

TRANSCRIPT

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

Inquiry into youth justice centres in Victoria

Melbourne — 27 June 2017

Members

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Witness

Mr Andrew Jackomos, Commissioner for Aboriginal Children and Young People.

The CHAIR — I think we might recommence. Mr Jackomos, I am very sorry we have kept you waiting and that we are starting late. Welcome here today to this public hearing of the legal and social issues committee. All evidence taken at this hearing is protected by parliamentary privilege. Therefore you are protected against any action for what to say here today, but if you go outside and repeat the same things, those comments may not be protected by this privilege. I was wondering if you might have a few introductory remarks of no more than about 5 minutes. We are in your hands.

Mr JACKOMOS — Thank you very much for the opportunity to appear. I would first like to acknowledge the Wurundjeri and the Boon Wurrung communities of the Kulin nation, and I acknowledge that they have never ceded these lands or waterways.

If I could just share some insights that I have seen over the last four years, particularly through my work on Taskforce 1000 looking at Aboriginal children in out-of-home care and the connection to youth justice. I will state first that 66 of the 99 deaths in custody that the Royal Commission into Aboriginal Deaths in Custody reviewed were of Aboriginal children who had been removed as children by the state. Many of those children were Victorian Koori. I am seeing the same today, with massive over-representations of Koori children in out-of-home care.

The task force informed two inquiries that were tabled in Parliament in October, *Always was, always will be Koori children* and *In the Child's Best Interests, an inquiry into compliance with the intent of the Aboriginal child placement principle*. I hope that the committee considers these two reports, their findings and recommendations, in the context of its work. While not every child in out-of-home care will go into youth justice, two-thirds of children in youth justice have a history with child protection. Similar to the Royal Commission into Aboriginal Deaths in Custody, I suspect that for Koori children the proportion will be much higher than two-thirds. The task force showed the trauma that these children have been exposed to. Nearly nine out of the 10 children whose stories we heard were victims of family violence. A similar number had been exposed to parental alcohol and substance abuse. For many, their mother's alcohol and drug abuse and family violence victimisation occurred during pregnancy, exposing them to trauma before they were even born, leading to continuing mental and other health and behavioural issues.

Sixty per cent of the children we reviewed had a parent with mental illness, and it was the exception to see at least one parent without involvement in the criminal justice system. Professor Jim Ogloff did a piece of work for the Department of Justice a number of years ago that showed that of Aboriginal prisoners, particularly Aboriginal women prisoners, 93 per cent had mental health disorders of a lifetime nature. The majority of those were family violence victims and had been in the child protection system.

Through the task force we heard about the negative impact that these situations have on the mental health of many children. Sadly we saw that many opportunities to provide full and comprehensive mental health assessments and treatment for the children are missed and how this contributes to many children's challenging, trauma-based behaviours that we see play out as they get older. We saw significant numbers of Aboriginal children who had been physically and sexually abused and who, when they came into the care of the state, had failed to have timely and appropriate counselling. I saw Aboriginal children who had been sexually abused who had not been counselled at all. I heard of these children acting out the role models and behaviours learned.

Many of these children are the children that we, the state of Victoria, see traumatised in detention. What a missed opportunity if we collectively as a community fail to address the mental health needs of these children. If only we as a state over many years and over consecutive governments had given them the right love, care and counselling rather than calling them thugs.

Another really significant opportunity Victoria is missing is to extend the leaving care age to 21. I am a big supporter of the Home Stretch campaign, because it makes so much sense. Deloitte economics recently showed that every dollar invested in extending the leaving care age would produce an expected return of \$1.84. Even more importantly they found that extending care decreases the likelihood that a young person will have contact with the criminal justice system.

As a result of our work, I recommend that the Department of Health and Human Services work in partnership with the Aboriginal children's forum to develop a strategy to divert Aboriginal children in out-of-home care from entering or progressing into the youth justice system. I am hopeful that this will be done and encourage the

inquiry to include a recommendation about stopping the flow of Aboriginal children from child protection to custody.

I believe that Victoria has many opportunities to divert Aboriginal children and young people from custody. For me, this is crucial. We need to take every opportunity we have to make sure that children and young people are placed in custody as a last resort. I have seen children as young as 10 put into custody because the court does not have a place to safely bail them. I see young people who know that they need a drug and alcohol program, but there is no place available to them. I see these children and young people removed from their community and their culture at a time when they most need to be connected.

