Evidence and Policy Networks: The UK Debate About Sex Offender Community Notification

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Introduction

The notion of evidence-based policy making has been a prominent theme in policy and academic discourse since the election of the Labour Party in 1997. It emerged alongside the trend to reform and modernise government (Duke, 2001) and has been an integral part of the Labour government's approach; this is reflected in publications such as the White Paper *Modernising government* (Cabinet Office, 1999a), its follow-up *Professional policy making for the 21st century* (Cabinet Office, 1999b) and more recently in the *Professional skills for government* initiative (Cabinet Office, 2007).

This increased tendency to look for evidence and place a premium on proof and demonstrable results marks a change from policy development in the 1980s. Back then, policy makers, disillusioned with social science's ability to bring about anticipated social changes, frequently distanced themselves from social scientific research or dismissed it altogether (Bulmer et al., 1986; Davies et al., 2000; Duke, 2001; Mulgan, 2003). Although it is questionable whether research and evidence were ever as far apart from the policy process as is sometimes implied (Clarence, 2002), the dominant and central role attributed to it in present-day policy making does stand out (Grayson and Gomersall, 2003).

Just what it means to 'use' evidence is a source of debate. There are various models of how evidence is used in the policy process, although most draw on the work of Weiss (Weiss, 1977, 1986). Her models of research use can be grouped under three broad headings: instrumental use, conceptual use and strategic use (Ginsburg and Gorostiaga, 2001). Instrumental use is the most prominent perception of how evidence is utilised in the policy process. It presupposes that evidence has a direct impact; as such, it focuses on the influence of a specific piece of evidence in the development of policy. A broader perception of the interaction between evidence and policy is that of conceptual use. Instead of concentrating on any direct impact evidence might have, the focus is on the complex and often subtle ways in which evidence may influence policy makers' and practitioners' thinking and actions. Finally, evidence can be used in a strategic or tactical sense: it can be employed to legitimate a decision or course of action, or the need to gather evidence can be used as an excuse for deferring action. Such diversity in the forms of evidence use means that the very concept of evidence-based policy is far from straightforward.

Despite a growing consensus about the importance of 'evidence', there is little agreement about what counts or what should count as evidence for policy making. A common view is that there are many forms of evidence relevant to policy making. These range from published research, through performance management data, routine statistics and expert knowledge, to practical examples and tacit knowledge (e.g., Marston et al., 2003; Davies, 2004; Shaxson, 2005). In this article we interpret the term 'evidence' broadly as information supporting a proposition and take the view that what counts as good evidence depends on the question being asked. Such eclecticism brings with it a need to understand more about the interaction between different forms of knowledge and evidence, and their relative influence on policy formation.

The emphasis on evidence-based policy making sits alongside another prominent trend within policy making: a growing fragmentation and increased reliance on non-governmental players to assist in the formulation and implementation of policies (Kenis and Schneider, 1991; Pappi and Henning, 1998). Consequently, an analysis of policy processes is now frequently seen as requiring an analysis of policy networks (Howlett, 2002; Pal, 2002). Despite the prominence of the network approach, analysis of the relationship between evidence-based policy on the one hand and policy development through policy networks on the other seems to have received relatively scant attention. Certainly, the main focus of the evidence-based policy literature has been on the use of research by the executive arm of government, with analyses based on a 'two communities' view of the issue: the problematic differences between the research and policy-making communities (e.g., Bogenschneider et al., 2000). Insufficient attention has been paid to the role of other forms of evidence and evidence use by other players within policy networks. The 'two communities' view oversimplifies the range of stakeholders involved in both providing and using evidence.

The challenge in studying evidence and policy is then to recognise diversity—diversity of evidence, actors and evidence use—and analyse the implications of this. This article responds to this challenge by considering the different forms of evidence used by various actors within a specific policy network, how this evidence was used and what the consequences of this were. Given that the concept of policy networks has been defined and employed in some significantly different ways (Börzel, 1998; Marsh and Smith, 2000), it is important to clarify our interpretation of this concept. We use the term 'policy network' in its literal sense as a group of actors with diverse backgrounds and interests that are involved in the same policy debate. The policy network in question is concerned with sex offender policy, and the policy decision that is the focus of our attention is whether communities should be notified about convicted sex offenders living in their area. We concentrate on a period of intense policy debate about this issue in the summer of 2000, which was sparked by the abduction and murder of eight-year-old Sarah Payne by a previously convicted sex offender. The topic continues to be an area of widespread debate that periodically captures the attention of both media and politicians (*BBC News*, 2006, 2007). Subsequent debates, however, have not been as intense and have mainly seen an update of the evidence used in 2000 (e.g., Fitch, 2006).

