

25 March 2014

Our ref 339/63

The Hon Jack Dempsey MP
Minister for Police, Fire and Emergency Services
GPO Box 15195, City East QLD 4002

By Post and Email

Dear Minister

Courier Mail article dated 17 March 2014 – public sex offender register proposal

We note the Courier Mail article dated, 17 March 2013 entitled, 'Queensland may introduce sex offender registry based on controversial WA model'¹, with the article stating that "A sex offender register could be on the cards for Queensland in the wake of the Daniel Morcombe tragedy, with the government monitoring how the West Australian model is working."

The Society is committed to community safety and ensuring that a safe and secure environment is created for our most vulnerable citizens, children. We understand that this environment must ensure that children do not fall victim to attacks by sex offenders. However, the Society has raised a number of concerns with the introduction of a public sex offender register, which we note is currently being considered by Parliament under the *Child Protection (Offender Reporting - Publication of Information) Amendment Bill 2013*.² In our view, the role of monitoring offenders in our community is best conducted by trained police officers. It is these highly trained officers that should have access to a well maintained sex offender register to ensure effective monitoring of offenders. However, the Society has some concerns with legislation aimed at publishing information which identifies offenders to the general public:

- This scheme may not enhance public safety; in fact it may have an opposite and counter-productive effect. We note that when these laws were being debated in

¹ Article found here: <http://www.couriermail.com.au/news/queensland/queensland-may-introduce-sex-offender-registry-based-on-controversial-wa-model/story-fnihsrf2-1226856862084>

² The Parliamentary Legal Affairs and Community Safety Committee has issued a report recommending that this Bill not be passed:

<http://www.parliament.qld.gov.au/documents/committees/LACSC/2013/ChildProtection2013/rpt-12Mar2014.pdf>

Western Australia, the WA Police Union expressed concern with the proposal for this reason. The ABC reported:

Yesterday, the Police Union president Russell Armstrong said that the website would be counterproductive, making it harder for police to monitor sex offenders.

"Once their name is put onto a database and available to the public they will go underground," he said.

"They would move to different locations, wouldn't make contact with police and the only time we would come into contact with them is when they reoffended."³

- These laws may make it more likely that offenders will become itinerant, moving frequently from neighbourhood to neighbourhood to avoid scrutiny when their identity becomes known to the residents in the area. This will make it harder for these individuals to be monitored by police.
- Publicly identifying offenders in each area may also have the unintended consequence of offenders being able to locate each other easily and form groups. There is a danger of community safety being compromised with a scheme which could allow offenders to find other local offenders, and there is a potential for groups such as paedophile rings to be easily formed this way.
- There are studies in the United States of America showing that public notification of offenders impact negatively on property prices in the local areas. One study from 2006 in North Carolina showed that "a single offender depresses property values in the immediate vicinity by \$4,500 to \$5,500 per home. Altogether, the presence of sex offenders has shrunk property values in the County by about \$58 million."⁴ We have **enclosed** a summary of this study, which appears to demonstrate that there are tangible economic costs which would need to be considered if the government is considering publicly identifying offenders.
- As this regime is in place in Western Australia, we consider that empirical evidence should be gathered from that jurisdiction (and others which have instituted similar arrangements) to determine whether it has in fact had a positive effect on public safety. Without such information, we do not consider that there is the appropriate evidence base to support these amendments.

If the government is considering such a proposal, we suggest a reference to the Queensland Law Reform Commission to analyse the appropriate research and data would be necessary. In this way, the public can be informed of how these laws have operated in practice in other jurisdictions, and public policy decisions can be based on empirical evidence. In the alternative, we suggest the preparation of a discussion paper by a leading Queensland university and thereafter public consultation on the discussion paper to ensure all views and data are canvassed.

³ ABC, Johnson defends sex offenders website, 8 November 2011 found at: <http://www.abc.net.au/news/2011-11-08/johnson-defends-sex-offenders-website/3652786>

⁴ National Bureau of Economic Research, Megan's Law Hits Local Property Prices, found at: <http://www.nber.org/digest/jun06/w12253.html>

We note that this issue has been a topic of discussion and analysis for some time in United States of America. A cursory exploration of research has turned up the following research papers:

- Sex Offender Registries: Fear without Function?, Amanda Y. Agan, The University of Chicago Law School, Journal of Law and Economics, Vol. 54, No. 1 (February 2011), pp. 207-239. The conclusion from this Paper states:

*The data in these three data sets do not strongly support the effectiveness of sex offender registries. The national panel data do not show a significant decrease in the rate of rape or the arrest rate for sexual abuse after implementation of a registry or access to the registry via the Internet. The BJS data that tracked individual sex offenders after their release in 1994 do not show that registration had a significantly negative effect on recidivism. And the D.C. crime data do not show that knowing the locations of sex offenders by census block can help predict the locations of sexual abuse. **This pattern of noneffectiveness across the data sets does not support the conclusion that sex offender registries are successful in meeting their objectives of increasing public safety and lowering recidivism rates.***⁵

- Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?, J.J. Prescott and Jonah E. Rockoff, NBER Working Paper No. 13803, February 2008 JEL No. K14, K4. This research suggests that a register may deter first-time offenders, but registered offenders may be *more* likely to commit crimes and result in increased recidivism. The abstract states in relation to public registers:

*We also find evidence that community notification deters crime, but in a way unanticipated by legislators. Our results correspond with a model in which community notification deters first-time sex offenses, but increases recidivism by registered offenders due to a change in the relative utility of legal and illegal behavior. **This finding is consistent with work by criminologists suggesting that notification may increase recidivism by imposing social and financial costs on registered sex offenders and making non-criminal activity relatively less attractive.** We regard this latter finding as potentially important, given that the purpose of community notification is to reduce recidivism.*⁶

- A number of other research papers are hosted on the US National Institute of Justice website, which is a US Department of Justice government agency.⁷

Such research and evidence must be considered to ensure policy objectives can actually be reached by the proposed solution.

⁵ Paper found at: <http://www.jstor.org/stable/pdfplus/10.1086/658483.pdf?acceptTC=true>

⁶ Paper found at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1100584

⁷ Materials found here: <http://www.nij.gov/topics/corrections/community/sex-offenders/Pages/evaluating-registration-laws.aspx>

This is a description of the National Institute of Justice's Mission, found on the website:

The National Institute of Justice — the research, development and evaluation agency of the U.S. Department of Justice — is dedicated to improving knowledge and understanding of crime and justice issues through science. NIJ provides objective and independent knowledge and tools to reduce crime and promote justice, particularly at the state and local levels.

- We are unsure of the purpose of releasing this type of information to the public. Clearly this information is important for police, security and supervision operations. However we are concerned that the release of this information publicly will encourage vigilante action against those identified. We do not consider that the creation of offences against vigilantism is enough protection from unwanted actions from members of the public.

Similarly, the President of the Adults Surviving Child Abuse organisation in Western Australia voiced concern with this proposal for this reason:

Adults Surviving Child Abuse president Cathy Kezelman agreed there was a risk of vigilantism.

"There are a number of dangers with a website like this," Dr Kezelman said.

"There's a risk of what people do with the information and whether there's a sense of community panic if they find out there's an offender living in the area and decide to take the situation into their own hands, so it needs to be very well policed."⁸

In effect, this proposal could create more resourcing constraints for the police than it would intend to solve.

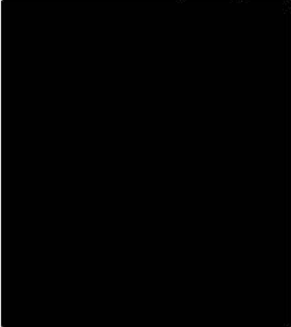
- Identifying the offender publicly will have the unintended consequence of identifying the families of offenders, and their communities may ostracize and blame them for the actions of the offender. This issue may be particularly problematic in small communities.
- The Society would be concerned with the types of personal information that could potentially be published. Information that reportable offenders give includes the person's date of birth, address, email address, passport details, details of employment (including the location and name of employer), motor vehicle registration and details of any tattoos or permanent distinguishing marks. The Society is concerned with the breadth of sensitive information about a person which can be published. An unintended consequence of releasing such information is that these details may be collected and used for identity theft purposes, which is an important reason why there are strict safeguards and control of access to information held by government agencies and other organisations. It is also of concern that innocent third parties could be affected, such as if workplace details would be published. There may be negative consequences for the operation of the business if community members avoid attending or dealing with the business, or alternatively disruptions from members of the community may occur. Again, we are unsure of how the release of this information will enhance public safety.
- The accuracy and continual maintenance of such a register would be paramount, and this would again take resourcing (which could be more appropriately used to ensuring effective policing and monitoring of these known offenders).
- There is a risk that persons who are at the lower end of the scale of offending will be caught by these provisions. For example, a 17 year old may be in a sexual relationship

⁸ 'WA sex offender website operating', The West Australian, 15 October 2012: <http://au.news.yahoo.com/a/15115429/wa-sex-offender-website-operating/>

with a 15 year old. The 17 year old may be charged and convicted of the offence of carnal knowledge with a child under 16 pursuant to s215 of the *Criminal Code 1899* and may be subject to the provisions of a public register. We also note that persons with mental health issues and intellectual disabilities may also be caught by such a proposal.

- The important principle of rehabilitation, one of the sentencing principles under s9 of the *Penalties and Sentences Act 1992*, may be undermined by this legislation. Specifically, those who are living in the community under supervision orders may become alienated and stigmatised if they are publicly identified.

The Society has long advocated that good legislation is the product of good consultation with stakeholders. As always, the Society would be pleased to be involved in discussions on the proposal. Our practitioners who work with criminal law legislation on a daily basis are integral to ensuring an effective criminal justice system. They are well placed to inform the government of how proposed policy objectives will work in practice.

