

TRANSCRIPT

LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into Management of Child Sex Offender Information

Melbourne—Wednesday, 26 May 2021

(via videoconference)

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Mr Lee Tarlamis

Ms Sheena Watt

WITNESSES

Ms Stephanie Carrigg, SMART Senior Policy Adviser,

Ms Marnie Dollinger, SMART Senior Policy Adviser,

Mr Joel Dowling, SMART Senior Policy Adviser,

Mr Scott Matson, SMART Associate Director for Policy,

Ms Sarah Blazucki, SMART Communications Coordinator, and

Ms Michelle Sicat-Morales, Congressional and Intergovernmental Affairs, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART), United States Department of Justice.

The CHAIR: Welcome back, everyone. Thank you for tuning in. As you know, this is the Legal and Social Issues Committee and it is our public hearing into the Inquiry into Management of Child Sex Offender Information.

We are very lucky and delighted to be joined by the US Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking, also known as SMART. Thank you all for coming, and I will just run through the witnesses that we have here today. We have Mr Scott Matson, Ms Stephanie Carrigg, Ms Marnie Dollinger, Mr Joel Dowling, Ms Sarah Blazucki and Ms Michelle Sicat-Morales. Again, thank you very much for joining us and for taking part in this inquiry.

If I can just let you know that all evidence taken is protected by parliamentary privilege, and that is provided under our state *Constitution Act* and further subject to the provisions of the Legislative Council's standing orders. Therefore the information you provide during the hearing is protected by law. You are protected against any action for what you say during this hearing, but if you go elsewhere and repeat the same things, those comments may not be protected. I might also just add that that probably is just within Australia. I am not sure that our parliamentary privilege protections extend to your country. However, I am sure this will not be a problem.

As you would be aware, and as I mentioned, we are broadcasting this evening, but we also have Hansard here to transcribe this hearing and your testimony. They will send you a transcript after this hearing, and I would encourage you to have a look at that.

Again, welcome to Australia. It is lovely to have you. And if you would like to make some opening remarks, we will then open it up for a committee discussion.

Ms CARRIGG: Good morning. Can everyone hear me okay?

The CHAIR: Very well. Thanks, Stephanie.

Ms CARRIGG: Okay, great. Of course. Thank you, Ms Patten. Good morning, everyone. This is a privilege. This is really interesting, so thank you so much.

My name is Stephanie Carrigg. I am a Senior Policy Adviser for the SMART office. I am just going to give a brief overview. Before I do, I just wanted to point out, just for organisational purposes, that Mr Scott Matson is our Associate Director for Policy; Mr Joel Dowling is a fellow Senior Policy Adviser; Ms Marnie Dollinger is also a fellow Senior Policy Adviser—I will talk very briefly about our roles; Ms Sarah Blazucki is our Communications Coordinator for the SMART office; and Ms Michelle Sicat-Morales is a congressional and legislative specialist for our communications office. I know everyone has got their roles on the Zoom, but I just wanted to give you a sense of who it was you were speaking to.

The CHAIR: Thank you very much for that, Stephanie.

Ms CARRIGG: Of course, absolutely.

Visual presentation.

Ms CARRIGG: Okay, so I am going to give a really brief overview of sex offender registration and notification in the United States, really going back long before SORNA, with state laws and policies and other federal predecessors, and just get into a tiny bit of information about how SORNA sort of changed the landscape of what is required, what our office does and a few of our partners, with regard especially to international travel.

So I am just going to touch upon a few things here. Can you see this second slide, where it says, 'History'?

The CHAIR: Yes, we can. Thanks.

Ms CARRIGG: Wonderful. Thank you, Ms Patten, for the verbal. Even though I practised this, it is relatively new. So just to touch upon the history of United States sex offender registration, I think it is important for everyone to know that, really, sex offender registration and notification in the United States goes back long before there were any federal standards with regard to registration and notification, and certainly long before the *Sex Offender Registration and Notification Act*, or SORNA. It goes back as early as 1947. And between 1947 and the 1980s there were several states that had enacted some form of sex offender registration system, and actually by 1996 all states had their own sex offender registration and notification systems in place.

Those systems were already in existence; most state systems were already in existence when the Wetterling Act was passed in 1994. The Wetterling Act was the *Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act*—it was named after a victim of a violent sex crime, Jacob Wetterling. The Wetterling Act was the first federal standard for sex offender registration. It really established a baseline standard for offenders to register, and what it did was it separated a certain heightened class of sex offenders known as sexually violent predators from all other registered sex offenders, and it did that for two purposes. One was for the length of registration, where the sexually violent predators had to register for life—for the duration of their life—and all other sex offenders had to register for 10 years. It also required the sexually violent predators to appear in front of law enforcement and verify all their registration information every 90 days, whereas all of the other sexual offenders had to only appear annually. So it was really the first federal law that pulled out a certain heightened class of sex offenders for purposes of their registration requirements.

