. For example, in 1962 the René Guyon Society—which was inspired by Guyon's work (e.g. *Sexual Freedom*, 1949)—was formed with the intention of promoting increased understanding, study and knowledge of adult–child relationships. Similarly, in 1971 the Childhood Sensuality Circle was formed to stimulate public debate on the merits of adult–child relationships (Tate 1990: 151–152; *Guardian*, 24 February 2001). Perhaps the most famous of these groups was the UK's Paedophile Information Exchange (PIE).

The ideas that such groups promoted in the liberal period were too much for some and led directly to the backlash that Jenkins (1998) labels the 'child abuse revolution' (1970s–1990s). For example, the moral crusade Mary Whitehouse and her group the National Viewers and Listeners Association (NVALA) argued that liberal notions would lead to the normalisation of adult–child sexual activity (Whitehouse 1977). The NVALA was already

fearful that the permissive legislation of the 1960s had normalised sex and violence, and its campaigns were central to another intensive period of moral entrepreneurial activity. It was in this era that the child sex offender became a core threat, because moral crusaders and entrepreneurs soon realised that they could gain more public and governmental support if they couched their claims within the 'threatened children' framework (Best 1990; Thompson 1994a). For example, the 1977 Densen–Gerber Conference generated immediate and extensive national media coverage and numerous investigations into the prevalence of child sexual abuse and child pornography, and in the United States laws were proposed and often passed on these issues. The subject of child sexual abuse even made the front cover of *Time*, with an article titled 'Child's Garden of Perversity'. While such claims were obviously hyperbolic, it is important to note that the media clearly followed the entrepreneurs' lead. Another campaign, ABUSE, gathered over one and a half million signatures (Thompson 1994a: 27–29), with enterprising activities linking pornography with children, and the adult film industry with the child pornography industry (Tate 1990).

From the late 1970s until the end of the 1980s, there were numerous moral crusades against sex shops, film content, indecent displays and television programmes (Thompson 1994a). However, it was an academic conference—the Love and Attraction Conference, held at Swansea University in 1977—that generated more concern and controversy than almost anything else. Symposiums with titles such as 'Infant and Childhood Sexuality and Paedophilia' raised more than a few eyebrows, while Fritz Bernard's lecture, 'Paedophilia: The Consequences for the Child', was especially open for attack. The latter boldly asserted that his research had established that children could view sexual contact and relationships with adults as positive experiences, and that any negative effects were likely to be due to society's attitude towards such children and paedophiles (Cook and Wilson 1979: 501). Michel Ingram reached the same conclusion, arguing that counselling should replace prosecution. However, it was the presentation by the PIE's most visible spokesperson, Tom O'Carroll, that caused the most concern. For several years, PIE had posited the idea that 'there should be no age of consent, and that the criminal law should concern itself only with sexual activities to which consent is not given' (O'Carroll 1980: 111). The issue was even debated at the Home Office's Criminal Law Commission, to which the

PIE presented evidence and suggested that 'by the age of four the great majority of children are able to communicate verbally or in an equivalent way' (O'Carroll 1980: 111; see also *PIE*, 1975). O'Carroll was due to speak at the conference until the university's ancillary staff threatened to walk out in protest. Interestingly, the campaign against institutional and political paedophile groups, which has intensified since the death of the alleged child abuser Sir Cyril Smith MP (Danczuk and Baker 2014), has raised concerns about the PIE's membership of the civil rights group the National Council for Civil Liberties (NCCL; now known as Liberty), leading to attacks on Harriet Harman MP and her husband Jack Dromey MP, both of whom worked for the NCCL in the 1970s (Castella and Heyden 2014).

Thompson's (1994a) study of anti-pornography campaigns highlights the unusual alliances that were forged among radical, left-wing feminist groups, fundamental Christian groups, the police and the Conservative government between the end of the 1970s and the 1990s. Many of these alliances targeted pornography. The pressure groups knew from the moment of publication of the Williams Committee's recommendations that the Indecent Display Act and the 'Sexshop' Act (Local Government (Miscellaneous Provisions) Act) 1982 (Thompson 1987) would be insufficient to defeat pornography. The Williams Committee was established in 1977 to review all obscenity laws, ostensibly concetrating on pornography. It's main conclusions effectively decriminalised pornography, which upset the crusaders who soon realised that much more radical legislation was required to address the 'perverse, sadistic, and bestial' in magazines, on video tapes and in the cinema (Thompson, 1994a; CCSA cited in Thompson and Williams 2014: 156–163). The resultant claims regarding 'video nasties' (Thompson and Williams 2014: 146–174) ensured that the Video Recordings Act 1984 introduced pre-censorship to the UK (Thompson 1994a) and enabled a generation of activists to make ridiculous claims about everything from satanic ritual abuse to snuff movies (Richardson et al. 1991; Victor 1993; Thompson 1994a; La Fontaine 1994; Thompson and Williams 2014).

From the preceding discussion it should be clear that while the media plays a role in disseminating claims, it rarely makes claims without the support—or indeed the direct recruitment—of experts, practitioners, law-enforcement agencies and any number of other relevant 'entrepreneurs'. Over the last hundred years, these individuals have taken the lead in con-

structing the sex offending folk devil and framing the problem that the media then disseminates to increase sales. Furthermore, this has become increasingly important in any analysis of societal reactions versus risk, given that many of those who are active in the 'exploitative culture' (Cohen 2002: 115–119) are professionalised moral entrepreneurs, with their own media and research departments (Critcher et al. 2016). Many media outlets are now provided with pre-written (and framed) press releases and soundbites that they subsequently use almost verbatim in their own reporting. Therefore, it is surprising that analysis of this type of framing has not been included in any of the existing research on moral panic. Furthermore, many entrpreneurial groups now have their own research and media teams that disseminate 'homegrown' research which is framed within their organisations' political agenda. This research is often (uncritically) reported by the mass media and this creates a more complex dynamic than advanced by any moral panic theorist. This criticism does not even incorporate the wealth of research on media effects which suggests that the long-discredited magic-bullet theory (Lowery and De Fleur 1988: 21–22), which is implied within moral panic models, fails to consider the wide differences in how media is consumed, how information is assimilated and how this affects the development of attitudes and opinions (Shrum 2002; Gauntlett 2006). As Shrum (2002: 69–95) highlights, research into media consumption and its effect on the perceptions of social reality ignores the cognitive processes that mediate between input variables (media stories) and output variables (attitudes, beliefs and behaviour). In short, we should not assume that an individual who reads a 'horror story' about a certain type of criminal behaviour will passively accept that information and assimilate it in the form of fears and concerns. Unfortunately, in the twenty-first century, we appear to have moved from this type of critical contextual constructionist perspective to an objectivist stance on the subject of child sexual offending.

5 A Game Changer?

The issues outlined above relating to statistical risk versus the public's fear of that risk have recently taken a new direction that has partly changed the context and nature of the child sexual offending risk nexus. As Sheldon and

Howitt (2007: 1) highlight, 'we all know two basic things about the Internet: that it has changed our lives and that crime is rife'. Across the planet, there are billions of people connected to the internet and many of these users are young people (Martellozzo 2013). Technological developments always bring about widespread innovation in crime and how crime activities occur. From online banking and credit fraud to hacking and cyber-terrorism, the internet allows criminality to flourish, and there is no clearer example of this than online child sexual offending. The use of child sexual exploitation material (CSEM; see Rimer 2017), sometimes referred to as child abuse images (CAIs; see Kuhle et al. 2017) and online grooming for sexual purposes have become two of the seminal issues around which the fight against child sexual offending is centred and where the most interesting moral entrepreneurial activity tends to take place.

With the advent of Web 2.0, the internet changed from merely providing spaces for 'networked communication' to become an 'interactive, two-way vehicle [*sic*] for networked sociality' (Van Dijck 2013: 5). This allowed certain child sex offenders to exploit the new technology for nefarious purposes. In 2012, CEOP (the Child Exploitation and Online Protection Centre) estimated that 50,000 people looked at child abuse images in the UK, although only 1562 were arrested for offences relating to viewing, downloading and distribution of such images (Jutte et al. 2014: 7). As with any crime, there is always going to be a 'dark figure' (Coleman and Moynihan 1996), so the estimates will obviously be lower than the actual number of offences. Official rates of online child sexual offending (OCSO) have increased over the last ten years, but this rise should not be associated with any increase in the number of crimes committed; rather, it is almost certainly due to better detection of OCSO and improved labelling of such activities as 'crimes'. As such, taking Ditton's 'controlology' thesis into account (Ditton 1979), we should welcome the increase, as it probably indicates that our criminal justice system is becoming more effective at identifying victims and catching offenders.

When it comes to grooming, the threat is real for many families. Grooming is defined as 'the process by which a person prepares a child, significant adults and the environment for abuse of a child. Specific goals include gaining access to the child, gaining the child's compliance and maintaining the child's secrecy to avoid disclosure' (Craven et al. 2006:

297). The grooming process usually involves pretending to be interested in the life and interests of the victim, providing a place to 'hang-out' and offering 'forbidden fruits', such as alcohol, cigarettes and drugs (Williams 2014a). It is also a major aspect of the child sexual offending process, despite the heterogeneity of sexual offenders (Finklehor 1984; Wolf 1985; Ward and Hudson 2001). Unfortunately, because grooming behaviours are seemingly courting behaviours, they are 'usually identified only after the abuse has taken place' (Williams 2014a: 2), so retrospective analysis is easier than prospective identification (Craven et al. 2006: 292).

Grooming manifests through multiple pathways and in a range of familial, social and organisational settings: for example, extra-familial grooming (where the abuser is a stranger) and intra-familial grooming (within the family unit). It can also take place in a variety of environments, such as face-to-face grooming and street grooming in the community, institutional grooming in care homes, peer-to-peer grooming at school and online grooming in internet chat rooms and on social networking sites and apps (see McAlinden 2012; Martellozzo 2013; Williams 2014a, b). It has been suggested that the most prevalent pathways are face-to-face, street and online grooming. As McAlinden (2012: 26–32) has highlighted, offline groomers tend to groom not only the victim/child but also significant others (often family members) who are the 'protectors' of their potential victims as well as the local environment (e.g. the wider community and institutions). However, online groomers operate in a different way: they tend to target the victim/child directly and put little effort into grooming others. They are also usually unknown to their victims before the grooming begins. It is this aspect of online grooming that relates back to fears and public perceptions of risk.

Online grooming has become a very public social problem due to the entrepreneurial activities of many charities and criminal justice organisations, such as Barnardo's, the NSPCC and CEOP, as well as the media newsworthiness (Chibnall 1977) of internet offenders. As McAlinden (2012: 44) contends, media and public campaigns to highlight the dangers of online grooming have led to an increase in the number of reports to CEOP and the NSPCC concerning this type of behaviour. However, this may have diverted attention from the more prevalent face-to-face and street grooming by intimates and acquaintances. Again, some objec-

tive evidence suggests that our fear of online groomers does not correlate to the risk they pose in reality. For instance, the number of offenders who pretend to be a peer of their victim is often overstated, as is the prevalence of 'deception violence', which Wolak et al. (2004: 425) suggest is committed by only 5 per cent of offenders. Similarly, not all online grooming results in face-to-face meetings (McAlinden 2012: 40). Moreover, children are still more likely to be abused by family members and/or close acquaintances in familiar settings than by strangers following online contact. In fact, the *Young Life and Times Survey* (2010, cited in McAlinden 2012: 41) found that only 27 per cent of victims were approached online, while 17 per cent were approached via a friend or sibling, 7 per cent at a house party, 6 per cent through participation in hobbies, activities or organisations, and 17 per cent at a pub or club.

The media fuels the public's fear of online groomers by routinely portraying them as 'predatory paedophiles'. However, if one takes even a quick glance at the research, or subscribes to the YouTube channels of online activist groups such as Letzgo Hunting, Stinson Hunter, Dark Justice and Nonce Hunter (or Perverted Justice in the USA), it is apparent that practically all of the 'sting' videos and online chatlogs involve children between the ages of twelve and fifteen. Similarly, Wolak et al. (2004: 428) found that 76 per cent of victims of online grooming were aged between thirteen and fifteen. Therefore, if one uses the *Diagnostic and Statistical Manual of Mental Disorders*' psychiatric definition of the term, most online groomers are not paedophiles. So why is there a growing fear around online groomers, and why does the risk they pose seem to be much more substantial than it is in reality?

Online grooming is often seen as part of a wide range of technological activities and offences including CSEM (otherwise known as 'child pornography'), child trafficking, sextortion, sexting and revenge pornography (Martellozzo 2013; Crofts et al. 2015). What makes it so scary for many members of the public is that the potential offender no longer has to 'lurk' in public spaces, such as parks, schools, social clubs or shopping centres. From the comfort of their own homes, they can groom in relative safety, which not only reduces the risk of being caught but also increases the chance of finding victims (Martellozzo 2013). As the internet has increased the ease, speed and anonymity with which such offences can

take place (Cooper et al. 2000), offenders no longer need to be relatives or acquaintances. The fear pendulum has therefore swung back towards stranger-danger, which, as previously mentioned, is where most of the public's fears and concerns are fixed. In a recent interesting anthropological analysis of internet sexual offending (Rimer 2017: 38), it was found that offenders not only develop two dichotomous 'selves'—one online and the other offline—but that their use of CSEM involves a complex mix of interactions and perceptions of 'online spaces related to boundaries, interaction, and social surveillance'. For example, as the boundaries surrounding the internet allow for the construction and maintenance of anonymity (see the 'Triple A' thesis in Cooper 1998), people are more likely to 'access material that may be more risky to obtain offline' (Rimer 2017: 17). Moreover, this can develop into a desire to access victims through grooming. Rimer's interviewees also mentioned that 'online offending spaces were not "real", whereas offline social contexts were "real" and required adherence to social rules' (Rimer 2017: 40). This 'offline real' versus 'online not real' perception led some offenders to suggest that there is less need to feel empathy and responsibility when online (Rimer 2017: 41). As the normal rules of social conduct do not apply to these offenders, it can be argued that this increases the risk they pose, as they are more likely to approach children online with a view to sexual grooming.

Other recent research has started to profile and dissect the online child sexual offender (Gillespie et al. 2016; DeHart et al. 2017; Winters et al. 2017). This research highlights that the time spent grooming may range from ten minutes to four years, with a median of around four days (DeHart et al. 2017: 82), and that offenders engage in a wide variety of behaviours throughout the grooming process, including: instigating sexually explicit conversations; exposing themselves sexually; and seeking sexually explicit photos from their victims (DeHart et al. 2017: 83). However, it is important to mention that not all online offenders meet their victims offline, so we should distinguish between the different types. For example, Martellozzo (2013: 126) identifies three types—contact, non-contact and virtual contact—while DeHart et al. (2017: 83–87) refers to four categories: cybersex, cybersex/schedulers, schedulers and buyers. This research is still in the early stages of unpacking the complexi-

ties of online sexual offenders, so it is perhaps too soon to make strong claims about the levels of risk they pose.

To conclude this chapter, it is fair to say that the fear of online child sex offenders in the UK has taken an interesting turn over the last four years. There has been a backlash against the perceived (and real) criminal justice vacuum regarding the policing of these offenders,[4] with members of the public taking it upon themselves to 'catch' and 'name and shame' online groomers. Several activist groups—such as the aforementioned Stinson Hunter, Letzgo Hunting, Dark Justice and Nonce Hunter—pose as children online and wait for groomers to approach them. After exchanging several texts and/or messages, a meeting is arranged with the groomer, who is given the impression that some form of sexual activity will take place. If the groomer turns up, they are confronted by the online activists, who record the meeting and upload the footage onto social media sites such as Facebook and YouTube. The evidence collected in these 'stings' is then passed to the police, who often use it to arrest and convict online groomers before they have had a chance to abuse another victim (see Williams 2014a, b). Nevertheless, both the police and academics have criticised the activist groups for taking the law into their own hands, labelling them 'cyber-vigilantes' (see Hill and Wall 2015).

The issue of cyber-activism (McCaughey and Ayers 2003) in the fight against online grooming and child sexual abuse will certainly remain interesting as the jurisdictional boundaries continue to be tested, creating a challenge to traditional forms of criminal justice and the application of expert practice in the investigation of offenders. What is important to note here, though, is the reason why these groups have arisen. As the online sexual offenders interviewed for Rimer's (2017) study point out—providing further support for the final element in Cooper's 'Triple A' thesis (Cooper et al. 2000: 526–527)—their anonymity and solitariness create perceptions of safety but also the sense 'that nobody was present to catch the men offline, and thus offending could continue' (Rimer 2017: 39–40). Using Foucault's (1991) 'panopticon' metaphor of constant surveillance, as well as Felson's (2008) 'routine activity approach', the criminal justice agencies' (usually the probation and police services') inability to supervise the 'handler' (offender)[5] means that offenders tend to feel that 'social penalty was less likely because the *potential of being watched*

was significantly lower' (Rimer 2017: 40). If one then adds the other two sides of Eck's crime triangle (Felson 2008: 92)—the possible absence of both the 'guardian' (who supervises the 'target')[6] and the 'place manager' (who supervises the crime setting, such as an internet chatroom)[7]—this type of sexual offending becomes more likely. Cyber-activism was therefore an inevitable—and, for many of the supporters of such groups, a necessary—reaction to the risk of online child sexual grooming and offending.

