

INQUIRY INTO SPENT CONVICTIONS FOR JUVENILE OFFENDERS

Organisation: The Salvation Army - Australia Eastern Territory

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THE SALVATION ARMY AUSTRALIA EASTERN TERRITORY
SUBMISSION TO
THE NSW LEGISLATIVE COUNCIL
STANDING COMMITTEE ON LAW & JUSTICE
INQUIRY INTO SPENT CONVICTIONS FOR JUVENILE OFFENDERS

BACKGROUND TO THE SCOPE OF SALVATION ARMY SERVICES

The Salvation Army has a long history of working with people impacted by sexual offences. Our various services and Corps (Church congregations) currently engage with

- Victims and survivors of sexual abuse; in Corps (Church congregations) both internally and through their contact with people in need in their communities, in Counselling services, in accommodation & support services, especially those with a domestic violence focus, and in youth services
- People who have been convicted of sexual offences – both juvenile and adult; through court & prison chaplaincy, services accessed by people exiting prison such as accommodation services, drug & alcohol recovery services, employment services, youth services
- Families, congregations and communities struggling to come to terms with the effects of abuse; through our internal support systems for members and employees, chaplaincy & pastoral services to communities and community groups, counselling services.

As a result, The Salvation Army is acutely aware of the complexity of the issues involved and the need to balance the interests of the victims / survivors, the protection of vulnerable people from possible abuse and the rights of ex-offenders, particularly those convicted of juvenile offences, to the best possible opportunity to move forward into a life free of further offence and stigmatisation.

VICTIM IMPACT

Victims and survivors of sexual abuse need to be believed, need to have the seriousness of the crime committed against them recognised and responded to appropriately, to have the impact of the crime on them acknowledged and not minimised, and to hear the message that the abuse was not their fault. Any amendment to the current prohibition on spent convictions should not compromise this.

PROTECTING VULNERABLE PERSONS

The importance of the safety, care and protection of vulnerable people must not be diminished. The need remains for a considered risk assessment to determine whether juvenile sex offenders can in later years be integrated into safely living with and working with children and young people. The proposed amendment needs to provide for this.

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CHRISTIAN PRINCIPLES AND CONSEQUENCES

The Salvation Army along with many other organisations working with and supporting ex-offenders maintains a firm belief in the Christian principles of compassion, grace, restoration and transformation in the lives of those who have offended.

"The Army believes that forgiveness and transformation are possible for each human being, regardless of his/her past. Christ's death is redemptive for all who have faith, making it possible for the worst offenders to find new life in Christ Jesus if they are truly repentant. Long experience in rendering service within the criminal justice systems of many lands, and in ministering to both offenders and victims, and to their respective families, has confirmed the Army's belief in the possibility of forgiveness and redemption for all through repentance toward God, faith in Jesus Christ and regeneration by the Holy Spirit."

*The Salvation Army Positional Statement on Capital Punishment
November 1996*

We believe that people who have been convicted in the past should be given every opportunity and support to change, and once they have done so, to live free of stigmatisation and discrimination. This is particularly so for children and young people, given their vulnerability to external influence, their developmental immaturity and the long-term consequences of such stigmatisation. Nonetheless, some consequences of crime must remain, especially when this is necessary for the wellbeing of the victim and the protection of the vulnerable. Consequences focused on these aims can be restorative for victim and offender alike. However the consequences for juvenile sex offences need to be no more than is necessary to achieve this and should not place unnecessary burdens on the ex-offender who is attempting to live a life free of crime. The question of what is necessary is one that requires ongoing research and exploration.

DIFFICULTIES OF EVIDENCE BASED INFORMATION

It is difficult to gather evidence based information in the area of juvenile sex offenders and recidivism because of the low rates of reporting to police. But research does indicate that "sex offenders typically have lower rates of recidivism than do other kinds of offender and that these rates vary for different sub groups of sex offender". (Recidivism of Sex Offenders Research Paper, Dr Karen Gelb, Jan 2007, Sentencing Advisory Council.) "Young people who have committed acts of sexual abuse are not necessarily destined to become adult 'sex offenders', but need treatment and programs that are appropriate to their age and stage of development." (Young people who sexually abuse: Key issues, Cameron Boyd & Leah Bromfield, ACSSA Wrap December 2006)

THE SALVATION ARMY RECOMMENDATIONS

Given the tensions between the needs of those affected and the lack of reliable predictors of future offending behaviour in people convicted of juvenile sexual offences, The Salvation Army supports Option C: 'Convictions for sexual offences

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should only be capable of being spent in limited circumstances' and offers the following recommendations:

1. That sex offenders' convictions should be capable of being spent only where:
 - a) the offence was committed as a juvenile and
 - b) the relevant crime-free period has elapsed and
 - c) the offences were minor sex offences or
 - d) no conviction was recorded or
 - e) there was a finding of fact that the sexual act was consensual (with an adult)
2. The procedure mechanism to accompany this option should be via application to the court.

To have convictions spent only by court order after the crime-free period has elapsed would require the ex-offender to present evidence that a change has been effected and the risk of re-offending has significantly diminished – ie would provide opportunity for the court to conduct a risk assessment. This would give a greater level of protection against possible future offence.

However this may well result in further disadvantaging people who by reason of social or economic disadvantage have limited access to knowledge of the availability of this option and to the legal and other support necessary to benefit from it. We therefore recommend that legal aid be available to eligible applicants for the provision of the necessary reports (e.g. solicitors report, psychological assessment etc.) and that information about the provision be provided to juvenile offenders at time of conviction.

Thank you for the opportunity to comment on the Discussion Paper. The Salvation Army is happy to provide further comment and assistance in reference to this Inquiry.



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