Position Paper

Community Notification of Sex Offenders

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About the Authors

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Hetty Johnston is the Founder and Executive Director of Bravehearts Inc. Hetty is the author of the national awareness campaign, 'White Balloon Day', 'Sexual Assault Disclosure Scheme', 'Ditto's Keep Safe Adventure' child protection CD-Rom and her autobiography, 'In the Best Interests of the Child' (2004). Hetty has been a contributing author to various books including, 'Crime on my Mind', and 'Women on Top'.

In 2005, Hetty was announced as a finalist for the 2006 Australian of the Year Awards – she is the recipient of two Australian Lawyers Alliance Civil Justice Awards (2003, 2004) and was named a finalist in the 2008 Suncorp Queenslander of the Year Awards. She was awarded a Paul Harris Fellowship in 2010 and is a Fellow of the Australian Institute of Community Practice and Governance (March 2010). In early 2009, Hetty was recognised as one of approximately 70 outstanding leaders throughout the world, receiving the prestigious annual Toastmasters International Communication and Leadership award. In 2013 Hetty was awarded Northern Australia's Ernst & Young Social Entrepreneur of the year. Hetty is a member of the International Society for the Prevention of Child Abuse and Neglect and sits on the Federal Government's Cybersafety Working Party.

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About Bravehearts Inc.

Our **Mission** is to stop child sexual assault in our society.

Our **Vision** is to make Australia the safest place in the world to raise a child.

Our **Guiding Principles** are to at all times, do all things to serve our Mission without fear or favour and without compromise and to continually ensure that the best interests and protection of the child are placed before all other considerations.

Bravehearts has been actively contributing to the provision of child sexual assault services throughout the nation since 1997. As the first and largest registered charity specifically and holistically dedicated to addressing this issue in Australia, Bravehearts exists to protect Australian children against sexual harm. All activities fall under 'The 3 Piers' to Prevention; Educate, Empower, Protect – Solid Foundations to Make Australia the safest place in the world to raise a child. Our activities include but are not limited to:

EDUCATE

- Early childhood (aged 3-8) 'Ditto's Keep Safe Adventure' primary and pre-school based personal safety programs including cyber-safety.
- Personal Safety Programs for older children & young people and specific programs aimed at Indigenous children.

EMPOWER

- Community awareness raising campaigns (Online and Offline) including general media comment and specific campaigns such as our annual national White Balloon Day.
- Tiered Child sexual assault awareness, support and response training and risk management policy and procedure training and services for all sectors in the community.

PROTECT

- Specialist advocacy support services for survivors and victims of child sexual assault and their families including a specialist supported child sexual assault 1800 crisis line.
- Specialist child sexual assault counseling is available to all children, adults and their non-offending family support.
- Policy and Legislative Reform (Online and Offline) - collaboration with State Government departments and agencies.

Bravehearts Inc. is a National organisation, it is a registered Public Benevolent Institution, registered as a Deductible Gift Recipient, operates under a Board of Management and is assisted by State based Community Regional Committees, Executive Advisory Committees and a Professional Finance Committee.

Abstract

In 2006, Bravehearts released a position paper on Community Notification Laws. This paper has now been updated.

Bravehearts advocates that the first response should be the continued detention of dangerous sex offenders. It is our position that dangerous sex offenders should not be released back in to the community, until such time as they are assessed as low risk and that that risk can be managed in the community. We have continued detention legislation (such as the Queensland *Dangerous Prisoners (Sexual Offenders) Act 2003*) across the nation in place now that can achieve this.

While Bravehearts does not support widespread community notification of sex offenders (based on the experience of 'Megan's Law' in the United States), given the lack of will of the courts to continually detain dangerous offenders, we do believe that current registration legislation should be expanded to allow for restricted community notification. We advocate the duplication nationally of the Western Australian Legalisation which provides for the public disclosure of limited information relating to released, adult, dangerous, repeat child sex offenders.

This scheme provides a three tiered approach, providing:

- Information on missing sex offenders
- A local search facility that allows members of the public to search their local area (by postcode) for:
    - Dangerous sexual offenders subject to supervision orders under the *Dangerous Sexual Offenders Act 2006*;
    - Serious repeat reportable offenders;
    - Persons who have been convicted of an offence punishable by imprisonment for 5 years or more, and concern is held that this person poses a risk to the lives or sexual safety of one or more persons or persons generally.

