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INFORMATION SYSTEMS ON CHILD SEX OFFENDERS
A DISCUSSION PAPER

Prepared by:

The Federal Ad hoc Interdepartmental Working Group on
Information Systems on Child Sex Offenders

Health Canada, Justice Canada, and the Ministry of the Solicitor General

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* The information contained in this discussion paper is intended to stimulate discussion and assist in the determination of practical options. It does not imply a specific plan of action.

INFORMATION SYSTEMS ON CHILD SEX OFFENDERS

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INFORMATION SYSTEMS ON CHILD SEX OFFENDERS

SUMMARY POINTS

- Child sexual abuse is a pervasive problem for which various prevention measures are needed. Improving information systems, to detect potential child sex offenders seeking positions of trust with children is one such measure that is addressed in this paper.
- Some have called for a "national sex offender registry", others for a "national child abuse registry". While their approaches may vary, information sharing systems can be developed to respond to the objectives of such registries, including medium and long term enhancements to current systems.
- Officials from Health Canada, Justice Canada, and the Ministry of the Solicitor General have been meeting to discuss calls for various forms of a "national registry". These meetings have identified issues related to the existing criminal information systems. These issues are highlighted in this paper.
- Separate "national registries" would duplicate existing information systems such as the Canadian Police Information Centre (CPIC) and provincial registries. Accordingly, this paper explores options to improve the existing information systems, so that more information can be shared across provinces and among stakeholders.
- Currently, the RCMP administers the CPIC system, which provides criminal information to Canadian police services. Improvements could be made immediately to the CPIC system, to enhance its capacity to identify known child sex abusers applying for employment or voluntary positions that may bring them into direct contact with children.
- Consultation is required with stakeholders so that appropriate action can be taken to improve CPIC, and to generate discussion to assist in making other long-term improvements to information systems.

INFORMATION SYSTEMS ON CHILD SEX OFFENDERS

1. ISSUE

Child sexual abuse, a serious problem facing Canadian children, requires various prevention measures. One possible prevention measure is to screen people who are applying for paid or voluntary positions of trust with children, so that known child sex offenders are denied access to children, thus reducing their opportunities to re-offend. Currently, police have access to information data bases that provide criminal information on individuals being screened. However, some of these information sources were not designed specifically for this use. Therefore, one issue addressed in this paper is: **How can federal and provincial information systems be strengthened to provide better information to police services and organizations conducting background checks on people seeking paid and/or volunteer work in areas where they will have direct access to children?**

2. OPTIONS TO BE CONSIDERED

In the Speech from the Throne,¹ the Government stated its strong commitment to combat violence against women and children; the Government has also elaborated its support for provision of information on convicted child abusers, through the police, to all organizations employing people who perform paid or volunteer work with children.² Advocacy groups support the use of a registry/index of child sexual abusers to help reduce offenders' access to potential victims. It has been suggested that a "certificate of clearance" could be issued to employers who wish to verify that applicants seeking work in positions of responsibility with children do not have a criminal history of sexually abusing children.

In consideration of this issue, options have been developed which can provide immediate response. Currently there are data collection systems in place federally and provincially that may be enhanced to help achieve these objectives. This paper discusses the options related to the development of enhanced information systems for use in employment screening.

3. BACKGROUND INFORMATION ON CHILD SEXUAL ABUSE

How widespread is the problem of child sexual abuse?

Child sexual abuse in Canada is a relatively hidden crime, as most cases are not reported to child welfare services or police. As a result, much of what is known about child sexual abuse is based on burgeoning information from "adult survivors". Often, it is only years later that these adults are able to disclose their victimization as children and/or youth. In many

¹ Speech from the Throne to Open the First Session of the Thirty-Fifth Parliament of Canada. January 18, 1994.

² *A Liberal Perspective on Crime and Justice Issues*. April, 1993.

cases, these survivors reported being abused by family members or close acquaintances. Based on reports from survivors, researchers have hypothesized that the prevalence of child abuse is far greater than the number of reported cases.³

The Committee on Sexual Offences Against Children and Youth, chaired by Dr. Robin Badgley, reported in an extensive Canadian study that 53% of females and 31% of males had been victims of unwanted sexual acts and that 80% of these incidents occurred when they were children or youths.⁴ Data on violent crimes in Canada indicate that of the violent crimes committed against children (age 11 or under), one-half are for sexual assault violations.⁵ Furthermore, 63% of victims in sexual assaults reported to the police are young people under 18 years old.⁶

Impact of child sexual abuse on victims

Research on the impact of child sexual abuse has examined the immediate consequences for the child victim and has studied the long-term effects of child sexual abuse on adult survivors.⁷ The trauma which children suffer as a result of sexual abuse may be immediately reflected in their emotional health: a greater chance of low self-esteem, depression, decreased academic performance, and/or acting out behaviours. Adolescent victims of child sexual abuse are more likely than non-abused children to become truant, to run away from home, to live on the streets, and/or become prostitutes.

