



Secretariat of National Aboriginal and Islander Child Care Inc.

Submission

Response to Queensland Department of Child
Safety Discussion Paper, *Improving Permanency
for Children in Care*

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More Information:

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Introduction

The Secretariat of National Aboriginal and Islander Child Care, SNAICC, is pleased to take this opportunity to respond to the Department of Child Safety's Discussion Paper *Improving Permanency for Children in Care*.

SNAICC agrees with the Queensland Government that we must ensure that children who come through the child protection system are given the best possible chances in life. This is of course complex, and as the Department's Discussion Paper recognises involves consideration of issues such as children's right to identity as well as their right to a safe and nurturing environment. SNAICC's role is to present an Aboriginal and Torres Strait Islander perspective on these issues and our aim in preparing this response is to support the Queensland Government to develop policy in this area which responds appropriately to the needs of Aboriginal and Torres Strait Islander children.

The views presented in this paper reflect a considered examination of permanency planning issues by SNAICC and SNAICC's position paper on how Australian state and territory government's could improve out of home care for Aboriginal and Torres Strait Islander children. This paper *Achieving Stable and Culturally Strong Out of Home Care for Aboriginal and Torres Strait Islander Children* is attached and forms part of this response.

The key points made in the paper *Stable and Strong* and which also underpin our response to the Discussion Paper are:

- Aboriginal and Torres Strait Islander children need, and have the right to know their culture;
- for Aboriginal and Torres Strait Islander people, culture and family are inextricably linked; and
- there are no short cuts to keeping Aboriginal and Torres Strait Islander children in out of home care culturally and spiritually strong: maintaining connections to family and community is the only way.

Background on SNAICC

The Secretariat of National Aboriginal and Islander Child Care SNAICC is the national peak body in Australia representing the rights and interests of Aboriginal and Torres Strait Islander children and families.

SNAICC was formally established in 1981, elected its first national executive in 1982 and opened a national office after first receiving Australian Government funding support in 1983.

SNAICC operates from a diverse membership base of Aboriginal and Torres Strait Islander community based family and children's services. These include child and family welfare services, Multi-functional Aboriginal Children's Services (MACS), JET crèches, playgroups and mobile services, women's services, family support services, foster care agencies, link-up and family reunification services, family group homes, Indigenous childcare centres, preschools, parenting programs, early childhood education services, family and domestic violence services and services for young people at risk.

SNAICC has a network and subscriber list of over 1400 community groups, mostly Aboriginal and Torres Strait Islander, but also significant numbers of non-

Indigenous community based services and individuals with an interest in Aboriginal and Torres Strait Islander families and children.

SNAICC is governed by a national executive of Aboriginal and Torres Strait Islander people drawn from our members and operates from an office located in Melbourne with funding provided by the Australian Department of Family and Community Services.

SNAICC's mission is to provide a strong voice for Aboriginal and Torres Strait Islander children and families through a national body which represents Aboriginal and Torres Strait Islander children's services and promotes the rights, needs and aspirations of Aboriginal and Torres Strait Islander children and families.

Social and Historical Issues

SNAICC's view is that all state and territory governments have the responsibility to ensure that their child welfare policies are properly informed by an understanding of the social and historical factors affecting Aboriginal and Torres Strait Islander people today and also of the cultural and spiritual rights and needs of Aboriginal and Torres Strait Islander children.

All policy and program development must be mindful that there are relatively large numbers of Indigenous children in out of home care in all states and territories because of the damage that has been done to Aboriginal and Torres Strait Islander individuals, families and communities since colonisation.

The history of the last two hundred years, during which Aboriginal and Torres Strait Islander people were dispossessed of their land, livelihood, families, communities, language and culture, and the way this has devastated people economically, psychologically and spiritually, forms the background to the problems facing children and families today. The systematic removal of Aboriginal children (the stolen generations) from their families, communities, land and heritage is of special relevance. No family was unaffected by these policies and many were totally destroyed. The grief, dislocation and despair experienced by the stolen children and the grief and loss of their families remains unhealed and has had terrible effects on children and families that have passed from one generation to the next.¹

General Comments on the Discussion Paper

Adoption

SNAICC notes with approval that the Discussion Paper recognises that adoption is not part of Aboriginal culture:

“Adoption is not usually considered a culturally appropriate option of an Aboriginal child, as traditional custom relating to child rearing practices does not recognise such a concept.” (Discussion Paper Page 10).