The way in which Wetterling is really different from SORNA and the laws that came after, at least as Wetterling was first created, is that it was a discretionary public notification procedure. So jurisdictions had discretion to notify, provide public notification of sex offender information, when it was necessary to protect the public, but there was not that standardised notification and information sharing that SORNA has brought about, and I will talk about that in a minute.

So Wetterling was 1994, and then in 1996 Megan's law was passed, which is named after another victim, Megan Kanka. So by the mid-1990s, even though Wetterling was discretionary in terms of the public notification, many states had implemented some sort of public notification procedure. What Megan's law did was actually mandate public disclosure of certain information when it was necessary to protect the public. It provided that information that was collected in the registration system—in offenders' information that was already going in that state law enforced registration database—could be disclosed for any purpose permitted under state law. So this was an amendment to the Wetterling Act which added some provisions and requirements, and so really at this point you had a patchwork of different laws and regulations across the country.

What was passed at the same time, or in the same year, I should say, as Megan's law was the *Pam Lychner Sexual Offender Tracking and Identification Act*—also named after a victim of a sexual offence. This took the information sharing from the public to a federal database. It established a law-enforcement-only national database known as the National Sex Offender Registry, which I will talk about briefly a little bit further, and it really required state registry officials to immediately transmit registration information to that database. It also allowed for that information to be disseminated by the FBI—the Federal Bureau of Investigation, which is a federal law enforcement agency—when necessary to protect the public. It also allowed information to be used for background checks in certain instances.

So in 1994 we had the establishment of the first federal standard, but in 1996 we had these two different statutes that were passed that really pushed the information-sharing aspect of things. By 2006 actually, every jurisdiction had its own public sex offender registry website, and 2006 was also the time that SORNA was

enacted. SORNA is the *Sex Offender Registration and Notification Act*. It is the current federal law that governs the standards for registration and notification in the United States. Some of the changes that SORNA made really standardised a lot of the requirements and systems. It is a federal standard. It is not a mandate in that jurisdictions must abide by the standard of SORNA; however, jurisdictions that do not substantially implement SORNA's standards receive per state a grant penalty every year. But in any event, I think the important thing to talk about is the fact that it really standardised. And every state at this point has really increased its information sharing because of SORNA, because of the standards that it set forth with regard to information sharing—not just within the jurisdiction and not just with the federal government and with federal databases and federal law enforcement but also among the jurisdictions themselves. It really created a system so that an offender who moves from one state to another or from a state to a tribe—and I will talk about tribes in a second—really cannot escape the fact that they are a sex offender and that they have to register, because jurisdictions now are really making sure that they notify each other with regard to the sex offenders who are travelling or relocating among the different parts of our country, among the different states and tribes and territories.

Among some of the changes that SORNA made, a few of the other things it did especially with regard to expansion, was it expanded the definition of 'jurisdiction'. Before SORNA the jurisdictions who were required to set up registration and notification systems did not include Indian tribes, but it expanded the definition of jurisdiction to include federally recognised Indian tribes. At this point we have 136 tribes who have, what we consider, implemented significantly SORNA's standards, and we have a number of other Indian tribes who are either implementing some of SORNA's standards or who are working to implement SORNA's standards and actually stand up their own registration and notification systems—whereas before, Indian country was really what sex offenders would consider a safe haven for themselves.

The other big change that SORNA made in terms of expansion was that it expanded the number of sex offences that must be captured. It is now no longer just that jurisdiction's sex offences. A jurisdiction, a state, has to capture sex offences of territories, sex offences of tribes, federal sex offences, military sex offences, even some porn sex offences.

The other thing that SORNA did was it mandated participation in the national sex offender public website. I mentioned earlier that by 2006 every state had its own public sex offender registry website. Now, a public website in the United States is different from a state level or local level law enforcement database. Public websites often have fewer fields of information but still very important information: names, addresses, perhaps vehicles. What SORNA has done is it has taken this national public website—which is a national sex offender public website which was named after Dru Sjodin, another sex offence victim—it has taken those websites and put them together. The national sex offender public website is essentially a search engine that allows a jurisdiction or allows a member of the public to search for a sex offender and it will get results from every jurisdiction's public website at the same time. With the national sex offender public website and with SORNA, as I said before, you really see the information sharing has become far greater and far more standardised to really eliminate the gaps that had existed previously with regard to sharing information about sex offenders.