Much more research has been conducted on the long-term effects of childhood sexual abuse. Some researchers have found that adult survivors are more likely to suffer from depression,

³ Blume, E. S. (1990). *Secret Survivors: Uncovering Incest and Its After Effects in Women*. John Wiley and Sons: Toronto.

Haden, D. (ed.) (1986). *Out of Harm's Way: Readings of Child Sexual Abuse: Its Prevention and Treatment*. Oryx Press: Phoenix.

Lewis Herman, J. (1981). *Father-Daughter Incest*. Harvard University Press: Cambridge, Mass.

⁴ Canada. Committee on Sexual Offences Against Children and Youth. (1984). *Sexual offences against children*. Ottawa: Canadian Government Publishing Centre

⁵ Wright, C. & Leroux, J. (1991). "Children as Victims of Violent Crime." *Juristat*. Vol. 11(8), Canadian Centre for Justice Statistics.

⁶ Statistics Canada (1994). *Juristat Service Bulletin*. Vol. 14(7), Canadian Centre for Justice Statistics.

⁷ Many research studies are reviewed in Browne, A. and Finkelhor, D. (1986). "Impact of Child Sexual Abuse: A review of the research." *Psychological Bulletin*. Vol. 99(1). Reprinted by the National Clearinghouse on Family Violence, 1989.

poor self-esteem, sexual dysfunction and substance abuse, and are disproportionately represented in prisons and psychiatric hospitals.⁸ Researchers are currently examining what protective factors buffer abused children from the negative effects of maltreatment, leading to better long-term adjustment.⁹

Legal elements of sexual offences against children

In 1986, Bill C-15, an Act to amend the *Criminal Code* and the *Canada Evidence Act* (Sexual Offences) was introduced. It proposed the creation of three new offences relating to the sexual abuse of children: sexual interference (section 151), sexual exploitation (section 152) and invitation to sexual touching (section 153). It also sought to facilitate the court testimony of children under the age of 18, by changing the rules of evidence and procedure. Bill C-15 became law in Canada on January 1, 1988 with the result that there are now 16 offences in the *Criminal Code* that can apply to child sexual abuse, ranging from incest, sexual assault and invitation to sexual touching, to offences in relation to juvenile prostitution, such as living off the avails of juvenile prostitution.

Related amendments to the *Criminal Code* were enacted as part of Bill C-126 and proclaimed law on August 1, 1993. These reforms include further accommodation of the special needs of children testifying in cases involving child sexual abuse and violence (section 486) and enabling a court to prohibit a convicted sex offender from attending specified areas frequented by children or from being an employee or volunteer in a position of trust with children (section 161). As well, any person may obtain a peace bond, lasting up to twelve months, if he or she fears that another person will commit a sexual offence against a child (section 810.1).

Recently, researchers examined the impact of the 1988 amendments by reviewing the outcomes of child sexual abuse cases that were reported to the police and/or child welfare agencies in five Canadian cities.¹⁰ These site studies indicate varying rates of alleged occurrences of child sexual abuse reported to police, from 73 to 158 per population of 100,000, with the most common form of abuse being genital fondling. Of the cases that came to the attention of the police, the "unfounded" rate ranged from 5 to 22%. Many of the substantiated cases did not make it all the way to trial, and of those cases that did, the accused was convicted in 25% to 49% of the cases, depending on the site and type of court

⁸ A listing of these studies is contained in the *National Clearinghouse on Family Violence Fact Sheet on Adult Survivors of Child Sexual Abuse*, August 1993.

⁹ Smith, C.A. and Thornby, T.P. (1993) *The relationship between childhood maltreatment and adolescent involvement in delinquency*. Paper presented at the annual conference of Society for Research in Child Development, New Orleans, L.A.

¹⁰ Hornick, J.P. & Bolitho, F. (1992). *A Review of the Implementation of the Child Sexual Abuse Legislation in Selected Sites*. Ottawa: Ministry of Supply and Services.

(i.e. youths prosecuted for child sexual abuse by youth courts had higher conviction rates than adults prosecuted in provincial or adult courts.) Fifty-one percent to 74% of convictions lead to incarceration, depending on the city and type of conviction, ranging from 6.7 months in Calgary for sexual interference to 11.2 months in Edmonton for sexual assault.

Profile of the offender

Contrary to public belief, most sexual abuse takes place within the context of an ongoing relationship between the abuser and the child. In very few cases is the accused a stranger to the child: only 8% of girls and 14% of boys reported their offender being a stranger.¹¹ In fact, studies reveal that in eight out of ten cases, the perpetrator is either related to or known to the victim.¹² Girls are more likely to be victimized by a parent or family member than boys, while boys are more likely to be assaulted by an acquaintance than girls.

