

Alarmed but not alert



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Well, silly old me. I was naïve enough to end my column in the previous edition of this journal with a red rag to a bull. “Go on Mr Attorney”, I said, “carpe diem!”¹ So I shouldn’t complain about the fact that within an hour of the said edition of *Balance* landing on my desk, John Elferink had not only seized, but also besieged, vanquished and in short ruined the day. Because it was on this day, 15th October 2014, to be specific, that “Daniel’s Law” was announced.

The *Northern Territory Sex Offender Public Website (Daniel’s Law) Act* (“the NTSOPW Act”), as it will apparently be formally designated, sends so many wrong messages; it is hard to know where to start. Of course, at the time of writing, no details have yet been provided. As yet we have no definition of the “serious sex offenders” whose names, photographs, physical descriptions and regional locations will be published on the NTSOPW. Notably, the Attorney-General’s media release did not state that the reach of the NTSOPW would be restricted to child sex offenders.² An obvious starting point would be to place all reportable offenders pursuant to the existing *Child Protection (Offender Reporting and Registration) Act* (NT) on the NTSOPW, and then top it up with details of sex offenders convicted of similarly serious crimes against adults. That would include everything from rape to indecent assault. The Attorney-General has assured us that to protect the identity of victims; details of the crimes committed by

each person on the NTSOPW will not be published. This however, raises the spectre that everyone on this “easy user-friendly” site will be indiscriminately branded as a dangerous sexual predator.

Similarly, the Attorney-General has been at pains to point out that, unlike the Derryn Hinch model for community-based DIY justice, the NTSOPW will not publish offenders’ full residential addresses, but merely “regional locations”, such as “Darwin”. It is obvious, though, that any committed would-be vigilante armed with a Facebook account and a smartphone would have little difficulty in tracking down the whereabouts of the named and shamed offenders. Even more disturbingly, in many cases, the victims will also become readily identifiable. A high proportion of sexual offending is intra-familial. In many such cases, to target the perpetrator will inevitably result in the exposure of the victim. It is also readily foreseeable that this state-facilitated vigilantism will result in the targeting of

innocent people who have been mistaken for sex offenders identified on the website.

“Daniel’s Law” is modelled on its American cousin, “Megan’s Law” (versions of which have proliferated on a State by State basis across the USA over the last twenty years). There is now a significant corpus of research into the effectiveness of these laws, and the evidence is in: they do not reduce the incidence of sexual offending, the type of offending, or recidivism.³ This is, no doubt, why Megan’s Law has not been adopted in other similar countries, such as Canada, the UK or of course Australia. Make no mistake: on this issue, the Northern Territory Attorney-General has defied the collective wisdom of his fellow Attorneys of every political persuasion, in every other Australian jurisdiction. It is trite to observe that in our Federal system, in which freedom of movement across State and Territory borders is constitutionally protected; such a scheme would only be effective



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if it were supported by a network of national legislation, as is the existing child sex offender reporting and registration scheme.

The NTSOPW will provoke alarm, by ramping up paranoia about and hatred towards sex offenders, who John Elferink wasted no time in comparing to the lepers of old. His proposed leper-colony solution is to make them social pariahs, and to exclude them from civil society. Putting to one side the odiousness of inciting odium, this approach has another, more insidious effect: it reinforces the stranger-danger stereotype that sex offenders are “out there”, when, as is now so

well-recognised, children are at far greater risk from those they know and trust than from some rain-coated monster hiding in the shrubbery. Ironically, although the NTSOPW will undoubtedly make us more alarmed, it may well also make us less alert.

Come on, Mr Attorney, sapere aude! ●

(Endnotes)

1. This call was issued in support of my proposal to establish a Northern Territory judicial appointments commission.
2. <http://newsroom.nt.gov.au/mediaRelease/10056>, accessed on 17 October 2014.
3. For example, see: Zgoba, Witt, Dalessandro and Veysey, “Megan’s Law: Assessing the Practical and Monetary Efficacy” (New Jersey Department of Corrections, 2008; abstract at <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=247350>); Fitch, “Megan’s Law: Does it Protect Children?” (National Society for the Prevention of Cruelty to Children, UK, 2006); “Is notification of sex offenders in local communities effective?” (Australian Institute of Criminology Factsheet No. 56, 2007).

