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Dear Department of the Legislative Council,

Thank you for providing a draft transcript of my oral evidence to the Committee on Legal and Social Issues on Thursday the 13th of May 2021. I have reviewed the transcript, and while there are a few words that appear inaccurate, I do not believe anything appreciably changes the substance of what I said in evidence. I am thus happy to have this stand as a record of my evidence.

Thank you also for requesting an answer to the matter that was taken on notice from Ms Maxwell during the hearing. I note that Mr Grimley has subsequently prepared a range of additional questions which were not raised during the hearing. I will now provide answers to each of these.

During the hearing, the following matter was taken on notice:

1. *MS MAXWELL (page 11): In relation to Forensicare: How many high-risk offenders would be in Forensicare? Providing relevant information or data, is there any connection between mental health and sex offending?*

Answer: Ms Maxwell's question regarding Forensicare was referring to the paper I cited by Reeves and colleagues (2018). This was a study that investigated the predictive validity of four actuarial risk assessment tools in the Victorian context (actuarial tools are mechanical in that the risk category is derived from the number of risk factors present, it is not the model of decision-making that I believe is optimal for assessing risk). Of the 621 offenders, the four different tools placed the following number of offenders into the high risk category: 165 (26.6%), 169 (27.2%), 68 (11%), and 52 (8.4%). It is unclear how many of these offenders would be deemed high risk following a thorough forensic clinical assessment.¹

Unfortunately I cannot answer the question as to how many high risk offenders would be at Forensicare at any given time. The study by Reeves and colleagues included offenders that had been clients of Forensicare between 1987 and 2011, who had been arrested and charged for a

¹ The full citation for this paper is: Reeves, S. G., Ogloff, J. R. P., & Simmons, M. (2018). The predictive validity of the Static-99, Static-99R, and Static-2002/R: Which one to use? *Sexual Abuse, 30*(8), 887-907.

sexual offence, and for whom there was enough information to score the various risk assessment tools.

In regard to the broader question as to whether there is any connection between mental health and sexual offending, it actually depends on how broadly one wants to define “mental health.” At a narrow definition, looking at psychotic and mood disorders, the literature shows that depressed mood itself is largely unrelated to sexual recidivism. Major mental illnesses involving psychosis or mania have a variable relationship with sexual reoffending. Most studies find little relationship. However, one large study from Sweden, that had access to official health and correctional records, found a large relationship between psychosis and sexual recidivism.² As such, it is thought that major mental illness can be a risk factor, but the conditions under which it is relevant are not yet clear. My opinion is that such illnesses do not cause anyone to sexually offend, but they can lower their inhibitions and ability to tolerate frustration (in a similar way to alcohol and/or substance misuse).

If one goes to a broader definition of mental health to include personality disorders and paraphilic disorders (i.e., sexual deviance), these do have relationships with sexual reoffending. Indeed, sexual deviance is the most potent group of risk factors and antisocial orientation (including antisocial and psychopathic personality) is the second most potent group of risk factors. In addition, low intelligence, and intellectual disability itself, has a small but consistent relationship with sexual recidivism across studies.³

Additional questions from MR GRIMLEY:

1. *In relation to high-risk adult sex offenders not currently being on the register: Why is this and given their risk to the community, how can we ensure the safety of the community?*

Answer: As noted during my oral submissions, this would appear to be a consequence of access to the registry being based on the name of the conviction rather than the risk of the offender. My understanding is that all sex offender registries are predominantly comprised of those who victimise children. A greater association between assessed risk for sexual recidivism, regardless of victim age, and allocation to the register may be advantageous. It would certainly be consistent with the risk principle of offender rehabilitation which mandates that the intensity of management should be matched to the level of risk.⁴ At present, some offenders that pose a high risk to adult females are only added to the Sex Offender Register after they are placed on a Supervision Order or Detention Order under the *Serious Offenders Act (2018)*. Nonetheless, as noted during my oral submissions, mere placement on a sex offender register does not reduce recidivism in most

² See Langstrom, N., Sjostedt, G, & Grann, M. (2004). Psychiatric disorders and recidivism among sexual offenders. *Sexual Abuse: A Journal of Research and Treatment*, 16(2), 139-150.

³ The best source of information regarding specific risk factors is an ongoing meta-analysis project (i.e., a study of studies; see Mann, R. E., Hanson, R. K., & Thornton, D. (2010). Assessing risk for sexual recidivism: Some proposals on the nature of psychologically meaningful risk factors. *Sexual Abuse: A Journal of Research and Treatment*, 22(2), 191-217; Hanson, R. K., & Morton-Bourgon, K. E. (2005). The characteristics of persistent sexual offenders: A meta-analysis of recidivism studies. *Journal of Consulting and Clinical Psychology*, 73(6), 1154-1163; and Hanson, R. K., & Bussiere, M. T. (1998). Predicting relapse: A meta-analysis of sexual offender recidivism studies. *Journal of Consulting and Clinical Psychology*, 66(2), 348-362).