According to the Committee on Sexual Offences Against Children and Youth, 98.5% of abusers are male and most victims are female.¹³ Most of the child abuse cases reviewed by the Committee focused on occurrences where an offender abused a single victim. However, cases of "multiple victim offenders" have escalated since the Committee's study was published.

Multiple victim cases involve situations where many children are victimized by one or several abusers, thus affecting entire communities. The Child and Youth Mental Health Services Division of the British Columbia Ministry of Health conducted a study of reported cases of multiple victim child sexual abuse in British Columbia from 1985 to 1989.¹⁴ The study found that 21 communities experienced 30 occurrences of multiple victim child sexual abuse; the number of children who were victims in all 30 occurrences was 2,099, or an average of 70 victims per occurrence. In 80% of the occurrences, offenders occupied positions of trust; 50% were professionals in the communities. In addition, further investigations traced the offenders' movements through at least 41 additional locations where they also resided and in 41% of these locations they were suspected, investigated and/or charged with child sexual abuse.

In cases such as these, there is a perception that offenders seek paid or voluntary employment to gain access to children. In such situations the use of information systems

¹¹ Ibid.

¹² Wright, C. & Leroux, J. (1991).

¹³ Canada (1984).

¹⁴ *Dimensions of Multiple Victim Child Sexual Abuse in British Columbia, 1985-1989, and Community/Mental Health Interventions.* A study by Child and Youth Mental Health Services, British Columbia Ministry of Health. July 1, 1991.

to screen individuals may be the best preventive measure against known criminal offenders. However, if screening of individuals was based on convictions alone, it is possible that non-convicted child sex offenders could pass undetected in a screening.

There are different understandings of what motivates a child sex abuser to offend. Some feel that child sex abusers are pedophiles (i.e. men who show the highest sexual arousal in phallometric tests to depicting sex with children), and thus are sexually attracted to children. However, research conducted at the Kingston Sexual Behaviour Clinic indicates that of the offenders receiving treatment at their clinic, 55% of incest offenders showed greatest attraction to adult females, and of the offenders who abused other people's daughters, only 4% showed a sexual preference for girls. Similarly, when they studied men who abused boys, most were not pedophiles nor homosexual, but they said that they approached boys because they were less likely to arouse suspicion by spending time with them than with girls.¹⁵

There are many reasons why children do not disclose, or are reluctant to disclose their sexual abuse. Abused children are told often by their offenders to keep their abusive relationship secret. Offenders use their positions of power to manipulate victims into maintaining the secret as a sign of "love" or "trust". They usually take the necessary time to prepare and/or manipulate their victim into the abuse. The children are in an emotionally difficult situation: if they decide to disclose, they fear rejection from the offender and the possibility of disbelief from the person to whom they disclose. Furthermore, if the story is believed, often the child feels guilty for the family disruption that may follow. Also, children don't disclose because they often believe that they are somehow responsible for their own sexual abuse.

There are also misconceptions about the age of offenders. Current research indicates that the development of "sexually intrusive behaviour" may begin as early as childhood and adolescence. Statistics compiled on all violent crime committed against children in Canada indicate that young offenders (ages 12-17) account for approximately 23% of all accused offenders, and that younger teen offenders (ages 14 -15) are more likely to be charged with sexual assault than older teens.¹⁶ In the Hornick & Bolitho study noted earlier, 17-29% of those accused of child sexual abuse were under the age of 18.¹⁷

¹⁵ Marshall, W.L. & Barrett, S. (1990). *Criminal Neglect: Why Sex Offenders Go Free*. Doubleday Canada Ltd: Toronto.

¹⁶ Wright & Leroux, (1991).

¹⁷ Hornick, J.P. and Bolitho, F. (1992). *A Review of the Implementation of the Child Sexual Abuse Legislation in Selected Sites*. Ottawa: Minister of Supply and Services. See also Hornick, J.P., Bolitho, F. and LeClaire, D. (April, 1994). *Young Offenders and Sexual Abuse of Children*. Ottawa: Department of Justice.

Studies have repeatedly indicated that sex offenders have one of the highest recidivism rates of any criminal group, with an estimated 40% re-offending within 5 years of release.¹⁸ Furthermore, research examining the effectiveness of offender treatment programs has shown limited results, perhaps since many offenders have established a pattern of deviant behaviour by the time they are first arrested. However, the findings from these studies are limited as they are based only on those who have received treatment for their behaviour, which represents a small portion of the offenders. Nevertheless, the notion of a nationally accessible information system for use in employment screening is based on the understanding that preventing or minimizing opportunities for abuse of children may be achieved by discouraging repeat offenders from being in positions of trust with children.

