

## CHAPTER 3

### OUT-OF-HOME CARE – FOSTER CHILDREN

#### Introduction

3.1 This chapter provides information about contemporary out-of-home care for children in Australia. It includes a discussion on the types of care available, details about changes from institutional care to home-based and family care for children in need of care, the number of children and young people accessing services and problems and situations for children and young people in out-of-home care. Chapter 4 discusses the foster carers and other people and organisations who provide various forms of out-of-home care to children and young people.

#### Moves from children's institutional care to foster care

Foster care has now replaced institutionalisation. Multiple placements have replaced the turnover of staff of the institutions. The high cost of institutionalisation has been replaced [by] low cost under resourced foster carers. Children still experience similar difficulties, system abuse, lack of support when they leave, inadequate support while they are in care, poor education and so on. The problems of children in care continue to be much the same. Nothing has really changed.<sup>1</sup>

...in Victoria, we have a crisis in out-of-home care. We are losing carers. We have got multiple placements. We have got a child protection system in crisis...<sup>2</sup>

3.2 As noted in *Forgotten Australians*, from Australia's earliest times until the 1960s alternative care for children whose families were unable to care for them oscillated between the use of large institutions such as orphanages and other forms of care such as foster care. Research in the 1950s and 1960s drew attention to the adverse effects of institutional care on children. Other research on maternal deprivation linked emotional adjustment and mental health to maternal love and care in childhood. As a result, 'government and non-government child welfare agencies reviewed their practices towards children in the light of this emerging research'.<sup>3</sup> Governments looked to care by family members or foster care rather than large institutions for children in need of out-of-home care.

3.3 The move to foster care occurred at different times across jurisdictions, with Western Australia being the first State to encourage foster care in the late 1950s. In

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1 *Confidential submission*, Additional information.

2 *Committee Hansard* 12.11.03, p.63 (Anglicare Victoria).

3 Australian Institute of Health and Welfare (AIHW), *Australia's Welfare 2001*, AIHW, Canberra 2001, p.101.

Queensland the number of children in institutions declined from the 1960s. In Victoria and New South Wales the implementation of the policy favouring foster care was slower: the number of children in institutional care increased throughout the 1950s and 1960s, but declined rapidly from the early 1970s. In New South Wales the last of the State institutions closed following the release of the Usher report in 1992.<sup>4</sup> Centacare-Sydney commented:

By the 1970s foster care was being encouraged as a preferred model of out-of-home care and most Catholic orphanages in NSW were closed by the mid-1980s.<sup>5</sup>

3.4 Currently, government policy and practice is to maintain children within the family if possible and to place a child in out-of-home care only if this will improve the outcome for the child. If it is necessary to remove the child from his or her family, various options are available. Ideally, foster care with early intervention and prevention support could be used to help families temporarily and keep children out of the welfare system. In reality, foster care is becoming long term for many families. Children are entering care at a young age and staying there for longer periods and the numbers of children in care are increasing.<sup>6</sup> Professor Dorothy Scott has noted that there is also a lack of stable residential care options which are often the most appropriate care for 'high-risk children, that is, those children with extremely anti-social behaviour'.<sup>7</sup>

3.5 Evidence is that children who have been in out-of-home care: have poor life opportunities; miss out on an education; feature highly in homeless populations and the juvenile justice system; do not always receive adequate dental or medical care; often gravitate to substance abuse; and are more likely than their contemporaries not in care, to have thought of or attempted suicide. Sadly, many children and young people in care do not even know why they are not with their families and may think that it is their own fault they are in care.<sup>8</sup> At times they are vulnerable to the actions of the very people who should be protecting them but often they simply do not have the capacity or skills to voice their concerns about any bad treatment.<sup>9</sup>

3.6 These above findings about outcomes for many out-of-home care children are similar to those from the Committee's earlier report into institutional care, *Forgotten Australians*, relating to children who spent their childhoods in orphanages and other institutions from Australia's very earliest times until the 1970s. That report exposed

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4 Johnstone H, 'The demise of the institution – national trends in substitute care for children and young people from 1970 to 2000', Paper presented at the 8<sup>th</sup> Australasian Conference on Child Abuse and Neglect 2001, Melbourne, November, p.2.

5 *Submission* 82, p.3 (Centacare-Sydney).

6 *Submission* 55, p.18 (WA Department for Community Development).

7 Scott D, 'Home on the hill', *Background Briefing*, Radio National, Sunday 7 September 2003.

8 *Submission* 175, pp.14-16 (Families Australia).

9 *Submission* 61, p.17 (Mercy Community Services Inc).

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many disturbing accounts of abuse of children including neglect, separation from families and deprivation of food, education and healthcare, all of which took a toll on the children's emotional development, as noted in the report:

The long-term impact of a childhood spent in institutional care is complex and varied. However, a fundamental, ongoing issue is the lack of trust and security and lack of interpersonal and life skills that are acquired through a normal family upbringing, especially social and parenting skills. A lifelong inability to initiate and maintain stable, loving relationships was described by many care leavers who have undergone multiple relationships and failed marriages.

Their children and families have also felt the impact, which can then flow through to future generations.

The legacy of their childhood experiences for far too many has been low self esteem, lack of self confidence, depression, fear and distrust, anger, shame, guilt, obsessiveness, social anxieties, phobias, and recurring nightmares. Many care leavers have tried to block the pain of their past by resorting to substance abuse through life-long alcohol and drug addictions. Many turned to illegal practices such as prostitution, or more serious law-breaking offences which have resulted in a large percentage of the prison population being care leavers.

For far too many the emotional problems and depression have resulted in contemplation of or actual suicide.

Care leavers harbour powerful feelings of anger, guilt and shame; have a range of ongoing physical and mental health problems...and they struggle with employment and housing issues.<sup>10</sup>

## **Contemporary out-of-home care**

3.7 The Committee received wide-ranging evidence about Australia's out-of-home care systems including that relating to the ever-increasing number of children needing to be placed in care because of parental drug or substance abuse, high levels of family violence and subsequent abuse and neglect, and continuing difficulties in recruiting and keeping adequate numbers of foster carers to meet emerging needs.

