

7. What Should Have Happened

- 7.1 There should have been a recognition by the Senior Investigating Officer (SIO) in charge of the Metropolitan Police operation and by those aware at the London Region Prison Intelligence Unit that the possible use of firearms made this incident both high profile and high risk which would require briefing to those of sufficient seniority within NOMS. This would have ensured that the existing protocols for sharing and managing intelligence between the Metropolitan Police and NOMS were followed.
- 7.2 The Police SIO should have followed up the initial meeting with the Head of Security at HMP Wormwood Scrubs with a full briefing for the Governing Governor. This should have included details of both the background to the case and of any previous Police Advisor Section applications. The full briefing would have enabled the potential risks for NOMS and their associated partners (in this case the escort contractor) to be properly recognised and appropriately managed both in the short and long term.

Short Term

- 7.3 In the short term, a formal disclosure of information as described above would have enabled the Governor to assess whether mitigating actions were required at the prison to deal with any increase in risk linked to Mr Erun. Ideally this assessment should have been completed via the NOMS Mercury system if suitable entries could have been made that did not compromise the planned police operation.
- 7.4 The police request to maintain secrecy about the escape plot meant that the prison staff were not able to make full and defensible decisions about the safe and secure management of Mr Erun. The considerable period of time between the initial briefing on 13 November and the court appearance on 11 December left the prison with a significant risk without the ability to fully act.
- 7.5 Mr Erun's Mercury record contains numerous entries about his suspected use of mobile phones during his previous sentence. This information, together with the police disclosure on 13 November and the discovery that Mr Erun had not made any phone calls via the PIN system since mid-October, should have led to suspicions that Mr Erun had access to a mobile phone at HMP Wormwood Scrubs. This should have increased the local assessment of Mr Erun's overall risk and triggered a further referral to Cat A section either as a potential Cat A or as an E-List prisoner.
- 7.6 The decision by the Head of Security at HMP Wormwood Scrubs to increase the strength of any external escort to three officers for Mr Erun is understandable but would have done little to prevent an armed escape. NOMS would also have had difficulty in dealing with any



Strategic Partnership Agreement
Between
National Offender Management Service
&
Law Enforcement Agencies.

Strategic Liaison between NOMS and LEA'S

The Police Adviser to NOMS in Police Advisers Section (PAS) at NOMS HQ, Clive House, London, will act as the single point of contact for LEA's for liaison and intelligence sharing with NOMS at a national level.

The Prison Service Inter Agency Liaison Group (PSIALG) will be the Strategic Tasking Forum and co-ordinating body under the broad principles of the National Intelligence Model. The Group comprises of senior representatives of the primary agencies, NOMS and the Head of PAS. It is anticipated that each attendee would similarly hold a seat at their agencies' respective programme / management board relevant to Prisons and intelligence issues.

Partnership Principles

Our relationship will be based on mutual understanding, trust and collaboration. This means that we will:

Work together to reach agreements on priorities and plans ensuring transparency of intentions and actions;

Consider carefully how we are able to work together both proactively and in response to requests

Consider and test new ways of working so that we can improve our effectiveness

Use all available statutory powers appropriately and to the fullest extent necessary

Conduct regular joint reviews of how the relationship is working, identifying and building on areas of good practice

Safeguard sensitive information and assets against unauthorised disclosure or compromise for example by applying action on policies and procedures;

Share problems and concerns at the earliest opportunity and take positive steps to address them; and

Seek to avoid duplication and conflict by ensuring that activities are non-competitive

Key areas of collaboration

This Partnership Agreement represents the high level strategic agreement between LEA's and NOMS to work in collaboration to achieve common interests and principles for prison intelligence sharing. It is not intended to provide detailed guidance for practitioners on how intelligence sharing, offender management and operational activity should be addressed and resolved.

