

Community Notification Laws

OUR POSITION:

Bravehearts believes that a public register, based on the Megan's Law approach, will not achieve the intended aims of preventing sexual offences and enhancing safety. Our recommendations include:

- **The duplication nationally of the Western Australian Community Protection legalisation which provides for the restricted public disclosure of limited information.**
- **Strengthening of existing inter-jurisdictional and 'multi-agency' relationships for the monitoring of sex offenders post release.**
- **Increased public awareness of safety and protective skills.**
- **Improved access to rehabilitation programs, both within and outside of custodial settings.**
- **A focus on providing support to address factors associated with risk of reoffending**
- **Identifying and providing prevention and early intervention programs with sex offenders.**

Background

The public disclosure of a sex offender's information has become a popular response to the risk released offenders pose to the community, with the main objective to increase public safety.

In 1994, the tragic case of seven-year-old Megan Kanka, who was sexually assaulted and murdered by her neighbour, a previously convicted sex offender released into the community, provoked significant public outrage in the United States. This outcry led to the establishment of Megan's Law, which mandated that all states inform the public about registered sex offenders residing in their communities, a process known as SORN (sex offender registration and community notification). Typically, this process takes the form of websites that allow residents to search for sex offenders living in their area, and providing personal details, offence details and address (Corrigan, 2006).

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. There is now considerable public debate and pressure to introduce such public notification laws into Australia

Sex Offender Registration in Australia

Non-public registration of child sex offenders has been in place in Australia since 2000, based on the UK *Sex Offenders Act 1997*. Managed by the Australian Criminal Intelligence Commission (ACIC), the National Child Offender System (NCOS), provides police across jurisdictions to record and share information on registered child sex offenders (this includes addresses and contact details, as well as information on vehicles, employment, club memberships and any children the offender has contact with).

The NCOS consists of the Australian National Child Offender Register (ANCOR) and the Managed Person System (MPS):

- * the ANCOR allows authorised police officers to register, case manage and share information about registered persons. It assists police to uphold child protection legislation in their state or territory
- * the MPS holds information on alleged offenders who are charged but not convicted, or after an offender's reporting obligations have been completed.

(<https://www.acic.gov.au/services/protection-services>)

In addition, many Australian jurisdictions provide police with the discretion to notify, or disclose to, relevant agencies and personally effected individuals, certain details relating to released, adult, serious child sex offenders where an obvious risk exists.

The Western Australia Model

In 2011, WA introduced legislation (<https://www.communityprotection.wa.gov.au/>) which provides for the public disclosure of limited information relating to released, adult, repeat child sex offenders. This law was introduced in response to public outcry following the sexual homicide of a seven-year-old girl in 2006 (Whitting, Day & Powell, 2016).

This scheme provides a three-tiered approach, providing:

1. Information on missing sex offenders
2. A local search facility that allows members of the public to search their local area (by postcode) for:
 - a. Dangerous sexual offenders subject to supervision orders under the Dangerous Sexual Offenders Act 2006.
 - b. Serious repeat reportable offenders.
 - c. 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.

3. Parents or guardians with the option to enquiry on whether a person of interest, who has regular unsupervised contact with their child, is a reportable offender.

Individuals who attempt to search the database also must verify their identity, and any photographs that result after a search are watermarked with the full name of the citizen who performed the search, allowing the source of illegally reproduced photographs to be traced. Safeguards were also implemented to lessen the risk of vigilante behaviour, including the introduction of legislation criminalising vigilantism (Whitting, Day & Powell, 2016).

There is no question that there needs to be a commitment to child protection across in Australia, and the issue of a publicly available, national register of child sex offenders has been part of public discussion for some time, with a number of very strong voices advocating for the introduction of legislation based on the Megan's Law model in the United States.