  The search results provide images of the offenders in the area, but does not provide addresses.
- Parents or guardians with the option to enquiry on whether or not a person of interest, who has regular unsupervised contact with their child, is a reportable offender.

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Introduction

> "We know, however, that when social problems instil great public fear, they sometimes result in a backlash of well-intentioned but poorly planned social policies. The public's "right to know" must be balanced with the potential social and fiscal costs of Megan's Law to communities as well as to sex offenders attempting to successfully reintegrate into society" (Levenson & Cotter, 2005)

Laws specifying that individuals, groups and communities should be notified when sex offenders are living in their areas are now widespread in the USA. Indeed, all fifty American states' legislatures have enacted such legislation as well as laws that require released sex offenders to register with local police. There is now considerable public debate and pressure to introduce such laws into Australia.

It is our position based on overseas experience and research, that broad general notification laws do not work, however we do support limited disclosure legislation. While most Australian jurisdictions provide police with the discretion to notify, or disclose to, relevant agencies and personally effected individuals, certain details relating to released, adult, repeat child sex offenders where a legitimate risk or threat exists, we have long advocated for the release of limited information in relation to released, adult, repeat child sex offenders and were pleased to see Western Australia introduce legislation along these lines in 2011.

The rationale for Bravehearts position on this issue in Australia is outlined in this position paper.

Models of Community Notification

The public disclosure of a sex offender's information has become a popular response to the risk released offenders pose to the community. Community notification is a step beyond the more common official criminal registers held by enforcement bodies:

(i) Registration

Registration entails the reporting by offenders to justice agencies in order to monitor their movements (Kabat, 1998). Registration should not be confused with community notification because the records in the former generally are not made public. Registration is usually seen as unproblematic because such data are already held, and able to be retrieved by police. However, a number of commentators have suggested that registration databases do not go far enough, in the sense that their information is not broad enough, not detailed enough and not updated with sufficient regularity to be of assistance to the police.

Sex offender registration laws mandate that released sex offenders must register with their local police after release from prison and provide a range of identifying information. Each time an offender moves he or she must re-register. The aims of registration are to assist law enforcement and protect communities from sex offenders. There is often much variation in respect to the information collected and the time period for, and duration of, registration. Information collected typically includes the offender's name, address, photo, date of birth and criminal history, as well as any current employment information.

(ii) Community Notification

Community notification laws take the dissemination of this information to another level, providing details of an offender to individuals, specific community groups or the general public.

Community notification can refer to three forms of public access to information on offenders. It may entail legislation that allows *restricted access*, where particular individuals or community organisations seek to obtain information on a specific offender based on a 'need to know' basis. *Limited disclosure* means that particular individuals who are assessed as at risk from the offender, or organisations that deal with children (eg. schools, child care centres etc) are provided with information around a specific offender. Finally, *general disclosure* which is where individuals within a particular community or geographic area are informed of the identity, location and criminal history of released sex offenders.

The types of information released to the public varies. In some US States the information is specified in legislation, in other areas it is disclosed at the discretion of local law enforcement authorities. Typically, released information comprises the offender's name and address, physical description, photo, crime of conviction and age of victim. In the US, some States require information on all registered sex offenders to be posted on internet sites; other States require only certain offenders (eg. high risk offenders) to be posted (Legislative Council 2005).

The arguments over a public register of convicted paedophiles compared with a police register have been well canvassed. The main arguments in favour of a public register are as follows:

- The public has a right to know that an offender is living nearby, so that they can take precautions.
- Gives single mums, neighbours and work colleagues an opportunity to protect their children against known child sex offenders whom they might otherwise unsuspectingly invite into their lives.
- A public register could be a greater deterrent to new offences as the offender knows they are being monitored.
- Victims feel more secure knowing their abuser is being monitored.
- Community anger is soothed.
- Arrests may happen more quickly.
- Heightened surveillance and supervision of offenders.
- Registers do not stop offenders from offending although they may impact on who the victim might be (i.e. not a neighbour's child). The ability to groom children who may live in the same area as the offender or who are the children of people the offender has befriended may be disrupted by community notification.

