The Committee will meet at 2.00 pm in Committee Room 2.

1. Child-Sex Offenders: The Committee will consider a report by the Justice 2 Sub-Committee.

2. Custodial Sentences and Weapons (Scotland) Bill (in private): The Committee will consider a draft Stage 1 report.

Tracey Hawe
Clerk to the Committee
Papers for the meeting—

Agenda Item 1

Paper from the Convener

Report (EMBARGOED UNTIL FRIDAY 15TH DECEMBER, 0001HRS)  J2/S2/06/36/2
Electronic versions of the report and the evidence will be available on the following webpage at 0001 hours on Friday 15th December:
http://www.scottish.parliament.uk/business/committees/justice2sub/index.htm

Child Sex Offender Review, An Update, by Violent Crime Unit, Home Office

Agenda Item 2

Draft report (PRIVATE PAPER)  J2/S2/06/36/4
Written submission from Roger Houchin  J2/S2/06/36/5

Documents circulated for information—

Stage 2 of the Budget Process 2007-08: Supplementary Responses to Subject Committees, paper by the Finance Committee

Letter from Minister for Justice on the Police and Justice Act: UK inspectorates, dated 7 December 2006

Forthcoming meetings—

• Tuesday, 9 January 2007, 2pm
Introduction

1. The Parliament agreed on 28 June 2006 to establish a sub-committee of the Justice 2 Committee.

2. The remit of this sub-committee was: To inquire into and report to the Justice 2 Committee on—

   - The extent of information which local communities should receive on child sex offenders within their locality;
   - The way in which housing is allocated to sex offenders;
   - Whether steps need to be taken to distinguish sexual offences against children from such offences against adults;
   - Whether changes need to be made to the way in which sexual offences against children are considered and disposed of by the courts, and in particular, whether adequate sentencing options exist.

3. The sub-committee’s report on these matters is expected to be published on Friday 15 December, and advance embargo copies will be sent to Justice 2 Committee members. The report will be placed in the public domain, and electronically published on the sub-committee’s web-site at 0.01 am on Friday 15 December.

4. The purpose of this paper is to set out possible actions which the Justice 2 Committee may wish to take in relation to this report.

Options

5. As the sub-committee’s remit is to report to the Justice 2 Committee, it is for the Justice 2 Committee to decide what further action it wishes to take in relation to the report. There are several options that the Committee may wish to consider.
Executive Response
6. Under the protocol that exists between the Parliament and Executive, the Executive has 2 months to provide a formal written response to any Committee report. The Committee may therefore wish to send the Executive a copy of the report and request that a response be received within the usual 2 month deadline.

7. In addition, if the Committee agrees this course of action, it may wish to request that the Minister for Justice attend the Committee meeting on 20 March 2007, for the purposes of discussing the report and the Executive’s response to it.

Legacy Issues
8. The Committee may wish to highlight the report in its legacy paper to any successor committee, and recommend that that Committee seeks an early chamber slot for debate on the report.

9. The Committee will also wish to consider the report, along with the Executive’s response and consider whether there are any outstanding issues that a successor committee may wish to take forward in the next session. These issues can then be flagged up in the legacy paper.

10. The Committee is invited to consider what action it wishes to take.

David Davidson
Convener, Justice 2 Committee
December 2006
The Child Sex Offender Review
An Update

December 2006
Violent Crime Unit
Home Office
Overview

1.1. On 19 June 2006, the Home Secretary commissioned a review of the management of child sex offenders. The principle aim of the review is to introduce improved measures to enhance child protection. In the area of child sex offenders, child protection can be improved by focussing on two linked objectives: strengthening sex offender management, and increasing public awareness.

1.2. The simplest measure for protecting children from sex offenders is for the offenders to be outside their communities and in prison. There are essentially three objectives in sending offenders to prison: punishment for the crime itself; public protection, when there is a risk of re-offending; and rehabilitation of the individual offender to break the cycle of criminal behaviour. If, in a particular case, there is a high likelihood of re-offending, the obligation for prolonged detention for public protection is clearly greater.