A few other things about SORNA: it is an offence-based system. Most jurisdictions already had an offence-based system and so the nature of the offence of conviction, the nature of the offence for which the offender was convicted, really dictates everything in terms of how often they have to appear in front of law enforcement to verify information, how long they have to register—SORNA has three tiers; 15 years of registration, 25 years and lifetime—and whether their information has to appear on their jurisdiction's public website. Those are really the main points of SORNA.

I am going to just touch briefly on what our office does, and please let me know if you have a question. I think I can see almost everybody as I am sharing my screen—it is this tiny little box.

The CHAIR: I know, Stephanie—you have got little thumbnails of us all.

Ms CARRIGG: Yes, ma'am.

The CHAIR: Look, we will let you finish and then we will open it up, but I think we are all kind of loading up our questions.

Ms CARRIGG: That is extremely kind of you. Thank you. That is very kind. It gives the coffee a chance to kick in and then I can really get my brain neurons firing here. Just to talk a little, little bit about what our office

does, our office—the SMART office—is part of the United States Department of Justice. It is the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, so the SMART office—great name. It is great to tell people you work for the SMART office.

The Adam Walsh Act—the *Adam Walsh Child Protection and Safety Act*—was passed in 2006. Adam Walsh was another victim of a violent sexual crime. Title I of that Act is SORNA, which I have just discussed. The other thing that Adam Walsh did was that it created an office to assist with the implementation of SORNA, and that is the SMART office.

What is the mission of our office? Really it is several things. We administer the standards for SORNA, and I will talk about what that looks like in a minute. We administer grant programs related to sex offender registration and notification, and on that side of it we have an entire grant staff, we have grant directors. I am not going to talk about that too much today, but that is a huge piece of our office of course. And the other big thing that we do is cooperate with and provide technical assistance to our jurisdictions. So what does that really look like? What does that mean?

I am a Senior Policy Adviser, Marnie and Joel are senior policy advisers, Scott is our lead—he is our Director for Policy. We have three other Senior Policy Advisers. What do we do? What does this look like—that guidance and that implementation assistance? We conduct official reviews. So what we do is we take a jurisdiction—the entirety of their laws, their policies, their regulations—you know, a state. I live in the state of Maryland. When we did a review for Maryland, we took all of Maryland's statutes with regard to sex offender registration, their criminal code, their registration forms, their state regulations with regard to sex offenders, their written policies. We conduct a review to determine whether the state—Maryland or any state or any tribe or territory—has substantially implemented SORNA, which means: have they implemented SORNA standards in such a way that they are serving the purposes of SORNA?

So those are our official reviews. They actually are all published on our website. The other thing that our policy team does is we review proposed legislation. We will review draft forms. We will review parts of statutes. And I think that a particular sort of challenge and wonderful thing that our office has done is for tribes who are standing up registration systems for the first time. You know, all of the states already have systems, but for tribes who are standing up systems for the first time it is an entirely larger challenge and a wonderful challenge of really assisting them from the ground up, providing model codes, model policies, procedures, forms, regulations; clarifying things verbally and in written form when the tribe needs additional assistance or needs to complete additional tasks; and assisting them with having additional time to implement SORNA.

And then the other big piece of what we do is onsite technical assistance. Before the pandemic our policy team was regularly travelling to jurisdictions to assist with all manner of everything I have described above. And then the other big piece of it that we can do not on site is assist with drafting legislation. We cannot provide legal advice, but we can certainly provide suggested revisions for jurisdictions to consider. And again, the policy team certainly do not lobby. We cannot lobby, but we do educate legislators and other officials just as we are doing now as to what SORNA is and what it requires and what that looks like. So that is in a nutshell what our office does, at least on the policy side.

Just to touch very briefly about our partners in international travel, beginning in 2011 there was a guideline passed with regard to SORNA that requires jurisdictions to have registered sex offenders report international travel or international relocation information to their jurisdiction—to their state, tribe or territory—at least 21 days in advance of that travel or relocation. And then what the jurisdiction does is it submits that information to the United States Marshals Service. The United States Marshals Service is a part of the Department of Justice. It is a federal law enforcement agency, and they have many roles and wear many hats. Their role here is that they collect that information from the jurisdiction—it will be the travel information, passport information, maybe other travel document information, where the person is staying et cetera—and it will take that information and it provides that information to Interpol. Interpol of course is the international police organisation, and what Interpol does with that information—and Joel is our expert with regard to international travel, so I am not going to say too much; I am going to leave it to him for afterwards—is that Interpol really takes that information and then as it sees fit it distributes international travel notifications in the form of green notices, and I am sure you all know this, to the other countries to which the offender may be travelling or relocating. And of course those countries can do with that information as they see fit. But the point is that this is something that was first required by supplemental guidelines that were related to SORNA passed in 2011, and

then in 2016 that requirement actually became codified in a federal law known as international Megan's law. I mentioned that Megan's law of course was the legislation that was passed related to information sharing, and so this really codified international information sharing. I think I have covered that as much as I am going to without stepping on Joel's toes.

So really the only other thing I think I want to say, and I think I have touched on all of this, is that registration and notification systems—there is no federal registry in the United States—the states, every state, all of the five US territories and certainly all of the implemented tribes as well as other tribes have their own registration and notification systems. They have their own law enforcement database, they have their own public sex offender websites, they all have their own laws and policies. And what SORNA does and what our office does is provide federal guidance in creating more uniform systems, implementing those federal standards that SORNA puts out, and it really creates that information-sharing backbone that has really been the landmark of SORNA with regard to jurisdictions sharing information among the borders of that jurisdiction, with other jurisdictions, with the public and with the federal government as necessary.

So I talked about NSOR before. Just to be clear, a big thing to note I think with SORNA is that you have law enforcement only information versus the public information, and that is true in every jurisdiction. In every state, every tribe and every territory that is a distinction, and at the federal level that distinction exists with NSOR versus NSOPW—and I have mentioned both of those. But NSOR, the National Sex Offender Registry, as I have mentioned, is a federal database. It houses the offender information that is submitted by states, territories and tribes, according to those jurisdictions' laws and procedures. It is not available to the public. We do not have access to it. It is part of something called the National Crime Information Centre, which is run by the FBI. Completely separate from that, as I mentioned before, is the National Sex Offender Public Website, which is not a database at all. It does not actually independently capture any information. It is a public website that enables the public to search all of the jurisdictions' public websites at the same time. So it is really only taking in the information that the jurisdictions put into it that is publicly available. So again, I think it is an important distinction—especially when we are talking about information sharing—to talk about the fact that there is law enforcement only information and then there is public information.

The CHAIR: Yes.

Ms CARRIGG: Yes, I actually am done. You have perfect timing. That is the information for our office, all of our information.

The CHAIR: Thank you so much, Stephanie. I did not want to cut you off. I think it was a terrific overview for us.

Ms CARRIGG: Your timing was excellent.

The CHAIR: No, we really understood. We have probably only got another half an hour—

Ms CARRIGG: Gosh! I will stop talking then. Okay.

The CHAIR: to open this up for discussion.

Ms CARRIGG: Absolutely.

The CHAIR: We have got sex offender registers here in Victoria—and just to make sure everyone is clear, we are a state of Australia, so we are the state of Victoria. We have a state sex offender register, but very little of that is made public. We might release public information when an offender who is on that register does not meet their reporting requirements and might be missing, and that would be where we might make it public [Zoom dropout] that the community is at risk.

I am interested in the differences between where that information becomes public. It seems to me that each jurisdiction makes different information public. Has there been any evaluation on whether there is a kind of Goldilocks, just-right position, where some information is made public, some information is not, information is made public on application or for different reasons? I guess that was a very messy question, but is there a time when information should not be made available to the public—and that is, to protect the victim-survivors of the perpetrators—or do you think that the information should be as public as possible?

Ms CARRIGG: I am going to let other folks talk. I will just say briefly from a factual perspective that there is certain information under SORNA that is not allowed to be made public, and that includes victim information—identifying information for the victim. I think it is important to note not just what SORNA requires to be made available but also what SORNA prevents from being made available, including information that identifies the victim. But I have talked a lot, so I am going to let other folks jump in also.

The CHAIR: So, yes, that would be great if someone could touch on that—it is that kind of interfamilial abuse that concerns me as far as protecting those victim-survivors.

Ms CARRIGG: Sure. I am going to let other folks jump in.

Mr MATSON: Marnie, do you want me to take this one? Do you want me to field it? It is up to you.

Ms DOLLINGER: I can certainly, but if I miss anything—

Mr MATSON: Okay. Go for it.

Ms DOLLINGER: As Stephanie pointed out, there is information that is illegal for jurisdictions to post, and that for the most part—and I would say for pretty much every jurisdiction—they take great pains to make it so that whatever information they share would not reveal the victim. So when posting what the offence type was, they might just have ‘sexual abuse against a child’, rather than specifically ‘incest’ or something that would identify who the child victim was. They keep that information as protected as possible.

Obviously there are many websites out in the world that feature information about offenders that they get through the court system or through sentencing and charging—case information that happens long before the person is registered, so community members can sometimes put that information together. But law enforcement itself and registration systems take great pains to not share that information and not have anything that would be publicly identifiable for victims. And many registration systems also, if they have offenders who themselves are younger, so somebody who would be a juvenile who has committed a serious felony offence—most jurisdictions choose not to publicly post that information as well just so that they can, again, protect somebody who is considered a juvenile.

The CHAIR: Thank you. Is there any evidence on whether the changes and the implementation of SORNA as well as the national sex offender website have affected recidivism rates or reoffending rates?

Mr MATSON: I will jump in here. I would say that there have not been any studies on a wide scale in our country that have evaluated that. We do know that crime rates have steadily fallen, including sexual assault rates, across the United States, but there have not been any national studies that show how this has impacted recidivism rates. But I think it is key to note that ultimately the goals of SORNA, our *Sex Offender Registration and Notification Act*, and many state laws are not necessarily to reduce recidivism. It is more about sharing information about sex offenders, tracking sex offenders, investigating crimes and making sure the public have information to better protect themselves. So not being a primary goal and there not being a real way to assess these on a national scale because laws are so different and populations are so different, it has never been done.

The CHAIR: No. Okay, thank you. If there is time, I will come back, but I will go to Stuart, then Kaushaliya, then Tania.

Mr GRIMLEY: Thank you, Chair, and thank you, everyone, for your time this morning, or tonight by our time. I really appreciate it. It is fantastic information that you have got. Clearly the United States is at an area which is completely different to where we are at. At the moment in Victoria we are very much at the very beginning of the process, I suppose. Part of the terms of reference of this inquiry is to investigate those circumstances in which information can be made public, and in hearing many people in this inquiry so far, some of the arguments they have presented have included that the release of public information can create a false sense of security. Do you find in your experience, since it has been operating for some time over there in the US, that this is the case, or can you offer any feedback on that particular comment at all?

Mr MATSON: Again, anything that we could provide would be anecdotal and information that would just come from newspaper reports or other media stories. We do not really have anything in the way of any kind of national information about that. I know that was a concern early on with these laws, and I am not sure that that

has really been borne out. It is definitely not in any kind of research way or comprehensive way collected. I think that it is not something we really have information for unfortunately. I am sorry I cannot answer that.

Mr GRIMLEY: That is okay, Scott. I appreciate that. I suspected the same. And you may not have the information either on this particular question. It is in relation to vigilantism. Another argument that has been put to us is that public registers or access to public information will create cases of vigilantism. Has that been a significant point with the registers over there in the US?

Mr MATSON: Again, it is like the false sense of security question. We do not really have any information about that. I would say that again anything you see is anecdotal. There were some highly significant cases early on, and since then it seems that the media reports have been fairly quiet about it, at any rate. I cannot say that there has been anything, again, comprehensive that has been conducted, so it is really hard to answer that unfortunately.

Mr GRIMLEY: That is all right. Thanks. I do have a couple more questions, but I will pass on to the others, thanks, Chair.

The CHAIR: Okay. Thanks, Stuart. Kaushaliya.

Ms VAGHELA: Thanks, Chair, and thanks to the entire team from the USA. My question is regarding what you have in your submission, which is before accessing the information the users must agree to the conditions of the use of the information that they will get from the website. So then how often do you find that the information that was obtained was used inappropriately?

Mr MATSON: Much like Mr Grimley's questions, I do not know that is something we have the answer to. Again, it is generally in state laws, as Marnie mentioned, that it is prohibited to use any information illegally, and I really, honestly, do not have any idea. I do not know if I have even heard of many arrests in this way or any reports of people using the information negatively. But it is public information as well. Most criminal history information in the United States is a matter of public record, so anyone can get information about anyone who has committed any crime in this country—not any crime, that is a generalisation, but the information is publicly available. Again, we do not have anything specific to sex offenders.

I will say, going back to Mr Grimley and to your questions, I forgot to mention that we have some information about some of the research that has been conducted in relation to the impacts of these laws on offenders themselves. We have an independent congressional research entity in the US, the Library of Congress, that has conducted some research for us and taken a look at the different studies that have examined the impacts of registration laws on offenders. We can share that information with you. I think generally what you find though is that these studies are not at all comprehensive. They are anecdotal, mostly, in nature, and the methodology is not very sound with them, so you get a lot of cases of reports of less frequent kinds of events, but they tend to be generalised. I am happy to share that. Would it be good to share any of the links with you all with Sam to make sure you get that information?

The CHAIR: Thank you, Scott, that would be really interesting and very useful. Thank you.

Ms VAGHELA: If the offender's information is available publicly, how easily are they able to reintegrate with the society and how easy is it to rehabilitate them?

