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Victorian Aboriginal Child Care Agency Co-Op. Ltd

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VACCA SUBMISSION IN RESPONSE TO *THE ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE* CONCERNING ISSUES PAPER 8 ON

EXPERIENCES OF POLICE AND PROSECUTION RESPONSES

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Executive Summary

VACCA is the lead Aboriginal child and family welfare organisation in Victoria, protecting and promoting the rights of Aboriginal children, young people, families and the community. We provide programs and services to strengthen Aboriginal culture and encourage best parenting practices, and advise government in relation to child abuse and neglect in the Aboriginal community.

VACCA welcomes this opportunity to provide input to the Royal Commission into Institutional Responses to Child Abuse concerning the Experiences of Police and Prosecution Responses Issues paper. Our perspective is particularly reflective of our Link-Up program service experience and our knowledge of the difficulties many Aboriginal people face in trusting authorities enough to make a report and be taken seriously for their claims, particularly when it involves a non Aboriginal perpetrator. The fear of authority and reporting to police has been a significant barrier to many of our clients reporting the abuses they suffered and often, those who did report to police, tell of not being believed and being returned by police to the very institutions they were assaulted in. Obviously this response was in itself re-traumatising and has deterred those clients from ever having faith in the system that failed so badly in protecting them as children.

In this submission VACCA has interviewed and recorded the experiences of two clients, both of whom have agreed to their details being identified to the Royal Commission and if helpful to being further contacted by the Royal Commission. We have also included anecdotal examples from clients who have told our support workers about their experiences but have not elected to be interviewed specifically for this submission.

VACCA has also responded to the two questions for professionals which we trust will provide the Royal Commission with some helpful direction into changes needed in both the police and prosecutions systems to ensure Aboriginal victim/survivors, particularly children, are afforded a culturally safe and responsive response.

Client One:

1. What was your experience of reporting to police, police investigations and responses to reports in relation to allegations of child sexual abuse in an institutional context?

I first reported the sexual abuse to the [REDACTED] on the 26th of March 1994. The case was not pursued by [REDACTED] police until 10th October 1995 – taking the [REDACTED] police over 18 months to produce a brief of evidence and proceed with charges. I felt as though it was a big let down and at no time did I feel safe or comfortable sharing my story and reporting the abuse. The offender, XXX and his family maintained strong relationships with the police and other important local figures such as doctors and lawyers and were respected around town. The police involved were known to the family and there were a number of changes in the investigating officers due to many of them being friends of XXX and XXX – with who they socialised with on a regular basis.

2. What aspects of reporting to police, police investigations and responses to reports worked well? What aspects of reporting to police, police investigations and responses to reports did not work well?

As mentioned above, reporting to police was a negative and very disappointing experience. I did not feel as though the matter was taken seriously due to the police involved and their ongoing connection with the family. I didn't feel that the police acted professionally nor in my best interests as a survivor of abuse. The police treated us as if we did something wrong and that XXX was the victim.

The police also refused to investigate the report of physical abuse I made against XXX (my foster mother who would later become my adoptive mother). Overall the process with police felt like a cover up and one that protected the family from prosecution.

3. Do you have any suggestions for improvements or reforms to police processes for receiving reports of allegations, and investigating and responding to reports?

Reporting abuse is hard. Talking about the explicit details of what happened with strangers and the authorities can make you feel embarrassed – it can be sickening. I wonder if there is another way that survivors can tell their story without it being such an intimidating process. Sometimes we don't get the support we need and this can lead to feeling alone, self-harm and substance abuse, all of which not only affects the individual but also our family and community. Reporting the abuse often stirs up old feelings and re-traumatizes a person and

also continues to affect those around them, this is what happened with my sisters and me. After reporting the abuse, one of my sisters found it hard to cope and turned to drugs and another attempted suicide. Everyone looked to me to lead because I was the oldest. I think it's vital that members of the Aboriginal community have access to culturally appropriate support services, according to their preference, before, during and after reporting to the police. No one should have to go through it alone. In light of my experience with the police I believe their needs to be stronger consequences for those who don't adhere to professional codes of conduct. My report and case against the XXX suffered due to the police having a relationship with the family and I believe information was shared to protect XXX from prosecution. I believe those responsible for sharing confidential information on a case should be held accountable.

4. What was your experience of prosecution processes (including preparation for court, the trial and any sentencing or appeal processes) in relation to charges relating to child sexual abuse in an institutional context? *Please include details of the year(s) and location(s) of your experience.*

Once the [REDACTED] police had produced a brief of evidence the case proceeded to a committal hearing on 20th March, 1997. I was represented by [REDACTED] who were good leading up to the trial however due to the lack of evidence in the form of documented records they said that the case wasn't strong enough. The lawyers advised that if we did choose to continue with the case that it would cost too much and he (XXX) would most likely walk away with a bond. I felt as though the police and prosecutions were more concerned about the costs involved rather than real justice.

