



**Association For Reformed Political Action (ARPA)**

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30 May 2019

**Submission: 'Safe access zones – Proposal for reform in Western Australia'**

Dear Committee Members,

Thank you for the opportunity to provide input into your inquiry about the merits of introducing so-called 'Safe Access Zones' to Western Australia, particularly in the vicinity of clinics where unborn babies are aborted.

This submission is written on behalf of the Association for Reformed Political Action (ARPA), a non-partisan organisation affiliated with the Free Reformed Churches of Australia, a Christian denomination of approximately 4000 members spread across 16 congregations, 14 of which are in Western Australia.

ARPA itself does not sponsor or arrange protest action that takes place outside of abortion clinics. We are, however, an affiliate of the Coalition for the Defence of Human Life (CDHL) which organises the annual pro-life protests on the steps of Parliament House in Perth. We believe that human life begins at conception and should not be terminated, save for very limited and dire circumstances such as ectopic pregnancies.

Our submission makes a total of five observations, each with an elaboration and accompanying recommendation for your consideration:

**1. Western Australia needs to have a civil but ongoing discussion regarding abortion.**

Public portrayals of the debate around abortion tend to focus on two main perspectives. One perspective focusses on the element of a woman’s choice, arguing that a woman’s control of her body’s reproductive potential includes the right to terminate a pregnancy that she, for a variety of reasons, may not want. The other perspective focusses on the child that the woman is carrying, arguing that terminating the pregnancy by aborting the foetus ends a human life and is therefore murder because a foetus is human.

While this narrative captures the essentials of each side of the debate, we regret that it is overly simplistic, creating an ‘either/or’ dichotomy. Particularly regrettable is the implication that people who are pro-life do not have any empathy for women who are seeking an abortion. In fact, it is precisely because they care about **both** the women facing an unwanted pregnancy **and** the unborn child inside the womb of these women that many people seek to offer alternative options to women who are considering an abortion, including financial, emotional and practical support.

It is very difficult to engage politicians and the public on the issue of abortion. This is unfortunate, because statistics indicate that Western Australia needs to have a conversation about this topic. Accepted estimates are that one in five pregnancies in Western Australia currently ends in an abortion, and answers to Questions on Notice in the Legislative Council of Western Australia reveal that since 1998 over 172,000 abortions have occurred.<sup>1</sup> Statistics released by the Department for Health, in its fifth report of the Abortion Notification System analysing data from 2002 to 2015, demonstrated that the mean age of women having abortions was 26 to 27.<sup>2</sup>

**Table 2: Age at induced abortion, WA, 2002-2015**

Year	Mean	Minimum	Maximum
2002	26.2	12	50
2003	26.3	13	49
2004	26.3	13	49
2005	26.4	12	49
2006	26.2	12	51
2007	26.3	12	49
2008	26.2	12	51
2009	26.4	11	49
2010	26.5	12	50
2011	26.6	12	55
2012	27.0	13	50
2013	27.2	13	51
2014	27.5	13	49
2015	27.9	13	49

Age at last birthday was not provided for 336 cases.

<sup>1</sup> Since May 1998, 172,066 notification forms have been given to the Chief Health Officer advising that an abortion has been performed. *Hansard, Legislative Council of WA, Tuesday 14<sup>th</sup> May 2019*, <[http://www.parliament.wa.gov.au/Hansard/hansard.nsf/0/52D62B013F9A4238482583FD00196D5F/\\$file/C40%20S1%2020190514%20All.pdf](http://www.parliament.wa.gov.au/Hansard/hansard.nsf/0/52D62B013F9A4238482583FD00196D5F/$file/C40%20S1%2020190514%20All.pdf)> p.3207/8

<sup>2</sup> Department of Health, Government of Western Australia, Maternal and Child Health Unit, July 2018, *Induced Abortions in Western Australia 2013-2015: Fifth Report of the Western Australian Abortion Notification System* – p.16

In a state where effective contraception is readily available, these results are alarming. Why do one in five women, most of whom are in their mid to late 20's, decide to abort their unborn child when they are pregnant? Are there more sinister factors at play causing these women to lose control of their reproductive decision making and become pregnant when they would prefer not to be? Specifically, what influence or responsibility is being exerted by the men who played a role in making these women pregnant?

