

# TRANSCRIPT

## LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

### **Inquiry into Management of Child Sex Offender Information**

Melbourne—Thursday, 22 April 2021

#### **MEMBERS**

Ms Fiona Patten—Chair

Dr Tien Kieu—Deputy Chair

Ms Jane Garrett

Ms Wendy Lovell

Ms Tania Maxwell

Mr Craig Ondarchie

Ms Kaushaliya Vaghela

#### **PARTICIPATING MEMBERS**

Dr Matthew Bach

Ms Melina Bath

Mr Rodney Barton

Ms Georgie Crozier

Dr Catherine Cumming

Mr Enver Erdogan

Mr Stuart Grimley

Mr David Limbrick

Mr Edward O'Donohue

Mr Tim Quilty

Dr Samantha Ratnam

Ms Harriet Shing

Mr Lee Tarlamis

Ms Sheena Watt

**WITNESS**

Dr Mark Zirnsak, Senior Social Justice Advocate, Uniting Church in Australia, Synod of Victoria and Tasmania.

**The CHAIR:** Welcome back, everyone, to the Legislative Council Legal and Social Issues Committee Inquiry into the Management of Child Sex Offender Information. Again, please ensure phones are on silent.

Welcome back to everyone who is watching online. We are very pleased to have with us today Mark Zirnsak from the Uniting Church in Australia, Synod of Victoria and Tasmania. If I could introduce you quickly to the committee—I think many of them you know—we have Kaushaliya Vaghela, Ed O’Donohue and Stuart Grimley here today. We may have some other members coming in online during these proceedings.

If I could just give you some formal information for witnesses, all evidence taken is protected by parliamentary privilege as provided by our *Constitution Act* but also the Legislative Council standing orders. This means that any information you provide to this inquiry today is protected by law. However, if you were to repeat it outside this hearing, it may not have the same protection. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

As you can see, we are recording today and transcribing. You will receive a transcript of this hearing, and I would encourage you to have a look at it and make sure that we have not misheard or misrepresented you.

If you would like to make some opening remarks to us, then we will open it up to committee questions and discussion. Thanks again for making the time.

**Dr ZIRNSAK:** Thank you for the opportunity. I would like to start off with, as per our submission, probably the leading thing we would like to see happen or the committee recommend: that AUSTRAC is given direct access to the Victorian sex offender register. Our understanding is that currently even though they can get indirect access it does actually create administrative friction in their work, and it would be much simpler if they could just have direct access. We cannot see any and we have not been provided with any good reason at this stage why that would be inappropriate. Given it is confidential—it is between effectively agencies involved in law enforcement activities—that would seem to make a lot of sense to us. That is something that we would like to stress.

As per our submission, we do have some concerns, though, about—if the committee was to have a mind to doing this—making the current sex offender register fully public. As outlined in our submission, what is of most concern for us is it actually could increase sexual offences in the community. The reason for that is it can interfere with both treatment and also simply rehabilitating offenders back into the community. There is quite a bit of evidence, and we did look at some of the psychological research. We particularly looked at a paper by Michael Proeve and Kevin Howells that looked at the role of shame within the rehabilitation of offenders and found that if offenders were shamed, the evidence is quite strong that it inhibits rehabilitation activities and makes it more likely that they will fall back into recidivism per se.

We have regular conversations with the Australian Institute of Criminology because we are very interested in always looking at where the evidence is that is going to lead to making the community safer. Particularly we have a very strong focus on how we prevent crimes. We think preventing crimes is far more desirable than allowing the crime to happen and then punishing the person afterwards or doing something after it has happened. It is a better outcome all around wherever we can get prevention.

The Australian Institute of Criminology has generally pointed us to two bodies that do assessment of crime prevention work globally, and they look at research from across the globe and then do assessments on it. One is the Washington State Institute for Public Policy and the other one is the UK College of Policing’s What Works Centre for Crime Reduction. The Washington State Institute for Public Policy has actually done an assessment of public sex offender registers. It rated them as only 30 per cent likely to result in the benefits outweighing the costs and they estimated there was a net cost of having a public register of about \$2300 US per participant. Generally you are looking for measures that on their assessment actually have a net benefit. You actually want a positive number, not a negative number generally, and I will come back to that.

