

***Child Protection Submission***

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***Author's Child Protection related background***

I was employed by the Department of Human Services for approximately 9 years from the beginning of 1998 until the end of 2006, after completing the VPS Graduate Recruitment Scheme in 1997. For the first 5 years, until the end of 2002, I was the Manager of Informational Analysis services for the Child Protection, Out of Home Care and Juvenile Justice programs in DHS Head Office. In this role I participated in almost all of the major initiatives and projects being conducted in the branch, as well as various other duties. I resigned this role (and transferred to a different department in the VPS) in part because of my lack in confidence in some of the senior managers I was working with at the time. This lack of confidence was largely in relation to the information system redevelopment (CRIS) project, both with respect to the project's direct management (being managed separately from both the IT division and the program area's division) and the response of the program division (of which I was a part).

After a short stint in a different department, due to my inherent interest in Child Protection I decided to take the challenge of working as a base-level front line Child Protection worker. I obtained a position in the Northern Region, where I worked for 4 years from the beginning of 2003 until I resigned from the VPS at the end of 2006. I worked across various offices and teams but my longest post was with the urgent response team in Preston. I left at the end of 2006 to take up a teaching position to gain experience prior to moving to experience life in another culture. I moved to China in the middle of 2008 and still reside there.

My qualifications prior to joining the VPS included an Honours degree in Mathematics and Statistics and a Bachelors degree in Politics and Public Policy, as well as a Diploma in Education. Since joining the VPS I also obtained 2 Masters degrees: one in Criminology and the other in Conflict Resolution.

***Overall comments about the Child Protection System***

Although it is possible to conceptualise the function of Child Protection (CP) in different ways, my comments will be based upon a typical view of the program being

about two inter-related roles.

First is the 'forensic' role, which includes the process of receiving notifications, investigating them, taking court action or other preventative action as deemed appropriate, managing all of the aspects of court procedures, monitoring court orders, repeating the above process where necessary, and closing involvement when appropriate.

Second is the 'welfare' role, which involves preventative community work, diversionary work, case-managing children in care or remaining with their families, assisting vulnerable families in a wide range of ways, advocating for families, and the like.

I believe that your review will receive many detailed comments about the welfare role from people far better qualified to comment on it than me, hence I don't think there is much merit in me commenting on such aspects here. Elements such as program underfunding, staff retention, underfunding for supporting the material needs of families, therapeutic responses for traumatised children (and parents), the conceptualisation and boundaries of the support role of child protection workers and the role of the non-government sector are all areas that can be improved, but which I think are generally well-examined. Despite all of these well recognised problems, CP workers (including managers), in my experience, perform very well in respect to the welfare role and it is rare to find a worker who isn't deeply committed to the program. However, the same cannot be said of the fundamental basis of the forensic aspect, hence this is the focus of my comments below.

### ***Comments in relation to the 'Forensic' role of Child Protection***

The problems that I will outline below about the performance of the forensic role all clearly have a policy level and a practice level dimension. I will not pay any particular attention to this distinction except for the first point, which I believe is a particular problem at the policy level.

1. There is a policy level problem involving the subordination of the forensic role to the welfare role. This leads to a distraction and lack of clarity in the program. It is problematic to link the welfare role to the forensic in an actuarial mind-set, as has been done in the past. The mentality underlying this is: if we help families enough, we will 'fix' them and hence reduce the need for forensic services, thus reducing pressure on the CP system and freeing even more resources to help vulnerable families, leading to a system spiraling upwards in effectiveness. I believe that this is the fundamental attitude underpinning many of the latest initiatives (such as the 'Innovation Projects' of several years ago or, more recently, the approach of diverting notifications into the community sector). Whilst this

attitude is undoubtedly well-intentioned, the results have time and again shown that it is naive and counterproductive to base the system around 'fixing' problem families. The families taking up the resources of CP usually have profound intergenerational problems and vastly different life stories and realities from those within the system that are trying to help them. These families and children should be helped simply because they need it, with realistic long-term and short-term aims. Many of the problems are systemic, cultural and global and, simply put, it is absurd to expect anything more than a marginal influence from any targeted welfare program. Even the more individual-based problems, such as mental illness, drug addiction and personality disorders, are notoriously intractable. So any attempt to address forensic aspects though primarily improving the welfare aspects, that is, through attempting to avoid the forensic by 'fixing families,' causes major problems for the program as it undermines the main purpose of helping families, invites negative feedback when it inevitably fails, and distracts from directly addressing the problems with the forensic aspect. In my view, the best way to address the forensic shortcomings of the system (whether excessive renotifications, identifying preventable incidents in advance, improving monitoring of orders, system inefficiency, etc) is to directly address those shortcomings (outlined below).

There are many deep problems related to the operation of the forensic element of child protection. Some examples are:

