I do support the protection and welfare of children, and I do believe all steps should be taken for their protection. However the 2004 Act on child pornography grade 5 are flawed, an over-reaction and draconian. It is also has over tones of a modern witch-hunt with the witches been normal and average teenagers and children. The laws was designed was to protect children, chances they have cause more harm to children than those the laws was design against, those who would exploit children, turning other- wise normal people into sex offenders.

It makes innocent people like parents, grandparents and other family members who take innocent photography’s of their children naked or partly naked at play, etc, to feel like criminals. Even with the case of Bill Henson, his intentions were innocent, but he was made out to be a criminal. Why should these people pay the price because of a very tiny group of degenerates. We are a free country and all steps should be taken to maintain this freedom, then lose freedom base on the acts of a very few who abuse this freedom.

I have done much research into this field, and in my view a sex offender is a person who has committed gross sexual crimes against children, women, even men and animals such as incest, rape, and so on. This person is considered a risk to the community. Yet many teens who do stupid things that teenagers usually do like boys will be boys are now considered criminals. These people are no risk to the community. An example, a sex offender is not a 15 year old boy who took a photo of his 13 year old girlfriend breasts with his mobile phone. This person is not a risk to the community.

In the recent sex offenders register Inquiry final report, the committee even agrees with my views, and many of the recommendations that such persons shouldn’t be deem a sex offender in the first place. So my views actually mean something. There is a big different from a serial rapist and a 15 year old girl who emails her boyfriend nude images of herself. One poses a serious risk to the community, where the other does not. One size fits all approach is not working and totally unfair.

I don't believe our youth should be made escape goats because of failure of their elders in dealing with sex offenders in the past, nor should today's youth been punished because the actions of a small group of degenerates. The Inquiry needs to balance the greater good for the community and shouldn't take the easy option in punishing the wrong people, or blaming them for the actions of a few degenerates.

**LEGAL CHILD NUDITY**

There is also a big different between nudity and pornography, and often in many cases, the nude images of children which would bring criminal charges, would be given a PG or M rating by the Australian Classification Board. That is the usual response to any nudity of children who appeared nude in books, magazines, movies, Art, DVDs, websites, etc that are given a PG to MA 15+ rating. Most of the most common legal child nudity is naturist or nudist who appeared nude in magazines in most newsagents stands, and many such magazines sell DVDs which feature much nudity of children with most of this just given a PG rating by the Australian Classification Board.

If an degenerate wants nude images of persons under the age of 18 years old, all they have to do is visit naturist and nudist websites and they can simple download them lawful for their own lustful intentions, and no crime has been committed, this can included magazines, DVDs, etc.
I am not suggesting such material should be made a crime, or banned, as the last thing this inquiry should start a witch-hunt against naturists and nudists. Why should any naturist or nudist suffered or have their life-styles restricted because the actions of handful of degenerates who are not even link to the movement. The Inquiry must act in the greater good, which are the naturists, than make any laws that would punish them. Again why should such freedom been remove because base on the actions of a few degenerates who abuse it.

I don't even believe the term child pornography grade 5 is a suitable term for an image of a nude child. If there had to be a term, lewd material is more suitable. To me pornography means films, pictures, writings were the person or persons are engaging in sexual activity of any kind, mostly sexual intercourse. Australia does a very liberate approach to nudity in general. There are many M and MA15+rated magazines which contain nude images on display openly at newsagents, and under the Australian Classification Board, a person over the age of 15 years old can view such material legally. So even the Australian Classification Board believes any person over the age of 15 years old can legally view nudity. It does seem ironic that a 15 year old girl can legally view nude images of adults who are M rated, yet if she does the same, she is consider a sex offender.

Another example, a 14 year old boy sends a text message of his rear to his latest crush, and he is judge a sex offender, not base on his actions, but base on his age. That's not justice. In Australia culture, there is a famous quote called “a fair go”. Justice does need to give people a fair go, especially those intentions was innocent.

