

RESOLUTIONS

ON MATTERS OF PRACTICE ISSUES: PROCEDURAL MATTERS AND POLICY MATTERS ADOPTED AT THE CHILD ABUSE AND CRIMINAL JUSTICE SYSTEM CONFERENCE HELD AT UNIVERSITY OF QUEENSLAND FROM 9 JULY 1984 TO 12 JULY 1984.

PRACTICE ISSUES

The following practical issues were discussed and it was resolved that:

National standards for child protection need to be developed including an objective criteria for the restoration/removal of the suspected abused child from/to the family with a request that a task force of professional practitioners be established to address and prepare this. This would require federal funding.

This conference recognises the need for a high quality of service in the area of child protection and the need to give workers mutual support in this high stress occupation. It calls on each Department involved in child protection, e.g. Health, Education, Welfare, Probation and Parole, and Police to have mandatory in-service training (multi-discipline) periods each year to provide adequate education and training programs for these professions.

There is a need for specially trained police prosecutors and barristers be provided in child abuse cases.

That alternative 'places of safety' be provided for abused and 'at risk' children. At present only hospitals are designated as such.

That State Governments be asked to increase community awareness of the constant need and increasing demands for alternative care for 'runaway' children and adolescents. These children are often the victims of previous abuse and the provision of appropriate alternative accommodation is essential.

PROCEDURAL MATTERS

It was also agreed that the following actions be taken:

A letter be written to Dr Kim Oates as the National Representative on the International Society for the Prevention of Child Abuse and Neglect to ask his assistance in the establishment of an Australian National Society for the Prevention of Child Abuse and Neglect. The following persons are prepared to act as co-ordinators within their states to assist in the implementation of this proposal.

The Department of Social Justice where they exist and the governing bodies of religious denominations be approached to request their assistance in advancing education, awareness, notification and co-operation in child protection matters. We call on professionals working in this area to act as resource people for the churches.

POLICY MATTERS

In view of the alarming toll of child abuse in all its forms in our community this conference is of the opinion that the present Australian Criminal Justice Systems do not operate in the best interests of the child, particularly in relation to:

- the prevention of abuse;
- giving the child's right and needs correct priority in relation to those of the adult;
- serving the interests of the family;
- serving the interests of the community.

It is recommended that urgent consideration be given to addressing these concerns, in particular to exploring the option of creating legislative provisions to address the following:

- A specific code that would define and proscribe all forms of child mistreatment and exploitation.

- Lay down procedures for courts in relation to admission of and giving of evidence, sentencing options, and necessity of corroboration.
- Provide power to enable immediate and adequate protection for the child, and power to obtain medical examination of children who are suspect of abuse without transfer of guardianship.
- Provide special separate legal representation for the child in court.

We call on each Government to urgently establish a task force to examine this proposal and request that professional practitioners be the members of this task force. It is suggested that this include representatives from the Department of Health, Education, and Welfare, Crown Law, Probation and Parole, and Legal Aid. This task force be required to produce a report to Cabinet for tabling in Parliament.

We recommend that Mr Justice Vasta would be an ideal Chair-person for the Queensland Task Force.

That the task force to be established be requested to give consideration to the provision of an all inclusive charge for covering intrafamilial child sexual abuse.

That this task force also be requested to examine the range of alternatives to imprisonment now available to Judges and Magistrates in child abuse cases.

A national set of principles be developed to outline the rights of children (including the U.N. Declaration on the rights of children) and this be presented to the community for endorsement. Any departmental policy be internally scrutinised to ensure that it is directed to safe-guarding the paramount rights of the child and his/her protection.

An education program needs to be developed within the Department of Education to heighten children's awareness of inappropriate behaviour in order to prevent child sexual abuse and other forms of child mistreatment, and to increase community awareness. Children from the age of 3 years need material that provides protective information and opens up the child's ability to communicate. Each Education Department be requested to set up a working party to develop this proposal.

The conference reaffirms its commitment to a multi-discipline/inter agency team approach to child protection. It calls for inter-departmental guidelines to be developed in all states/territories for all workers involved in child protection, e.g. Health, Education, Welfare, Police, Probation and Parole, and Corrective Services.