### ***Types of out-of-home care***

3.8 Out-of-home care is defined as out-of-home overnight care for children and young people under 18 years of age where a State or Territory makes a financial payment.<sup>11</sup> Out-of-home care is either formally or informally arranged. Informal care refers to arrangements made without intervention by statutory authorities or courts. Formal care occurs following a child protection intervention (either by voluntary

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10 Senate Community Affairs References Committee, *Forgotten Australians: a report on Australians who experienced institutional or out-of-home care as children*, 2004, pp.xv-xvi.

11 AIHW, *Australia's Welfare 2003*, Canberra, 2003, p.257.

agreement or court order). It can occasionally result from a Family Court agreement. A large part of formal care is authorised by government departments and provided directly or by non-government agencies under contract.<sup>12</sup>

3.9 Out-of-home care includes residential care, foster care and relative/kinship care. Children in care can be placed in a variety of living arrangements or placement types. The Australian Institute of Health and Welfare (AIHW) uses the following categories in the national data collection:

- *Home-based care* – where placement is in the home of a carer who is reimbursed for expenses in caring for the child. The three categories of home-based care are:
  - *foster care* – where care is provided in the private home of a substitute family which receives a payment that is intended to cover the child's living expenses;
  - *kinship care* – where the caregiver is a family member or a person with a pre-existing relationship with the child;
  - *other home-based care* – care in private homes that does not fit into the above categories.
- *Residential care* – where placement is in a residential building whose purpose is to provide placement for children and where there are paid staff. This includes facilities where there are rostered staff, where there is a live-in carer and where staff are off-site (for example, a lead tenant or supported residence arrangement).
- *Family group homes* – where placement is in a residential building which is owned by the jurisdiction and which are typically run like family homes, have a limited number of children and are cared for around-the-clock by resident substitute parents.
- *Independent living* – where children are living independently, such as those in private boarding arrangements.
- *Other* – where the placement type does not fit into the above categories or is unknown.<sup>13</sup>

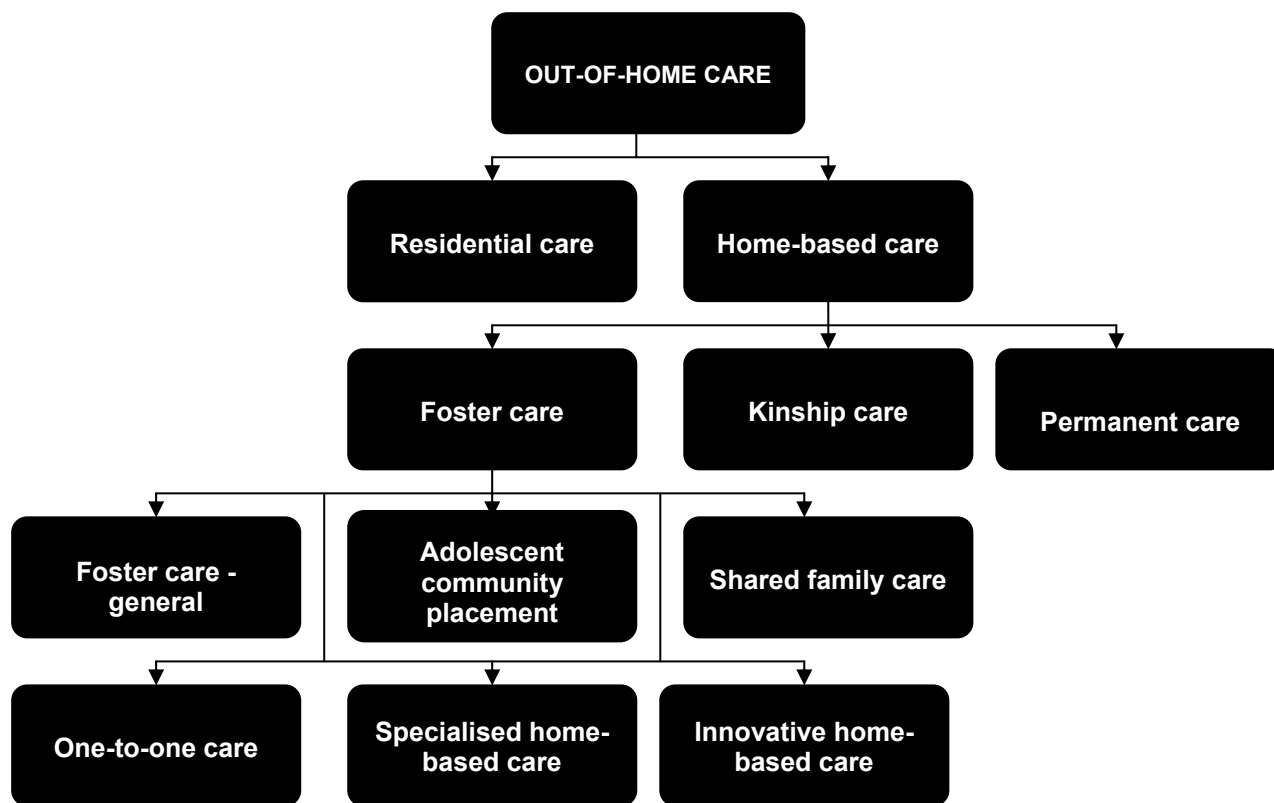
3.10 The different types of placement in out-of-home care can be seen in the diagram of out-of-home care arrangements in Victoria at Figure 3.1.

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12 Thorpe R, 'What Works!?' Evidence based practice in child & family services', Paper presented at the ACWA 2002 Conference, 2-4 September 2002.

