

I always like to hear other opinions and always welcome open debate. This is always the way forward and the true meaning of democracy and measure of worthiness for any proposal. However, what the Law Society submission proposes is a soft hand in favour of the most heinous offenders in our society.

### *Summary Sections 1.4 & 1.5*

*1.4 If the Bill is to proceed, the Law Society recommends amendments to address these matters:*

- 1.4.1 a mechanism for review of the lifetime notification obligation;*
- 1.4.2 measures to minimise the extent to which the Bill applies retrospectively;*
- 1.4.3 a more limited requirement to provide online account details and to notify travel;*
- 1.4.4 a consistent provision to deal with emergencies; and*
- 1.4.5 clarification of the restrictions on accessing the register.*

*1.5 However the Law Society recommends that the Bill not proceed and suggests an alternative model for achieving the Bill's objective that reduces the infringement of civil rights and freedoms. The alternative model would allow the sentencing judge or Parole Board to impose a registration and reporting requirement in individual cases which warrant it.*

#### **Comments:**

The recommendations by the Law Society dilute the effectiveness of this Bill (which is already not up to standard in my opinion). Adding more bureaucratic requirements for sentencing and enforcement and limiting the reporting by offenders, especially online, goes against the purpose of the Bill. Digital and online offending is REAL crime. Child pornography, grooming and chatting in communities is a big deal and limiting the scope of the Bill here is a mistake.

### *Section 3.2*

*3.2 Offender registers have been implemented in a number of overseas jurisdictions. The Regulatory Impact Statement (RIS) for the Bill identifies that "there is limited research evidence available from other jurisdictions about the effectiveness of sex offender registers and the best practice for long-term monitoring of high risk sex offenders in the community after their sentences end". 1 The Attorney-General's report on the Bill also refers to the fact that numerous studies have noted the scarcity of evidence that child sex offender registers deliver significant benefits in terms of improved public safety.*

#### **Comments:**

Limited evidence to support the effectiveness of sex offender registers doesn't mean that they are not effective. It merely means that the evidence is not there yet. There is no definitive evidence either way, yet. These registers have to be implemented first before the results can be studied. Lack of or scarcity of supporting evidence does NOT equate to ineffectiveness and certainly doesn't warrant inaction or complacency in implementing such a register here in New Zealand.

*3.3.1 Registers perpetuate the view that it is strangers who commit sexual offences, whereas sexual offending is most often committed by people known to the victim.*

*The Law Society is concerned that the protection of children from the risk of sexual offending is undermined by a mechanism which contributes to the misvaluation and mismanagement of that risk by those who care for children and accordingly primarily protect them from offending.*

#### **Comments:**

It is insulting to both the legislators and other invested parties such as SST that it is proposed that we do not know that sexual offending is often committed by people known to the offender. Of COURSE we know this! How exactly does having a register perpetuate the view that mostly strangers commit these crimes?

It is bold to claim that the current mechanism misevaluates and mismanages the risk of sexual offending against children. This statement doesn't make clear whether is talking about the current system or the proposed register and restrictions? Whatever the case may be, when it comes to the safety of our children from sexual predators the most prudent approach is surely always tighter controls and restrictions. This should be the starting point. It's always better to play it safe and be conservative. Implement the register to make law enforcement easier and monitor offenders. Paralysis by analysis leads to inaction and a less safe environment for our kids.

*3.3.2 Registers stigmatise sex offenders, which may have the perverse effect of increasing their propensity to re-offend by reducing their opportunities for reintegration. The Law Society is concerned that the proposed register will undermine sex offenders' rehabilitation by contributing to their social isolation and requiring them to confirm persistently to society their central identity as being that of a sex offender.*

**Comments:**

This statement suggests that reintegrating offenders back into society will reduce their propensity to reoffend. There is no evidence for this and it is a huge risk. The offender was already part of society when they committed the offence. Let set them loose again anonymously into society and hope for the best, what a great plan (sarcasm).

There is NO evidence that any type of rehabilitation can reduce the sexual desire for offenders on child victims. The only proven form of rehabilitation is castration which is proven to reduce these urges.

