

MAPPA and Managing Terrorist Risk Offenders
(Address to CT practitioners conference 28.6.22)

My Review

1. Usman Khan carried out his murderous Fishmonger's Hall attack on 29 November 2019 and thrust the management of released terrorist offenders into the spotlight. In early January I was asked by the Justice Secretary and the Home Secretary to carry out a review of MAPPA arrangements and make recommendations.
2. I will be entirely open with you and say that the Fishmonger's Hall attack influenced me greatly in my thinking and my recommendations. Here was a case study, but it was not a simple one. Usman Khan had been recognised by the prison psychologist as a seriously dangerous individual and had been on licence for almost a year, without incident.
3. Then on 2 February 2020 Sudesh Amman, a released terrorist offender, managed to stab 3 people on Streatham High Road. He was known to be so dangerous that he was under armed surveillance at the time of the attack. Parts of the system were clearly working – so what more could have been done?
4. As I carried out my research, and attended as many MAPPA meetings as I could before the country went into lockdown, I became aware that the problem was not just with *known* terrorist offenders. Inside the prison system and coming up to release on licence there is a cohort of offenders who present a terrorist risk but have never been convicted of a terrorism offence at all.
5. Maybe they were radicalised in prison – like Baz Hockton, who was part of the terrorist attack on a prison officer in HMP Whitemoor on 9 January 2020. Maybe they were known by police and MI5 to be terrorists but had been arrested and prosecuted for something else – the tactic known as disruption. When they were released, they didn't easily fit into the system.
6. I delivered my report in May 2020. I admit that once I had done so I moved on. My day job is reviewing terrorism legislation. In 2021 I completed a report on managing terrorist risk in prisons, so I dealt with the other half of HMPPS and completed the set. This year I'm looking exclusively at terrorism online.
7. But then the opportunity to deliver this speech came along. That gave me the excuse to ask HMPPS for an update on how things are going.
8. I know that when the government commissions an independent review, and accepts it, it will be keen to show how much progress has been made. But from what I have seen there have been sincere and effective changes.

Probation

9. Central to this, there is greater interest shown by CT Police and MI5 in what CT Probation can do. They are starting to realise what probation can do in terms of overt offender management. And if I had to boil down my report into one

sentence it is this. You have to get the right information to the right people at the right time.

10. What it turns out is that sometimes the right people, even at the sharp end of stopping terrorist attacks, are probation.
11. Let's take the Streatham attack. Sure, there were armed police officers. But the most powerful people managing the attacker, Sudesh Amman, were probation. Only they had the power to recall Sudesh Amman to prison should the opportunity arise. What I detected last week was that there is much greater understanding by CT Police and MI5 of what probation can do, and that can only be a good thing.

Management

12. I made a recommendation, accepted by the government, that Core Groups should form the basis of day-to-day management. It was obvious to me that formal MAPPAs meetings, held every few months, involving senior probation officers with little involvement in the details of the offender, could not deliver the necessary decision making at speed.
13. I saw that very clearly – and I also saw that in some parts of the country adaptations had already been made to get around this problem, using side meetings or pre-meetings. They realised that it might be necessary to make decisions at pace. Having Core Groups as a standard model means that now there should be consistency throughout the country.
14. I also recommended that it shouldn't be so hard to get an offender into the MAPPA process in the first place. Remember my point that some offenders will present a terrorist risk even if they have never committed a terrorism offence. There should be a simple means of ensuring that they had the greater oversight from MAPPAs, and without delay. The creation of a category 4 is the way to achieve that.
15. But then you need the right information.

Information

16. Often the richest sources of information will come from other overt interaction with offenders on licence – the officer manager him or herself, or perhaps the manager of the Approved Premises. Sometimes information will be sitting there clear as you like about the offender's behaviour.
17. Overt offender management allows so much relevant information to be obtained. I was struck by the opportunities to get information about the offender. The same point came up when I reviewed prisons, looking at the prison conduct of offenders like Usman Khan or Sudesh Amman before their release. No need for covert warrants – the information is already there.
18. It may be information about supportive factors such as family or job, or their absence; it may be about lifestyle and habits. Sometimes drugs and homelessness

can be linked to the terrorist threat an individual poses. This can be crucial information for managing terrorist risk.

19. Of course many terrorism offenders are not chaotic. Unlike other offenders they may have a family, community ties, and a job. There is a risk of false compliance. Having looked at the research on the use of polygraphs with sex offenders, a set of individuals who are often used to deploying tradecraft and deception to conceal their true motives, I could not see a good reason against their use for terrorist offending.
20. But sometimes the information had already been drawn up – looking at MAPPA documentation, I saw very long screeds of pre-release prison information where the emphasis appeared to be completeness rather than drawing precise information to the attention of the MAPPA authorities.
21. This reflects a tendency I saw when I carried out my prisons review in 2021 – a desire by security departments in prisons to record everything without discrimination and without properly thinking about what might be useful. I hope the redesigned Form F will help, so that those on the front line can make sensible and informed decisions about the offender they are dealing with.
22. Sometimes the information was contained in the judge’s sentencing remarks, or in an earlier risk assessment that had fallen out of circulation. When it comes to assessing risk, I believe no one has a monopoly on the truth. If I had a criticism of probation officers, it was that sometimes they were trusting too much to their own instincts; for example, believing that if an offender’s aspirations were to travel to Syria and Iraq, they could not pose a risk in the UK.
23. I am glad to see that greater use is being made of psychological resources. As we all know, there is a greater incidence of neurodiversity and mental illness within the terrorist risk cohort. Understanding whether behaviour is or is not indicative of risk cannot just be a case of looking at how a person is behaving and asking, is that how I would behave if I was a terrorist. I think there are lessons that other parts of the system can learn from how psychological services are being integrated into MAPPA.
24. The next point on information, which I am glad to say led to a further change in the law, is that the power for third parties to share information with MAPPA must be clear. Data protection has, I regret, become a source of complexity. Local authorities or GPs were unclear about the basis on which they could share information. That has now been cleared up in new legislation.