1.3. For offenders who have completed their sentence, the Government has established some very effective public protection measures in recent years. An effectively managed offender will pose less risk to society than an unmanaged one. Child sex offenders should be appropriately punished, effectively managed, housed and given necessary treatment, as the best way of preventing re-offending and thus protecting our children. Whilst robust risk management is the focus of these recommendations, it is important to note that, ‘this should not be understood as ‘zero risk’ as this position can never be achieved.’

1.4. The review constitutes a careful examination of ways of better protecting the public. The following areas have been reviewed: the Multi-Agency Public Protection Arrangements (MAPPA), disclosure of information on offenders, approved premises and community housing, offender treatment, public awareness and sentencing.

1.5. To enhance the management systems in place for protecting children, we recognise there needs for improvement in four key areas:

- Supervision and monitoring systems (through MAPPA) should continue to be strengthened through more effective administration, resourcing and improved recording practices. MAPPA needs senior level support and ownership across the responsible authorities and the agencies who have a statutory duty to co-operate.
- Controlled disclosure of information on offenders should be a key consideration and fully auditable. Steps should be taken to ensure consistent application of disclosure across all MAPPA areas.
- More effective treatment programmes should be provided.
- Approved premises or other appropriate accommodation for high risk offenders in the community must provide effective monitoring and supervision.

---

1 2003 – Professor Hazel Kemshall, quoted in Probation Circular 54/2004
1.6. We need to create a more transparent environment for people. By changing the culture of information-sharing we can better inform, reassure and equip the public with the knowledge needed to protect their families. This can be achieved through:

- Effective public awareness campaigns on how offenders are managed, and practical steps which parents and carers can take to keep their children safe.
- A two-way approach to disclosure through information sharing with the police about specific offenders in a controlled, risk-assessed environment, allowing the public to ask about potential risks which they have identified in their community.
- Proactive consideration by responsible authorities of sharing pertinent information, together with advice on how to use it appropriately.

1.7. It is important to state at the outset that disclosure of information on offenders is already made on occasions when there is a recognised need for public protection. Therefore, the principles of disclosure already exist, and it is the application which is being reviewed in order to improve public protection still further. As a general rule, the greater the risk of harm to the public, the more likely offender information will be disclosed in order to protect the public.

1.8. As part of this review, we have been looking at practice in the US and other countries, with a view to introducing any elements which could enhance child protection in the UK.

1.9. The monitoring of child sex offenders is showing continuous improvement, and is based on maintaining high professional standards and effective multi-agency working in the delivery of robust risk management plans. In 2005/6 there were 61 cases of serious re-offending out of a managed population of 13,783 MAPPA Level 2 or 3 offenders. Nevertheless, we are far from complacent, and we accept that further improvements should be made.

1.10. Research studies show that between 75-90% of child sex offenders are known to the victim. It is therefore important to highlight that stranger attacks are rare, and work on public awareness must equip people to deal with all the sources of sexual abuse.

1.11. We should always be mindful that for every offender there is a victim. There are other reviews running alongside the Child Sex Offender Review which consider more closely the views and needs of the victims. We are also liaising with the Criminal Justice Review to ensure that the outcomes of both reviews are complementary.

1.12. It is also important to note that costs relating to the emerging themes of this review have not yet been estimated in any detail, and whilst the proposals coming out of this review will not be constrained by a particular budget, resources will have an impact on implementation.

---

2 Legislative Context

2.1. The notification requirements (commonly referred to as the sex offenders register) were established originally under the Sex Offenders Act 1997, and reinforced in the Sexual Offences Act 2003. The aim is to ensure that the police are kept informed of the whereabouts of sex offenders, and the register provides an invaluable tool for the police and the probation service in managing the risks posed by such offenders, and the detection of sexual crime.