The main arguments against a public register are as follows:

- The register may inadvertently reveal the name of the victim.
- The register may brand innocent members of the child sex offender's family.
- There may be victimisation of innocent individuals whose name or physical appearance are confused with those of offenders.
- There may be encouragement of community anger or lawlessness.
- If there is no grading, so that lower risk offenders' names are kept off the public register, the public register may "brand" all offenders including those who have every chance of not reoffending again, reduce their privacy, and subject them to harassment by vigilantes. If offenders are hounded from place to place, the stress may influence them to re-offend. (In the UK a paedophile was hounded out of more than 10 hotels/motels and 3 homes/apartments after authorities notified his neighbours).
- Registered paedophiles are more likely to 'disappear'.
- Released paedophiles are less likely to register. A much higher percentage of paedophiles register in the UK where the registers are not made public compared to the US.

- Offenders may take more drastic steps to cover up their offence.
- Some suggest it is a double-punishment of the offender.
- The community is lulled into a false sense of security, whereas most paedophiles are never charged or convicted and live in every suburb and town across the country.
- Huge cost involved must be measured against actual effectiveness. The greater expense of a public register (as compared to a police register) may be otherwise spent on other methods of prevention and policing.
- In 2000, the Observer newspaper reported that community notification in the United States had "failed to protect victims and failed to prevent offenders from repeating their crimes". Further, it considered that it was a "nightmare" for police to administer properly.

Impact on Offenders

The threat of community notification may prevent convicted sex offenders from seeking or maintaining treatment. Fear of reprisals against the individual offender, as well as family members, may mean that the offender deliberately avoids creating new, or contacting existing support networks of family and friends. Clinical psychologists claim that the environment in which a sex offender lives is one of the crucial factors in determining risk of recidivism. Environmental factors considered relevant to lowering the risk of recidivism are low stress levels, gaining employment, overcoming denial, empathy with victims, refraining from drug and/or alcohol and being part of a social network. These factors are most likely to be jeopardised by community notification. The potential loss of opportunity to prevent future sex offending via access to treatment is particularly relevant to juvenile sex offenders.

The fears of reprisal against the offender themselves as well as their family members is real. In Washington State alone, there has been over 30 acts of vigilantism ("Can Megan Give Us an Answer", *The Observer*, August 6th 2000) against the offenders and their families, with houses being torched and individuals (including family members) being attacked in bids to drive offenders from the community. In Britain, the media began a 'name and shame' crusade after the sexual assault and murder of a young girl. This campaign resulted in a series of vigilante raids and at least 5 cases of wrongful victimisation (*Courier Mail*, 14th August 2000). In Australia, we have seen examples of such activity when the community becomes aware that an offender is residing in their area. Given the experiences in the US, there is no evidence that this reaction would dissipate with formal notification of communities. Indeed, US States have enacted anti-vigilantism legislation to reduce this unintended consequence of community notification.

It has also been suggested that notification may, ironically interfere with its stated goal of enhancing public safety by exacerbating the stressors (eg. isolation, disempowerment, shame, depression, anxiety, lack of social supports etc) that may trigger some sex offenders to relapse. Such dynamic factors have been associated with increased recidivism (Hanson & Morton-Bourgon, 2004) and although sex offenders inspire little sympathy from the public, ostracising them may inadvertently

increase their risk. Notification may actively work against genuine rehabilitation and reintegration of offenders into the community.

There is no current evidence that community notification reduces sex offence recidivism or increases community safety. The only comparative or extensive study to date that evaluates recidivism was completed by Schram and Milloy in 1995 based on the experiences in Washington State. Of the offenders who were subject to notification, Schram and Milloy found that 42% of adult offenders re-offended (offences included sexual and non-sexual crimes) and 79% of juvenile offenders subject to notification were arrested for new offences. This study also found no statistically significant differences in recidivism rates for sex offences between offenders who were subjected to notification (19% recidivism) and those who were not (22%).

Sex offenders who were subjected to community notification were, however, arrested more quickly for new sex crimes than those not publicly identified (Schram & Milloy, 1995). This may indicate an increase in public awareness and community monitoring and a heightening of supervision and surveillance of offenders. This heightened response may certainly have positive implications for the safety of the community.

However, it may also suggest that offenders subject to notification may be simply re-offending sooner after release than those not publicly identified. This may be a result of the types of offenders subject to these laws rather than the impact of the laws themselves. That is the quicker re-arrest rate may have nothing to do with the intent of the laws, but rather the offenders subject to notification are more likely to re-offend in a shorter time frame, simply because they are higher risk offenders than those not publicly identified. This factor, added to the lack of support and the exacerbation of stressors (as discussed earlier) could be related to the earlier re-offending of notified offenders.

