



## **Ministerial Statement**

**by**

**Sen. the Hon. Kathy L. Simmons, JP**

**Attorney-General and Minister of Legal Affairs**

**August 15<sup>th</sup> 2018**

### **Revised Sex Offender Protocol and Offender Management**

---

**Madam President**, the Ministry of Legal Affairs is intent upon ensuring that members of the public are protected from criminal offenders re-offending. Chief among these concerns are the victims of sex offenders and most particularly child victims.

**Madam President**, data compiled from the Magistrates' Courts reveals that more than four hundred and thirty (430) sexual offences were committed during the past seventeen (17) years by more than two hundred and fifty (250) individuals. The number of persons processed within the criminal justice system, having been arrested or convicted of sex offences has trended steadily. The extent and gravity of these offences raise concerns and require that there be a synchronized and mandated response geared at effectively minimizing the offending behaviours and related risks through comprehensive interventions.

Accordingly, **Madam President** the Ministry Headquarters' policy team has worked tirelessly in collaboration with representatives from the Department of Court Services; the Bermuda Police Service; the Department of Public Prosecutions; and the Department of Corrections to propose amendments to the Criminal Code that will ensure that the sex offender legislative regime supports the protection of the public.

**Madam President**, the proposed amendments fulfil a Throne Speech initiative and enable the enhancement and operationalization of the Protocol on the Disclosure of Information Identifying Sex Offenders. In summary, the proposed new measures will ensure that offenders are tracked and supervised and that appropriate notice is given to selected members of the public upon the release of offenders back into the community.

**Madam President**, the Protocol was established in 2008, as authorized by section 329H of the Criminal Code 1907. It empowers the Minister of Legal Affairs to disclose information about sex offenders who pose a risk of significant harm to the community. There were ambiguities identified within the existing Protocol and the current revisions more clearly outline the parameters of disclosure, notification and offender management.

**Madam President,** Senators will recall that this Government has embraced and enforced the powers contained within the Protocol by making at least one public notification recently. In addition, prior to the release of sex offenders, direct notification has been given in other cases to relevant individuals, such as victims.

**Madam President,** as specified in the Protocol, an assessment, made by a psychologist, on behalf of the Commissioner of Corrections and/or the Courts is the starting point for the consideration of disclosure by the Minister. As we are not forensic specialists, this assessment must specifically state that the offender poses a risk of significant harm to the community – otherwise, disclosure cannot be made. In addition to the existing assessments, it is proposed that risk assessments that provide information on offenders' behavioural risks also become a part of the package of information presented to the Minister for consideration.

**Madam President**, the objective of notification is to keep the public safe from potential sex re-offenders. This is a major challenge in all jurisdictions. It is particularly challenging in Bermuda to strike the right balance between ensuring that offenders do not have the opportunity to reoffend; arming the public with sufficient information; and accommodating and overseeing offenders after they have completed their period of incarceration. Unlike larger jurisdictions, individuals tend to know each other in Bermuda and offenders are unable to move into an area where they are completely isolated or unknown upon release. We are challenged in achieving this balance as, understandably, no-one wants sex offenders in the vicinity of their residence and other places where offenders may be perceived to pose a risk to the safety of members of the community, particularly children. Further, we must provide opportunities for

offenders to be reintegrated into the community under a structured regime.

**Madam President**, these challenges necessitated updating the existing Protocol so that it contains a more synchronized operational framework and coordinated sex offender management, to prevent re-offending. Incidental to this is a more formalized system for sex offender notification and registration.

**Madam President**, for clarity, the current sex offenders' notification requirements under the Protocol resulted in data compiled by the Bermuda Police Service for law enforcement purposes which represents what is commonly known as a "Sex Offenders' Register". This is a compilation or register containing the details of individuals convicted, or released from incarceration for a sexual offence against children or adults. It is proposed that a formalized electronic register be maintained by the Ministry of

Legal Affairs to provide comprehensive and current data on sex offenders to facilitate more targeted notification to members of the public. We have carefully crafted the information to be contained in this register which will outline more demographic information as well as characteristics of each offender listed. This will be updated with each change to the offender's profile. On the anniversary of the offender's registration period, he or she will have to re-register at least annually, and more regularly as may be mandated. At present, it is not intended that members of the public will have access to the information contained in the register.

**Madam President**, a major concern with regard to current sex offender management has been the inability or unwillingness of offenders to participate in, and complete sex offender programmes or treatment whilst in custody. This creates an unacceptably high likelihood of re-offending upon release.

Therefore, this problem will be addressed with the appropriate legislative measures. In particular, it is proposed that offenders who fail to complete Court ordered programmes at sentencing, or programmes included in their Case Plan during their period of incarceration, will not be released on parole, or on their earliest release date until the programmes are completed.

Further **Madam President**, with regard to offender management and supervision, a High-Risk Management Team will be created for that purpose. The Team will be comprised of members from the Bermuda Police Service and the Departments of Corrections and Court Services. The Team will provide on-going management and oversight of offender supervision. The new proposals will make available an array of responses to offenders from arrest through to conviction and post custodial interventions. Team members will consult regularly with stakeholder departments and partners such as the Child Safeguarding

Committee to address interface issues including protecting children and vulnerable persons. The establishment of the Team offers more protection to the public and will allow for these offenders to be called in for assessments when there is indication or reasonable inference that their risks to re-offend are elevated.

**Madam President**, the legislative proposals highlighted in this statement strike the necessary balance between protecting vulnerable members of the public from sex offenders; providing information to members of the public for reassurance of safety and rehabilitating offenders to prevent reoffending. The priority of public safety is evident in these measures which will be reinforced by administrative and structural changes to ensure their success.

**Madam President**, in response to the Joint Select Committee's recommendations on the necessity for a public sex offender register, I emphasize the Ministry of Legal Affairs' current policy

direction which is focused on enhancing the framework for disclosure, notification and effective management of sex offenders.

**Madam President,** I applaud the arduous task that the Committee completed, as I recognize that the subject matter is very emotive. Before we further advance the proposed amendments summarised earlier, which are currently detailed in a draft Bill, the Ministry policy team will undertake a comprehensive review of the recommendations within the Report. The aim of the review will be to identify and advance those recommendations that underpin the policy objectives and direction of the Government with regard to sex offenders.

**Thank you Madam President.**