

11 March 2010

Inquiry into the Child Protection System
in the Northern Territory
GPO Box 1708
DARWIN NT 0801

Also to: submissions.childprotectioninquiry@nt.gov.au

Dear Board,

CAAFLUAC Submission to the Inquiry

We herewith lodge our submission which reflects the reality of our Indigenous clients in Alice Springs, Ntaria, Papunya, Yuendumu, Tennant Creek and Elliott.

The submission recognises the pathway from family violence to 'care and protection', and then into the criminal justice system. It advocates for:

1. Cross culturally appropriate holistic service provision that comprehensively addresses systemic, organisational, professional and individual levels of service provision; and
2. Additional early assistance via non Government service providers, and in particular, at remote communities.

Importantly, getting the process of service provision right and engaging the community are prerequisites to advancing child well being and child protection within the Indigenous Northern Territory community.

We thank you for the opportunity to lodge our submission and advise any further inquiries can be directed to Ms Phynea Clarke, CEO, CAAFLUAC.

Yours sincerely,
CAAFLUAC

Ms Phynea Clarke
CEO

Our clients' stories at page 3 of the submission are CONFIDENTIAL and NOT to be DISCLOSED outside Inquiry staff. Please confirm this restriction will be observed by the Inquiry by return email before processing this submission.

Family Violence IS Everyone's Business
Children's Well Being IS Everyone's Business

**Central Australian Aboriginal Family Legal Unit
Aboriginal Corporation (CAAFLUAC)**

**Submission to Inquiry into the Child Protection System in the
Northern Territory March 2010**

FROM FAMILY VIOLENCE TO 'CARE AND PROTECTION'.

Cultural incompetency is the greatest barrier to improved outcomes.

An immediate consequence of this Inquiry must be additional early assistance and cross culturally appropriate holistic and multidisciplinary programs in Alice Springs and remote communities that are targeted to address and improve the well being of Indigenous children, families and communities - before reactive interventions are required.

*******'MAUREEN', 'JOHN', 'DAISY AND BENJAMIN' 'AND BRIGETTE'S' STORIES AT PAGE 3 OF THIS SUBMISSION IN THE SECTION 'WHAT STORIES DO OUR CLIENT'S AND THEIR CHILDREN TELL' ARE CONFIDENTIAL AND NOT TO BE RELEASED *******

Introduction and background to CAAFLUAC

1. CAAFLUAC welcomes the Inquiry into the Child Protection System in the Northern Territory announced by the then Minister for Child Protection, the Hon. Malarndirri McCarthy, on 11 November 2009.
2. CAAFLUAC was established in 2000 and has offices in Alice Springs and Tennant Creek. Funded by the Commonwealth Attorney-General's Department we are a Family Violence Prevention Legal Service.
3. CAAFLUAC is a justice, advisory and referral centre for Indigenous victims of family violence. Our primary focus is to provide Indigenous victims of family violence, including sexual abuse, with legal advice and casework assistance, counseling, assistance and support, child protection, information, and referral services.
4. We provide services to Indigenous women, children and men in Alice Springs, Ntaria, Papunya, Yuendumu, Tennant Creek and Elliott who are victims of family violence, in accordance with our operational framework and service delivery priorities.
5. Our priority areas of law are restraining orders, sexual assault, child protection, criminal compensation, and family law where the legal matter relates to family violence.
6. We also participate in and deliver community awareness and prevention initiatives, provide referral as appropriate to mediation and perpetrator programs, and contribute to law reform and policy initiatives.
7. We have 13 staff, 7 of whom are Indigenous. We work in a holistic, multidisciplinary and cross culturally appropriate manner.
8. Recent statistics over a reporting period of 3 months show CAAFLUAC: Provided 2,588 occasions of service – personally, by phone, or in writing; Received 180 referrals into the service, provided 69 occasions of counseling / welfare / family support services, and made 240 warm referrals to other appropriate service providers; Actioned 400 legal matters for clients aged from 0 to 64 including restraining orders, victims of crimes compensation, family law matters and child protection matters, and; Delivered 79 community awareness / development activities including remote primary school deliveries.

What do our client's stories and research tell us?