4. RECENT RECOMMENDATIONS ON THE USE OF A "NATIONAL REGISTER"

The issue of preventing child sexual abuse through the use of a national registry of child abusers or sex offenders has been raised in various contexts. Rix Rogers, Special Advisor to the Minister of Health and Welfare, in his 1990 report on child sexual abuse, *Reaching for Solutions*, identified screening of individuals who seek or occupy paid or voluntary positions of responsibility with children as a potentially important tool in the prevention of child abuse. More recently, the Federal government¹⁹, the Standing Committee on Justice and the Solicitor General²⁰, the Panel on Violence Against Women Report²¹, and others, have referred to, or made recommendations for the establishment of a national registry of "offenders".²² Most of these recommendations have not detailed the scope or methods of administration of such a registry.

Support for increased child abuse prevention measures have been heightened as a result of increased media attention in North America to cases of child sexual abuse and the release of sex offenders into the community. Public demand has led to legislative changes in the United States; the National Child Protection Act was passed by the Congress in 1993. This

¹⁸ Golden, D. "Sex-cons," *The Boston Globe Magazine*, April 4, 1993.

¹⁹ *Liberal Perspective on Crime and Justice Issues*. April, 1993

²⁰ Standing Committee on Justice and the Solicitor General Review of Bill C-15. (the Horner Report) June 1993. *Four-Year Review of the Child Sexual Abuse Provisions of the Criminal Code and the Canada Evidence Act*

²¹ *Changing the Landscape: Ending Violence - Achieving Equality*. National Action Plan of the Canadian Panel on Violence Against Women (1993).

²² The definition of an "offender" is varied and not well-defined. For example, the recommendation put forward by the Panel on Violence Against Women mentions a registry for "dangerous offenders" while the federal government advocates a registry of "convicted child abusers."

Act allows for the implementation of a nationally accessible information sharing system to facilitate employment screening of repeat child sex offenders.

5. INFORMATION SYSTEMS CURRENTLY IN PLACE IN CANADA ²³

In Canada, child and family services come under the jurisdiction of the provincial and territorial governments. However, the federal government shares in the funding of child welfare services under the Canada Assistance Plan (CAP). Child protection legislation in all jurisdictions except the Yukon requires persons to report cases of alleged or suspected child abuse or neglect to a child and family services authority. In the Yukon, legislation provides for reporting cases, but does not make it mandatory. Child and family services authorities responsible to provincial social services departments protect children by investigating alleged or suspected cases of child abuse or neglect, and, if necessary, provide services to ensure the well-being and safety of the child. Jurisdictions legally define what constitutes a "child in need of protection"; however, the definition of "child abuse" may not be contained in provincial legislation and varies across jurisdictions. As a result, provincial child abuse data is not easily comparable across jurisdictions.²⁴

First Nations and other Native organizations are becoming more involved in the design and delivery of Native child and family services. For example, Indian child and family service agencies deliver child welfare services to Native families living on reserves in many provinces according to a tripartite arrangement (First Nations, Department of Indian and Northern Affairs, and the provincial governments).

Ontario, Nova Scotia, and Manitoba have legislated provincial registers to record child abuse cases. Although British Columbia, Alberta, Saskatchewan, Quebec, Prince Edward Island, Newfoundland and the Northwest Territories do not have formalized registers, they maintain indexes of all child protection cases in the province/territory.

Provincial registries

Provincial registries are designed to assist in protecting children from abuse, including physical, sexual, and/or emotional abuse and neglect. Therefore, information that follows about the provincial registries is not limited to cases of sexual abuse. Also, these registers do not necessarily differentiate between the types of abuse.

²³ The provincial information contained in this section is based on the report of the Federal-Provincial Working Group on Child and Family Services Information: *Child Welfare in Canada: The Role of Provincial and Territorial Authorities in Cases of Child Abuse*. (1994). Available from the National Clearinghouse on Family Violence, Health Canada.

²⁴ Ibid.

I) Nova Scotia Provincial Child Abuse Registry

Nova Scotia's Child Abuse Registry was established in 1976 under the Department of Community Services. It was completely revised in 1991 by the *Children and Family Services Act* to include all perpetrators - and not only parents or guardians of the abused child - and to make the register available for screening purposes.

The Register has three purposes:

1. To assist in the protection of children:
 - (a) where a children's services agency or district office is conducting an investigation to determine whether a child is in need of protective services; and
 - (b) for the screening of prospective foster parents, adoptive parents or persons caring for, or working with children, including volunteers.
2. To assist in identifying persons who may pose a risk to children.
3. For research in the areas of:
 - (a) children in need of protection;
 - (b) children who are subjected to abuse;
 - (c) the families of children described above; and,
 - (d) the nature and extent of child abuse.

To protect the privacy and confidentiality of a child victim and his/her family, data contained in the registry is restricted to information related to the perpetrator of the abuse. Information concerning victims is maintained separately and may only be released for research purposes with the permission of the Minister or his/her delegate. Information for screening purposes can only be released with the permission of the person being screened.

Registration of the particulars of child abuse cases occurs where: (1) Family Court proceedings determine that a child is in need of protection; (2) a person is convicted of an offence against a child under the *Criminal Code of Canada* and; (3) Family Court proceedings result in an order based upon the child protection worker's evidence, that an individual poses a risk to children.

