Talking Point: And all the children came back

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Painting over the Stolen Generation. Artwork by Eric Lobbecke *Source:* Supplied

THE announcement of a roots and branch review of the child protection system in Tasmania provides the perfect opportunity to get things right for Aboriginal children. A new approach would involve less intervention, far less state control, more attention to building family strengths and very much more Aboriginal community control.

I wrote a detailed report about this matter entitled luwutina mana-mapali krakani waranta: Keeping Our Children With Us. The 10 recommendations of that report expressed the desire of the Aboriginal community to assume sole jurisdiction for the safety of its own children.

The Aboriginal community is confident it can keep its children safe without over-involvement of government.

Successive models of government-led child protection continue to run into major problems mainly said to be due to inadequate resourcing. But examples from other Australian jurisdictions show that throwing money at the issue, usually in reaction to a crisis, is far from being the solution often claimed for it.

In the various models of child protection practice, the interests of the child are said to be paramount. Despite lip service paid in the governing legislation to the cultural needs and wellbeing of children, the lack of diversity in the child protection workforce and the unflinching control of the Australian legal system mean the Aboriginal community has no effective say in protecting its own.

There are no perfect models from jurisdictions overseas but the US and Canadian models have examples of how we could do things better. Building on those models, we advocate a change in Australian law to specify a prima facie presumption the best interests of the Aboriginal child includes the best interests of that child's Aboriginal family and community.

Such a presumption would not prevent removal of an Aboriginal child from her or his family but ensure the Aboriginal community interest in the wellbeing of its own children is recognised — yet another stolen generation should thereby be avoided.

Another of our report recommendations was that mandatory reporting be abolished on the grounds it encourages too many frivolous or low-level complaints that detract from the protection of children in real danger. Too much work by agencies is number crunching and statistical analysis that fails to protect children in real danger.

For the financial year ended June 2012, in Tasmania there were 11,836 notifications of suspected child abuse, up from 508 notifications a decade earlier — that is over a 2000 per cent increase in child protection notifications in the course of a decade.

In 2012 there were over 67 child abuse notifications for every 1000 children in the state, but only six children in substantiated notifications for every 1000 children — most children reported in need of protection were found not to require state intervention.

Getting rid of widespread mandatory notifications is not what the public wants to hear amid news of dreadful child deaths, but using resources to protect the most vulnerable is worth the short-term political pain such a brave decision is likely to entail.

It must not be assumed that increased parental neglect or violence was the cause, or even a primary cause, of the huge increases in child protection notifications.

Changes from regional to central reporting systems, the threshold for a child safety concern, changed willingness of individuals to report, changed reporting systems, changes to those required to report concerns, requirements to refer to family support agencies, as well as changed definitions of what constitutes abuse have all been found to be greater reasons for the disparity in the figures than changes in abusive or neglectful behaviour.

Many inquiries and studies, including those of Professor Dorothy Scott, found a better way to protect children is to strengthen families. This is the preferred approach of the Aboriginal community in Tasmania and was advocated by the Tasmanian Legislative Amendment Review Reference Committee in 2013.

The only statewide Aboriginal community services organisation in Tasmania, the Tasmanian Aboriginal Centre, is perfectly placed to operate an Aboriginal system of child protection in conjunction with the community it serves.

We operate from three regional centres and have an interdisciplinary staff team. Our "wrap around" model of community services has stood us in good stead for over 40 years and is a one-stop shop approach which other agencies only dream about.

In recent months the federal Attorney-General Senator George Brandis has put a dent in our holistic model of service delivery with his withdrawal of funds from our Aboriginal Legal Service. That service enabled us to represent parents whose children had been removed by the child protection agency and hence assisted the court in understanding the unique circumstances of Aborigines in Tasmania. With the removal of our legal service from Tasmanian hands, we are in danger of losing this important branch of our holistic service. We will continue our efforts to have those funds restored.

Every indicator shows that Aboriginal children fare badly in the child protection system. In most Australian states there are Aboriginal agencies funded to protect the rights of children and families.

In Tasmania, our organisation is funded by the Tasmanian Government as a family support program only and receives just $225,000 for a statewide program. Our efforts to secure funding specifically for child protection and out-of-home care programs have been rejected. Defunding of the Aboriginal Legal Service will mean more cost to the state's legal aid scheme and/or less representation in child-related legal proceedings.

Governments at federal and state level must improve outcomes for Aboriginal children by adopting the recommendations of my report and funding our service to at least the level they now fund mainstream services.

Tasmanian Aboriginal Centre chief executive Heather Sculthorpe was the state's first Aboriginal lawyer, with tertiary qualifications in arts and environmental management. A graduate of the Australian Institute of Company Directors, her involvement in Aboriginal affairs dates back 40 years.