Please note we will also provide a copy of this letter to the Attorney-General and Minister for
 Jarrod Bleijie MP.

Working Papers & Publications

Activities

Meetings

Data

People

About

Megan's Law Hits Local Property Prices

"When a sex offender moves into a neighborhood, houses within a one-tenth mile area around the sex offender's home fall."

If a registered sex offender, reformed or not, moves into your immediate neighborhood, it's bad financial news. The potential price for your home likely has been trimmed substantially.

Economists **Leigh Linden** and **Jonah Rockoff** measure the impact of living in close proximity to such a convicted criminal in **There Goes the Neighborhood? Estimates of the Impact of Crime Risk on Property Values from Megan's Laws** (NBER Working Paper No. 12253). They combine data from the housing market with data from the North Carolina Sex Offender Registry to find that when a sex offender moves into a neighborhood, houses within a one-tenth mile area around the sex offender's home fall by 4 percent on average (about \$5,500), while those further away show no decline in value. "These results suggest that individuals have a significant distaste for living in close proximity to a known sex offender," the authors conclude.

Crime is predominantly a local issue, with the majority of both violent and non-violent offenses taking place less than one mile from a victim's homes. Most government expenditures on police protection are local. They add up to more than \$50 billion a year across the nation. Residents can respond to more crime by voting for anti-crime policies, or by moving away.

One popular anti-crime effort is a body of legislation known as Megan's Laws. In 1994, a seven-year-old girl named Megan Kanka was brutally raped and murdered by her next-door neighbor. The man had been convicted in 1981 for an attack on a five-year-old child and an attempted sexual assault on a seven-year-old. But none of his neighbors knew these facts. Megan's Laws require the notification of the public regarding the location and description of convicted sex offenders. By the imposition of such a post-prison requirement, these laws represent a significant change in the legal practice of dealing with convicted criminals after they have been released from jail. This provision has made these laws extremely controversial and subject to numerous court challenges. Two cases reached the Supreme Court. It upheld the relevant laws as legitimate civil regulation, rather than retroactive criminal punishment, in response to the recidivism threat imposed by sex offenders on the communities in which they live.

A 1994 federal law, the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program, created a mandatory state requirement for the registration of sex offenders. It threatens non-complying states with a reduction of federal grants for state law enforcement efforts. The legislation was extended in 1996 to require the dissemination of information in the registry.

By now, all 50 states maintain a registry making some information available to the public. However, the method of compliance varies significantly. Forty-six provide public Internet access to the offender registry. Louisiana has perhaps the most aggressive notification law. It requires offenders to, "give notice of the crime for which he was convicted, his name, and his address to at least one person in every residence or business within a one mile radius of his residence in a rural area and a three tenths of a mile radius in an urban or suburban area."

In North Carolina, the "Amy Jackson Law" requires all individuals released from prison on or after January 1, 1996 -- the date of the law - for offenses of kidnapping, prostitution, sexual exploitation of a minor, or sexually violent offenses against anyone, to register. It applies equally to individuals convicted in other states who move to North Carolina. Offenders are required to register within 10 days of release from prison and for 10 years after being released from prison.

Linden and Rockoff focus on Mecklenburg County where there were 518 registered offenders. They excluded offenders with addresses that could not be located on a map, offenders living in a jail or halfway-house, and offenders who had been living in their current residence for just a short period of time. Some 63 percent of the crimes of the registered sex offenders in that county are classified as Indecent Liberty with a Minor, sometimes referred to as "child molestation," and do not involve physical force or violence. Some 11 percent of the sexual offenses involved force or violence, 10 percent were rape.

The other important source of information came from the Mecklenburg County Division of Property Assessment and Land Record Management. The paper uses very detailed data on the locations of convicted sex offenders and the dates on which they moved into a neighborhood and variations over time in values of homes sold in the specific locations in which an offender chooses to live. The authors estimate that a single offender depresses property values in the immediate vicinity by \$4,500 to \$5,500 per home. Altogether, the presence of sex offenders has shrunk property values in the County by about \$58 million.

Assuming that individuals are reacting to the increased probability of being victimized by a neighboring sex offender, the authors estimate that the victimization costs of sex offenses total more than \$1 million per case. That is far in excess of estimates by economists cited in the criminal justice literature. The authors note that this large figure could be driven partially by individuals overestimating the probability of victimization, or by other costs associated with living near a sex offender (such not allowing children to play outside). Either way, Linden and Rockoff conclude there is a great willingness in the public to pay for policies that would shield residents from sexual offenders

-- David R. Francis

The Digest is not copyrighted and may be reproduced freely with appropriate attribution of source.

RECENT NBER RESEARCH, NEWS, AND PRESS CITATIONS

How Investment
Experience Affects Equity
Investors

Federal Reserve Tapering
and Emerging Markets

Financial Transaction
Taxes and Stock Price
Volatility

Energy Efficiency and
Public Transit
Procurement

German-Jewish
Emigration and U.S.
Invention