2.2. The Home Office last looked in detail at the issue of the wider community disclosure of offenders’ details in 2000. The conclusion then, after careful consideration, was that this would not be appropriate at that time.

2.3. One outcome of the public’s concern about the monitoring and supervision of sex offenders in the community was the introduction of MAPPA in April 2001. MAPPA are a set of statutory arrangements, promoting multi-agency working and information sharing. They are operated by criminal justice and social care agencies who seek to assess and manage the risks posed by dangerous offenders in the community, and thus reduce re-offending and protect the public.

2.4. The Criminal Justice Act 2003 created new sentences aimed specifically at sexual and violent offenders. These new sentences are designed to protect the public, and will ensure that dangerous sexual and violent offenders are subject to assessment by the parole board, and in serious cases not released from prison where their level of risk is deemed too high.

2.5. Provisions in the Violent Crime Reduction Act 2006 will give the police powers of search and entry when visiting the homes of registered sex offenders, in order to assess the risk which they pose. We expect this law to come into force in early 2007. This important new power builds on other provisions, such as: risk of sexual harm orders, foreign travel orders and sexual offences prevention orders (SOPOs), which were introduced in 2003. These orders place prohibitions on the behaviour of those who pose a risk of serious sexual harm, particularly to children.

2.6. We recognise legislative change may be required to implement some of the emerging themes.

3 Methodology

3.1. The review is being managed by a Project Board including the Home Office and other Government Departments (predominantly DfES and DH), devolved administrations and the Child Exploitation On-line Protection Centre (CEOP). The workload has been broken down into six core workstreams, each with a policy lead: MAPPA, disclosure of information on offenders, approved premises and community housing, offender treatment, public awareness and sentencing.

3.2. Engagement with key stakeholders has been a vital activity to ensure that their opinions and experience are heard and taken into account. Groups representing children, the survivors and victims of sexual violence and abuse,
public protection agencies and offenders have been involved in meetings including:
• Two NGO events on 27 July and 11 October.
• A meeting with MAPPA lay advisers on 7 September.
• A series of roadshows with over 250 offender managers, representing two thirds of the police and probation areas in England and Wales.

3.3. Gerry Sutcliffe, Home Office Minister for Offender Management, travelled with officials on 20-22 July to Washington DC, Maryland and New Jersey in the US, to see how the disclosure of information on child sex offenders was working in practice there. Assessments were made of the impact on registration, rehabilitation, housing and public confidence in general.

3.4. Government Officials visited the US on a follow-up trip between 15-20 October, visiting Colorado, Oregon and Washington State. The two main focuses of the trip were:
• The experiences of managing offenders on their release, and the impact of the disclosure of offender information.
• How disclosure of information has been implemented across diverse environments and communities (urban/rural, blue/white collar, non-English speaking communities). This involved attending a community notification meeting.

3.5. Various pieces of research have also contributed to the review to date:
• A comprehensive report compiled by the Home Office International Directorate, covering the EU and other countries, illustrating the different approaches to disclosure, offender management and treatment.
• The National Offender Management Service (NOMS) research team issued a questionnaire to all 42 MAPPA areas to help draw a picture of the current extent of disclosure to third parties under MAPPA in England and Wales. A report detailing the findings of this work is currently being compiled.
• This team has also commissioned a piece of work to explore the operation and experience of MAPPA. This will improve understanding of operational practices associated with the management of child sex offenders, highlight any difficulties and identify offender experiences of MAPPA from both their viewpoint and those of their supervising officers. The work is being undertaken in a sample of three police/probation areas, and will be finalised in December.
4 **Emerging Themes**