SNAICC’s position on adoption is set out in *Stable and Strong* as follows:

“Adoption is not part of Aboriginal culture. Aboriginal children need to remain connected to their family and community and the possibility of restoration to family should be kept open. The stolen generations and their families are still dealing with the trauma of past adoption policies today and their suffering has taught that for many, adoption created pain that could not be healed and problems that could not be fixed”.

“Our history shows that adoption doesn’t work.”

“Customary adoptions within families are part of Torres Strait Islander culture. In Torres Strait Islander communities, adoptions within family networks take place for several reasons including strengthening alliances between families or providing a child to an infertile couple. An adoption may take place within the extended family for child welfare reasons, but not adoptions outside the family that result in the child’s connections to the family being lost”.ⁱⁱ

SNAICC Position on Permanent Parenting Orders for Aboriginal and Torres Strait Islander Children

SNAICC’s view is that Permanent Parenting Orders are not appropriate for Aboriginal and Torres Strait Islander children because the orders are too similar to adoption. Although contact with family will be encouraged under the Orders, SNAICC does not see this working well in practice given:

- i) the proposed Departmental policy of not providing ongoing support for the placements or for ongoing contact with birth families;
- ii) the low level of compliance in Queensland with the Aboriginal Child Placement Principle (see section below on the Aboriginal Child Placement Principle)
- iii) the general pattern across Australia of inadequate support being provided to birth families once children have been removed in order to support contact visits and ultimately reunification (see section below on Reunification) meaning that contact with birth families may be very difficult for foster families or unsafe for children;
- iv) the absence of a strong and complete network of Aboriginal and Torres Strait Islander child and family welfare agencies in Queensland. (see section below on Aboriginal and Islander Child and Family Welfare Services).

SNAICC notes that in considering suitable criteria for an appropriate caregiver under Permanent Parenting Orders the Department has included the need for the person to have an appropriate attitude to and understanding of:
-the importance of developing and maintaining relationships with a child’s parents and birth family

and the importance of developing and maintaining a child's cultural background.

In SNAICC's view however, these criteria do not go far enough to protect the rights of Aboriginal and Torres Strait Islander children. There is a danger that Aboriginal and Torres Strait Islander children placed with non-Indigenous families will grow up unable to maintain contact with their Aboriginal and / or Torres Strait Islander family, community and culture.

Aboriginal Child Placement Principle

SNAICC's strong view is that when the placement of an Aboriginal or Torres Strait Islander child is being considered under any type of order suitability criteria for an appropriate caregiver should include those provided by the Aboriginal Child Placement Principle.

The Principle firmly establishes a hierarchy of placement preferences for children. It clearly sets out that the most suitable person to be the long or short term carer of an Aboriginal or Torres Strait Islander child is a member of their family. The second best option for an Aboriginal or Torres Strait Islander child if placement with family cannot safely be made is with a member of their community or language group.

A member of the child's family (or at second best community) has the capacity to assist the child to develop an identity as a strong proud Aboriginal or Torres Strait Islander person. Application of Aboriginal Child Placement Principle in Queensland is only 65%. Only 27% of children are placed in accordance with the first priority of the Principle, that is, with Indigenous relatives or kin.ⁱⁱⁱ This indicates that insufficient resources are being applied in Queensland to supporting application of the Principle.

The Discussion Paper states that " children who are taken into care at an early age can lose their sense of identity, or fail to develop an integrated identity. For older children entering the child protection system, their sense of identity has already been firmly established and is strongly linked to their birth family". (page 16). SNAICC is concerned that this section on identity does not recognise that for Aboriginal and Torres Strait Islander children, even the youngest baby, their identity as a member of the Aboriginal and/ or Torres Strait Islander family they were born into is part of their culture and spirituality and is part of who they are – it is who they are. Aboriginal and Torres Strait Islander children, even babies, need to maintain their identity – not replace it even if they may not be able to live with their birth family.

It is of vital importance that government's do not weigh an Aboriginal or Torres Strait Islander child's cultural and spiritual needs against a child's physical, emotional and developmental needs and assess them as being of lesser importance - they are of equal importance. As one member of the SNAICC National Executive put it - "Kids need to know their culture, otherwise all the things they have inside them don't mean anything."^{iv}

When considering a long term or permanent placement of an Aboriginal or Torres Strait Islander child, the Department must use its resources to rigorously and conscientiously find a carer that meets the requirements of the Aboriginal Child Placement Principle.