6 Summary

The concerns and fears surrounding child sexual offending are currently increasing and generating more moral entrepreneurial activity, but practitioners and academics are clearly viewing them through an objectivist lens. While there is nothing wrong with recognising that child sexual offending is a genuine social problem, the lack of a constructionist analysis is leading us down an analytical cul-de-sac. The use of moral panic theory with respect to child sexual offending is problematic as it does not consider how professional moral entrepreneurs have spent the last twenty years building the child abuse industry. Various claimsmaking strategies have helped to build specific knowledge about sexual offenders, but blame for the public's rising fear of the child sexual offender has been placed squarely on the media. The problem with the 'media–risk–fear' nexus is that it tends to assume that people are stupid because they fear strangers rather than members of their own families or close acquaintances. While, statistically, this may be where most child sexual offenders are located within the offender-victim-context equation (Scott 1977), this framework fails to acknowledge that fear and concern are about the unknown; and the unknown here is usually a stranger. Moreover, the introduction of the internet and online sexual offending has accentuated these fears, as is evidenced by the rise of anti-grooming activist groups.

Therefore, what is needed is a reimagining of the analytical framework within which the social construction of sex offenders is critically examined. While moral panics potentially have a small part to play in this, a more fruitful area of analysis is moral enterprise and how claims are con-

structed. Given the current political climate, a critical and thoughtful reflection on the social problem of child sexual offending seems more necessary than ever before.

Notes

1. The term 'alleged' is used here not to court controversy or downplay victims' claims against Savile, but simply to highlight that in the UK an individual is deemed innocent until proven guilty in a court of law. As the allegations against and subsequent investigations into Savile have primarily been undertaken since his death, they have not been tested in a court, so any reference to 'victims' should have the precursor 'alleged' attached.
2. Although it is important to note that Whiting's approach and victim criteria profile suggest that this was not random and he was in fact trawling for another child victim.
3. Ethnographic observation diary, 20 August 2010.
4. For more on this, see Williams and Thompson 2004a, b.
5. This has become more of an issue due to the massive funding cuts applied to both the police and, more substantially, the probation service since the economic crash of 2008 and the introduction of the coalition government's Transforming Rehabilitation policy in 2014.
6. Although most parents monitor their young children's internet use closely, online groomers tend to target children between the ages of twelve to fifteen, who usually demand—and are granted—less strict parental control.
7. For example, internet service providers tend to have rather relaxed monitoring protocols due to privacy and encryption policies.

References

Abbott, A. (1988). *The System of Professions: An Essay on the Division of Expert Labour*. Chicago: University of Chicago Press.

Agamben, G. (1998). *Homo Sacer: Sovereign Power and Bare Life*. Stanford: Stanford University Press.

Akdeniz, Y. (1997). Governance of Pornography and Child Pornography on the Global Internet: A Multi-layered Approach. In L. Edwards & C. Waelde

(Eds.), *Law and the Internet: Regulating Cyberspace* (pp. 223–241). Portland: Hart Publishing.
Annetts, J., & Thompson, B. (1992). Dangerous Activism. In K. Plummer (Ed.), *Modern Homosexualities: Fragments of Lesbian and Gay Experience* (pp. 237–246). London: Routledge.
Barnes, H. E., & Teeter, N. K. (1960). *New Horizons in Criminology*. New York: Prentice Hall.
Barry, D. (2017). *Recidivism in the Republic of Ireland: A National Prospective Cohort Study*. Unpublished Professional Doctorate Thesis, University of Portsmouth, UK.
Beck, U. (1992). *Risk Society: Towards a New Modernity*. London: Sage.
Becker, H. (1963). *Outsiders: Studies in the Sociology of Deviance*. New York: Macmillan.
Best, J. (1990). *Threatened Children: Rhetoric and Concern about Child-victims*. Chicago: The University of Chicago Press.
Best, J. (Ed.). (1995). *Images of Issues: Typifying Contemporary Social Problems*. New York: Aldine De Gruyter.
Best, J. (Ed.). (2001). *How Claims Spread: Cross-national Diffusion of Social Problems*. New York: Aldine De Gruyter.
Castella, T. C., & Heyden, T. (2014). *How Did the Pro-paedophile Group PIE Exist Openly for 10 Years?* Retrieved 21 December 2016, http://www.bbc.co.uk/news/magazine-26352378
Chibnall, S. (1977). *Law-and-order News: An Analysis of Crime Reporting in the British Press*. London: Tavistock Publications.
Clegg, A., & Megson, B. (1968). *Children in Distress*. Middlesex: Penguin Books.
Cohen, S. (1972). *Folk Devils and Moral Panics: The Creation of the Mods and Rockers* (2nd ed.). Oxford: Blackwell Publishers.
Cohen, S. (1985). *Visions of Social Control: Crime Punishment and Classification*. Cambridge: Polity Press.
Cohen, S. (2002). *Folk Devils and Moral Panics: the Creation of the Mods and Rockers* (3rd ed.). Oxford: Blackwell Publishers.
Coleman, C., & Moynihan, J. (1996). *Understanding Crime Data: Haunted by the Dark Figure*. Buckingham: Open University Press.
Cook, M., & Wilson, G. (Eds.). (1979). *Love and Attraction: An International Conference*. Oxford: Pergamon Press.
Cooper, A. (1998). Sexuality and the Internet: Surfing into the New Millennium. *CyberPsychology and Behavior, 1*, 187–193.

Cooper, A., McLoughlin, I. P., & Campbell, K. M. (2000). Sexuality in Cyberspace: Update for the 21st Century. *Cyber Psychology and Behavior, 3*(4), 521–536.

Craven, S., Brown, S., & Gilchrist, E. (2006). Sexual Grooming of Children: Review of Literature and Theoretical Considerations. *Journal of Sexual Aggression, 12*(3), 287–299.

Critcher, C. (2003). *Moral Panics and the Media*. Buckingham: Open University Press.

Critcher, C., Hughes, J., Petley, J., & Rohloff, A. (Eds.). (2016). *Moral Panics in the Contemporary World*. London: Bloomsbury Academic.

Crofts, T., Lee, M., McGovern, A., & Milivojevic, S. (2015). *Sexting and Young People*. Basingstoke: Palgrave Macmillan.

Danczuk, S., & Baker, M. (2014). *Smile for the Camera: The Double Life of Cyril Smith*. London: Biteback Publishing.

Davie, N. (2005). *Tracing the Criminal: The Rise of Scientific Criminology in Britain 1860–1918*. Oxford: The Bardwell Press.

Davies, C. (1975). *Permissive Britain: Social Change in the Sixties and Seventies*. London: Pitman Publishing.

DeHart, D., Dwyer, G., Seto, M. C., Moran, R., Letourneau, E., & Schwarz-Watts, D. (2017). Internet Sexual Solicitation of Children: A Proposed Typology of Offenders Based on Their Chats, E-mails, and Social Network Posts. *Journal of Sexual Aggression, 23*(1), 77–89. https://doi.org/10.1080/13552600.2016.1241309.

Ditton, J. (1979). *Controlology: Beyond the New Criminology*. Basingstoke: Palgrave Macmillan.

Dodd, V. (2016). *Police Say 350 Have Come Forward to Report Child Sex Abuse in Football*. Retrieved 3 January 2017, https://www.theguardian.com/football/2016/dec/01/fa-punish-clubs-cover-up-martin-glenn

Durkheim, E. (1982). *The Rules of Sociological Method: And Selected Texts on Sociology and Its Method*. London: Macmillan.

Ernst, M. L., & Loth, D. (1949). *Sexual Behaviour and the Kinsey Report*. London: The Falcon Press.

Evans, J. (2003). Vigilance and Vigilantes: Thinking Psychoanalytically about Anti-paedophile Action. *Theoretical Criminology, 7*(2), 163–189.

Felson, M. (2008). Routine Activity Approach. In R. Wortley & L. Mazerolle (Eds.), *Environmental Criminology and Crime Analysis* (pp. 70–77). Cullompton: Willan Publishing.

Finkelhor, D. (1984). *Child Sexual Abuse: New Theory and Research*. London: The Free Press.

Foucault, M. (1991). *Discipline and Punish: The Birth of the Prison*. London: Penguin Books.
Furedi, F. (1997). *Culture of Fear: Risk-taking and the Morality of Low Expectation*. London: Cassell.
Gagnon, J., & Simon, W. (1970). *Sexual Encounters Between Adults and Children*. Washington, DC: Sex Information and Education Council.
Garland, D. (2002). *The Culture of Control: Crime and Social Order in Contemporary Society*. Oxford: Oxford University Press.
Garland, D. (2008). On the Concept of Moral Panic. *Crime, Media, Culture, 4*(1), 9–30.
Gauntlett, D. (2006). Ten Things Wrong with Media 'Effects' Model. In C. K. Weaver & C. Carter (Eds.), *Critical Readings: Violence and the Media* (pp. 54–66). Maidenhead: Open University Press.
Gelsthorpe, L. (2005). Folk Devils and Moral Panics: A Feminist Perspective. *Crime, Media, Culture, 4*(1), 112–116.
Giddens, A. (1990). *The Consequences of Modernity*. Cambridge: Polity Press.
Gillespie, S. M., Bailey, A., Squire, T., Carey, M. L., Eldridge, H. J., & Beech, A. R. (2016). An Evaluation of a Community-based Psycho-educational Program for Users of Child Sexual Exploitation Material. *Sexual Abuse: A Journal of Research and Treatment, 1*, 1–23. https://doi.org/10.1177/1079063216639591.
Goffman, E. (1986). *Frame Analysis: An Essay on the Organization of Experience*. Boston: Northeastern University Press.
Goode, E., & Ben-Yehuda, N. (1994). *Moral Panics: The Social Construction of Deviance*. Cambridge, MA: Blackwell.
Greer, C. (2003). *Sex Crime and the Media: Sex Offending and the Press in a Divided Society*. Cullompton: Willan Publishing.
Grubin, D., & Prentky, R. A. (1993). Sexual Psychopathic Laws. *Criminal Behaviour and Mental Health, 3*, 381–392.
Guyon, R. (1949). *Sexual Freedom*. London: The Bodley Head.
Hall, S., Critcher, C., Jefferson, T., Clarke, J., & Roberts, B. (1984). *Policing the Crisis: Mugging, the State, and Law and Order*. London: Macmillan Education.
Harcourt, B. (2007). *Against Prediction: Profiling, Policing, and Punishing in an Actuarial Age*. Chicago: The University of Chicago Press.
Harrison, K. (2011). *Dangerousness, Risk and the Governance of Serious Sexual and Violent Offenders*. London: Routledge.
Hill, G., & Wall, D. (2015). How Online Vigilantes Make Paedophile Policing More Difficult. *The Conversation*. Retrieved 10 March 2017, from http://theconversation.com/how-online-vigilantes-make-paedophile-policing-more-difficult-42562

Holstein, J., & Miller, G. (Eds.). (1993). *Reconsidering Social Constructionism: Debates in Social Problems Theory*. New York: Aldine De Gruyter.

Hope, T., & Sparks, R. (Eds.). (2000). *Crime, Risk and Insecurity*. London: Routledge.

Hudson, B. (2003). *Justice in the Risk Society*. London: Sage.

Hunt, A. (1997). 'Moral Panic' and Moral Language in the Media. *British Journal of Sociology, 48*(4), 629–648.

Hynes, K. (2013). The Cost of Fear: An Analysis of Sex Offender Registration, Community Notification, and Civil Commitment Laws in the United States and the United Kingdom. *Penn State Journal of Law and International Affairs, 2*(2), 351–379.

Jay, A. (2014). *Independent Inquiry into Child Sexual Exploitation in Rotherham, 1997–2013*. Rotherham: Rotherham Metropolitan Borough Council.

Jenkins, P. (1992). *Intimate Enemies: Moral Panics in Contemporary Britain*. New York: Aldine De Gruyter.

Jenkins, P. (1998). *Moral Panics: Changing Concepts of the Child Molester in Modern America*. New Haven: Yale University Press.

Jewkes, Y. (2004). *Media and Crime: Key Approaches to Criminology*. London: Sage.

Jutte, S., Bentley, H., Miller, P., & Jetha, N. (2014). *How Safe Are Our Children?* London: NSPCC.

Karpman, B. (1954). *The Sexual Offender and His Offences: Etiology, Pathology, Psychodynamics and Treatment*. New York: Julian Press.

Kelly, L., Lovett, J., & Regan, L. (2005). *A Gap or a Chasm? Attrition in Reported Rape Cases* (Home Office Research Study 293). London: HMSO.

Kemshall, H. (2003). *Understanding Risk in Criminal Justice*. Maidenhead: Open University Press.

Kinsey, A., Pomeroy, W., & Martin, C. (1948). *Sexual Behaviour in the Human Male*. London: W. B. Saunders Company.

Kinsey, A., Pomeroy, W., Martin, C., & Gebhard, P. (1953). *Sexual Behaviour in the Human Female*. London: W. B. Saunders Company.

Kitzinger, J. (1999). The Ultimate Neighbour from Hell? Stranger Danger and the Media Framing of Paedophiles. In B. Franklin (Ed.), *Social Policy, the Media and Misrepresentation* (pp. 207–221). London: Routledge.

Kitzinger, J. (2004). *Framing Abuse: Media Influence and Public Understanding of Sexual Violence against Children*. London: Pluto Press.

Kritzman, L. D. (1988). *Politics, Philosophy, Culture: Interviews and Other Writings, 1977–1984*. New York: Routledge.

Kuhle, L. F., Schlinzig, E., Kaiser, G., Amelung, T., Konrad, A., Rohle, R., & Beier, K. M. (2017). The Association of Sexual Preference and Dynamic Risk

Factors with Undetected Child Pornography Offending. *Journal of Sexual Aggression, 23*(1), 3–18. https://doi.org/10.1080/13552600.2016.1201157.
La Fontaine, J. S. (1994). *The Extent and Nature of Organised Ritual Abuse: Research Findings*. London: HMSO.
Lacassange, A. (2016). Moral Panic Around the Burqa in France. In C. Critcher, J. Hughes, J. Petley, & A. Rohloff (Eds.), *Moral Panics in the Contemporary World* (pp. 237–261). London: Bloomsbury Academic.
Lemert, E. (1951). *Social Pathology: A Systematic Approach to the Theory of Sociopathic Behavior*. London: McGraw-Hill Book.
Levenson, J. S., & Cotter, L. P. (2005). The Effect of Megan's Law on Sex Offender Reintegration. *Journal of Contemporary Criminal Justice, 21*(1), 49–66. https://doi.org/10.1177/1043986204271676.
Loseke, D. (2003). *Thinking about Social Problems: An Introduction to Constructionist Perspectives*. New York: Aldine De Gruyter.
Loseke, D., & Best, J. (Eds.). (2003). *Social Problems: Constructionist Readings*. New York: Aldine De Gruyter.
Lowery, S., & De Fleur, M. (1988). *Milestones in Mass Communication Research*. London: Longman.
Maddan, S. (2008). *The Labelling of Sex Offenders: The Unintended Consequences of the Best Intentioned Public Policies*. Lanham: University Press of America.
Manian, S., & McCabe, K. (Eds.). (2010). *Sex Trafficking: A Global Perspective*. Lanham: Lexington Books.
Martellozzo, E. (2013). *Online Child Sexual Abuse: Grooming, Policing and Child Protection in a Multi-media World*. Abingdon: Routledge.
Massey, N. (2016). Sextortion: Rise in Blackmail-related Suicides Over Sexual Images Shared Online. *Independent*. Retrieved 4 January 2017 from http://www.independent.co.uk/news/uk/home-news/sextortion-rise-suicides-blackmailing-sexual-images-sharing-social-media-a7446776.html
McAlinden, A. (2006). 'Setting 'em up': Personal, Familial and Institutional Grooming in the Sexual Abuse of Children. *Social and Legal Studies, 15*(3), 339–362.
McAlinden, A. (2012). *'Grooming' and the Sexual Abuse of Children: Institutional, Internet, and Familial*. Oxford: Oxford University Press.
McAlister, R. (2014). New Technologies, 'Risk' and Sexual Offending. In K. McCartan (Ed.), *Responding to Sexual Offending: Perceptions, Risk Management and Public Protection* (pp. 72–92). Basingstoke: Palgrave Macmillan.
McCartan, K. (Ed.). (2014). *Responding to Sexual Offending: Perceptions, Risk Management and Public Protection*. Basingstoke: Palgrave Macmillan.