13 AIHW, *Child protection Australia 2003-04*, AIHW cat. no.24, AIHW (Child Welfare Series no.36), 2005, p.42.

**Figure 3.1: Out-of-home care in Victoria**



Source: Department of Human Services, *Public Parenting: A review of home-based care in Victoria*, June 2003, p.12

3.11 Jurisdictions utilise each form of out-of-home care to a different extent: compared with other jurisdictions, in 2003-04 Queensland and South Australia had a relatively high proportion of children in foster care (74 per cent and 78 per cent respectively) and New South Wales had a relatively high proportion of children placed with relatives or kin (56 per cent). In some jurisdictions there is a trend toward kinship care as it reflects government policy that children should be placed with an adult to whom a child has an established attachment as the preferred option. In Western Australia placement in relative/kinship care increased from 26 per cent of out-of-home care at June 2000 to 37 per cent at June 2004. In the same period, relative/kinship care in the Northern Territory increased from 15 per cent to 23 per cent. South Australia had the lowest proportion of children in relative/kinship care (16 per cent).<sup>14</sup>

3.12 Kinship care is often used by Aboriginal and Torres Strait Islander communities to meet specific needs and fulfil cultural obligations. The special needs

14 AIHW 2005, p.46; AIHW, *Child protection Australia 1999-00*, AIHW cat. no.24, Canberra:AIHW (Child Welfare Series no.36), 2000, p.40. See also Productivity Commission, *Report on Government Services 2005, Volume 2: Health, Community Services, Housing*, Canberra, p.15.21.

of indigenous children and young people are recognised in the Aboriginal Child Placement Principle which outlines the placement preferences for indigenous children when they are placed outside their family. Preference is given to placement with the child's extended family (which includes indigenous and non-indigenous relatives/kin); within the child's indigenous community; and finally, with other indigenous people. This principle has been adopted by all Australian jurisdictions either in legislation or policy. For example, in Queensland the Principle is contained in section 83 of the Child Protection Act. The proportion of indigenous children in out-of-home care at 30 June 2004 placed in accordance with the principle ranged from 81 per cent in Western Australia to 40.4 per cent in Tasmania.<sup>15</sup> In Queensland, over 60 per cent of indigenous children were placed in accordance with the principle and the Crime and Misconduct Commission (CMC) inquiry recommended that the compliance with the principle be periodically audited and reported on by the new Child Guardian.<sup>16</sup>

3.13 Residential care is the less preferred option for out-of-home care. However, the Victorian Department of Human Services noted:

...it may not be possible to place children and young people in home-based care, either because they display a significant level of challenging behaviour and/or because they are part of a large sibling group. Hence, the objective of residential care is to provide temporary, short or long term accommodation to children and young people who are unable to be placed in home-based care.<sup>17</sup>

3.14 Children may be placed in out-of-home care for short, medium or long-term periods or permanently. Some children are placed in out-of-home care under respite arrangements or shared care (the care is shared between the family and another party). The AIHW noted that not all jurisdictions can identify which children in out-of-home care are in respite care. Children may also be placed in respite care while being placed with a foster carer.<sup>18</sup>

### ***Conduct of out-of-home care***

3.15 State and Territory Governments are responsible for funding out-of-home care. However, jurisdictions differ in the way the services are provided with some relying solely on non-government organisations to provide services and in other jurisdictions there is a mix of government and non-government providers.

3.16 In Queensland for example, out-of-home placements are organised by the Department of Child Safety (previously the Department of Families) directly, or

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15 Productivity Commission 2005, p.15.23. See also AIHW 2005, p.50.

16 Crime and Misconduct Commission, *Protecting Children: An Inquiry into Abuse of Children in Foster Care*, CMC, January 2004, pp.127-28; 234.

17 Department of Human Services Victoria, *Public Parenting: A review of home-based care in Victoria*, June 2003, p.12.

18 AIHW 2005, p.41.

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through a shared family care agency on behalf of the Department. Placements for children with complex psychological and behavioural problems may also be organised through one of the agencies listed on the Department's register of preferred providers of placement and support for children with complex needs.

3.17 Foster carers in Queensland are a person to whom the Department has issued a certificate of approval as an approved foster carer. The Department may also place the child with 'relative carers' or 'limited approval carers'. A limited approval carer is a person who has not been fully assessed or trained but is approved to care for a particular child or young person, for a specific purpose, for a defined period of time.<sup>19</sup>

3.18 In Victoria, the report on current home-based care has noted that Victorian 'home-based care comprises a complex set of arrangements that involves a number of different stakeholders including the Department of Human Services and its case (child protection) workers, CSOs [community service organisations], caregivers and the client themselves'.<sup>20</sup>

3.19 Most home-based care in Victoria is provided by CSOs which are responsible for assessment of referrals; caregiver management; pre-placement planning; care management; placement management; and post placement support. A service agreement contract between the Department of Human Services and the various CSOs specifies the terms and conditions under which the Department purchases services from CSOs and CSOs deliver these services. CSOs receive an annualised unit price for negotiated annual placement targets.

3.20 Most caregivers looking after children in Victoria have a direct relationship with CSOs through the agency's management arrangements and an arm's length relationship with a departmental case worker. The Department retains direct responsibility for recruiting and supervising kinship carers and establishing placements. The Department noted that despite moves in the 1990s to outsource the provision of all foster care, 'the shift to kinship care, and to a lesser extent permanent care, has meant that the department again has a significant service provision role, with nearly half of all home-based care placements provided by the Government'.<sup>21</sup>

3.21 The NSW Commission for Children and Young People noted some potential difficulties with the use of service providers:

Purchasing service outcomes can pose challenges for funders. It is difficult to implement in geographic or cultural communities where there is only one agency available to provide the required essential service. If that agency is unable to achieve the outcomes purchased, the funder has no option but to continue funding the agency.

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19 CMC, pp.25, 35.

20 Department of Human Services Victoria 2003, p.14.

21 Department of Human Services Victoria 2003, p.x.

An unintended by-product of the tender process can be disruption and distress to children and young people as a result of changing service providers after an initial 'pilot' period or if the funder is dissatisfied with the service provision and services are re-tendered.

In addition, while there may be a set of high level 'service standards' funded agencies are required to comply with, funding may not enable agencies to adequately meet their 'duty of care' to the children, young people and families receiving services.<sup>22</sup>

### ***Numbers and characteristics of children in out-of-home care***

3.22 The AIHW in producing data on out-of-home care has noted differences between the States and Territories in the scope and coverage of the data. For example, Victorian data includes children on permanent care orders as the State makes an ongoing financial contribution for the care of these children.<sup>23</sup>

3.23 The AIHW reported that trends in out-of-home care have shown increasing numbers of children using these services. At 30 June 2004, there were 21 795 children in out-of-home care compared with 20 297 children at 30 June 2003. The number of children in out-of-home care increased by 56 per cent between June 1996 and June 2004. The AIHW noted that the number of children in out-of-home care increased in all jurisdictions over this period with the exception of Tasmania. The data for Tasmania no longer includes a significant number of children who live with relatives under informal care arrangements made with their parents. The AIHW stated that 'taking these children into account, Tasmania also experienced an increase in the number of children in out-of-home care'.<sup>24</sup>

3.24 There were 4.5 children per 1000 aged 0-17 years in out-of-home care in Australia at 30 June 2004. This is an increase since 1997 when 3.0 children per 1000 were in out-of-home care. Over the period the largest increases were experienced in NSW where rates increased from 3.4 to 5.7 per 1000 children and in the Northern Territory where they increased from 1.9 to 4.3. Figure 3.2 indicates the rates for each State and Territory at 30 June 2004. The AIHW stated that the reasons for the variations across the jurisdictions 'are likely to include differences in the policies and practices of community services departments in relation to out-of-home care, as well as variations in the availability of appropriate care options for children who are regarded as being in need of this service'.<sup>25</sup>

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22 *Submission 35*, p.19 (NSW Commission for Children and Young People).