SNAICC's view is that if a carer from within the child's family is assessed having the capacity to, with support, meet suitability criteria for long term placement then this support should be provided, in recognition of the importance to Aboriginal and Torres Strait Islander children of family connections being maintained.

Reunification

SNAICC is disappointed that although this paper is entitled *Improving Permanency for Children in Care* and the paper states clearly that “reunification is, and always will be the first and preferred permanency goal” no attention is given in the paper, or elsewhere that SNAICC is aware of, to what more can be done in Queensland to strengthen and support families from whom children have been removed so that children can maintain healthy contact with them and one day return to them.

For Aboriginal and Torres Strait Islander children, for cultural and spiritual reasons, maintaining contact and involvement with family and returning to family will always be in their best interests if safety issues can be addressed. Family and community are the source of an Aboriginal or Torres Strait Islander child’s culture. Remove them from their family and you remove them from their culture --- “Family is the cornerstone of Aboriginal and Torres Strait Islander culture and spirituality. The maintenance of connections to family and community forms the basis of the development of the Aboriginal or Torres Strait Islander child’s identity as an Aboriginal or Torres Strait Islander person, their cultural connectedness, and the emergence of their spirituality.”^v

The paper states that “in some instances the needs of young children may conflict with the time required by their parents to resolve the problems preventing them from caring for their children. In these cases difficult decisions must be made.” (Page 20). SNAICC’s view is that for an Aboriginal or Torres Strait Islander child the option of reunification with the birth family should never be closed off. The difficult decision that parents are needing too much time to resolve problems and that reunification attempts should be abandoned should never be made while there is still hope that reunification will one day be possible.

Aboriginal and Islander Child and Family Welfare Services

The Discussion Paper identifies that timeliness and responsiveness are vital to successful reunification (page 15) and “ the parents need adequate and appropriate support services in order to build their parenting capacity.”

SNAICC’s view is that it is only through the development of ‘adequate’ and ‘appropriate’ Aboriginal and Islander child and family welfare services sector in Queensland that reunifications can be supported and child removals prevented.

Aboriginal and Islander child and family welfare agencies such as Aboriginal and Islander Child Care Agencies (AICCAs) have an important role to play at all stages of out of home care including facilitating ongoing contact between the child and their birth family. This is important as part of the path towards reunification and also important in itself for children because their link with their family is their link with their community and culture, Aboriginal or Torres Strait Islander agencies are the best and in, many cases the only agencies that have the community knowledge and connections that can facilitate contact between the child and their family.

AICCAs and other similar agencies in Queensland continue to need government support to develop to meet the needs of their communities. In some communities, a new agency needs to be established with government support and nurturing. “Community based Aboriginal and Torres Strait Islander agencies are part of the fabric of Aboriginal and Torres Strait Islander communities. They know families within the community well and can quickly access accurate information about Aboriginal and Torres Strait Islander family networks and capacity to care for

children. This expert knowledge and ability is the key determinant to good practice in placement decision-making, achieving placement stability and good outcomes for children in care and complying with the Aboriginal Child Placement Principle.

Aboriginal and Torres Strait Islander agencies are also best placed to understand and protect the true best interests of Aboriginal and Torres Strait Islander children who need to live in out of home care, including their spiritual and cultural needs.”^{vi}

ⁱ HREOC 1997, *Bringing Them Home: Report of the National Inquiry into the Forced Separation of Aboriginal and Torres Strait Islander Children from their Families*, Human Rights and Equal Opportunity Commission (HREOC), Sydney.

ⁱⁱ SNAICC 2005, *Achieving Stable and Strong Out of Home Care for Aboriginal and Torres Strait Islander Children*, Secretariat of National Aboriginal and Islander Child Care (SNAICC), Melbourne.

ⁱⁱⁱ Australian Institute of Health and Welfare (AIHW) 2006. *Child Protection Australia 2004-05*. AIHW cat no. CWS 26. Canberra: AIHW (Child Welfare Series no. 38) Table 4.9

^{iv} SNAICC 2005, *op cit* p 9

^v *ibid* p8

^{vi} *ibid* p10