

'DANIEL'S LAW'

AUSTRALIA'S PUBLICLY ACCESSIBLE SEX OFFENDER REGISTER

Daniel Morcombe Foundation Opinion Paper

The *Daniel Morcombe Foundation* aims to make Australia a safer place for all children by enabling them to reach their full potential, free from the damaging life-long effects of sexual harm and abuse.

The Foundation helps children, educators and families to recognise the signs of harm, and respond in safe, trauma informed ways. *The Foundation* proactively supports the counselling of young victims of crime; By providing healing pathways to recovery, acknowledging the need to counteract the long lasting and multifaceted, detrimental effects of childhood sexual abuse.

Recently, the Australian Home Affairs Minister (Hon. Peter Dutton MP) pledged \$7.8 million of funding directly to the establishment of a National Public Sex Offender Register citing the register's creation as possessing a 'strong deterrent effect' on child sex offending patterns. Encouraging the belief that knowledge and information is power, the National Public Sex Offender Register will advise residents of the whereabouts of convicted child sex offenders, to ensure that Australian families can effectively protect their loved ones.

Bruce Morcombe had the following to say regarding the National Public Sex Offender Register proposal: *"This is not a silver bullet, but it's the latest step in the Government's fight to keep kids safe. We can't undo what has been done, but we can focus on what we can change. With the register, the criminal comes second. What is number one is protecting our kids. It will protect kids."*

Daniel's Law

In December 2003, 13-year-old Daniel Morcombe was abducted and murdered by twice convicted paedophile Brett Cowan.

Since 2014, the Morcombe family have publicly supported and advocated for the development of a publicly accessible sex offender register in Australia - referred to as 'Daniel's Law' in honour of the Morcombes' son Daniel.

Aims

'Daniel's Law' would ensure the register is freely accessible to the community, federally funded and understood more broadly as an educational tool. The register can aid in the safety of children by allowing people, *"in the privacy of their own home"* to be educated about the geographical whereabouts of high risk convicted offenders.

The register would greatly assist single parents who are most at risk when looking for a new relationship online. To reiterate this point, Bruce offered the following anecdote: *"Just relate to our personal story, Brett Cowan was married and his wife had no idea about his previous offending - he had been convicted twice - and went to jail for very violent crimes against kids."*

The register would focus on protecting and informing the community. The register could also act as a deterrent for those individuals who commit crimes of a sexual nature against children.

Bruce expressed in support of the register being a strong criminal deterrent: *"If you are a person with a warped interest in young children, you need to seek help. They're not just going to get a slap on the wrist by the courts, their name has the potential to be listed on this website forever and surely as a human being you don't want to go there."*

Features

The Foundation believes that the register should capture the key identifying particulars of Australia's most violent pedophiles, including all repeat or recidivist offenders.

The register would contain the following information:

- Offender's name, alias, and nickname
- Geographical area of an offender's principal place of residence
- Ability to statistically search an area for residing offenders
- Detail the general nature of their offending against children
- A current photo and identifying features namely tattoos, unique posture, unusual gait, or stance, hair colour, ethnicity and gender

"Cleanskins," Bruce commented, *"don't want to be on the register. Hence, they are not going to offend, they will think twice before committing those horrendous crimes against children."*

The register would NOT capture information that could assist in the identification of young victims of crime or include offenders aged under 18 years of age.

Accompanying the register would be strengthened vigilante laws to protect the physical wellbeing and safety of those listed on the register.

Bruce qualifies his stance accordingly: *"A Publicly Accessible Sex Offender Register has great merit. There needs to be adequate safety nets to deter and make it illegal for vigilantism or undue pressure for people on the register. There need to be adequate penalties, so people don't damage the offender's property, etc. If they do, they are breaking the law."*

The register would include all future sex offenders who have been found guilty of a sexually natured crime against a child, including those who have been prosecuted for the offence of downloading child sexual abuse material.

The register would include all the names of offenders who are currently incarcerated and those who have been previously incarcerated who possess extensive histories of repeat offending.

Individuals would remain on the register for a minimum period of 10 years and a maximum of 25 years (life). This may be adjusted based on a judge's sentencing, once released from jail.

Bruce and Denise are adamant the register must **not** identify any child victims and therefore every effort must be made to preserve their anonymity. Furthermore, the Morcombes advocate for continued efforts in providing tailored therapeutic intervention with a primary focus on children and young people displaying harmful sexual behaviour. They support national public education initiatives to empower and protect children and young people.

Current memorial legislation overseas

Internationally, there are several pieces of relevant child sex offender registration legislation including the United States, United Kingdom, and Canada. These were developed and implemented largely as a result of high-profile sexual assault cases involving young victims and expressed public outrage.