I have been heartened by the commitment to diversion through the introduction of the new Children's Court diversion program and new diversion coordinators across the state; however, these coordinators will only be as effective as the community-based programs and services we can connect the children to. When I say 'community', I mean that the diversion of Koori children and young people needs to be in Aboriginal community-designed and led initiatives.

The Royal Commission into Aboriginal Deaths in Custody recognised this in 1991 when it said local, community-based-and-devised strategies have the greatest prospect of success. The need for community-based programs was also highlighted in a Jesuit Social Services report, *Thinking Outside*, in 2013. I urge the committee revisit these reports.

Connection to culture and family are essential elements to Aboriginal children and young people's sense of identity. Connection to culture, land and spirituality is foundational to building resilience for our children. Active and enduring connections also have a positive impact on their sense of social and emotional health and wellbeing. Damaging these connections and relationships risks undermining norms of appropriate social and cultural behaviour for Aboriginal children.

I urge the committee to look at the culturally rich Wiimpatja Healing Centre on the Murray River, run by Mallee District Aboriginal Services — MDAS — funded jointly by the commonwealth and the department of justice for over a decade. It provides a community-based alternative to prison for Koori men on remand, sentenced on warrant. MDAS is also working on creating a similar service for Aboriginal children and young people on the property next door to Warrakoo, called Cal Lal. I know that prior to disturbances at Malmsbury earlier this year, youth justice were planning to place a number of boys there as a transition strategy from detention back to community, and that transition is so important. I visited Cal Lal in May and consider that it offers a lot of promise as a safe alternative to custody, where children and young people — —

Ms CROZIER — We should visit it.

The CHAIR — Positive reinforcement. Sorry to interrupt.

Mr JACKOMOS — Yes, absolutely. I would love to take you. Children and young people could have access to all the programs and supports, covering the alcohol and drug support that MDAS offer while being connected to the culture and the country.

Justice could partner, and I fully support this, with MDAS to develop this as a joint initiative with a planned and agreed way for government to reduce its involvement over time as the community builds its capacity. I believe that with this approach Cal Lal could become a positive community-based alternative to custody.

Wulgunggo Ngalu Learning Place, operated by Corrections, is a prime example of how a service should be staffed by Koori management and workers, with support from government. Wulgunggo has been a fantastic initiative supported by both sides of Parliament. Koori men can serve their community-based orders voluntarily while strengthening their connection to country. Wulgunggo Ngalu employs Koori elders from across the state to share cultural values, provide role models and mentors for the participants and run cultural activities and practices for the men, and it is heavily connected with the Yarram community. It is a culturally strengthening program, one that has been shown to be effective.

Baroona Healing Centre on the Murray River, operated by Njernda Aboriginal Corporation near Echuca and funded jointly by the commonwealth and justice, offers a culturally based healing program for children and young people to address drug and alcohol misuse while also attending TAFE. Police, youth justice and the

Children's Court can and do refer young people to Baroona, yet the service has never had ongoing funding. Here we are with a good alternative to custody, and it has never had ongoing funding. Likewise, there are countless examples of local, place-based early intervention and prevention programs that scrape by without permanent funding.

Victoria needs to move away from short-term, time-limited, inadequate funding that compromises outcomes and the quality of staff that you can employ. We need to have programs funded in a way that creates certainty and stability and which encourages the kind of innovation happening here. We also need to get better at providing treatment for young people experiencing mental health or drug and alcohol issues. I met recently with Magistrate Jennifer Bowles, and I understand she appeared before the committee last week or the week before.

The CHAIR — She did.

Mr JACKOMOS — Along with the Victorian Aboriginal Legal Service and other members of the Aboriginal Justice Forum, I support us doing further work looking at the options as recommended in Magistrate Bowles's Churchill fellowship as therapeutic treatment options for young people. I recommend that the government consider this option, commencing with a focus on Koori youth and as an initiative in phase 4 of the Victorian Aboriginal justice agreement that is currently being developed, similar to the Koori Court's enabling legislation, where there was a sunset clause, whilst we pilot the initiative. For Koori children and young people this would need to be developed with community and culture at its heart, but I believe that it would provide some of the early intervention and prevention options we need to pull children and young people from the quicksand they find themselves in. I urge you to read Magistrate Bowles's report, as I am sure you have, and view it as one of the options that we divert young Aboriginal people from custody to.