<table>
<thead>
<tr>
<th>Prevention</th>
<th>Public Awareness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to treatment for individuals who have sought help to prevent their own potential sexual offending</td>
<td>Information for parents through various media and networks including the internet on how to protect children</td>
</tr>
<tr>
<td>Personal safety materials and training for children</td>
<td></td>
</tr>
<tr>
<td>Public warning list of high risk, non-compliant offenders</td>
<td></td>
</tr>
<tr>
<td>Consider sanctions for non-compliance with licence requirements</td>
<td></td>
</tr>
<tr>
<td>Consider wider sentencing issues</td>
<td></td>
</tr>
<tr>
<td>Proactive disclosure policy</td>
<td></td>
</tr>
<tr>
<td>Standardised disclosure procedures</td>
<td></td>
</tr>
<tr>
<td>Improved administration to record MAPPA activity (including disclosure)</td>
<td></td>
</tr>
<tr>
<td>Optimise use of available technology such as tagging, tracking and polygraph testing</td>
<td></td>
</tr>
<tr>
<td>Expansion of existing online and community surveillance activity</td>
<td></td>
</tr>
<tr>
<td>Published numbers of offenders sent back to prison through MAPPA</td>
<td></td>
</tr>
<tr>
<td>Targeted two-way disclosure</td>
<td></td>
</tr>
<tr>
<td>Increased responsibility for lay advisers</td>
<td></td>
</tr>
<tr>
<td>Published disclosure numbers</td>
<td></td>
</tr>
<tr>
<td>Distributed materials on management activities</td>
<td></td>
</tr>
<tr>
<td>Review of approved premises provision</td>
<td></td>
</tr>
<tr>
<td>Information on accommodation provided</td>
<td></td>
</tr>
<tr>
<td>Review of short term prisoner treatment</td>
<td></td>
</tr>
<tr>
<td>Transition courses from prison into community</td>
<td></td>
</tr>
<tr>
<td>Funded circles of support and accountability – on a national basis</td>
<td></td>
</tr>
</tbody>
</table>

5 **Next Steps**

5.1. International comparison and collaboration will continue:
- Gerry Sutcliffe is planning to revisit the US to follow up his initial visit and discuss key issues in more detail.
- Liaising with EU officials regarding the emerging themes of the review to stimulate debate on child protection policy. Most EU countries still do not have a sex offenders register despite some very high profile cases.

5.2. We continue to liaise closely with Scottish colleagues, as we are mindful that any significant difference in our approaches could have serious operational repercussions. The Justice 2 Committee has instigated an Inquiry into ‘The extent of information which local communities should receive on child sex offenders within their locality’, the completion of which should tie in with this review.

5.3. Officials from Northern Ireland are, like Scotland, represented on the Project Board, and officials have recently visited there to discuss the review’s emerging themes.
5.4. There are plans to hold a symposium in the New Year comparing respective approaches in EU countries to child sex offenders. Invitations will be sent to selected group of EU members.

5.5. We are working towards completing this review and producing a published report with detailed proposals in 2007.
Written submission from Roger Houchin, Centre for the Study of Violence, Glasgow Caledonian University, 13 December 2006

To: Justice Committee 2

Re: Custodial Sentences and Weapons (Scotland) Bill

Thank you for the invitation to comment on the legislative proposals. I apologise for the late submission. I received the invitation as I was leaving for a piece of work abroad. This is the first opportunity I have had to put my comments on paper.

I would like to comment on the Part 2 of the Bill only, though, inevitably those comments make an oblique reference to the somewhat changed status of the Parole Board that the Bill anticipates.

The general proposal to introduce a new sentence in two parts, the second of which is in the community, is to be welcomed.

However, the Bill as introduced has some serious deficiencies. I will deal with these under the headings:

Sentencing;

While introducing some structuring of sentencing discretion by judges, the treatment is partial, resulting in duplication and conflicts of functions.

Grounds for extending the custodial part and the limits of validity of risk assessment;

The basis of a decision to detain someone in custody is too limited and could lead to unnecessary risks to public safety. There is an unrealistic expectation of the potential of risk assessment.

Post-release arrangements.

The treatment of how risks in the community will be managed is inadequate.

Sentencing

The Bill proposes some structuring of judges’ decision taking when passing sentence. This is to be welcomed.

