



Child Protection (Child Sex Offender Register) Bill **Social Services committee**

The Salvation Army New Zealand Fiji and Tonga Territory Submission

BACKGROUND

1. The Salvation Army is an international Christian and social services organisation that has worked in New Zealand for over one hundred and thirty years. The Army provides a wide-range of practical social, community and faith-based services, particularly for those who are suffering, facing injustice or those who have been forgotten and marginalised by mainstream society.
2. We have over 90 Community Ministry centres and Churches (Corps) across the nation, serving local families and communities. We are passionately committed to our communities as we aim to fulfil our mission of caring for people, transforming lives and reforming society through God in Christ by the Holy Spirit's power.¹
3. This submission has been prepared by the Social Policy and Parliamentary Unit of The Salvation Army. This Unit works towards the eradication of poverty by encouraging policies and practices that strengthen the social framework of New Zealand.
4. The Social Policy and Parliamentary Unit has consulted with The Salvation Army Reintegration Service for the purposes of this submission. The Salvation Army Reintegration Service is contracted to work with men and women who have a high risk of re-offending and limited or no other support. Clients must have served at least two years in prison. Most have serious criminal convictions of a sexual nature. The service is contracted to support up to 500 released prisoners a year, with some receiving six months of support, including a flat to live in for 13 weeks, and support for a further 13 weeks in their own accommodation. The focus of the Reintegration Service is helping clients normalise and find their place within the community and helping clients keep to the safety plans drawn up to help them avoid reoffending.
5. This submission has been approved by Commissioner Robert Donaldson, Territorial Commander of The Salvation Army's New Zealand, Fiji and Tonga Territory.

¹ <http://www.salvationarmy.org.nz/our-community/mission/>

THE SALVATION ARMY PERSPECTIVE

6. The Salvation Army supports any measures that meaningfully and effectively improve the protection and welfare of our vulnerable children.
7. The worthy intention of this Bill is to manage risks of harm and improve information sharing between agencies in order to achieve this aim. However, The Salvation Army has some significant reservations about whether aspects of the Register as currently constructed by the Bill will effectively improve the safety of children.
8. Given that effective rehabilitation of offenders is one of the most effective tools in promoting long-term community safety, The Salvation Army is concerned that aspects of the Bill are counter-productive.
9. Public debate around criminal offending, particularly in relation to child sex offenders, is often based on rhetoric and emotion rather than experience and evidence. Individuals and groups tend to be polarised or labelled as supporting 'offenders' or 'victims' or being 'soft' or 'tough' on crime. In 2007 The Salvation Army released its report "Beyond the Holding Tank", which sought to cut through these false dichotomies. The report focused on the importance of having an evidence based and reasoned discussion about the effectiveness of various approaches in reducing crime and recidivism, and pointed the debate towards more positive and rehabilitative criminal justice practice.
10. The Salvation Army reiterates the sentiments expressed in this report, and advocates that the Social Services select committee carefully considers the practical implications of this Bill, and is not swayed by emotive rhetoric that is not grounded in a nuanced understanding of offenders in this category and what contributes to and minimises the risks that they may pose.

SPECIFIC RESPONSES

Clause 34: Lack of review or appeal

11. *The Salvation Army opposes the lack of opportunity for review of an offender's name on the Register.*
12. Clause 34 of the Bill makes it mandatory for a registerable offender to comply with the Register's reporting obligations for a minimum of 8 years, with the potential of lifetime reporting for those who have been sentenced for a class 1 offence.
13. Whilst an offender's reporting obligations may be suspended under clause 35, there is no formal mechanism to remove an offender's name from the register.
14. The requirement that an offender remains on the register for a significant amount of time, including the possibility of their entire lifetime, promotes the message that child sex offenders are incapable of rehabilitation, and are more likely than other offenders to reoffend.
15. This view is not necessarily based in evidence or experience:
 - a. As of 2015, approximately more than 70 per cent of the clients of Salvation Army's Reintegration Service, a high risk group, had stayed out of prison for more than a year.² Whilst some do reoffend, many others make it as safe members of society.
 - b. The Department of Corrections conducted a study of 1,100 sex offenders released between 2001 and 2003, and discovered that the re-imprisonment rate for serious reoffending of adult sex offenders (35%) was twice that of child sex offenders (17%).³
16. Placing offenders long-term on such a register, and the hope that it will improve safety is also based on the assumption that sex offenders are a homogenous group who pose *equal* threat of re-offence. However the literature on sex offenders confirms that their characteristics vary greatly, including their risks of re-offending.⁴ This suggests that a more tailored approach to manage individualised risk may be more appropriate and more effective.
17. Under the current Bill, even those who are successfully treated and rehabilitated and are considered "safe" will face the stigma and punishment of remaining on such a register, even long after their sentence and parole conditions have lapsed. This creates a "double jeopardy"

² Robin Raymond. "Beyond the Prison Gate" (19 September 2015) The Salvation Army New Zealand, Fiji and Tonga Territory: Our People, Our Stories <www.salvationarmy.org.nz>

³ Department of Corrections "Reconviction Rates of Sex Offenders: five year follow-up study" (16 August 2011) Resources <www.corrections.govt.nz>

⁴ New Zealand Police and Department of Corrections *Regulatory Impact Statement: Child Protection Offender Register and Risk Management Framework* (August 2015) at 9.

and is not consistent with New Zealand law, which affirms the right not to be subjected to disproportionately severe treatment or punishment.

18. It is noted that the Attorney General has confirmed that the lack of review mechanisms in this Bill makes it inconsistent with section 9 of the Bill of Rights Act and section 26(2), and that this cannot be justified under section 5.⁵ It is concerning that this Bill breaches these fundamental rights and cannot be justified.
19. ***The Salvation Army recommends that the Bill be amended to include a provision that makes it mandatory to review whether an offender's name should remain on the Register***

Clause 43: Flawed conceptions of public safety

20. ***The Salvation Army submits that a Register without sufficient safeguards on its use by the public can actually create conditions that may lead to re-offending.***
21. Currently in clause 43 the Bill allows for disclosure of information to a third party, if the Commissioner believes on “reasonable grounds” that the offender poses a threat to the life, welfare, or sexual safety of a particular child or particular children.
22. It is submitted that there is a lack of clarity around what “reasonable grounds” may be. If this assessment is unrestricted and broad, the Register effectively becomes one in which it is available to members of the public, rather than being limited to relevant agencies for appropriate information sharing.
23. Currently there is no data to directly support that public registers achieve their intended goal of keeping the community safe and reducing the risks of reoffending.⁶
24. Public Registers often lead to circumstances where offenders are punished and stigmatised by their community leading them to frequently encounter problems in employment, housing and physical safety.⁷ Comprehensive research has been conducted in the US and Australia where child sex offender registries are public. A study on offenders placed on the Florida registry found that the majority of sex offenders had not been allowed to return home and therefore did not have access to supportive family members.⁸ Half of released offenders had been forced to relocate several times, which increased feelings of isolation and loneliness.
25. These conditions can actually be counter-productive to reintegration into society after release and *increase* the likelihood of re-offending. One participant in the Florida study

⁵ Christopher Finlayson *Report of the Attorney General under the New Zealand Bill of Rights Act 1990 on the Child Protection (Child Sex Offender Register) Bill* (6 May 2015).

⁶ Charis Dixon “Sex Offender Registries: no safer for being scared” (17 July 2014) JustSpeak <www.justpeak.org.nz>

⁷ Charis Dixon, above n 6.

⁸ J Levenson and L Cotter “The Effect of Megan’s Law on Sex Offender Integration” (2005a) and “The Impact of Sex Offender Residence Restrictions: 1,000 Feet From Danger or One Step from Absurd?” (2005b) 2(1) *Journal of Contemporary Criminal Justice* 49.

stated: “What helps me [not reoffend] is having support people around... isolating me is not helpful”. This is consistent with the experience of The Salvation Army Reintegration Service. Having appropriate people who are willing to accept and support clients post-release has been crucial to their successful reintegration and in preventing reoffending.