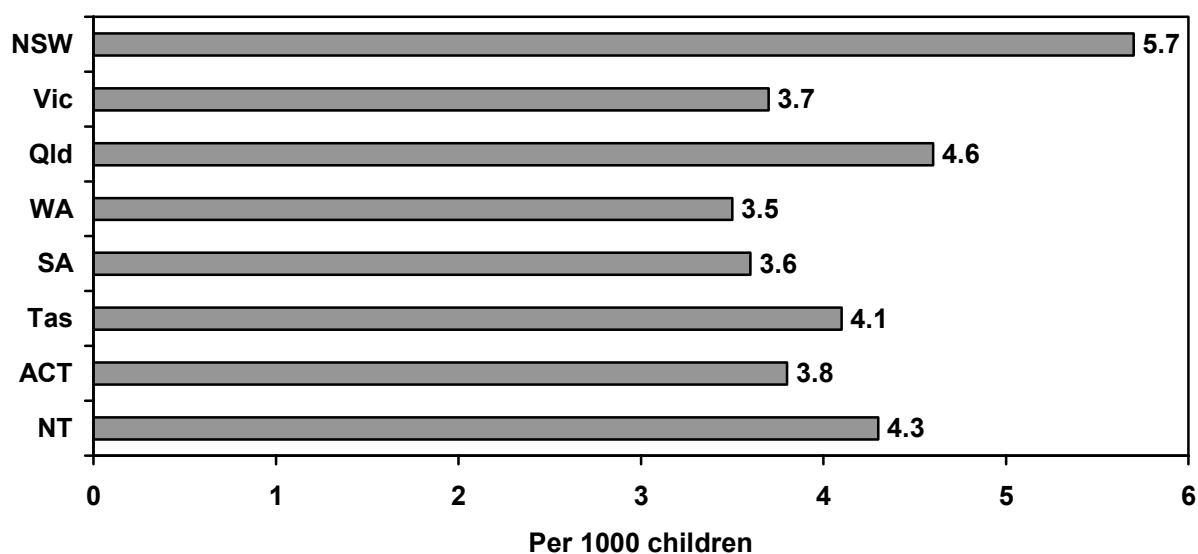
23 AIHW 2005, p.43.

24 AIHW 2005, p.44. The national data for children in out-of-home care is based on a count of children at 30 June of the relevant year and are therefore a prevalence measure.

25 AIHW 2005, pp.48,49.



**Figure 3.2: Rate of children (per 1000) in out-of-home care in Australian States/Territories at 30 June 2004**



Source: AIHW, *Child protection Australia 2003-04, Child Welfare Series no.36* (2005).

3.25 In evidence, the Western Australian Department for Community Development also noted the increase in the number of children entering out-of-home care and that children are entering at a younger age.<sup>26</sup> The Department stated:

...we are still seeing an increasing trend of children and young people coming into care. The number of young people and children coming into care increased by about eight per cent in the last financial year and eight per cent in the previous year. In fact the increasing number of children coming into care has been an issue that Treasury has raised with us.<sup>27</sup>

3.26 The AIHW reported the following characteristics of children in out-of-home care at 30 June 2004:

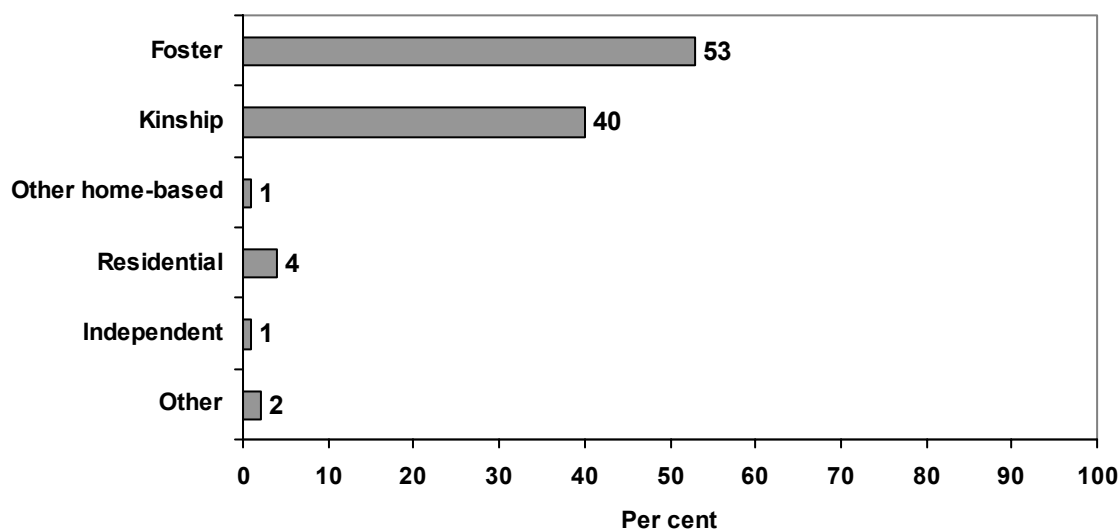
- most (94 per cent) in out-of-home care were in home-based care;
- 4 per cent were in residential care Australia-wide, ranging from 1 per cent in Queensland to 9 per cent in Victoria;
- 1 per cent were in independent living arrangements;
- of those in home-based care, 53 per cent were in foster care; 40 per cent in relative/kinship care and 1 per cent in some other type of home-based care;
- 23 per cent of the children in out-of-home care were aged under 5 years, 31 per cent were aged 5-9 years, 33 per cent were aged 10-14 years and 13 per cent were aged 15-17 years; and

26 *Submission 55*, p.17 (WA Department for Community Development).