INTERNET 2012

Times are changing, the internet is actually coming safer these days and child pornography has in many cases been completely removed. It is impossible for the average person to obtain child pornography or even nude images of children, unless he or she are part of a criminal gang or a professional criminal in the know. So the days of criminals collecting large amounts of child pornography are now coming very much of a thing of a past. Expect for naturist websites, it is impossible to find any naked images of children.

ARGUMENTS FOR THE LAW TO REMAIN THE SAME

Often there are two big arguments why such laws were put to place to prevent sex offenders from gaining nude images off children, or such images falling into the wrong hands.

ARGUMENT ONE

One of the biggest arguments for draconian laws is aim at adult sex offenders who pose as teenagers themselves or even reveal their true ages, were their intentions is simple to gain nude images of children either by via webcams, text, emails or by meeting in person.

Firstly if the person is aged between 16 and 18 years this should be lawful, if the law believes that someone of such age can be in a good frame of mind to consent to sex, than they should be also allowed to give consent for nude images to be taken for private use only. I do go into in more detail further later in my submission.

To solve this is rather simple, an adult cannot request nude or partly naked images, either via webcam, text, etc for persons under the age of 16 years old, unless they have parental or guardian
permission. Nor can the adult request such images via a third party, like an ex boyfriend, etc, expect for a parent or guardian, or a professional who works with children. If an adult does this without permission of the parents or guardians, than an offense has been committed.

This is a far better way to address this issue, than punishing teenagers. If an adult is send emails or texts with nude images of children and deletes the images without saving them, than no offense has been committed. Fairness, if the police check a suspect's inbox and find the emails un-open, then no offense been committed, the same with text messages.

What if an adult poses as a teenagers online to gain such images, this should be made a criminal offense.

Fairness, often this can be tricky as in many cases teenagers in the online world, even as young as 11 years old will pretended to be adults, stating their ages are 18 years old or older. In the cases of 11 years old, simple looking at their images will give their true age away, but in older teens like 15 years old, they can have appearances of adults, were an unsuspecting adult will be none the wiser, especially if either parties have never met in person before. So if an teenager lies to an adult regarding their age and sends them emails nude images, etc where the teenagers does have the appearance of an adult, than no offense been committed. This includes if the teenager has join online dating service, or sex clubs or other similar services, which does state persons only over the ages of 18 years old can join. Fairness, what if an adult did ask for a few images of teenager between the ages under 16 years old, either nude or partly nude and it was a one off thing, or done a long time ago. Then it would be better if this person was fined, than go through the courts.

Also situations do change, for example, a 15 year old girl poses as an 18 year old on face book and sends Jason who is aged 31 years old nude images of herself during this time. They have never met before in person. A year later, the girl changes her profile to her true age and by this time, Jason is long gone unaware he was given nude images by a 15 year old. This shows how tricky this can be. When the girl is question by the police, fearing been yell out at by her mother tells them it was all Jason’s fault and he knew her true age at the time. This is why police or anyone can’t rush in with guns blazing as they could end up shooting the wrong victim.

I will give two examples. Harry is 23 he meets Anna on face book who states her age is 17 years old, yet she is really 14 years old, she is very developed for her age, so Harry is none the wiser, and even when she sends him several nude images of herself. In this case, Harry has not committed a crime.

Josh is 46 years old, and poses as a 14 year old boy, and joins Karen’s face book page who is also 14 years old. Josh asks for nude images of Karen, and she sends him nude images of herself to him. This is a crime.

AGREEMENT TWO

Often the biggest argument for harsh child pornography laws is often such images are abuse or fall into wrong hands, usually other teenagers with sinister intentions. Really laws need to be changed to protect such persons and their privacy, and this should include adults. When someone where in a relationship, and they give their partner at the time, nude images, etc. Then the relationship goes pear-shape, and an ex partner seeking revenge by spreading the images around, or threatening to email them to the victim’s parents, friends, etc.

Then this person should be face criminal charges. This should not only be films or images, but
information as well, such as victims of incest or rape having their private information made public or reveal to other parties for the purpose of harassment and cause them much distress. This can be more damaging and hurtful than nude images themselves. A small number of teens can be worse predators and sadists than adults, and get their pleasure by causing much hardship to others.