The thing we probably stress for the committee is that, from having a look at the literature quite extensively, what we found is there has been a lot of focus on, and rightly, a lot of measures that have been proposed for dealing with sexual abuse within institutions and prevention of it from institutions, and absolutely that has been a very strong focus. When we looked for literature that strongly backed up what measures were effective at preventing sex offences more broadly in the community, we tended to find there was not as much literature. We looked at the national action plan on protection of children and we looked at the national action plan on preventing violence against women and children, both of which are commonwealth and state efforts, and we could not see a lot of research literature that was backing up measures within that. Maybe we missed something or maybe there are papers out there—we are always happy to learn and find more within that space—but therefore we actually think there is probably value in exploring what other measures might be more effective. The Australian Institute of Criminology quoted the Centre for Innovative Justice at RMIT, who pointed out that with sex offences against children it is only about 1 per cent of cases that actually result in either the offender pleading guilty or being successfully prosecuted.

**The CHAIR:** That is in child sex offences?

**Dr ZIRNSAK:** That was child sex offences. So you then would say actually it would feel like the biggest benefit any government or parliament could deliver us would be: how do we actually prevent all those other child sex offences in the wider community that are taking place, or how do we increase detection rates and conviction rates? But if your starting point is 1 per cent, it feels like it is going to be very hard to get that number up substantially, assuming that number is correct.

The evidence we heard seemed to suggest improving mental health services, family violence services and more broadly family support services, and I note that the current Victorian government, with the support of Parliament, has been putting efforts into a number of those areas. The mental health system has just been through a royal commission and the government has committed to a whole lot of measures there, so we will need to see the impact of that. We also acknowledge that when you do work in those spaces it can be very hard to often link it. If you spent a whole lot of money helping families to be more stable, how many child sex offences did that prevent? That is very hard to establish.

But if we then come back to and just look at this very narrow group of people who have actually been caught and either pleaded guilty or have been convicted and therefore are people who have ended up on the sex offender register, if you just look at those people, if you look at the measures that might be effective in dealing with them, on top of the list—interestingly, but surprisingly for us—from both the UK College of Policing and the Washington State Institute for Public Policy was actually electronic monitoring. That actually was found to be rated the most highly effective, with the biggest benefit or return for investment of the cost of doing electronic monitoring, although the UK College of Policing did suggest it was more effective when it was used either as an alternative to incarceration or as a reduction in incarceration. Their argument was that by removing an offender from an environment where they were exposed to other criminals and putting them in an environment where they had employment and probably were still connected with their family, there was a clear benefit to reducing recidivism and providing community safety.

The other ones: treatment services were seen to be less effective but certainly more effective than a public register, and that was treatment services both within incarceration and in the wider community. There were assessments done on those. The UK College of Policing probably took a less positive view on those compared to the Washington State Institute for Public Policy. And then finally, as I mentioned, the register was rated quite low in those assessments.

The final thing I will mention too that we had some concern about is we looked at the psychological research around the notion of righteous anger, and there is some research to say that righteous anger that people feel can play a really positive role, because it is about addressing injustices in the community. But on the flipside that sense of righteous anger—and sexual crimes often promote that sense of righteous anger—can also be self-serving. It can be about alleviating a person's own guilt and boosting their own sense of moral character. If you make policy out of that sense of righteous anger, if it is coming from that other place, potentially you end up supporting things that might be popular but in actual fact might either not have a positive benefit or, even worse, might actually make the situation worse and actually reduce community safety. So we think there is certainly a role and the community should absolutely be outraged at sex offences and be looking to seriously address them, but we think the focus needs to be really strongly on what is going to work to prevent them in the first place ideally and then what is going to provide community safety in line with that as well.

I am happy to open up for discussion and questions.

**The CHAIR:** Thanks very much for that. Thank you for your submission, which the committee has received, and also the letters—I can see your work in there. We did ask the police about AUSTRAC. They pointed out that they would share anything they could with AUSTRAC. They felt that the system of openness and reporting they had now was effective. We might see in that national scheme, which is still a work in progress, where those intelligence groups like AUSTRAC fit in. I just had a question: I was wondering if you had looked at Western Australia and the limited disclosure schemes that they have in Western Australia and whether the synod or whether you had any comments on that scheme.

**Dr ZIRNSAK:** It is not black and white. It is not you make it fully public or you keep it entirely private. I notice the UK also made a submission to the inquiry that talked about their scheme, where it is sort of on application. Look, we could not find any research, and I noticed even the UK submission did not point to any evaluation as to what the impacts of that were. You would still need to weigh up if the concerns are: does this result in a sense of people who have served the rest of their sentence, they are now out in the community but they know people might access this information—if that bolsters a sense of shame, will it impact on any treatment that they are undertaking and undermine treatment and rehabilitation efforts? So you would need to think about that. Again, like I said, I do not know that there is any research to actually demonstrate whether that is the case. I mean, obviously there is a potential benefit. If you are saying, ‘Well, someone who worries they’re in contact with this person and wants to find out if they’re on the register’, you could potentially see a benefit, definitely, in doing that. But there is also still that question that was in there about vigilantism and could a vigilante apply for access to the information, make a spurious claim about why they are actually chasing the information and then misuse it? Again, there is not the research. I mean, all those things are at this stage, as far as I am aware, a bit more speculative, but it also means the benefit at this stage is relatively speculative without some sort of proper evaluation or research that I am not aware of. Now, maybe it is out there and I have not found it, but—