2. Child Protection workers are continuously required to investigate, but there is almost no investigation training and, consequently, workers have inadequate skills and investigative tools. Investigations involve planning, collecting information, collating, storing and analysing that information, forming judgements, documenting the whole procedure and following through with activities such as initiating court action or closing the case. As arguably the core role of a child protection worker is to conduct investigations, whether initial investigations or ongoing investigative work in relation to ongoing risk, the program should have a very strong focus on investigation. Other than a course on interviewing skills (for interviewing children specifically, and which not all workers take) I am not aware of any training on investigations within the program, which I find astounding. The risk framework may be considered as a tool for assisting with planning investigations and forming judgements, but other than this and the associated template for court reports, investigative tools are basically missing. Whilst CP workers are often worried about risk, they are lacking the basics and consequently, in my time in CP, I saw very few examples of thorough investigations. A new focus on placing investigation as one of the core skills and focuses of the job is essential.
3. There are insufficient connections with other relevant agencies, particularly police but also other services holding CP related information, both with respect to

monitoring families on court orders and investigating new cases. Police are also protective intervenors and should be working closely with CP, particularly in relation to cases already subject to court orders. But the connections between the two programs are generally inadequate. For example, to my knowledge, police have no systemic way of knowing that a family or individual is subject to CP court orders; such court orders are not on their system, not alone the conditions attached to those orders. However, police will often have regular contact with families subject to CP orders and are in the best position to monitor court order conditions if they only had some way of knowing that they exist. Some level of working relationship exists between police and CP, usually on a case-by-case basis if it is initiated by CP or in relation to a particular criminal charge, and some low-level processes (such as faxing details of selected incidents involving CP concerns that are attended by police or periodic meetings between Child Abuse police units and some CP managers) but these are piecemeal. The investigative relationship between police and CP is often left to the initiative of the individuals involved, and given my other points, it is not surprising that this relationship is not functioning effectively. Similar observations could be made about other programs. I propose that it is a matter of high importance to start building systemic relationships between relevant organisations, particularly police, in relation to the forensic aspect of identifying and acting upon risk.

4. There is an inadequate conception of the fundamental basis of the program; the nature of risk. Arguably the central concept of CP is risk. The legislation refers to likelihood of harm as the basis of intervention, but the program has unsophisticated notions about risk and, to my knowledge, there is almost no discourse within the CP community about the nature of risk. It is true that CP does have a good risk framework which is well regarded in respect to the child protection dimensions of risk, but the underlying concept of risk itself is not clear. Furthermore, the court does not seem to have any more idea about this area and so does not impose 'top down' pressure on CP in relation to this. For example, likelihood must refer to a time period. Is the child likely to suffer harm in the time between now and the next court hearing, between now and the end date of the proposed order, between now and the foreseeable future, or some other time period? Is the identified risk currently balanced against other possible risks of harm to the child within the same time periods, such as the risks involved in removing the child, the reduction of risk if the family takes a particular therapeutic course of action, or altered risks associated with other possibilities? What are the conventions about how the level of risk varies with the degree of harm? On what basis are such risks evaluated; is it in terms of comparing to similar cases and if so, on the basis of an evidence base or on a purely heuristic basis? There are many more such fundamental questions. In my view, the lack of maturity of the practical concept of risk demonstrates that both the court and CP are not clearly focused on the forensic role of CP, and such a focus urgently needs to be developed if wise decisions about risk are to be made.

5. Court process are not efficient and not effectively focused on risk. Much has been said about the problematic nature of the court and a common response is to advocate for a less adversarial system. However, the main problem under the current court system is the lack of a basic forensic approach for resolving the investigation. Currently the CP worker is required to lodge a report but there is no requirement for the family to address the contents of the report in a formal response. The usual response is to try to defer the hearing to another time as far into the future as possible (usually a week or two) on the basis of a detail. For example, it may be claimed that a particular aspect of the case was not resolved (such as a drug test completed or a report from another professional obtained) so the matter is adjourned to have that completed. Then when the matter comes back, that aspect of the case is no longer relevant and another 'flaw' is picked, which again causes an adjournment. This pattern commonly continues several times before any substantial progress can be made in the case. One reason for this is that the families are almost always represented by legal aid funding to a small group of lawyers who attend the court almost every day. These lawyers will usually have about 4 or 5 cases per day and get a small legal aid fee for each case hence do not have the time to properly prepare or service the case. Also the CP report is often not as clearly targeted on the risk issue as it should be, as noted above. If the court required a clear report from CP thoroughly addressing the risk issues (as discussed in the above points) and a clear response from the family (a response report preferably, or at least some clear documentation within the court process so that the shifting-argument nature of the current system could be avoided) also clearly addressing the identified issues, then the matter could be resolved in 1 or 2 hearings (with the assistance of mediators if need be) rather than returning time and again to court. The lawyers, of course, would need to be funded by legal aid a more appropriate fee for dealing with the matter in this way. Under the current system, many families are not even aware of the the details of the negotiations between their lawyers and CP whilst at court and would prefer to have the matter resolved one way or the other. Whilst I have no doubt that the lawyers are trying to find the best outcome for their clients under the current system, I believe it would be much more effective and efficient if there was a clear focus on risk and a motivation and determination to resolve the matter.
6. Recruitment criteria to CP, particularly that of being a social worker or equivalent, are a symptom and at the same time a cause, of the problems noted above. The cycle of recruiting (almost entirely) welfare professionals at both the practice and policy level of course shapes the focus of CP on welfare, which in turn generates a conception of the program where only welfare workers are seen as appropriate to the role, whereas it is clear that the program is a mixture of welfare and forensic aspects and hence should have workers and policy makers that have a feeling for both of these dimensions. Consideration should be given to broadening the skills of CP workers through recruitment of a range of different professionals across

different aspects of the program.

### ***Conclusion***

The above points suggest that CP requires a change of focus to develop one of the core aspects of its mandate, that of the forensic identification and management of risk. This is not to detract from the skills and commitment of the current workforce, but to point out that the conceptualisation of the program has neglected this forensic element and taking action on this dimension provides opportunities to significantly improve the program. The current welfare-conceptualisation of the program has developed over time through the main stakeholders and commentators being of a welfare orientation. Re-aligning the program to help improve the forensic dimension of the role provides an opportunity to be more effective in helping those vulnerable members of the community that are in most need of assistance.