

A RISK TOO HIGH?

Would public disclosure (Sarah's Law) protect children from sex offenders?

Introduction

Barnardo's is committed to protecting children from all forms of harm and we are only too aware of the trauma caused to children and families by sexual abuse and assault. We run 11 specific counselling and support projects for children who have been sexually abused or assaulted, helping them and their families come to terms with and recover from the abuse and supporting them through any court proceedings, including assisting children when they have to give evidence against the perpetrator. We also have projects providing education for children and parents, helping them to be aware of the risks of sexual abuse and assault and equipping them to protect themselves against this risk.

While the perception of 'stranger danger' is very prevalent and most parents will warn their children of this, we know that by far the greatest risk of sexual assault and abuse of a child is from relatives or people already known to them or their family.

Nevertheless, every parent's worse fear is that their child may be abducted and assaulted and we are all aware of those tragic cases where this fear has been realised. Thankfully these cases are few but it must be acknowledged that there are some sexual offenders who can present a substantial risk to children if they are not robustly monitored and supervised when they are living in the community. We are aware that the current systems for monitoring high risk offenders who are in the community are not uniformly consistent and we need to ensure that robust supervision is in place across the UK.

Barnardo's believes that it is legitimate to question whether the current call for a 'Sarah's Law' (in Scotland, Mark's Law) would give greater protection to children; we would suggest that such provision would certainly offer parents comfort, but that this might be false comfort. A Sarah's Law would not necessarily be protective and in some cases could put children at risk of other forms of harm and trauma. We would argue that enhancing and adding to the current measures for supervising and monitoring sex offenders in the community would be more effective in minimising the risk to children.

The realities of sexual abuse and assault of children

By its very nature, sexual abuse and assault of children is secretive. Adults who sexually abuse and assault children can be manipulative and skilful, resulting in the child remaining silent frequently for many years. Where the abuser is a relative, children will often have very mixed feelings – knowing that the behaviour is wrong but having affection for the perpetrator and being concerned about the effect that disclosure will have.

As a consequence of this secrecy, it is difficult to establish the prevalence of sexual abuse and assault but what is clear is that where this is discovered or disclosed; in most cases the child will know the person attacking them. In a major study in 2000 by the NSPCC nearly 3,000 children and young people were surveyed about their experiences of abuse and maltreatment. The survey found that 21 per cent of girls and 11 per cent of the boys surveyed reported having been sexually abused or assaultedⁱ and over 85 per cent of them reported knowing the person who abused them. We also know that about 80 per cent of attacks take place in the home of either the victim or the assailant.ⁱⁱ

This is confirmed by data from the specialist Barnardo's projects which shows that over 80 per cent of the children we work with have been abused by a relative or friend.

There is evidence that parents do acknowledge that children are more at risk from someone they know, but despite this, when discussing fears the focus is frequently on child abductions and 'predatory' strangers.ⁱⁱⁱ Consequently parents often give mixed messages to children when advising them on how to deal with the risk of sexual abuse or assault – the focus on stranger danger can detract from protecting themselves against people known to them.

But it is of course those notorious cases of child sexual assault and murder that cause the most concern and generate parental fear.

Protecting children – current arrangements

It is absolutely right that those adults who commit the most heinous of sexual crimes against children are subjected to very long periods of imprisonment. Release should only take place – if at all – when the risk of further offending is radically reduced. However, many offenders commit less serious offences which carry shorter sentences and release into the community is inevitable.

In England and Wales, legislation has been in place since 1997 to measure and assess the continuing risk of sex offenders and to supervise and monitor them in the community in order to reduce the risk of re offending.

Sex offenders are required to be registered and in England and Wales multi-agency public protection arrangements (MAPPAs) have been established which require the police, probation, prison service and other agencies to put in place robust arrangement for supervising and monitoring dangerous offenders in the community. Arrangements are in place in Scotland for similar provision to be put in place. In 2005 Home Office research indicated that most MAPPAs were identifying those offenders who presented the most serious risk, although it has been acknowledged that lack of resources can compromise the facility for consistent supervision.

Contrary to popular belief, MAPPAs in England and Wales and Chief Constables in Scotland *already* have the power to give individuals and agencies details of registered sex offenders living in their community where this is deemed necessary and relevant. The following examples illustrate how these have been used.

- In Avon and Somerset, an offender had a history of indecent exposure to children and had targeted leisure centres in order to find his victims. On his release from prison, conditions were attached to his licence banning him from leisure facilities. The MAPPA took the decision to circulate his details and photograph to all local facilities so managers and staff could be alerted. Subsequently, he visited a leisure centre but the police were immediately informed and he was arrested and returned to prison.
- In Suffolk, an offender had targeted single mothers and had been convicted of sexual abuse of their children. On release from prison and at the end of his licence period, he formed a new relationship with another single mother. The MAPPA took the decision to notify both social services and the parent concerned.
- Gloucestershire MAPPA has used notification powers on a number of occasions and examples include: telling a new partner of an offenders previous convictions against children; advising an employer of previous convictions; advising a church that a known sex offender was attending their family services and advising voluntary agencies that an offender was known to be seeking employment with them.
- In Sussex, dedicated victim liaison officers routinely involve the families of victims in the plans for managing registered offenders, including seeking their views on whom, if anyone should be notified dependent on the history and characteristics of each offender.

Protecting children – would Sarah’s Law make them safer?

The proposals for a Sarah’s Law calls for parents and carers to have the right to seek information from the police about predatory sex offenders living in their community in order that they can take legitimate steps to protect and safeguard their children. While this is not dissimilar to the Megan’s Law provisions which are in place in the USA, it stops short of widespread circulation of information which is the norm in some states.

