

Fact Sheet

#10

*in a series of fact sheets
that examine questions
frequently asked about
the criminal justice
system.*

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Public Identification of Offenders

With increasing frequency, citizens are being given notice of the release of an offender from prison. The public alert is issued by the police through the media or, in some cases, by the media alone. The alert warns people that an individual who is thought to be dangerous is being released from prison and might be settling in that community. Sketchy identifying information such as the offender's name, physical description, a picture, sometimes an address or area of residence and a brief description of the offender's criminal history is usually provided. Typically, public alerts are being used when the person is a sex offender. Those who support the practice of public identification argue that citizens need the information so that they can protect themselves and their children.

Why has there been a recent increase in the use of public notification? Is the practice of public notification an effective strategy to achieve public protection? Are there alternative strategies available or could some be developed to reduce the likelihood of reoffending? This Fact Sheet looks at the factors which have contributed to the growing use of public notification, critically analyses its value as a measure of public

protection and proposes alternative strategies for the management of high-risk offenders.

Growing use of public alerts: Contributing factors

Increasing public attention to crimes committed by offenders released from prison

There were over 200,000 releases from provincial adult correctional facilities and about 8,500 releases from federal prisons in Canada in 1995/96. In the vast majority of cases, the releases are not controversial and the individuals return to the community without incident.

Contrary to public perception, arising largely from sensational or incomplete media coverage, serious crimes involving individuals recently released from prison are relatively rare. In Canada in 1995/96, the average number of federal offenders living in the community under supervision on parole or statutory release was approximately 9,000 (Canadian Centre for Justice Statistics). In the same year, 165 individuals under supervision were charged with a serious offence (National Parole Board). Of those

released on parole from a provincial correctional facility in Ontario in 1995/96, approximately 3% were charged with any new offence (Ontario Board of Parole).

The public's fears and misperceptions continue to grow as each incident explodes across the front page and the television screen. Politicians respond by announcing the "quick fix" - a new law, a new procedure or promises to "toughen up" the parole system. Reasoned public debate, which includes important elements such as problems in the prediction of dangerousness and research evidence about "what works" to prevent reoffending, usually does not take place in these very emotional and tragic circumstances.



The impact of the detention provisions relating to federal offenders

Up until 1987, most federal offenders who were not granted parole were released on "mandatory supervision" after completing two-thirds of their sentence. They returned to the community *under supervision* until the date of the expiry of their sentence.

In 1987, in response to growing public criticism of federal politicians and the National Parole Board relating to serious crimes committed by individuals on mandatory supervision, the government passed Bill C-67. The legislation and subsequent amendments permit the National Parole Board to detain federal offenders seen to be "likely, before the expiration of their sentence, to commit an offence causing death or serious harm to another person, a sexual offence involving a child or a serious drug offence" (*Corrections and Conditional Release Act*) in prison until the date that the sentence ends. When the sentence ends, these offenders are *released with no conditions or supervision*.

While the intent was to use the detention provisions only in a small number of exceptional cases (prior to the passage of Bill C-67, politicians and correctional officials estimated 50 to

Supervision requires that the individual remain in the area and report to a parole officer and to the police. Other conditions such as participation in treatment programs may be imposed. A breach of these conditions could mean that the individual will return to prison. The period of supervision allows officials to know the whereabouts of the individual and to have a measure of control over the activities of the individual as well as the authority to intervene should there be indications of any problems.

100 cases a year), there has been a steady increase both in the number of cases referred for detention and in the number of cases where detention has been ordered (Figure 1). In the year 1995/96, 483 prisoners were detained - *almost five times greater than the largest projection made at the time of the passage of the detention provisions*. With few exceptions, these 483 individuals will be released at their warrant expiry date and, therefore, under no form of supervision. The average period of detention is less than one year.

Generally, the police rely on the ability of the National Parole Board to predict future serious offending and

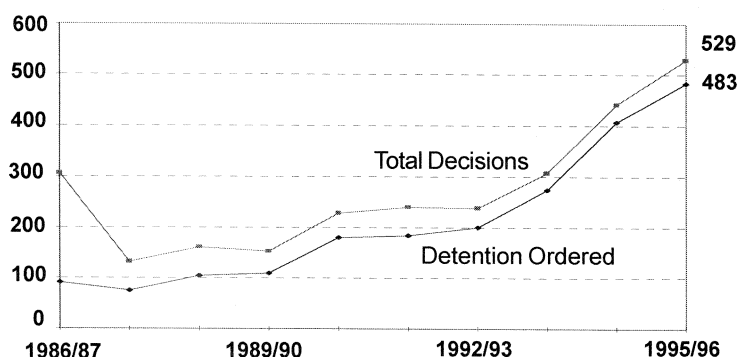
their assessment that the individuals detained represent the highest risk of serious reoffending to decide who will be the subject of public alerts. Recent research by the Correctional Service of Canada found that those who had been detained had less criminal activity in their past and the same or a lower reoffence rate upon release after detention compared to those released conditionally before the end of their sentence. The study concluded:

... it would appear that the selection process for detention has not resulted in the highest risk offenders being detained. (Grant, 1997)

Increasing public attention on sex offenders

Compared to 20 years ago, people today are more willing to disclose incidents of sexual abuse, to believe the victim and to understand the emotional consequences of violent crime. This is particularly true in the case of child victims. The public demands for punishment of sex offenders - to send sex offenders to jail for longer periods of time and to keep them there until the end of their sentence - have escalated. Spurred on by public pressure, there have been amendments to the detention legislation and changes in the practices of correctional officials and the National Parole Board which have resulted in more sex offenders being detained. Research by the Correctional Service of Canada indicated that sex offenders are more likely to be referred for detention and, of those referred, more likely to be detained. Instead of being released on some form of conditional release and supervised during the crucial period just after release, an increasing number of sex offenders are being released to the community under no form of supervision.