Criminal justice policy in general is a high-profile area of public policy, which is constantly drawn to the public's attention by the media (Sussman, 1997; Silverman and Wilson, 2002). The reporting of crimes and criminal-justice policy attracts the attention of news readers and viewers and has been used to sell newspapers

(Benyon and Edwards, 1997; Mason, 2003) and political parties (e.g., Labour Party, 1997). It has been characterised as a difficult arena for the advocates of evidence-based policy because of the influence of stereotypical views about what works best in addressing crime and dealing with criminals (Tilley and Laycock, 2000). An evidence-based approach to policy development is potentially confounded by the existence of a large body of 'folk knowledge' about crime, which is reinforced and distorted by contributions from media reports, docu-dramas and crime fiction. There has, nevertheless, been much interest in the use of research evidence to help formulate criminal justice policies (Tilley and Laycock, 2000). So, in many ways the potential clash between research evidence and folk knowledge makes the criminal justice field an ideal setting for studying the use of evidence in policy development.

Sex offender policy is one of the most controversial areas of criminal justice policy. The hatred of sex offenders as a group is unequalled by popular attitudes to any other kind of offender (Sampson, 1994; Wakefield, 2006). Hence, policies and procedures relating to sex offenders have been said to be driven by public outcries following highly publicised sex offences (CSOM, 2001; Radford, 2007). Since the mid-1990s, however, there has been an increasing evidence base about effective ways of managing such offenders and advocates for the need to pay heed to this advice (e.g., Hedderman and Sugg, 1996; Grubin, 1998; Beech et al., 2001; Maguire et al., 2001). So, studying the development of sex offender policy should bring into sharp relief the issues we are interested in: the influence and interaction of different forms of knowledge and evidence in a policy development process involving a range of policy network players.

In the next section we outline the methods used in analysing this policy area. We then present the case study by first setting the context for the events that occurred in summer 2000 and then providing an overview of those events and their policy outcomes. The main body of the case study details the key actors involved and their use of different forms of evidence. Finally, the discussion section draws together what this case study tells us about evidence use in policy networks.

Methods

In order to explore the role and use of evidence in the debate of summer 2000 a qualitative case study approach, incorporating documentary analysis and semi-structured interviews with key players, was employed. As part of the documentary analysis, a wide variety of public and private documents were accessed. These included media reports, academic publications, consultation papers, legislative texts and guidelines, which were publicly available. They also included briefing notes, personal correspondence and internal memos, as well as various personal files provided by interviewees.

All the documents were analysed manually. Themes and sub-themes within the documents were identified and avenues for further investigation singled out. The identified themes were then coded and compiled within a number of categories addressing the research questions of who were the key players involved in the debate, what type of evidence, if any, was used, and how the evidence was used in the debate.

The documentary analysis was supplemented and informed by interviews with seven people from the different organisations who played a key role during the events of summer 2000. In this study, many of the key players were first identified through the documentary analysis (media reports and government press statements) and this list was subsequently augmented through interviews with the key players identified initially. The duration of the interviews varied between 50 minutes and three hours and took place between 2004 and 2005. Six of the interviews were conducted face to face and these were recorded and transcribed. The seventh interview took place over the telephone and relied on note taking.

The analysis of the interview material mirrored the manual approach taken in the analysis of the documents. Initially, the interviews were transcribed. The transcripts were then used as a basis for highlighting the themes that emerged and as a way to categorise the various points mentioned by the interviewees.

Given the limited number of people involved in the policy debate during the summer of 2000, and the controversial nature of the topic, all interviews took place on the basis of confidentiality and anonymity. As such, comments are not directly attributed to people and direct quotes, where necessary, have been adjusted so as not to reveal the identity of the person or organisation making a specific statement.

The combination of documentary analysis and interview data allows for a substantial degree of triangulation in the development of the case study account (Young and Mills, 1980; Patton, 2002). Where multiple sources confirm an event or action we do not state the exact sources for our account. However, where views and opinions are reported we do highlight whether these are sourced from documents or interviews.

The Case

Policy Context

The issue of whether UK communities should be notified about sex offenders living in their locality has been a recurring bone of contention in sex offender policy. The idea of a sex offender register grew in popularity from about 1994 (Thomas, 2000; Jones and Newburn, 2002a, 2002b). Although various lists containing information on sex offenders already existed in the mid-1990s, the idea of a national sex offender register gained pace during 1996 and it was established by the 1997 Sex Offenders Act.

With the establishment of this register, attention began to focus on public access to the information held on it. The media and various pressure groups became interested in the approach to community notification adopted within the US (Kitzinger, 1999). Although the overall arrangements within the US are a complex set of laws and measures aimed at managing sex offenders, they have become known collectively as Megan's Law (Elbogen et al., 2003). They are named after seven-year-old Megan Kanka, who was raped and murdered by a convicted paedophile living near her home (CSOM, 2000; Megans-Law.net, 2007). Megan's parents argued that had they known about the presence of a paedophile in their area, the crime would not have happened. In order to prevent similar crimes

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in the future they began a highly publicised campaign for the protection of children (CSOM, 2000). The campaign focused on 'knowledge' and the public's 'right to know' and led to the enactment of active community notification legislation in New Jersey in 1995, only 89 days after Megan's disappearance (Levi, 2000). A federal version of this legislation was passed within the US in 1996 (Sorkin, 1998).

In 1997 there was popular anticipation that the UK government would follow the US approach and introduce a UK version of Megan's Law requiring communities to be notified about sex offenders living in their area. However, when the sex offender register was established in 1997, a decision was made not to go down this route. Just one year after the passage of the 1997 Act, the Labour government decided that a review of the legislation surrounding sexual offences was necessary. The decision to review the law was based on the view that the current legislative framework for sex offenders was incoherent and outdated, resembling a 'patchwork quilt of provisions', which only worked 'because people make it to do so, not because there is a coherence and structure' (Home Office, 2000a, p. iii, para. 0.2). An important part of the review was to consider the compatibility of sex offender legislation with the European Convention on Human Rights. It was acknowledged that in the case of sex offences there is a delicate balance between individuals' rights and the protection of citizens (Home Office, 2000a). It was expected that this review would take about a year, but, in the event, it took longer and the review had not been completed by summer 2000.

The Events of Summer 2000

The debate about community notification became particularly intense in the summer of 2000. Following the abduction and murder of eight-year-old Sarah Payne in July 2000 by a previously convicted sex offender, the *News of the World* (a Sunday newspaper) decided to lobby for a range of measures aimed at protecting children from sex offenders. The underlying aim was to introduce a UK equivalent of Megan's Law, based on the idea that parents had the right to know if there was a convicted sex offender living in their community. In honour of Sarah, this was to be called Sarah's Law. As part of its strategy, the newspaper designed a name-and-shame campaign which threatened to publish details of known sex offenders. Similar campaigns had been used in the South West of England in the mid-1990s and had subsequently been copied in other parts of the UK (Thomas, 2000; Cross and Lockyer, 2004). On 23 and 30 July 2000, the *News of the World* published the names, photographs and approximate whereabouts of 82 sex offenders, and pledged that the campaign would not stop until all 110,000 'proven paedophiles' in Britain had been named and shamed (Taras and McMullan, 2000a). To further support its campaign, the *News of the World* organised a 700,000-strong signature petition in favour of a Sarah's Law. There were also several meetings between *News of the World* representatives, Sarah Payne's parents and Home Office ministers (Paul Boateng and Jack Straw).

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The campaign was quickly condemned by practitioners and organisations working in the areas of offender management and child protection. The most prominent of these were the Association of Chief Officers of Probation (ACOP), the Association of Chief Police Officers (ACPO), the National Association for the Care and Resettlement of Offenders (NACRO), the National Society for the Prevention of Cruelty to Children (NSPCC) and the Suzy Lamplugh Trust (a personal safety charity). In light of previous experience with name-and-shame campaigns, the concern of several of these organisations was that the campaign and blanket community notification could actually put children and vulnerable adults at higher risk: as a result of vigilantism, offenders might change their names, move away or simply go underground, thereby disrupting both their supervision and treatment. Riots and several acts of vigilantism following the *News of the World*'s campaign soon lent support to the critics' point of view (*BBC News*, 2000; Millward, 2000).

The debate between those for and against a Sarah's Law was played out in the media and the atmosphere was highly charged. An important event that appears to have resolved some of these tensions was a meeting between representatives of the *News of the World*, ACOP, ACPO, NACRO, NSPCC, the Suzy Lamplugh Trust and Sarah Payne's parents on 2 August 2000. Following this meeting a list of proposals was developed that addressed some of the shortcomings of existing sex offender legislation, mainly in the area of the registration requirements for sex offenders. The agreement was that all parties to this meeting would jointly lobby the government to get these proposals adopted. Two days later the *News of the World* stopped its name-and-shame campaign and instead launched its 'For Sarah' campaign. This incorporated the list of proposals agreed at the meeting but also had the aim of eventually getting a UK equivalent to Megan's Law —an aim that was not supported by the other organisations represented at the meeting.

During September 2000, various measures for improving child protection were considered and the Home Office eventually made it clear that no general public access to details about individual offenders would be allowed (Johnston, 2000). Instead, a package of measures aimed at strengthening existing legislation was announced (Home Office, 2000b) and this was added at the last

minute to the 2000 Criminal Justice and Court Services Act. This package reflected the proposals developed by the various parties to the 2 August meeting and was particularly influenced by the joint recommendations from ACOP and ACPO (see below).

