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Submission to the Senate Standing Committee re the Combatting Child Sexual Exploitation Legislation Amendment Bill 2019

I am a Clinical Psychologist with over 40 years' experience, currently working in Private Practice and running a community-based treatment program for child sexual abuse and child internet offending and a program called Helping Families Heal which works within the Aboriginal community in the treatment of childhood adversity and trauma. I am also a single expert witness for the Family Court of WA and a lecturer in the Post-graduate Psychiatric Training program. A full description of my qualifications and experience is attached at Appendix 1.

I am a member of a Women's Support group which meets fortnightly in Fremantle Western Australia. Members of our group are deeply concerned at the way policy and legislation emanating from The Federal Government (and also State Governments) is failing to take into consideration research and expert knowledge in the area of child sexual offending and is being swayed by political argument without concern or knowledge as to the unintended harms which impact on the invisible victims of child sexual abuse i.e families of victims and offenders and the broader community.

Earlier this year a sub-committee of the Support group wrote to all Western Australian state politicians and Federal Politicians requesting to personally meet with them about the unintended consequences of the proposed Public Sex Offender Register and the harm this presents to victims, juvenile offenders and family members of offenders. We would be happy to speak with the Committee or any members of the Committees that have oversight of the legislation which may ensue in relation to the Public Register.

We are aware that the Bill under consideration in this Committee does not refer to the Public Register but nevertheless if passed will be included in the proposed Register legislation and may well contain similar or worse harms to families.

After some preliminary comments in relation to the specific legislation under consideration by the Senate Legal and Constitutional Committee I wish to submit the summary of concerns of the Women's Support Group followed by representations by 2 other members.

The Explanatory Memorandum of the COMBATTING CHILD SEXUAL EXPLOITATION LEGISLATION AMENDMENT BILL 2019 states that:-

“The Bill protects children from sexual exploitation by improving the Commonwealth framework of offences relating to child abuse material, overseas child sexual abuse, forced marriage, failing to report child sexual abuse and failing to protect children from such abuse. “

This submission will not address the aspects to do with forced marriage and overseas child sexual abuse but comments on the measures that are said to respond to the recommendations of the Royal Commission into Institutional Child Sexual Abuse and to criminalise certain offences.

1. It is not clear why the Commonwealth is responding to the Royal Commission recommendations to the States and Territories. I would argue the case against Federal law which duplicates that of State jurisdictions and ask for clarification of the reasons for this?

2. If a uniform national approach is desired the concern that the lowest common denominator will prevail or the removal of regional solutions to regional problems will actually reduce the effectiveness of the battle to protect children from child sexual abuse.

3. Why is the bill so focused on increasing offences and penalties? Where is the evidence that this is a successful area of combatting child sexual offending? How were the maximum sentences arrived at? Where does case by case discretion fit in and why is there no mention of judicial discretion, appeal processes?

4. Only a very small proportion of child sexual offending actually reaches the Courts (possibly less than 10%). Recidivism is much lower in this category of offending than other criminal offending. The Recommendations of the recent Royal Commission apply to a very small percentage of the community (6 - 10%) while 90% of child sexual offending occurs within the family rather than any institution. Therefore the unintended consequences will be far greater on families. More resources should be put towards public health measures to protect children and provide treatment and support for families rather than over-investment in penalising the relatively small proportion of already identified offenders who are less at risk of re-offending than someone who has not yet been identified or charged.

5. These new offences may appear to target serious offenders but include juvenile offending, the mentally ill and a broad spectrum of offences which range from lesser to more serious risk and harm to children. This approach will invariably bring injustice and deprivation of rights to the majority of individuals who are swept into broad categories. There is no mention of case by case discretion, appeal processes, differential risk assessment, treatment or diversion programmes. Prison should be last resort not first resort.

6. There is no mention of evaluation or research into the success of these laws or penalties as to the effectiveness of the combatting of child exploitation or child abuse.
Yours Sincerely

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Clinical Psychologist and former Clinical Director SafeCare Inc

WOMEN'S SUPPORT GROUP CONCERNS

The Women's Group was described in the Sunday Times article by Belle Taylor on 10/02/2019 and has been operating for 3 years. This fortnightly support group has arisen in the absence of any specific support for family members of child sexual offenders. It is co-facilitated by Psychologists, Christabel Chamarette, Janice Paige and Monica MacCoun and new referrals to the group are interviewed and assessed prior to attendance by Ms Paige.

