

The NT Legal Aid perspective

By Northern Territory Legal Aid

The 'Little Children are Sacred' report published in June 2007 has highlighted challenges which Indigenous families in remote communities face in addressing a range of family related issues, including 'child maltreatment and family violence and the general dysfunction of Aboriginal communities'.

The Commission made submissions to the Inquiry and welcomes the report, which highlights that child abuse is a complex problem with many facets. That such extensive consultations were held and such a comprehensive report was delivered in the space of time available to the Board, is a credit to the Board members and those supporting them.

The media release declaring a national emergency response to protect Aboriginal children by the Australian Government, on 21 June 2007, included a list of action required by the Australian Government and the Northern Territory Governments. Of those matters listed, a significant impact on legal services may be required as a result of:

- child health checks (if they produce evidence of a crime);
- increased police (leading to increased need to represent defendants);
- liquor reform (which may lead to prosecutions for breaches).

The NT response to this report will be released in August and the expected response by the NT which will impact on our service will be:

- increased interventions by Family and Children's Services, leading to an increase in child in need of care matters where clients require advice and representation;



Northern Territory Legal Aid Commission

- changes to the Bail Act resulting in more complex bail applications.

While the events unfolding from the 'Little Children are Sacred' report were unanticipated, the need identified in the report was not. The report found:

It was a common theme in consultations that many Aboriginal people did not understand the mainstream law and many mainstream concepts. It appeared to the Inquiry in its consultations that some Aboriginal communities were unclear on what child sexual abuse was.

The NT Legal Aid Commission has been aware of the vacuum of understanding of the Australian Legal System in Aboriginal communities, and has taken steps to produce linguistically and culturally relevant legal education materials.

The 'Little Children are Sacred' report is expected to dramatically change the nature of service delivery across the NT, although at this point it is difficult to anticipate exactly what those changes will be, and how specifically they might impact on the Commission.

This will inevitably lead to an increase in the demand for criminal defence legal services (including conflict referrals) and

child in need of care interventions, legal representation and advice in rural and remote areas by legal service providers in the Northern Territory. Many of these matters arising from social and family dysfunction will be complex and multi-faceted, including domestic violence, family law, assault and child in need of care.

We also anticipate an increase in:

- the demand for development of information and educational resources;
- policy and law reform responses to government initiatives; and
- the need to continue to work collaboratively with other legal and related service providers.

The Commission will continue to enhance our service delivery capacities to meet this need in an efficient and cost effective manner, given the geographical and cultural context. The Commission will continue to work collaboratively with all related service providers to meet these needs.

While welcoming the focus on addressing the needs arising out of the Little Children are Sacred report, the national emergency response to the report has detracted from the content of the Report and some of the recommendations which are

vital to changing offending behaviour in the NT. In some important respects, the national emergency response diverts attention from the fundamental principle of community participation which the report found to be so important.

It is critical that both governments commit to genuine consultation with Aboriginal people in designing initiatives for Aboriginal communities.

The report contained valuable recommendations in relation to the need for proactive and long-term approaches to addressing offending. There is a need to redirect some focus back to the content of the report. From a legal services perspective, we would welcome a renewed focus on the report as a whole, with particular focus on the recommendations listed below.

FACS and Police

- Recommendation 16: That FACS and Police undertake greater liaison with family or clan groups when conducting investigations, including the conduct of post-case debriefings, and utilising trained community brokers where appropriate.
- Recommendation 26: That FACS and Police work to better integrate the Child Abuse Taskforce with other local joint Police/FACS responses, and further develop local coordinated, culturally appropriate multi-agency responses (such as the Peace at Home program) which can improve the statutory and therapeutic response for children, families and communities.
- Recommendation 29: That Police conduct effective, meaningful and ongoing consultations with individual Aboriginal communities with a view to developing protocols for working with the community and supporting each community's own efforts at maintaining peace, law and order. Review of Legislation

- Recommendation 30: That the Department of Justice review all legislation relating to court procedures for vulnerable witnesses and child victims of alleged sexual abuse following the first 12 months of operation of the new legislation.

Offender Rehabilitation

- Recommendation 36: That the government provide more sex offender rehabilitation programs with adequate resourcing and in particular that:
 - a. wherever possible the court should structure sentences for sex offenders to provide the opportunity for community-based rehabilitation;
 - b. Correctional Services must provide ongoing sex offender rehabilitation programs in jail (irrespective of length of sentence) and for persons on remand, including culturally appropriate programs;
 - c. supervision of parolees must be meaningful, and include:
 - i. attendance at an offender rehabilitation program
 - ii. time back in their community
 - iii. written reports from the parole officer to the sentencing Judge.
- Recommendation 38: That the government provide youth specific, culturally appropriate rehabilitation programs for juvenile sex offenders in detention, and for those on parole or subject to community-based orders.
- Recommendation 39: That the government commence meaningful dialogue as soon as possible with Aboriginal communities aimed at developing alternative models of sentencing that incorporate Aboriginal notions of justice, and rely less on custodial sentences and more on restoring the wellbeing of victims, offenders, families and communities.

Alcohol

- The 'rivers of grog' were identified as a core issue in relation to Aboriginal child sexual abuse. As we are too well aware, alcohol and substance addiction, often at extreme levels, is linked to offending behaviour in the NT. Nine recommendations were made in relation to addressing alcohol abuse, including recommendation 61: That the government continue to implement the Alcohol Framework as a matter of urgency and focus on reducing overall alcohol consumption and intoxication.

Community Justice

- The Report made important findings about the impact of local Community Justice Initiatives. Recommendations 71 – 73 support government facilitated dialogue between community members and the legal profession, and the subsequent establishment of Community Justice Groups in Aboriginal communities who desire them. We look forward to the release of the NT government's response to the report, which is due in August. While this response will understandably be influenced by the actions of the Australian Government since 21 June, we are also hopeful that important findings and recommendations from the Little Children are Sacred report are the primary motivation behind the response.