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AUSTRALIAN CRIMINAL INTELLIGENCE COMMISSION**

PARLIAMENTARY INQUIRY SPOKEN QUESTION ON NOTICE

Parliamentary Joint Committee on Law Enforcement
Examination of the Australian Criminal Intelligence Commission Annual Report
2019-20

QoN Number: 01

Subject:

Asked by: Julian Simmonds

Question:

CHAIR: Those hard borders have had a benefit somewhere. It's good to see. Can I ask you about a specific product now? Page 13 of your report talks about the working with children checks national reference system that you've rolled out. You might be able to give me an update beyond what's provided in the annual report, but, at the time of the annual report, only Tasmania and WA were live on the system, which is great for them. I am a passionate advocate of child protection—I challenge you to find someone who isn't, I guess—so I would hate the idea of states not being involved in this database in the short term, because of issues, and that leading to a situation where, in their state, somebody was allowed to work with a child who really shouldn't have been, when, if their state had been part of the database, they would have been picked up. You might tell me that more states have come on board—I'd welcome that information—but your report also said that some states had yet to join due to COVID. I think that's pretty weak—I'll be honest with you. I'd really like to understand the reasons behind states being slow to pick this up, despite it being online. When are they telling you they're actually going to jump into it?

Mr Phelan: I fortuitously brought my estimates papers with me, so I'm just trying to see whether I have something in relation to that here. One of the things I will talk about while we find the details of which states and territories are on board is that the ACIC has done everything we need to do in relation to that. The national working with children checks negative notice database is what we set up. It came out of the royal commission a number of years ago. What was happening was that checks could be made in one jurisdiction and then, if they were knocked back, someone could apply for another check in another jurisdiction. The negative notice database was about making sure that all of the jurisdictions were joined up, so if Mike Phelan had his application for a working with children check knocked back in Queensland and then applied in Western Australia—

CHAIR: So you couldn't just move to another jurisdiction.

Mr Phelan: Yes. They would know that I'd had my check knocked back. We're at the stage now where we're just waiting for some legislative reform on one or two of them to get through, but my understanding is that they should all be up pretty shortly.

CHAIR: That's a pretty powerful tool. In this day and age you shouldn't be able to move from Queensland to New South Wales and have that forgotten and then work

with kids if you're unsuitable. If you've done everything, is your message to the states, 'Just get on with it and join now'?

Mr Phelan: That's right. Some of them actually did have a hold-up because of COVID, because it was an electronic system that they had to join up—some legislative reform and others around technology to be able to do that. This is my perennial problem when it comes to national policing information systems. I love the federation, but the federation causes issues for us, and a sense of national consistency is hard right across a lot of these things, because, constitutionally, most of the responsibility for these things vests with the states, but there's a will to combine them and have national databases. The national databases are quite difficult to set up right across the board, even now moving to the National Criminal Intelligence System—that is not without its problems. Each of the states has their own laws around what can be shared, what can't be shared, who it can be shared with et cetera. Trying to find harmony across eight different jurisdictions is quite difficult.

CHAIR: Sure, but you have the system up and running, and of course the pandemic has thrown priorities into disarray. But I think on an issue as important as child protection across jurisdictions, for states to throw out the word 'COVID' in terms of any delay in signing up is less than satisfactory.

Mr Phelan: As I said, we will get that detail. I don't have it, but we will take it on notice.

CHAIR: That is fine; you can tell me which states have signed up.

Mr Phelan: Yes, we'll take it on notice.

Answer:

The Working with Children Check National Reference System (the system) was completed on 30 June 2019 and went live on 1 July 2019. This system supports decisions to approve applicants to work with children, including the national provision of negative notices to relevant stakeholders. Each state and territory is required to change its relevant legislation before joining the system to enable it to provide and access information within the system.

Currently Tasmania, South Australia, Western Australia and the Australian Capital Territory have joined the system. It is anticipated that Victoria, Queensland and New South Wales will have joined the system before the end of 2021. The ACIC is working with the Northern Territory to assist their progress towards joining the system, however, notes the required legislative changes are yet to be progressed.

Date Approved: 20/05/2021
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