Community acceptance of identification and notification has been recently improved and this Conference has a professional concern that we move from the identification phase into the more adequate provision of treatment/intervention/accommodation programs for the rehabilitation of child and family and that these programs be appropriately researched, implemented, evaluated and monitored. It is urgent that adequate funding be provided for additional professional staff to run these programs. We call for appropriate research and evaluation both retrospective and longitudinal and for the collection and analysis of national statistics to assist practitioners, planners and funding decision makers.

We urge that all states undertake to provide at least one

residential assessment treatment program and day care program on the Montrose model. (N.S.W.). It is recognised that this would not provide a complete service but provides an essential training and consultancy service for each State and Interstate links.

We request that each State Government employ specialist legal staff within the Child Welfare Department and accept responsibility for the provision of specialist legal consultants to suspected child abuse and neglect teams or their equivalent. There is also a need for a specialist section to be established within the Crown Law/Solicitor General's Department to deal with these cases.

A national central register is urgently required to be established for the recording of information in relation to suspected child abuse and neglect cases and the alleged perpetrators. It is requested that this be federally funded and provide free interchange of information between states and agencies.

Legislation be enacted to provide a maximum period of time between the laying of the complaint/charge and the determination of the matter in the Court, e.g. 3 months (as per the Victorian Rape provisions). At present cases can wait up to 2 years for finalisation with disastrous effects to child and family.

That a special protocol be provided for use of doctors involved with child victims of sexual abuse, to be disseminated to all medical practitioners. This recognises

that the rape model is not an appropriate one for sexual abuse in children and that this protocol needs to be specially drafted as per Dr Ferry Grunsett's 1984 Sydney protocol. We recommend that Dr Ferry Grunsett be requested to prepare such a protocol in consultation with practitioners in other States.

Government to child protection needs to be extended to the provision of resources for the treatment and rehabilitation of offenders. We believe this is an urgent need. Special consideration should be given to country and outer metropolitan areas. Such programs should provide both prevention and treatment of families. This would provide a continuing protective service for the child and the opportunity of rehabilitation of the offender within the family.

This conference commends the Australian Crime Prevention Council and the Queensland Police Department for holding this seminar and request that a similar seminar be held in July 1985 to review developments and progress in relation to Child Abuse and the Criminal Justice System. It is suggested that Detective Sergeant Jefferies be the co-ordinator and that Miss Alison Davis of the Department of Youth and Community Affairs, Sydney, Detective Chief Inspector Reg Baker of the Victorian Police Department and Inspector Brian Hepworth of the Australian Federal Police Act as co-ordinators in their respective states so as to ensure publicity and involvement of other professionals in this next seminar and implementation of these resolutions.

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CLARKE: Profession and Welfare Officers, all of whom I trust will participate in question time and in the debates so that the breadth of all their experience may assist in answering some of the problems we face working in this area.

The theme of the Conference is **"Is There a Need For Change?"** Specific guidelines have been drawn and I'll read them out to you to remind you of them.

Firstly the effectiveness of the Criminal Justice System in dealing with cases of physical and/or sexual abuse of children.

Secondly the ability of the Criminal Justice System to understand and appreciate the many facets of child abuse with reference to treatment and prevention, and lastly the legal aspects of dealing with the child victim, offenders, retribution and improvements to the Criminal Justice System in the reduction of child abuse.

A busy programme has been arranged over the next few days however there is plenty of time for debate and for the sharing of ideas. We must look at where we are today, where we stand and answer the question posed by the Seminar — **"Is There A Need For Change?"**.

Before I introduce you to Mr Justice Vasta, I have been asked to get an indication from everyone here today as to whether or not they are going to the Seminar Dinner and I

would ask you to show your hand if you intend going to dinner tomorrow night. Thanks very much.

Mr Justice Vasta, who is our first Speaker graduated from Melbourne University in 1964 and practised at the Melbourne Bar. In 1967 Mr Justice Vasta came to Queensland where he practised at the private Bar for a short period of time before joining the Crown Law Office in May 1968. Mr Justice Vasta was given a commission to prosecute in May 1969 and prosecuted criminal cases in the Supreme and District Courts. He was appointed Assistant Senior Crown Prosecutor in 1965 and took silk in 1979. Mr Justice Vasta became Chief Crown Prosecutor in 1980 and was elevated to the Bench on the 13th February 1984.