NATIONAL OFFENDER MANAGEMENT SERVICE

&

LAW ENFORCEMENT AGENCIES

STATEMENT OF COMMON PRINCIPLES
FOR
SHARING PRISON INTELLIGENCE

**Implementation
Date:**

March 2012

Review Date:

March 2013

Disclosable under FOIA 2000:		Yes	
Owner	ACC Evans	Force / Organisation:	Police Advisers Section NOMS HQ room DPA Clive House Petty France LONDON SW1H 9EX

Introduction

This document seeks to outline the common principles for the provision of and the exchange of information between the primary Law Enforcement Agencies, NOMS and the Prison Service in order to assist the risk assessment and risk management of all prisoners coming into the custody of the prison service and their release back into community.

There are existing information sharing arrangements for specific groups of offenders, e.g. MAPPA, joint working on Prolific and Priority Offenders (PPO's) and those offenders concerned with cases subject to the Multi-agency Risk Assessment Conference (MARAC) process and the newly formed Integrated Offender Management teams (IOM). There are separate protocols governing information sharing, between ACPO-NOMS for:

- Post Probation Information Sharing Agreement for the provision of Pre and Post-Sentence Information by the Police Service to Probation Areas and Trusts to enhance preparation of Pre-Sentence Reports and the risk assessment and risk management of all offenders with whom the probation service has statutory contact.
- Joint National Protocol - supervision , revocation and recall for offenders released on licence This protocol provides a framework for partner agencies to work together to share information, supervise offenders, enforce licences, effect the efficient recall to custody of those offenders who breach their licence conditions and ensure a properly informed, timely review of their suitability for re-release

There are also a range of Prison Service Orders (PSO) and Prison Service Instructions (PSI) and ACPO & PAS guidance documents setting out NOMS policy and LEA agreed procedures or advising on how LEA's NOMS & HMPS should work together.

A full list of signed off protocols, relevant published prison orders, instructions and PAS guidance documents including those that are currently being drafted are attached at *Appendix C*. Electronic copies of signed off and published documents can be obtained from the Police Online Learning & Knowledge Area (POLKA) website or by contacting the Police Advisers section at NOMS HQ by e-mail PoliceAdvisersSection@noms.gsi.gov.uk or by phone DPA

The objectives of the National Offender Management Service (NOMS) are to reduce re-offending and to protect the public. The role of the primary Law Enforcement Agencies (LEA's) is crucial in supporting these objectives, through supplying information to assist in the assessing and managing the risk of prisoners throughout their sentence

Section 1: Purpose of the Statement of Common Principles

The statement of common principles for sharing prison intelligence is required to improve the flow of information and exchange of intelligence between LEA's and prisons in order to reduce the risks to those managing prisoners within establishments, their moves and the categorisation of prisoners. It will also reduce risk of harm to the public by improving the prevention, investigation, prosecution and penalising of crime and thus impact positively on:

- Public confidence in protection from harm
- Reducing risk of harm and deaths in custody
- Reducing risk of escapes from custody
- Reducing risk of good order and discipline in establishments
- Disrupting organised criminality
- Combating trafficking of prohibited items into establishments
- Providing a drug free environment
- Providing linkage on group offenders
- Efficient use of resources

This document will:

- Define the specific purposes for which the signatory agencies have agreed to disclose information.
- Describe the roles and structures that will support the disclosure of information between agencies.
- Set out the legal gateway through which the information is disclosed, including reference to the *Human Rights Act 1998* and the common law duty of confidentiality.
- Describe the security procedures necessary to ensure compliance with responsibilities under the *Data Protection Act 1998* and other relevant legislation, together with agency-specific security requirements.
- Describe how this agreement will be monitored and reviewed. This should be 12 months after initial implementation and thereafter on a yearly basis or earlier as required. Local agreements based on this agreement should be reviewed similarly.
- In addition, completion of this document will ensure that LEA's can meet the information sharing requirements of the Statutory Code of Practice on the Management of Police Information (MoPI) 2005, and its associated guidance.
- Support the introduction of public protection networks in accordance with Sir Ian Magee's Review of Criminality Information.
- Develop our processes so that public protection organisations properly capture, securely store and appropriately use and share criminality information
- To rationalise the processes so that frontline staff have a better understanding of what information they are able to access and share, and how to do that.

Not Protectively Marked

This should be done using the relevant National Intelligence Model (NIM) grading as referred to later. (*Appendix D provides a short guide to the NIM 5x5x5 grading*). Where there isn't a PIO for the prison establishment, the force FIB where the prison is located will be the conduit.