The structuring proposed, however, concerns only the new power to order the proportion of the given sentence that has to be served in custody. In doing this, the judge may consider the need for punishment and the need for deterrence. The judge, explicitly, may not take into account the need for public protection. No mention is made – either positively or negatively — of considerations of rehabilitation.

There is no attempt in the Bill to structure judges’ decision taking when considering length of sentence. When doing this, the judge may continue to take into account the need for punishment, the deterrent effect, the need for public protection and the need for rehabilitation.
There are 4 strange consequences of this.

Firstly, when deciding the length of sentence, the judge takes into account the need for punishment and the deterrent effect. The judge then takes these same criteria into account when deciding the proportion of total sentence that will be served. This builds a multiplier effect into the legislation. For a serious offence it would, under the proposals, be expected that the convicted person would not only receive a long sentence but would be sentenced to serve a proportion of it greater than ½. In taking both decisions, the judge would be considering the same criteria.

Secondly, when deciding the length of sentence, the judge may continue to take into account the need for public protection, based on a judicial assessment of the risk the person being sentenced presents. This will also be considered, when Scottish Ministers and the Parole Board decide whether the person should be released at the conclusion of the period set by the judge on punishment grounds. Once more there is a multiplier effect. A person whose circumstances or behaviour suggest that they present a substantial ongoing risk to the community may expect to have this reflected in the length of sentence imposed by the court and in the proportion of that sentence it is ultimately decided they will serve.

I would also have concern that in changing the basis of the role of the Parole Board from a tribunal deciding to release some prisoners to a body deciding to continue the period of some prisoners in custody, the provisions would be vulnerable to challenge on the grounds that the Parole Board is exercising quasi-sentencing powers, which need to be surrounded by all the safeguards of a criminal trial.

The issues raised by the other two consequences to which I would wish to draw attention are rather different.

In considering the proportion of total sentence the convicted person should spend in custody, the judge is required to take into account the deterrent effect of the options available. That is, the judge is required to reach conclusions as to the differential deterrent effect of ordering periods in detention of between ½ and ¾ of total sentence length. That is an evidential question on which reliable empirical evidence is not available. In the absence of evidence, the decision as to the period of deprivation of liberty can only be based on judicial speculation. Speculation as to effect is not a sound basis for law. It would be better for the reference to deterrence to be removed. And better still would be that judges be explicitly proscribed from basing decisions on deterrence other than where they have considered evidence as to deterrent effect in the circumstances of the case.

No reference is made in the Bill to consideration of the need for rehabilitative intervention when considering either the length of sentence or the proportion of sentence to be spent in custody. It would be better if consideration of need for rehabilitation when deciding both sentence length and proportion in custody were explicitly proscribed in the law. There is a risk, in the present climate of claims for rehabilitative effect of programmes both in prison and in the community and in the comfort afforded by the apparent scientificity of risk and need assessment tools that are now being used by criminal justice agencies, that the proposed two phase sentence will lead judges to hand down sentences with the intention of providing sufficient time for the convicted person to be subject to criminal justice measures that will allow for effective rehabilitative work. Such grounds would be insupportable by reliable empirical evidence and consequently speculative.
The Bill is not grounded in any critical analysis of possible grounds for sentencing. In proposing a very complex process of decisions – the complexity of which is inherently difficult to understand (and is made unnecessarily more complex by the arcane drafting style chosen for the Bill) – without any underpinning clarity as to what it is intended should be achieved at each stage, the result is confusing. Its consequences would be arbitrary.

There is one final, unrelated, point about sentences. This concerns indeterminate sentences.

The Bill does not affect the law in this area. However, the existing situation it summarises highlights the level of complexity that we now have. That suggests that we should consider removing some of that complexity. The present Bill may not be the place in which to do that but it should be considered.