**The CHAIR:** With the information that is provided now—and again, as you say, it is not black and white—the Victorian police actually do disclose information in certain circumstances and when it is warranted. Apart from AUSTRAC, do you think there are other ways that the register that we have today could be used effectively, in sharing it with other agencies, or do you think that runs the risk of unfortunate disclosure? If we are sharing the list with everyone, do we risk it being used for bad—you know—for nefarious purposes?

**Dr ZIRNSAK:** To a degree we already have other systems that allow for some levels of disclosure—I mean, all our police check systems, our working with children check systems that already apply to a whole lot of people who would come into contact with children or with vulnerable people. The new disability worker scheme here in Victoria also allows for some of those checks. You already have other systems that are providing some of those checks, so I am not kind of aware that doing more with the current sex offender register would somehow—I cannot see an obvious gap. There is nothing that anyone has raised with us that obviously indicates, ‘Oh, there’s a major problem here. We didn’t know or there was no way of getting access to that information’.

**The CHAIR:** In that case, your recommendation around AUSTRAC—there are not many agencies that can actually go straight in to the register. From the conversation I think it is really just other police agencies. So for AUSTRAC to go in there, I am wondering if you can give me a scenario of where that benefit would be in giving another agency access to that database.

**Dr ZIRNSAK:** Sure. I think what has happened, very commendably for AUSTRAC, is that they have set up a specialised unit of staff that deal now with just child sex offence crimes, so they have the banks and financial institutions and other reporting entities under the *Anti-Money Laundering and Counter-Terrorism Financing Act* looking for suspicious transaction patterns that would trigger an alert. Certainly it is in the public realm. The whole thing that occurred recently with the banks, with Westpac, around the fact that Westpac did not have an adequate system for looking for the live webcam sex abuse offence regime, where you are looking for multiple small payments to different remitters—in the Philippines in this case. So when AUSTRAC gets that information, my understanding is that it would be of benefit to them to check: is the person where this intelligence about their transaction patterns actually on a sex offender register somewhere, which would then red flag them further up the list in terms of priorities of investigation. As you can imagine, AUSTRAC just gets a sea of information and it has to prioritise and risk assess where to most put its resources to do that. Our understanding is that making this change would assist them and speed up and reduce some of that friction. So

they can get access to the information—that is true—but it creates a little bit of extra friction that probably we do not see any benefit in having.

**The CHAIR:** I am assuming that AUSTRAC has access to the national register because the nuance that we are hearing with the Victorian register is it is actually about the management as well. So it is not just about name, address and date of birth; it is also all of the management processes. So it is that system, where the national register is probably a more unified information database.

**Dr ZIRNSAK:** Our understanding was that AUSTRAC did see it as a problem that they did not have access directly to the state registers in terms of their work. I have got to say we have not had a conversation about whether that was mitigated in some way through the national register.

**The CHAIR:** Through the national scheme, yes. Thank you. Kaushaliya.

**Ms VAGHELA:** Thanks, Chair. Thanks, Mark, for your submission and for your time today. In your earlier remarks you mentioned that prevention is a better way or is a way to tackle this issue that we are talking about—child sex abuse. One of our terms of reference is to improve public awareness. In your view, what role can public awareness and education campaigns or activities and other resources play in reducing the incidence of child sex offences?

**Dr ZIRNSAK:** Look, my understanding in that space is that that kind of information needs to be well targeted and there needs to be an understanding of both how those who perpetrate offences operate and also who are the people most likely to be vulnerable or to be their targets. So the eSafety Commissioner certainly has done a lot of work in that space, and they would be an example of where they are using evidence-led education schemes. Certainly going to their conference there were various presenters talking about which kinds of education methods are more effective and which are less effective. I mean, not on sexual offences, but one of the presenters gave an example of where there have been education schemes telling young people, ‘Don’t share naked photographs’, and they have found they are really ineffective because what you actually need to help young people is to say, ‘When an intimate partner asks you for a naked image, these are the things you can respond with’—rather than just ‘Don’t send it’, actually give them tools and information about what to say instead and how to manage it. That is why I am sort of saying sometimes we jump to education and sort of say we will just do broadbrush education, but I think this is definitely an area where you need the research to back up where best to target the education—who does it need to be targeted to and what are the ways that are going to be best to deliver that and an evaluation of those things, because it is going to be a bit of a trial and error around that.