[REDACTED] Law firm in Melbourne picked up the case later on and have just recently informed me that they will be closing the case also due to a lack of evidence. I was repeatedly told that there was a lack of evidence due to records not being kept properly, records not kept at all. I was also told the case was weak because there were no witnesses, even though I had reported witnessing the abuse against my sisters. My sisters and I felt judged by the police and prosecutions.

When XXX and his legal team cross-examined us they made my sisters and I feel guilty and called us liars. They (XXX legal team) kept saying 'if this is true then why didn't you report it

earlier?’ I had never reported the abuse before speaking to the [REDACTED] police because I didn’t think anyone would believe Aboriginal kids over a white family, especially a family such as the XXX who had strong connections around town. The XXX were seen by their community as good ‘Christian people helping poor Aboriginal children’ and who were important to the Church’s work.

5. Did you have any involvement with a witness support service? If you did, what was your experience of it?

No. Apart from each other and our cousin, my sisters and I had no support throughout the process of making a report and during the prosecutions process.

6. What aspects of prosecution processes worked well? What aspects of prosecution processes did not work well?

The prosecutions experience was horrific and just made me feel worse. Retelling my story was traumatic and only stirred up old hurtful feelings and the stress had a negative impact on my health - I was in and out of hospital the whole time. We weren’t prepared at all and the only support I had was my cousin.

I don’t think there would have been many Aboriginal people coming forward in those days, because they knew that nothing would come from it. I wouldn’t recommend for anyone to go through what we did with reporting the abuse and the prosecution.

XXX claimed he was away in NSW working on his uncle’s farm at the time of the abuse and therefore was asked to produce income statements for this period as an alibi. XXX and his defence counsel failed to produce the statements, or any sufficient evidence, however nothing was ever done about it. The Uncle that XXX claimed to be working for was Mrs XXX’s brother and I believe he would have been covering up to protect his sister and her family. The prosecution refused to call Mrs XXX to the stand to be cross-examined on what she had said in her statement. They said that it was because of her age and that her health was too frail – I don’t think this was the case and believe she should have been called to be cross-examined. Mrs XXX denied everything and questioned why we would want to do this to ‘our’ family. It was beyond me how anyone at the time could think that the four of us (my sisters and I) were lying – how could you not believe the four of us?

7. Do you have any suggestions for improvements or reforms to prosecution processes?

I think it would be a good idea to see what other groups in states around the country are doing to support those reporting abuse and learn from the services that are doing it successfully. I also believe that people wishing to take their case to court should be provided with ongoing support before, during and after their case is heard.

Survivors should have complete access to our files. Too often our files are damaged or they block out information that is important to us and our stories – especially when we are fighting for justice and need documented evidence to support our case in court.

Client Two:

1. What was your experience of reporting to police, police investigations and responses to reports in relation to allegations of child sexual abuse in an institutional context?

I first reported being sexually abused on 1-1-2001 at [REDACTED] Police Station in [REDACTED]. This was a very good experience, the officer was very responsive and I have no complaints about how he treated me, in fact I think he went above and beyond what he needed to do. He advised that the report would be sent to [REDACTED] as that was where the crime had occurred and they would investigate the report and I would be contacted by [REDACTED] Police. **That never happened.**

Three months later I recontacted the officer at [REDACTED] as I had heard nothing from [REDACTED] Police. He advised that he would follow this up – I still heard nothing. As I understand it, he had to resend my original report to [REDACTED] – but still there was no word.

I continued trying to find out what was happening with my case through contact with [REDACTED] Police but nothing was being communicated. Eventually [REDACTED] police advised me to give up my house and go to [REDACTED] to make another report. I have been homeless since doing this in 2007.

I returned to [REDACTED] in 2007 and on the 18 March 2008 made a second report to the [REDACTED]. This statement was made to [REDACTED]

██████████ and I found him to be caring and respectful. I have no complaints about the reporting processes with either ██████████ Police or ██████████ Police.

However it is now 2015 and I have still not been formally advised of the outcome of any investigation or provided with any formal advice about the status of my original report.

2. What aspects of reporting to police, police investigations and responses to reports worked well? What aspects of reporting to police, police investigations and responses to reports did not work well?

What worked well was reporting my experiences to both ██████████ and ██████████ Police. Both officers were responsive and caring and I was very happy with how they took the report.

The investigation and communication following reporting to Police in both states was problematic. There was and still has been no formal communication with me about the investigation and the final outcomes. I have heard (not directly from police) that ██████████ Police did investigate but due to the lack of corroborating evidence there was insufficient evidence to lay charges. What really upsets me about that is that the adult who was present on the night the abuse occurred and who could have corroborated my statement, passed away in 2007, so had my original report been properly investigated police may have been in a position to lay charges.