9. Indigenous family violence is often witnessed by others, including children. The impact of family violence negatively affects the well being of the immediate and extended family, and the broader community. It can lead to FACS intervention.
10. Indigenous children, women and men are more likely to experience and witness family violence than non-Indigenous people. The physical injuries sustained are often severe, and sometimes fatal. Injuries often require extended hospital admissions and extended periods of incapacity during recovery.
11. Most physical assault and all sexual assault victims have psychological injuries. The psychological injuries last for years and often include post traumatic stress disorder and or depression.
12. Family violence negatively affects the victim's well being. It reduces parental and safe behaviours capacity, and increases the risk of substance abuse. The violence and impacts can be viewed by children and by community members as 'normalised' behaviour.
13. There is nil or very limited access to cross culturally appropriate early assistance and support, and counselling / healing services outside Alice Springs. A lack of money and transport often prevent attendance at services located in Alice Springs.
14. A number of factors contribute to family violence leading to 'care and protection' orders. The factors include:
 - Lack of child safe and child friendly environments, including a lack of safe house alternatives for children unsafe overnight at home;
 - Lack of community intervention in abusive situations and lack of support for reporting;
 - Cultural and or family pressures against discussion of violence and the impacts upon children's well being;
 - Intergenerational personal trauma experienced by parents which restricts their capacity to parent and protect their children.
 - Intergenerational community trauma which restricts the community's capacity to provide a safe environment for their children. This includes existing personal trauma, substance abuse, social and economic disadvantage, historical and recurring discrimination, remoteness, lack of available services to address issues, 'normalisation' of family violence, and exposure to pornography.

- Fear of and actual recrimination from offenders and /or extended family members;
- Lack of information, education and promotion of awareness of the well being of children, families and the community;
- Lack of information, education and promotion regarding safe and protective behaviours;
- Lack of community capacity building on well-being and related issues;
- Lack of appropriate and available early assistance and cross culturally appropriate holistic and multidisciplinary programs in Alice Springs and remote communities that are appropriately targeted to address and improve the well being of Indigenous children, families and communities - before reactive interventions are required;
- Where services may exist, for example in Alice Springs, there is a lack of information about available and relevant services and the role of those services.
- Lack of appropriate programs to address inadequate parenting and to reduce ongoing inadequate parenting, for example a House Parents safe house program.
- Where services are accessed, there is a lack of community engagement on issues relating to children's safety, rights and service provider interventions specifically FACS.
- Inappropriate servicing and responses, for example the disempowering reactive interventions of flying in, removing a child/ren, and flying out; Culturally inappropriate and or unprofessional responses from service provider employees, for example assigning a young non-Indigenous recently graduated case worker without cross cultural capacities to a mature Indigenous parent whose children had been removed by FACS; Inadequate coordination between service providers which can prevent, undermine or hinder an appropriate and or holistic response.
- Lack of culturally appropriate and accessible services to reduce psychological injuries incurred and to promote individual, familial and community well being.

Submission

15. We acknowledge the importance and challenges of delivering child protection services, and, ongoing recruitment and retention issues. We recognise dedication and expertise among staff who work in remote locations, with logistically complex intergenerational matters and diverse client groups. We support terms and conditions of employment that reflect the priority child well being and protection work should be accorded, including incentives, to address recruitment and retention realities.

16. We support an increased and improved focus upon child, family and community well-being, and better protection of all children by Governments. The issues addressed in this submission are aimed at improving the current system and are restricted to Aboriginal children, families and communities at our target communities in Central Australian and reflect our client's realities.

17. We believe:

- Everyone has the right to be free of violence and fear of violence.
- Action on violence prevention is the responsibility of the whole community.
- Individual communities need to be empowered and mobilised to take action on child, family and community well-being, creating safe child spaces, and providing better protection for children.
- Child, family and community well-being needs to be understood in its entire social and cultural context.
- The immediate and on-going safety and well being of children is of paramount importance in all interventions. In any intervention the well being of the parents (or carers) must also be addressed.
- Removals should only occur where the risk is immediate and high, or early cross culturally appropriate assistance and interventions have failed.

18. We note Indigenous people in Central Australia are the most socially and economically disadvantaged group within the region. Indigenous people are grossly over-represented in both the child protection and criminal justice system.

19. In this submission we focus on child, family and community well-being; better protection of all children by Governments; and community capacity building – all of which require:

- Progress through genuine consultation and partnership with Indigenous people;
- Holistic, targeted and cross culturally appropriate service provision;
- A continuum of prevention, proactive and reactive service delivery that includes community information, and community capacity building;
- Specialised and local service provision with appropriate Indigenous staff;
- Government intervention and non Government early assistance, support and capacity building;
- Improved servicing and additional resources to secure positive and long term outcomes for Indigenous children, families and communities.

20. We do not endorse a specific alternate service model but promote a child, family and community preservation approach. We commend to the Inquiry the community preservation and engagement approach of the RespectED Program Streams which originated in Canada and is run by Canadian Red Cross.

A community preservation model requires the community to step up and act in relation to unsafe behaviours at home and in the community.

The RespectED program promotes child safe and child friendly environments. It addresses the lack of community intervention in abusive situations and lack of support for reporting. It also addresses cultural and or family pressures against discussion of violence and the impacts upon children's well being, and, intergenerational personal trauma experienced by parents which restricts their capacity to parent and protect their children. Of note the suite of programs requires community engagement and ownership, and is cross culturally appropriate and holistic in service delivery.