27 *Committee Hansard* 9.12.03, p.22 (WA Department for Community Development).

- children in residential care were considerably older than children in home-based care.<sup>28</sup>

**Figure 3.3: Children in out-of-home care – type of placement as of 30 June 2004**



Source: AIHW, *Child protection Australia 2003-04, Child Welfare Series no.36* (2005).

3.27 The Victorian report, *Public Parenting*, also provided information on trends in out-of-home care within that State. Between 1997-98 and 2001-02 there was a shift in placements towards kinship and permanent care (with growth rates of 55 per cent and 79 per cent respectively), and to a lesser extent, residential care (an increase of 17 per cent) and away from foster care. While foster care remains the leading form of out-of-home care, the number of clients fell by 15 per cent.<sup>29</sup>

3.28 The length of time that a child stays in out-of-home care varies. The CREATE Foundation commented that while many children coming into care are aged under five years, they tend to stay in care for short periods before a return to their families, and may 'bounce in and out of the system' for quite a period.<sup>30</sup> The AIHW reported that at 30 June 2004 in most jurisdictions, at least half of the children had been in out-of-home care for less than 2 years. However, a relatively high proportion of children had been in out-of-home care for five years or more, ranging from five per cent in Tasmania to 34 per cent in Western Australia.<sup>31</sup>

3.29 Across Australia, indigenous children are six times more likely to be in out-of-home care than non-indigenous children. In Victoria, the rate of indigenous

28 AIHW 2005, pp.45-47.

29 Department of Human Services Victoria 2003, p.25.

30 *Committee Hansard* 4.2.04, p.65 (CREATE Foundation).

31 AIHW 2005, p.48.

children in out-of-home care was 13 times the rate of other children and in New South Wales it was nine times the rate at 30 June 2004.<sup>32</sup> The Human Rights and Equal Opportunity Commission (HREOC) has indicated that:

The intergenerational effects of previous separations from family and culture, poor socioeconomic status and cultural differences in child-rearing practices are important reasons for this over-representation.<sup>33</sup>

### ***Reasons why children enter out-of-home care***

3.30 As noted in chapter 3 of *Forgotten Australians*, over the years children and young people were placed in out-of-home care for many reasons such as family dislocation from domestic violence, divorce or mental illness; lack of assistance to single parents; parents' inability to cope with their children; or as 'status offenders'.

3.31 A Commonwealth study from the late 1970s identified family finances, parental abuse or neglect of children, and children's behavioural problems as factors which contributed to child welfare agencies' decisions to place children in residential care.<sup>34</sup> From the 1970s, Australia experienced significant social and economic changes leading to major changes in families that are likely to have had different impacts on the need for substitute care. The size of families in Australia decreased, the number of births to teenage mothers decreased, women's roles in families changed as more women entered the workforce, the number of one-parent families increased and unemployment increased. At the same time, the Commonwealth Government markedly increased its assistance to low-income families and implemented new forms of assistance such as the supporting mother's benefit to assist families in need.<sup>35</sup>

3.32 Nowadays however, welfare services' intervention to remove children from their families 'is most likely to be due to allegations of child abuse and neglect or harm to a child, rather than solely because of family poverty as in earlier years'.<sup>36</sup> Anglicare voiced alarm at 'the growing number of Australian children who experience abuse at the hands of their family members at home'.<sup>37</sup> Catholic Welfare Australia also stated:

There are occasions when the removal of Australian children from their families may be warranted as part of a social welfare intervention initiated

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32 AIHW 2005, p.50.

33 AIHW 2003, p.253.

34 Hanson D, *Why are they in children's homes?* Report of the ACOSS children's home intake study, Department of Social Security, 1979, pp.14-17.

35 Johnstone, pp.3-4.

36 Johnstone, p.4.

37 *Committee Hansard* 12.11.03, p.61 (Anglicare Australia).

by the state in an effort to look after the best interests of individual children.<sup>38</sup>

3.33 According to the report, *Public Parenting*, 'in 2001-02, almost all children and young people entering foster care had a history of protective involvement, which means that the majority would have experienced some form of abuse or neglect'.<sup>39</sup> The AIHW has reported that the rise in the number of children in care since 1998 'is consistent with the higher number of child protection notifications that occurred in most jurisdictions during the same period'.<sup>40</sup>

3.34 Drug and alcohol abuse among parents of children who enter the out-of-home care system is endemic and is a critical issue confronting child protection services. Victorian Government figures have shown a significant increase since 1997-98 of substance abuse among the parents of children and young people entering foster care.<sup>41</sup> It has also been shown that drug abuse increases the risk of child abuse and neglect; figures from the 2002 NSW Department of Community Services (DoCS) annual report reveal that up to 80 per cent of all child abuse reports investigated by DoCS have concerns about drug and alcohol-affected parenting.<sup>42</sup>

3.35 Evidence from the WA Department for Community Development stated that its research indicated that 'approximately 70 per cent of care and protection applications result from parental drug and alcohol abuse in combination with other factors such as family violence and mental illness'.<sup>43</sup> Not surprisingly, the associated lifestyle of drug-using parents may also make the home physically unsafe and reduce the likelihood of parents' availability to care for young children, lead to isolation from an extended family and expose the children to a wide network of drug using adults.<sup>44</sup>

3.36 Evidence also showed the cyclical nature of out-of-home care in families, as one care leaver advised:

The really interesting thing is that this goes in cycles. The photo on the left is of my grandmother. She also grew up in an institution. My mother grew up in an institution. I will share with you part of her life, because her life was so much a part of my life.<sup>45</sup>

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38 *Submission 71*, p.16 (Catholic Welfare Australia).

39 Department of Human Services Victoria 2003, p.30.

40 AIHW 2003, p.258.

41 Department of Human Services Victoria 2003, p.35.

42 Ainsworth Frank, 'Drug use by parents: the challenge for child protection and drug alcohol services', *Children Australia*, vol 29, no. 3, 2004, p.4.

43 *Submission 55*, p.17 (WA Department for Community Development).

44 Ainsworth 2004, p.6.

45 *Committee Hansard* 12.3.04, p.30.

