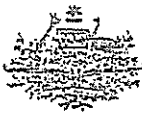


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 ADMINISTRATOR,
 DARWIN, N.T.

55/1919/220

14 AUG 1958

 The Secretary,
 Department of Territories,
 CANBERRA, A.C.T.

CORPORAL PUNISHMENT IN INSTITUTIONS UNDER THE
WELFARE ORDINANCE AND CHILD WELFARE BILL

F43

I refer to your memorandum 53/998 of the 21st July, on the above subject.

2. I presume from the comment by the Minister in your paragraph 5 that the Minister has agreed in principle with the suggestion concerning corporal punishment in aboriginal schools. On this basis I will now go ahead with the preparation of an amendment to Section 83(d) of the Welfare Ordinance as I originally suggested, and with the drafting of regulations along the lines of the Commonwealth Office of Education circular.

3. I agree that the main problem concerns the use of corporal punishment in institutions other than schools under the control of the Welfare Branch and to be covered in the conditions set out in the Commonwealth Office of Education circular, and that it is in these institutions that harm and abuse can occur unless effective safeguards can be provided.

4. The safeguards which can be applied in respect of the administration of corporal punishment in institutions are set out in my previous memorandum, and in summary are:

- (1) The prescription in regulations of the age groups to which corporal punishment may be given, the nature of the offences for which corporal punishment may be administered, the method and the quantum of the punishment, and the entering up of all details concerning the punishment in a proper register maintained in the institution and open at all times to the scrutiny of a Welfare Officer; and
- (2) The withdrawal of the authority to administer corporal punishment in the event of abuses being found or if a Welfare Officer considers that such authority is not being exercised within the terms of the regulations.

5. I suggest that the regulations spell out in detail the matters referred to under paragraph 4(1) above and in respect of paragraph 4(2) the Ordinances provide that the Administrator may authorise a person in an institution to administer corporal punishment for the offences and under the conditions specified in the regulations, and that such authority be revokable at will by the Administrator. This goes beyond the original suggestion wherein I recommended that the Ordinances be amended to provide that the Director of Welfare may authorise a superintendent of a reserve or institution to administer corporal punishment. I have revised my opinion on this matter and think that this authority would be better vested in the Administrator.

6. With regard to the offences for which corporal punishment may be administered, I do not think that the details of the offences, as set out in Section 55 of the N.S.W. Child Welfare Act and the powers of punishment apart from corporal punishment as set out in that Section, should be

56/1919/220

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written into Ordinances and regulations here. I do think, however, that the general conditions relating to corporal punishment and to the entering of the details in a punishment book, as set out in Section 56, sub-section (8) of that Act, should be written into regulations under these Ordinances.

I consider, however, that as well as the details set out below, the present section relating to corporal punishment in the Child Welfare Bill, and which is taken straight from the Child Welfare Act of N.S.W., should be retained.

7. In my view, corporal punishment should only be given for offences against morality, for gross impertinence, or for wilful and persistent disobedience; in other words, I consider that the general nature of the offences for which corporal punishment may be given in institutions should fall under the same heads as for schools. Section 56, sub-section (2) of the Child Welfare Act of N.S.W. sets out other offences which, however, I consider are better left out of the Child Welfare Bill.

In addition, I consider that the following conditions should also be written into the regulations:

- (1) There should be no corporal punishment of girls over the age of 12 years and of boys over the age of 14 years in any institution, and
- (2) The quantum and method of punishment set out in Section 56, sub-sections (3)(vi) and (6), with the exception of course of the conditions relating to the age as set out in sub-section (6)(d) should be applied, and
- (3) Where any corporal punishment is ordered the superintendent shall record the particulars in the punishment book which shall be available for inspection by a Welfare Officer at any time. Such a register would contain information as to the name of the offender, the offence or offences for which the punishment is given, where the offences were committed and against whom, the nature of the enquiry conducted, when the punishment was administered, the amount of the punishment, and by whom it was administered.

8. I suggest that if provision is made in the Ordinances for the Administrator to authorise the superintendent of an institution to administer corporal punishment according to the conditions set out in the regulations, and if this authority is revokable at will by the Administrator and the regulations contain the conditions as set out in paragraph 7 above, then all the necessary safeguards which can be applied under law will have been applied.

9. It must be accepted in the final analysis, however, that the restriction of abuse and harm to children in institutions from corporal punishment will come by having thoroughly competent and experienced persons in charge of and working in these institutions, and by the regular supervision and inspections of these institutions by experienced Welfare Officers.

10. I have given some further thought to the question of the conditions relating to corporal punishment which should be applied in respect of foster children or children who are boarded out. There would, of course, be in these cases the safeguards of the initial selection of the foster parents or the boarding-out parents, and the regular supervision of the children in these homes by Welfare Officers. The ultimate safeguard in these cases is always there, of course, and that is to withdraw the child from the foster parents should it be considered in the best interests of the child so to do.

456

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55/1919/220

I do not see that we could, at this stage, draw up specific conditions to be written into the agreement which is normally entered into with foster parents and where children are boarded out, to cover corporal punishment of these children; it seems to me, therefore, that the safeguards to be applied in these cases would be:

- (a) The careful selection in the first instance of the foster parents or the boarding-out parents;
- (b) The regular and careful supervision of children in these homes by Welfare Officers; and
- (c) The withdrawal of the child in the event of the parents abusing the authority given to them under the provision stating that having the lawful care of a child or young person nothing in the Ordinance should take away their right to administer punishment to such a child.

11. I should be glad if these views could now be placed before the Minister.

J.C. Archer
(J.C. ARCHER),
Administrator.