26. Public awareness may be better expressed in harm prevention. For example, the ‘It’s not okay’ campaign had success in increasing the reporting levels of family violence, which in turn, allowed for intervention and promoted safety in our communities.
27. Given the low reporting rates of child victims of sexual abuse, improved education in schools and in the media on identifying and speaking out about inappropriate sexual behaviour and physical touching could be one effective way of protecting children from sexual violence, rather than a sex offender register that currently has the potential to become public and be misused through vigilante justice.
28. ***The Salvation Army recommends that further clarity be given to the safeguards in the Bill to prevent the Register being misused and becoming public.***

Targeting effective measures

29. ***The Salvation Army recommends that the Register is not used as a “silver bullet” to minimise the risk of harm from reoffending by known child sex offenders.***
30. This Bill focuses on addressing the risks presented by high-risk offenders through criminal justice legislation, and follows the trend of measures such as the “three strikes” legislation, the introduction of public protection orders and the enhancement of extended supervision orders in 2014.
31. The Salvation Army submits that increased monitoring or punitive measures cannot be meaningful without a broader understanding of the complex nexus of contributing factors that lead to reoffending.
32. Clause 15 of the Bill requires that a registrable offender must make an initial report to the Commissioner of all relevant personal information within 72 hours of being released from custody in relation to a qualifying offence, or being made subject to a registration order.
33. This report includes a significant list of potential personal information under clause 15, including an address, a bank account number, an email address and any potential employer.
34. Whilst the report does not require that these details are all in place, such a list is based on the assumption that most offenders are able to engage in these basic societal resources immediately when they are released from custody.
35. This assumption is not necessarily grounded in reality. Without the assistance of reintegration services that provide support to ex-prisoners in finding appropriate accommodation or employment, many ex-prisoners, particular those with a qualifying

offence, struggle to find stable housing or employment post-release. The following statements describe some of the experiences of the clients of the Salvation Army Reintegration Service in Christchurch:⁹

“If you come from Rolleston Prison, you take that last van ride to Papanui Prison, to be released from there. Then the gates open and you’re just told to walk. Basically, ‘See you’.”

Tim remarks that the disused Addington stockyards, near central Christchurch, are a popular place to sleep rough. “I was starting from zero, because I haven’t made good decisions in my life and when you get to this age it’s hard. But it’s not starting from zero if you have a place to live.”*

A staff member tells a story of a group of prisoners released just before Christmas a few years ago who ended up living rough on the banks of the Waimakariri River and coming to The Salvation Army church in Belfast for basic living assistance and help getting the documents they needed to get life started again.

“I don’t think the government can say they’re serious about helping [with reducing reoffending] without more of this [reintegration support].”

“We have made horrendous mistakes, there’s no doubt about that. I went through a programme inside. It costs a hundred and something thousand to put us through that, they said. If they’re going to put us through that there’s got to be the ongoing support. If guys don’t get that support [when they get out], the only option is to go back inside.”

36. Stable housing is thought to reduce reoffending by ex-prisoners by up to 20 percent,¹⁰ and stable employment and connections to the community (within the confines of a safety plan) play an important role in reducing the likelihood of recidivism and negative associations for those in “the aftermath of imprisonment.”¹¹
37. Prioritising these factors is therefore vital in any strategy to minimise the risk of harm from reoffending by known child sex offenders.

CONCLUSION

38. The Salvation Army prioritises the protection and welfare of children, and is committed to the Bill’s goal of minimising the risk of sexual abuse harm to such a vulnerable population. However, The Salvation Army has concerns about the Bill in its current state and its ability to

* Name has been changed.

⁹ Robin Raymond. “Beyond the Prison Gate” (19 September 2015) The Salvation Army New Zealand, Fiji and Tonga Territory: Our People, Our Stories <www.salvationarmy.org.nz>

¹⁰ Alice Mills, Katey Thom, Angela Maynard, Claire Meehan, Jacquie Kidd, David Newcombe and Deborah Widdowson *Meeting the housing needs of vulnerable populations in New Zealand* (Transforming Cities, University of Auckland, 2015) at 17.

¹¹ JustSpeak *Unlocking Prisons: How we can improve New Zealand’s prison system* (Wellington, Rimutaka Printing Press, 2014) at 111.

positively and effectively create change in this area. It is recommended that robust review mechanisms and sufficient safeguards on the Register from becoming public be implemented in order to prevent counter-productive implications and vigilante justice.

39. The Salvation Army also urges the Government to increase its support of other measures that contribute towards reducing reoffending. Effective post-release reintegration, rehabilitation services and preventative action is vital in any strategy to minimise the risk of harm from offending or reoffending by child sex offenders.