**Newstalkzb:**

*Law Society representative Tim Stephens said one of the issues with the Bill is that it deals with child sex offenders as a whole, and isn't targeted at the subset that have high re-offending rates and are the particular problem.*

*"The proposed register that's in this bill ought to be redesigned, so that it's targeted at child sex offenders, who are likely to reoffend, rather than being automatically driven towards particular offence types."*

**Comments:**

How exactly do we decide which offenders are likely to reoffend? Is one 'conviction' not bad enough to warrant putting someone on the register? What if the victim was your own child? The message you're portraying here is that one 'reported' offence is okay. As an offender you stay under the radar and get a slap on the wrist. We won't impose any of the reporting requirements of the Child Protection Bill on you, making it easier for you to commit your next offence. After you offend twice, then we'll take you seriously (sarcasm).

**3.3.3**

*Registers classify sex offenders as a homogeneous group, whereas their characteristics vary greatly, including their risks of re-offending.*

*The Law Society is concerned that the blanket nature of the proposed register is at the expense of a more targeted approach directed at the identification of individual offenders with a high potential to re-offend.*

**Comments:**

SOR's historically have been established using two methods; offence based classification and risk-based assessment. The proposed New Zealand Child Protection Bill proposes an offence based criteria. If you commit an offence on the list, you qualify to go on the register. The restrictions are tiered to reflect the severity of the offence. The proposal by the Law Society of a risk-based system will be very costly and add unnecessary administration to the process. There currently isn't any evidence to show that the more cumbersome risk-based system is more effective than an easier to implement offence based system.

**Bill of Rights Act**

*4.2 The Attorney-General has reported to the House under section 7 of the Bill of Rights Act, concluding that the Bill is inconsistent with section 9 (disproportionately severe treatment or punishment) and section*

*26 (double jeopardy), and cannot be justified under section 5 of the Act. The Law Society shares these views and has further concerns about the Bill's inconsistency with the Bill of Rights Act.*

### *Section 9 Disproportionately severe treatment or punishment*

#### **Comments:**

As with all sex offender registers, their purpose is not to punish offenders. They are primarily a law enforcement and public safety tool. There is no evidence of any punishment, certainly nothing disproportionate, being imposed on the offender from being on the register. Hurt feelings and the inconvenience of reporting are the most obvious consequence for offenders. However, they don't equate to punishment at all and are most certainly disproportionate to sexually violating a child.

### *Section 4.7 Removal of reporting obligations*

*4.7.2 The mechanism is only directed at those offenders who are unable to fulfil their reporting obligations due to terminal illness or a significant cognitive or physical impairment, 11 rather than those who are able to demonstrate that they do not pose any risk.*

#### **Comments:**

There is already provision for the review of lifetime registrants. Adding additional provision for class 1 offenders who are able to demonstrate they do not pose any risk is dangerous and contrary to the purpose of the bill. How exactly would the offender demonstrate this and what is the standard. The Law Society needs to be more specific.

### *Section 4.11 Double Jeopardy*

*4.11 The Attorney-General's report also concludes that the Bill is inconsistent with section 26(2) of the Bill of Rights Act, which affirms that no one who has been convicted of an offence should be punished for it again. The Attorney concludes that the Bill cannot be justified under section 5 of the Act.*

#### **Comments:**

Double jeopardy doesn't apply because the register is not a form of punishment (as previously mentioned), and certainly not comparable to a jail sentence which would constitute a double punishment. 21 countries already have established comparable registers *and* double jeopardy laws and there have been no problems with any statutory rights or double punishment claims. New Zealand is not breaking any new ground here. This argument is redundant.

### *Section 4.14.2*

*4.14.2 The clause 20 requirement to notify travel is inconsistent with the right to freedom of movement affirmed in section 18 of the Bill of Rights Act.*

#### **Comments:**

It is not apparent how the travel notification requirements impede the right to freedom of movement of offenders? Where exactly and how are they restricted to travel to? This is not made clear in the Law Society submission. An offenders criminal convictions pose more of a restriction to overseas travel than anything else.

### *Demonstrate no further risk*

In multiple instances throughout the Law Society submission they suggest removing restrictions or registration of offenders based on whether they can demonstrate that they no longer pose a risk to the sexual safety or lives of children. What they fail to define is how exactly this is to be determined. You can't just throw a statement like this out there and expect the legislators to come up with the standard for you.

Firstly you have to demonstrate that child sex offenders *can* be rehabilitated. I don't believe that they can and therefore this risk will never dissipate. If you believe that rehabilitation of child sex offenders is possible

you need to show how this is possible and give clearer standards or guidelines on what exactly constitutes 'no further risk', in your opinion.

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