But is there evidence to indicate that such provision would do more to protect children? Evidence suggests that the implementation of Megan's Law in the USA has not necessarily provided this additional protection.

- In the USA only 80 per cent of sex offenders comply with registration requirements compared to 97 per cent in the UK ^{iv} and the level of registration in the USA has fallen since the implementation of Megan's Law. There is a risk that registration levels in the UK might also fall if offenders are constantly moving and hiding themselves in order to avoid their details being accessed.
- We know that stable, supervised accommodation can reduce the risk of re-offending. Evidence from the USA indicates that notification can make it more difficult for agencies to find such accommodation; agencies reported problems with accessing suitable accommodation in 66 per cent of cases as a direct result of community notification.^v
- Research in Washington State with 400 residents showed that, despite knowing about sex offenders in their community, over half the respondents said that it would make no difference as to whether or not they left their children unsupervised.

The right to demand information about convicted offenders in the community would, in many cases also lead to the identification of a previous victim, particularly where the victim was a child and had been abused or assaulted by a relative or friend. The trauma to them would be exacerbated by other members of the community knowing and is contrary to all current child protection practices which guarantee the anonymity of child victims.

Protecting children – what should we do?

Barnardo's believes that more could and should be done to protect children from the risk of sexual abuse and assault, but that Sarah's Law is not necessarily the most effective way of doing this.

There are new techniques and technologies available which can be effectively used, along side existing MAPPA powers, to reduce the risk of re-offending. Indeed the Government has already recognised the potential of some of these - in 2005 the Management of Offenders Bill (announced in the Queen's Speech but never published) outlined proposals for the mandatory use of polygraph testing as part of the licence requirements for adult sex offenders.

Barnardo's would like to see:

- the mandatory use of polygraph tests to assist in managing the behaviour of sex offenders – these have been shown to be effective in monitoring sex offender's compliance with licence or registration conditions. With polygraphs, supervising officers can ensure that offenders comply with conditions and, where they do not, can increase supervision or institute recall to prison, thus reducing the risk to children.

Research in the USA ^{vi}suggests that polygraph testing provides more reliable sexual histories, more complete and accurate offence description and a greater likelihood of identifying high risk offenders.

Here in the UK a pilot study in the use of polygraphs to monitor sex offenders in the community has demonstrated very promising results. The pilot involved 347 sex offenders who were monitored between September 2003 and September 2005. The tests were designed to assess the offender's compliance with their licence conditions; whether they were behaving suspiciously and whether they were adhering to any treatment plan or programme.

The emerging findings from this pilot indicate that in up to 80 per cent of cases, the offender made new disclosures relevant to their behaviour, supervision or treatment. This enabled case managers to make alterations to the level of supervision, to report back to the MAPPA or, in cases where there was an indication of serious or immediate risk, to report them directly to the police. The findings also indicate that 94 per cent of probation staff who were case managers in the pilot found the information gained from the polygraph was 'helpful' or 'very helpful' in assessing and managing the risks posed by those offenders.

Probation staff involved in the pilot have indicated positive results from testing. They report that it has assisted in identifying new areas to be addressed in supervision; enabled police and hostel staff to monitor behaviour more closely and enabled them to provide more accurate information to inform MAPPA decisions about recall to prison..

- Extended use of global positioning satellite (GPS) tracking – new technology makes it possible to use GPS satellite tracking to monitor the movements of offenders. The Home Office has been piloting tracking of sex offenders in three areas in England since September 2004 and as of May this year, 400 offenders have been tracked. ^{vii} These pilots are still being evaluated and while there are some limitations, early evidence is promising and indicates that satellite tracking has the potential to monitor the movements of offenders in 'real time', can assist with ensuring they keep out of specified areas and can provide added protection when used alongside other programmes and interventions. ^{viii}
- A strengthening of the current MAPPA powers and arrangements – a recent review of MAPPAs by the Probation Inspectorate indicated that there are still some variations in the degree to which sex offenders are supervised and monitored in the community^{ix} but these would not be addressed by a Sarah's Law. It made a number of recommendations and in particular Barnardo's would support the following:
 - recommendation 1 – good public protection principles should take a higher priority for the police, prisons and probation service. Barnardo's would like to see child protection included as a national policing priority, enabling forces to devote more resources to the identification and apprehension of adults who commit offences against children

- recommendation 9 – that there should be better managed resources; proper staff training and a review of funding for MAPPAs.

There are no simple strategies, no simple things that can be done to completely reduce the danger posed by predatory sex offenders. But a combination of these things can radically reduce risk and offer genuine reassurance to parents. Extensive use of GPS tracking, improvements to MAPPA arrangements and the mandatory use of polygraphs alongside the housing of more serious offenders in supervised accommodation would reduce the danger posed to children. By contrast, a Sarah's Law is more likely to result in offenders not registering and 'going underground', make it more difficult to obtain supervised accommodation for them and could, tragically, lead to the death of a child.

ⁱ 'Child maltreatment in the UK: A study of the prevalence of child abuse and neglect' Cawson et al, NSPCC. 2000

ⁱⁱ 'Sex offending against children: understanding the risk' D. Grubin. Police Research Paper 99. Home Office

ⁱⁱⁱ 'Dangerous Strangers: Safeguarding children from sexual abuse' Gallagher, Bradford and Pease 2002

^{iv} 'Megan's Law: Does it protect children?' NSPCC 2001

^v Zeivitz and Farkas. 2000

^{vi} www.rcpsych.ac.uk/pressparliament/pressreleases2006/pr788.aspx accessed 19.09.06

^{vii} Written Question. Hansard 22nd May 2006.

^{viii} CEP Seminar September 2005. James Toon. Home Office

^{ix} 'Putting risk of harm in context' Home Office 2006. HM Probation Inspectorate report.

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