The well-publicised case of Jaya Taki in 2017, who was forced to have an abortion by her boyfriend, NRL player Tim Simona, because having a baby would 'ruin' his career, demonstrates that this is well within the realms of possibility:

*"He would ignore me for days on end if I said I wanted to discuss the option of keeping it, and would only ever talk to me if I gave in and gave him dates for an abortion. He won."*

*"What got me really angry is that I had an abortion on the Friday and on the Saturday, he was out clubbing... I said, 'I sacrificed my child for you...'"*

Jaya Taki<sup>3</sup>

Annual pro-life protests, which have occurred on the steps of WA's parliament house in May each year since 1998, attempt to raise these questions. Unfortunately, they are barely reported by the media despite crowds of over 1800 people attending and high-profile speakers addressing the rally, including elected MPs. This makes it very difficult for pro-life organisations to publicly communicate that they are not just opposed to abortion, but also – and perhaps more importantly - that they are willing to do everything in their power to assist women who may want to continue a pregnancy, but for financial or other reasons feel unable to do so.

It is therefore logical that such organisations may choose to position themselves in the direct vicinity of abortion clinics, where they are able to reach out to women who may be in that position, i.e. preferring to continue their pregnancy. The fact that 'sidewalk advocates' are so successful in their work – one woman alone claims to have prevented 300 babies from being aborted – shows that this work has results and meets a need which is not being met elsewhere. There is no evidence to suggest that abortion providers, who have a financial interest in women proceeding with abortions, are providing this information to women. The website of Marie Stopes Australia (<https://www.mariestopes.org.au/>) makes no mention of any options for women who are unwillingly pregnant other than termination.

#### **ARPA Recommendation 1.1:**

<sup>3</sup> <https://www.news.com.au/sport/nrl/jaya-taki-says-nrl-star-tim-simona-partied-after-her-abortion/news-story/5cdd544abdaa40ef4fd464f44b453291>

**The Department of Health recognises that some women may seek abortions without knowing that there are individuals and community organisations who are genuinely willing to assist such women in removing barriers to the continuation of their pregnancy so that they do not feel the need to abort their unborn child.**

**Consequently, the Department of Health recognises that these community organisations have a legitimate right to locate themselves in the vicinity of an abortion provider in order to make women aware of the support they are willing to provide, and does not recommend the creation of blanket exclusion zones which would prevent these individuals and organisations from reaching out to women in a civil manner, without harassment or coercion.**

**2. The extent of poor protestor behaviour outside abortion clinics, while it may occur, is largely anecdotal and needs to be properly quantified and documented before exclusion zones are considered.**

Under Section 269 of the Criminal Code WA, “a child becomes a person capable of being killed when it has completely proceeded in a living state from the body of its mother...”<sup>4</sup> Many Western Australians who believe that human life begins at conception, and that a foetus is inherently human, find such a definition morally abhorrent, as they believe that a foetus is also a person capable of being killed. However, despite their sincere and strongly held moral belief that abortion is tantamount to murder, these citizens overwhelmingly conduct themselves honourably, particularly when one compares their conduct to the conduct of protestors on controversial topics including animal rights and environmental issues. Christians, who make up the vast majority of anti-abortion campaigners, are commanded by God to respect and honour the government. Ironically, they protest the most serious moral issues in the most peaceful manner.

To be clear, ARPA and indeed most Christians reject as totally unacceptable some of the examples or protestor behaviour which have been mentioned in the media. The conduct experienced by a woman who was interviewed by the ABC in March 2019 and described being called a ‘murderer’ and ‘whore’ outside a Perth abortion clinic is totally and completely unacceptable,<sup>5</sup> as are claims made in the same article that a protestor telephoned a patient’s place of employment or that protesters have impersonated patients at the clinic. Such incidents have rightly been reported to the police for investigation.

We note that 40 Days for Life, the organisation which holds a permit to conduct prayer vigils outside abortion clinics in Midland and Rivervale during the Lent period between 6<sup>th</sup> March and

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<sup>4</sup> <[http://www5.austlii.edu.au/au/legis/wa/consol\\_act/ccaca1913252/notes.html](http://www5.austlii.edu.au/au/legis/wa/consol_act/ccaca1913252/notes.html)>

<sup>5</sup> <<https://www.abc.net.au/news/2019-03-26/abortion-clinic-safe-zones-considered-in-wa/10937920>>

14<sup>th</sup>, has also condemned these incidents and affirmed that they conduct their vigils in a peaceful and law-abiding manner, suggesting that – as the lawful permit holders for the protests – the conduct does not come from their members.

However, we do note with considerable concern that there is little factual evidence that such incidents are widespread. We do not object to the decision by Marie Stopes to use CCTV or body cameras to capture inappropriate behaviour, and note that when their CCTV footage was shown on public news channels it included no footage of any inappropriate activity.<sup>6</sup> Despite approximately 6000 women attending Perth’s two abortion clinics every year, we have seen scarcely any confirmation indicating that inappropriate behaviour is occurring, let alone that it is rife. One cannot rule out the possibility that some, or even many, of the allegations against anti-abortion protesters are inflated.

We are particularly concerned by the paucity of solid data in your discussion paper. The list of alleged ‘incidents’ used to justify the need for Safe Access Zones is based solely on nothing more than interviews with two Marie Stopes Abortion Clinic managers.<sup>7</sup>

No data is included from WA Police and no information is given about whether police were called to deal with any of the unacceptable behaviour cited, such as unauthorised recording, excessive noise or obstruction of the practice entrance. It is completely unacceptable for laws to be proposed which include heavy fines and potential terms of imprisonment without any statistical occurrence information being presented.

We are also concerned at the definition of behaviour classified as “harassment and intimidation” in your discussion paper, particularly: giving gift bags and information pamphlets, communicating with placards and posters, assembling in groups ranging from three to 30 and public singing.

Finally, it should be acknowledged that examples of abusive behaviour from pro-choice protestors towards pro-life protestors also occur. An example from Triple J’s ‘The Hack’ program, by no means a pro-choice organisation, describes one instance:

*Two years ago, an elderly Helper was praying out the front of the Albury abortion clinic when he was attacked by the angry partner of a woman using the service. Greg Cummins was knocked to the ground and his jaw was broken.*

<sup>6</sup> <<https://7news.com.au/news/health/abortion-clinic-safe-access-zones-will-keep-wa-pro-life-protestors-150m-away-c-65696>>

<sup>7</sup> Refer to footnote 7 (p.6) in the Department of Health Safe Access Zones Discussion Paper.

*“He just went bang and he broke my jaw, knocked me back. I hit a fence - my back hit below my shoulders up against the brick fence. Lucky I didn’t hit my head on the fence because I could have been killed,” he said. Despite being hospitalised, Mr Cummins continues to pray out the front of the clinic.*

*-Greg Cummins on ‘Life as an anti-abortion activist: What ‘The Helpers of God’s Precious Infants’ believe – ‘The Hack’ (Triple J)<sup>8</sup>*

**ARPA Recommendation 2.1:**

The Department of Health undertakes to gather factual data regarding the frequency and types of incidents alleged to occur outside abortion clinics, including the statistics for police attendance, the outcome of police investigations and/or footage from abortion clinics, to provide a proper assessment of the extent of alleged anti-social behaviour or behaviour causing distress to patients. The Department of Health acknowledges that laws should not be introduced on the basis of anecdotal evidence from a limited number of persons who have a vested financial interest in not having anti-abortion activists present in the vicinity of their clinic.