21. **We advocate for service delivery that comprehensively incorporates cross culturally appropriate servicing at systemic, organisation, professional and individual levels.** We commend the comprehensiveness of the Cultural Competency in Health: A guide for policy, partnerships and participation

(National Health and Medical Research Council 9 December 2005) to the Inquiry.

22. Important prerequisites to effective cross cultural service provision include flexibility and the matters outlined below which in our experience are not currently mainstream practise within FACS.

23. **Consultation with communities to be serviced:** It is essential that communities are engaged on service delivery issues and actively involved in consultations. Community members engaged should include men and women, and young and older people. Community engagement is required for ownership of service delivery issues, dissemination of information, to consider alternate service delivery means, to identify service delivery gaps, and to effect positive change.

The current fly in, remove child, and fly out approach is counter to best practise, contrary to capacity building, perceived as disempowering, punitive and 'wrong way' by the community, and prevents community engagement and progress on issues of children's 'well being'. This practice causes a shame and blame cycle for the family and community which is exacerbated by service providers rarely providing any explanation for their actions outside of court proceedings. An example of a further negative consequence of such actions is parents not sending their children to school for some time after a child's removal for fear these children would also be removed.

24. **Outreach services:** To effectively service Aboriginal people who reside in remote communities, mainstream service providers need to provide satellite or visiting / outreach services to remote communities. In the absence of satellite services many Aboriginal people are precluded from accessing mainstream services, for example, as a consequence of lack of transport or inability to drive 200 plus kilometres to town or to access a service by telephone.

Services attending remote communities solely to perform reactive interventions, with or without a police presence, will not achieve community engagement or acceptance. Capacity building and reporting are undermined, and removal of children in our clients' experience does not necessarily ensure 'care or protection'. The failure to establish a positive foundation with the family and community prevents positive advances in service provision and entrenches perceptions of cultural incompetency and disrespect.

25. **Interpreters and cultural brokers:** To effectively service Aboriginal people who speak English as a second, third or fourth language an accredited and appropriate interpreter must be engaged. Without an accredited and appropriate interpreter, who is also a skilled cultural broker, many Aboriginal people cannot

speaking and understanding English sufficiently to participate fully and confidently in matters relating to child protection. A cultural consultant within the community, who is aware of family and kinship ties, must be available to broker the relationships between the service provider team and community members, and to assist the service provider team with pertinent issues including cultural practices and language barriers.

Service provider staff can assume cross cultural training of 1 or two days means they are culturally appropriate, and presume an ability to communicate effectively in simple English. Clients attending CAAFLUAC in relation to child protection matters routinely instruct they do not understand what has and is happening or why, thereby indicating the communications were not understood and or retained.

Service provider staff, as a general rule, must be required to ensure interpreters are available. Issues relating to children are paramount. Parents need to completely understand communications relating to their children in order that they may participate and take action in a fully informed manner. The current prevailing attitude from service provider staff is that they can manage without an accredited interpreter, and when a client responds in English that they are competent to discuss matters with the service provider in English. This perpetuates misinformation, mistrust and misunderstandings which can be rectified by simply ensuring accredited interpreters are appropriately engaged.

26. Specialised Indigenous service providers and Indigenous programs: These are essential to service and deliver programs that represent and reflect the Indigenous community they operate within. This requires appropriate incorporation of local Indigenous representation. It also requires service provision protocols for each community visited and appropriate consultations to be undertaken with the communities.

Appropriate local Indigenous representation strengthens service delivery and assists in creating two way communications to improve understandings, disseminate information, inform service provision and promote capacity building. In this context appropriate is discussed further at 27 below.

Indigenous service providers with Indigenous staff are preferred by Indigenous consumers. This is for reasons including receptiveness and responsiveness, cultural competency, and, more appropriate servicing which leads to improved outcomes and understandings.

An example of such a program would include a safe house program

managed by a house parents group nominated and selected by each community to provide overnight safe stays for young children unsafe at home. The overnight safe house stay would prepare the child for school attendance the following day and provide an early entry point by an appropriate community member to address issues in the family home before 'care and protection' are required.