Sensitive Information

25. Then there is the question of sensitive information. CT Police and MI5 hold covertly obtained intelligence which may be directly relevant to the risk posed by the offender. But the disclosure of that information could betray sensitive sources. An offender manager who was aware that there was covert surveillance going on could quite inadvertently give it away in discussion with the offender.

26. It is a true to say that trusted relationships can sometimes lead to greater information sharing, including sensitive information. But trusted relationships come and go. What is true for one part of the country may not be true of another. And in case you think that trusted specialists can be concentrated in the major urban areas, think again. One of the consequences of offending linked to the internet is that terrorist offenders are popping up right across the country.
27. So there need to be processes in place to ensure that sensitive information is revealed without needing to rely on pre-existing trusted relationships. Sometimes it is enough that the information is revealed to someone within the probation system and no further. I suspect that this is the most likely outcome, given the difficulty of breaking out information in a sanitised form, and the length of time this can take.
28. But even if it is only disclosed to a few individuals, it may allow the Core Group to up their level of alertness, for example, to look for new opportunities to recall in the most high risk cases.
29. There will be occasions that MI5 does allow information to be circulated more widely – for example, as the basis for a recall decision. But a bland Form of Words like, “It is assessed that Mr Smith may aspire to meet like-minded extremists” probably doesn’t help. Fortunately, as CT Police and MI5 become more accustomed to probation’s powers, they will get a better understanding of what is needed for probation to take action.
30. I recognise that all this means that there are some people, notably the offender manager, who have direct responsibility for the offender but do not know all the information. I think it’s necessary to be philosophical about this. No one can know everything.
31. It would cost a lot of money and cause a lot of delay to create sufficient sensitive computer systems, and carry out security vetting, so that every person involved in offender management knew everything sensitive. I suspect it would change the nature of probation as an offender-facing organisation. It would certainly slow things down as everyone had to go to a special briefing room or access a secure computer terminal.
32. And of course some of the most relevant information on day to day risk may not be sensitive in the sense of government secrets. For example, crucial information could be held not by MI5 but by a mental health practitioner.
33. The important thing, I believe, is that different agencies are now speaking to one another, learning what each other’s capabilities are, learning how information can be used, and beginning to find ways to avoid the type of situation I witnessed. That is, a bunch of stony-faced police officers sitting at a MAPPa meeting, unable to share their information but unsure what to do about it.

Police

34. Next, the role of CT Police. I think there has been a growing recognition for some time that their historic mission of protecting the public from terrorist harm

is not all about putting bad people behind bars. Most terrorist offenders are going to be released. They need to be managed. Sometimes imprisoning terrorist offenders at all – I am thinking about the young here – is counter-productive. They too have to be managed.

35. I don't think it is feasible to abandon terrorist offenders on the basis that most will not reoffend. Quite apart from the consequences of any terrorist attack, the social consequences of terrorist offenders reoffending are too profound for that.
36. It seems to me that it is useful for police to be co-chairs of MAPPA with probation. Both are committed to the same endeavour.
37. I was impressed by the bustle of Part 4 offender managers, getting into the detail of offender's lives. I recommended that police should have the power to execute a compliance warrant for any terrorist risk offender, not just those who had been convicted of a terrorism offence – and that power was put on the statute books earlier this year. So they can check if a person is storing bomb-making materials at home.
38. Similarly, I recommended that police officers should have the power of personal search of released terrorist offenders – if you like, a pat down of Usman Khan before he took the train to London – again that's now on the statute books.
39. Finally, thinking again about someone like Sudesh Amman – what if police had spotted something which was an indication that they might be up to no good, but not enough to arrest? What if a terrorist offender was released with instructions to proceed straight to the Approved Premises but started wandering down a busy high street? Police will now have the power to arrest a person who may be recalled, before the formal recall decision – which could take crucial minutes – has to be made.
40. So police have a suite of new powers which complement the powers that probation already have.

What Next

41. I'll conclude by laying down some challenges.
42. Youths – how are you going to integrate Youth Offender Teams into the MAPPA process?
43. Looking ahead - is there a more formal role for MAPPA in managing individuals subject to conditional cautions or subject to civil orders?
44. CT partners – how are you going to ensure that probation officers retain their integrity as part of a separate agency?
45. How are you going to avoid overlooking other harm types such as domestic violence or child abuse?

46. Prisons – who do you want to hear from? Is it the security department, the governor, JEXU, someone else? Who will give you the best information about the offender?
47. Autism – how are you going to get the right interventions for this growing cohort?
48. Over-management – how are you going to make sure that the number of licence conditions and interventions do not become counterproductive?
49. Exit strategies – in the end, society needs released terrorist risk offenders to melt back into society. The resources aren't there to man mark every released terrorist risk offender. How are you going to bring your role to an end?
50. And on that note – I too will end.

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