Introduction

In Britain, in 2000, the murder of an eight-year-old girl called Sarah Payne by a registered sex offender became a ‘signal crime’, triggering intense and sustained debate about the way in which ‘paedophiles’ (and, often by nothing more than implication, ‘sex offenders’ more generally) should be supervised and controlled in the community. Sex offender registers had been introduced in 1997, but now seemed patently insufficient as public protection. With the backing of the murdered child’s parents, a major tabloid newspaper, the News of the World, launched a campaign for a ‘Sarah’s Law’ to empower ordinary citizens (especially parents) with information about the whereabouts of convicted sex offenders. The campaign was inspired by the United States’s post-1996 experience of ‘community notification’ under ‘Megan’s Law’, which the News of the World portrayed as an effective initiative. The Home Office disagreed, fearing that making information about known sex offenders publicly available would decrease their compliance with the authorities, making them harder to find and manage, thereby increasing risks to children. They preferred to strengthen the newly created Multi-Agency Public Protection Arrangements (MAPPA) at the local level, and to quietly introduce a clause into the Criminal Justice and Court Services Act 2000 permitting the GPS satellite tracking of offenders at some point in the future, a form of electronic monitoring technology which had been developing in the United States since 1997, although not exclusively with sex offenders.

The debate on managing sex offenders in the community (usually after release from prison) remained vigorous. The News of the World was persuaded to halt its own ‘name and shame’ campaign (persistently
publishing the names, addresses, and photos of paedophiles) but had undoubtedly stimulated a measure of public enthusiasm for community notification, placing pressure on the government. Not all the support came from the populist right: freedom of information campaigner Heather Brooke (2006) accepted the parents-should-know argument, but also warned that ‘secrecy has created a register that has no consistency and is open to abuse by those who control the list, namely police and politicians’. There was no similarly populist demand for the specific introduction of satellite tracking, but when the government ran a pilot scheme in 2004–6 (focused on juvenile offenders, persistent and prolific offenders, and sex offenders) it was pitched to the public as an unprecedentedly tough form of control in the community, as a ‘prison without bars’ (Shute 2007).

This tracking scheme found somewhat surprising supporters in Barnardo’s (2006), a large voluntary sector childcare organisation, and the Catholic Bishops of England and Wales (2004), both reputable exemplars of a Christian humanist tradition that had hitherto been sceptical of electronic monitoring. Barnardo’s in particular were deeply opposed to the creation of community notification schemes, fearing, like the police, that they would make it harder for sex offenders to cooperate with professionals, and argued instead for improvements to MAPPA procedures, and for the introduction of GPS tracking and polygraph testing to check compliance with supervision:

There are no simple strategies, no simple things that can be done to completely reduce the danger posed by predatory sex offenders. But a combination of... things can radically reduce risk and offer genuine reassurance to parents. Extensive use of GPS tracking, improvements to MAPPA arrangements and the mandatory use of polygraphs alongside the housing of more serious sex offenders in supervised accommodation would reduce the danger posed to children. By contrast, Sarah’s Law is more likely to result in offenders not registering and ‘going underground’, make it more difficult to obtain supervised accommodation for them and could, tragically, lead to the death of a child. (Barnardo’s 2006,6)

Although the British debate had a peculiar intensity, all Anglo-American and European jurisdictions have, to a greater or lesser degree, been wrestling with the difficulty of managing released sex offenders in the community, pondering questions of discretionary disclosure and the ethics of surveillance. Petrunik and Deutschmann (2008,499) suggest