Often this online black-mail, harassment and bullying, does required a draconian approach is needed against such persons, including changes to the privacy law. Stronger laws against such offenders are needed, including jail terms for those who engaged in gross bullying, blackmail, stalking and harassment. Also law-suits are also the best methods in dealing with such offenders, as the average parent has no interested in facing large law suits, steep lawyer costs, and taking time off from work to deal with such matters.

The days when someone can sit behind their PC, and do and say what they like, should be fast coming to an end regardless of their age. I do believe the Victoria Law reform Commission does need to hold an Inquiry into online privacy and online crimes such as bullying, stalking, harassment and blackmail.

What if a person under the of 18 years old is photography either nude, in their under-wear or partly nude like topless without their permission or knowledge, like at the beach, bathrooms, change rooms, toilet, bed-room, etc, etc. The same applies if the person at the time, was drunk or under the influence of drugs causing them to be unconscious, or asleep. Then all this should be deem a serious criminal offense.

What if the person under the age of 18 years old was pay or place under pressure to pose nude against their own free will, then this should be deem a serious offense. A person under the age of 18 years old can receive payment for posing nude or partly as long as they have written parental or guardian permission and this is only for nudity only for material that rates PG, M and MA15+rated. Two examples:

Joe is 54 years old, and been speaking to Jodie who is 14 years old via msn messenger, she agrees to send him nude images of herself for a price without her parents’ permission. In this case, a crime has been committed.

Jack who is 15 years old joins Black cat modeling agency, and agrees to pose nude for a fee for an upcoming magazine, with his parents has given written permission. No crime been committed here.

The best method in making the internet a safer place is have a system put in place, were a person wishing to join any social media, etc must obtain a card with a code number from their local post office, after they filled out an application form and showing photo identify. When joining the social media, they must show the code, which will only register their name and date of birth, and country they reside in, which will appear on their profile. Degenerates, online trolls and bullies are less likely to engaged in any anti-social behavior, or criminal acts if they wearing their name tag, and knowing they likely been caught. It also stops people banned from social media by making up fake names and rejoining again.

Also internet websites which cater for children must take more responsible in preventing abuse. For example in Myspace social media, adults couldn’t send friend requests to any persons under the age of 16 years old. If such sites allow abuse to occur, then their directors should face
prosecute. A good example, If I ran a pre-school, and I allowed or turn a blind eye to degenerates entering the school grounds with sinister intentions towards the children, I would face prosecute and likely have my pre-school close down. The same measures should be towards directors of websites that has members who are minors.

CHANGE THE LAW

I do believe the law regarding child pornography grade 5 for persons between the ages of 13 and 16 years old who are within the bounds of a lawful relationship of any kind should decriminalized for private purposes only. For 16-18 pornography grade 5 should be decriminalized completely. It also prevents the blame game, were both parties blame each to avoid child pornography charges when question by the police, parents or teachers, etc. If this is legal, there is no need to play the blame game.

I do believe there is much advantages for decriminalized of the law, it allows victims to come forward and report incidents like threats, blackmail or image abuse. Were at the moment, a victim may not come forward for fear of finding themselves charged with child pornography. So this can make it harder for anyone to blackmail or threatened someone who they have nude images of the victim and threatened to use them in a sinister way. Often online predators gain nude images of children and blackmail them in return for sex. If this is decriminalized, then the predator has nothing to blackmail with.

In the case of one of Australians worse online predator, John Raymond Zimmerman who sexual abuse up to 55 girl, he use nude photos given by the girls to threatened or blackmail them into having sex with him with most of the victims been under -age girls. In one case, he had sex with a 13 year old girl after promising to deleted nude images of her, and even when she agree to this, it didn’t stop there, and he had sex with her on two other occasions. If child pornography grade 5 was legal, then these girls could come forward and report such degenerates such as Zimmerman, without fear of facing criminal charges themselves. In the case of Zimmerman such a man should been given life in prison. That is the best method in protecting the community, by keeping such degenerates away from the community and sends a message to any future Zimmermans.