I hope I have shown that Victoria has some significant opportunities to divert Koori children and young people from youth justice custody. I need to emphasise that I have only had time to mention a few examples, but we have options for many more. Unless we do something better, I fear that our Aboriginal children will continue to keep going not only from out-of-home care to the youth justice system but also to adult prison, ending up with their own children in out-of-home care. Thank you for the opportunity to speak and to answer questions.

Ms PATTEN — Thank you. We spoke a little bit about this a couple of weeks ago. Certainly we know that child protection provides an almost inevitable avenue into the juvenile justice system, so going back a step, what can we do to stop kids going into child protection? Are there any recommendations we could make in that regard?

Mr JACKOMOS — Yes. I am not sure if you have heard of the project that Mallee District Aboriginal Services has done, initially called Bumps to Babes and Beyond, up in Mildura. It is a fantastic program run by MDAS and Rudolph Kirby. It is a community home-grown program, where they wrap services around young families, particularly young mums, and keep those services tight until the child enters the early years, longer if required.

They have prevented well over 200 children potentially going into child protection from being removed. I fully support the initiatives of the Aboriginal community, as developed through the Aboriginal Children's Forum, to build holistic centres the same as Mildura has done, where we can wrap services around young mums. You walk in that one door at Mildura and there is a family violence worker, there are dental hygiene workers, there are perpetrator programs for men — maybe they are through another door. They are on one site, so young mums do not have to troop across town and make an appointment here and an appointment there. And it has worked; we have seen the evidence. It is not pie in the sky; it has worked.

Ms PATTEN — Is that the only project of its sort?

Mr JACKOMOS — No, there are similar projects across the state. On this one evaluations have definitely been done and the figures are there. Also what we have seen are many of the kids that we saw in Taskforce 1000. For each child I looked at for Taskforce 1000 — 980 children in total — I asked for their genograms, and on their genograms you can see lines of suicide, of mental health, of incarceration. One of the common things you never saw were employment and education outcomes for their parents. I do not believe we do enough to give our children the right love, care and protection whilst they are in our care. I saw children years after they had been traumatised, sexually abused, who had not received counselling, and I am talking over successive governments.

Ms PATTEN — Do you think we need specific Koori mental health programs? Do we have Koori youth mental health programs?

Mr JACKOMOS — There are initiatives, and I know that work has been done over the years in the Department of Health and Human Services. Where that is I am not exactly sure. I think it has been dragged out, but I say that with ignorance. What I saw were children in out-of-home care who were culturally unsafe in the Department of Health and Human Services placements, in community sector organisations — not all children, but many, many of our children. I would like to see our children returned to our community organisations, which are culturally rich, when those community organisations are in the right place with the right resources. That is an initiative of the Aboriginal Children's Forum — to return all our kids to culturally rich Aboriginal community organisations.

Ms CROZIER — Thank you very much, Mr Jackomos, for your being before the committee this afternoon. I would just like to go to the issue regarding the three young Kooris who were removed from the Grevillea unit, and I am just wondering whether the commission got any advice regarding their placement there?

Mr JACKOMOS — I do not think we had prior advice before they were placed there.

Ms CROZIER — So what advice did you have when they were in there? Was that why you acted for them to be removed?

Mr JACKOMOS — I acted for them to be removed once I found out that they were there. So it was not immediately; it was a number of days.

Ms CROZIER — Okay. The Muir report has indicated that there is gang activity within youth justice.

Mr JACKOMOS — Yes.

Ms CROZIER — Do you think young Aboriginal boys who have been caught up in the youth justice system have been impacted by that gang activity?

Mr JACKOMOS — Not as far as I know. I am not privy to all information, but I largely think Koori boys in detention have remained outside of that, but I cannot say that with 100 per cent certainty.

Ms CROZIER — No. It was just a point that he made in his report in relation to the gang activity, and I was just wondering whether it was having an impact, whether that is when they are inside the youth detention facilities or even when they are back out in the community. So they are not being influenced by that gang activity?

Mr JACKOMOS — To the best of my knowledge Aboriginal youth have very much stayed outside of gang activity.