To protect the rights of a person whose name is entered in the registry, officials must notify the registered person. He/she has the right to inspect the information relating to his/her case, and has 30 days in which to appeal the registration to the Appeal Division of the Supreme Court. A person may apply at any time to the Family Court to have his/her name removed from the Register and, if successful, the registration must be immediately removed.

The register may also be used for screening persons applying to be adoptive parents, foster parents, care-givers or volunteers working with children. In all cases, before information is

released, a request in writing must be made and the written consent of the person being screened must be obtained. Information may be disclosed to:

- (a) any federal, provincial or municipal government department, board or agency that provides services to children;
- (b) any corporation, society, agency or business that provides services to children;
- (c) any agency, child care service, child care facility, or child placement agency operating under the *Child and Family Services Act* and regulations;
- (d) a person who remunerates another person for the care of his or her children in a private home on a regular basis; and
- (e) such other persons, groups or organizations as may be designated by the Minister.

Statistical information compiled by The Department of Community Services on the Child Abuse Register from the period of September 3, 1991 to August 31, 1992 indicates that over 95% of the 200 cases reported resulted from criminal convictions. Also, data on the relationship between offender and victim indicate that: in 64.5% of cases, the offender was related to the child (mother, father, stepfather, adoptive father, uncle, cousin, brother) or the mother's common-law husband/boyfriend; and in 35.5% of the cases, the offender was either a neighbour, babysitter, family friend or other person known to the child. As this information is based on cases registered during its first year of operation only, it must be considered with caution.

II) Manitoba Provincial Child Abuse Registry

Manitoba has two separate registries; a child victim registry for tracking high- risk children and their families; and an abuser registry for screening potential employees who would be in "positions of trust" with children (i.e. agency employers, foster parents, teachers, day care providers). Cases in which the offender is not considered to be in a position of trust are considered "third party assaults" and are not included in the registry. The tracking of cases involving long-term child sex offenders is currently being explored by the Manitoba Department of Justice.

The grounds for entering names on the Registry are:

- 1) criminal conviction for child abuse;
- 2) the court finding that a child is in need of protection on the basis of abuse (i.e. Family Court), or;

- 3) a child abuse committee is of the opinion that abuse occurred, based on the opinion of a duly qualified medical practitioner or psychologist and other supporting evidence.

In cases under item 3, the department must provide prior notification to all parties that their names will be registered unless they file an objection within 60 days. Appeals are heard by the Registry Review Committee. Provincial officials estimate that one-half of those notified file an objection, and of those objections, about 50% have been successfully upheld. It is estimated that approximately ten to twenty percent of all abuse cases investigated are entered into the registry.

All information in both registries is confidential and can only be accessed by permission of the Director of the register. Mandated agencies may apply to the Director and be given access to information in both registries if it is shown that the information is required to: investigate whether a child is in need of protection; assess foster parents, homemakers, adoptive parents, parents aides or persons applying for these positions; or assess applicants for employment.

Employers other than mandated agencies only have access to the abuser registry, and only then to determine if a person's name is on the register.

III) Ontario Provincial Child Abuse Register

Unlike the Nova Scotia and Manitoba registries, where names are registered primarily on the bases of legal proceedings of cases resulting in convictions, registration in the Ontario register is based on "verifiable" cases of abuse, as determined by the Children's Aid case worker. The *Child and Family Services Act* requires that all verified reports of child abuse must be reported to the Register, according to the 1987 guidelines. However, as Children's Aid Societies are the agencies for investigating cases, it is only through these agencies that registration of names can be made. Registration is based upon the case worker's verification that credible evidence of abuse exists. The register includes the names of the child victim and the alleged abuser, certain demographic information regarding the victim and abuser and information concerning the incident.

Information in the register is confidential. The identity of a child or alleged abuser may only be disclosed to the following persons:

- (a) a coroner, medical doctor, or police officer carrying out an investigation or inquest;
- (b) the Official Guardian designated by the Province of Ontario;
- (c) an employee of the Ministry of Community and Social Services, the Children's Aid Society, or a recognized child protection agency outside Ontario;

- (d) a person providing counselling services to a registered person;
- (e) a medical doctor with written approval of the Director of the Register;
- (f) a child or registered person regarding information pertaining to himself or herself; or
- (g) a researcher requiring non-identifying information.

Thus, the function of the register at this point is primarily to provide information to case workers who are monitoring and tracking cases (for example checking for previous abuse) and for research, but not for screening purposes. An alleged abuser whose name is entered in the register is informed and has the right to inspect the information regarding himself/herself. These individuals also have the right to apply to have their names removed, at which time their requests are either granted or an expunction hearing may be held to determine whether to grant or refuse requests. At the expunction hearing, the Children's Aid Society must present evidence to support the report of abuse. The alleged abuser does not have to prove his/her innocence. If the hearing officer determines, on the balance of probabilities, that the request is legitimate, the registrant's name will be removed from the Register.