There is another problem, what if the teenagers grows up to an adult and still has the nude and partly nude images of former under age partners. In this case, if they doing nothing sinister, making the images public, or not using them to make profit, then no crime has been committed.

PERSONS UNDER 13 YEARS OLD
It has to be accepted often it is very hard for parents or guardians of teenagers over the age of 13 years old to monitor their teens internet and iphones, habits.

However under the age of 13 years old, the parents should take greater interested and monitor their children’s internet and phone habits, and greater controls place on children. If a 11 year old is found doing strip teases on their web cam to strangers, the questions need to ask why did the 11 year old have access to the web cam in the first place. So in these cases, parents should be charged, unless this was done by an older brother, sister, babysitter, etc who abuse their position of trust or neglect their position.

Fairness, an commonsense approached is needed as chances there is more nude images of this age group than any other, like grand-parents taking nude photography’s of their toddler grand-child at the beach or in the bath which is normal and innocent behavior. There needs to be a proof of evidence that the adult involved does have criminal intentions. If a older sister who is 15 years old takes nude images of her one year old brother playing with his toys in his bedroom, this shouldn’t treated as a criminal offense. There needs to be a commonsense approach and fairness without engaging in a witch hunt. This is something the police will require, evidence of sinister intentions. Parents can take nude or partly nude images of their children without fear of criminal action.

In the case of a stranger, who asks for an 11 year old to do a strip tease on the cam web, than he or she should face criminal charges, the same with asking for texts and emails, etc.

UNDERWEAR

Children posing in their under-wear is considered child pornography, yet if the same children appeared in their swim-wear no matter how revealing it is, it is not. So if there is an image of a 13 year old boy wearing his under-wear which are boxers, this can be considered child pornography. Yet if he appeared in his Speedos which expose much more skin than his boxers, it’s not child pornography. I do believe these laws are completely flaw and need to be changed. I do find it strange that the law treats a 14 year old girl wearing her bra and panties as child pornography, yet if she down at the beach wearing a g-string bikini, it’s not. Even if she is topless as she could consider going topless down at the beach her swim-wear. If the children are wearing what is consider normal and general under-wear this shouldn’t be a crime. In cases a child is wearing lingerie such as black stockers, suspenders, and other forms of lingerie and the image wasn’t taken by a parent or guardian for private use only, than this should be consider a crime.

16 to 18 YEAR OLD PERSONS

What changes, I want to see occur. Change the 2004 pornography laws to 16 and 17 years old.
am speaking about grade 5 pornography, in general nudity. If a 16 or 17 year old person can legally consent to lawful sex with an adult, than why can't they consent to themselves been photography naked or partly naked. So if a 24 year old man met a 16 year old girl, and has a sexual relationship with her, so far it's all legal. Yet the moment he takes a consenting photography of the girl even just topless or in her under-ware, instantly in the eyes of the law he is a child sex offender. This does not make any sense at all, it lacks logic and commonsense. It even has over-tones of a modern day witch-hunt. If a 16 year old can legally give consent to lawful sex with an adult or another teenager, than why can't they give lawful consent to themselves been photography naked or partly naked for private purposes only? So in my view, this needs to be decriminalized. A 16 year old can have lawful sex, can have de facto relationships, have children, even marry with the courts consent, so I can't see what is wrong if they photography themselves naked.

COMMUNITY STANDARDS

The community is totally against child pornography, which is justify, But I don't believe the community is against nudity involved persons over the age of 16 years old.

I can prove this, in 2008 New Zealand model Zippora Seven who was 16 years old at the time appeared topless in two images in Russh Magazine, and this magazine remain in newsagents for 3 months on sale, without cry or demands to have it removed. This was reported in the media, despite there was a lack of media and public interest in this affair.

There is also many naturist DVDs and magazines which feature child nudity on sale, again there is no outcry in removing such material. In 2009 People Magazine, published an image of topless 16 year old girl along with her nude mother. The image did date from around 1983. Chances tens of thousands of readers saw this image, yet none flick an eye-lid.

These two examples reveal how much a joke the child pornography grade 5 laws are.