Where the LEA hold or are aware of such information that would be relevant to assessing the risks posed by the prisoner and that the prisoner is likely to be remanded/sentenced or is being returned into custody of HMPS, the LEA should share information. This will be done by using the nationally agreed Person Escort record (PER) form process.

The PER form is used when a prisoner is moved from police station, court or prison to court, prison, hospital or other destination, those responsible for the prisoner are made aware of any risks or vulnerabilities. The PER form is the key vehicle for ensuring that information about the risks posed by prisoners on external movement from prisons or transferred within the criminal justice system, is always available to those responsible for their custody. It is a standard form agreed with and used by all agencies involved in the movement of prisoners, supporting documentation can be added where necessary.

All relevant information regarding the offence(s), for which the prisoner has been remanded, sentenced or recalled.

- All relevant information regarding risk or vulnerability of prisoner suicide/self harm or threat to life.
- Current and relevant health risks.
- Known risks of escape and risk of harm to the public in the event of an escape or abscond.
- Relevant information to protect the safety of others within the prison:- assaults or harassment offences motivated by racial, homophobic abuse or the targeting of specific groups or individuals
- PNC ID details
- Previous custodial history
- Offences falling under terrorism legislation or terrorism-related offences
- Information relating to the good order of the prison

The information sharing as summarised above is necessary to ensure that prison have the most comprehensive and appropriate information available to them in order effectively manage any risks the prisoner poses either inside or outside the establishment, during their time in custody and their release.

The Director of High Security at NOMS HQ is responsible for the categorisation and allocation of Category A prisoners. Prison Service Instruction PSI 3/2010 governs the categorisation of these prisoners. The Governor will have systems in place to ensure that all prisoners considered to potentially meet the criteria for placement within Category A or Restricted Status are reported in to the Directorate of High Security's Category A Team at NOMS HQ. An intelligence request will then be passed to Police Advisers Section (PAS) at NOMS HQ to assess whether the prisoner merits CAT A

Not Protectively Marked

status. PAS will act as gatekeepers for the intelligence exchange between police/law enforcement NOMS in relation to Category A prisoners and terrorist prisoners including their reviews and release planning.

PAS are responsible for the handling and management of LEA prison service protected assisting offender applications (PASO's formerly known as protected witnesses) and reviews. They have a responsibility for ensuring that all relevant intelligence is obtained and that a comprehensive risk assessment is undertaken by the police service/LEA concerned and to assist NOMS/HMPS in making a decision whether or not to afford PASO status to the prisoner concerned.

The role of the Police Prison Intelligence Officer (PIO) is crucial to maintaining and developing the vitally important link between law enforcement agencies and prison establishments. The PIO is the interface between prison staff and other law enforcement colleagues to maximise opportunities for intelligence gathering, assessment and development. The PIO also acts a gateway to ensure that any intelligence obtained is properly evaluated before dissemination to the appropriate law enforcement agency and/or prison department. In particular the PIO should take every opportunity for maximising inward intelligence into the Prison Service.

The full role profile for Prison Intelligence Officers is contained within the PAS Operational Guidance Document OGD2 entitled 'The Role of the Prison Intelligence Officer'.

Prison staff should remember that there might well be substantive information already available on ViSOR, which will be available locally to prison staff with a legitimate business reason for accessing the system. However, staff must remember that as a 'Confidential' system ViSOR should not be directly quoted as a source in any reports. Rather, the clearly identified and recorded source of the ViSOR information should be contacted directly and permission sought to include their data within any reports.

Prisons can also request personal information on prisoners from LEA's using the nationally agreed PAS/2 form (*Appendix B*)

Prison Information to be disclosed to LEA's

NOMS is expected to respect a prisoner's private and family life under Article 8 of the European Convention on Human Rights (ECHR). However, NOMS also has a duty to protect the public, which allows interference with an individual's right to privacy for the following purposes:

- the prevention, detection, investigation or prosecution of crime;
- in the interests of national security or public safety and
- for the purposes of securing or maintaining prison security or good order and discipline in prisons