McCaughey, M., & Ayers, M. D. (Eds.). (2003). *Cyberactivism: Online Activism in Theory and Practice*. New York: Routledge.
McLuhan, M. (1964). *Understanding Media: The Extensions of Man*. London: Routledge.
Mythen, G. (2014). *Understanding the Risk Society: Crime, Security and Justice*. Basingstoke: Sage.
Nash, M. (1999). Enter the Polibation Officer. *International Journal of Police Science and Management, 1*(4), 360–368.
Nash, M. (2006). *Public Protection and the Criminal Justice Process*. Oxford: Oxford University Press.
Newburn, T. (1992). *Permission and Regulation: Laws and Morals in Post-war Britain*. London: Routledge.
O'Carroll, T. (1980). *Paedophilia: The Radical Case*. London: Peter Owen.
O'Malley, P. (2010). *Crime and Risk*. London: Sage.
Ost, S. (2009). *Child Pornography and Sexual Grooming: Legal and Societal Responses*. Cambridge: Cambridge University Press.
Parton, N. (1985). *The Politics of Child Abuse*. Basingstoke: Macmillan.
Pew Research Center. (2017). *Social Media Fact Sheet*. Retrieved 16 March 2017 from www.pewinternet.org/fact-sheet/social-media/
PIE. (1975). *Evidence on the Law Relating to and Penalties for Certain Sexual Offences Involving Children for the Home Office Criminal Law Revision Committee*. London: PIE.
PROOF. (2016). *Justice in a Time of Moral Panic, Issue 1, January*. The Justice Gap and Crime and Justice Research Centre.
Rafter, N. (Ed.). (2009). *The Origins of Criminology: A Reader*. London: Routledge.
Richards, K. (2011). Misperceptions about Child Sex Offenders. *Trends and Issues in Crime and Criminal Justice*, *429*, 1–8.
Richardson, J. T., Best, J., & Bromely, D. G. (Eds.). (1991). *The Satanism Scare*. New York: Aldine De Gruyter.
Rimer, J. R. (2017). Internet Sexual Offending from an Anthropological Perspective: Analysing Offender Perceptions of Online Spaces. *Journal of Sexual Aggression, 23*(1), 33–45. https://doi.org/10.1080/13552600.2016.1201158.
Robbers, M. L. P. (2009). Lifers on the Outside: Sex Offenders and Disintegrative Shaming. *International Journal of Offender Therapy and Comparative Criminology, 53*(1), 5–28.
Rohloff, A., Hughes, J., Petley, J., & Critcher, C. (2016). Moral Panics in the Contemporary World: Enduring Controversies and Future Directions. In

C. Critcher, J. Hughes, J. Petley, & A. Rohloff (Eds.), *Moral Panics in the Contemporary World* (pp. 1–29). London: Bloomsbury Academic.
Rubington, E., & Weinberg, M. (1995). *The Study of Social Problems: Seven Perspectives*. Oxford: Oxford University Press.
Rutherford, A. (2006). Dangerous People: Beginnings of a New Labour Proposal. In T. Newburn & P. Rock (Eds.), *The Politics of Crime Control: Essays in Honour of David Downes* (pp. 51–89). Oxford: Oxford University Press.
Salter, M. (2014). *Organised Child Sexual Abuse*. London: Routledge.
Sampson, A. (1994). *Acts of Abuse: Sex Offenders and the Criminal Justice System*. London: Routledge.
Scheff, T. J. (1966). *Being Mentally Ill: A Sociological Theory*. New York: Aldine De Gruyter.
Scott, P. D. (1977). Assessing Dangerousness in Criminals. *British Journal of Psychiatry, 131*, 127–142.
Sheldon, K., & Howitt, D. (2007). *Sex Offenders and the Internet*. Chichester: John Wiley & Sons.
Shrum, L. J. (2002). Media Consumption and Perceptions of Social Reality: Effects and Underlying Processes. In J. Bryant & D. Zillman (Eds.), *Media Effects: Advances in Theory and Research* (pp. 69–95). Mahwah: Lawrence Erlbaum Associates.
Silverman, J., & Wilson, D. (2002). *Innocence Betrayed: Paedophilia, the Media and Society*. Cambridge: Polity Press.
Simon, J. (1993). *Poor Discipline: Parole and the Social Control of the Underclass, 1890–1990*. Chicago: The University of Chicago Press.
Simon, J. (2009). *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear*. New York: Oxford University Press.
Smelser, N. (1962). *Theory of Collective Behavior*. London: Routledge and Kegan Paul.
Spector, M., & Kitsuse, J. (2001). *Constructing Social Problems*. New Brunswick: Transaction Publishing.
Stenson, K., & Sullivan, R. R. (Eds.). (2001). *Crime, Risk and Justice: The Politics of Crime Control in Liberal Democracies*. Cullompton: Willan Publishing.
Sullivan, R. R. (2001). The Schizophrenic State: Neo-liberal Criminal Justice. In K. Stenson & R. R. Sullivan (Eds.), *Crime, Risk and Justice: The Politics of Crime Control in Liberal Democracies* (pp. 29–47). Cullompton: Willan Publishing.
Sutherland, E. H. (1950). The Diffusion of Sexual Psychopathic Laws. *American Journal of Sociology, 56*(2), 142–148.

Tartari, M. (2016). Moral Panic and Ritual Abuse: Where's the Risk? Findings of an Ethnographic Research Study. In C. Critcher, J. Hughes, J. Petley, & A. Rohloff (Eds.), *Moral Panics in the Contemporary World* (pp. 193–213). London: Bloomsbury Academic.

Tate, T. (1990). *Child Pornography: An Investigation*. London: Methuen.

Temkin, J., & Krahe, B. (2008). *Sexual Assault and the Justice Gap: A Question of Attitude*. Oxford: Hart Publishing.

Thomas, T. (2005). *Sex Crime: Sex Offending and Society* (2nd ed.). Cullompton: Willan Publishing.

Thompson, B. (1987). *Porn Wars—Moral Enterprise, Sexuality and Social Policy: The Local Government (Miscellaneous Provisions) Act 1982*. Unpublished Ph.D. Thesis, University of Essex, UK.

Thompson, W. (1989). Porn Wars: Moral Panics, Pornography, and Social Policy. Paper Presented to the American Society of Criminology, Chicago.

Thompson, B. (1994a). *Soft Core: Moral Crusades Against Pornography in Britain and America*. London: Cassell.

Thompson, B. (1994b). *Sadomasochism: Painful Perversion or Pleasurable Play?* London: Cassell.

Thompson, B., & Williams, A. (2014). *The Myth of Moral Panics: Sex, Snuff and Satan*. New York: Routledge.

Tonry, M. (2004). *Thinking about Crime: Sense and Sensibility in American Penal Culture*. New York: Oxford University Press.

Van Dijck, J. (2013). *The Culture of Connectivity: A Critical History of Social Media*. Oxford: Oxford University Press.

Victor, J. S. (1993). *Satanic Panic: The Creation of a Contemporary Legend*. Chicago: Open Court.

Volkart, E. H. (1951). *Social Behaviour and Personality: Contributions of W. I. Thomas to Theory and Social Research*. New York: Social Science Research Council.

Wacquant, L. (2009). *Punishing the Poor: The Neo-liberal Government of Social Insecurity*. Durham: Duke University Press.

Ward, T., & Hudson, S. M. (2001). A Critique of Finkelhor's Precondition Model of Child Sexual Abuse. *Psychology, Crime and Law, 7*, 189–202.

Whitehouse, M. (1977). *Whatever Happened to Sex?* Hove: Wayland Publishing.

Wilkins, L. (1964). *Social Deviance: Social Policy, Action and Research*. London: Tavistock Publications.

Williams, A. (2004). 'There ain't no peds in Paulsgrove': Social Control, Vigilantes and the Misapplication of Moral Panic Theory. Unpublished Ph.D. Thesis, University of Reading, UK.

Williams, A. (2006). Paedophiles, Panics, and Protests: Understanding Penal Populism. *Japanese Journal of Sociological Criminology, 31*, 52–72.

Williams, A. (2014a). Child Sexual Victimisation: Ethnographic Stories of Stranger and Acquaintance Grooming. *Journal of Sexual Aggression, 21*(1), 28–42.

Williams, A. (2014b). Why Anti-sex Offender Activism is Long Overdue for a Comeback. *The Conversation*. Retrieved 13 December 2016 from http://theconversation.com/why-anti-sex-offender-activism-is-long-overdue-for-a-comeback-34173

Williams, A. (2015). *Forensic Criminology*. Abingdon: Routledge.

Williams, A., & Nash, M. (2014). The Realities of Legislating against and Protecting the Public from Risk Groups. In K. McCartan (Ed.), *Responding to Sexual Offending: Perceptions, Risk Management and Public Protection* (pp. 1–19). Basingstoke: Palgrave Macmillan.

Williams, A., & Thompson, B. (2004a). Vigilance or Vigilantes: The Paulsgrove Riots and Policing Paedophiles in the Community. Part I: The Long Slow Fuse. *Police Journal, 77*(2), 99–119.

Williams, A., & Thompson, B. (2004b). Vigilance or Vigilantes: The Paulsgrove Riots and Policing Paedophiles in the Community. Part II: The Lessons of Paulsgrove. *Police Journal, 77*(3), 199–205.

Wilson, R. J., & Prescott, D. S. (2014). Community-based Management of Sexual Offender Risk: Options and Opportunities. In K. McCartan (Ed.), *Responding to Sexual Offending: Perceptions, Risk Management and Public Protection* (pp. 20–47). Basingstoke: Palgrave Macmillan.

Winters, G. M., Kaylor, L. E., & Jeglic, E. L. (2017). Sexual Offenders Contacting Children Online: An Examination of Transcripts of Sexual Grooming. *Journal of Sexual Aggression, 23*(1), 62–76. https://doi.org/10.1080/13552600.2016.1271146.

Wolak, J., Finkelhor, D., & Mitchell, K. (2004). Internet-initiated Sex Crimes against Minors: Implications for Prevention Based on Findings from a National Study. *Journal of Adolescent Health, 35*, 424–234.

Wolf, S. C. (1985). A Multi-factor Model of Deviant Sexuality. *Victimology, 10*, 359–374.

Young, J. (1971). *The Drugtakers: The Social Meaning of Drug Use*. London: MacGibbon and Kee.

7

Building and Sustaining a Resilient Workforce

Lydia Guthrie

1 Introduction

Working with people who are convicted of sexual offences poses considerable challenges for professionals within the criminal justice system. The work may require talking with offenders about intrusive and difficult themes, such as their sexual arousal patterns or deviant sexual thinking (Petrillo 2007). It may require engaging in constructive dialogue with people who express antisocial attitudes, such as "children are capable of consenting to sexual activity with an adult" or "some women deserve to be sexually assaulted." It may require professionals to read victims' statements, often including harrowing details of sexual crimes perpetrated against them, in order to make accurate assessments of the offender's criminogenic risk factors and needs. It may also involve listening to sexual offenders' accounts of their own abuse, neglect or other adverse life events.

L. Guthrie (✉)
Change Point, Oxford, UK

K. McCartan, H. Kemshall (eds.), *Contemporary Sex Offender Risk Management, Volume I*, Palgrave Studies in Risk, Crime and Society,
https://doi.org/10.1007/978-3-319-63567-5_7

Theories and models which underpin this work, such as the Good Lives Model (Ward and Maruna 2007; Ward and Gannon 2006) and Desistance Theory (Maruna 2001; Laws and Ward 2011), hold that effective professional relationships with people convicted of sexual offences should be characterised by respectful engagement and a belief in the possibility of change. The processes of desistance from crime and successful reintegration into society are best supported by professionals who are able to hold simultaneously in mind the strengths, intrinsic qualities and needs of an individual offender; the harm caused to direct and indirect victims by his or her crimes; and the likelihood of potential future offending (Willis et al. 2010). Balancing these aspects of engagement with sexual offenders can present very significant challenges to professionals who work in this field (Kadambi and Truscott 2003).

Professionals working with people who have sexually offended do so in the context of a society that is broadly characterised by hostile and punitive views towards sexual offenders. These views are both informed and reinforced by overwhelmingly negative media coverage (McAlinden 2007; Harper and Hogue 2014). Those professionals who are involved in the provision of interventions for those who have sexually offended risk being judged as holding sympathetic attitudes towards these offenders—onlookers may take the view that "if you can work with them, it must mean that you think their behaviour is acceptable." Lea and colleagues describe this as a "courtesy stigma"—a negative perception ascribed to professionals as a result of their engagement with a stigmatised group (Lea et al. 1999). Professionals in this field are thus required to wrestle with multifaceted intra-personal and inter-personal conflicts that arise from the nature of sexual offending and the complexity of society's responses to it.

Additionally, those who work with sexual offenders can be expected to encounter frequent stressors in their work environments, such as managing complex situations in uncertain contexts, and engaging with material which evokes strong emotional reactions. For many workers, especially those professionals whose work is located in the community, the possibility of reoffending is ever present (Phillips et al. 2016). In addition, they are often obliged to operate in environments which are less than ideal and

with clients who have not engaged voluntarily—two factors that contribute to the potential challenges of the work (Kadambi and Truscott 2003; Paton et al. 2008).

In this chapter, the author will draw upon her experience as a facilitator, supervisor and trainer in community sexual offending behaviour programmes, and as a team manager in the Probation Service, to review the literature regarding the impact upon professionals working with sexual offenders, and to conclude with suggestions for actions which organisations and individuals may take to promote resilient outcomes. Professionals who work with those who have sexually offended, and those who are impacted by their crimes, can be employed by a multitude of agencies, across custody and the community, and these issues have broad relevance for this workforce. As mentioned, the author's experience was gained in the Probation Service, and the chapter will necessarily reflect that fact.

2 Review of the Impact of Working with Sexual Offenders

Many studies have explored the potential emotional, cognitive and behavioural impacts upon professionals who work with people who have sexually offended (Farrenkopf 1992; Kadambi and Truscott 2003, 2006; Slater and Lambie 2011). These studies have suggested that negative impacts can include symptoms associated with burnout, such as fatigue, cynicism towards clients, sleep disturbance, increased use of drugs or alcohol, depression and hyper-vigilance (Farrenkopf 1992; Bird-Edmunds 1997). Clarke (2011) calculates that between one-fifth and one-quarter of the participants in such studies report negative symptoms which they attribute directly to working with sexual offenders at the time of the research. Clearly, this is a significant finding that needs to be given careful consideration; however, the implication is that the majority of professionals working in this field at any given time are *not* experiencing negative impacts (Clarke 2011).

It is important to reflect upon the mechanisms through which most professionals working with people who have committed sexual offences

survive, and indeed thrive, most of the time. Most of the professionals who participate in studies seem to be coping well with the demands of their work (Kadambi and Truscott 2003), and many report positive personal outcomes which they attribute to their work (Kadambi and Truscott 2006). These benefits include a sense of personal and professional satisfaction from contributing to community safety (Kadambi and Truscott 2006; Dean and Barnett 2011) and bearing witness to positive changes in individuals' behaviour and well-being (Slater and Lambie 2011). In her review of the literature, Clarke (2011) concludes that between 75 and 96 per cent of professionals involved in clinical work with sexual offenders describe it as the most rewarding and satisfying aspect of their career.

3 What Does "Resilience" Mean?

The term "resilience" is a complex construct that has been used to invoke multiple meanings. Fletcher and Sarkar (2013), in their review of theories of psychological resilience, observe that it has been variously characterised as a personality trait, an adaptive process and as positive outcome, depending on the context of the research, the professional preferences of the researchers and the nature of the study. They conclude that most definitions hold in common the two concepts of adversity as well as a process of adaptation in relation to that adversity. Keenan (2010) offers the observation that there is a common tendency to conflate an event with a particular meaning or impact: for example, the notion that people who endure a potentially traumatic event must, through an unspecified determinist mechanism, go on to develop symptoms of post-traumatic stress disorder. However, the data do not bear this out. As Bonnano (2004) observes, resilience is a normative rather than an extraordinary response; after exposure to potentially traumatic events, most people respond with resilience. Masten (2001) uses the term "ordinary magic" to describe the human capacity to adapt to adverse events without being overwhelmed by them. Most people are exposed, during their lifespan, to at least one event that has the potential to lead to the onset of "psychological trauma"; however, only 5–10 per cent will go on to develop post-traumatic stress

disorder (Macedo et al. 2014). Indeed, the ability to adapt in the face of loss and trauma is a fundamental human capacity that is essential for the continuation and development of our species because encountering dangerous or threatening events is an inescapable aspect of human existence (Crittenden 2008; Baim and Morrison 2011).