**Ms VAGHELA:** So if that is the case, we see and we have seen an increased presence of children online on the internet and also on social media. I am not sure whether it would work or not, but do you think awareness for parents, letting them know that sharing their children’s photos or information on social media—I mean, are parents fully aware of the consequences of those? Is there any way that that can be raised as part of awareness? And are parents aware, while they are busy with their online work and the children are playing with the screen, who they are talking to?

**Dr ZIRNSAK:** For this we looked extensively at the work by Mary Aiken, who is a cyberpsychologist—Irish. She does a lot of work with law enforcement agencies as well. The thing she has pointed out is, look, there is benefit to parental education but there are limits as to how far you can actually expect parents to address this. And there are actually things about the online world—if we are moving into the online world—where you have actually got the companies that have set up the online world having created a space that actually is inherently unsafe in the way it has been created. So there are a whole lot of issues there about how that should be regulated to make it a safer place. Again, the eSafety Commissioner is doing a whole lot of work around safe by design. But the stuff Mary Aiken would talk about—you know, the response to that is that the research, to my understanding, shows that kids will know what is unsafe online but they might still engage in risky or unsafe behaviour online. So knowledge in itself does not necessarily provide the motivating factor against that protection. Secondly, if parents are trying to then police their children’s use of devices, it often drives the children to be more deceptive, to hide their stuff. And also it is very hard to police—you know, children have access to so many devices these days, the idea that any parent can oversight their children’s use of it—

She also points out particularly that originally when the tech companies in the US were set up the US law effectively said social media companies should not be allowing anyone below 13 to have an account without

their parents' permission. Effectively the tech companies have completely ignored that requirement and there is no enforcement of that legal obligation in that space. But again, there is a kind of pointing out that—from memory it is around that sort of 10- to 12-year age—children have reached a point where they are technologically capable but they have not got the psychological development to understand the full consequences of the kind of harm that they could fall into. She sort of compares it to a parent saying that allowing your kid onto a device at the age of 12 is like taking your kid to the middle of New York City and sort of dropping them off in the street and expecting them to fend for themselves. But she points out there is a real limit to putting a whole lot of obligation back on parents. They have a role, but it becomes a very easy out for the big tech companies to sort of say, 'Oh well, it's all just back to the parents'. And they have created a whole lot of products too. If you have got a program where you can send an image that deletes itself within 5 seconds of having been viewed—right?—these are products that are not designed to help parents. If the idea was parents should be the ones doing greater oversight of their children's use of devices, they are not really great spaces for that to happen.

So I think the shorter answer to your question is, yes, education has a role, but it needs to be backed up, particularly in the online world, with a whole lot of other safeguards, regulations, change both in corporate behaviour but also governments being willing to step in where corporates are not willing to create safe environments.

**The CHAIR:** Thank you.

**Ms VAGHELA:** I will come back in the second round for the second question.

**The CHAIR:** Sure. Stuart.

**Mr GRIMLEY:** G'day. Thanks, Mark. Thanks for your submission. I just wanted to clarify and go over a couple of things.

**Dr ZIRNSAK:** Sure.

**Mr GRIMLEY:** You mentioned the release of information publicly based on studies. I think you mentioned Proeve and Shane, was it—the reports you referenced in relation to you could see an increase in sexual offences in the community? I think it was near the beginning.

**Dr ZIRNSAK:** Well, I talked about them. No, I talked about the role of shame within treatment services. If I go back to look at the evidence, I do not think any of the sources actually presented concrete evidence of offences having gone up.

**Mr GRIMLEY:** Yes. I just wanted to clarify that. I was not too sure if I heard it because I was taking notes at the time.

**Dr ZIRNSAK:** No, no, that is fine. So the paper I quoted was by Michael Proeve and Kevin Howells, and the paper was 'Shame and Guilt in Child Sexual Offenders' in the *International Journal of Offender Therapy and Comparative Criminology*. So it is a 2002 paper, and they look at that role of shame within. So having spoken to others who work with people who have engaged in sex offences and are trying to do rehabilitation work with them, they have certainly indicated great concern that where shame comes in it may push offenders towards a greater risk of them reoffending and not complying with the rehabilitation or not getting the full benefit of the rehabilitation—

**Mr GRIMLEY:** Okay. And I heard your reference also to the Australian Institute of Criminology.

**Dr ZIRNSAK:** Yes. And I have obviously quoted that paper quite extensively in the submission.

**Mr GRIMLEY:** Yes. Is that the 'What impact do public sex offender registries have on community safety?', that one?

**Dr ZIRNSAK:** Yes.

**Mr GRIMLEY:** Yes. Because I thought I heard something about increasing sexual offences in the community, and I thought, 'I don't remember reading that anywhere', but I am happy to stand corrected and be directed as to where it was.