The issues which are of major concern to the Support group are:-

1. The lack of treatment programmes both in prison and in the community for the partners and sons of women in the Support group.
2. The lack of differentiation between juveniles and adults in the placement on the ANCOR/SOMS register and the lack of flexibility in reporting requirements when offenders are at a lower level of risk of re-offending.
3. The concept of "one size fits all" and mandatory sentencing or reporting requirements which reduces case by case discretion and penalizes the majority in the effort to penalize the few.
4. The lack of understanding that pedophile is not an appropriate term for 90% of those who are charged with child sexual offences. The definition of pedophile refers to adults who are not able to relate sexually to adults but have remained fixated with a sexual attraction to children under 13 years old (hebephile refers to a person sexually attracted to older children). The misuse of the term to refer to all child sex offenders has the unintended effect of harming victims and family members in addition to the men themselves.
5. Failure to recognize the presence of mental illness, autism and childhood trauma, sexual abuse and neglect as contributing factors which can draw individuals into offending behaviours and which require treatment and not simply punishment.
6. The Public Offender register which is not supported by international research as a deterrent to offending, will have serious unintended consequences for victims, family members as well as juvenile, rehabilitated and low risk offenders.
7. The cancellation of passports and restrictions has detrimental effects on family members and extends the punishment of individuals who are at minimum risk of re-offending.

In summary, our concern is that the emphasis on demonization, vilification of child sex offenders and the tendency to increase penalties and restrictions on the relatively small (10%) numbers of identified offenders without pursuing treatment and prevention programs specifically directed to keep them from offending in the first place or re-offending, is endangering children rather than combatting child sexual abuse in our community.

WOMEN'S SUPPORT GROUP MEMBER Submission to the hearing for Combatting Child Sexual Exploitation Legislation Amendment Bill 2019

The Combatting Child Sexual Exploitation Legislation Amendment Bill 2019 (the Bill) is attempting to bundle many issues into a single piece of legislation. For this reason I wish to raise my voice in concern for the potential harms which may occur if the recommended changes to the legislation are made.

My greatest concern is the implication that these new crimes will be added unthinkingly to the sex offender register should the register be made public as has been reported in the media and proposed by the Federal Government. There does not seem to be any restrictions on which people on the register would be affected. There is no suggestion of nuancing any differentiation between people on the register who committed their crimes as juveniles themselves, nor any discernment between crimes involving contact versus non-contact. Finally there is no differentiation in the proposed changes to the register between people who have committed a single crime and those with multiple offences who are considered by Police to be "serious" sex offenders - those most deserving of their time to monitor and also those most likely to re-offend.

There is no consideration in this Bill for the impact such changes to legislation would bring to the families of offenders or protection should the Public register option be pursued. Already Australia has seen vigilantism perpetrated against families of people accused and or convicted of sex offences against children, yet the prevailing public (and parliamentary) position seems to be "oh well, you deserve it for supporting a child sex offender". This attitude is seen by the lack of action against vigilantism, social media trolling, and verbal abuse directed at the spouses and children of sex offenders, whether or not they chose to support the offender. What seems to have been lost in the public debate is these people have the right to quiet enjoyment and are not criminals. Their only crime is to be married to, be a parent of, or be the child of a person who has committed a sex offence against a child.

Furthermore, the proposed changes to the legislation do not provide adequate assurances if all offenders on the sex offender register are made public, the potential for identifying the victim(s) are protected. If you can identify families from publicly identifying child sex offenders, there also is the real potential to identify victims. The race to publicly vilify these offenders is therefore rash and ill considered.

The "one size fits all" mentality of incarceration and "naming and shaming" people who have committed a child sex offence is flawed. The experience in the United States of America (USA) is an exemplar of how dangerous such an exercise is, whereas European countries such as Sweden and Germany have taken a vastly more successful approach to the issue of treating all child sex offenders, demanding rehabilitation using a public and mental health approach to an issue that remains mostly hidden, with less than (an estimated) 10% of people who offend (or are currently offending) having been through the judicial system. There is no scope in Australia at this time for a person who self-identifies as having a desire to look at images of, or to action their attraction to children, to seek assistance to understand where these feelings originate from or how to combat actioning them. Instead they are told to feel shame and to hide, living in fear their

thoughts or behaviours will be discovered, knowing if this occurs they will be reported (mandatory reporting), convicted and incarcerated.

Far more effective than implementing a public register and the associated increase in work this will impose on an already over-burdened police force, would be using the funds associated with the review of this legislations to develop both pre-sentencing and diversion programs in place of prison as well as increased treatment programs for incarcerated persons to allow rehabilitation courses for sex offenders in prison or while on parole. Currently a person can serve a full sentence and receive no rehabilitation.