Mr MATSON: Do you want me to handle this one again? I am happy to take a stab at it. I think that one thing we should note is that registration and notification are not the only ways that sex offenders are managed in our society. Registration and notification are one aspect of that. There is not really a federal standard related to how sex offenders are supervised or treated. Every state, every jurisdiction, treats that a little bit differently. Almost every state has some form of community supervision or probation or parole that specialises in their sex offender population and has certain conditions that are imposed on them and, additionally, certain kinds of treatment approaches to those offenders, as you do there in Australia as well. I know that. Registration and notification are not seen as the rehabilitative aspect of the criminal justice system, they are more a way of just keeping tabs on these offenders and making sure the public is aware they are there. But it is an adjunct to those other kinds of services and supervision that are provided by the states and localities.

Ms VAGHELA: The last one is: if the offender's information is available publicly, does that stop them from offending or reoffending?

Mr MATSON: I think that goes back to Ms Patten's initial question about recidivism. Again, it is one of these things that we just do not have comprehensive information about. We also have another report that I will send you that does look at recidivism rates for sex offenders, but that is not directly related to registration and notification. I mean, it is almost impossible to conduct a study on laws that already exist and systems that already exist and to do anything that is a gold standard like a randomised controlled trial. You cannot do that, so we have not been able to conduct any kind of a comprehensive—or no-one has been able to—recidivism study on registered sex offenders in the United States.

Ms VAGHELA: Thank you.

The CHAIR: Thank you. Tania.

Ms MAXWELL: Thank you, Chair. Thank you, team, for being with us tonight—or morning for you guys. I do not know, Scott, if you will answer this or who will, but what are the positives and the negatives of having this public register?

Mr MATSON: I can kind of not answer that unfortunately. I am sorry. I respect your question. I think it is a really good question. I think it is one that as government employees we are here to assist the states and tribes and territories in implementing the law. It is not really our position to be able to say whether it is a good thing or a bad thing. We see the positives of it, for sure, with the way that information sharing has been increased across jurisdictions and especially, as Steph had mentioned earlier, about tribal jurisdictions and assisting them in creating law-enforcement systems for registering sex offenders but also connecting tribes with other entities such as state governments and the federal government so they are able to share information, which they never had before. So it goes beyond just sex offender registration in that respect. It is actually modernising their entire criminal justice systems and tribes, so it has been a real leap in that way.

And I think having a National Sex Offender Public Website that is very easy for the public to use, we have seen incredible usage of the National Sex Offender Public Website. So we know it is very popular and it has been used millions and millions of times—I do not know what the metric is—a month if not a year. So we see that in terms of the positives. I think the negatives are typically borne out by offenders and offender advocates—people who are advocating for the demise of registries and that sort of thing—and that is the kind of thing that you can get in media stories. We do not keep tabs on that kind of information.

Ms MAXWELL: I think that is it for me at the moment, Chair. Thank you.

The CHAIR: Thank you, Tania. I will go back to Stuart. I think you had some follow-up questions.

Mr GRIMLEY: Thanks, Chair. You may not be able to answer this one either, Scott or anybody else there, but it is in relation to education programs about raising awareness of sexual abuse of children, be it either parents or otherwise. Are you able to tell the inquiry any success stories, I suppose, of education programs that marry in with the sex offender register?

Mr MATSON: On a national level we again really do not have a lot of information in that regard. I think just the usage of NSOPW shows how important it is, and we have quite a bit of information on NSOPW beyond just the registration information of sex offenders. There is a host of information about where to get good information about sex offenders and about sex offending and good information about referring potential people who suspect abuse or who suspect people have been abused. So there is a host of information, but I think when you are talking about success stories about educating the community, I think that goes back down to the local level. I do not know, Marnie, whether you want to talk about what happens in Minnesota? I think that is maybe a good example of how they educate the community.

Ms DOLLINGER: Sure. Minnesota is one of our northern Midwest states, and they use a risk-based system to determine when they should have community notification. What they will do is notify residents of the area where the offender will be returning, and they will have meetings where the public can come and speak and they can ask questions. They do quite a bit of preventive information at that time. The meeting is not solely about, you know, 'This is offender X and his offences, and everyone should stay away from him'. It is more

community learning based, where they try to provide all the information for preventive services where people can go to report their own abuse, abuse of others, and how to provide mandatory reporting information and really try to make those law enforcement partners part of the community so that community members know who they can go to, who they can speak with if they just have any questions about sex offending in general, sex offenders themselves, and then if they also have instances where they would like to report something that has happened to them or somebody that they know.