**Dr ZIRNSAK:** No. What I am saying is I think what has been identified in the literature is there is a risk that it could drive up. I do not think the research currently shows that anyone has proven that that is an outcome, but I think it is a very serious risk if you are thinking about a measure you could do. I would say, if you really wanted to target offenders, given the evidence of electronic monitoring being effective and proven as a way of reducing harm without the possibility of vigilantism, without the possibility of potentially—you know, you have clearly reduced recidivism through that mechanism. Well, that could be a way to go if you were going down evidence led, whereas I think there are a lot more risks around a public register.

**Mr GRIMLEY:** Yes. The fact that the research is complex—this whole issue is very complex and complicated. I totally understand about the research, trust me; I have tried to get my head around a lot of this. And it is commonly known throughout those that report on these matters that there is a distinct lack of reliable data and research. A number of them have said that it does not reduce recidivism—it remains the same. There are some reports saying that it does reduce recidivism. So there are arguments for and against that we have certainly come across, and that is from the Australian Institute of Criminology. But I will get back to when you mentioned vigilantism as well. I was just interested to know that argument for vigilantism and where that comes from from your perspective. Is that based on research reports and so forth?

**Dr ZIRNSAK:** We do quote in our submission—there is the source there. It was Maggie Hall's 'Sex offender registries don't prevent re-offending (and vigilante justice is real)'—that is an example.

**Mr GRIMLEY:** Do you know where that is from, what year?

**Dr ZIRNSAK:** That was in the *Conversation*. So she published that in the *Conversation* in January 2019.

**Mr GRIMLEY:** Okay. But do we know where that came from, that information?

**Dr ZIRNSAK:** I would have to go back and look at the piece as to where she is quoting from.

**Mr GRIMLEY:** I would be interested to know what report that is based upon. I will make reference to, and we have spoken briefly about, the Western Australia model. And I have spoken before—I am not too sure if you are familiar with that model at all. It is an access—

**Dr ZIRNSAK:** Access by request.

**Mr GRIMLEY:** It can be accessed by request. They have introduced as part of the legislation a substantial 10-year imprisonment for those that commit vigilante offences against people that they have accessed the register for, and out of the over 390 000 times the website has been accessed, only three have been charged and convicted. So the vigilantism in particular in Western Australia is extremely low. I just wanted to understand where you are coming from with that report.

**Dr ZIRNSAK:** Sure. But that would indicate—I mean, that is a different sort of model, and that is a more restricted access model. That clearly is setting you up, but the fact that despite the fact they have got a penalty there you have had some incidence of vigilantism sort of suggests an even greater caution if you were to simply make it open slather as a public register. Even in a regime where you have got restricted access and there is an offence for vigilantism, already there have been a couple of offences. You would have to be very cautious then about opening up to being a completely public register in that sense. And as we talked about, as Fiona raised before, the kind of restricted access model is a different model, and there is not, as far as I am aware, a lot of evaluation or research on those more restricted access models.

**Mr GRIMLEY:** There is only one report from the Western Australia model that I refer to, the most recent report. I would be interested to know if you can supply to the committee, in your view or the Uniting Church's view, of any instances in which you think the release of information to the public could be of value?

**Dr ZIRNSAK:** Around?

**Mr GRIMLEY:** Any information about convicted child sex offenders—do you think there would be times where the release of that information in the public sphere would be of value?

**Dr ZIRNSAK:** Well, I think, as was already raised, the police already make evaluations about times when, with release of information, the possible benefit for public safety outweighs the risk of other negative consequences. I would trust that they make good judgements in making those decisions, so I would not take a

blanket view that never should information—what we would argue is that the release of information needs to be evidenced based and the assessment of clear likely benefit needs to outweigh the clear likely risks of negative consequences.

**Mr GRIMLEY:** Yes. I have no more questions. Well, I do have more questions, but I will go around again.

**The CHAIR:** Thanks, Stuart. Kaushaliya.

**Ms VAGHELA:** Thanks, Chair. I would like to know a little bit more about the electronic monitoring that you referred to earlier.