It should firstly be noted that an indeterminate sentence pushes at the limits of the rule of law and the effective legal protection of the rights to liberty. Within the German jurisdiction, for example, there is lively debate as to whether such sentences can be compatible with the Constitution. In the United Kingdom life sentences are handed down much more frequently than in any other European jurisdiction. In a sustained effort to limit the extent of indeterminacy in the UK the European Court of Human Rights has imposed much greater clarity on the legal provisions regulating such sentences.

We should now be considering a further step.

The new Order for Lifelong Restriction (OLR) is an indeterminate sentence handed down after the most careful assessment of ongoing risk. Both mandatory and discretionary life sentences now separate a determinate period in custody based on the need for punishment and the indeterminate period which is decided on an assessment of risk. Neither, however, requires the level of care in considering how any identified risk might be best managed that characterises the OLR.

The procedures for the OLR are the most careful and least arbitrary that could be designed at the time. Their application across the spectrum of indeterminate sentencing should now be considered.

I would suggest that the law would be considerably improved by the adoption of two measures. Firstly, the discretionary life sentence should now be discontinued. Where a court considers that an indeterminate element may be necessary, it should only have available the OLR process. Secondly, a conviction for murder should lead always to an OLR assessment of ongoing risk. Only where that assessment indicates significant ongoing risk should an indeterminate sentence be handed down.

Grounds for extending the custodial part and the limits of risk assessment

The Bill also allows for extension of the custody part of the sentence by Scottish Ministers on the direction of the Parole Board. As described above, such extension would be over and above any element for public protection that had been applied by the judge in considering the appropriate sentence length.

The process for extension of the custody part of sentence is triggered by the assessment by Scottish Ministers that the person undergoing sentence presents an ongoing risk of serious harm to the community. Such a provision presupposes that
Scottish Ministers have – and can have – in place assessment processes robust enough to identify those who might present an ongoing risk.

This is an unrealistic expectation that demonstrates a fundamental misunderstanding of the limits of validity of risk assessment technologies.

The best processes of assessment of ongoing risk of future violence are capable of demonstrating some validity, when used with the greatest care by most skilled assessors, in identifying those who present the greatest risk. The limits of their validity, even in these most restricted circumstances, are the subject of continuing academic investigation. The area is deeply problematic. Probably the strongest claim that can be made for the best methods, applied in extreme cases by the most expert practitioners is that they are the least bad method available.

It clearly misunderstands the limits of what is possible to propose that there are methods available that can be used for the routine screening of all prisoners. Other than at the extremities of probability the outcomes from such screenings would be arbitrary.

It would also have to be anticipated that the methods available would tend to discriminate in the favour of those whose histories and circumstances were the least problematic. That is, those for whom the benefits of supervision in the community are least necessary.

I shall return to this, the most fundamental flaw in the proposals, in the final section of what I would wish to say. Before turning to that, however, I should like to make a brief technical comment on the proposals in this area.

In considering whether to refer a case to the Parole Board, the Bill foresees Scottish Ministers applying precisely the same test as will be used by the Board itself. That is, Scottish Ministers may only refer a case to the Board when the prisoner presents substantial risk of future serious harm to members of the community (Section 8.2 test). The Parole Board is then asked to determine whether the Section 8.2 test applies. In effect, the Board is not being asked to make an assessment, it is being asked to either confirm or overrule the Ministerial assessment. It is essential for judicial independence that such decisions on the liberty of the individual be taken in a politically neutral context. The provisions as they exist subvert that and leave the Parole Board vulnerable to political influence.

Clearly the test that should be used by Ministers in deciding whether to refer the case to the Parole Board should be different from that used by the Parole Board in deciding whether a person should continue to have their liberty denied them beyond the period deemed necessary by the courts for criminal justice purposes.

