

WEST HEIDELBERG COMMUNITY LEGAL SERVICE

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26 August 2003

Senator Hutchins
The Chair
The Senate Committee on Community Affairs
Parliament House
Canberra 2600



Dear Sir,

Re: Inquiry Into Children in Institutional Care

We were not aware of your inquiry until Sunday last when it was reported upon in the Melbourne Age newspaper. These are some of the legal service's thoughts in relation to children in institutional care based on our experience in assisting children involved in care and protection cases, siblings of children, parents, and grandparents as well as children who have experience within the care and protections system and we hope this letter is not too late in terms of the timing of your inquiry.

The West Heidelberg Community Legal Service has been delivering legal services to the local area since 1975 when the Legal Service was established by a group of volunteers prior to it becoming a funded legal service and entering into a working arrangement with La Trobe University. The Legal Service is based in the Banyule Community Health Service on the site of the former Olympic Village. The area has a high concentration of people who are in public housing and West Heidelberg holds one of the poorest postcodes in Victoria. The Legal Service being co-located with the Banyule Community Health Service has a holistic approach to the delivery of its services.

Ensuring the best interests of the child is of paramount concern to the community. Recent discussion of the care and protection system has overlooked an important dimension. A "snatch and grab" approach is not appropriate for all cases and ought only be occasioned when the child is genuinely at risk, as a child can also have its life shattered by unwarranted intrusion.

This legal service when it does care and protection work often acts as a broker between the Department of Human Services and client's who are often confused and unaware of what is going on until we can intervene and explain the court process and the role of human services. Often if human services had been clearer and less confrontational in these cases situations could be resolved at an earlier stage. The importance of protecting abused and neglected children is critical but sometimes, some in the Department, take an approach which is defensive, has little real concern for the child and use its investigative powers to cajole and intimidate rather than offer

necessary support that many struggling families need. Acting on the basis of very little evidence, they will enter people's lives threatening removal of a child. Not having sufficient evidence to support their case, they will delay the production of reports, adjourn cases off and refuse to explain to often distraught and confused parents and siblings what is happening (even though protocols say they should). This escalates a situation which could often have been worked through with better communication and early purposeful intervention. Sometimes, the non-government agencies used by the Department can also lose their objectivity as independent assessors seeing themselves more as agents of the department.

Many case workers are young and inexperienced and focus on minor aspects of parenting such as an incident of unwashed dishes or that the child was left with a person unknown to the Department, in one case this was an aunt. The Court does what it can to ensure its statutory obligation to make sure removal is warranted and gets criticised by the Department for not doing its bidding.

Being a case worker in human services is not an easy task and the complexity of the role and stress must be understood but they must also make sure they act validly and they need to be backed by resources to assist families who struggle with parenting. Separation of a child from its parents should be only occur with good reason especially as the State which becomes guardian upon removal is very often not a good parent.

In addition, it is our experience that when families need support they are unable to access support due to a lack of available resources. Often if families can be supported through a crisis or if young parents can gain access to courses that enhance skills in parenting earlier, things would not get out of control. Often the Department whilst requiring that families get support do little to assist the very same families in accessing the support thus setting the family and vulnerable child up for later failure. Successive governments have failed to address the need for resources and proper assistance for agencies who offer support at the cutting edge.

There is a shortage of foster parents who are committed to stay with children for the long haul. The debate should not just focus on removal but also look to what happens to the children upon removal. Often they miss out on education and make their way into the criminal justice system. In one case we helped a young teenage boy in relation to his criminal matters. In the eighteen-month period before he came to us he had in excess of twenty foster places. One pair of initial foster parents had been keen to look after him on a more permanent basis but lost interest after the Department delayed and procrastinated in getting back to them. The boy had been so disappointed that it was very difficult for him to trust anyone again. This in our experience is commonplace for young children who have been in care and protection, as they experience what they see as betrayal and a lack of continuity and become sceptical of anyone in future who seeks to assist them.

Matters of proper resourcing, properly trained and experienced personnel and clarity around the rights and responsibilities of all parties are long overdue. These children, by virtue of their vulnerability are entitled to a greater contribution and priority by the community and governments.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Liz Curran', written in a cursive style.

Liz Curran,

CLE Supervising Solicitor West Heidelberg Community Legal Service
and Lecturer in Law and Legal Studies, La Trobe Law