The legislative changes were important in addressing prior loopholes and there seems to be little doubt that the campaign activity following Sarah Payne's death was an important factor in speeding up their introduction. Some of the ideas had previously been raised on 12 June 2000 in the House of Commons as part of the Report and Third Reading of the Criminal Justice and Court Services Act. Back then, however, the government believed that any amendments to existing approaches prior to the completion of a full review of the 1997 Sex Offenders Act would be premature (House of Commons Debate, 2000, c708). Thus, in the short term, the summer 2000 debate short-circuited some aspects of that review. In the longer term, it also appears to have been a driving factor in subsequent policy developments, such as the introduction of Multi-Agency Public Protection Arrangements (MAPPAs).

Actors and Evidence

Along with the *News of the World* and the government, the main actors involved in the sex offender community notification debate in summer 2000 were ACOP, ACPO, NACRO, NSPCC and the Suzy Lamplugh Trust. However, in relation to evidence use within this debate, NACRO and the Suzy Lamplugh Trust did not play a prominent role. NACRO considered its role to be one of practical experience, which complemented rather than replicated the input provided by the other organisations. It had provided arguments against community notification in a policy proposal it had sent to the Home Office in the previous year and it did not consider that another inquiry into the potential effectiveness of community notification was necessary on its part (interviewee). The role of the Suzy Lamplugh Trust seems to have been one of mediator rather than evidence provider; the trust was set up following the disappearance of 25-year-old Suzy Lamplugh and its involvement added 'a human credibility that the likes of ACPO and ACOP representatives just could not add because they were just seen as functionists' (interviewee). For these reasons, we focus below on the evidence gathered and used by the *News of the World*, the government, the NSPCC, ACOP and ACPO.

News of the World

To substantiate and lend credibility to its campaign, the *News of the World* referred to a spectrum of evidence, including research findings, statistics and individuals' accounts of their experiences. One prominent point of reference used by the newspaper was the 110,000 'proven paedophiles' who lived in Britain (Taras and McMullan, 2000a). In 1997, the Home Office Research and Statistics Directorate published the findings of a study examining the prevalence of convictions for various sexual offences by men in England and Wales (Marshall, 1997). The aim of the report was to provide a reliable estimate of the numbers of known sexual offenders and it commented that at least 110,000 people of the studied population had convictions for sexual offences against a child back in 1993 (Marshall, 1997). Mirroring the number in the report, the *News of the World* announced its intention to compile a list that contained at least 110,000 names, turning it into the biggest database on paedophiles in the world (*News of the World*, 2000a).

In order to show that its campaign had wider support, another important source of evidence was surveys. Several surveys of public support for the *News of the World*'s campaign were undertaken (such as those reported by Carlton's *London Tonight* programme, ITV Teletext, Sky TV and in *The Mirror* newspaper). These surveys were quoted by the *News of the World* as providing at least a level of 80% support for their campaign (*News of the World*, 2000b). The survey most frequently referred to was a MORI poll commissioned by the *News of the World*. The newspaper stated that this poll indicated that the British public 'voiced huge support' and 'massive backing' for the name-and-shame approach taken by the *News of the World*—84% of Britons thought paedophiles should be named and 88% would want to know if one was living in their area (*News of the World*, 2000a, 2000c).

Another important strand of evidence used by the *News of the World* came from expert and personal accounts. These fall into three categories. First, there are testimonies by 'expert witnesses' who provide accounts of the nature of paedophiles and sexual offences—for example, the 'head of Scotland Yard's paedophile unit' (Taras and McMullan, 2000b) and the 'key man responsible for giving American parents the absolute right to know the offenders in their midst' (*News of the World*, 2000d). Second, reference is made to people in authoritative positions or those in the public limelight who are quoted as expressing their support for certain aspects of the *News of the World*'s campaigning or the potential helpfulness of some of the ideas underlying it. This group includes a broad spectrum of representatives including various charities, police representatives and '[e]ven a convicted paedophile' (*News of the World*, 2000d). The third and final category of people referred to by the newspaper consists of those who have been affected by sexual offences, either directly or indirectly, and the parents of murdered children (e.g., Kellaway and Begley, 2000; *News of the World*, 2000d).

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Government

By summer 2000, the US approach to sex offender registration had been of longstanding interest to the UK government. The US approach to the management of such offenders was closely observed by the UK government throughout the 1990s (Hebenton and Thomas, 1997). In particular, Megan's Law was assessed when the government set up the national sex offender register in the late 1990s. At that time, due to reportedly poor compliance rates and the danger of vigilantism, a decision was made not to go down the US route (Ahmed and Bright, 2000).