The test proposed in the Bill that the Parole Board is required to apply is unhelpfully narrow. They may only consider whether “the prisoner would, if not confined, be likely to cause serious harm to members of the public”. Such a test is potentially counter-productive. It does not invite the Parole Board, as would be preferable to weigh the costs and benefits of continuing the sentence in the community against the costs and benefits of the person remaining in custody. If it is that community supervision is required in the interests of public safety – a proposition certainly meriting careful evaluation – then a fortiori it must be the case that those people in prison whose circumstances are the most problematic are those who stand most to benefit from release and careful resettlement and whose effective resettlement would contribute most to public safety.
I would suggest that the Boards decision needs to be based on more than the risk presented by the person being considered and should extend to the adequacy of the plans that have been made for release. It should have 3 elements. Firstly, it should rule whether the interests of public safety are best served by continuing the offender in custody or by releasing the offender to supervision in the community. Secondly, except where there exists an imminent and foreseeable risk of grave public harm or it is in the long term interests of public safety to retain the person in custody, it should direct that the person be released. Thirdly, where it is in the long term interests of public safety to release the person into supervision but the plans for that person's supervision are inadequate for public protection or the needs of the person being considered, it should order that improved plans be drawn up to allow for the person's timeous release.

Post-release responsibilities

The most profound shortcomings of the Bill, however, concern the very limited consideration it gives to the community part of the sentence.

Essentially the Bill focuses on ensuring that most cautious consideration will be given to release of prisoners into the community. The policy memorandum, on the other hand, argues that compulsory post-release supervision is being introduced in the interests of community safety. That is a laudable intention. How it will be achieved, however, is only cursorily dealt with in Section 7.1 that requires “Scottish Ministers and each local authority (to) each jointly establish arrangements for the assessment and management of the risks posed in the local authority’s area by custody and community prisoners”. There is no requirement for individualised post-release plans.

There are 3 distinct elements to post-release arrangements that might have been addressed by the Bill:

- Licence conditions, as anticipated in Section 11 (2) (b) and Section 14 (3),
- Supervision and control duties placed on the local authority,
- Resettlement and support duties placed on the local authority.

The Bill focuses on punishing and isolating the offender from the public if he presents an ongoing risk. In considering the part of the sentence the person could spend in the community it places all the obligations on the offender in the form of compliance with licence requirements.

We know that punishment in the form of imprisonment is, in Scotland, preponderantly focused on the most disadvantaged and socially excluded members of the community.

But the Bill makes only the scantest of references to any public duties to enable the successful settlement of persons released in prison into contributing and benefiting roles in our communities.

While it is clearly a purpose of the justice system to express the offence felt by the community at criminalised behaviour and to protect the public from imminent danger, the failure of the Bill to attend to any issues related to the duty of the authorities to enable the legitimate participation of persons liberated from prison is both surprising
and disappointing. The failure to do so severely limits the potential of the provisions to make a contribution to public safety.

I would suggest that there is a need for the Bill to be fundamentally re-examined and restructured so as to make clear the duties throughout the sentence of the authorities to offer opportunities for personal development, counselling, support, controls and supervision as is appropriate to the needs of each individual.

In terms of the post release period, this would be reflected in statutory duties on local authorities to provide to the person released from prison, firstly, planned levels of supervision and control commensurate with the risk of re-engaging in offensive behaviour that they present and, secondly, planned levels of guidance, support and service in areas of housing, employment, education and training, relationships, cultural and social life, financial management and health care commensurate with the levels of social disadvantage they have sustained.

The levels of punishment we find necessary in Scotland today are an unwelcome indicator of the inadequacy of our social policies to promote an integrated society in which all can participate equitably. To promote law that visits, as unremittingly as this legislative proposal would, the consequences of that on those who are already disengaged is to ignore the evidence we have and to continue to expose the whole society to the level of damage it faces at present.

As it is proposed the law would provide an new set of very complex provisions offering increased uncertainty and deprivation of personal autonomy to those subject to it and would guarantee none of the services that, once it has punished, a just society would ensure for those who are alienated from its benefits and duties.

Roger Houchin
The Centre for the Study of Violence,
Glasgow Caledonian University,
G4 0BA

rhou@gcal.ac.uk
13.12.06