



28 October 2015

**Submission on the Child Protection (Child Sex Offender Register) Bill.**

Chair  
Social Services Select Committee  
Parliament  
NEW ZEALAND

**This submission is from:**

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I would be available to speak to this submission.

Ngā mihi nui,

Tara D'Sousa  
National Manager

## **Introduction:**

Social Service Providers Aotearoa (SSPA) is the New Zealand umbrella organisation for Ministry of Social Development funded non-government providers working with children, young people, families, and communities. SSPA is a registered Incorporated Society (2000) open to all Section 396 Child & Family Support Services (providing Foster Care and residential services) and Section 403 Services (providing Community Services) within New Zealand, approved under the Children Young Persons and their Families Act 1989 and other providers contracted by the Ministry of Social Development. Associated members hold contracts with other Ministries – Justice, Education, Health etc. With a membership of approximately 200 social service providers in 16 regions, SSPA represents an approximate collective capacity of several thousand trained staff.

SSPA is governed by a National Executive Committee elected from among provider practitioner-leaders by the membership body at an annual AGM for a two year term. The current Executive consists of regional representatives as well as representatives of Māori, Pacific, Asian, refugee and migrant providers. A National Manager and Events and Administration Officers are based in Wellington.

SSPA exists to support member service providers to make a positive and significant difference in their communities through their work with children, young people and families. SSPA runs best practice professional development for member providers through the provision of resources, facilitation of forums, regional meetings, seminars and conferences. Effectiveness and efficiency of social service practice and decision-making across the sector are also our concern.

SSPA Member providers run services ranging from the macro community development to micro level targeting of family issues using theories of attachment, neuroscience and resilience, providing critical intervention with families. The objective of this emerging paradigm is to create safe and nurturing environments for all children and communities in which families are supported through formal services and informal social networks. Exemplar services are:

1. Integrated strengths-based models: e.g. In Canterbury: Right Service Right Time (single-entry, multi-disciplinary continuum of services) and Early Start (research-based intensive home-based model, the prototype for Family Start); in Manawatu: Te Aroha Noa (holistic, wrap-around services).
2. Crisis intervention and specialist services: violence crisis support, child and youth bed-nights, day programmes, safe-houses, foster and respite care placements, mediation and Family Disputes Resolution.
3. Specialised individual, family and community services: sexual / physical / emotional abuse social work and counselling services for children, young people, adults and families, alcohol and drug services, violence intervention and prevention through education for men, women and children, mental-health services, advocacy, mentoring boys and girls, family therapy, family reconciliation.
4. Culturally appropriate models to meet the needs of marginalised and oppressed communities.

Given our collective practice experience with child protection and associated family and therapeutic work, we are interested to make submission on three critical points in the Child Protection (Child Sex Offender Register) Bill.

Please note the views in this submission do not represent the views of all SSPA members, rather they are the initial conclusions reached by the National Executive. This submission is presented as follows:

- (a) General comments;
- (b) Comments on key aspects of the Bill
- (c) Recommendations.

#### **a) General Comments:**

1. SSPA notes and supports the intent of the Bill “to reduce sexual reoffending against child victims, and the risk posed by serious child sex offenders by providing government agencies with the information needed to monitor child sex offenders in the community and providing up-to-date information that assists the Police to more rapidly resolve cases of child sex offending.”
2. As a collective that works closely with the child statutory agency Child Youth and Family and other government departments tasked with care and protection, SSPA supports and has often canvassed for appropriate levels of information sharing between relevant agencies as a recognised effective way to minimise harm and inform intervention.
3. The Bill in its current form proposes a “one size fits all” approach. Cultural aspects have not been factored (see #6 below) and the extent to which it will apply retrospectively when offences may have been legislated differently and specific risk will vary hugely (Clause 6: Offenders to whom Act applies).

#### **b) Comments on Key Aspects of the Bill**

##### **b. i) Bill of Rights Act**

4. We are concerned with the report from the Attorney-General that indicates that this Bill as drafted is inconsistent with sections 9 and 26 of the New Zealand Bill of Rights Act, because of the implications of the disproportionate level of an individual’s detail being on the Register. It includes name, date of birth, address, names of any children living at an address or where a registered person may be living, details of any club or organisation with which they are affiliated that might also have child participation, details of motor vehicles, all and any phone numbers, details of service providers for phones, details of internet service providers, and details of login names, usernames, and passwords. This is an extraordinarily comprehensive array of information about a human being and could contravene his / her privacy.
5. This Bill’s Regulatory Impact Statement (RIS - Treasury and Police) says, “The proposal does have some human right implications. As a result of the proposed legislation all future eligible child sex offenders, and those serving an eligible sentence or order on the date the new legislation is enacted, will have less privacy of personal information (a civil right) than other members of the population.” The obligation to report is for the lifetime of the offender regardless of the degree of ongoing risk they pose to the community.