We are predisposed to prioritise information about danger and potential danger in our environment (Siegel 1999; Baim and Morrison 2011). Siegel (1999) characterises memory as the mechanism through which past events influence our future functioning; it is adaptive for human beings to remember how to recognise and cope with dangerous events, so that we are better able to withstand such challenges in the future. Therefore, a salient aspect of all definitions of "resilience" is that it represents an individual and organisational capacity to learn from previous challenging experiences in a way that supports development and growth, and promotes the ability to make sense of events and cope better with future challenges (Paton et al. 2008).

4 Models of Resilience in the Workplace

I will now outline three different models of resilience in the workplace.

4.1 The Model of Dynamic Adaptation (Clarke 2011)

This model was devised by Clarke on the basis of her research with facilitators of the Sex Offender Treatment Programme, mainly based in the UK Prison Service. The model describes interactions between:

- qualities of the individual worker, which are divided into static and stable factors, with the former including age, gender and level of qualification, and the latter including coping style, perspective-taking skills and the individual's prior experience of adverse life events;
- dynamic factors relating to the individual, such as experiencing a significant event outside of the work context, which could be positive or negative, such as a traumatic loss or the birth of a child;

- elements specific to the work role, such as the work environment, type of work undertaken, organisational policies or colleagues; and
- negative or positive psychological outcomes for the individual.

A strength of the model is that it indicates four opportunities for intervention to promote resilient outcomes: at the selection and training stage; in ongoing processes to ensure a positive and supportive organisational culture, including supervision; support for individuals to notice and communicate the impact of work and non-work events; and support for individuals who are experiencing negative psychological outcomes. Clarke emphasises that it is important to offer interventions at all of these stages in order to support resilience, rather than wait until the individual worker demonstrates behaviours which may suggest that they are already experiencing a negative outcome. She also notes that those who are responsible for the design of service provision are often able to see the intuitive sense of offering support to those who are already suffering, but less able to recognise the benefits of offering interventions at an earlier stage.

4.2 Adamson, Beddoe and Davys (2014)

Adamson et al. (2014) investigated the concept of resilience as experienced by social workers in New Zealand. They conducted in-depth, semi-structured interviews with twenty-one experienced social workers regarding their experiences of coping with adversity in the workplace. Their study identified three components of resilience: core personal attributes of the individual; the practice context; and factors which mediate between practice and the individual. Their model emphasises the relational and contextual characteristics of the processes which support resilient outcomes. Individual-level factors which support resilience include active coping strategies, being goal focused, emotional intelligence, sustaining hope and adhering to a strong ethical code. Environmental factors include organisational support, supervision, a sense of autonomy and an acknowledgement of the climate of uncertainty within which social work is conducted.

The authors emphasise the importance of viewing resilience through a systemic lens, given that individual processes and environmental processes are linked in complex, circular ways. In other words, individuals are impacted by the environment within which they work, and environments are, in turn, influenced by individuals and their experiences, so they affect each other in mutual and simultaneous ways (Keenan 2010). As such, this conceptual framework places significant emphasis on the notion of the "space between the self and the practice context" (Adamson et al. 2014: 534) as a mechanism which is central to understanding resilience. The "space between" is characterised as a series of domains, including work–life balance, professional education and ongoing learning, coping skills, supervision, professional identity and knowledge base. The social workers who participated in the study spoke about developing resilience as a dynamic process that evolved over the course of their careers in complex interactions between their personal and professional selves, and in their relationships with the environments within which they practised.

4.3 The Stress Shield Model (SSM; Paton et al. 2008)

Paton and Violanti (1996) describe occupations which expose people to potentially traumatic incidents in the course of their work as "critical." This term is intended to encapsulate the importance of these roles for the safe functioning of communities, as well as the potential scale of the impact upon the workers' well-being. Initially, it was applied only to the emergency services, but it has now been recognised that some occupations, while carrying less acute risk of harm, expose workers to a chronic risk of potential sources of harm.

It is widely accepted that work with sexual offenders within the criminal justice system is an example of a "critical occupation" (Paton and Violanti 1996). The Stress Shield Model (SSM) was developed and validated in relation to the resilience of police officers (Paton et al. 2008), and it has since been used as the theoretical model underpinning the Strengthening Probation Officers' Resilience in Europe (SPORE) project, a pan-European study into the well-being of probation officers (Clarke 2013; Vogelvang et al. 2014; see below). It takes as its starting

point the view that "the resilience of a person or group reflects the extent to which they can call upon their psychological and physical resources and competencies in ways that allow them to render challenging events coherent, manageable and meaningful" (Paton and Violanti 1996: 95). Thus, the SSM focuses on the capacity of individuals both to cope with challenging events when they occur and, crucially, to learn from experience in order to develop skills that will enable them to find a sense of meaning and cope better with the next challenging event, should it arise.

Paton and colleagues' (2008) model of resilience is based upon organisational, team and individual factors, and the interactions among these levels. At the organisational level, they emphasise factors including workload, the experience of supervision, confidence in how the organisation is run and the impact of the physical working environment. They highlight the importance of these factors in the development of resilience, as the organisational context has a strong influence over the degree to which workers are able to reflect and make sense of their experiences, and thus develop their capacity to cope with future challenges. Team factors include peer cohesion (enhanced by supervision) and trust between peers, which improve competence, sharing of knowledge and learning from experience. Individual factors include problem-focused coping (as opposed to emotional coping), conscientiousness and empowerment. All of these factors are associated with the development of a sense of purpose and self-efficacy, which the authors believe can promote resilient outcomes.

Empowerment, which is defined as the process through which resilience is attained, is the outcome of interactions among the organisational, team and individual factors. It has four components: meaningfulness, competence, choice and impact. Meaningfulness is linked to a sense of congruity between a person's value base and the tasks they undertake in the course of their work; competence is concerned with a person's sense of being able to carry out those tasks well; choice is linked to a person's belief that they have the ability to influence the way in which they perform their role and use their professional judgement; and impact is concerned with a person's perception of their ability to influence outcomes on an organisational level.

5 SPORE: An Empirical Study into the Resilience of Probation Officers

The European Union-funded SPORE project, which was conducted between March 2012 and September 2013 (Clarke 2013), used the Stress Shield Model (Paton et al. 2008) as a framework for research which aimed to identify the best ways to support resilience among Europe's probation officers. In total, 579 probation officers from Latvia, Estonia, the Netherlands, Bulgaria and the UK participated in the study, which employed both questionnaires and focus groups. It is important to note that these probation officers did not work exclusively with people who had been convicted of sexual offences; however, the study has much to say about promoting resilience. Further analysis of the Dutch probation officers who participated in the project appeared in a subsequent paper (Vogelvang et al. 2014).

The study's key finding was that probation officers do not perceive client factors to be the main source of negative impacts on resilience (Clarke 2013; Vogelvang et al. 2014). For instance, the stark conclusion in relation to the Dutch probation officers was: "Both Unit Managers and Probation Officers indicate that the problem is not the client, but the organisation, when the resilience of an employee is under pressure" (Vogelvang et al. 2014: 139). Hence, the overarching conclusion was that resilience (measured as job satisfaction and a resilient coping style) is best promoted by focusing on organisational and team factors. In particular, the study found that job satisfaction was most associated with organisational climate and the physical work environment (Clarke 2013). Organisational climate comprised four factors: management style, empowerment, workload and communication. Meanwhile, the respondents' satisfaction with their physical work environment was linked to the provision of good facilities in the workplace and the workers' ability to influence and/or control that workplace.

These findings lend weight to the notion that resilience resides in the complex and circular relationships within and among individual workers, teams and organisations.

6 Supporting Resilience at the Level of the Individual Worker

There is clear evidence from the SPORE study, supported by all three models of resilience outlined above, that it is important to emphasise that resilient outcomes emerge from interactions between individual workers and the organisations within which they work. It would be unhelpful to think of some individuals as "more resilient" or "less resilient" than others, as we all have the capacity to be influenced by factors relating to the environments in which we work in both positive and negative ways. However, certain aspects of the psychological functioning of individual workers, in combination with the ways in which their lives are organised outside their working hours, seem to influence their ability to adapt to the demands of working in a critical profession.

6.1 Detached Coping

Both the Stress Shield Model and the Model of Dynamic Adaptation emphasise the importance of individuals using detached or problem-focused coping styles, as opposed to emotional coping styles. All three models stress the importance of the worker's capacity to step back and reflect upon their work life, and from that reflection to learn lessons which can be applied to future practice. Having said that, there is little evidence to suggest that resilience is a static trait or a personality characteristic. It is more useful to view it as an adaptive capacity which can be learned and reinforced (Masten 2001; Bonnano 2004; Paton et al. 2008).

Roger (1995) characterises detached coping as the ability to disengage from overwhelming emotions and retain a sense of perspective. This implies an ability to notice one's own emotional experience, step back from it and reflect upon it, in order to reach a new understanding. Collins (2007) explores the role of positive emotions in helping social workers to cope with the demands of their roles. While his paper focuses on the experiences of social workers, it is reasonable to assume that many of the points he raises are also relevant for those who work with sexual offenders in criminal justice settings, due to similar themes of balancing care and

control functions with largely involuntary clients in emotionally demanding situations (Fitzgibbon 2012). Collins writes about three emotional processes which are linked with positive coping, based on the work of Folkman and Moskowitz (2000). The first is positive reappraisal—reframing a situation to find realistic alternative narratives which highlight positives and strengths. The second is problem-focused coping—taking action to manage a situation which is causing stress. This can reinforce a sense of mastery and control. The third is finding meaning on the basis of goals, values and beliefs. This is linked to the notion of "doing a good job" and "making a difference."

Rajan-Rankin's (2014) study into the resilience and emotional experiences of student social workers reminds us that the individual's experience of emotion is located within their socio-political and cultural context, and that it is highly influenced by their self-identity. She writes: "Emotions are experienced and reproduced within existing hierarchies and embodied social categories of race, religion, sexual orientation, class, caste and gender" (Rajan-Rankin 2014: 4–5). Thus, an individual's perception and expression of their emotional experience are mediated by their socio-political identity and their personal understanding of the role of emotion in their work and personal lives. The social work students who participated in Rajan-Rankin's study were uneasy about acknowledging their emotional responses to their challenging work because they believed that this smacked of unprofessionalism. Indeed, they felt a need to suppress their emotional responses. This was matched by a perception that, while it was acceptable for clients to express strong emotions, professionals should refrain from doing so. Rajan-Rankin feels social work educators and managers should promote an alternative mindset by stressing that resilience is built upon acknowledging our own emotional responses and making sense of them through contained, safe discussion with supervisors and peers.

The development of both detached coping skills and the capacity to reflect upon our emotional experiences, as mediated by aspects of our personal identity, would not be out of place in mainstream interventions for people who have committed sexual offences. The capacity of workers to be self-aware, and to attend to their own emotional responses in challenging situations, is fundamentally linked to good assessment, decision-making

skills and relationship-building skills (Morrison 2007). Both cognitive reasoning skills and the capacity to be self-aware and to regulate emotion are fundamental skills for those who work with people who have sexually offended. The development of detached coping skills will enhance not only the worker's resilience but also their capacity to meet their professional and organisational goals.

6.2 Work–Family Conflict Model

Westaby and colleagues (2016) use the Work–Family Conflict (WFC) Model (Greenhaus and Beutell 1985) to explore the way in which probation work may impact upon, or spill over into, the private lives of probation workers. This model is concerned with the mechanisms through which the work domain may impact upon the family domain. It is also possible that this process can operate in the opposite direction: changes in a worker's personal situation, such as becoming a parent, or the start or end of an intimate relationship, may affect their work life. However, here we will concentrate on work's impact on the family domain.

Greenhaus and Beutell (1985) identify three types of conflict which may lead to spillover: time-based, behaviour-based and strain-based. Time-based conflict occurs when spending time at work affects the ability to carry out roles outside work, which can impact on family life. Behaviour-based conflict arises when thinking styles or behaviour which are required in a work setting are inappropriate or unhelpful in a family setting. Strain-based conflict is linked to the inability to leave work in the workplace, due to either the quantity or the emotionally demanding quality of that work.

Westaby and colleagues (2016) interviewed a small sample of eighteen probation officers whose stories offered examples of all three types of conflict. Although most of the respondents tried not to take their work home with them in a physical sense, many spoke of being psychologically preoccupied by work tasks during family time or leisure time. Probation staff working in the community described anxiety over whether their clients might behave in risky or pro-offending ways between appointments. One respondent described the tension between being held accountable for any

reoffending, but being unable to monitor or control their clients' behaviour fully (Westaby et al. 2016: 118). An example of behaviour-based conflict was offered by several participants who described what the authors termed "darker imaginings": feeling tainted by their professional roles, and noticing that their view of the world had become skewed in ways that were not always comfortable. For instance, through their work, they had been exposed to information which affected how they viewed interactions between parents and their children. They noticed that this affected their assessment of day-to-day parenting scenarios, such as agreeing to their children's requests to spend time at friends' houses or to participate in sports or leisure activities.

The community-based nature of most probation work means that the physical boundaries between the home and the workplace are porous. This can contribute to strain-based conflict: several workers in the study reported bumping into clients unexpectedly in the community, which could have a negative impact upon the division between the self as a professional and the self as a person (Rober 1999). This is a very physical and immediate example of spillover.

The conflicts outlined by the WFC Model, and the spillover between work life and family life, could well have a detrimental impact upon the workers' ability to manage the negative emotions associated with their demanding roles, and upon their well-being and capacity for resilient coping (Grant and Kinman 2014). It is an important aspect of supporting resilient outcomes that workers are enabled to discuss these complex and multi-layered issues with colleagues and managers in order to find meaning and resolve conflict.

6.3 Professional–Personal Dialectic

Another process which can impact upon an individual's capacity to sustain their resilience by managing their emotions is termed the "professional–personal dialectic"—a unique phenomenon which lies at the heart of work with sexual offenders (Lea et al. 1999). Professionals in this field must learn how to negotiate this paradoxical position. In order to be effective in their aim to support the rehabilitation of offenders, they

must develop positive and respectful relationships with their clients, viewing them primarily as "people like us" (Laws and Ward 2010). However, this inevitably places them in a position which is at odds with the attitudes of the majority of the public and the media (Harper and Hogue 2014). Indeed, as human beings, professionals may themselves occasionally experience strong emotions, such as fear, disgust or abhorrence, in response to their clients' offending behaviour and pro-offending attitudes. For example, Petrillo interviewed female probation officers about their work with people convicted of violent and sexual crimes (Petrillo 2007). These female professionals spoke of feeling "contaminated" by their exposure to graphic descriptions of offences which had caused serious harm to victims, and noticing that, as a result, they were more suspicious of people they encountered in their personal lives. However, these emotional reactions need to be reflected upon and comprehended if the worker is to continue to be effective in their role (Morrison 2007; Laws and Ward 2010). Navigating these complex emotional responses requires reflective capacity on the part of the individual as well as appropriate organisational processes, such as high-quality reflective supervision.

7 Supporting Resilience at the Organisational Level

While individual workers have a responsibility to monitor their own well-being and take active steps to maintain their emotional health, their capacity to do so is influenced by the climate and practices of the organisation within which they work (Clarke 2011; Paton et al. 2008; Vogelvang et al. 2014). As we have seen, the SPORE study found that job satisfaction was closely correlated with both the organisational climate and the physical work environment (Clarke 2013; Vogelvang et al. 2014). In brief, the organisational climate was measured in relation to four factors—management style, empowerment, workload and communication—while the physical work environment was measured in relation to workplace facilities, such as provision of rest areas and eating areas, plus

aspects of how work is scheduled and how much control the worker is able to exert over their surroundings and pace of work (Clarke 2013).

7.1 Anxiety and Uncertainty

Criminal justice organisations which bear responsibility for the assessment and management of those convicted of sexual offences carry a considerable burden of organisational anxiety, due to the emotive nature of the work, the human consequences of sexual offending and the complexity of socio-political responses to it (Kadambi and Truscott 2006; Morrison 2007; Petrillo 2007; Fitzgibbon 2012). Organisations become the containers for anxieties which society cannot tolerate. The responsibility for assessing and managing the risks posed by people who have committed harmful acts against others is delegated to statutory organisations so that individual citizens are shielded from having to engage directly with these complex issues (Taylor et al. 2008). In the 1960s Menzies (1960) wrote about the defensive strategies which organisations may unconsciously adopt in order to defend themselves from uncontainable anxiety. The most salient strategy she identified was "splitting"—an unconscious attempt to simplify the role of the worker by dividing it into a series of more routine, and hence more seemingly manageable, tasks. In order to protect themselves from their worst anxieties, organisations adopt rituals, processes and systems that are unconsciously designed to separate emotions and render the job more predictable, and therefore safer and more containable. Menzies identified the risk that organisations can come to believe that positive outcomes will be attained only by following certain processes and developing certain structures. Instead, she advocated the development of cultures which balance the use of structures and procedures while acknowledging anxiety and uncertainty.