Provincial registries are designed and administrated for use in each individual province; this impacts on the strengths and weaknesses of their continued use in a nationally-accessible information system:

Strengths of provincial/territorial information systems;

- Provinces/territories have jurisdictional responsibility over child welfare legislation and the child welfare agencies from which the information on registries is derived.
- Information in a provincial system is more detailed, as it includes information other than criminal convictions, such as information from civil processes, including family court proceedings. It may also include more detailed information on the offender, based on the case work information from social service agencies.
- As the users of provincial registry information and those that provide information to the registry are closer to the provincial social service system, they are more likely to know what information is pertinent to their jurisdiction and they are also better able to determine when the information is no longer relevant, compared to a federally-based information system.
- Provincial/territorial jurisdiction covers labour regulations which may legislate mandatory screening of those working in positions of trust with children.

Drawbacks of provincial/territorial information systems as the base for a national system;

- Provinces/territories have different uses for their existing registries/indexes, different criteria for placing a name on the register, for notifying the person listed and for removing a name from the list. Considerable reform would be needed to achieve uniformity of these criteria.
- The comprehensiveness of a register is based on the compliance of individual agencies in forwarding the names to a central register.
- Extra-familial cases of child abuse may not be reflected in a child abuse register.
- Access to registries is currently limited and there is no formal sharing of information between provinces/territories. Therefore, there is no system in place to accommodate enquiries, which makes it difficult to trace offenders moving across provinces. Even if each province had a central registry, numerous calls would have to be made in order to complete the screening of one individual.
- As provincial/territorial systems are based on identifying information such as the names and dates of birth of the victim and the offender, it would be difficult to ensure accurate identification without fingerprint data.
- Provincial indexes relate to child abuse in general and not just child sexual abuse. Since the definitions of what constitutes child abuse vary across provinces, it would be difficult to compile this information for national use.
- Provincial/territorial governments may be reluctant to develop child abuse registries for the screening of sex offenders because of the anticipated high administrative costs.
- Each province/territory has different appeal procedures and verification methods and standards.

Federal Information Systems - Canadian Police Information Centre (CPIC)

In addition to information compiled by provincial/territorial governments on child abuse, the federal government also has information systems. Currently, a data base of criminal convictions for all indictable offences is administered by the RCMP through the Canadian Police Information Centre (CPIC). It provides criminal information to all participating Canadian police services. Public organizations have access to this information for screening purposes through their local police. The following files/categories of the CPIC data banks can be used to either obtain information from or to add information to the Canada Police Information Centre pertaining to known sex offenders;

1. **Identification Data Bank** - The Identification Data Bank is maintained by RCMP Identification Services personnel on behalf of Canadian police agencies. The Identification Data Bank contains the following categories of criminal record data which may be queried by CPIC agencies:
 - a) **CRII** - Full criminal record, containing conviction history, a summary of police-related information and a list of police agencies which have contributed information to the subject's criminal record.
 - b) **CRS/CNI** - Criminal Record Synopsis/Criminal Name Index, containing the status of the record, subject description, subject's history (record, offence type), and subject's names (aliases).
2. **Investigative Data Bank - Persons File - Special Interest Person (SIP)**- This category is used to record data on a person who is **known** to:
 - a) be dangerous to police, himself/herself or other persons; or
 - b) have threatened or attempted suicide either when in or out of police custody; or
 - c) be a foreign fugitive who is not arrestable in Canada or for whom no warrant is available.

3. **Ancillary Data Bank - Inmate File**

The Inmate File is part of the CPIC Ancillary Data Bank and is maintained by Correctional Service of Canada (CSC) through an interface. When a query of the CPIC Persons File takes place, the system automatically searches the Inmate File, which contains information on a person who is an inmate of a federal penal institution or who has been released from such an institution. If a match is made on the Inmate File and the agency wishes to obtain further information regarding the inmate, a query would then be made against the Offender Management System (OMS):

4. **Offender Management System (OMS)**

This system is maintained by Correctional Services of Canada (CSC). CPIC has a connection to the OMS interface for access to more detailed information regarding offenders.