A more recent evaluation of the British sex offender register and its associated pieces of legislation by the Policing and Reducing Crime Unit, part of the Home Office's Research, Development and Statistics Directorate (Plotnikoff and Woolfson, 2000), had highlighted several shortcomings in and concerns about existing arrangements. These related to:

- deficiencies in the current legislation;
- inadequate resources for monitoring offenders;
- increased workloads;
- fears that resources had been diverted away from other categories of higher-risk offenders;
- timeliness and quality of the flow of information from courts, prisons and hospitals regarding offenders required to register; and
- the creation of unrealistic expectations on the part of the public and other agencies.

To improve the effective management of sex offenders the report put forward several recommendations. However, the research also found that the British sex offender register had a compliance rate of 94.7% (Plotnikoff and Woolfson, 2000), much higher than the 80% within the US that had been identified in previous research for the Home Office (Hebenton and Thomas, 1997).

During the events of summer 2000 the government's official position on community notification frequently appeared to be unclear, but behind closed doors there does not seem to have been an appetite for a policy of general community disclosure (internal Home Office strategy document). Along with earlier conclusions that a Megan's Law approach would not be effective, the timing of the *News of the World*'s campaigning meant that there was a reluctance among civil servants to act quickly; they were aware that during July and August there would be very limited access to ministers with a firm grounding in the subject area and this limited the capacity for strategic decision taking. The government's strategy was to express ministerial support for the *News of the World*'s aim of improving child safety but to also convey its concern about the campaign's tactics. It wanted to show readiness to examine new avenues for improving children's safety where there existed 'evidence to back them' (internal Home Office strategy document). This sentiment had also been expressed in the Home Office's consultation paper *Setting the boundaries: Reforming the law on sex offences* (Home Office, 2000a), which constituted the first stage of the overall review on sex offender legislation. In that document, published in July 2000, it was pointed out that the government was to continue the 'open and consultative process by seeking the views of the public and of interested organizations on all of the recommendations as well as the individual consultation points set out in the text' (Home Office, 2000a, p. i).

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Although blanket community notification was not favoured, the government decided to explore the feasibility of sharing some information on sex offenders with members of the public. The idea was to set up a mechanism through which a specific member of the public, such as a parent with reasons for concern, could, for very specific and limited purposes, apply to obtain information about whether a named person had any relevant previous convictions. The responsibility for exploring this issue fell to the Home Office's Mental Health Unit (Mental Health Unit document).

The results of the Mental Health Unit's analysis were reported in an internal document on 3 August 2000. This looked at five key areas:

- defining the circumstances in which disclosure would be permissible;
- examining how information should be stored and the channels of access to this;
- defining the nature of information that could be disclosed;
- ensuring an appropriate use of the information by the person obtaining it;
- the question of how any such arrangements would be funded (Mental Health Unit document).

Although the analysis highlighted various ways in which partial disclosure might operate, the conclusion reached in the document was that there were several legislative and practical obstacles to any such scheme, particularly in relation to breaches of the European Convention on Human Rights. It also argued that existing plans regarding access to information would probably address most of the problems any envisaged limited disclosure scheme would be intended to address, albeit via a different route (Mental Health Unit document).

NSPCC

As soon as the *News of the World*'s naming-and-shaming campaign started, the NSPCC was inundated with enquiries. These not only related to safety issues for children but also to the line the NSPCC was taking in relation to the *News of the World*'s campaign. In response, the NSPCC decided to do some research into the effectiveness, advantages and disadvantages of community notification. This appears to have been a genuine attempt to see where the balance of evidence lay. Some people within the NSPCC wondered

whether there might be some evidence that suggested community notification would protect children. The research process was said to be marked by 'really, really looking for some robust evidence' (interviewee).

The research started out as a 'very quick fact-finding mission' (interviewee). The initial findings were rather short and sketchy because the existing research base seemed to be limited. However, the NSPCC realised that the debate about community notification would continue beyond the initial reaction to Sarah Payne's death, so it decided to extend the original fact finding into a more extensive evidence review. It had the impression that community notification initiatives in countries such as Canada, Australia and New Zealand were not developed to the same degree as those in the US, so it was assumed that focusing on the US would be the best use of time and resources available (interviewee).

A literature review was carried out mainly via online searches. In addition, a series of 12 semi-structured telephone interviews were conducted with various people involved in community notification across the US. These interviews addressed the key questions of vigilantism, compliance rate, potential impacts on levels of recidivism, anxiety within the community and the broader question of the ways in which Megan's Law had helped or hindered the protection of children and the management of sex offenders in the community. The evidence review was conducted with remarkable speed during August 2000; it seems that people in the US had heard about the Sarah Payne case and were keen to talk. By the end of August all the required information had been amassed (personal correspondence; interviewee).