This conclusion seems consistent with notions of relationship-based practice in criminal justice. Supporting desistance in those convicted of sexual offences requires professionals to maintain hope and to truly engage with their clients as complex human beings who possess both the capacity to commit harmful acts and the capacity to choose to live safer lives (Maruna 2001; Laws and Ward 2010; Vogelvang et al. 2014). Risk

assessment and risk management will be more effective if policies are implemented in a context of relationship-based practice, as this will facilitate collaborative work with individual offenders. Attending to workers' resilience will also enhance their capacity to undertake their roles effectively.

7.2 Transforming Rehabilitation

In 2014, the Probation Service in England and Wales was restructured under a set of reforms known as Transforming Rehabilitation (TR). High-risk public protection work is now managed by the National Probation Service (NPS), which remains within the public sector, while responsibility for offenders who are assessed as posing low or medium risk of harm has been passed to twenty-one newly formed Community Rehabilitation Companies (CRCs), which are outside the public sector. Therefore, the caseloads of probation officers working in the NPS are characterised by far higher proportions of offenders who pose a high risk of harm than prior to the reforms, including most of the people who have been convicted of sexual offences (Phillips et al. 2016). The reorganisation was not supported by the majority of probation staff, and indeed the National Association of Probation Officers (NAPO) organised a series of national strikes in protest (Phillips 2014). Burke et al. (2016) and Robinson et al. (2016) have conducted thorough reviews of the TR process.

This wholesale reform of the structures through which probation services are delivered has already had a considerable impact upon the workforce. The relationships between employees and their organisations have been altered in fundamental ways, while individual workers' sense of professional identity has been transformed (Burke et al. 2016; Robinson et al. 2016). Given that organisational climate and physical work environment are so closely associated with job satisfaction, and hence with worker resilience (Vogelvang et al. 2014), it is reasonable to assume that the restructuring of the organisational delivery model, and the evolution of a new organisation with new working practices, will impact upon the capacity of workers to remain resilient.

Phillips and colleagues (2016) interviewed NPS probation officers about their experiences of working with offenders who pose a high risk of harm, including those convicted of sexual offences. It is important to note that their study was based on a small sample, and that the participants were self-selecting, which increases the risk of collecting "skewed data" (Phillips et al. 2016: 185). Two participants reported positive aspects of working solely with high-risk offenders: one stated that she enjoyed the challenge, while the other said that she found them more stable than other clients. However, most of the other participants reported increased pressure due to the changing nature of their work, and admitted that they were adopting defensive rather than defensible decision-making practices (Kemshall 2003). There was widespread criticism of the pressure to follow required protocols and meet performance outputs, driven by a perceived organisational aim of avoiding censure in the event of an adverse incident, such as a person under supervision committing another offence.

For example, now that the majority of cases supervised by the NPS are assessed as high risk, the participants in Phillips and colleagues' study reported that they are now obliged to compare high-risk offenders with other high-risk offenders when deciding whom to prioritise. Therefore, individual workers are forced to rely on their own professional judgement to make decisions about the allocation of time and resources, which leaves them feeling vulnerable to criticism should there be an adverse incident. In other words, the responsibility for, and management of, risk and uncertainty have been pushed down the hierarchy—from the organisational level to the frontline workers—in a process called "responsibilisation" (Lyng 2009). Phillips and colleagues (2016) suggest that this is likely to have a negative impact on practitioners' well-being if the NPS fails to provide them with more support in prioritising offenders according to risk and need.

As the NPS continues to develop its organisational practices, and as workers continue to redefine their professional identities and relationships, it is to be hoped that there will be ongoing support at all levels, with a focus on staff well-being and resilience, driven by an appreciation of the contribution this can make to promoting good outcomes for clients and workers alike.

7.3 Supervision

At its best, supervision can make a vital, positive contribution to the maintenance of psychological resilience (Clarke 2013; Vogelvang et al. 2014; Petrillo 2007; Baim and Morrison 2011). It represents an interface between the organisation and the individual worker, and offers a context within which a practitioner can feel safe to reflect on their work experiences, and learn from them in order to prepare for future challenges. However, not all supervision is effective: Tony Morrison writes that there is too often an emphasis on "having supervision" rather than "having good supervision" (Morrison 2005).

For supervision to fulfil its potential as a safe space that facilitates reflection on practice, from the perspectives of both the individual and the organisation, there needs to be an element of trust. This is not automatic: it requires effort and skill from both the supervised worker and the supervisor. It is not experience of practice alone which leads to changes in the way we practise; rather, developing new skills requires the capacity to reflect and the courage to experiment with doing things differently (Burnham 1993).

Probation officers who participated in Petrillo's (2007) study largely reported negative experiences of supervision, which were characterised by checking performance against procedures and targets, as opposed to reflecting on practice and making sense of their emotional responses. Indeed, one respondent described her experiences of supervision as "punitive" (Petrillo 2007: 404). These findings were also reflected in the study by Philips and colleagues (2016), whose participants described their experiences of supervision as placing too much emphasis upon their targets and performance figures, as opposed to their personal, dynamic experiences of working with people who had been convicted of serious offences. Morrison's 4×4×4 Model of reflective supervision would characterise these examples of supervision as placing too much emphasis upon management functions at the expense of mediation, development and support functions (Morrison 2005).

In the absence of adequate reflective supervision, Phillips and colleagues (2016) found that many probation officers were turning to colleagues for emotional support. Clearly, support from peers, which

emanates from trusting relationships with colleagues, can play an important role in developing and maintaining resilience (Kadambi and Truscott 2006). Both the Stress Shield Model and the Model of Dynamic Adaptation recognise that peer relationships make an important contribution to resilience in the workplace. However, informal peer support can never be an adequate substitute for structured, reflective supervision offered across an organisation (Westaby et al. 2016). Furthermore, the Transforming Rehabilitation process has disrupted many pre-existing peer relationships, as staff have been split between the NPS and the new CRCs.

8 Supporting Resilience: The Wider Context

8.1 Broader Societal Views and the Role of the Media

Rehabilitative work with people convicted of sexual offences takes place in a society which is broadly sceptical regarding the possibility of desistance from sexual offending (McAlinden 2007; Lea et al. 1999). Indeed, McAlinden (2007) found that 47 per cent of the people who participated in her study felt that offenders with sexual convictions should not be allowed to re-enter the community. Moreover, this figure rose to 70 per cent for those whose victims were children. The way in which sexual offending is framed and reported by the media contributes to the public's perceptions of the risks posed by sexual offenders, and increases public support for punitive responses (McCartan 2004; Harper and Hogue 2014). Highly emotive media coverage can also make it more difficult for those convicted of sexual offences to find their way back into meaningful, crime-free life. If sexual offenders are to reintegrate into society, they require, among other things, stable housing, work opportunities and supportive relationships (Laws and Ward 2010). Clearly, the community is less likely to offer access to these forms of social capital if it is bombarded by emotive and punitive media coverage (Willis et al. 2010).

This places individuals whose work supports the community management of those convicted of sexual offences in a "counter-attitudinal position" (Lea et al. 1999) due to the existence of stigmatising views towards that group within society. In their analysis of how probation officers maintain a sense of identity, Worrall and Mawby (2013) refer to the concept of "dirty work"—essential occupations which society nevertheless regards as unpleasant or tainted. They argue that criminal justice employees working with sexual offenders can be regarded as "socially tainted"—and their work as a "tainted occupation"—because of their close contact with stigmatised people. However, they suggest that probation officers can maintain a positive self-image by focusing on the purpose and value of their work, and by engaging in what they term "edgework": taking calculated risks within a rigid professional context in order to promote outcomes which they perceive as valuable.

It is also important to consider the potential impact of broadly hostile media coverage and social stigma on the resilience of those who work with sexual offenders. Given that reflecting on challenging situations and finding meaning in them is a key factor in all three models of resilience, it would seem vital that workers have the opportunity to discuss and reflect upon issues raised by media coverage and the wider views of the society in which they function.

In their study into perceptions of reward among sex offender treatment providers, Kadambi and Truscott (2006: 50) identified what they term a "Treatment Belief Zone": "a core area of reward associated with a belief in treatment effectiveness and in the value of providing it to this population on personal and societal levels." In other words, they found that treatment providers were highly motivated by the belief that their work was contributing to the wider protection of society. This provides support for the view that, in order to find meaning in their work, which in turn will promote resilience, workers who engage with sexual offenders need to find a sense of meaning which correlates with their value base regarding the purpose of their work. As Pargament (1997) writes, we cope *towards* our most central values and beliefs. It can be particularly challenging to do this within the context of a society that is characterised by hostile and punitive views towards this stigmatised group.

9 What Can Individuals Do to Build and Maintain Resilience?

Assessing and managing the risk posed by people who have committed sexual offences is a role which is inevitably characterised by anxiety and uncertainty. As we have seen, however, most of the people who are engaged in this work find it professionally satisfying and rewarding. Knowledge of the range of potential risks, and strategies to foster resilience, may support individuals in thriving throughout their careers.

9.1 Reflect upon the Potential for Negative Impact

It is important for individuals to begin by acknowledging the potential for negative impact and engaging in a realistic self-appraisal of their strengths and vulnerabilities (Clarke 2011). Furthermore, individual workers need to accept supervision, and should be prepared to share information about issues in their lives outside work which might make them more vulnerable to negative outcomes (Vogelvang et al. 2014). Clearly, it is essential to give due consideration to an individual's right to a private life, and to the maintenance of confidentiality. However, if it is governed by sensitive protocols, which are applied with care and respect, then the disclosure relevant information can enable an organisation to offer appropriate support (Morrison 2005).

9.2 Detached Coping and Mindfulness

Developing a detached coping strategy is linked with resilient outcomes for individuals (Clarke 2011, 2013; Vogelvang et al. 2014). This entails the capacity to notice emotional states, disengage from them, and resist being overwhelmed by them, in contrast with a more ruminative coping style.

There is good evidence that mindfulness skills can help workers to develop detached coping strategies (see Grant and Kinman 2014 for a review of the evidence). Jon Kabat-Zinn (2004: 40) offers the following

definition: "Mindfulness means paying attention in a particular way: on purpose, in the present moment, and nonjudgmentally." Activities such as meditation, yoga and t'ai chi may be practised in order to cultivate mindfulness, which promotes the attitude that thoughts and feelings are internal processes that do not necessarily reflect anything that truly exists in the external world in the past, present or future. A mindful person consciously tunes in to their internal processes and observes the thoughts and feelings they are experiencing in the present, without passing judgement upon them. This capacity can reduce the tendency to ruminate, and it encourages the development of detached coping skills.

9.3 Finding a Sense of Meaning

Finding a sense of personal meaning is also important in underpinning the capacity to survive and thrive in this challenging area of work (Paton et al. 2008; Clarke 2011; Collins 2007; Rajan-Rankin 2014). This refers to the fit between the tasks involved in a person's work role and their personal goals, beliefs and values. The Stress Shield Model posits that this sense of meaning is a key component of job satisfaction (Paton et al. 2008). An individual's personal narrative regarding the meaning of their work is likely to change over the course of their career, and it might be influenced by fundamental changes in the way in which their work is organised (Rajan-Rankin 2014). For this reason, it is important for individuals to reflect upon their personal narrative regarding the meaning of their work through supervision and consultation with peers. Clarity about values and a sense of purpose both help us to cope with difficulties we encounter in the workplace (Pargament 1997).

10 What Can Organisations Do to Build and Maintain Resilience?

The management of high-risk offenders poses considerable organisational challenges due to the need to minimise the likelihood of further offending, coupled with the requirement to respond to media and political criti-

cism should there be a further crime (Willis et al. 2010). All three of the models of resilience explored in this chapter emphasise the importance of organisational factors in supporting individual workers' capacity to develop and maintain their resilience.

10.1 Organisational Climate

The SPORE study provides ample evidence that attending to the four principal aspects of organisational climate—empowerment, management style, workload and communication—can make a significant contribution to improving job satisfaction and promoting resilience (Vogelvang et al. 2014; Clarke 2013). Empowerment can be promoted by encouraging workers' participation in decision-making and facilitating the learning of new skills. A positive management style is characterised by open communication, and by managers who have appropriate skills and knowledge. Workload is linked to flexibility in tasks and realistic volumes of work, while communication should be positive, open and responsive at all times. Detailed analysis of these four elements of organisational climate, and the steps that an organisation can take to improve them, can be found in Vogelvang et al. (2014).

10.2 Physical Work Environment

The SPORE study also provides support for the notion that attending to the physical work environment can promote resilient outcomes. For example, attention should be paid to ensuring that the work environment is pleasant by providing comfortable rest areas and granting individual workers a degree of control over noise levels, temperature and ventilation.

10.3 Supervision

Supervision offers an opportunity to promote good communication between the organisation and the individual worker. Organisations which

promote resilience invariably practise a form of supervision which meets the needs of the individual as well as the needs of the organisation. For instance, supervision which is overly task-focused is often interpreted as punitive (Petrillo 2007) and generally fails to support reflective practice or resilience. Organisations therefore need to ensure that supervisory staff are adequately trained in and supported to deliver reflective supervision, as this encourages individuals to discuss and make sense of their emotional responses to complex work challenges. Group supervision might also prove beneficial, as it often promotes trust and communication among peers (Grant and Kinman 2014).

10.4 Acknowledging Emotion and Uncertainty

Healthy organisations, which support the development of resilience in the workforce, promote and model the acceptance of emotional responses to anxiety and uncertainty. It is important for organisations to guard against pushing responsibility down the hierarchy and onto individual, frontline workers (Phillips et al. 2016) or adopting an overly task-focused and procedural approach at the expense of a more rounded, relationship-based approach to the work (Burke et al. 2016; Morrison 2007).

11 Conclusion

This chapter has demonstrated that working professionally with people who have been convicted of sexual offences has the potential to be safe, rewarding and fulfilling. Resilience in such careers resides in the complex interplay of individual and organisational processes; organisations and individuals have mutual and reciprocal responsibilities to take steps to promote resilient outcomes. This is most likely to occur within organisations which have a genuine, values-based commitment to open, collaborative and reflective engagement with their staff, and where workers feel free to express the challenges they face when working with a stigmatised group in the context of a society which is broadly hostile and pessimistic about the possibility of rehabilitation.

Reflective supervision remains an important process for ensuring good communication between all levels of an organisation, and promoting the capacity for detached coping. Workers who feel supported and contained are better able to use their professional judgement to combine relationship-building skills with organisational processes in order to work collaboratively towards promoting safer futures for those who have committed sexual offences and in turn, for all members of the society to which they belong.

References

Adamson, C., Beddoe, L., & Davys, A. (2014). Building Resilient Practitioners: Definitions and Practitioner Understandings. *British Journal of Social Work, 44*(3), 522–541. https://doi.org/10.1093/bjsw/bcs142.

Baim, C., & Morrison, T. (2011). *Attachment Based Practice with Adults*. Hove: Pavilion.

Bird-Edmunds, S. (1997). The Personal Impact of Working with Sex Offenders. In S. Bird-Edmunds (Ed.), *Impact: Working with Sexual Abusers* (pp. 11–29). Brandon: Safer Society Press.

Bonnano, G. (2004). Loss, Trauma and Human Resilience. *American Psychologist, 59*(1), 20–28. https://doi.org/10.1037/0003-066X.59.1.

Burke, L., Millings, M., & Robinson, G. (2016). Probation Migration(s): Examining Occupational Culture in a Turbulent Field. *Criminology and Criminal Justice, 17*(2), 192–208. https://doi.org/10.1177/1748895816656905.

Burnham, J. (1993). Systemic Supervision: The Evolution of Reflexivity in the Context of the Supervisory Relationship. *Human Systems: Journal of Systemic Consultation and Management, 4*(3), 349–381. https://doi.org/10.1177/1359104512442058.

Clarke, J. (2011). Working with Sex Offenders: Best Practice in Enhancing Practitioner Resilience. *Journal of Sexual Aggression, 17*(3), 335–355. https://doi.org/10.1080/13552600.2011.583781

Clarke, J. (2013). *Sustaining Probation Officer Resilience in Europe (SPORE): A Transnational Study*. http://spore-resilience.eu/media/files/SPORE_Final_Report1.pdf. Accessed 7 Apr 2017.