The Judge has been involved in prosecuting many cases involving child abuse, murder and manslaughter of children and incest. He comes to us with a wealth of experience. Mr Justice Vasta is married with six children of his own and I don't intend — I think that he probably knows a lot about children apart from just being involved in cases in Court. You might have read in the paper yesterday where he was speaking at another Seminar recently and was featured in "Exit Line". Without any further ado, may I introduce to you Mr Justice Vasta.

ADDRESS — "CHILD ABUSE AND THE CRIMINAL JUSTICE SYSTEM" — BY MR JUSTICE A. VASTA — SUPREME COURT, BRISBANE — MONDAY, 9TH JULY 1984

Thank you very much, Ms Clarke. Mr Mark Hoare, Miss Chairperson, Ladies and Gentlemen, I wish to thank the Australian Crime Prevention Council under whose auspices this Conference has been convened for giving me the opportunity of speaking here today.

Some of you may not know that it was originally planned to have Mr Justice Kirby speak on this subject. Unfortunately he is presently overseas. I make mention of this not so much as an apology to those of you who might come to expect the sort of controversy that lectures given by Michael Kirby tend to enjoy but rather to explain that as a Supreme Court Judge administering Law in this State, matters of reform are left to those who are charged with the task of reporting to the Legislators. I do not occupy any position on this State's Law Reform Commission. I must say however that Seminars of this type are so invaluable, in attempting to come to grips with what is now acknowledged to be of very grave concern in the community and which has existed for such a long time. There is today unlike yesterday an openness of discussion which is more likely to be conducive to the resolutions of some of the difficulties in the area of Child Abuse and the old method of sweeping the problem under the carpet. I note with interest some very important topics to be discussed over the next four days. What I propose to do is to mention some matters which may become food for thoughtful discussion rather than advocate the implementation of particular reform proposals.

Whilst I was Chief Crown Prosecutor it had been my sad experience to deal with horrific cases of Child Abuse which resulted in charges of murder. I found a singular reluctance on the part of juries to bring in verdicts of murder — they were invariably the convictions for the offence of manslaughter. I do not however wish to speak on that type of case here today. I intend to focus my attention on the subject of Sexually Abused Children and in particular victims of incest.

One must commence upon the premise that father/daughter intercourse is something which society should abhor. Now I start upon that premise because I note with some interest in the recent Seminar that was held in Sydney on the 27th June, there was an argument in favour of

the retention of the Laws relating to father/daughter relationships saying that there is no evidence that that sort of relationship does any harm to any child in particular or to society in general. But various arguments as I say could be advanced to support the basis for this taboo which in this State makes the offender liable to imprisonment with hard labour for life. Those arguments i.e. those arguments for the taboo include the genetic argument which refers to the greater incidents of recessive and congenital disorders in offspring resulting from incestuous relationships. Another theory for the basis of Incest Laws is that humans have developed as a specific application of the general principle of animal breeding which is to breed outside the family. The principle states that outbreeding has an overwhelming evolutionary advantage over inbreeding in that it leads to hybrid vigour and the greater flexibility of the species.

These are largely biological arguments but in addition there are two main types of socio-logical theories. The first is that it is necessary to create a society which knits itself together for economic, defence and other social reasons and incest militates against this tendency. The second theory is that the function of the incest taboo is to prevent a confusion of social roles. **B. and E. Justice** in a work entitled **"The Broken Taboo"** state that the most powerful reason for the incest taboo is to protect the child's development. For a child to develop he must receive both nurturing and encouragement. that is to say his needs both to belong and to be separate, must be met in a way appropriate to his age. In an incestuous family the parents characteristically turn to their children for warmth and closeness in order to escape a poor marriage and to cope with the fear of the outside world. This in turn prevents the child from establishing those ties with society which are necessary for the development of independence.

There is also a school of thought that children who are brought up in an incestuous family tend to perpetuate this particular situation. **Michael Babin** in an article **"The Social Cost of Incest"** reported in **Volume 43 — No. 6 1981 — Royal Canadian Mounted Police Gazette**, puts it this way: