

4 October 2009

Mr Peter Hallahan
Committee Secretary
Standing Committee On Legal And Constitutional Affairs

Email: LegCon.Sen@aph.gov.au

Dear Mr Hallahan

RE: Submission to the Inquiry into the Crimes Amendment (Working With Children-Criminal History) Bill 2009

The Australian Childhood Foundation is a national not for profit organisation that provides therapeutic services for abused children as well as running research, advocacy and professional and community education programs.

The Foundation has recently merged with the Australian Council for Children and Youth Organisations (ACCYO) and has now taken over the running of the Safeguarding Children Program. This program has been developed over an eight year period and is designed to strengthen the capacity of organisations to protect the safety and well being of children in their care. The Program offers organisations a range of child safety training, risk management and decision making tools, policy and procedural templates, plus on-going educational forums and expert consultation.

A significant component of the Safeguarding Children Program is the development of policies that cover the safe recruitment of staff and volunteers into organisations by using the respective State/Territory Working with Children and Criminal History checks.

The Bill implements the COAG agreement of 29 October 2008 that seeks to facilitate the inter-jurisdictional exchange of criminal history information for people working specifically with children. In its proposed form, it will significantly enhance the capacity of organisations to protect children who access services and programs. As such, the Foundation is in support of its implementation.

Restricting perpetrators of child sexual and physical assault from working with children must be a fundamental endeavour within the legislative responsibility of all Governments. In our work with child related organisations, they welcome the structures and tools to manage risk to children, and view the content of prior criminal behaviour as pivotal in their capacity and confidence to provide safe environments for children. In our experience, if there is any unease for the children's services or activity providers, it is that there is not enough information available about applicants.

TALKING IS THE BEST MEDICINE
Stop child abuse
WHAT IS HAPPENING IS
Counseling is also good
because it brings the family
back together.
Happy People

We believe that information relating to charges withdrawn or not proven should not be excluded. The decision to exclude such information does not take into account of the prevalence of child sexual abuse and the overwhelmingly poor rate of prosecution and convictions for child sex offences. Jurisdictions and legislators broadly recognise that children are seriously compromised in the adult courts, whereby around the world, many progressive approaches have been implemented that endeavour to acquire the truth in such matters, rather than prove beyond doubt.

The notion of excluding information relating to spent convictions for offences against children, is similarly problematic. Offences against children invariably relate to child sex offending and serious physical abuse, both often occurring in conjunction. While some types of offending may not prove strong predictors of further offending for some, there is overwhelming evidence that child sex offenders begin offending at an early age, and maintain offending proclivity for life. Indeed current treatment and therapeutic approaches do not aim to cure child sex offending, rather to establish life long behavioural, emotional and cognitive conditions necessary to manage this seriously recidivistic offending. A significant protective mechanism for these people is the acknowledgement of the risk they pose. A commensurately significant safety mechanism for child related organisations is to have a full account of an applicant's criminal history, regardless of how long ago it occurred.

It is our view that the vast majority of applicants for employment and voluntary activities with children would not likely oppose a full declaration of all criminal related information. It is likely that only a relative few would not support it.

The proposed legislation acknowledges that children's care and safety is dependent upon systems that have adopted a commitment to children's rights. It is our hope that its ambition is not watered down during the process of review.

I am more than happy to provide additional information to clarify any of the issues explored in this submission.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Joe Tucci', with a stylized flourish at the end.

Dr Joe Tucci
CEO