Ms CROZIER — Thank you. I will come back.

Ms SPRINGLE — You mentioned early on in your statement that there is a lack of drug and alcohol places.

Mr JACKOMOS — Yes.

Ms SPRINGLE — Is that across the state?

Mr JACKOMOS — I think that is very much across the state.

Ms SPRINGLE — So it is not just metropolitan Melbourne per se; it is across Victoria?

Mr JACKOMOS — Across the state. If I could — —

Ms SPRINGLE — Of course.

Mr JACKOMOS — At the Aboriginal Justice Forum a common issue that is raised by community members is the lack of community-based alcohol and drug programs, particularly for children.

Ms SPRINGLE — Would your preference be for more funding for the services you have outlined in regional Victoria and I guess residential-type facilities to address drug and alcohol issues?

Mr JACKOMOS — I think there is a need for a diverse range, depending on the needs of the child. I think there is definitely a need for a place to get kids out of town and to treat them out of town but where we have access to professional support, and one of those places is MDAS or there is Wulgunggo Ngalu, to get that. My worry is that we are sending a lot of our kids — they will leave Malmsbury and go back to the streets of Mildura without any intervention for them. I know a lot of the boys, and I see them being released. It is a problem with remand, where they are on remand so long — by the time they get to court and the charges are heard, they are straight out, released, without the supports back in the community. We definitely need supports in the community, alcohol and drug.

Ms SPRINGLE — Would you say from your understanding and experience of working with the young men in the youth justice system that there are culturally appropriate rehabilitation efforts for them?

Mr JACKOMOS — No, I do not think there are. I think there is a great deficiency of culturally appropriate responses in the youth justice system, and I would love to see a lot more. I am not sure what is in place today but a couple of weeks ago the only cultural programs would have been delivered through the school. What happens is if school is not sitting, kids do not have access. Culturally rich programs, which I believe are the greatest resource for our children, should be delivered 24/7, should be part of the system.

Ms SPRINGLE — Do you know if there are Indigenous people on staff in the centres, Aboriginal people on — —

Mr JACKOMOS — In Indigenous mental health?

Ms SPRINGLE — No, on staff, as in youth workers working within those centres?

Mr JACKOMOS — In the youth justice detention centres, there are Aboriginal liaison officers. I am not sure of their correct title. Workers? And I understand a number of them are qualified youth justice workers. But what I would love to see are also Aboriginal mental health specialists.

Mr MULINO — Thanks for your evidence and for putting a lot of these challenges into a broader context. You have raised a lot of different programs today, and I think that it is going to be very important for us to delve into the details. One area that I was curious about was early intervention, in particular for teenagers. Are there any areas there where there are successful programs — for example, in mentoring or areas in schools? Is anything working well?

Mr JACKOMOS — Across the state there is a range of really good young programs for both girls and boys. One such program you might have heard about is run by Alan Thorpe, called Dardi Munwurro, which is about teaching young men about responsibilities, about healthy and respectful relationships. There is a range of those across the state, and I think Dardi Munwurro was recently funded out of the family violence strategy funds. There is a range of programs such as that. The Aboriginal Family Violence Prevention and Legal Service runs a number of programs for young Aboriginal women, but also similarly run programs on healthy and respectful relationships. I think if we can get to our children in child protection that are in our care and we can teach them about healthy and respectful relationships, we will see less of them turning around and their children coming back into care.

The CHAIR — You mentioned earlier circumstances you were aware of where young people could not be bailed because there was nowhere safe to place them.

Mr JACKOMOS — Yes.

The CHAIR — Could you tell us a little bit about what you know of those sorts of circumstances?

Mr JACKOMOS — I have heard of numerous ones where magistrates have told me that they had been unable to bail young people because they had nowhere safe to send them.

The CHAIR — Could you maybe give me an example of one set of circumstances?

Mr JACKOMOS — Yes. I am just trying to think of which towns. I have heard of that up in Mildura and in the Latrobe Valley. I cannot give you a specific case, but I have had magistrates at the justice forum who have told me that they have been unable to bail children because there was nowhere safe for them to go.

The CHAIR — Where were the children living prior to being charged?