- 27. Provision of culturally appropriate space:** Services need to be provided in culturally appropriate spaces to ensure that clients can visit and access the services provided. This may require separate meeting spaces for men and women within close proximity, outdoor space around the office, or providing services under a tree out bush or another appropriate location as requested by the client.
- 28. Employment of Indigenous and appropriate staff:** The employment of local Aboriginal people, who are appropriate for the position and who are recognised by their community as appropriate for the work duties to be undertaken, is essential for effective service delivery. In considering appropriateness for employment a potential employee must have a capacity to represent all community members and groups, and to remain impartial and confidential. Indigenous employees should not however be put in a conflict situation by being involved in complainant matters relating to family members. Such inclusion in an investigation / complaint role may jeopardise impartiality – actual or perceived. In addition non-Aboriginal staff must be appropriately trained to ensure that effective service delivery is not undermined. This requires initial and on-going cross cultural training, education in discrimination, and a willingness to learn.
- 29. Awareness of Aboriginal law and custom and Australian law:** Service providers need to be aware of and responsive to Aboriginal custom, kinship and family groupings. This information and exchange must be drawn upon when considering who should constitute a community education delivery or complaint response team.
- Aboriginal cultural protocols should ensure placement considerations follow kinship groupings and casework conferences include appropriate extended family members - in particular paternal and maternal grandparents.
- 30. Adequate human resources:** This is essential to deliver a holistic and effective response that provides information, protective behaviours and community education, community capacity building, and remote community services. The current funding / service levels for Central Australia are wholly inadequate. An immediate consequence of this Inquiry must be additional and appropriately targeted service addressing the well being of the Indigenous children, families and communities.

31. **Continuity of caseworkers:** In our experience it is not unusual for caseworkers to change once or twice within a one year period. From first contact to case closed caseworker continuity is essential and should be prioritised. Continuity facilitates a timely and professional responses, reduces gaps in service provision to the child/ren under court order, promotes caseworker and parent communications, pathways for promoting change, and improved outcomes for children.
32. **Child Representative in court matters:** It is timely to introduce formal requirements that child representatives have cross cultural training or accreditation as a prerequisite to appointment.
33. **Improving the quality of Northern Territory Government Departmental responses:** We acknowledge current realities with recruitment, retention, training and caseload levels for departmental staff. We further acknowledge Indigenous staff within FACS. However, to recognise and respond to Indigenous realities at a local level and to facilitate cross cultural servicing capacity we advocate implementation of an internal Indigenous critical friends structure, or an external Central Australian Indigenous advisory group.

Conclusion

34. As a consequence of our client's and their children's realities and experiences we call for:
- 32.1 **The immediate implementation of child well being / protective behaviours and community education, ideally by a cross culturally appropriate non Government service provider.** It is increasingly apparent that many community members are lacking in their understanding of child well being and protection needs - what well being includes, how to improve well being, who is at risk, and what support is available. Community centres and councils are an ideal location for action to commence in capacity building within remote communities and Alice Springs town camps.
- 32.2 **The immediate implementation of child safe and child friendly environments in all communities, ideally by a cross culturally appropriate non Government service provider.** Creating a child safe community focuses on creating a community where children are respected and listened to, are supported by strong networks, and where families at risk are identified and provided with cross culturally appropriate assistance at the earliest opportunity. If it is necessary to remove a child, work must be done with the parents, family and broader community to promote

restoration of the child to the family and within a more functional community. It is unacceptable, given the statistical understandings and realities to do other wise.

- 32.3 The immediate implementation of capacity building programs, ideally by a cross culturally appropriate non Government service provider.** Proactive preventative action is required to address the lack of information, education and promotion of awareness of the well being of children, families and the community; the lack of information, education and promotion regarding safe and protective behaviours; the lack of information about available and relevant services and the role of those services; and the lack of community engagement and capacity building on well-being and related issues. Community centres and councils are an ideal location for action to commence in capacity building within remote communities and Alice Springs town camps.
- 32.4 The immediate funding of additional early assistance and cross culturally appropriate holistic and multidisciplinary programs in Alice Springs and remote communities that are targeted to address and improve the well being of Indigenous children, families and communities - before reactive interventions are required.** Ideally, in our view, these programs should be delivered by a cross culturally appropriate non Government service provider.
- 32.5 Comprehensive improvements to cross cultural competency and service provision, at systemic, organisation, professional and individual levels.** We commend the comprehensiveness of the Cultural Competency in Health: A guide for policy, partnerships and participation (National Health and Medical Research Council 9 December 2005) to the Inquiry.
- 32.6 Serious consideration be given to implementation of a local and internal critical Indigenous friends structure, or a local and external Central Australian Indigenous advisory group.**
- 32.7 Appropriate financial payments and support to carers in informal Aboriginal way placements where there are no court orders and a child is placed within the extended family.** Informal arrangements can be both short and long term. Centrelink family payments do not cover the costs of providing even the essentials for an additional child/ren. The failure to provide appropriate financial payments and support to carers in informal Aboriginal way placements may jeopardise the placement due to a carers financial circumstances, and fails to reflect the reality that these informal arrangements avoid legal, court and care costs otherwise borne

by the Government.

32.8 We advocate for mandatory well being courses in schools and other locations and commend to the Inquiry the comprehensiveness of the RespectED Program Streams.