3.37 To some extent, the above sentiments about inter-generational care were confirmed by the CREATE Foundation:

It is a bit of a gut feeling: there is not a whole lot of research...one-third of the young mums being tracked have had their children go into the care system in the five years since they left care. Obviously there are some strong correlations there. That was just the tracking of a group that left care in one year in New South Wales...there are some services in Western Sydney that say that they are seeing their third generation of people who have been in care. I think there is a link there but, especially without a lot of research, I would never like to push that there is an intergenerational care cycle, because young parents and older parents who have been in care certainly do rise above it and do not go on to abuse and neglect their children.<sup>46</sup>

3.38 While family poverty may be less of a reason for welfare services' intervention regarding children nowadays than in previous eras, the majority of children in the care and protection system are from low socio-economic families.<sup>47</sup> Evidence to the Committee's 2004 inquiry into poverty and financial hardship showed overwhelmingly that economic and social stress can lead parents to become less nurturing and rejecting of their children and that children living in poverty have a high incidence of abuse and neglect.<sup>48</sup> Similar evidence has been presented to this inquiry and UnitingCare Burnside confirmed the link between poverty and associated problems and the placement of children in care:

Poorer parents get less relief from the constancy of child rearing. They are less able to afford baby-sitting, quality childcare, entertainment, social or sporting activities or go on stress-relieving holidays. They tend to experience higher levels of conflict and family disruption. They are more likely to live in substandard and crowded housing where it is difficult to get a break from other family members. Parents in poverty are more likely to experience ill health themselves and for their children to be ill...Under these circumstances it is understandable that some parents have a less informed or unrealistic understanding of parenting and children's behaviour.<sup>49</sup>

3.39 Therefore, many families experience an array of problems: family poverty and impoverishment are increased by parental substance abuse because of the high cost of maintaining a drug habit and parents experiencing domestic violence often have substance abuse problems. Further, children of parents with a disability or multiple disabilities, particularly an intellectual disability and mental illness, are significantly over-represented in the child protection system. It is more likely that parents with a

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46 *Committee Hansard* 4.2.04, p.67 (CREATE Foundation).

47 Johnstone, p.4.

48 Senate Community Affairs References Committee, *A hand up not a hand out: renewing the fight against poverty*, Report on poverty and financial hardship, March 2004, p.258.

49 *Submission* 59, p.11 (UnitingCare Burnside).

disability will have at least one child if not more removed early in life and approximately one in six children in out-of-home care will have a parent who has a disability. People with Disability submitted that:

...evidence provided at the NSW Legislative Council inquiry into disability services and the inquiry into child protection services demonstrate that when family support programs and sufficient community-based mental health services are provided to parents with disability, the outcomes for their children are not significantly different from other children.<sup>50</sup>

3.40 In some situations a range of factors may lead to complex problems for families where greater levels of intervention are required. As a consequence, children may remain in out-of-home care for longer periods of time. The WA Department for Community Development stated:

The increase [in numbers of children in out-of-home care] also relates to the complexity of family situations with issues such as drug abuse and so forth. That is driving the numbers higher because there are a lot of issues to be resolved before the children can leave care and be back home, as is our aim – to reunify parents and children.<sup>51</sup>

3.41 It has also been reported that the prevalence of complex problems among the families of children entering care has increased with the Victorian Department of Human Services reporting that between 1997-98 and 2001-02:

- parents experiencing domestic violence and substance abuse increased by 56 per cent;
- parents with a psychiatric disability and substance abuse increased by 50 per cent; and
- parents with an alcohol problem who experience domestic violence increased by 71 per cent.<sup>52</sup>

3.42 Anglicare commented that:

Expanded programs to support families effectively to ensure their children's safety and well-being through prevention and early intervention programs are urgently needed. There is a need for more investment in prevention and early intervention, including family support programs.<sup>53</sup>

3.43 The NSW Commission for Children and Young People commented that many services which could prevent or reduce the severity of abuse are family support

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50 *Submission* 165, pp.13-14 (People With Disability Australia Inc), (citing: Parliament of NSW, Legislative Council Standing Committee on Social Issues, *Care and Support*, Final Report on Child Protection Services, Report 29, Parliament of NSW, Sydney, 2002, 147).

51 *Committee Hansard* 9.12.03, p.22 (WA Department for Community Development).

52 Department of Human Services Victoria 2003, p.35.

53 *Submission* 226, p.2 (Anglicare Australia).

services, which are directed towards parents, especially those with 'risk' characteristics in their family make up. Other services targeting children with learning and social difficulties or aggressive tendencies are ideally suitable for delivery through childcare and schools.

3.44 The Commission went on to comment that a comprehensive outline of frameworks to constructing services to alleviate the likelihood of abuse was provided to the Commonwealth by a team of noted researchers and academics in 1999 in the 'Pathways to prevention – developmental and early intervention approaches to crime in Australia'. However, the Commission took the view that 'there are obstacles to the provision of adequate preventative, support and remedial services in Australia'. These obstacles include a lack of resources as 'currently whether any jurisdiction can effectively respond to the level of abuse and child exploitation in its community is doubtful'. There is also poor coordination and effective use of resources. The Commission noted that 'the system currently does not appear to provide value for its investment', concluding that:

The Commission supports the view that the states are constitutionally responsible for the provision of statutory child protection services. However, the provision of statutory child protection services is only possible when they are contextualised within a range of primary and secondary programs and where there is a vision about the outcomes the national system is to deliver.

The Commission's view is that the Commonwealth has a valid role in providing some services and shared leadership to achieve the outcome of an effective child protection system.<sup>54</sup>

3.45 As noted previously, indigenous children as well as other care leavers, have a high need for out-of-home care services with key reasons including:

- higher rates of poverty;
- inadequate housing and living conditions;
- intergenerational effects of previous separations from family and culture;
- cultural differences in child rearing practice; and
- a lack of access to support services.<sup>55</sup>

3.46 The Secretariat of National Aboriginal and Islander Child Care (SNAICC) has commented that child neglect is a result of parents and families being unable, 'but not necessarily unwilling' to provide for their children because of family poverty, unemployment, poor housing and family stress. SNAICC stated:

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54 *Submission 35*, p.15 (NSW Commission for Children and Young People).

55 SNAICC, *Their Future Our Responsibility: making a commitment to Aboriginal and Torres Strait Islander children*, p.7.

The major contributor to the over representation of Aboriginal and Torres Strait Islander children in the child welfare system and out of home care is child neglect – not child abuse. In fact an Aboriginal and Torres Strait Islander child who has been removed from home is less likely to have been abused than a non Aboriginal child.<sup>56</sup>

3.47 The AIHW has indicated that there is no national data available on the reasons why children are placed in out-of-home care. However, a new data collection is currently being developed. More information will be collected on the child and each placement the child has throughout their time in out-of-home care.<sup>57</sup>

### **Issues facing out-of-home care**

3.48 Many submissions pointed to the issues facing out-of-home care as a result of the increased numbers of children in care and their more complex problems. The Committee heard evidence that the system is 'chronically stressed' and often overwhelmed by demands. Anglicare stated that 'the chronic state of foster care across Australia is a major underlying cause of unsafe and inadequate treatment of children in institutions and fostering programs'.<sup>58</sup>

3.49 The WA Department for Community Development expressed the view that problems in foster care are occurring across Australia:

To be honest, we are not the only jurisdiction in Australia facing issues around the recruitment of carers and being able to cope with the increase in the number of children in care and finding placements for them. If we had the answer to that question, the kids and we would be a lot better off.<sup>59</sup>

### ***Systems decisions that affect children***

3.50 Various respondents noted systems' inadequacies which are working against children's interests. The Children's Welfare Association of Victoria (CWAV) referred to a study from 1994 by Cashmore et al that described 'systems abuse' as:

...preventable harm done to children in the context of policies or programs which are designed to provide care or protection. Such abuse may result from what individuals do or fail to do or from the lack of suitable policies, practices or procedures within systems or institutions.<sup>60</sup>

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56 SNAICC, p.7. See also Robertson Boni, *Aboriginal and Torres Strait Islander women's taskforce on violence report. The State of Queensland, 1999.*

57 AIHW 2005, p.41.

58 *Submission 226*, p.2 (Anglicare Australia).

59 *Committee Hansard* 9.12.03, p.5 (WA Department for Community Development).

60 *Submission 115*, p.3 (Children's Welfare Association of Victoria).



3.51 Some evidence suggested that often short-term services are being given priority over cohesive long-term planning and quality of care.<sup>61</sup> The foster care system is also said to be too reactive and not necessarily aware of the importance of keeping siblings together:

The placement system is so attuned to responding to crisis that finding a safe place and a bed for the children takes priority over every other consideration. This constant state of crisis in the care system is a barrier to the physical, emotional and mental development and wellbeing of children in care.<sup>62</sup>

The separation of a child from his/her parents and surroundings may be traumatic and the additional separation of the child from siblings, school and social networks compounds the negative experience of care.<sup>63</sup>

3.52 Some witnesses cited instances relating to governments' failure to ensure that children were safe and well cared for. The mother of a child in foster care advised of concerns that on occasions her son has gone to school without lunch or money and the school has had to provide him with lunch. She made the point that the NSW Department of Community Services had not acted in response to her complaints.<sup>64</sup>

3.53 Other evidence described an instance of a child being placed at the age of six months in what turned out to be a very abusive foster care environment, with no legal or formal arrangements between his biological and foster parents. In describing the many difficulties which he had experienced as a child, including being constantly starved and beaten and witnessing similar treatment towards his foster siblings, the young man advised that he found out at the age of 12 years that he was adopted, from a Department of Community Services social worker. He noted too that it was only through his brother's involvement with the police that the Department 'accidentally' discovered his origins. He has since ascertained via freedom of information requests that the Department had had no records on him. This lack of government involvement or monitoring has caused him distress as outlined below:

At 19, I was forced to change my birth name...to what it is now...when I applied for a health care card...the Government did not know who I was...The answer I would really like to know is – how the hell could the Government not know who I was for 10 years. Is there anybody else out there like me I wonder? I am less than satisfied with the response I've received from the Government. Everything I've discovered however has been from them although to this day I have no idea how I came to be with my foster parents as a baby at six months of age...Where is there accountability and duty of care.<sup>65</sup>

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61 *Submission 115*, pp.3-7 (Children's Welfare Association of Victoria).

62 *Submission 115*, p.4 (Children's Welfare Association of Victoria).

63 *Submission 35*, p.5 (NSW Commission for Children and Young People).

64 *Submission 92*.

65 *Submission 433*, pp.1-2.

3.54 The NSW Commission for Children and Young People highlighted the need to recognise the positive aspects of the current system of child protection and out-of-home and alternative care, citing some of the system's strengths in NSW, including:

...the *Children and Young Persons (Care and Protection) Act 1998* is based upon principles of good practice and key research messages;

the recent decision by DoCS to move the organisation away from a forensic approach to child protection service delivery to a more holistic assessments and strengths based approach is to be applauded;

the development of specialist out-of-home care teams and of specialist workers/cross office teams for recruitment and support of foster carers has occurred in some areas.<sup>66</sup>

### ***Input by children***

3.55 The Committee considers that it is timely to ensure that children and young people in care can participate in decisions about their lives and agrees with the rationale of the CREATE Foundation about involving children and young people. That organisation's research shows that children in care are often 'left out' with many of them not being informed about matters that affect their lives such as a changed placement or who a new case worker might be.<sup>67</sup>

3.56 That children and young people need to be heard was well expressed by various people including an ex-ward who described her circumstances of having 'missed the boat' in parts of life particularly with her career. As a young person she recognised her need to achieve an education and pursue a career but was frustrated in efforts to express her needs to people who could help her:

There was no...social worker to explain the 'care' system to me, or what would happen, or expectations of either parties, or that I would have a case plan drawn up etc. I was just doing time. I had no rights, no advocacy, no representation...This attitude WAS NOT REPRESENTATIVE of society in general in the early 1970s as much social change was occurring.<sup>68</sup>

3.57 While the above situation should have been anathema by the 1970s given the prevailing social attitudes which emphasised pathways to education and career opportunities for girls, the Committee is aware that similar situations are still occurring. The CREATE Foundation advised the Committee about life for some children in institutional care nowadays:

Across the care system young people are now being placed without having had any conversation about where they would like to be placed or who they would like to be placed with – whether in foster care, kinship care or any other type of care. There is still a huge lack of conversation with young

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66 *Submission 35*, p.18 (NSW Commission for Children and Young People).

67 *Committee Hansard 4.2.04*, pp.57-58 (CREATE Foundation).