Collins, S. (2007). Social Workers, Resilience, Positive Emotions and Optimism, *Practice, 19*(4), 255–269. https://doi.org/10.1080/09503150701728186

Crittenden, P. (2008). *Raising Parents: Attachment, Parenting and Child Safety*. Abingdon: Willan.

Dean, C., & Barnett, G. (2011). The Personal Impact of Delivering a One-to-One Treatment Programme with High-risk Sexual Offenders: Therapists' Experiences. *Journal of Sexual Aggression, 17*(3), 304–319.

Farrenkopf, T. (1992). What Happens to Facilitators who Work with Sex Offenders. *Journal of Offender Rehabilitation, 16*, 217–223.

Fitzgibbon, W. (2012). *Probation and Social Work on Trial: Violent Offenders and Child Abusers*. Basingstoke: Palgrave Macmillan.

Fletcher, D., & Sarkar, M. (2013). Psychological Resilience: A Review and Critique of Definitions, Concepts, and Theory. *European Psychologist, 18*(1), 12–23. https://doi.org/10.1027/1016-9040/a000124.

Folkman, S., & Moskowitz, J. (2000). Positive Affect and the Other Side of Coping. *American Psychologist, 55*, 647–654.

Grant, L., & Kinman, G. (2014). Emotional Resilience in the Helping Professional and How It Can Be Enhanced. *Higher Education Academcy Practice Paper, 3*(1), 23–34. 10.11120/hsce.2014.00040.

Greenhaus, J. H., & Beutell, N. J. (1985). Sources of Conflict between Work and Family Roles. *Academy of Management Review, 10*(1), 76–88.

Harper, C. A., & Hogue, T. E. (2014). The Emotional Representation of Sexual Crime in the National British Press. *Journal of Language and Social Psychology, 34*(1), 3–24. https://doi.org/10.1177/0261927X14544474.

Kabat-Zinn, J. (2004). *Wherever You Go, There You Are: Mindfulness Meditation for Everyday Life*. London: Piatkus.

Kadambi, M., & Truscott, D. (2003). Vicarious Traumatization and Burnout among Therapists Working with Sex Offenders. *Traumatology, 9*(4), 216–230. https://doi.org/10.1177/153476560300900404.

Kadambi, M., & Truscott, D. (2006). Concept Mapping Professionals' Perceptions of Reward and Motive in Providing Sex Offender Treatment. *Journal of Offender Rehabilitation, 42*(4), 37–58. https://doi.org/10.1300/J076v42n04.

Keenan, E. K. (2010). Seeing the Forest and the Trees: Using Dynamic Systems Theory to Understand "Stress and Coping" and "Trauma and Resilience". *Journal of Human Behavior in the Social Environment, 20*(August 2013), 1038–1060. https://doi.org/10.1080/10911359.2010.494947.

Kemshall, H. (2003). *Understanding Risk in Criminal Justice*. Maidenhead: Oxford University Press.

Laws, D. R., & Ward, T. (2010). *Sex Offenders: People Like Us?* New York: Guilford Press.

Laws, D. R., & Ward, T. (2011). *Desistance from Sex Offending: Alternatives to Throwing away the Keys*. New York: Guilford Press.

Lea, S., Auburn, T., & Kibblewhite, K. (1999). Working with Sex Offenders: The Perceptions and Experiences of Professionals and Paraprofessionals. *International Journal of Offender Therapy and Comparative Criminology, 43*(1), 103–119. https://doi.org/10.1177/0306624X99431010.

Lyng, S. (2009). Edgework, Risk and Uncertainty. In J. O. Zinn (Ed.), *Social Theories of Risk and Uncertainty: An Introduction* (pp. 17–49). Oxford: Blackwell.

Macedo, T., Wilheim, L., Goncalves, R., Coutinho, E. S. F., Vilete, L., Figueira, I., & Ventura, P. (2014). Building Resilience for Future Adversity: A Systematic Review of Interventions in Non-clinical Samples of Adults. *BMC Psychiatry, 14*, 227–234.

Maruna, S. (2001). *Making Good: How Ex-convicts Reform and Rebuild Their Lives*. Washington, DC: American Psychological Association.

Masten, A. (2001). Ordinary Magic: Resilience Processes in Development. *American Psychologist, 56*, 227–238.

McAlinden, A. M. (2007). *The Shaming of Sexual Offenders: Risk, Retribution and Reintegration*. Oxford: Hart.

McCartan, K. F. (2004). "Here There Be Monsters": The Public's Perception of Paedophiles with Particular Reference to Belfast and Leicester. *Medicine, Science and the Law, 44*, 327–342.

Menzies, I. (1960). A Case-study in the Functioning of Social Systems as a Defence against Anxiety: A Report on a Study of the Nursing Service in a General Hospital. *Human Relations, 13*, 95–121.

Morrison, T. (2005). *Staff Supervision in Social Care: Making a Real Difference to Staff and Service Users* (3rd ed.). Brighton: Pavilion.

Morrison, T. (2007). Emotional Intelligence, Emotion and Social Work: Context, Characteristics, Complications and Contribution. *British Journal of Social Work, 37*(2), 245–263.

Pargament, K. I. (1997). *The Psychology of Religion and Coping: Theory, Research, Practice*. New York: Guilford Press.

Paton, D., & Violanti, J. M. (1996). *Traumatic Stress in Critical Occupations: Recognition, Consequences and Treatment*. Springfield: Charles C. Thomas.

Paton, D., Violanti, J. M., Johnston, P., Burke, K. J., Clarke, J., & Keenan, D. (2008). Stress Shield: A Model of Police Resiliency. *International Journal of Emergency Mental Health, 10*(2), 95–108. https://doi.org/10.1111/1753-0407.12457.

Petrillo, M. (2007). Power Struggle: Gender Issues for Female Probation Officers in the Supervision of High Risk Offenders. *Probation Journal, 54*(4), 394–406. https://doi.org/10.1177/0264550507083538.

Phillips, J. (2014). Probation in the News: Transforming Rehabilitation. *British Journal of Community Justice, 12*(1), 27–48.

Phillips, J., Westaby, C., & Fowler, A. (2016). "It's Relentless": The Impact of Working Primarily with High Risk Offenders. *Probation Journal, 63*(2), 182–192. https://doi.org/10.1177/0264550516648399.

Rajan-Rankin, S. (2014). Self-identity, Embodiment and the Development of Emotional Resilience. *British Journal of Social Work, 44*(8), 2426–2442. https://doi.org/10.1093/bjsw/bct083.

Rober, P. (1999). The Therapist's Inner Conversation in Family Therapy Practice: Some Ideas about the Self of the Therapist, Therapeutic Impasse, and the Process of Reflection. *Family Process, 38*, 209–228.

Robinson, G., Burke, L., & Millings, M. (2016). Criminal Justice Identities in Transition: The Case of Devolved Probation Services in England and Wales. *British Journal of Criminology, 56*(1), 161–178. https://doi.org/10.1093/bjc/azv036.

Roger, D. (1995). Emotion Control, Coping Strategies and Adaptive Behaviour. *Stress and Emotion, 15*, 255–264.

Siegel, D. (1999). *The Developing Mind: How Relationships and the Brain Interact to Shape Who We Are*. New York: Guilford Press.

Slater, C., & Lambie, I. (2011). The Highs and Lows of Working with Sexual Offenders: A New Zealand Perspective. *Journal of Sexual Aggression, 17*(3), 320–334.

Taylor, H., Beckett, C., & McKeigue, B. (2008). Judgements of Solomon: Anxieties and Defences of Social Workers Involved in Care Proceedings. *Child and Family Social Work, 13*(1), 23–31. https://doi.org/10.1111/j.1365-2206.2007.00507.x.

Vogelvang, B., Clarke, J., Weiland, A. S., Vosters, N., & Button, L. (2014). Resilience of Dutch Probation Officers: A Critical Need for a Critical Profession. *European Journal of Probation, 6*(2), 126–146. https://doi.org/10.1177/2066220314540570.

Ward, T., & Gannon, T. A. (2006). Rehabilitation, Etiology and Self Regulation: The Comprehensive Good Lives Model of Treatment for Sex Offenders. *Aggression and Violent Behavior, 11*(1), 77–94.

Ward, T., & Maruna, S. (2007). *Rehabilitation*. London: Routledge.

Westaby, C., Phillips, J., & Fowler, A. (2016). Spillover and Work–Family Conflict in Probation Practice: Managing the Boundary between Work and Home Life. *European Journal of Probation, 8*(3), 113–127.

Willis, G. M., Levenson, J. S., & Ward, T. (2010). Desistance and Attitudes towards Sex Offenders: Facilitation or Hindrance? *Journal of Family Violence, 25*(6), 545–556. https://doi.org/10.1007/s10896-010-9314-8.

Worrall, A., & Mawby, R. C. (2013). Probation Worker Responses to Turbulent Conditions: Constructing Identity in a Tainted Occupation. *Australian and New Zealand Journal of Criminology, 46*(1), 101–118.

8

The Third Sector's Role in Managing Serious Offenders: Partners, Collaborators or Buffers?

Mary S. Corcoran and Samantha K. Weston

1 Introduction

Driven in large part by media-constructed moral panics playing on 'stranger danger' (Kitzinger 1999), there is much public anxiety about sex offenders (Thomas 2005; Piper and Strannach 2008). Media coverage typically constructs sex offenders as demons (Hebenton and Thomas 1996: 429). Such images are exacerbated by the construction of the 'predatory paedophile', usually in terms of an invisible stranger preying on vulnerable young children. This is despite research evidence suggesting that most victims are abused in their own homes, within extended families and by people who are known to them (Gallagher 2009).

These misperceptions have found their way into criminal justice policy in its emphasis on vigilance against 'stranger danger', leading to legislation and increasingly restrictive conditions for monitoring sex offenders (Kemshall 2008). These responses reflect public anxieties built on high-profile cases and public perceptions of risk management failures (Kemshall

M.S. Corcoran (✉) • S.K. Weston
Keele University, Keele, UK

K. McCartan, H. Kemshall (eds.), *Contemporary Sex Offender Risk Management, Volume I*, Palgrave Studies in Risk, Crime and Society,
https://doi.org/10.1007/978-3-319-63567-5_8

2012). As a consequence, criminal justice policy from the 1990s to the 2010s and approaches to sex offending were built on a legacy of 'retributive fallacy' (Pratt 2000), including increased surveillance, intensive measures of control and restriction, preventative sentencing and containment.

One relatively recent feature of managing offenders deemed to be 'dangerous' entails mobilising non-statutory and non-criminal justice agencies, including third-sector organisations (hereafter, TSOs), in support of that agenda. This development draws attention to the expectations of, and challenges for, staff working within TSOs under duties such as Multi-Agency Public Protection Arrangements (MAPPA). In examining these questions, this chapter invariably exposes some of the critiques which TSOs face to the effect that they are being pulled into securitised, risk-averse and quasi-penal practices and outlooks to the detriment of their vocational and autonomous status (Mythen et al. 2012). This chapter largely confirms the jeopardies of cooption, which are accentuated through formal and informal obligations placed on all agencies involved in managing sensitive groups of offenders to uphold dominant risk-based frameworks and methods. However, we also conclude that final verification of penal drift is often overstated, although acknowledging that important levels of convergence do occur. Indeed, in the context of closely cooperating with statutory agencies and local authorities, TSOs *are* modifying their underpinning missions, assumptions, expectations and imperatives in order to gain accreditation and legitimacy to work with sex offenders and other exceptional groups.

Drawing on evidence from several projects involving TSOs and community-based supervision of various offender groups, including those convicted of sex crimes, as well as extant literature, this chapter makes a number of observations (Corcoran et al. 2016: Weston 2016). First, it explains the roles and functions that are assigned to TSOs more generally, as well as specifically in a MAPPA framework, in 'managing offenders', but concludes that no clear and reliable systems exist for sustaining their contributions. Second, the chapter examines the mandate of TSOs and statutorily 'responsible' agencies in interpreting risk management, which in turn highlights different perspectives on the 'fit' between statutory and third-sector conventions of client management. Third, we contrast third sector and statutory approaches to defining and managing

risk, noting that, for the third sector, 'risk management' is apprehended as a holistic problem. Hence, decisions to work with serious offenders must be balanced against other *organisational* risks, including commercial cost–benefit calculations, or potential threats to their reputations, their workers and their service users.

The chapter will conclude by pointing to possibilities for interactive offender management under an alternative public health approach to the prevention of certain forms of risk, as well as obstructions to these goals.

2 The Voluntary Sector's Role in Offender Management

Although state–voluntary-sector cooperation has evolved over centuries, the elevation of TSOs to the status of 'partners' in criminal justice is a more recent phenomenon. In 1997, the New Labour government placed partnership working at the centre of its modernisation agenda, considering it a pivotal technique for overcoming the fragmented and disjointed services previously provided in the health, social care and criminal justice sectors (Merrell 2009: 34). The promise that criminal justice and other state services would no longer be 'state monopolies' received an enthusiastic response from voluntary-sector leaders, who had long lobbied for foundations, trusts and charities to have places at the table as major partners in public service provision (Hucklesby and Corcoran 2016). Emphasising its attractiveness to policy-makers and its fit with reformative agendas, Evaluation Report Scotland (2011: 2) articulated the kind of claim promulgated by sections of the third sector (hereafter TS),[1] suggesting that it 'has a number of unique and positive attributes that differentiates it from the public and private sector. A distinctive feature … is that it is value driven, characterised by a strong sense of ethics and prioritises the needs of people over all other objectives.' Recognising the benefits that TS involvement could bring, the Coalition government (2010–15) and the Conservative government (2015–date) have accelerated and deepened the pace of change towards a 'mixed economy' of criminal justice services. This has opened up statutory services, such as probation and prison-based resettlement activities, to private capital and

charitable participation (Corcoran 2014). By this means, the TS has shifted from being a niche provider and junior partner to the statutory services to being increasingly relied upon as an 'alternative' provider of mainstream services (Corcoran 2011: Tomczak 2016).

From the outset, these developments raised concerns that the combination of criminal justice reformative agendas and privatisation agendas would damage the TS by coopting it to state and commercial priorities, thereby distorting its humanitarian mission. The shift to the 'mainstream' of offender management attracted criticisms that TSOs were being drawn into 'the state's network of punishment' (Gough 2012: 4). Specifically, it was argued that the realities of working within criminal justice and public protective frameworks would induct TS personnel and volunteers into occupational dispositions and approaches towards service users that prevail in criminological and bureaucratic frameworks. As Hucklesby and Corcoran noted (2016: 2):

> The longer-term ambition of rendering VSOs fit for purpose to deliver public services necessarily incorporates them into the pervasive managerial, audit, and performance management systems that operate in the statutory sector. At the same time, the onus is placed on statutory criminal justice agencies to ensure effective oversight and accountability are in place to support and monitor the work of VSOs.

Although the TS has worked closely with the probation and prison services for decades, it can be argued that the 'Transforming Rehabilitation' (TR) policy, which radically restructured probation and resettlement provision, was a pivotal moment which changed the rules of engagement between the third sector and the government. The Offender Rehabilitation Act 2014 introduced the ambitious changes to community supervision which at the time of writing were being implemented as the TR programme. This Act paved the way for outsourcing the greater part of probation work to statutory, for-profit and TS consortiums in a mixed market for probation and resettlement services. It dissolved the unitary public probation service in England and Wales and replaced it with a National Probation Service, which is an arm of the civil service, and Community Rehabilitation Companies (CRCs), comprising private and voluntary-sector contractors. The NPS retains the powers to advise the courts and conduct all risk assess-

ments which categorise offenders into 'low', 'medium' and 'high' risk. It also manages all offenders who pose a high risk of serious harm (RoSH), while the CRCs are contracted to supervise low- and medium-risk offenders. All breaches referred to the courts will be conducted by the NPS. If an offender is moved from lower to high risk, they must transfer to NPS supervision. Sex (and violent) offenders remain, as previously, under the MAPPA framework. To add to the complexity, it should be noted that not all registered sex offenders (RSOs) are supervised by the NPS, only those who are deemed to present a 'high risk of serious harm'. The allocation of 'lower-risk' RSOs falls to MAPPA, but these appear as 'single agency management' cases, undertaken by the police and the CRCs, among others (Ministry of Justice 2012).