Considerations in using the CPIC system

As this system contains the entire criminal record of offenders, there are drawbacks and

limitations to its use as a registry of child sex offenders:

1. The major limitation is that the records are only those supported by fingerprints. Fingerprinting is only required by law in the cases of those prosecuted by way of indictment. However, many of the prosecutions of sexual offences involving children involve summary conviction offences. In contrast to the more serious indictable offences, summary conviction offences are less serious and carry a maximum punishment of six months in jail and/or a \$2,000 fine. Examples of child sexual offences that are summary conviction offences are: exposing genitals to a child (section 173 (2)); vagrancy (section 179); and indecent acts (section 173). Hybrid offences are offences which can be prosecuted either by summary procedure or by indictment, at the election of the Crown Attorney. Hybrid offences include sexual interference (section 151), invitation to sexual touching (section 152), sexual exploitation of a young person (section 153), anal intercourse (section 159), bestiality (section 160), and sexual assault (section 271). In fact, many hybrid offences are contained in the CPIC system where police services have a policy to fingerprint the accused. All police services could adopt similar policies.
2. With respect to sexual offences other than Bill C-15 offences, CPIC does not distinguish between child and adult victims. Thus, there is no way of knowing which offenders may be at risk to re-offend against children. Although it is not a uniform practice to do so, possible enhancements to CPIC could allow for particular types of cases, such as child sexual abuse cases, to be flagged.
3. A criminal record unrelated to child sexual abuse may be revealed through a screening. However, this information may be indirectly related and could be very relevant to positions being screened. For example, the fact that someone has an impaired driving record may be useful information to a child care agency that wants to hire a bus driver. The use and release of such information by the employer for purposes unrelated to employment, or after employment is terminated, would have to be considered.
4. Information from CPIC is available only to or through police organizations. Although individual police forces may pass on this information, certain organizations may still have difficulty obtaining access to the information. In addition, the cost of providing fingerprints of potential employees/volunteers may be prohibitive for some community agencies.
5. Criminal charges are not laid in many cases of alleged child sexual abuse. Effective screening may be enhanced by making enquiries to provincial child welfare agencies to find out about any findings in civil child protection proceedings.

Discussion with Solicitor General officials reveals that there is flexibility to augment information currently listed in CPIC, so that individuals may be more effectively screened.

Future enhancements for consideration by the CPIC Advisory Committee include:

1. **Enhancements to CPIC to address specific concerns of volunteer organizations and employers - access through police agencies**
2. **Establishment of provincial or municipal clearinghouse of reliability checks - access to CPIC through police agency**
3. **Direct access to CPIC by designated provincial representatives charged with providing screening services**
4. **In addition to CPIC Checks, interface provincial child abuse registries with CPIC in order to share this information across jurisdictions.**

1. **Enhancements to CPIC**

Enhancement I: CPIC Advisory Committee could decide to ensure all police agencies run a check on both Identification and Investigative data banks when providing screening service for volunteer organizations and employers. If a potential offender is identified in the identification data bank, confirmation must be made with fingerprints.

Currently, not all police agencies will routinely run a check on both the Identification and Investigative data banks of CPIC for screening purposes. Some agencies, due to time and human resource constraints, may only search the Identification data bank containing criminal records on indictable offenses. In so doing, the agency may miss other, potentially relevant, information (i.e. restraining order for family violence incidents and prohibition of firearms.)

Enhancement II: Set policy whereby all police agencies must indicate the victim's age, sex, and relationship to the offender in the remarks field in the relevant data bank. Also, request police agencies to input fingerprint records of all hybrid (indictable or summary conviction offences) child related offenses.

There is currently no data on the victim, such as age or relationship to offender, that would indicate cases of child abuse. It is feasible to identify, through a policy change in the "remarks field" the victim's age, sex and relationship to the offender. It would also be possible to add information on hybrid offenses, even where subsequently proceeded by way of summary conviction (such as where drinking and driving offences are now recorded).

Enhancement III: Encourage police agencies, possibly through their community policing units, to advertise more effectively the availability of this service. In so doing, provide a clear explanation of the limits of these checks.

Currently, limited exposure is given to the screening services of police agencies. An increased awareness on the part of volunteer organizations and employers would prove beneficial. As part of the awareness program, the applicants should be informed that CPIC is a consent-based system, and they should be cautioned on the levels of reliability they can expect from a CPIC check. Applicants should also be made aware that positive identification can only be made by fingerprints. In this regard, if a response to a query results in a "no relevant record statement", confirmation can only be obtained through fingerprinting. If positive identification is not made, this does not necessarily mean the person screened has no prior involvement with the law. The individual could have an extensive record of summary convictions, which do not require the submission of fingerprints.

2. Provincial or municipal clearinghouse of reliability checks

Currently, police agencies receive requests for reliability/security checks from various sources. In order to streamline the process, it may prove beneficial to have a more centralized system in the form of a municipal or provincial clearinghouse. Employers or volunteer organizations who wish to screen applicants could forward all requests to the centralized unit. This unit could then deal directly with the police agency on a weekly or bi-weekly basis to arrange time for screening. The provincial or municipal officials responsible for collecting screening applications would be bound by the same regulations as the police (i.e. consent form and picture I.D.).

3. Provinces have direct access to CPIC

An argument could be made, that a provincial government agency/coordinator should be permitted direct access to CPIC for the purposes of running screening checks on prospective volunteers or employees seeking positions of trust with children. The province could request a "Category III - Limited" access: this means that while the provincial agency has no direct law enforcement authority, it can nonetheless provide assistance to law enforcement agencies.

