

# Bravehearts Position Statement



## Bail Presumptions for Child Sex Offenders

Over recent months a number of concerns have been raised in the media on the release of alleged child sex offenders on bail. Cases have highlighted issues around the provision of bail for child sex offenders, the risk this poses to children and the community and the impact on victims.

**Bravehearts position on bail presumptions for child sex offenders is that the presumption should be against bail unless exceptional circumstances exist.** Exceptional circumstances may include:

- if a defendant is in need of urgent medical attention, or
- has an intellectual disability, or
- if the charges are related to offences where there is no evidence of direct contact with a child (such as possession of child exploitation material, where there is no evidence of creating or distribution), or
- if the offender no longer poses a risk to the victim or the community (such as through physical impairment).

We advocate that State and Territory governments review laws around bail presumption to ensure that the rights and protection of victims and the community are placed before those rights afforded to the accused.

### GRANTING BAIL

The legislation around the granting of bail varies across Australian jurisdictions. Broadly, decisions around bail for accused across a range of offences are made around the need to balance a number of sometimes competing rights:

- The rights and interests of the accused
- The likelihood of the accused adhering to conditions
- The protection of victims
- The protection of the community

Consideration is given to a range of factors including, but not limited to:

- The accused's background, including criminal history
- Any evidence around the likelihood of the accused absconding
- The number of concurrent charges
- The period that the accused may have to spend in custody if bail was not granted
- The nature of any criminal history
- The nature and seriousness of the offence/s
- The likelihood of the accused breaching conditions

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It is Bravehearts' position that there should be a presumption against bail for child sex offenders. The gravity of these types of offences and the impacts on victims underscores the inherent risks in releasing offenders on bail.

While some argue that the lack of timeliness in the court system and the rights of accused suggest that bail should be considered in all matters, our position is that there is a need to balance the rights of the accused with the rights and protection of victims and the community. Rather than release alleged child sex offenders back in to the community on bail, Bravehearts believes that more timely court processes need to be prioritised for sexual offences to ensure that matters are heard in a reasonable time frame.

Unfortunately we routinely see alleged child sex offenders being granted bail, including offenders with serious charges and who have a history of offending. Alarming too often breaches of bail conditions for sex offender are being reported.

## **BROCK EMIL DITTMAN**

October 2015: Former Scout Leader, Brock Dittman was granted bail in a Queensland court despite facing almost 130 charges of child sexual exploitation, including 7 counts of indecent treatment of a child and 14 charges of making child exploitation material. Dittman's offences occurred over a four year period from 2011-2015, while he was a scout leader and responsible for children between the ages of 8 and 11.

## **PATRICK COMEAGAIN**

July 2014: Serial rapist Patrick Comeagain had his bail renewed in the Perth Magistrates Court after he contravened conditions under a supervision order. Comeagain's serious sex offending history extends back to 1987 and includes offences against a nine year old girl and a number of women. He had been described in psychological assessments as a sexual sadist with psychopathic tendencies.

## **KENNETH CLARKE**

October, 2014: A serial sex offender charged with stalking a 17 year old girl over several months was granted bail in Brisbane. Clarke's criminal history involves sexual crimes, going back to the 1980s, against women and young girls, including sexually assaulting a five year old girl and a ten year old girl. The Crown argued that his 'deplorable' criminal history indicated that his risk of reoffending could not be addressed and that he should not be granted bail.

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## QUY HUY HOANG

November 2014: The maths tutor accused of sexually offending numerous young girls from the age of 5 was granted bail on four occasions. Charged with four counts against on August 3<sup>rd</sup> and refused bail at the police station, Hoang was released on bail the following day by a Sydney Court. Charged with further offences against further victims on September 2<sup>nd</sup> and again refused bail at the police station, the Court granted him bail on the 3<sup>rd</sup>. After the police appealed the granting of bail, the Supreme Court rejected the appeal on September 15<sup>th</sup>. On September 25<sup>th</sup> further charges were laid, again police refused bail and again the Court granted Hoang bail the following day. Police had found 50 photographs of children on his phone and believe he poses an unacceptable risk.

## MAURICE VAN RYN

November 2014: Maurice Van Ryn, a high-profile business man, pled guilty to 23 child sexual assault offences against boys and girls from as young as eight years of age from 2006 to June this year. Although the Crown argued that Van Ryn posed a flight risk, the New South Wales Court released him on bail. Media reports suggest that bail was granted to allow Van Ryn to attend a wedding and have a number of assessments completed.



NEWS

### Accused child sex offender granted bail with conditions

22nd Jan 2014 5:15 AM

MARYBOROUGH Magistrate John Smith has granted bail to an accused child sex offender.



### Alleged child sex offender bailed

December 16, 2004 - 4:27PM

A man accused of raping a boy who subsequently robbed and killed a 73-year-old woman was today granted bail under strict conditions in Melbourne Magistrates Court.



### Patrick Comeagain remains on bail as repeat sex offender seeks legal advice

Posted Thu 24 Jul 2014, 12:31pm

A repeat sex offender remains on bail after appearing in a Perth court charged with breaching one of his release conditions.

## Tathra child abuse guilty plea, Attorney General raises concerns over bail

Nov. 27, 2014, 9:48 a.m.

## Teacher Quy Huy Hoang accused of sexually assaulting students, but granted bail four times

- by: EXCLUSIVE Janet Fife-Yeomans
- From: The Daily Telegraph
- November 06, 2014 12:00AM

## Serial sex offender breaches bail just days after release

March 19, 2014, 2:06 p.m.

## Queensland police outraged as child-sex accused gets bail in Brisbane

- by: James O'Loan & Anna Chisholm
- From: The Courier-Mail
- April 16, 2011 12:00AM

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