I think kind of to expand on that in terms of community education, when I came to the SMART office for the most part I worked with American Indian tribes that were implementing SORNA and implementing their own registration systems. The vast majority of the tribes, as they created their programs and had somebody who was dedicated to be doing this work registering offenders and working with the offenders and having them back in the community and having them report, also built in community education events where they would go to powwows, community centres, community meetings and board meetings and educate the public about what the registry is, who can report information to them, how they can report information. And they did a lot of preventive work as well as far as talking about any prevention aspects that they have within the tribe and what type of services are available and then just education on sex offences themselves. And having attended a number of those meetings and worked with the tribes—not just the registry staff, but the ancillary staff that are within that tribe—they really were surprised at how open the community that was to this, because for many of them it was some of the very first times that they had had these discussions, that they had discussions about sex offences, about how to keep the community safe, how to work together. And it was not just eye-opening but it was something that made everyone feel part of the system and that the person who has committed this offence is coming back to the community and we need to welcome them into the community, but we also need to understand ways that we can help them and help others to be safe.

Mr GRIMLEY: Just on that note, Marnie, and if I can expand on that, being an expert in this field of Native American sex offender management, in Australia here—not really particularly in Victoria, but in Australia—we have Indigenous communities where sexual abuse of children is a live issue, and the reintegration of offenders back into those communities, in particular the more remote communities, is a very, very big issue because of tribal law. They will get, you know, the criminal law under the state legislation, they will go back to their communities and also experience tribal punishment. Is that something that is a live issue with Native Americans as well? And if so, how is that managed?

Ms DOLLINGER: We do not really have situations where if an offender has been charged and served time through the state they would come back and face some type of tribal punishment in addition to what they already experienced. We have had incidences, and we do have tribes where if perhaps the state or the federal system is not going to be trying them, the tribe with their own court can institute some type of punishment and have the full legal process for that offender and for those tribal offences. And they would, as I think Steph and Scott mentioned earlier, for tribal offences be treated the same as any other type of sex offence and that person would be subject to registration.

We do have a few tribes that we have worked with where they look more towards banishment and having the person not return to the community. But I would say—and again I am speaking anecdotally—for the most part I think the tribes that we work with bring that person back into the community and want to work with them and work with the other systems within the community to reintegrate that person and again to help them make good choices and to help the community understand why that person is back and what the community can do to prevent this from happening in the future.

Mr GRIMLEY: Okay, thank you. Thanks, Marnie. Thanks, Chair.

The CHAIR: Thanks, Stuart. I think that is really interesting. I am not sure that—it is a very generous approach. Because I think for most people they feel that, you know, sex offenders can never come back. If they are known sex offenders, the ability for them to reintegrate into their community is incredibly difficult. It just made me wonder, with other criminals, like murder or violent offences, is there any public register for those as well? Or is it really just targeted—not just targeted, but targeted to sex offenders?

Ms DOLLINGER: I can take this one too. There are a number of states and US territories that have registries for not just sex offenders. We have violent offender registries. There are a few states and a US territory that have a drug offender registry, and then domestic violence registries as well. So there is a bit of a

mix of having violent and sex offenders within a registry. And then that registry of course tries to, again, take great pains to highlight which registry this person is featured on, so that it is not just that the person is on the registry website and everybody has to guess why they are there. The information is provided as to what type of offence they committed.

The CHAIR: Sure. Firstly, I suppose because everyone's criminal record is relatively public in the United States, which is not necessarily the case to that degree here, how broad is the public register? Because I note that each state decides to what level a person's offending is disclosed. What is the minimum that would be on a public register? What would be the minimum sexual offence that would be on a public register?

Mr MATSON: It is a good question. I am struggling to answer that question because federally I cannot think of an offence that is required to be registered that would be minimal. Not to parse your words, but we hear anecdotally cases of people who are caught urinating in public are on registries or exhibitionists are on registries. And that is again anecdotal and it is not at all commonplace, and oftentimes if you dig deeper into those cases, there is much more to it or there could be a history of sexual offences with that person. The federal law requires that all of the offenders, except a small portion of tier 1 offenders, are posted on public websites, but we are talking about people who have committed child exploitation crimes, published pornography, hands-on touching or penetration kinds of offences. So none of these are really minimal.

The CHAIR: No. When you say produce pornography, are you talking about adult material or child material?

Mr MATSON: I apologise, it is child pornography.

The CHAIR: Right, right. Is prostitution a sex offence or not? I do not know. It is not here.

Mr MATSON: Not federally, no. And I do not believe any state actually registers anyone who is involved in prostitution, no.

The CHAIR: No, good. I would not have thought so. It is just I know it is illegal in most jurisdictions in the United States. Thank you. I think there are so many contrasts with the system over there and trying to fit it into what we know here for me it has been really interesting. Kaushaliya or Tania, do you have any further questions? No? Great.

Ms VAGHELA: No.

Ms MAXWELL: No.