In the United Kingdom, 'Sarah's Law' was introduced after a public campaign by Sara Payne when her eight year old daughter Sarah disappeared from a cornfield near her grandparents' house. She was later discovered murdered by a convicted pedophile in 2000. The law (which came into effect in 2011), operates as a sexual offender disclosure scheme allowing parents, guardians and carers to lodge requests for specific information pertaining to relevant people of interest in contact with their children. Requests are stringently assessed

on a case by case basis. Research surrounding community attitudes to 'Sarah's Law' is typically supportive and request rates are lower than publicly anticipated.

Whilst the 'Sarah's Law' model does provide valuable information, this information is not publicly and freely accessible and, therefore, it is not aligned with the key features of the proposed 'Daniel's Law'.

In the United States of America there are several pieces of legislation which enable broad community notification and public disclosure laws. Comparative research exists comparing and contrasting the two international approaches. 'Megan's Law' became the real catalyst for registration.

In 1994, 7-year-old Megan Kanka, was raped and murdered by a neighbour, a twice convicted sex offender who had been recently released from prison. Public outrage over the crime motivated widespread legislative reform. 'Megan's Law' requires law enforcement agencies to release 'relevant information'.

The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act was enacted in 1994. It requires all states to notify the public of residential addresses of convicted sexual offenders. This legislation was named after the 1989 abduction and murder of 11-year-old Jacob Wetterling. This memorial legislation requires the implementation of a sex offender register for crimes against children and provides states with guidelines for tracking sex offenders. It mandates the tracking of convicted offenders following their release from corrective institutions. This legislation has been periodically amended.

The *Foundation's* opinion is that 'Daniel's Law' would be somewhat similar to the features of Megan's Law. However, we do not support the identification of a precise physical street address on the register.

The 2006 Adam Walsh Child Protection and Safety Act (AWA) required mandatory information to be recorded in registries and outlined what specific information would be made available to the public through databases. It is named the Sex Offender Registration and Notification Act (SORNA) and creates a baseline standard for sex offender registration and notification. It replaced a patchwork of federal laws, integrating both 'Megan's Law' and the 'Jacob Wetterling Act'.

In Canada, the abduction and murder of 11-year-old Christopher Stephenson by a convicted child sex offender resulted in a private sex offender registry (known as Christopher's Law) to be enacted in Ontario. Similarly, in Alberta after the murder of 5-year-old Jessica Koopmans.

The underlying premise for the implementation of 'Christopher's Law' was that if police knew the whereabouts of all convicted sex offenders living within the community, they would be better equipped to identify potential threats and focus on investigations. Reports indicate the compliance for 'Christopher's Law' registry was 96.78% in 2009. There are a myriad of explanations, one being that it was not a publicly registered system.

The existence, compliance and public support for 'Christopher's Law' and the relevant legislation in the United States legitimises the enactment of 'Daniel's Law'.

Support for the register

In response to Hon. Peter Dutton's proposal to create a single National Public Accessible Sex Offender Register of convicted child sex offenders, Queensland Member of Parliament Dan Purdie, the current Shadow Minister for Police and Counter Terrorism and Corrective Services made the following comments: *"There is only a small handful of dedicated staff that currently monitor the offenders on the national database. I therefore support the adoption of the Western Australian model which would assist the Police in fulfilling their duties of monitoring offenders."*

Mr Purdie validates the West Australian model by saying: *"We're relying on the honesty and integrity of paedophiles to report to the police when their circumstances change."*

Mr Purdie also noted that during his employment with the Queensland Police Service and anecdotally from his previous colleagues, funding and under resourcing remained an issue. He believes that the development of a National Publicly Accessible Sex Offender Register would provide community support that would assist police in their abilities to manage offenders.

"We need to give parents, schools and childcare centres a tool where they can make application to a register if they are concerned, or they have suspicions about someone in their community," Mr Purdie states in advocating for the establishment of the register.

Former Senator Derryn Hinch and his political party The Justice Party, remain staunch supporters of 'Daniel's Law'. They are committed to the development of a National Publicly Accessible Child Sex Offender Register. Mr Hinch supports a public register that should include offender's name, image, address, crime or crimes and the year of their offence.

Under resourcing, Mr Hinch explained, was a major short coming of the existing private registers monitored by dedicated police officers. Another significant failure is they are unable to be accessed by all general duties police.

Mr Hinch remains passionate in his anti-paedophile campaigning and the adoption of the Americanised public registers which have been active since 1996.

"People have a right to know!" Derryn Hinch.

Conclusion

Bruce and Denise Morcombe acknowledge that a National Publicly Accessible Sex Offender Register is, for many in the community, a controversial and polarising subject, with differing opinions and perspectives on the register's features, reporting requirements and supporting legislation.

If adopted nationally, along with early intervention programs for young people displaying harmful sexual behaviour and also a strong, unified, national education program to protect children, the benefits will be profound.

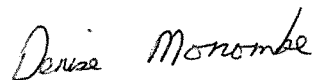
The Daniel Morcombe Foundation supports the establishment of this identification tool in placing a child's basic human right, "to be safe all of the time", first and foremost.



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19 AUGUST 2020



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