**Dr ZIRNSAK:** So my understanding of those schemes as they are assessed—on electronic monitoring, the UK College of Policing’s What Works Centre for Crime Reduction looked at a metadata assessment conducted in 2017. The systematic review looked 33 studies examining the effectiveness of electronic monitoring on offences. Twelve studies were identified that examined the effectiveness of electronic monitoring specifically on sex offenders, and three contained sufficient information to carry out meta analysis and were included in the subgroup analysis. So the argument was that by electronically monitoring, you are able to have the person more likely to attend any rehabilitation or courses they are required to do, and obviously they are aware that if they go somewhere they are not supposed to go, it will be detected. They also talk about the effectiveness being removing them from that connection with other people, peers who might lead them to offend. What is the other part of—

**Ms VAGHELA:** So in your view, do you think we should be looking at that over here?

**Dr ZIRNSAK:** I am saying that if you were evidence led and you were choosing between measures, you would say, ‘Well, this one there is strong evidence for’. Now, that said, as I said, I would actually probably say, ‘Well, actually, I think we should be looking at things in the broader community that will reduce sex offending in the first place’, because as I mentioned earlier, if we are saying only 1 per cent of offenders actually get caught, the people we are looking at who have actually been caught and end up on a sex offence register is a very small number. And even of that number my understanding is the majority of that cohort are likely to be a danger more to their extended family than to the wider community. So the number of offenders who have gotten caught and are on the register who are threat to the wider community feels like a very, very tiny number. So therefore the benefit of focusing only on them feels small compared to if you can find measures that actually would have to have a benefit in the wider community to reduce sex offences.

**Ms VAGHELA:** And the last one is just a follow-on question from what Mr Grimley asked. One of the terms of reference is to investigate the circumstances in which the details will be released, and we heard from Victoria Police as well that they release on the basis of the risk assessment. Do you think that is working, or are your views different—there should be additional circumstances added or the ones for which they are releasing the information are not correct? Or have you got any views in terms of what circumstances should be looked at?

**Dr ZIRNSAK:** No. Look, we did not look at that specifically. We did not look at the current release of police information and how effective that was.

**Ms VAGHELA:** Yes, because you have clear views that it should not be publicly—

**Dr ZIRNSAK:** Yes. What we have said is we think on the basis of the evidence the likely risks of harm outweigh the likely benefits. We are using the assessment of the research that is out there, and as I said, we have relied there, too, on the assessment of the Washington State Institute for Public Policy. And also, given you have got alternative measures you could be looking at as a Parliament that we think are likely to be more effective and there is more evidence for them being effective, you kind of go, ‘Why would you go to this one if you could do all these other things first?’. So it has been very evidence led. Now, again, if there is additional evidence, our mind is always open to being changed, and if it can sort of be demonstrated there are very clear benefits and the risks are lower than what are perceived or speculated on, then we can—

**Ms VAGHELA:** Yes. I just wanted to know whether the current system is effective. That is what I wanted to know, because you do have—

**Dr ZIRNSAK:** Yes. Unfortunately we are not in a position to make that assessment.



**Ms VAGHELA:** Thank you.

**The CHAIR:** Stuart.

**Mr GRIMLEY:** You have taken my thunder. I am sure you are reading my questions.

**Ms VAGHELA:** I am reading your mind.

**The CHAIR:** She has got very good glasses.

**Mr GRIMLEY:** It is scary. So I just want to clarify something as well. You spoke about or I believe you spoke about non-public registries do appear to reduce reoffending. Is that what you said?

**Dr ZIRNSAK:** What I indicated was that our understanding from talking to law enforcement is they find value in non-public sex offender registers because it actually helps them with management of offenders and helps with ensuring people comply with treatment. And that intelligence sharing, like I said, with AUSTRAC—you do want AUSTRAC to be able to help law enforcement, for example, detect if someone is offending online and then if they have got a planned trip to go overseas to continue to engage in a direct-contact offence. You do want that ability. So if the law enforcement agents are saying, ‘These are useful intelligence tools that actually help us prevent crime’, I cannot see any—at this stage I am a little doubtful about what the downside on that is. I do know, I mean I am aware, there are papers out there that talk about, you know, it is a civil liberties intrusion and so forth—valid points to have a discussion around—but I think on that one we would lean on the side of saying we are probably persuaded that if it is a benefit in reducing crime and preventing crime, particularly if it is of a very serious nature, then it serves a very important purpose.

**Mr GRIMLEY:** And in terms of the terms of reference—and you may or may not be able to answer this question—we are also seeking information in relation to improved public awareness. Can you elaborate if the Uniting Church is involved in any way or considering or has any suggestions, ideas, recommendations in terms of how we can report back to the Parliament in terms of how we can prevent sex offences from occurring through improved public awareness?