This option might prove most beneficial should provinces/territories agree to legislate the requirement for reliability checks for prospective volunteers and employees seeking positions of trust with children. Provincial legislation, coupled with enhanced community awareness of the availability of CPIC checks, will likely cause an increase in the demand for this service, thereby increasing the administrative workload of the local police agencies.

The office of a provincial coordinator could be equipped with its own computer connection to CPIC. In consultation with the federal government (re: Access to information privacy considerations) and the CPIC Advisory Committee, an agreement could be reached as to which information the provincial coordinator would be permitted to access (eg. the Identification, Investigative and Ancillary data banks). The screening officials would be bound by CPIC regulations.

Pursuant to CPIC policy, and as a condition of direct access to CPIC, the provincial computer connection would have to be under a controlled environment approved by the CPIC advisory Committee. In addition, the provincial connection would be subject to the same security, confidentiality, privacy and audit procedures as those in effect for the CPIC system.

Potential benefits of this option:

- decrease in administrative workload of local police agencies;
- provision of a direct, clear, centralized process for reliability checks - easier access for volunteer organizations and employers;
- clarification of roles and responsibilities of volunteer organizations and employers seeking individuals for positions of trust with children;
- legislation will clearly outline accountability and responsibilities of provinces in accessing and sharing criminal information for the purposes of reliability checks;
- enhances cooperation between the federal government and the provinces in law enforcement/crime prevention matters; and,
- supports community policing initiatives in enhancing cooperation between provincial officials, volunteer organizations, and police agencies in the area of crime prevention.

Potential disadvantages of this option:

- Clearinghouse would receive less information than a police service user.
 - Civilian personnel do not have police training and expertise in making judgements with respect to releasing such information;
 - For many police agencies, CPIC checks are now a source of revenue. This may be a consideration for agencies facing ongoing fiscal restraint measures.
4. **Interface with CPIC of provincial child abuse registries in order to share this information across jurisdictions:**

This option is in addition to CPIC checks. It would involve using the CPIC system as a "carrier" of provincial child abuse registry information across provincial jurisdictions. While technically feasible, there is much concern at the CPIC policy centre about using the CPIC system as a mechanism for extensive sharing of what is, in part, unsubstantiated information. Questions of reliability would have to be resolved to the satisfaction of all participating provinces.

Community data bases

Community children's service organizations have used screening mechanisms with their volunteers. However, some organizations have expressed concern that access to CPIC can be financially prohibitive because some local police services charge a \$20 administration fee for each name search. Given that these organizations have numerous volunteers, and operate on a limited budget, the yearly costs associated with volunteer screening may be too great. As a result, some of these national volunteer organizations have developed other methods within their organizations to enhance the safety of the children that they serve.

6. ISSUES RELATED TO THE RELEASE OF INFORMATION TO THE PUBLIC

A separate but related issue is the privacy rights of the individual (the offender) versus the collective rights of the society to protect children by knowing if a released offender lives in a given community. The notion of using information systems on convicted child abusers to provide security checks raises questions about the public release of private information. While accessing personal criminal information would require an individual's consent and would only involve release of information to the potential employer, its wider dissemination remains an issue requiring discussion.

7. CONCLUSIONS

As the issue of child sexual abuse attracts more public attention, so too do the mechanisms used to protect children from sexual abuse. Children could be better protected from sexual abuse by preventing known sex offenders from having positions of trust or responsibility with children. The option of screening individuals seeking these positions has been discussed in this paper. However, it must be emphasized that this is only one mechanism and that efforts must continue to develop and use other prevention tools.

This mechanism would also facilitate the implementation and enforcement of the new provisions of Bill C-126 (discussed on page 3), which seek to eliminate access opportunities for persons who have a sexual interest in children.

There is broad agreement on the need to prevent further incidence of child abuse. However, the larger questions remain: what are the best mechanisms for doing so, and at what financial cost? Researchers have calculated that each time a sex offender re-offends, approximately \$200,000 is spent on investigating, prosecuting, incarcerating and providing

the offender with assessment and minimum treatment in jail.²⁵

The use of an information system for screening purposes must be approached with caution, and with full knowledge of the limitations of the system for users. Thus, it must be emphasized that this is only one tool to possibly prevent some cases of future child sexual abuse.

Assessment of the viability of establishing this method of child sexual abuse prevention requires more analysis and consultation. However, as noted earlier, there are immediate enhancements that could be made to the CPIC system, thus increasing its ability to identify child sex offenders. Implementation of possible enhancements should be preceded by a period of consultation with provincial partners, volunteer agencies, the police community and other stakeholders. This consultation would enable stakeholders to participate in the process of identifying other longer-term improvements that could result in better information sharing.

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²⁵ As cited in Marshall and Barrett, (1990).

Written submissions regarding the Discussion Paper should be sent to the appropriate Ministry or Department. The deadline for the receipt of written submissions is August 1, 1994.

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