WOMEN'S SUPPORT GROUP MEMBER'S Letter to the Premier

To the Hon. Mark McGowan, Premier of Western Australia 11th January 2019

RE: Peter Dutton's proposal for a national public sex offender registry

I'm begging that your Government considers the far reaching consequences of the proposed national public sex offender registry, not just for the convicted offenders, but also for the offender's families and the community as a whole. I'm not referring to the restricted public registry currently in place in WA, but a national public registry proposed by the Federal Government. I'm writing from the perspective of being a sex offender's wife. I have taken the evasive action of putting this letter together out of genuine fear for my family and my own personal safety. I hope you will also appreciate that acknowledging a relationship to a sex offender is incredibly risky to due public backlash, stigma, threats and at times actual violence. Nevertheless, I feel it's worth the risk to be heard and the hope my perspective might help shape this policy in some small way. I'm also writing out of frustration, because the families of offenders are never involved in policy consultations and the negative impacts on lives are rarely acknowledged.

The partners, children and families of sex offenders are often referred to as secondary victims in the academic literature, because of the emotional trauma and financial pain related to the conviction of a family member. I would also like to highlight the fact that majority of primary victims are related to their offenders. Despite what the Justice Party would have the public believe, most sex offenders are not strangers lurking in the bushes, they are frequently the victim's uncle, brother, father or friend [1, 2]. So any policy decisions that will negatively impact offender's families will ultimately affect victims [3].

Derryn Hinch has said on many occasions that vigilantism will not result from a public registry - this is simply untrue and not backed by research in this area [3-6]. I can speak from personal experience that vigilantism and public backlash are real. When my husband's offenses were published in the media, I feared for my life and for how it would impact my career. "The only thing worse than a sex offender is the woman who stand by him" was one comment left on a news article that showed a picture of me leaving court with my husband. This is one of the more subdued comments, but brings to light that public's perception of me. During the media coverage, I also received deaths threats and comments about how I deserved to be sexually assaulted. In reality I was date raped when I was 22 years old and these threats have dramatically compounded my existing PTSD symptoms related to this event. My husband's younger brother and sister, who are

children and share his name, were bullied at school and lost friends. Family members of other offenders have told me they have had their properties vandalised, cars set on fire and have been contacted by groups, who specialise in the assault and murder of sex offenders, trying to locate their family member. These incidences occurred with a restricted public registry in place, so what will happen when our postcodes or addresses are published? Research from the US where the registry is completely public, indicates that nearly 70% of offender's families have been negatively affected by the public registry [6]. Clearly this is a real and endemic problem. I would ask that your Government consider what strategies are going to be implemented to ensure our safety. Too often families of offenders are just seen as acceptable collateral damage.

A national public sex offender registry is being sold to the community as means of protecting children from violent paedophiles who are kidnapping children from the streets. In actuality most sex offenders are not paedophiles, have not assaulted children unrelated to them [2, 7] and do not reoffend [8]. In Western Australian in 2017, 44 registered sex offenders reoffended this equates to approximately 1 % [9] - a recidivism rate significantly lower than other offences [8]. My husband is not a paedophile, his victim was known to him and he has never reoffended. My husband's victim was five weeks underage (approx. 15 years and 11 months) and at the time offences were committed my husband was 21 years old. His offenses were committed nearly ten years ago and during this period he has never reoffended. He has been classified as a low risk of reoffending by three psychologists (two of whom were commissioned by the Department of Justice).

I in no way diminish my husband's offending behaviour. He deserved to be punished. We are completely willing to comply with a private sex offender registry and other restriction the Government feels are necessary to ensure community safety. We have worked hard to ensure my husband becomes a better person and citizen. However, it feels like the punished never ends with every year new restrictions being put in place and more of civil liberties waived. These additional punishments are often put in place irrespective of good behaviour, severity of offences and reoffending risk. A public registry would isolate offenders and make it challenging for them fit into society. The research shows the more socially isolated an offender is the more likely they are to reoffend [2].

I understand that the general public has little compassion for offenders or their families. Even if the State Government cares nothing about personal safety of offenders or their families, I ask that you consider the evidence about the detrimental impacts of a completely public registry for the community. The following impacts of a public registry have been cited in the peer reviewed literature:

1. Increased rates of reoffending or no impact [4, 10, 11]
2. Victims are less likely to report offences committed by family members [3]
3. Limited or no deterrent to future offenders [4]
4. Increased community fear and hysteria [4, 12]
5. Increased parental complacency. Less time spent teaching stranger danger or educating about grooming behaviours [4, 7]
6. A reduction in house prices [4, 13]

Shouldn't money be allocated to strategies that reduce offending (such as sex offender treatment programs) rather than a public registry that could potentially increase reoffending [14]? I have self funded all of my husband's psychological treatment. No sex offender treatment options were made available to him by the State Government during his incarnation. Shouldn't all sex offenders receive treatment prior to release?

The families of sex offenders are innocent people. We are one of the greatest resources the community has in prevention of reoffending [4, 6]. Please can our lives and safety be taken into consideration when drafting policy? When the McGowan Government was elected in 2017, a commitment was made to "evidence based policing". I'm only asking that your Government keeps this promise.

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