Impact of Community Notification Laws

Community notification laws are an attractive approach to the community, and there are founded fear and frustrations felt by communities. The intended benefits of these laws are suggested to include increased public safety, assisting in reducing recidivism, altering offenders' behaviour and heightened surveillance and supervision of offenders. These are all extremely worthwhile objectives, but evidence has not supported the capacity of community notification to attain these goals

Impact on safety of children and young people

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 safeguarding them against the dangers of specific, known individuals.

Importantly, a national public register will only ever tell us about a small number of offenders. A large proportion of individuals who sexually harm children and young people never come to the attention of the authorities and therefore would not appear on a public register. Research consistently tells us that only a small percentage of survivors will disclose, with a smaller percentage of offenders have charges progressed against them, and fewer still facing conviction. In addition, registers tend to hold information related offenders convicted of the most serious offences, and also do not include offenders where their identity may lead to the identification of victims.

Impact on reoffending

Research into the effectiveness of sex offender registration and notification laws, such as Megan's Law in the United States, generally show that these measures do not lead to significant reductions in recidivism. While research is mixed and may suggest that these laws impact differently on different offenders, several research studies have ultimately found that the implementation of community notification laws did not result in a reduction of recidivism for sexual offenses, nor did it contribute to the prevention of sexual crimes in the wider community (Napier et.al., 2018; Zgoba, Jennings, & Salerno, 2018; Zgoba & Mitchell, 2023).

It has also been suggested that notification may, ironically interfere with its stated goal of enhancing public safety by exacerbating the stressors (e.g., isolation, disempowerment, embarrassment, hopelessness, shame, stigmatisation, depression, anxiety, lack of social supports etc) that may trigger some sex offenders to relapse. Community sex offender registration and notification laws have been shown to have adverse impacts on offender reintegration factors, such as the ability to obtain housing, employment and prosocial supports, all of which have been shown to be significant protective factors against reoffending (Grossi, 2017). Studies suggest that the likelihood of reoffending among convicted sex offenders increases when their personal and offense-related information is publicly available, as this can lead to significant psychological, social, or financial challenges.

Impact on offender monitoring

Compliance to register and keep authorities informed have been shown to be low in numerous studies. Estimates suggest more than 750,000 Americans are registered sex offenders (Hoppe, 2016), with anywhere between 5 and 50% of noncompliance with state registers. Although some reports claim over 100,000 sex offenders are 'missing' in the US, other evidence suggests this number does not reflect a true account on the number of missing sex offenders (Levenson, 2013). In 2021, the Sex Offender Tracking Team at NCEMEC provided support to law enforcement with over 22,160 requests to help find noncompliant sex offenders who were not living at a registered address.

Research seems to indicate that there is a much higher compliance rate where the registers are not made public. The difference between compliance rates may be able to be put down to whether the notifications are made public, with research suggesting that offenders are less likely to comply when knowing that their information will be made public.

Bravehearts Position

While public notification laws can be seen as a form of tertiary prevention in optimal circumstances, they can also be viewed as fundamentally counterproductive to the goals of prevention.

Bravehearts believes that a national public register, based on the Megan's Law approach, is ill-informed and will not achieve the intended aims of preventing sexual offences against children and enhancing community safety. We believe it will not have any real impact on deterring offenders or providing community members with a means for managing potential risks. Our recommendations include:

- 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 Community Protection legalisation which provides for the restricted public disclosure of limited information relating to released, adult, dangerous, repeat child sex offenders.
- Strengthening of existing inter-jurisdictional and 'multi-agency' relationships for the monitoring of sex offenders post release.
- Increased public awareness of safety and protective skills, specifically programs that build resiliency and empower children with the knowledge to keep safe.
- There is a need for improved access to rehabilitation programs, both within and outside of custodial settings.
- A focus on providing support to address factors associated with risk of reoffending warrants greater attention (e.g., the Circles of Support and Accountability (COSA) model).
- Identifying and providing prevention and early intervention programs with sex offenders is critical in any holistic approach to protecting communities and addressing sexual offending (e.g., the Stop it Now model).

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