

# LINES IN THE SAND

This month's *Lines in the Sand* is supplied by Ruth Morley, a lawyer at Pitjantjatjara Council, which is based in Alice Springs and services the Pitjantjatjara lands in the Northern Territory and South Australia. The purpose of this article is to briefly suggest some useful amendments to the Community Welfare Act 1996 (NT), by comparing it with the Australian Capital Territory's Children and Young People Act, 1999. There are four primary areas for consideration.

## Indigenous placement

The Children and Young People Act, 1999 (ACT), states that the level of care Aboriginal children require is to be assessed using the Indigenous Children and Young People Principle. The Principle provides Aboriginal children must be placed with either: a member of their family according to custom; a member of their community in a relationship of responsibility to them; a member of their community; or an indigenous carer. This Principle is used after submissions have been received from any relevant indigenous organization and from the children's community about traditions and cultural values (s.14).

Where none of these options are suitable, Aboriginal children may be placed in non indigenous care, but reunion with their family is the primary care objective, and continuing contact is ensured (s.15(2),(3)).

The Community Welfare Act 1996 (NT) provides that every effort (non-descript) is made to arrange custody within an Aboriginal child's extended family. Where this is not possible, after reference to the child's family and relevant Aboriginal welfare organizations, the department (FACS) places a child with other Aboriginal persons, or in geographical proximity to their family, or with non-Aboriginal people who undertake to encourage and facilitate contact between the child and their kin and culture (s.69).

The purpose of the ACT Act is to facilitate an understanding of the child and their environment. The NT Act recognises that Aboriginal family,

community and organisation views may be significant, but fails to provide them with any paramountcy.

## Planning care

The ACT Chief Executive (CE), responsible for the Administration of the Act, must assist by providing: services to strengthen and support families, help to their community to set up programs for protection and reducing risk to children, information about the Act and its operation (s.26).

For Aboriginal children, and their families, once investigated, the CE will then provide accommodation, financial support, counselling, suitable education, training and employment, medical treatment, recreation, regular care planning involving family and community members and the child, and an explanation in language to Aboriginal children, their family and community, of the care plans (s.27(2)).

The NT Act states the Minister will provide such support and assistance to Aboriginal communities and organizations as he thinks fit in order to develop their efforts in respect to the welfare of Aboriginal families and children and provides for the promotion of employment of Aboriginal welfare workers (s.68).

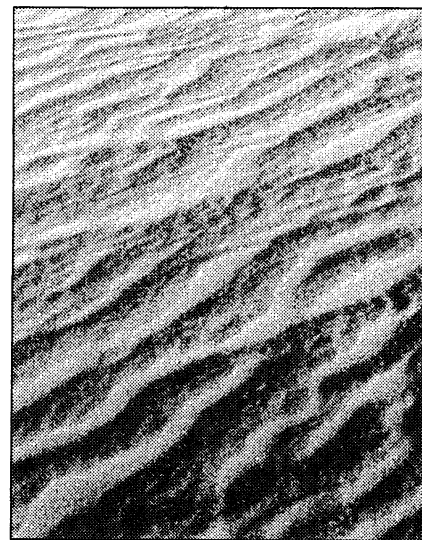
A written agreement may be entered into by the Minister with an Association or a Community to provide assistance (not specified in any way) to Aboriginal children (s.70).

The absence of commitment to any process of improving a child's environment, through resources and family community development programs in the NT Act, prevents any meaningful response to the crisis current and future generations of Aboriginal children face.

## Information sharing

The ACT CE may give or request information from a defined entity, which includes a body established under a law of a State or Commonwealth (s.29). Confidentiality provisions apply, binding upon the CE and the entity.

Secrecy provisions under the NT Act prevent disclosure of any information to any individual or body regarding the affairs of Aboriginal children (s.97).



This is applied in spite of any agreement created under s.70.

Cooperative and meaningful planning of care for a child and their families are severely limited by this provision in the NT.

## Performance

The Children's Services Council supervises the ACT Act's operation. The Council is composed of 10 members with expertise in services for young people, and who represent the interests of carers. The Council reports to the Minister, and makes recommendations about the Act and children's services (ss35and36). An Official Visitor is appointed by the CE to inspect children's services, regularly visit children in care, to investigate complaints and report to the CE (Pt.3).

Child Protection Teams (CPT) in the NT function to co-operate and consult with departments and agencies required by law, or who are resourced, to take action in relation to the maltreatment of children. They are to examine notifications, and recommend action (s.21). CPT's are composed of the relevant Public Service Dept., the police Commissioner, and others as the Minister thinks fit.

In the NT, a Council composed of relevant organizations of child, community and family representatives would enable effective research, cooperation and strategic planning for children in need of care.

*Lines in the Sand* is facilitated by Katrina Budrikis and Domenic Conidi, Alice Springs Law Society Council members.