The CHAIR: Look, thank you so much. And, Stephanie, thank you very much for your opening comments. It has given us a really interesting oversight into a national scheme, and I think certainly where our report will be going is to where we can improve some of that national communication, which it appears that SMART is doing so well. I welcome anyone—Joel, Michelle, Sarah—any of you who have not had an opportunity to say something if there is something you desperately need to tell Australia or Victoria. Please say it now or forever hold your peace.

Mr DOWLING: One thing I would like to add is that we were discussing things like providing tools for community notification—excuse me, not community notification as it is covered by the National Sex Offender Public Website or by a state's public sex offender registry website but when we talk about things like a community event where somebody is able to speak to the community directly about what to expect when a sex offender is returning to their home or is returning to their family environment. While that is not something that is completely covered by SORNA at the federal level—it is not part of the federal legislation—we do extensive training at the state and tribal level and territorial as well, and when we go out and do this direct training with our colleagues at the registry level or at the state departments and public safety level we generally bring out our subject matter experts to do the kind of training to give those tools to people to take back to their communities and do that sort of direct interfacing with people that really have no idea what to expect when somebody is coming home. And in addition to that, we are equipped to have our same subject matter experts go out and help do those sorts of conversations with the communities as opposed to just providing those tools to the registry folks to hopefully do a fantastic job when they return home and have this come up in the future. So we do try to cover as much of that discussion as possible.

The CHAIR: Sorry, just one final question: how many people are on the website? Do you know?

Ms DOLLINGER: I believe the number that is out there is around 800 000, and of course it is very hard to get that number just because every offender has to register where they live, work and attend school. So you might have somebody who lives in one county, works in another county, maybe attends night classes in a third. So we have people who will be registered in multiple locations, people who maybe have a vacation residence somewhere else, so they will be registered in multiple locations. So there are a number of folks who are being doubly counted, so it is kind of hard to, again, get to that base level number.

The CHAIR: Yes. Wow. Yes, Tania?

Ms MAXWELL: Sorry, Chair, can I just ask one more question? What is the main point of the register? Now, we have heard tonight that almost all crimes go onto some sort of a register, but what is the point of the register?

Mr MATSON: By all crimes do you mean all sex offences? I apologise for—

Ms MAXWELL: Yes. Sorry, Scott. What is the point of it? Is it more for the authorities to be able to track the offenders, is it for the public to gain access to know who is on the register? How was this born, how was this developed, why was it developed?

Mr MATSON: Well, basically both of those things that you just mentioned. Initially the first registries were created to keep tabs on offenders that were what was perceived to be high risk to reoffend and the more modern registries were created basically for the same reason—that is, to keep track of those offenders who were particularly dangerous. If you look at the case that drove the federal legislation initially, the Jacob Wetterling case, he was abducted, and it turns out that law enforcement at the time did not have a way of quickly investigating who might be a potential suspect. And they think that if they would have had a registry at that point, they could have very quickly apprehended the individual who committed the crime. But that is an example, and the notification laws, the very first one was created in Washington state and it was because there was a juvenile, actually, who was coming out of confinement who was basically a psychopath and most likely to commit another crime. And the police chief in the locality where he was returning took it on himself to notify the public, the community, that this individual was coming back because they had no way of detaining him further, they had no way to keep him incarcerated, no way to keep him under control, so putting the information in the public's hands would allow them to protect themselves. That was the gist of Megan's law as well, the federal Megan's law. And that was because Megan Kanka was murdered by a neighbour and if the parents had known that that neighbour had a history of sexual offending and was actually a relatively serious sex offender by his conviction status, they could have taken steps to keep Megan away from that person or taken steps to protect themselves. So those were the reasons for the registry: being able to investigate crimes more quickly, keeping tabs on known sex offenders and alerting the public so they could protect themselves.

Ms MAXWELL: Do you utilise electronic monitoring as well as the register?

Mr MATSON: Some states do, yes. The electronic monitoring is used for a host of different kinds of individuals who are returning from incarceration or in-placement community supervision. So it is not sex-offender specific, but it is used in lots of jurisdictions. It is not a federal requirement, though, registration.

Ms MAXWELL: Okay. Thanks, Scott.

The CHAIR: Wow. So much information. Thank you to the very SMART people who have been so generous with their time this morning. We really appreciate it. I hope you enjoy your Wednesday. We are about to head into our Thursday. From over here Wednesday was fine, so I am hoping you will enjoy your Wednesday. Thank you so much, and we really appreciate all the information that you have provided to us. I think there were a couple of things that we might have asked you on notice, which our team will follow up on. Thank you again. On behalf of the committee, again, we very much appreciate the time you have given us but also the work that you are doing in the United States. I think we can close our public hearing now, so thanks everyone.

Committee adjourned.