**Dr ZIRNSAK:** Yes. Going back to that, I mean, that was the earlier sort of exploration. I do think the eSafety Commissioner is doing a lot of work in that space, and it certainly would be worth definitely a conversation with them about it. They have staff dedicated to this area. I mean, within the church we have dedicated staff that do education around this for our own members, particularly because, you know, we are an institution that is under the requirements—rightly so—because of what happened in the past. So we do engage in that.

In terms of being able to evaluate, though, I am aware there are some real challenges about evaluating the effectiveness of some of that training as well. I think the information from the Royal Commission into Institutional Responses to Child Sexual Abuse highlighted some of the challenges I kind of pointed out—you know, even for workers working with children. You do your education, you are kind of alerted to what to look out for, and the reality is in your working life you might only ever encounter one person who is engaged in grooming or some sort of child sex offence stuff, and because of that—it is not something that is happening regularly for you—the gap between when you were trained and when you might actually encounter that person could be quite long. And there are a whole lot of issues there. That person will normally have built a relationship with you, so you are suddenly having to report a suspicion on a colleague. That carries a lot of, you know, anxiousness about that, because if I get it wrong, if I actually say this person is doing something, I have destroyed my working relationship with them.

So there are kind of all these things that point to the difficulty of when you do that. So it is similar in a church environment. People have built relationships with each other. Someone who might come into a congregation will clearly try and build relationships with people. So it is trying to make sure that when we are educating our members about detecting and looking for that we are trying to make sure that is as effective as possible, recognising there are some real challenges in making that kind of educated approach effective. But I absolutely think there is a role for education. I actually think it does play a beneficial role. But I think we have also got to be able to recognise it has got limitations and we also need to be really focused on the research that actually is going to show us how to make that educative effort as effective as it possibly could be.

**Mr GRIMLEY:** And you mentioned the Uniting Church being part of that report. We speak about the low risk of recidivism—the 10 per cent figure has been thrown about—but would it be fair to say that the impact of sexual offences in particular against children is significantly higher than any other offending? Would that be fair to say?

**Dr ZIRNSAK:** Look, it would be absolutely fair to say that sexual offences against children are very, very harmful. I mean, anyone who needs to be persuaded on that should read the reports by the Canadian Centre for Child Protection. They have done extensive interviews. Particularly their focus was on children who were harmed through sex offending in the online environment, but horrific clearly, and lifelong impacts on people's lives. There is no need to be persuaded of that. I also think on the recidivism figure, we are cautious about those recidivism figures because there are two factors in there. One is given the low detection rates of sexual offences—a recidivism figure is only for offenders who get re-detected. I am certain there is a cohort in there who have reoffended who were not detected. We do not know what that number is, so recidivism figures could be higher for that reason. On the flip side you could make an argument to say but people who have offended are more likely to be under scrutiny so their reoffending might be more likely to be detected. Both of those are somewhat speculative arguments. I do not know the research that would quantify either of those factors, right. So therefore any recidivism figure, particularly on sexual offence, needs to be treated with some caution, would be my response to that.

**Mr GRIMLEY:** Okay. Thank you, Chair.

**Mr O'DONOHUE:** There is clearly an evidence gap in—

**Dr ZIRNSAK:** I think the other point, though, to be fair to the researchers, is some of these things are really, really super hard to research, right, and it is almost impossible to develop a methodology that can give you a concrete answer. Even if you threw a bucketload of research at some of these things proving linkages—I mean, it is a common problem for government with any sort of educative campaign you run. We have done stuff in the gambling and harm prevention space in a previous interaction you and I have had, and often the test there was: how effective was this? Well, we go out and we survey people and we ask them: did they see the ad, and can they recall what it said? It does not actually tell you did it change their behaviour and how many people's lives did you prevent gambling harm for, right. There are similar sorts of problems in a lot of these educative spaces.

**Mr O'DONOHUE:** Absolutely.

**The CHAIR:** And it is even difficult because there are such low reporting rates, and it is also why people do not report. Now, sometimes when you speak to victims—I know at the Reintegration Puzzle conference they were saying they just want it to stop. It is a family member, they are not of a mind to report them to police, but they do want it to stop. It is a wicked problem how to increase that reporting, and I do not think we have found the solution to that. With low reporting rates we have got low numbers on our sex offender registers presumably because of that as well.

**Dr ZIRNSAK:** Indeed.

**The CHAIR:** I do not have any further questions.

**Ms VAGHELA:** I have one.

**The CHAIR:** Kaushaliya, please.

**Ms VAGHELA:** Thanks, Chair. Mark, my understanding is that once the data is collected and it goes on the register, the child sex offender register, it stays there for an indefinite period. The data does not get deleted, so once you are on the register it stays there. Even if the person passes away, the information still stays there in that register. What are your views in terms of the risk associated with that? Say, for example, if there is a data breach and the entire register gets published or a malicious attack happens. The person may have passed away 20 years ago. The person is not here anymore to defend himself or herself, but now the family has to deal with this information that has become public. So what are your views on having this information for an indefinite period once it goes on the register?