While the research was ongoing, key staff within the policy and public affairs section of the NSPCC were updated on the emerging findings and these appear to have been used both to develop the NSPCC's policy line and to inform the Home Office. The NSPCC's policy advisors were in meetings with civil servants and Members of Parliament (MPs), were sitting on representative groups discussing this issue and were participating in the overall review of the law on sex offences. Other people to whom the findings were relevant were briefed on the main findings via a memo issued during the first week of September 2000.

It took some time before the initial internal document was transformed into the official report *Megan's Law: Does it protect children* (Lovell, 2001). The final report echoed the earlier conclusions provided in the internal document. In essence, it highlights 13 key findings (see Box 1) and concludes that:

> [T]here is very little evidence to substantiate claims that community notification enhances child safety. It is possible that there are both intended and unintended positive and negative outcomes of community notification. We simply do not know enough about these at this time. (Lovell, 2001, p. 35)

This conclusion caused some frustration among policy makers and practitioners, who would have liked a more clear-cut conclusion and set of recommendations: 'the NSPCC has done this research—does it [community notification] protect children or not?' (interviewee).

However, the overall reaction to the research was positive, with several people from both the UK and the US sending letters of appreciation to the NSPCC. In addition, the findings of the report were widely quoted and they seem to have provided independent, evidence-based support for the government's decision to not introduce community notification (personal correspondence).

Box 1: Key Findings of Megan's Law: Does It Protect Children?

- Figures on stranger abuse are not available and there is no evidence that community notification has resulted in a decreased number of assaults by strangers on children.
- Although levels of recorded intra-familial sexual abuse in the US show a marked decline since the early 1990s, the decline predates the introduction of Megan's Law.
- There is very little research about how community notification empowers parents, or the ways in which parents use this information in order to protect children.
- There is little knowledge about whether and how adults and children change their behaviour as a result of community notification.
- There is little to suggest that people are more or less anxious as a result of community notification.
- There is no evidence to suggest that community notification procedures have or have not deterred children, siblings or parents from disclosing intra-familial abuse.
- There is very little awareness of, or concern about, sex offenders using public information sources in order to network.
- There appears to be some indication that community notification may result in harassment and vigilantism. However, there is little empirical quantitative or qualitative evidence about this: the number of reported examples is low and it is difficult to know the level of unreported incidents.
- There seems to be little evidence about whether or not community notification drives sex offenders 'underground'.
- Despite reports of concerns about the reintegration of sex offenders into the community as a result of community notification, there is very little evidence about this in the literature.
- It is difficult to know whether notification impacts on recidivism. To date, however, there is no conclusive evidence that community notification reduces re-offending.
- Although there is broad agreement that community notification has enhanced the tracking and monitoring of sex offenders, there is little collated information to substantiate this.
- The cost of implementing community notification is high in both financial and personnel terms.

(*Source:* Lovell, 2001, pp. 2–3)

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ACOP and ACPO

ACOP and ACPO worked closely together in marshalling evidence and arguments against the *News of the World*'s campaign for a Sarah's Law, so their activities are discussed together in this section.

Although the NSPCC's research review was inconclusive about the effectiveness of community notification measures in protecting children, ACOP and ACPO drew on evidence from practice about the impact of disclosing sex offenders' details and this evidence was considered to be conclusive on the drawbacks of community notification. Cooperating closely, ACOP and ACPO compiled this evidence in what became known as the 'dossier of evidence (e.g., Laville, 2001). Although several people involved were unhappy with this terminology, their concerns related to the term 'dossier' rather than the notion of 'evidence': 'I don't like the word *dossier* because it has a bad connotation … I would not call it a dossier' (interviewee). 'It was a list at best' (interviewee).

The background to the dossier was that the two organisations had learnt from previous name-and-shame campaigns that collating examples about the impact these campaigns had on their work with sex offenders, and distributing these to the press, could influence discussions about sex offender management. For example, in 1998 there was widespread press coverage of the release of some sex offenders into the community. Various local media started outing sex offenders and they also set up campaigns for their expulsion from the community. This resulted in considerable problems for the probation service and in response it produced its first dossier of evidence (ACOP Briefing Note). The 1998 dossier listed various incidents that had resulted from press campaigns across England and Wales. It provided ACOP and ACPO with an important point of reference when dealing with the media. The media were interested in stories, and the dossier allowed ACOP and ACPO representatives to say 'this is the evidence [ACOP and ACOP] have gathered and these are the stories from this evidence' (interviewee).

Lessons were learnt from the 1998 experience and in summer 2000 the gathering of examples was swift and focused. One day after the start of the *News of the World*'s name-and-shame campaign, ACOP sent a letter to all chief probation officers. In that letter, entitled *(Here we go again…) News of the World: Name-and-Shame Campaign*, all probation service areas were asked to examine developments in their area and to report back any instances of problems. Replies reporting a variety of incidents immediately started to accumulate at ACOP and these were used to produce a new dossier in cooperation with ACPO. ACPO also asked all police forces to report in detail on the impact the *News of the World*'s campaign was having on their work.