6. In many indigenous cultures names are often given to carry “whakapapa”. It is very common for Māori and Pacific whānau to name children after tupuna / tuakana. This means in the same household there may be more than one person with the same first and last name, placing risk of mistaken identity on the wrong person.
7. There is also potential for the security or otherwise of such a register to be breached and for officials’ human error in managing levels of information sharing. The RIS also says, “The proposal also seeks additional information sharing provisions with government agencies and where senior Police (Inspector level or above) or Corrections staff consider a child is at risk from sexual re-offending by a registered child sex offender, they may disclose information about the registered offender’s offending history to third parties.”

**b. ii) Information released to a third party**

8. (Clause 43: Disclosure of information to affected person where threat to child safety or welfare) We are concerned about the potential for information released to a third party finding its way into the public arena.
9. If the public have access to the information on the Register there is a likelihood of severe negative impact given appalling examples of the public engaging in bullying of the whānau of offenders who share no blame/culpability/responsibility for the offending. The public in general are not understanding of how to deal with such information.
10. Information should be available for professionals/Police/CYF/sexual violence specialists to use to keep kids/youth and whānau safe. Judicious information sharing will be required to achieve this goal as it is also clear from research that the ability to rehabilitate offenders is undermined if their information becomes public. Those who have sexually harmed manage to re-offend less if they are able to live productive and healthy lives and are not harassed.
11. Offenders are not all the same; many will offend just once and never again and others are serious repeat offenders. The Sex Offender Registers are problematic in that they tend to treat them all the same regardless of the actual level of risk.

**b. iii) Will the establishment of a child sex offender register make our children safer?**

12. A Sex Offender Register can give a ‘false sense of security’ because so few abusers are ever prosecuted – currently it is believed that approximately 1% of sexual offences are successfully prosecuted. People often misinterpret the absence of a name on a register as an indication of safety.
13. There is insufficient international evidence that such Registers actually reduce risk for children. The RIS says “There is limited research evidence from other jurisdictions about the effectiveness of sex offender registers and the best practice for long term monitoring of high risk sex offenders in the community after their sentences end. This has meant that an estimate of the value of the anticipated benefits has not been possible.”
14. It is well evidenced that the greatest risk comes from people who are known to their child victims. It will be vital to share offender risk information with child protection professionals to ensure that children living with or having contact with offenders have well-informed and skilled protective adults in their lives.

15. From a child's point of view we need a much better level of knowledge about harmful sexual behaviour from every angle to make things safer: primary prevention so that abuse doesn't start or is 'outed' very quickly, clear legislation, much better criminal prosecution success, better informed professionals and public, better access to treatment programmes.

### **iii) The cost of this legislation**

16. The RIS also states that the 10 year cost of the register is \$146 million. This includes the capital and operating costs of setting up and running the Register and the operating costs associated with managing the people on the Register. \$85 million will come out of existing baselines. \$61 million of new funding will be required.
17. The Statement says "There is insufficient information to undertake a cost-benefit analysis of this proposal.....Over ten years, it is estimated that 4 to 34 child sex offence convictions may be prevented, as well as the prevention of many undisclosed, or unreported child sex offences."
18. The risk is that the high spend on the Register and the belief that this will fix the problem translates into the reality of it providing only one tool and subsequently reducing resources to spend on other critical areas.
19. Some estimates put the proportion of sexual abuse incidents that are not reported as high as 95 per cent (National Crime Intelligence Service UK, 2005). As a result, it is believed that the majority of adults who pose a sexual risk to children are not in the criminal justice system<sup>1</sup>.
20. Another U.S based study found "no support for the effectiveness of registration and community notification laws in reducing sexual offending by: (a) rapists, (b) child molesters, (c) sexual recidivists, or (d) first-time sex offenders. Analyses also showed that over 95% of all sexual offence arrests were committed by first-time sex offenders, casting doubt on the ability of laws that target repeat offenders to meaningfully reduce sexual offending."<sup>2</sup>

### **c) Recommendations:**

1. That care be given to the wording of the Bill so that it reflects the intent of creating an effective tool rather than creating opportunity to do harm.
2. That there is coherence between this Bill and the Bill of Rights Act.
3. That the costs of setting up the Register be proportionate to the evidence in terms of benefit and that resources are made available for long-term solutions to address the hidden demographic of offending.
4. Invest in research and evaluation of other means of reducing offending such as specialist offender treatment, primary preventive education, as well as working with children, young people, families and communities about recognising harmful behaviour.

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<sup>1</sup> Assessing the Risk; Protecting the Child, E. Belton Jan 2015: <http://www.nspcc.org.uk/services-and-resources/research-and-resources/assessing-the-risk-protecting-the-child-evidence-evaluation-report/>

<sup>2</sup> Does a watched pot boil? A Time-Series Analysis of New York State's Sex Offender Registration and Notification Law, Sandler, Freeman & Socia, 2008: <http://www.rethinking.org.nz/images/newsletter%20PDF/Issue%2078/C%2002%20watchedpot.pdf>