**Dr ZIRNSAK:** Look, I think there is value in examining how long information should be on a register for and also recognising different categories of people who have offended in this space. I do note in other jurisdictions my understanding is that you might be on a register for different periods based on the nature of the offence, and I think there is some value in thinking about that if you think about the circumstances. So talking to, for example, people who work with people with disabilities, mental impairments or mental health issues who have engaged in sexual offences, for some of them there is a cognitive gap in their understanding of what they have actually done, so you might actually say reduced culpability and the nature of the offending as well might actually be a justification for that person being assessed as not being a risk to the community or a risk that needs to remain on the register. My view would be a person should stay on the register as long as they pose a reasonable risk and as long as there is an assessment that there is a benefit for law enforcement agencies to have access to that information.

I think on the issue of breach—look, I would hope that our law enforcement agencies are given sufficient resources by government to have as robust systems of defence to breaches as possible. I think, thank goodness, we have not had those kinds of breaches in Australia. Often it feels like government and law enforcement agencies have done better at protecting information than a lot of private entities have managed to do, so I think credit there, but I think that is probably something government also needs to turn its mind to to make sure, when we have those very sensitive bits of data—and certainly that is not the only thing that would be very sensitive that governments hold about citizens and residents—that those systems have as robust cybersecurity as possible. But nothing is ever going to be completely bulletproof, so I guess that is a risk we face. Therefore it is a valid question about how long should a person be on there and when should their information be removed, so I think they are very valid questions to be examining.

**Ms VAGHELA:** So were you aware that it stays on that register for an indefinite period—

**Dr ZIRNSAK:** No, I had not been aware that—

**Ms VAGHELA:** even after the person passes away? So you are saying it should be risk assessed?

**Dr ZIRNSAK:** Indeed, and I am struggling to see the benefit of having information about a deceased person on the register.

**Ms VAGHELA:** While the person is alive that is understandable, but my question was if the person has passed away and after 10 or 20 years, due to whatever reason, that information becomes public—it becomes a nightmare for the families to deal with because the person is not there anymore to defend himself or herself or to face the consequences.

**Dr ZIRNSAK:** The only possibility I could see in that space might be if someone comes forward and makes a report of a historical sex offence and you want to check if that historical offence is relating to a person who then has passed away.

**Ms VAGHELA:** There should be a separate historical register then, rather than—

**Dr ZIRNSAK:** Possibly. There is also a cost to maintaining information as well, so in actual fact cleaning up a register can often be of benefit to the agency that has got to maintain that information. I think they are the kind of things that need to be weighed up. I can imagine circumstances in which there is a direct benefit to having historical information in case a historical report comes forward about someone who is deceased—even if that would be valid, I am wondering what the utility of it entirely is.

**The CHAIR:** That information would still be available even if it was not on the register.

**Dr ZIRNSAK:** Indeed.

**Mr GRIMLEY:** Can I just make a comment, Chair?

**The CHAIR:** Yes, of course you can, Mr Grimley.

**Mr GRIMLEY:** Just on that note, I think through the LEAP database, the law enforcement database that police access, if a person is deceased, it is notified that they are deceased—and this goes for every living person—but you can still see their criminal records, which does, as you said, come in very handy for investigative purposes, particularly for historical abuse cases. I know for one that I have located a registered sex

offender who committed offences against a victim. That person had identified—description, everything. We were able to find that person. And although they were deceased, I can tell you that the relief for the victim knowing that that was the person and that they were doing the right thing was life changing for that man, who was very elderly I must add. So that information can be useful for investigative purposes, and it can also identify other offenders as well from there, so there are benefits to having that information there rather than just expunging the whole lot when a person dies.

**Dr ZIRNSAK:** Yes.

**The CHAIR:** Sure.

**Dr ZIRNSAK:** They are the kind of factors that I would have said need to be examined about what is the cost of having it on the register versus, again, what is the benefit.

**The CHAIR:** Yes, and I think having it on LEAP versus having it on the register is probably the conversation, so, yes, that data—

**Mr GRIMLEY:** But the information that is on the register and the information that is on LEAP is very similar in terms of the offences that have been committed—that is what we were referring to.

**The CHAIR:** Fantastic. Thank you. Thank you, Mark. That was really useful. Thank you for your work in this area and many other areas. There are no further questions. The committee will recess now and reconvene at 1 o'clock. Thank you.

**Witness withdrew.**