This quicker arrest rate does indicate that further analysis into this positive repercussion of community notification is warranted.

It was found that 63% of the new sex offences occurred in the jurisdiction where notification took place, this suggests that notification did not deter offenders or motivate them to venture outside their jurisdictions (where they would be less likely identified) to commit crimes. Based on these findings, the authors concluded that community notification appeared to have little effect on deterring sex offenders (Schram & Milloy, 1995).

A 2004 paper from the US Department of Justice (Finkelhor & Jones, 2004) reports that between 1992 and 2000 there has been a 40% decrease in sexual assault cases “substantiated” by US child protection services. This paper has been put forward by some proponents as an example of the impact of community notification. However, in the paper Finkelhor and Jones explores a range of explanations for this decline. Finkelhor and Jones discuss: increasing conservativism within the US child protection

system; exclusion of cases that do not involve the child's caregiver; changes in the US child protection system data collection methods and/or definitions; less reporting by professionals due to concerns about potential liability; the diminishing category of older cases; and a potential real decline in the incidence of sexual assault. It should be noted that a more thorough analysis of US legislation development, changes on sentencing patterns, treatment models, public awareness programs and community education programs, among other potential factors needs to be completed before any informed comment can be made.

The threat of community notification may also drive an offender 'underground' in an attempt to hide their identity. This possibility has serious implications not only for the effectiveness of community notification but also for sex offender registration. Responses to a survey carried out in Washington State in the US, revealed that offenders subject to notification frequently leave communities after notification has occurred.

Compliance to register and keep authorities informed have been shown to be low in numerous studies. In Los Angeles 90% of 3200 addresses on a register were found to be inaccurate (Wyre, 1998). The US National Centre for Missing & Exploited Children (2006) estimates that of the 566,782 registered sex offenders nationwide, as many as 100,000 are unaccounted for. Statistics seem to indicate that there is a much higher compliance rate in the UK where the registers are not made public compared to the US. The difference between compliance rates may be able to be put down to whether or not the notifications are made public, with research suggesting that offenders are less likely to comply when knowing that their information will be made public. But differences between the management of these registers also needs to be considered, and studies comparing legislation and procedures of registration and community notification lists would provide a more thorough understanding of this potential problem.

Repeat Sex Offenders

While we remain opposed to general, unlimited broad scale community notification laws however; we also recognise that child sex offending is complex, compulsive and addictive. Where offender treatment and community reintegration has an opportunity to halt this behaviour then it should be wholeheartedly applied and funded and the offender supported in the community. The perfect solution for everyone is that child sex offenders stop offending. This must remain our preferred outcome.

However, if the offender, being an adult and after having completed this program, after having been granted the 'benefit of the doubt' and provided anonymity and opportunity by the community, commits a further contact offence against a child, we believe this constitutes the point at the which the system and community have every right to stop believing in rehabilitation for this offender. It is at this point that the community may rightly turn their attention to the civil rights of children and take back the 'benefit of the doubt' in favour of child safety.

It is Bravehearts view that at this time, the offender should never be released again - at least, not into any environment in which there is any likelihood of contact with children.

The foundation of our position on community notification laws is the rights and the best interests of the child. We advocate that these rights and interests must be protected above both the rights of offenders and the rights of the community more generally.

We maintain that the real question we should be asking ourselves is; if the system and the professionals who work in it have assessed the risk posed by these released offenders to be so grave as to warrant such extensive and expensive supervision in the community, then why are we releasing them in the first place? Why are we trying to shut the gate after the horse has bolted?

Bravehearts view is that prevention is the best option, and when it comes to repeat child sex offenders, the best prevention is detention. Bravehearts advocates for a "Two strikes and you're out" legislation (see our "Two Strikes" position paper) that will provide for a mandatory life sentence for any second contact child sexual offence.

We believe this constitutes the most effective policy in terms of actually protecting children against repeat child sex offenders.

Cost of Implementation

In the United States, law enforcement officers and probation officers have reported concerns that community notification has increased labour and expenditures (ATSA, 2005). Likewise, Fitch (2006) noted that the financial costs of implementing community notification are high:

> "The cost of introducing and maintaining a system of community notification is indisputably high... [m]illions of dollars are required to operate the systems in a manner likely to achieve success"

It is noted that costs are dependent on a number of factors, including geographic size of the area covered and the population density. In California, costs of maintaining the register and implementing notification in that State costs an estimated $15 to $20 million dollars per year (Bonilla & Woodson, 2003 cited in Fitch, 2006). These cost and resource implications for police, community corrections, and other agencies supporting the offender in the community must be taken into consideration, particularly in relation to the many questions in respect to the effectiveness of community notification to achieve its aim of public safety.