⁴ see Andrews D. A., & Bonta, J. (2010). Rehabilitating criminal justice policy and practice. *Psychology, Public Policy and Law*, 16, 39-55; and Ogloff, J. R. P., & Davis, M. R. (2004). Advances in offender assessment and rehabilitation: Contributions of the risk-needs-responsivity approach. *Psychology, Crime and Law*, 10, 229-242.

studies so they do not ensure the safety of the community. However, such registries provide a crucial investigative resource for police.

2. *In relation to your comment that “one third of people lost their job [as a result of being on the register]”: How many of these were in occupations where they potentially work with children or vulnerable groups and where it would be inappropriate for them to continue in their work? Do you have the reference material to support this claim?*

Answer: I included the reference in my slides. The complete reference is: Lasher, M. P., & McGrath, R. J. (2012). The impact of community notification on sex offender reintegration: A quantitative review of the research literature. *International Journal of Offender Therapy and Comparative Criminology*, 66(1), 6-28.

This study found that “almost a third (30%) reported job loss” (p. 19). Being a quantitative review (i.e., a study of studies) the authors did not go into the level of detail that indicated specifically the type of employment. But there was nothing to suggest that they were being removed from inappropriate employment. Moreover, one would assume that people subject to a public registry would also have limitations on their employment, so my reading of this paper was that they lost appropriate employment when their employers were made aware of their criminal history because they were on a public register.

3. *In relation to your comment that “approximately 10 per cent of child sexual abuse victims are assaulted by someone they do not know”: Has this statistic factored in that often paedophiles and child sex offenders groom young children, so whilst they ‘know’ the person, it’s a result of grooming and prior to that, the abuser was not known to the victim (many examples of this can be seen in children’s sport such as gymnastics, martial arts and athletics to name a few)?*

Answer: By definition those are people that know their offender. But the question itself is contradictory. If someone is groomed by their sporting coach, they don’t “know” them as a result of the grooming, they know them because they are their sports coach. The grooming is made possible because of the unrestricted access that they are given to children by that initial role. As noted in my oral submissions, if the person has been convicted of a sexual offence against a child, and placed on the Sex Offender Registry, it is inconceivable that they would be granted a Working with Children Check in most cases.

4. *In relation to the discussion on the “continuum” of offenders: Should more weight be given to the ‘preferential’ or ‘situational’ offenders? What are the rehabilitation prospects for each of these types of offenders?*

Answer: It is perhaps important to note that situational offenders are no better or worse than preferential offenders. They are just different. Those that are towards the preferential end of the continuum are more likely to reoffend as a group. However, there can most definitely be high risk situational offenders. It really depends upon the constellation of other risk factors. As noted in my oral submissions, it is not possible to “treat away” what someone finds sexually arousing so one cannot treat away the fact that someone with paedophilic disorder finds pre-pubescent children sexually arousing. However, treatment can reduce the risk that they will act on this interest with

an actual child. Situational offenders do not have the sexual preference for children, so some of them have greater rehabilitation prospects. Nonetheless, at least some situational offenders have personality disorders that are also difficult to treat. To answer the question narrowly, if one was to look solely at the situational-preferential continuum, the greater focus would be on those at the preferential end. But this is never the case as clinicians who assess offenders who sexually victimise children consider a range of important risk factors. Ideally, the focus should be on those deemed high risk, with less focus on those deemed moderate risk, and little focus on those deemed low risk. An offender's location on the continuum is one important consideration in risk assessment, but it is not the only one.

5. *In relation to your comment that "there are many paedophiles out there who never come to anyone's attention" – which is an issue with reporting by the victim: What are some ways that you think we can encourage children to come forward with their claims of sexual abuse?*

Answer: My comment was not in relation to victims' reporting. It was a statement that there are a number of paedophiles in society, people with a sexual attraction or even preference for pre-pubescent children, who never come to anyone's attention because they do not act on their sexual interest by perpetrating sexual harm to a child.

In regard to how best to encourage children to come forward with their claims of sexual abuse, this is a very difficult question. The complex emotions that accompany victimisation, including shame and guilt, often lead to decades before victims are able to report what happened to them. One needs to keep in mind that one particular type of preferential offender, termed the "seduction" type in the literature, are master groomers of children because they can identify what the child needs. They are very good at identifying children who are lonely, neglected, or marginalised. As unpalatable as it sounds, they provide the children with affection, company, and attention that they may not be receiving elsewhere. This is where some of the long-term destructiveness of the offending occurs, as the child sometimes willingly returns to their abuser for several years. It is clearly not their fault as they are trying to make sense of something that they should never have to at that age. In such situations, I am adamant that adults need to view such offences through a simple lens of every time an adult engages in sexual activity with a child, the child is a victim and the adult is an offender.