Three key themes identified in the 2000 dossier were that the *News of the World*'s actions had hindered the probation services' work in child protection; it had caused harm to third parties; and it had led to violence. The evidence to support these themes covered a broad spectrum of incidents and included pieces of correspondence by 'vigilantes,' examples of local campaigns against individual sex offenders, and appeals from previously convicted sex offenders.

While compiling the dossier, ACOP and ACPO made contact with other experts in the area of child protection and sex offender management, as well as with those who might know more about Megan's Law. Drawing on the expertise of such people provided reassurance and support for the stance taken by ACOP and ACPO in the various discussions they had with the parents of Sarah Payne, with the *News of the World* and with Home Office representatives (interviewee).

Box 2: Community Notification: A Five-Point Programme of Legislative Measures

- Creation of a duty on chief officer of police and chief officer of probation jointly to establish arrangements for assessing and managing the risks posed by sex offenders with a requirement annually to publish information about those arrangements, coupled with the power for the Secretary of State to issue guidance on such things as the form in which such information is to be published; the other agencies that should be involved; the publication of information about local arrangements, including, for example, information about the number of times disclosures have been made and the categories of people to whom information has been disclosed; information about local treatment programmes etc.
- A power for the Secretary of State to make regulations concerning notification to the police and probation service by those responsible for the detention, discharge and release of sex offenders liable to registration under the 1997 Sex Offenders Act.
- A duty on the probation service to ascertain from the victim (or, if appropriate, the parent or guardian of the victim) their wish to be informed about the release arrangements for any sex offender serving a sentence of 12 months or more. Where the victim wishes to be informed, a duty on the probation service to take all reasonable steps to notify the victim of the release date, whether any conditions are attached to the license, whether those conditions include any restriction on the movements of the offender, and if so, to be told specifically the terms of any conditions that relate to contact with the victim.
- A new power for the Crown Court, when convicting an offender who falls within the scope of the Sex Offenders Act, to make a 'restriction' order (including requirements about not approaching victims) placing restrictions on the offender that will have effect on release from custody. The order will be capable of being of indefinite duration and of being varied or discharged on application by the offender, the police or the probation service.
- Amendments to the Sex Offenders Act to require initial registration in person within 72 hours of sentence or release; to give the police power to photograph and fingerprint the offender on initial registration; to require notification of foreign travel; and to increase the penalty for failure to register to five years' imprisonment.

(*Source:* ACOP Briefing Document)

Alongside the dossier of evidence, ACOP and ACPO also cooperated with some of the other agencies in the child protection field to design a five-point programme of proposed legislative changes (see Box 2). This was forwarded to the Home Office and the ideas within this programme were also discussed at the meeting with the *News of the World* on 2 August. The 5-point programme acted as a basis for the *News of the World*'s 'For Sarah' campaign, which, as noted above, superseded its name-and-shame campaign.

Discussion

Three key features stand out in the above case study account:

- Varying forms of evidence played a prominent role in the summer 2000 debate about sex offender community notification policy.
- There is not a neat distinction between evidence producers and evidence users and the overall picture is a far cry from the 'two communities' view of researchers on the one hand and policy makers on the other.
- Strategic and tactical uses of evidence by the different actors were the most prominent forms of evidence use but this, nevertheless, resulted in a well-informed debate.

Each of these features is discussed below.

The case study demonstrates how evidence can play a key role in policy debates and policy development, even in the controversial area of sex offender policy, where stereotypes abound and outrage is common. In some ways this is not surprising because organisations facing opposition to their policy preferences from other agencies or organised interests often find it expedient to draw on research and other evidence to lend credibility to their views due to the power of technocratic argumentation (Boswell, 2008). This may be especially the case where stakeholders are seeking to counter strong popular opinion about the best way forward. However, it was not only those working against popular opinion who used evidence as a recourse but also those working with the overall grain of that opinion.

What counted as evidence to those involved was a wide and fluid mixture that ranged from specific high-profile examples of the victims of sexual crimes, through the collated experiences of key stakeholders such as police and probation officers, to evidence gathered by more systematic means, such as research and evaluation findings, opinion polls data and routine statistics. Whether actors were campaigning for community notification (e.g., *News of the World*) or arguing against this course of action (e.g., police and probation services), what they shared in common was their rapid recourse to this fluid spectrum of evidence.

Davies (2004) has pointed out that different types of evidence can provide different insights. While practitioner knowledge, research findings and statistics are often used to substantiate a policy position, the use of specific examples serves to make the argument not only more accessible but also more appealing to the interests of a wider audience: they illustrate the arguments through first-hand experiences and such stories facilitate media uptake. As can be seen in the case of ACOP's and ACPO's dossier of evidence, the use of good stories to exemplify a point was important in getting other forms of evidence heard.