The CRCs are composed mainly of large private companies and 'some of Britain's biggest and most successful rehabilitation charities' (Ministry of Justice 2014). The TR policy was officially promoted as a sign that the third sector had finally obtained long-awaited recognition of its indispensable place 'at the forefront of a new fight against reoffending' (ibid.). However, the reference to 'charities' in the Ministry of Justice's announcement was somewhat misleading as only a handful of organisations claiming charitable status as their principal legal identity were members of the consortia which won the contracts to operate community rehabilitation contracts.[2] Alongside the corporations, several of the not-for-profit contractors included community interest companies or similar charitable and profit-making hybrids that are more accurately categorised as TSOs. The controversies generated by TR and the subsequent political and operational malfunctions in the programme have been widely discussed in the political and academic arena (Public Accounts Committee 2016: Senior 2013). For the purposes of this chapter, a few salient observations will be made with respect to the potential and actual role of the TS in supporting higher-risk offenders.

The constructive innovation of TR was its stipulation that all persons leaving custody, including those serving sentences of under a year, were to be given access to community supervision. Many TSOs are already contracted by other statutory agencies—including health trusts, local authorities, and police and crime commissioners—to provide services such as drug and alcohol treatment, employment and training, housing aid and financial advice, education and training, spiritual and faith guid-

ance, mentoring, arts projects and peer-support schemes. The idea was that TR would expand this system of subcontracting to TSOs by opening up probation and resettlement work to them. TSOs have for some years featured in multi-agency networks, such as police-led integrated offender management (IOM), Prevent programmes, local government crime and disorder panels and similar structures, which has ensured that they have become embedded in the architecture of local and regional criminal justice administration.

3 The Third Sector in Offender Management Structures

Despite the human and financial resources that have been poured into creating criminal justice partnerships, there are serious coordinational and knowledge gaps with respect to the scale, scope and effective connectedness of networks in the area of offender management. There are three interrelated reasons for this: the lack of systematic quantitative data on how many TSOs are involved; a tendency to misapprehend not only what the TS actually does, but how it operates; and changes in policy which are reducing the number of opportunities for TSOs to work with serious offenders. To start with the first problem: the extent to which the TS has been involved in the management of high-risk offenders is under-researched. A major problem in determining trends in the management of higher-risk offenders (including violent offenders, sex offenders and those convicted of terrorist-related offences) is that there is no comprehensive record of the number of TSOs that work specifically with such groups. Consequently, their overall contribution is not easily quantifiable; nor can their roles be considered in isolation from wider criminal justice and social welfare networks.

Some volunteer-based programmes, such as Circles of Support and Accountability (CoSA), have national profiles for their work with sex offenders. Outside of those organisations, however, it is very difficult to extrapolate precisely how many groups exclusively support the management of specified groups (sex offenders, domestic violence perpetrators, 'extremist' offenders) in the community. A number of faith-based groups work with those who are deemed to be at risk of coming under radicalising

influences in many communities. Some violence-perpetrator programmes are provided by TSOs in conjunction with other services, such as housing, anger management, drug and alcohol programmes or life-skills support. Additionally, since the 'split' in the old probation service, higher-risk offenders have become the responsibility of the National Probation Service. Consequently, only a minority of TSOs actually work with the NPS. The majority of TSOs, in contrast, are now directed to work with CRCs to support lower-risk offenders. More often than not, housing, employment and training, mentoring or resettlement providers, for example, may find that higher-risk offenders comprise just one of their service-user groups. Their work focuses on areas in which offenders have needs, and it is on this basis that they intersect with the NPS or MAPPA, not necessarily through any attempt to seek out such client groups.

On the face of it, the voluntary sector has comparatively low levels of direct engagement with sex offenders in a formal sense, aside from the few specialist TSOs whose stated mission is to support them, who have the requisite skills and expertise, and who meet the stringent contractual and supervisory responsibilities to facilitate their public protection duty. However, the picture is more fruitful when the mosaic of agencies that offer different services that contribute to the community supervision package for individual high-risk offenders is taken into account. For example, a housing provider which takes on high-risk tenants may also provide some core support 'in house', such as therapeutic programmes or life-skills courses; equally, it may subcontract other agencies to provide mental health support, substance misuse programmes or employment training, for example. In this context, the housing provider will act as both coordinator for the support that is accessed by its tenant and 'responsible agent' with respect to monitoring compliance with the terms of her or his Sexual Offences Prevention Order (or equivalent orders for other categories). Thus, the potential scope of TS intervention with respect to serious and higher-risk offenders is greater and more prolific than is currently acknowledged in policy or scholarly research.

One approach to correcting this underestimation of the third sector's contribution might be to differentiate between *specialists* who work exclusively in the field of sex offender 'management' and complementary *general service* providers. However, although this distinction might go some way towards clarifying the contribution of TSOs, it misrepresents the

collaborative structure and working methods of the sector in this field. For example, in England, the Staffordshire Circles of Support works in a cluster that also includes the Lucy Faithfull Foundation, the NPS, the police, MAPPA and Central England Quakers. In short, it is difficult to transpose the eco-systematic nature of TS work onto traditional systems-based planning and administrative approaches in criminal justice which are presumptively founded on discrete agencies with different powers. It is more useful to conceive of this work as organised into clusters rather than handled by parallel agencies. There is a general failure in policy to apprehend 'holism' in terms of the interdependency among providers while the market system and austerity are creating hierarchies of need which place arbitrary distinctions between which supports might be 'core' and which are 'supplementary'.

A final obstacle relates to the elbowing out of TSOs from working with serious and sexual offenders under the new system, which has increased as a result of recent policies. The first relates to a longer trend whereby the percentage of 'level-two' and 'level-three' (high-risk) RSOs under MAPPA fell from 20 per cent in 2004/5 to just 3 per cent in 2013/14 (Hudson and Henley 2015: 568). Meanwhile, the overall *number* of RSOs (97 per cent of whom are now categorised as low risk) has increased. While explaining the reasons for these changes is beyond the scope of this chapter, they have had the unintentional effect of concentrating the management of higher-risk RSOs under the statutory supervision of NPS and MAPPA. Concurrently, the promised cascade of contracts to the third sector under TR has not materialised, and there are considerable concerns about the lack of coordination between the NPS and the CRCs on matters of risk escalation and enforcement (HM Inspectorate of Probation 2016). Finally, changes to welfare and housing benefit rules have removed entitlements to self-contained accommodation for higher-level RSOs under MAPPA. This will affect social landlords who offer supervised accommodation to sex offenders for two reasons: the market for this service falling; and local authorities are no longer obliged to pay the higher rates of rent and maintenance for all but the highest-risk sexual offenders.

In summary, sections of the third sector with specialist experience and resources have a declared mission to work with higher-risk offenders,

contributing to public safety through closer collaboration with the police, the NPS and the courts. Moreover, if one takes the wider contribution of the third sector into account, its influence is more profusely dispersed across the field of public protection than has been identified in the literature to date. Nevertheless, the sector's status and role are precarious and disproportionately sensitive to changes in policy. The implications of these structural characteristics are considered in the rest of this chapter.

4 MAPPA as a 'Community Protection Model'

Over the last two decades, punitive legislation intended to manage the risks associated with sex offenders has proliferated. This has included the introduction of MAPPA, a mechanism introduced by the Criminal Justice and Court Services Act 2000 to enable agencies to 'better discharge their statutory responsibilities and protect the public in a co-ordinated manner' (Ministry of Justice 2009: 31). The underlying assumption of these arrangements (and how they differ from previous approaches to managing sex offenders) was the precept that effective assessment, prediction and management could best be achieved by mobilising a variety of professional perspectives, knowledge and skills of potential stakeholders across several sectors (Nash 2006: 160).

Further guidance aimed at clarifying MAPPA was published in March 2003. This identified three groups of offenders for inclusion within the arrangements: registered sex offenders; violent and other sex offenders who have received a custodial sentence of twelve months or more; and any other offenders who are considered to pose a risk of serious harm to the public (NPD 2004: 13). Utilising a multi-agency approach, MAPPA allows for the risk assessment, supervision, surveillance, intervention with enforcement, compliance and breach of 'high-risk' cases. Offenders who are subject to MAPPA are managed at three levels:

- Level 1: Ordinary Risk Management—where the risks posed by the offender can be managed by one agency without significantly involving other agencies.

- Level 2: Local Inter-Agency Risk Management—where significant involvement from more than one agency is required, but where either the level of risk or the complexity of managing risk is not so great as to require referral to Level 3.
- Level 3: Multi-Agency Public Protection Panels (MAPPP)—where a multi-agency approach comprising close cooperation at a senior level is deemed necessary to manage an offender who is one of the 'critical few' due to the complexity of the case and/or the unusual resource commitments that are required. MAPPP may also be used for offenders who are not assessed as high or very high risk but are likely to receive a high level of media scrutiny and/or public interest in the management of their case.

Previously described as the 'community protection model' (Connelly and Williamson 2000), these arrangements reserve the remit of public protection to a few key agencies. Decisions about risk, and the development and implementation of risk management plans, are largely undertaken by statutory partnerships, with the police and probation officials playing key roles (Nash 1999; Kemshall 2003), while the public and victims are largely excluded from the process. While so-called 'lay members' have been included on MAPPA strategic boards, they have lacked an operational role and there has been minimal public involvement.

Within this model, community protection relies on formalised risk assessment through the use of such tools as the Offender Assessment System (OASys), during which an actuarial and individual clinical assessment is made (Kemshall 2001). The approach is actuarial in that it prioritises both the risk management of so-called 'dangerous' people and the reduction of risk to the population as a whole. The techniques used within this type of risk management framework are focused on interventions that are targeted at specific risk indicators and 'seek to reduce the probability, mitigate the magnitude or prevent the occurrence of predicted harm' (O'Malley 2004: 22). Importantly, such interventions are often compulsory, carry enforcement sanctions for breaches and involve delivery to prisoners or probationers (Beech and Fisher 2004). Moreover, they are often reserved for those who are amenable to change, while those who are regarded as persistent and dangerous criminals are managed

through containment and surveillance. The exclusion and distancing of sexual offenders through selective incapacitation or intensive and restrictive measures implemented in the community are the key functions of what became known as the community protection model.

To summarise, the logic of risk management is conceptually and operationally structured around some key premises which are largely defined by the roles and responsibilities of statutory criminal justice agencies. First, risk management is deployed in relation to the potential or actual deficiency of its target (the offender; the supervised person) to regulate his/her behaviour, thus necessitating pre-emptive as well as reactive interventions to reduce the probability of future reoffending. Second, the remit of risk management has shifted from monitoring individuals to managing problematic groups or categories. Third, risk management extends criminal powers into previously non-criminological areas on the grounds of public protection and safety, which in practice often entails a shift away from reliance on formal criminal justice and penal systems and towards greater use of informal mechanisms.

This paradigm of 'risk' differs from certain approaches that have conventionally been associated with the third sector—namely, client-centred, individualistic, advocacy-based missions as well as a strengths-based approach to individual clients which is at odds with the personal-deficit model that is central to conventional statutory risk-management strategies. The following discussion explores the implications of these different interpretative approaches towards risk management.

5 The Third Sector's Role in MAPPA

The policy drive for greater coordination and inter-agency work has helped to cement the status of the third sector as an entity in public protection and offender resettlement. Indeed, extending the mandate for joint supervision of higher-risk groups to the third sector makes compelling policy sense in terms of efficiency and optimising capacity at local level (Merrell 2009: 32). Central government has identified the sector as having 'much to contribute to the Government's goals for public services, communities and the economy'. Several authors have referenced the use

of voluntary, statutory and community agencies in working with sex offenders in pursuit of public protection (Kemshall and Maguire 2001; McAlinden 2007), although Kemshall and Wood (2007: 16) found that the role of the third sector in 'post-licence supervision varies across areas'. The MAPPA guidelines (2012: 3) state that a 'MAPPA Responsible Authority (RA) consists of the Police, Prison and Probation Services', and specify that the only agencies that have a statutory duty to cooperate are 'Registered Social Landlords which accommodate MAPPA offenders'. Although the presence of TSOs is advisory, member agencies are 'required to co-operate closely using individual expertise to identify, assess, monitor and manage the risk presented by registered sex offenders in the interests of public protection and a better exchange of information' (McAlinden 2007: 29). McAlinden (2007: 29) regards these purposes as the 'pivotal focus of interagency policy and practice'.

However, even if TSOs are said to be indispensable to resettlement networks, the statutory measures under which MAPPA was founded do not formally stipulate their status or responsibilities. TSOs are not specifically mentioned in MAPPA Memoranda of Understanding. Although they might be invited to attend MAPPPs, they do not necessarily have the right or duty to do so. As such, their presence is discretionary rather than obligatory. An argument in defence of this informality might be that the lack of prescription acknowledges their civic, as opposed to governmental, status, thus preserving their independence. Additionally, this arrangement protects them from acting *ultra vires*—that is, beyond their mandate—when discharging a critical public protection duty. Because they are not vested with statutory powers, they should be kept at arm's length from discharging sanctions directly. However, in order to take their place around the MAPPP table, TSOs must accept the obligations pertaining to the other responsible agencies. Participation in MAPPA (and other interagency, cross-sectoral work) means that contributing parties must adhere to the provisions of the Crime and Disorder Act 1998 (ss. 15–17), which prescribes their legal duties to prevent crime and/or disclose when offences have taken place. Additionally, they must agree to MAPPA protocols governing data protection, information-sharing procedures and risk-assessment management duties. In practice, TSOs tend to characterise their compliance with these requirements on the basis that in contracting to

work with such offenders (and receive public funding for doing so), they knowingly sign up to obligations to report problems to the responsible statutory agency, which puts the sanctions into effect.

The potential conflicts of interest between these obligations and what are deemed to be inherently TS values of independent advocacy and the primacy of the client's interest have been cited as examples of 'penal creep' (Tomczak 2016: Mythen et al. 2012). It would be mistaken, however, to assume that this form of 'creep' represents a calculated departure from the founding goals or pastoral ethos of TSOs. Rather, it is more likely that convergences in practice between TSOs and statutory agencies occur in the course of practical responses to operational demands as well as the routine interactions of staff in different agencies trying to establish smooth and efficient working relationships. Nevertheless, to critics, the modes or motives for such compromises do not elide the fact that, by virtue of signing up to such undertakings, certain TSOs assume their place in dispensing sanctions and control by proxy.

Although participation has allowed parts of the third sector to flex their capabilities and demonstrate their importance to MAPPA or offender management more widely, it has also involved a certain trade-off. That is to say, after decades of lobbying to become major providers of rehabilitative services, TSOs *are* orienting their practices, standards of performance and responsibilities to operate commensurately with their new-found roles. One of the key areas of responsibility which TSOs have assumed is managing higher-risk offenders in the community, including those convicted for sex crimes, by deploying risk-appropriate safeguards and monitoring practices. There is some valuable literature on the rightful place and effectiveness of the third sector in coordinated supervision arrangements, including those based on MAPPA (Kemshall and Wood 2007). Equally, there is a growing evaluative literature on highly specialist, volunteer-based community programmes, notably the Circles of Support and Accountability (see McCartan 2016). Less attention has been paid to the general experiences of TSOs in working within MAPPA or similar arrangements. The following section outlines some key themes pertaining to the interpretation of risk management, the 'fit' between statutory and third sector conventions of client management, and how TSOs experience and

negotiate the challenges of managing organisational risks, including threats to their reputations, their workers and service users.

5.1 Risk as a Holistic Concept: Why TSOs Work with Sex Offenders

As previously discussed, TSOs with an explicit mission to work only with high-risk offenders must prove that they have 'the capacity, capability, infrastructure, expertise or willingness to deliver particular services' in a complex and challenging area of criminal justice (Hucklesby and Corcoran 2016: 2). There are several practical obstacles and deterrents to working with high-risk or sensitive client groups. Housing associations may be unable to secure the necessary insurance to house offenders with a history of arson or destruction of property. Agencies must be acutely aware of the well-being and safety of their staff and clients, and may not be able to admit offenders who are likely pose potential harm to other vulnerable service users. Organisations must implement sufficient physical, procedural and human safeguards to satisfy security and monitoring public safety standards. They may play down their work with higher-risk offenders to protect their reputations, or to prevent their facilities, staff or service users from becoming the focus of unwelcome publicity or hostility. Additionally, TSOs need to adapt their services and procedures to optimise client safety and well-being, and they must be answerable for any incidents that have an impact on public safety.

Nevertheless, there are several reasons why TSOs come forward to work with higher risk offenders. The advent of contract competition among providers at local, regional and national levels has spurred some organisations towards greater specialisation in order to gain a competitive advantage (Corcoran et al. 2016) over other providers. Other TSOs have had several decades of experience with the most marginalised offenders, and view their experience and record with pride and assurance that it will withstand the turbulence of policy trends.

The following case study, based on an ongoing research project, illustrates the complex balance of considerations and factors that contribute to TS participation in this sensitive area of work. We have given the organisation an alias to protect its identity.