Detention Review Decisions (at initial reviews) and Decisions to Detain



Source: National Parole Board

Figure 1

Three months after a known sex offender fled the Waterloo Region because his name and photograph were broadcast on TV, he was charged with beating and sexually assaulting a 17 year old in Kingston...

After the publicity [in the Waterloo Region], the man moved to Toronto and Metro Toronto police were notified. Earlier this month, the Waterloo regional police received a tip that the man had moved to Kingston. [The Kingston police] said Waterloo police told his force that the man was in the Kingston area on the same day that the alleged offence took place. "We took steps to find him and that's when we learned about this assault" [Kingston police official] said.

Kitchener Record, Feb.11, 1995

Who decides who will be identified?

Generally, local police services have taken the initiative for deciding which person among the many offenders living in or returning to its community will be publicly identified. The decision is largely based on information received from officials within the criminal justice system. Typically, those who have been named by the police in Ontario have been men released from federal prisons for sexual offences. They have not been under any form of supervision because they have been detained until the end of their sentence. There have also been cases where the media has decided to publicly identify the released offender when the police have made the decision not to do so.

Recently, the Ontario government introduced the *Community Safety Act* which will

permit correctional officials to disclose information about an offender under provincial jurisdiction. The province has jurisdiction over those serving a sentence of incarceration of two years or less or serving a community sanction such as probation - those whom the courts have determined are guilty of less serious offences or who pose a lower risk than those sentenced to a federal term.

In all cases, the justification given for the notification is public protection.

As a strategy of public protection: Points to consider

- The simple act of naming offenders, in many cases, results in them hiding and/or moving to a new community. By virtue of going underground, the person is forced to live the life of a fugitive and the police have less opportunity to keep tabs on his/her activities and whereabouts.

RCMP are warning residents of this northeastern B.C. community that a convicted pedophile run out of at least three other towns is living among them.

Kingston Whig Standard, Nov. 25, 1995

- The communities where the "named" offender eventually settle are likely to be those which offer no personal support by way of family or the advantages of a person living in a community where he/she is known. Many individuals appear to be gravitating to major downtown areas in order to achieve anonymity even though this environment often presents the person with significant difficulties.
- Relapse prevention treatment programs provided in a supportive

community environment are the best way to reduce the risk of the person committing new crimes. High levels of anxiety, fear, persecution and other stresses such as the inability to find work or a place to live are likely to *increase* the person's likelihood of reoffending.

- Prison inmates may not make post-release plans for treatment or community settlement because they fear that, by doing so, they will simply identify their potential destination.

Community notification works against those factors that we know can reduce reoffending, particularly with respect to sex offenders. Treatment in the community is vital and, for some, access to long-term treatment is necessary. Public protection is not served by policies and practices that undermine treatment in the community.

It is unlikely, particularly with the growing number of offenders being identified, that many individuals would recall a photograph and identifying information. If the offender feels compelled to move, community notification merely transfers the risk to another community. The police may lose track of the individual and, therefore, lose the opportunity to be aware of his activities. The person will leave behind family and community supports and any treatment programs he may have been attending. The individual likely will be reluctant to seek out help, support or treatment for fear of being named again.

Detective Robert Shilling of the Seattle (Washington) Police Department said that there had been 87 community notifications of high-risk sex offenders in Seattle in the past year.

Winnipeg Free Press, July 17, 1997

Earlier this year, after police released his picture, a convicted child molester in Nova Scotia was beaten to a pulp by neighbours...

The state (Washington) stopped giving out detailed, often graphic information in 1993 when a man's house was burned down.
Toronto Star, August 9, 1997

Other points to consider include:

- the potential for vigilante activity directed at the identified individual not only causing harm to that individual but also subjecting citizens to criminal charges, and

The wave of vigilante activity set off in England (by public identification) led to a pensioner with senile dementia being beat up and covered in blue paint by a gang that mistook him for a convicted sex offender. In another mishap, a burglar who was ordered to wear a tagging device was brutally attacked after a news story indicated that a known sex offender was wearing a similar tag.

Ottawa Citizen, May 2, 1997

- the possibility of other people being victimized by virtue of being misidentified or being related to the named individual.

The mother (age 71) of a 33 year-old sex offender says that she has been threatened with death and forced to leave her apartment building since police issued a bulletin warning Metro residents that her son was leaving prison.

Toronto Star, Nov. 2, 1993

The Alternative: Gradual release, treatment and supervision

Rather than pursuing policies and practices based on an illusion that the public is being protected, we need to develop an alternative strategy - one that is based on the research findings which show what effectively reduces reoffending. The elements of such a strategy are:

- i) *a system that makes gradual supervised release an integral part of every sentence,*

ii) available community-based treatment and residential services which are specialized, professionally operated and adequately funded,

iii) the focusing of community supervision and treatment resources on those with the greatest need and those who pose the greatest risk, and

iv) an end to those policies and practices that undermine the gradual release process such as the detention provisions and public notification of the release of offenders.

Presently, there are mechanisms other than community notification which permit criminal justice officials to intervene in high-risk cases. The federal government recently passed Bill C-55 enacting measures to deal with high-risk offenders. A new Long-Term Offender designation targets sex offenders and can add a period of long-term supervision of up to 10 years following release from prison. Under the new judicial restraint provision, controls can be applied to individuals who have completed their sentence and who pose a risk of committing a serious offence. With these measures in place and available to criminal justice officials, the only purpose of community notification will be to humiliate, shun, harass and even subject offenders to physical harm.

Effective, just and humane responses to crime and its causes.

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