Although both proponents and opponents of blanket community notification used all three categories of evidence, some difference in emphasis is apparent: players' main focus was on those sources of evidence one would traditionally associate with them. The evidence put forward by the *News of the World* in favour of community notification revolved more around specific examples and opinion polls data, while the opponents of community notification focused more on collated experiences, research findings and statistics. One reason for this might be that the *News of the World* was seeking to build on existing populist support for community notification and specific examples of the horrors of sexual offences were seen as the best way of doing this. Alternatively, those arguing against community notification needed to present not only poignant stories about the dangers of community notification but also provide a greater weight of systematic evidence to counter the tide of popular opinion. So in understanding how different forms of evidence are blended in policy debates we do need to consider argumentation styles and how these are shaped in response to popular opinion.

All the key actors involved in the debate were both generators and users of evidence. For example, the *News of the World* generated its own opinion polls data and used polls data from elsewhere in arguing its case for a Sarah's Law. Similarly, the police and probation services developed their own dossier of evidence and used the findings of the NSPCC's review in arguing their case. Finally, the Home Office generated various crime statistics and also drew on research and evaluation findings generated by others. This kaleidoscopic picture of evidence generators and evidence users defies description as two separate groups—roles overlap and mutate over time.

In so far as the key actors drew on research findings generated in the traditional context of academia, their use was often mediated by the user organisation's own research officers and personal contact was key. In the case of the NSPCC, existing research-based knowledge was accessed by consulting research reports. However, more often these findings were brought to the attention of key actors through conversations with experts. This person-to-person interaction was at least as important as published findings as a means of dissemination and awareness raising, and probably more important as a means of persuasion. Again, this suggests the intermingling of several overlapping communities rather than a dichotomy between just two—research producers and research users.

Much of the normative literature on evidence-based policy envisages that evidence will be used instrumentally to determine the best course of action. In the case of the NSPCC, who initially seemed to have a more open opinion about the possible benefits of a Sarah's Law, the gathering and subsequent use of evidence was fairly instrumental in nature; that is, the use of evidence to determine a policy stance. However, this was the exception rather than the norm.

Throughout the debate there is little indication that evidence played a role in changing people's perceptions on the topic. Research findings and other forms of evidence were in general used to support pre-existing positions on the desirability of sex offender community notification, which is frequently described as a strate-

Cont'd on page 10

gic or substantiating use of evidence (Weiss, 1977). Initially, the Home Office's interest in evidence seems to have been driven by tactical concerns—a reason for delaying a policy statement and decision. Subsequently, the extent to which Home Office officials or ministers used the evidence gathered by themselves or provided by others instrumentally or strategically is not easy to judge because it depends on the extent to which they genuinely had open minds about the potential benefits of a Sarah's Law. From interview data, it seems that from early on there was little appetite for a Sarah's Law. However, evidence still played an important confirmatory role as one Home Office representative pointed out:

> [W]e have concluded that extending access to the information on the register of sex offenders would not improve child protection. There is no evidence from the United States that their community notification laws reduce offending against children and very little evidence that they enhance child safety in any way. Research by the National Society for the Prevention of Cruelty to Children has confirmed this conclusion. (personal correspondence)

Strategic uses of research might be seen as a betrayal of the principles of evidence-based policy. However, once we think in terms of policy networks comprising various interest groups, a predominantly strategic use of research in policy debates seems inevitable. This is not necessarily a cause for concern as such debates can be an effective way of bringing a wide range of evidence into the public domain, as occurred in the case reported here. As Weiss (1979, p. 429) notes: 'When research is available to all participants in the policy process, research as political ammunition can be a worthy model of utilisation.'

Concluding Remarks

While public outcries following high-profile sex offences may be an important trigger for policy development, the events of summer 2000 demonstrate that evidence can still play an important role in the ensuing debate. The summer 2000 debate involved several actors and interest groups, many of whom were active evidence generators and evidence users. They worked with an eclectic view of evidence and largely used evidence-based arguments to support pre-existing policy positions. Nevertheless, the overall result was a well-informed debate. It is tempting to say that evidence played a prominent role despite the controversial and sensitive nature of the topic, but it may have played a prominent role precisely because of this sensitivity and contestation.

This case study reaffirms the importance of paying more attention to the different forms of evidence used in policy processes and the need to understand more about how evidence is used by various key actors in policy networks. It highlights the wide and fluid nature of evidence and the rapidity with which it can infuse policy debates. It also highlights how different forms of evidence are used for different purposes by all key actors at different points in time. In tracing the interaction of evidence and policy in a specific policy setting, it finds little support for the 'two communities' model of this interaction, which appears to oversimplify the spectrum of actors involved in the provision and usage of evidence, and the nature of their involvement.

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