Fitch also suggests that additional costs may be incurred if legal challenges are brought against the disclosure of an offender to the community.

Community Notification Laws in Practice

These types of laws target one specific group of offender – convicted sex offenders. Understandably, public reaction to sex offenders is often intense. Sex offenders are "almost terroristic, in that they strike people unawares in their own neighbourhoods and provoke distrust, fear and frustration" (Harvard Law Review, 1994).

In the United States most community notification or registration laws have been passed immediately following violent sex offences. Washington State's Community Protection Act was enacted in 1990, following the sexual mutilation of a seven year old boy by a man with a long history of sexual violence (Ronken & Lincoln, 2001). In 1991 Minnesota's registration law was passed after an eleven year old boy was abducted in 1990. Megan's Law was passed at a State level three months after the death of Megan Kanka of New Jersey in July 1994. Seven year old Megan was sexually assaulted and murdered by a neighbour who had a history of sexually offending against children. Former-President Bill Clinton signed the bill, with the US Congress passing Megan's Law at a Federal level in 1996 as an amendment to the *Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act 1994* (which was passed as past of the *Federal Violent Crime Control and Law Enforcement Act 1994*). While the Wetterling Act requires that States implement a sex offender and crimes against children registry, Megan's Law requires States to disclose information about sex offenders to the public.

While some US States legislate that information on all sex offenders is to be provided to the community in which they reside, other States utilise a risk assessment system that provides for information on high risk offenders or perpetrators of selected offences to be notifiable (Legislative Council, 2005). For example, in New Jersey:

> "… sex offenders who reside in the community are classified by prosecutors in one of three "tiers" based on the degree of risk they pose to the public: high (Tier 3), moderate (Tier 2) or low (Tier 1). Neighbours are notified of high risk offenders. Registered community organisations involved with children or with victims of sexual abuse, schools, day care centres and summer camps are notified of moderate and high risk offenders because of the possibility that paedophiles and sexual predators will be drawn to these places. Staff members at those facilities who deal directly with children or victims are provided with information about the sex offender. Law enforcement agencies are notified of the presence of all sex offenders."

On the other end of the scale, in New Hampshire, details on all offenders who are convicted of a sexual offence against a child or who have an outstanding arrest warrant are placed on the Internet (Legislative Council 2005).

In addition, the type of information about the offender that is made public also varies across the United States.

The intended benefits of these laws can include: increased public safety, the right to know, assisting in reducing recidivism and heightened surveillance and supervision of offenders. These are all extremely worthwhile objectives, but as will be discussed, aside from people's right to know and indications of increased surveillance, evidence from the US has not supported the capacity of community notification to attain these goals.

Sarah's Law: Child Sex Offender Review (CSOR) Public Disclosure Pilots - UK

After reviewing broad level community notification laws the UK Government resisted calls for a Megan's Law style legislation based on findings that these laws had not resulted in reduction of sexual offences in the United States and would fail to protect the community. Instead, in 2008 the UK government introduced a child sex offender disclosure scheme which enables members of the public to ask the police whether an individual (e.g. a neighbour or family friend) is a convicted sex offender.

The scheme is commonly referred to as "Sarah's law" after Sarah Payne, who was abducted and murdered by a man with a previous conviction for abducting and indecently assaulting another young girl.

The scheme was initially piloted in four police force areas (Cambridgeshire, Cleveland, Hampshire and Warwickshire) over a twelve month period from September 2008. During the course of the pilot a total of 585 enquiries were made. Of these, 315 were proceeded with as applications, resulting in 21 disclosures being made. A further 43 applications resulted in child safeguarding actions other than a disclosure (e.g. referral to social services). Research commissioned by the Home Office suggested that the police and other criminal justice agencies had seen benefits in the formalisation of processes, the provision of increased intelligence and the provision of a better route in for the public to make enquiries should they have concerns (Kemshaw & Wood, 2010).

In August 2010 it was announced that the scheme would be rolled out to a further 20 police force areas by October 2010. The Home Office has since invited remaining jurisdictions to consider introducing the scheme.