Also there has been no written communication with me about the outcome of the investigation or the status of my complaint. I have received no communication about how the original report made in January 2001 in ██████████ was "lost" and have felt very let down that my case keeps falling through the cracks and the authorities will not taken any responsibility for this.

3. Do you have any suggestions for improvements or reforms to police processes for receiving reports of allegations, and investigating and responding to reports?

My suggestion for improvements is that child sexual abuse disclosures are serious and need thorough and timely investigations. It is critical to keep those making the report up to date with the investigation progress and outcome and formally (in writing) advise them of the

outcome of the investigation including why – where there are not going to be any charges laid. This is a critical part of our healing. Reporting and knowing that the system is doing its best to get justice for us is one of the mechanisms that begin the healing process. We can't heal without this beginning and I feel that my healing cannot begin until I have a formal understanding of where and why my original report did not get actioned in [REDACTED]

4. What was your experience of prosecution processes (including preparation for court, the trial and any sentencing or appeal processes) in relation to charges relating to child sexual abuse in an institutional context? *Please include details of the year(s) and location(s) of your experience*

N/A However from my perspective this is a failure of the system for not laying charges against XXX, a non Aboriginal man within the Aboriginal community through his partner with a lot of access to Aboriginal children.

5. Did you have any involvement with a witness support service? If you did, what was your experience of it?

N/A

6. What aspects of prosecution processes worked well? What aspects of prosecution processes did not work well?

N/A

7. Do you have any suggestions for improvements or reforms to prosecution processes?

N/A

The Royal Commission is particularly interested to hear from those people who have experience in a professional capacity of police and prosecution responses in relation to allegations of child sexual abuse in an institutional context as to the following:

8. What are your observations of, and suggestions for improvements or reforms to, police processes for receiving reports of allegations, and investigating and

responding to reports in relation to allegations of child sexual abuse in an institutional context?

The two examples above are both examples of clients who have only come forward to tell their stories as adults. Clients who tried to tell police while they were children report some very concerning responses by police to very serious allegations. To date very few of our clients tried to report their abuse while children, most feeling that as Aboriginal children abused by “white” adults – who would believe them? Stories of children running away from the homes they were being sexually abused in, being picked up by police, telling the police why they had “absconded” led to being called liars and returned to the place where they were being abused often with a good ‘clip around the ears” and then severe physical punished by the institution are common amongst those few who actually tried to tell.

Today there is still a serious lack of trust in authority and police in particular due to the intergenerational experiences of Aboriginal people, where even today there are incidences of serious rough handling and assault by those who are involved with general duties police. The SOCIT policing squads established to sensitively and appropriately deal with sexual and other child abuse issues are still challenged to engage with Aboriginal children and young people due to the almost innate mistrust the Aboriginal community have in police. There is a need for partnerships between Aboriginal services and police to ensure the child or young person feels culturally safe.

Currently VACCA’s experience is that we are often excluded from being part of this process, not necessarily by police but by DHHS who are concerned about contaminating the forensic process. VACCA and Vic Police are currently in discussions to ensure that Aboriginal children who have been sexually abused are culturally supported to report and that Victoria Police have a better understanding of the barriers in interviewing Aboriginal children.

Our experience in supporting clients who have told their story to the Royal Commission as adults and then decide to report to the police has been generally positive. Police members of the SANO taskforce, established to specifically receive and investigate these reports has members who are flexible in where they will meet survivors, for example willing to attend the Link-Up Victoria Office and allow the client

to have their support worker in attendance throughout the interview. A major difficulty which not only impacts this workforce, are the change in personnel and the difficulty clients have with hearing the police member they were dealing with has left or been transferred to another department and there will be a further wait for another investigator to take over. This is obviously very difficult for someone who has little trust and faith in authority and in one instance has occurred twice to one of our clients.

9. What are your observations of, and suggestions for improvements or reforms to, prosecution processes in relation to charges relating to child sexual abuse in an institutional context?

Our service has had little experience in the prosecution process with clients, however as [REDACTED] case demonstrates, there is a need for significant support and counselling to be provided to those going through this process. The lack of support and debriefing and contextualising the process for survivors will lead to them reliving the experience, being re-traumatised and then if the case is unsuccessful being left with a sense of not being believed and while we understand this is likely to be the experience for all survivors when this is the outcome, there is another layer for Aboriginal survivors, stemming from intergenerational abuse and trauma and the continuing impacts of colonisation and “white privilege”.

Clearly the system needs to be improved so that we do not have examples such as Client One where she would not recommend for anyone to go through the reporting of abuse and the subsequent prosecution process. For as long as this is the case we are failing those most in need of protection and support; those that we have failed to protect in childhood.