Prior to 2004, it was common to see nude and mostly topless images of 16 and 17 year old female professional models in magazines such as Playboy, People, Picture, Hustler, Penthouse, and even in newspapers such as the Truth Newspaper with the most famous been Samantha Fox who started her Page 3 career at 16 years old. The bulk of these models wasn't Australian, but from the UK. These girls had written parental permission to pose in such magazines. Most of these girls do have the appearance of an adult. In the Melbourne State Library, there is copies of Truth newspaper featuring both 16 and 17 years old Page 3 girls which anyone can view and even copy, yet this is not view as a crime. It appears such images come under the term, historical, any nude images of minors before 1997 is consider historical.

This poses another problem, how can police charge someone caught with nude images of underage models if they don’t know the date they were taken? Again this reveals how unworkable these laws are, and how urgent change is required.

What I am seeking is simple, have the law change back to what it was prior to 2004 regarding 16-17 years old. Persons over the age of 16 years old can pose nude for private purposes within bounds of a relationship and for private use only, not to be made public. On commerce
purposes, a person aged 16 or 17 years old can pose nude in adult magazines, websites, anything similar as long as they have parental or guardian written permission to do so. They cannot be involved in hard-core pornography or engaged in sexual acts, and their images cannot appear in hard core magazines, websites, etc. They only can appear in magazines or websites, that has the ratings of PG to MA15+. It should be a serious crime for 16 or 17 years old to be appeared in pornography films or images engaging in sexual activity for commerce purposes.

I do believe if two persons aged between 16-17 years old and make a pornography film or take pornography images of them for private use only, and not to be made public, should be decriminalized. For example, a 17 year old girl lives with her 26 year old boyfriend in a de facto relationship, if they use to make private pornography of themselves, than any laws making this a criminal offense should be decriminalized. This is not for commerce use, and if for some reason this video or images does come into the public eye, the person who has place them within the public eye should face serious criminal punishment.

EDUCTION

I do believe education is another key in dealing with this modern day curse, were in schools from grade 6 level, children should be taught the dangers of the internet, not only about the predators, but also the many online scammers as well. They should also be taught how to behave online, and what will happen if they engaged in abuse, harassment, make threats and misused information and images.

OTHER CHANGES I WANT TO SEE

Any person convicted of engaging in serious cases of online blackmail, harassment and bullying which does required a prison term, shall place on the register upon their release after 2 and 5 years. They face a ten year banned on the use of social media.

The sex offender's registration report final recommendation 2011
No 4. A person should be included in the Sex Offenders Register only by order of a court. The current system of automatic inclusion of an offender following a finding of guilt should be discontinued.
No 16. That all sex offender’s registration Act 2004 that all registration orders to be treated as sentencing orders for the purposes of appeal rights.
No 70. The sex offenders Registration should establish a sex offender’s registration review panel. However due to the large numbers of register sex offenders, that each police district have its own sex offenders registration review panel. The reason for this, it takes years before the panel could review each case and in some cases, the offender’s term could have expired.
No 72. The sex offender’s registration review panel should have powers to terminate the registration of any person who was registered for an offence that is no longer a registrable offence in Victoria. (The panel should also have the powers to remove convictions and fines, etc)
No 75. The sex offender’s registration review panel should be permitted to terminate an existing registration.
No 78. The sex offender’s registration review panel should be permitted to make decisions favorable to the sex registered sex offender without a hearing.

My recommendations for the panel that it should have powers to remove convictions if need be, when the law changed.
Panels must be set up and manage each police district in the state of Victoria.
Border-line cases can be bought to the panel to be judged whether a crime has been committed, if they find a crime has been committed, the panel can serve Justice, or if the offender does not want this, he or she can agree to their case been taken to court.
The Panel should be given the powers to handled minor sexual-related cases that don’t required a
prison term, and have powers to fine, give community base orders, place bans and restrictions and give cautions, or refer the offender to health and community services. However it is the choice of the person involved, they either face the panel or go through the courts. However with huge lawyer's fees and knowing they won't go to prison, it is likely most minor offenders will chose this method of Justice.