Community Protection – Western Australia

In Australia, there has been a renewed effort, particularly through the mass media to open the debate of community notification in Australia. In 2011, Western Australia introduced legislation which provides for the public disclosure of limited information relating to released, adult, repeat child sex offenders.

This scheme provides a three tiered approach, providing:

- Information on missing sex offenders
- A local search facility that allows members of the public to search their local area (by postcode) for:
    - Dangerous sexual offenders subject to supervision orders under the *Dangerous Sexual Offenders Act 2006*;
    - Serious repeat reportable offenders;
    - Persons who have been convicted of an offence punishable by imprisonment for 5 years or more, and concern is held that this person poses a risk to the lives or sexual safety of one or more persons or persons generally.

  The search results provide images of the offenders in the area, but does not provide addresses.
- Parents or guardians with the option to enquiry on whether or not a person of interest, who has regular unsupervised contact with their child, is a reportable offender.

Impact on Public Safety and the Community

Community notification laws are based on public safety, typically referring to the belief that the public are better able to protect themselves and their children by being informed that a released sex offender resides in the neighbourhood. Supporters and advocates of community notification argue that it gives parents and the community a greater opportunity to protect their children by educating them about the dangers of specific individuals. In short, by providing for the public's right to know about released offenders, community notification provides the public with the knowledge they need to take precautions in respect to the safety of themselves and their children.

The reality is that community notification is unlikely to have any impact on the majority of men and women who are responsible for most sexual violence. A significant number of offenders never come into contact with the criminal justice system (Freeland & Wainwright, 2005). Community notification will only ever identify a limited number of sex offenders: the laws can only apply to convicted/known sex offenders.

By concentrating on a few identified individuals, people may develop a false sense of security whereby they become fixated on those offenders they have been informed about and pay less attention to other 'dangerous' individuals and situations. The potential for this happening appears heightened when a child is involved. It has been argued that children may 'get the wrong message' and fail to be cautious except with those people specifically pointed out as someone not to go near (Steinbock, 1995).

It has been argued that these laws are based on the deceptively simple and popular belief that the best way to protect children is to identify all the known 'bad' people. Given what we know about sex offenders, the likely impact of these types of laws is minimal; statistics show us that only about 17% of reported sexual offences result in

a conviction (Crime and Misconduct Commission, 2003) and that the majority of offenders are known to the victim (research findings vary between 80-85%).

It may be that these laws provide the opportunity, motivation and impetus for the community to educate children about personal safety and protective behaviours; however to be of any benefit, this can not only be in relation to known offenders. Equipping children with the knowledge and skills they need to avoid risky situations, giving them an understanding of their rights to protect their own body and helping adults empower children to recognise early warning signs, stay safe and speak out can be much more powerful tools in protecting the community.

Notifying one community does not prevent an offender from visiting a community further away which has not been 'notified'. It has also been argued that sex offenders may gravitate towards large cities, inner city suburbs or more vulnerable towns where resources and community cohesion may be most strained.

Being notified that a convicted sex offender is about to move into your neighbourhood can have negative effects on residents. Interestingly, most results have indicated that communities subject to notification laws report increased anxiety due to notification because of the lack of strategies offered for protecting themselves from sex offenders (Caputo 2001; Zevitz, Crim & Farkas, 2000). Without support from the authorities, vigilante behaviour can be considered an inevitable consequence of notification… "It's as if someone shouted 'Fire' and then stood back and watched in panic" (L. Keene, Seattle Times Pacific Magazine, Sept 15th 1991).

Community notification laws are the least best option in terms of effectively protecting the community but are attractive to the community. They have the potential to provide some parts of the community with some feelings of comfort that governments and the authorities are giving them all the information that they need to keep themselves and their children safe and they satisfy the right of the public to know if an offender is living nearby. Community notification laws are a reaction to the failure of the current systems' ability and willingness to protect the community against known child sex offenders and prevent offenders from re-offending.

Bravehearts advocates that the first response should be the continued detention of dangerous sex offenders. It is our position that dangerous sex offenders should not be released back in to the community, until such time as they are assessed as low risk and that that risk can be managed in the community. We have continued detention (such as the Qld *Dangerous Prisoners (Sexual Offenders) Act 2003*) legislation across the nation in place now that can achieve this.