5.2 Case Study: Housing Sex Offenders

Roof was founded several decades ago to provide housing to vulnerable people. Over the years, it developed its services to work exclusively with offenders. Roof operates a 'no exclusion' policy, whereby no client is refused access to its services on the grounds of the nature of their crime. Consequently, it works with those convicted for violence, sex, terrorism, arson and serious property crimes, gang membership and Prolific and Priority Offender (PPO) status. Risk assessment at these levels requires a specialist set of skills and knowledge to take on the hardest-to-place cases which other organisations are unable or unwilling to tackle.

Roof has considerable experience of, and links with, statutory agencies involved in risk management and safeguarding. All of its clients are risk assessed to the most scrupulous levels under MAPPA, OASyS and National Offender Management Service (NOMS) requirements. It works closely with police, prisons, local authorities and the NPS. It has invested heavily in building up its supervised housing facilities and has provided extensive training programmes for all members of staff and volunteers. It also has detailed risk-management procedures which cover safeguarding, data protection, the safety of staff and clients (including lone working and violence-management procedures) and environmental risk. However, its accommodation facility for serious, repeat offenders, which includes twenty-four-hour on-site supervision, is in jeopardy because of new exemptions in housing benefit rules which mandate local authorities to pay only basic rates for shared accommodation for all except those residents categorised by MAPPA as of the highest risk. This will entail choosing between losing supervisory staff, leaving the market altogether or reducing Roof's housing capacity.

In addition, Roof has a comprehensive organisational risk-management strategy. This includes modelling new business ventures and modelling potential markets for new programmes. Given the nature of its work, it is also conscious of the importance of reputational risk management, including, for example, having a media and communications management strategy should any incident involving a client or ex-client come to public attention. From the point of view of Roof's management team, there is no serious conflict of interest due to the fact that the organisation works at the heavy end of offender management. Rather its work completes a 'virtuous circle' in that Roof actively recruits the hardest-to-reach offenders whom other agencies have rejected as being too risky. Its experience and reputation, as well as its presence in several localities (although this is not publicised), equip the organisation to offer assurances with regard to public safety. From Roof's perspective, the high level of client monitoring and intervention that it has to discharge is price worth paying for ensuring that these groups are supported.

More generally, however, it must be noted that Roof's paradigm of risk differs from those of its MAPPA partners in two important respects. First, Roof's strengths-based approach promotes the resourcefulness and resilience of clients by embedding them in their social, cultural, personal and physical contexts. This approach is not antithetical to risk-prevention and relapse-avoidance techniques, but it rests on the assumption that '[t]he possibility of constructing and translating conceptions of Good Lives into actions and concrete ways of living depends crucially on the possession of internal capabilities (i.e., skills, attitudes, beliefs) and external conditions (i.e., opportunities and supports)'.

Second, it should be noted that TSOs which elect to work with more demanding and sensitive offender groups have a conception of risk management which encompasses several intersecting layers of risk: capital risk in transforming their premises into safe and secure environments; personnel risks with regard to employing more staff with specialist skills as well as training and managing paid staff and volunteers; and reputa-

tional risk in assuming responsibility for ostracised offenders. When TS managers and trustees talk about the 'risk appetite' of their organisations, they are referring to a cluster of commercial, reputational, altruistic and operational considerations that contribute to their willingness and capacity to work with higher-risk offenders with a view to ensuring that their services will meet the standards of their statutory partners. The complexity involved in balancing all of these, sometimes conflicting, factors is part of the reality of managing a third sector organisation.

The investment in resourcing premises and then staffing them must be recouped from future contracts in a contracting environment that a combination of austerity, local government cutbacks and heightened competition under TR has rendered far less predictable. The importance of economic rationalities in determining TS participation cannot be separated from concerns about their integration into offender management frameworks. Rather, this reflects the hard choices between commercial imperatives and altruistic aims which put TSOs on the route towards cooption, where they have little option but to accept a dominant economic discourse of risk where measures of reconviction and value for money come to supersede the principle of moral good that has historically underpinned activities and policy making in the sector (Mythen et al. 2012).

6 Towards a Public Health Approach

The third sector has been instrumental in originating and developing alternative responses to the retributive and deficit-based models of offender management traditionally adopted by the criminal justice system. Although the influence of 'Good Lives' and offender strengths-based models (Ward and Brown 2004; Ward et al. 2007) may be currently peripheral to 'mainstream' approaches, there are signs of new thinking elsewhere which may make the climate more amenable for pluralistic approaches to managing even the most demanding and ostracised offenders. Drawing on the work of Laws (1996, 2000) and rejecting the traditional reactive responses, sexual offending has recently been approached using public health perspectives, making way for

more forward-looking approaches towards preventing sexual and other forms of violence. Central to this reframing is the shift in definition of the problem from the vantage points of containment, surveillance, monitoring and management to an approach which anticipates and solves problems in a broader context and involves potential stakeholders. In contrast to the community protection model, the public health approach encourages a voluntaristic attitude towards treatment as a non-compulsory option (Laws 1996). Offenders are the focal point of monitoring interventions which seek to avoid demonisation and stigmatisation in order to discourage them from 'going underground'. The primary approach, then, is one of inclusion and reintegration rather than exclusion, with strategies implemented to retain the offender in the community by managing, reducing or limiting problematic behaviour rather than excluding the offender from society. The remainder of this section will focus on such approaches and explain how the skills found within the third sector, in particular, have been harnessed to achieve such aims.

Underpinning the public health approach is the recognition that those at risk of committing sex offences are members of the community and may never come into contact with the criminal justice system (Kemshall et al. 2004). This approach, therefore, requires attention to be focused on the 'prevention goals' of public awareness and responsibility as well as public education (Laws 1996, 2000). 'Raising awareness' entails a two-fold approach: first, informing the wider public of the actual extent of risk and the characteristics of sexual offending, including how sex offenders groom; and, second, tackling public misconceptions by challenging myths about offenders and supporting protective activities among victims and potential victims (Kemshall 2008). Most notably, public health approaches have been adopted by faith-based communities and survivor groups (Kemshall and Wood 2007; Kemshall 2008). The latter, in particular, have been critical in foregrounding the range of victim experiences of both women and children, and have emphasised the importance of early intervention to prevent repetitive serious harm.

More recent examples of a public health approach to sex offending can be found within initiatives developed to address child sexual exploitation (CSE). Fuelled by several high-profile cases in the media, there has been

growing concern about CSE both internationally and in the UK, leading to a proliferation of official inquiries, inspections and case reviews which have called for pre-emptive action to address the problem. The UK government's CSE Action Plan (Department of Education 2011) advocates a CSE awareness campaign that targets young people, parents, carers and potential perpetrators via community-based initiatives with the specific aim of preventing sex offending. Such initiatives place emphasis on increasing public awareness, improving environmental risk management and facilitating community engagement with sex offenders.

The summary report of the National Conversation on Child Sexual Exploitation (Local Government Association 2011) identified the important role of the third sector in working with young people under the age of eighteen who are experiencing or at risk of CSE. TS organisations, in conjunction with the police and local authorities, are contracted to screen and assess young people at risk, report incidents, deliver programmes that encourage young people to reflect upon and recognise CSE, and provide preventative and targeted training to groups of young people as well as professional training to those working with children and young people. Charities such as Barnardo's, the NSPCC and Stop It Now! have participated in raising public awareness and educating parents, particularly in relation to grooming behaviours and the fact that most sex offenders are known to their victims.

For some decades, the government has held a functionalist view of the third sector as a means of extending the reach of public policy into different constituency groups. This perspective is increasingly evident from the work conducted with sexual offenders, and more recently with potential victims and communities. It is unsurprising central government also views civic activism as an ideal stratum for legitimating public safety goals under the paradigm of public protection.

The third sector's influence on criminal justice practice is contingent and subordinated. Current policy initiatives in offender management and public safety with respect to sexual offending reinforce the third sector's status as a 'shadow system'. Relations between the state and the third sector are likely to remain ambivalent as long as they continue to be defined by monocultural, risk-based approaches and asymmetrical power relations.

Notes

1. The term 'third sector' is used in this chapter even though it is not widely used outside of UK policy-making circles; 'voluntary sector' remains much more common in colloquial discourse. However, we prefer 'third sector' because this category includes mutuals and social enterprises, which are now as likely as charities to comprise the stratum of service providers. Additionally, the term 'voluntary sector' suggests that services are provided at a low cost and largely by volunteers (that is, unpaid helpers). The reality is rather different, especially as the risk management of sensitive client groups usually raises the professional, performative and legal standards required of the service provider.
2. Specifically, in its announcement, the ministry clustered several different types of surplus-making social enterprises to underline the suggestion that the successful contractors were not purely commercial interests: 'Half of the partnerships chosen as preferred bidders also include new "mutual" organisations set up by current probation staff to take over their own organisations. The list of preferred bidders includes 16 charities and voluntary organisations, four probation staff mutuals and seven private companies, all with different expertise to bring to rehabilitation' (Ministry of Justice 2014).

Reference

Beech, A., & Fisher, D. (2004). Adult Male Sex Offenders. In H. Kemshall & G. McIvor (Eds.), *Managing Sex Offender Risk*. London: Jessica Kingsley.

Connelly, C., & Williamson, S. (2000). *Review of the Research Literature on Serious Violent and Sexual Offenders* (Crime and Criminal Justice Research Findings No. 46). Edinburgh: Scottish Executive Central Research Unit.

Corcoran, M. S. (2011). Dilemmas of Institutionalisation of the Penal Voluntary Sector in England and Wales. *Critical Social Policy, 31*(1), 30–52.

Corcoran, M. S. (2014). The Trajectory of Penal Markets in an Age of Austerity: The Case of England and Wales. In M. Deflem (Ed.), *Punishment and Incarceration: A Global Perspective* (Sociology of Crime, Law and Deviance, Vol. 19). Bingley: Emerald.

Corcoran, M., Maguire, M., Prince, K., & Williams, K. (2016). Voluntary Sector Adaptation and Resilience in the Mixed Economy of Criminal Justice,

England and Wales: Emerging Themes from a Research Project. Paper Presented at the British Society of Criminology Annual Conference, Nottingham, 6–8 July.

Department for Education. (2011). *Tackling Child Sexual Exploitation: Action Plan*. London: Department for Education. Available from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180867/DFE-00246-2011.pdf.

Evaluation Support Scotland. (2011). *Why Involve the Third Sector in Reducing Re-Offending*. http://www.evaluationsupportscotland.org.uk/media/uploads/tsrf/120629_why_involve_the_third_sector_in_reducing_reoffending.pdf

Gallagher, B. (2009). Child Sexual Abuse: Informed or in Fear? *Criminal Justice Matters, 77*(September), 6–7.

Gough, D. (2012). Revolution': Marketisation, the Penal System and the Voluntary Sector. In A. Silvestri (Ed.), *Critical Reflections: Social and Criminal Justice in the First Year of Coalition Government*. London: Centre for Crime and Justice Studies.

Hebenton, B., & Thomas, T. (1996). Tracking Sex Offenders. *Howard Journal of Criminal Justice, 35*(2), 97–112.

HM Inspectorate of Probation. (2016). Transforming Rehabilitation: Early Implementation, 4th Report. Manchester: HM Inspectorate of Probation.

Hucklesby, A., & Corcoran, M. S. (Eds.). (2016). *The Voluntary Sector and Criminal Justice*. Basingstoke: Palgrave Macmillan.

Hudson, K. J., & Henley, A. J. (2015). Disparities in Public Protection Measures against Sexual Offending in England and Wales: An Example of Preventative Injustice? *Criminology and Criminal Justice, 15*(5), 561–577.

Kemshall, H. (2001). *Risk Assessment and Management of Known Sexual and Violent Offenders: A Review of Current Issues* (Police Research Series No. 140). London: Home Office.

Kemshall, H. (2003). *Understanding Risk in Criminal Justice*. London: Open University Press.

Kemshall, H. (2008). *Understanding the Community Management of High Risk Offenders*. Maidenhead: Open University Press.

Kemshall, H. (2012). The Sex Offender Public Disclosure Pilots in England and Scotland: Lessons for 'Marketing Strategies' and Risk Communication with the Public. *Criminology and Criminal Justice, 12*(5), 549–565.

Kemshall, H., & Maguire, M. (2001). Public Protection, Partnership and Risk Penality: The Multi-agency Risk Management of Sexual and Violent Offenders. *Punishment and Society, 3*(2), 237–264.

Kemshall, H., & Wood, J. (2007). Beyond Public Protection: An Examination of Community Protection and Public Health Approaches to High-risk Offenders. *Criminology and Criminal Justice, 7*(3), 203–222.

Kemshall, H., MacKensie, G., & Wood, J. (2004). *Stop It Now! UK and Ireland: An Evaluation*. Leicester: De Montfort University.

Kitzinger, J. (1999). The Ultimate Neighbour from Hell? Stranger Danger and the Media Framing of Paedophiles. In R. Franklin (Ed.), *Social Policy, the Media and Misrepresentation*. London: Routledge.

Laws, R. D. (1996). Relapse Prevention or Harm Reduction? *Sexual Abuse: A Journal of Research and Treatment, 8*(3), 243–248.

Laws, R. D. (2000). Sexual Offending as a Public Health Problem: A North American Perspective. *Journal of Sexual Aggression, 5*(1), 30–44.

Local Government Association. (2011). *National Conversation on Child Sexual Exploitation: Summary Report of Response*. London: Local Government Association. Available from: http://www.local.gov.uk/c/document_library/get_file?uuid=c732e93b-b0d7-477b-981c-e9432c201cff&groupId=10180.

McAlinden, A. M. (2007). *The Shaming of Sexual Offenders: Risk, Retribution and Reintegration*. Oxford: Hart.

McCartan, K. (2016). *Circles of Support and Accountability* (Project Report). Bristol: University of the West of England.

Merrell, J. (2009). Promoting Inclusive Partnership Working. In R. Carnwell & J. Buchanan (Eds.), *Effective Practice in Health, Social Care and Criminal Justice: A Partnership Approach*. Maidenhead: Open University Press.

Ministry of Justice. (2009). *MAPPA Guidance 2009*. London: Ministry of Justice.

Ministry of Justice. (2012). *MAPPA Guidance 2012*. London: Ministry of Justice.

Ministry of Justice. (2014). *Voluntary Sector at Forefront of New Fight against Reoffending*. Press Release, 19 October. London: Ministry of Justice.

Mythen, G., Walklate, S., & Kemshall, H. (2012). Decentralising Risk: The Role of the Voluntary and Community Sector in the Management of Offenders. *Criminology and Criminal Justice, 13*, 4.

Nash, M. (1999). *Police, Probation and Protecting the Public*. London: Blackstone Press.

Nash, M. (2006). *Public Protection and the Criminal Justice Process*. Oxford: Oxford University Press.

National Offender Management Service. (2012). *MAPPA Guidelines*. London: Ministry of Justice.

National Probation Directorate (NPD). (2004). *Sex Offender Strategy for the National Probation Service*. London: NPD.

O'Malley, P. (2004). *Risk, Uncertainty and Government*. London: The Glass House Press.

Piper, H., & Strannach, I. (2008). *Don't Touch! The Educational Story of Panic*. London: Routledge.

Pratt, J. (2000). The Return of the Wheelbarrow Men or the Arrival of Postmodern Penality? *British Journal of Criminology, 40*, 127–145.

Public Accounts Committee, House of Commons. (2016). *Oral Evidence: Transforming Rehabilitation. HC 848, 4 July*. London: House of Commons.

Senior, P. (Ed.). (2013). Editorial: Transforming Rehabilitation—Under the Microscope. *British Journal of Community Justice, Special Edition, 11*((2–3), 1–8.

Thomas, T. (2005). *Sex Crime: Sex Offending and Society* (2nd ed.). Cullompton: Willan Publishing.

Tomczak, P. (2016). *The Penal Voluntary Sector*. London: Routledge.

Ward, T., & Brown, M. (2004). The Good Lives Model and Conceptual Issues in Offender Rehabilitation. *Psychology Crime and Law, 10*(3), 243–257.

Ward, T., Mann, R. E., & Gannon, T. A. (2007). The Good Lives Model of Offender Rehabilitation: Clinical Implications. *Aggression and Violent Behaviour, 12*, 87–107.

Weston, S. (2016). 'Let's Talk about CSE': The Regulation and Control of Childhood Behaviour and Sexuality. Paper Presented to the European Group for the Study of Deviance and Social Control, Braga, 1–3 September.

Index[1]

[1] Note: Page number followed by 'n' refers to notes.

K. McCartan, H. Kemshall (eds.), *Contemporary Sex Offender Risk Management, Volume I*, Palgrave Studies in Risk, Crime and Society,
https://doi.org/10.1007/978-3-319-63567-5