

◆ The Sentencing Commission for Scotland ◆

Chairman: Rt Hon Lord Macfadyen
Secretary: Alan Quinn

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Your ref:
Our ref:

14 July 2005

Ms Cathy Jamieson MSP
Minister for Justice
St Andrew's House
Regent Road
EDINBURGH
EH1 3DG

Dear Minister

SEX OFFENDERS: RELEASE FROM PRISON AND POST-RELEASE SUPERVISION

Thank you for your letter of 4th July.

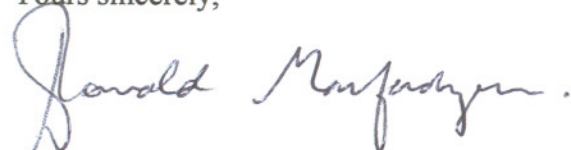
I note what you say about the Executive's reasons for its decision to proceed with the proposal that sex offenders sentenced to between 6 months and 4 years be released on licence. Of course, we do not dispute that in determining risk it is necessary to take into account not only the likelihood of reoffending, but also the extent of the harm likely to be done by such reoffending. We remain unpersuaded, however, that the risk presented by sex offenders has been shown to be objectively greater than that presented by, for example, violent offenders.

You have invited the Commission's further comments on our view of the relevance of Article 26 of the ICCPR. I think you may have misunderstood our position on this. We referred to the Covenant merely as an example of the principle that, if it is not to be discriminatory, a difference of treatment must be objectively justified. We do not dispute that Parliament is entitled to differentiate between classes of offenders, if there is an objective basis for the difference of treatment. Our point was that we did not see an objective basis for treating sex offenders differently from other offenders, so far as early release is concerned.

I note that further thought is to be given to the option focused in Question 4.

On our recently issued Consultation Paper, I am pleased that the Executive is content to engage in discussion with us during the consultation period, and note that your officials will be in touch with our Secretariat to make the necessary arrangements.

Yours sincerely,



DONALD MACFADYEN