Bravehearts believes that the call for broad-scale community notification laws to be introduced into Australia is based on the fear the community feels and the lack of faith and belief in the correctional and legal systems to adequately ensure that offenders who are released are low risk and will be managed and monitored effectively. If the community had confidence in the correctional system, in the rehabilitation of offenders and in the system's ability to monitor offenders in the community, community notification laws would be unnecessary.

The ability of unrestricted community notification to achieve what current laws have failed to do has shown to be limited in the United States where the laws have been enacted for a significant period of time. A comprehensive review of the effectiveness of community notification laws was conducted by the National Society for the Prevention of Cruelty to Children (Fitch, 2006). The major finding of this review was that "[t]here is no proof that such a law would be in the best interests of the child as it does not deliver tangible safety benefits to children".

One of the major positives to come out of studies into community notification is that there has been a significant effect on the speed of arrest for new offences, with those subject to notification being re-arrested more quickly than those not publicly identified. However, it could also suggest that offenders who were subject to public notification were more likely to re-offend sooner – which may account for the quicker re-arrest rates – simply because they are as a group, more often than not, a much higher risk.

It is noted that 63% of the new sex offences occurred in the jurisdiction where notification took place which indicates this may be a result of public awareness and the increased ability of the community to monitor 'known' offenders. The flip-side of this statistic is that it demonstrates the limitations in these laws to actually protect

the community – notification did not deter or stop the offender from committing new sex offences. It demonstrates the failure in the system to properly monitor and prevent re-offending. When offenders remain a risk the community has every right to be fearful.

So while there appears to be an encouraging impact on public safety in terms of increased awareness and surveillance, the other side to these findings is that the laws appear to have little impact on encouraging offenders to not re-offend. If our goal is to ensure the long-term safety of our communities then we should be focussing on responses that prevent or reduce re-offending. We should be looking for proactive legislation that focuses on ensuring public safety and the continued detention and intensive monitoring of those who are considered of high risk.

If the basis of introducing laws is public safety and the reduction of threats to our children, these laws do not appear to work.

With only an estimated 10% of sex offenders ever being identified, community notification will only ever impact on an extremely small number of perpetrators; in addition we need to consider that if community notification focuses on high risk offenders, not all identified offenders will be assessed as 'high risk', so only a percentage of that 10% will ever be subject to community notification. These laws give the community a false sense of security by focusing them only on offenders they have been informed about, rather than other dangerous individuals or situations.

Like the NSPCC, Bravehearts hold that the most effective approaches to the safety and protection of children against child sex offenders are those that are holistic and involve structured and comprehensive interdisciplinary responses founded on research-based best-practice.

It is our position that a far more effective approach would include:

- **Limited disclosure legislation** that currently exists in most jurisdictions, ensuring police have the discretion to notify, or disclose to, relevant agencies and personally effected individuals, certain details relating to released, adult, repeat child sex offenders where a legitimate risk or threat exists.
- The **release of limited information to the public**. Current registration legislation should be expanded to allow for restricted community notification. We advocate the duplication nationally of the Western Australian Legalisation which provides for the public disclosure of limited information relating to released, adult, dangerous, repeat child sex offenders.
  This scheme provides a three tiered approach, providing:
  - Information on missing sex offenders
  - A local search facility that allows members of the public to search their local area (by postcode) for:
    - Dangerous sexual offenders subject to supervision orders under the WA *Dangerous Sexual Offenders Act 2006*;
    - Serious repeat reportable offenders;

    - Persons who have been convicted of an offence punishable by imprisonment for 5 years or more, and concern is held that this person poses a risk to the lives or sexual safety of one or more persons or persons generally.

  The search results provide images of the offenders in the area, but does not provide addresses.

- **Increased public awareness** of safety and protective skills, specifically programs that build resiliency and empower children with the knowledge to keep safe.
- Strengthening of legislation in relation to the **continued detention of convicted offenders assessed as an unacceptable risk** at the completion of their sentence.
- Implementation of a **'two-strikes' legislation** for repeat sex offenders.
- **Strengthening of existing inter-jurisdictional and 'multi-agency' relationships** for the monitoring and treatment of sex offenders.
- **Improved access to rehabilitation programs**, both within and outside of custodial settings.
- **Access to treatment programs** for children and young people who display inappropriate sexualised behaviours.
- **Public education campaigns** on the myths and facts of child sexual assault, including offending dynamics.

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