Mr JACKOMOS — We have children couch surfing. While we have close to 2000 Aboriginal children in out-of-home care, and growing, there would be a similar number of children that are vulnerable outside of the child protection system. There are children who are couch surfing, who live on the streets. A significant number of Aboriginal children on the streets have come from child protection.

Ms SPRINGLE — You did just mention that perhaps we could do a site visit to one of the healing centres. Is that something that we could perhaps get you to organise for us with the secretary so that we could learn more about what the options are?

Mr JACKOMOS — While I have volunteered and I would love to attend with you, the department of justice funds Baroona, it funds the new healing centre up at Mildura and it funds Wulgunggo Ngalu, which is a corrections-based voluntary program. I am quite happy to speak to Greg Wilson about it, and I think it would be fantastic. Probably one of the best ones is Wulgunggo Ngalu. It is based on the old Won Wron prison site. The old Won Wron prison that was closed down was bulldozed, and purpose-built structures were put there, designed by Aboriginal architects from the New South Wales government architects office. I think it is 90 per cent staffed by Aboriginal people and managed by Aboriginal people — elders from across the state who come in. All of the workers are corrections staff. It is a voluntary program, because what we saw was Aboriginal people breach their community-based orders at a much higher level, and part of that is due to the lack of supports in the community. So the men, mostly young men, volunteer to go to Wulgunggo Ngalu and serve a time there with alcohol and drug workers. There are cultural programs. They are heavily involved in the school there. I know boys there go in and give cultural lessons at the preschool in Yarram. It is heavily involved in the community, and that is a fantastic success. I know there have been evaluations done by the department of justice, and that has been operating now for at least 10–12 years. That is one program that could easily be adapted for young people that I would really recommend to the committee.

The CHAIR — Thank you. We will certainly pursue that.

Ms PATTEN — Just going back to the issue of bail and kids ending up in remand because they have not got bail, have you got any thoughts on solutions for that problem?

Mr JACKOMOS — For?

Ms PATTEN — Have you got any ideas of what we could do to provide some solutions to that issue?

Mr JACKOMOS — Up in Echuca, at Baroona farm, which is co-funded by the commonwealth and the department of justice, the Children's Court bail young people to Baroona farm for a stint. So Baroona farm do an assessment as to whether they have the capacity. They are run on a shoestring, so they do not have all the skilled staff that they should have, so they do an assessment as to whether they have the capacity to take them. There are children that are remanded there from across the state.

Ms PATTEN — Is that a model that we could look at replicating as a solution, or is — —

Mr JACKOMOS — Yes, as a solution, the same as up in Mildura, which MDAS are wanting to develop further and which youth justice, prior to being transferred to justice, were exploring for a number of the children from Malmsbury to transfer. What I would recommend is starting off with joint projects between government and the community where you bring in a lot of rigour that government can bring. But as the project develops you phase out government involvement and you ramp up the community. There are performance indicators. At Wulgunggo Ngalu in Yarram there is a board of community management — which the local justice executive director is on, corrections are on, the director of the Koori justice unit is on and community leaders are on. That one there is about providing that community input, but it is a corrections operation with rigour. That is what I have recommended up in Mildura on a sliding scale — the same as at Baroona or other initiatives.

Mr MORRIS — I have just got three very short questions. I was hoping you might be able to inform the committee of the ages of those three Aboriginal boys who were in Grevillea. I am happy for you to take it on notice.

Mr JACKOMOS — I can take it on notice, yes. For me, they were around 15, 16, 17, but I will take that on notice and get the information back to the committee within a day.

Mr MORRIS — I would appreciate that. Are you aware of whether or not these boys were involved in the riots?

Mr JACKOMOS — I am not sure, but I can get that information — from the information we have.

Mr MORRIS — One final question — can you inform the committee as to why it is that these boys were removed from the Grevillea unit?

Mr JACKOMOS — From the?

Mr MORRIS — Grevillea unit. How is it that that came about?

Mr JACKOMOS — It was through a court action.

Mr MORRIS — And the court action was brought by whom?

Mr JACKOMOS — By the Victorian Aboriginal Legal Service and the human rights legal service.

The CHAIR — I think that is all we have time for, Mr Jackomos. Thank you very much for speaking with us today. You will be provided with a transcript within a few weeks for review.

Mr JACKOMOS — My pleasure. Thank you.

Witness withdrew.