**ARPA Recommendation 2.2:**

The Department of Health, in consultation with WA Police and representatives from abortion clinics and organisations opposed to abortion, works collaboratively to determine some agreed standards for conduct on public property outside an abortion clinic, and facilitates a mechanism for identifying, reporting and dealing with unacceptable behaviour through the regular processes. It also agrees to formulate clear standards of acceptable and enforceable public behaviour and have these enforced by the police.

**3. The creation of exclusion zones has the potential to limit freedom of religion by prohibiting acts, including prayer and singing, on public property.**

In February 2017 Kerry Mellor, John Popplewell and Ken Clancy, who were praying silently outside an ACT abortion clinic, were charged by police for being in a protected area and engaging in prohibited behaviour. The matter was heard in the ACT Magistrates court when they appealed their \$750 fine, and the charges were subsequently dismissed in March 2018.<sup>9</sup>

<sup>8</sup> <<https://www.abc.net.au/triplej/programs/hack/abortion-article/9035338>>

<sup>9</sup> <<https://www.abc.net.au/news/2018-03-09/anti-abortion-supporters-have-protest-charges-dismissed/9532536>>

While it is commendable and just that the charges were dismissed, the fact that Australians have been charged for private prayer on public property as a result of abortion exclusion zones being established sets a dangerous precedent for people of all faiths who wish to undertake acts of religious observance on public property. Investigating and prosecuting such matters represents a questionable use of police resources.

**ARPA Recommendation 3.1:**

**The Department of Health undertakes not to make any recommendations which would make it a criminal act to engage in legitimate acts of worship, including prayer and singing, on public property.**

**4. The schedule of suggested penalties for breach of exclusion zones is excessive.**

From page 13 of the WA Department of Health Discussion paper we note that suggested penalties range from fines of \$2,611 or one-year imprisonment in Queensland, to fines of over \$12,000 or 12 months imprisonment (or both) in Tasmania, and fines of over \$19,342.80 or 12 months imprisonment in Victoria.

While no doubt intended to have a deterrent effect, the severity of such penalties is staggering, especially when compared to other offences. We observe, for example, that in Western Australia Assault Occasioning Bodily Harm has a maximum penalty of 2 years imprisonment and fine of \$24,000.<sup>10</sup> A reasonable person would not agree that breaching the exclusion zone of an abortion clinic is an offence of such a magnitude that it is half as serious as Assault Occasioning Bodily Harm.

**ARPA Recommendation 4.1:**

**The Department of Health rejects the penalties imposed by other Australian jurisdictions as excessive.**

**5. Engaging in a consultation process where the desired goal of the process has already been clearly foreshadowed in the media does not engender goodwill or support for the outcome.**

As we engage in this consultation process, we note with some concern that the introduction of 'Safe Access Zones' has already been promised by the WA Health Minister,<sup>11</sup> including mention of a 150m distance, and that this discussion paper – although it seeks feedback on all ways of

<sup>10</sup> <<https://www.andrewwilliamslawyer.com.au/assault-charges.html>>

<sup>11</sup> <<https://7news.com.au/news/health/abortion-clinic-safe-access-zones-will-keep-wa-pro-life-protestors-150m-away-c-65696>> and <<https://www.abc.net.au/news/2019-03-26/abortion-clinic-safe-zones-considered-in-wa/10937920>>

protecting patients from harassment and intimidation – seems to lean heavily towards safe access zones as the preferred outcome. Our concern is that, given these statements, the outcome of this consultation process may not be perceived as genuine.

**ARPA Recommendation 5.1:**

**The Department of Health explores all other options for harmony between pro-life organisations and abortion clinics before considering banning pro-life activity from public property outside these clinics.**

**ARPA Recommendation 5.2:**

**The Department of Health undertakes to genuinely represent the concerns of pro-life organisations in its final report and recommendations.**

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