One multi-faceted way forward is to continue to improve service systems that work with families and children in situations of sexual abuse (i.e., Victoria Police, Child Protection, Family Services, teachers, Courts) so that children feel safe to disclose. They need to know that they are going to be believed, not punished or blamed, and are going to be helped. They also need to know that the abuse is wrong, particularly in families where intergenerational sexual abuse occurs. Cultural issues that impact disclosure also need to be considered. There is also the issue of sexual abuse happening within families, and family services being integral in working with the non-abusing parents and children in keeping them safe and helping them to obtain ongoing support. Educating parents in how to talk to their children regarding body safety, helping parents identify signs of potential sexual abuse in their children and how to appropriately respond to any disclosures of

sexual abuse, promoting a circle of safety for children, and making sure children are connected with trusted adults outside the family home are also critical.

A plausible hypothesis would be that if all parents understood the reality of child sexual abuse, and children were made to feel comfortable talking about things with their parents even when others tell them something is a secret, disclosure may possibly occur more often. But this can be difficult when the offender is a “trusted” family friend or relative. Furthermore, the complicated emotions that accompany child sexual abuse mean that there will sadly always be victims who suffer in silence and take decades to tell anyone.

6. *In relation to the (roughly) 20 per cent recidivism rate for child sex offenders: Does this take into account that many serious child sex offenders serve terms of imprisonment for their crimes and therefore physically cannot reoffend (i.e. is this a longitudinal study that evaluates the offenders after any potential incarceration)?*

Answer: All studies regarding sexual recidivism consider only those that have been released to the community. None include those that remained in prison. In my slides I indicated that the Victorian study by Reeves and colleagues (2018), which found 18.8 percent recidivism, followed-up 621 offenders in the community for an average of 12.6 years.

7. *In relation to the important matter you raised about additional parole periods for the most serious offenders: Should we be looking at extending parole periods as a progressive approach to manage serious child sex offenders?*

Answer: Perhaps. But even more important would be actually providing parole to high risk offenders so that they are not subject to straight release with no oversight in the future. Without in any way meaning to be critical of the crucial work that the Adult Parole Board do, it has been my observation that in recent years they have been unfairly maligned when someone on parole has committed a serious crime. Without naming actual cases, I think everyone knows of a small number of cases that became very well-known because of negative coverage in the media in which the Adult Parole Board were demonised. Perhaps as a result, I have since observed a number of offenders that have not been granted parole because their risk is such that it is deemed unable to be managed in the community. However, this only delays the problem. If someone is too high risk to be managed on intensive parole, they are not going to fare any better if they serve their entire sentence and are subsequently released to the community without any oversight whatsoever. In those situations the only option is for the Department of Justice and Community Safety to apply for the offender to be placed on a Supervision Order or Detention Order under the *Serious Offenders Act (2018)*. This may be why I have observed an increasing number of offenders in recent years who do not pose a high risk of reoffending being subject to applications under this legislation. Unless offenders are given indefinite sentences, which is extraordinarily rare, they are eventually going to have to be released to the community in some form (despite what tabloid media would have people believe). In summary, I am a proponent of lengthy periods of parole or supervision for high risk offenders. The alternative is simply postponing recidivism rather than attempting to manage the risk.

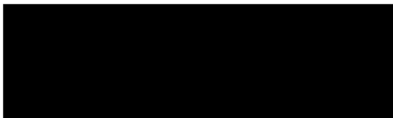
8. *In relation to previous submissions recommending an overarching review of the Sex Offender Register: Is this something that you would support?*

Answer: As noted in my oral submissions, I am a supporter of the work that those in the Sex Offender Registries do. I know first-hand how seriously they take the job. However, without knowing exactly what an overarching review would entail, a review of the register is something that I would support in principle. There are far too many low risk people subject to registration, whilst many that pose a high risk of raping adult females are not subject to registration at all. At present it is up to the registry staff themselves to rank order those on the register in terms of risk (and they work very hard doing so). It is my opinion that entry to the register would be better if it was based on the risk posed by the offender, than simply whether they have been charged with an offence of a particular name. This of course raises other issues, such as who should assess the risk of every sexual offender, but it would be something well worth exploring.

While such a review is something that I would support, extending the register to make it a public register is not something I would support from the perspective of risk and community safety. The evidence that I have outlined in my slides and oral submissions indicates clearly that this will not provide the results that proponents believe it will. If the rationale for a public register was simply to continue punishing sexual offenders after they had served their sentences that would be a valid argument that I assume many in the community would support with little hesitation. But there is no evidence that such a change would enhance community safety so this cannot be the rationale. The available evidence indicates that it may actually make things worse for all concerned.

I trust these answers assist the Legislative Council's Committee on Legal and Social Issues and the Inquiry into the Management of Child Sex Offender Information. Please do not hesitate to contact me if I can be of further assistance.

Respectfully submitted,



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