

Victorian Aboriginal Legal Service Co-op Ltd Indigenous Women's Justice Forum

Minutes: 4 June 2004 Meeting at Central Gippsland Aboriginal Health and Housing Co-op (11.00am-3.00pm)

Present: Melissa Morgan (VALS), Leah Billeam (VALS), Greta Jubb (VALS), Margaret Oats (Lakidjeka - VACCA), Rodney Monohan, (VACCA), Vera Briggs (Dept. Education & Training), Robin Yeates (Dept. Education & Training), Lynette Hayes (Warragul LAG), Joyce Hood (Moe LAG), Judith Hood (Warragul LAG), Darren Malone (Family Preservation), Belinda Roberts (Student), Christine Hayes (Gippsland & East Gippsland Co-op), Sandra Laudani (Gippsland & East Gippsland Co-op), Pat Phair (DHS Traralgon), Lorena Thompson (Kurnai Lakidjeka Case Worker), Marion McNeill (Kurnai Lakidjeka Case Worker)

Apologies: Karen O'Neil (DHS)

Chair: Melissa Morgan.

Round Table Discussion

Removal of children.

Victoria does not have legislation that explicitly permits the removal of children (i.e.: legislation akin to that in 1897). However, there is still a policy of removing children. Removal of children is a trans-generational issue (i.e.: links to stolen generation). The removal of children is violent, involves ripping children away from their family which is like a death in the family, especially if the child is placed with a non-Indigenous family.

Why take away a child from their home?

The decision to take children away from their home depends on the home environment (drugs, alcohol, gambling and domestic violence etc). It was noted that if we are stand up and be honest, some children do need to be taken out of their homes. However, reunification of families needs to occur quickly and if a child is out of their home for more than two years such reunification is unlikely.

There was an instance in the region where children were taken away from their mother that should not have been. A Koorie woman took her children to a refuge with her and DHS took them from her and gave them to her non-Koorie husband.

Parents who have their children taken away:

- Feel they have no rights. Parents feel they have no choice when DHS indirectly threatens them that if they do not take out an intervention order, their children will be removed
- Have a 'them versus us' mentality and are fearful of DHS.
- Are destroyed by the child protection system, to the extent of becoming suicidal

Definition of child at risk

There is a difference in the definition of ‘child at risk’ within DHS and the Aboriginal community. The former consider a child at risk if it sleeps in the lounge room on a mattress, whereas the latter does not. The former considers a child at risk when a parent places the child in child care, knowing that they will go on a drinking binge. From the perspective of the parent, placing a child in child care in this situation is keeping the child safe. Prevention programs are required to keep children safe so that DHS does not need to intervene in families.

Members of the forum consider the following as an example of a child at risk and an inappropriate living situation:

- A thirteen year old child, under the control of DHS, ran away from her placement family to live with her boyfriend. DHS did not stop her living with her boyfriend, which shows that there is too much decision making power in the hands of children. The child had unprotected sex and is now pregnant. She has been robbed of her childhood and in turn her own child. It was noted that problems stem from the fact that children are having children.

Inappropriate Placements

It was argued that DHS arrange for inappropriate placements, such as:

- Placement in a non- Indigenous family as children are not exposed to their culture.
- Placement with extended family, even though the extended family experience problems (i.e. alcoholism etc). In this situation the children might as well stay with their parents.
- Multiple placements, such as a seven year old child having five placements.

The result of inappropriate placements is that children are traumatised, tormented, suffer from emotional problems and do not know who they are (identity). Such children display emotional trauma through social skills (i.e. fights in playground, steal lunches because there is not food at home) and require counselling.

Indigenous Carers

It was noted that there are not enough Indigenous carers and one reason for this is the requirement that a carer undergo a police check. Indigenous people are fearful of scrutiny by the police. It was suggested that the process of becoming a carer needs to be demystified (i.e.: awareness of ability to appeal a police check).

Notifications that go nowhere

DHS was criticised for not doing enough in the context of mandatory reporting by schools. It was felt that when a school makes a mandatory report often there are no repercussions for the family (i.e. case dropped). A possible reason for this occurrence is that the parent has the so called ‘gift of the gab’ and is able to talk his/her way out of a situation when DHS arrives at the door. It was felt that staff of DHS does not know when the wool is being pulled over their eyes, such as parents using other people’s urine for a drug screen.

The fact that often nothing results from a child protection notification is frustrating for the Indigenous staff of support agencies who attend houses with DHS staff. The agencies are incapable of taking a lead role in child protection issues, as they do not have the authority, so it is frustrating when DHS fails to take on a more hands on role. For instance, DHS has power to order a drug screen, whereas agencies do not. DHS was criticised for not ensuring that drug screening requirements are fulfilled, as DHS has power under legislation to enforce drug screens.

Members of the forum supported drug screening as follows:

- Is a form of policing child safety?
- Drug screens on a random or regular basis put the spot light on the family in question and make them accountable.

Definition of Roles

It was noted that there is no set defined role of DHS and child protection agencies and there was a call for the role of each to be clarified. The questions that were raised were as follows:

- Where is the boundary between the role of DHS and agencies?
- What power does each have?
- Do they have dual roles/is there an overlap of roles?

It was felt that intervention at the child protection stage should come from DHS because the Indigenous community are frightened of DHS, and agencies and Indigenous organisations should become involved once DHS has become involved. It was felt that Indigenous workers in agencies need DHS as a backup that has legal force, otherwise Indigenous workers are not listened to. It was also noted that Indigenous workers in the field of child protection are subjected to reprisals within the Indigenous community. This shows the need for support of professional Indigenous workers from the Indigenous community. Indigenous workers can work effectively at ground level because they are aware of family networks and who could possibly take care of children.

Family member's right to intervene

It was noted that family members have a limited right to intervene in a child protection proceeding. Rodney Monohan (VACCA) informed the forum of an initiative, 'Aboriginal Family Decision Making Group Conference' that will be enshrined in legislation next year.

Involvement of Indigenous Community

It was noted that it takes an Indigenous community to grow a child; hence ideally both men and women should be involved in forums such as this forum. It was noted that it would be possible to fill rooms with books and reports (i.e.: Ministerial taskforces) about child protection, but we now need action and to put the issues on the table. The Indigenous Community needs to challenge DHS as it will not change on its own. At the end of the day what is needed is persistence by the Indigenous community and for the Indigenous community to take a lead role.

Family violence

It was noted that around 80% of child protection notifications are related to family violence. Family violence has an impact on schooling, as children refuse to attend school in order to protect their vulnerable parent from abuse. It was noted that such children miss out on food handed out at school, sometimes their only source of food. It was remarked that the community do not see family violence in the same manner as Indigenous agency workers do (i.e.: the community attitude that is accepting of abuse is in opposition to workers attempts to prevent abuse). The lack of logic in removing children from families, as opposed to an abuser, was noted. The lack of counselling for family violence perpetrators, such as anger management, was also criticised.

Underlying Issues

It is noted that simply taking children from a family as a first resort does not address underlying issues that cause problems in families. It was noted that neglect is not a blame issue, but it is a social issue, about education, employment and poverty etc. There are not enough counsellors for parents and children (i.e. domestic violence, alcohol). The lack of counselling means that problems self perpetuate. Children need counselling from point one as they blame themselves for family problems. Counselling is required, as often parents are in denial about their problems. There should be counsellors in schools, and there are some counsellors in schools, but this is not the norm.

It was noted that a lack in resources for counselling services means that families fail to meet conditions on court orders to receive counselling. This problem can be addressed by increasing funding and it was noted that Indigenous Australians seem to be constantly struggling for funding.

Service Provision

It was noted that service provision for struggling families is important, but it is lacking. It was noted that:

- DHS is in a good position to link parents with services, but this does not always occur.
- Some parents choose not to use services provided by Aboriginal co-operatives and remain isolated for fear of being looked down upon by the community.
- As some parents feel 'stonewalled' by DHS (i.e.: can't challenge the removal of their children), it is important that they are aware of supportive networks around them.

Education

It was noted that fear of DHS means that many parents give up when their children are taken away from them. It was suggested that Indigenous Australians should be better educated of their rights when DHS intervenes in their family life.

It was noted that there is a need for DHS staff to be trained about issues Indigenous Australians face. It was acknowledged that DHS often responds to this call by saying that there is no time for training (i.e.: staff cannot afford to take two days off). The response of the Indigenous community to this is: "well, where is your commitment to the

Indigenous Community?” Training of DHS staff is required in order to be able to hold them accountable to standards.

Mediation

It was suggested that in cases where mediation is appropriate, tasks should be given to both parents that keep the focus on the children

Guardianship by Indigenous Organisation

The proposed amendment to the Children and Young Person’s Act (vesting guardianship in Indigenous Organisation) was discussed. This would mean that an Indigenous organisation would be involved in the placement of children, as opposed to DHS.

Gippsland Koorie Court

It was noted that there has been a recent increase in juveniles committing criminal offences in the Gippsland region. For instance, between June 2003 and June 2004 there were one hundred and seven matters heard in Moe Children’s Court. In contrast, there were seventy heard at Melbourne Children’s Court and thirty six in Mildura. It was noted that there is a relationship between child protection issues and juvenile justice. It was noted that VALS is using the above statistics to advocate for the establishment of a Koorie Court in Gippsland. Some members of the forum argued that caution should be taken in implementing such a proposal, as it would not receive widespread support.

VACCA / LAKIDJEKA ACSASS Presentation (Margaret Oates and Rodney Monohan)

VACCA/ Lakidjeka Access:

- act on behalf of Aboriginal children
- provide an Indigenous perspective on children at risk
- work to set up plans that are likely to work, rather than fail
- Is a child specialist advice and support service.
- is a consultation service with DHS
- attend family homes with DHS after a child protection notification
- If the DHS and VACCA worker cannot agree on a case, then the case goes up the ladder to management
- The current involvement of VACCA in a case (three months) will be extended as of July 2004 to enable consultation for the life of a case.
- If a mother does not want her mother to know of her problems with her children VACCA cannot tell the grandmother of the children about the case for confidentiality reasons. However, VACCA can inform DHS that the grandmother might be interested in the case.

MEETING CLOSED at about 3.30pm.