68 *Submission 369*, pp.6-20.

people...There is a need for a real priority focus on education because the education of far too many children and young people who have been in care has been seriously broken up. Many of them will leave school quite early; many will leave without year 10 or year 12 qualifications and many will leave having very poor literacy and numeracy skills. For them to try to get back into education, the door is often shut and there is no support to do that.<sup>69</sup>

3.58 The WA Department for Community Development acknowledged that in the past 'the child has certainly not had the voice they should have had', while parents have had active participation in conferences and 'been respected by providing input and contributing to the decision making process'. However, the department noted that in recent times, situations have changed:

Children have had direct input in more recent times depending on their age, development and understanding of the circumstances. I have personally chaired case conferences where children as young as 10, 11 and 12 have actually participated as part of those forums.<sup>70</sup>

### ***Children with high-care needs***

3.59 Some children enter out-of-home care with high-care and complex needs usually because of very damaging situations and experiences in their lives, prior to care. Often it can be difficult for these children to adapt to everyday foster care and they require attention and monitoring that can only be provided in specialised, residential care by people who are equipped to care for them:

Some of these kids are too damaged to slot into another family without extra professional supports, like psychiatric evaluation and treatment, physical rehabilitation and educational assistance.<sup>71</sup>

3.60 Some organisations described the extreme damage of many young people and the people and specialist services that are required to care for them:

...[they are] often so damaged by their experiences of life and the care system, that their lack of trust of all adults makes the task of engaging, educating and helping them to begin to turn their lives around difficult and sometimes almost impossible.<sup>72</sup>

...difficult, if not impossible, to care for [them] within the foster care system as it is currently set up. There should be perhaps a consideration of the professional foster care model.<sup>73</sup>

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69 *Committee Hansard* 4.2.04, p.57 (CREATE Foundation).

70 *Committee Hansard* 9.12.03, p.10 (WA Department for Community Development).

71 Thomas Helen, 'Home on the Hill', *Background Briefing*, Radio National, Sunday 7.9.03.

72 *Submission* 81, p.3 (Youth Off The Streets).

73 *Committee Hansard* 4.2.04, p.2 (Youth Off The Streets).

...The sort of person who could do respite foster care once a fortnight is quite different from somebody who would take on what could almost be a lifetime commitment of a relationship with a high-risk adolescent who is a very damaged person... You cannot put a range of young people who have quite complex needs and issues... together in the community and expect that they will just meld in.<sup>74</sup>

3.61 One very experienced carer who has five children of her own and who has cared for over 30 foster children submitted details of the lack of support from the South Australian Department of Family and Youth Services (FAYS) when she had responsibility for 'the most difficult child I ever met'. She noted that FAYS' staff were 'out of touch' and inadequately educated for the reality of caring for severely damaged children.<sup>75</sup>

3.62 The Committee was provided with examples where, from very early ages, children's lives were interspersed with traumatic and unsettling experiences which led to them becoming very hard to handle and costly to keep in care. For example, 'Kim' was placed in care on the day of her birth, remaining so until she turned 18 years. She experienced many residential arrangements and harsh rules, lived with paedophiles, sustained injuries in care, had no significant and consistent adults in her life, and when a cottage closed down, she was forced out and shunted elsewhere. Little wonder that she became a high-risk child requiring around-the-clock care:

I got placed in a house and have one worker around the clock two days on and two days off. Got along really well with them... We sat down and made our own rules and I felt human when I was there. It cost about \$10,000 a month and I spent about 6 months there.<sup>76</sup>

3.63 Another 'high-risk' child was allegedly raped, on a daily basis by his father and uncle. He says he was often taped up when this happened, regularly beaten and kept in the laundry at night:

By the time he was five, he'd been through six foster families. Then, he got lucky. He was placed with a woman who was prepared to change her whole life to allow him to have one of his own.<sup>77</sup>

3.64 Evidence to the Committee highlighted that the provision of care for high-risk children is hampered by difficulties in obtaining suitable carers as well as the spin-off of financial cuts:

At the moment in Victoria we are suffering productivity cuts, which will limit these self-funded operations that we do which are already necessary. It is a very difficult situation.<sup>78</sup>

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74 *Committee Hansard* 12.11.03, p.77 (Berry Street Victoria).

75 *Confidential attachment*.

76 *Submission* 69, pp.12-15 (CREATE Foundation).

77 Thomas Helen, 'High risk kids', *Background Briefing*, Radio National, Sunday 19.10.03.

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...I think it then becomes unreasonable to expect someone who is in essence a volunteer to be a full-time carer, 24 hours a day, seven days a week, on simply a reimbursement basis. But it does move the notion, the idea, of foster care into another dimension.<sup>79</sup>

### *High costs of care for children with emotional or behavioural problems*

3.65 The cost of maintaining a high-risk adolescent in residential care is expensive and more than one welfare organisation cited examples. Anglicare stated 'for us to run a high-risk adolescent unit for four young people aged 12 to 17 costs us about \$230 000 per adolescent'.<sup>80</sup>

3.66 Figures on children requiring high levels of care show that when it is necessary to accommodate such children and young people in motels with several full-time workers, it can cost up to \$100 000-\$300 000 per year per child.<sup>81</sup>

3.67 Care requirements for young people who are at the 'extreme end of this difficult group' can involve expensive options of 'containment' or 'lockdown':

In New South Wales, some 400 'high-risk' children cost the Department of Community Services about \$60 million a year. A recent DoCS 'snapshot' indicates 182 kids are costing more than \$250 000 each a year, the highest coming in at \$858 000.<sup>82</sup>

3.68 One highly-traumatised 15-year-old girl with a record of displaying violent behaviour is said to require six carers to ensure that she does not harm herself or other people:

At one stage this difficult arrangement of care, involving at least six workers on shifts around the clock, was costing more than \$15 000 a week; in fact he describes her as 'the million dollar kid'.<sup>83</sup>

### *Abuse and treatment of children in foster care*

3.69 The Committee received significant information and stories about abuse of children in foster care, not dissimilar to themes outlined about the bigger institutions and orphanages in *Forgotten Australians*. CBERSS made the point that:

...we not only catastrophically removed kids from families but we subsequently punished them more...we are still doing it today. We are still

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78 *Committee Hansard* 12.11.03, p.33 (MacKillop Family Services).

79 *Committee Hansard* 12.11.03, p.68 (Anglicare Victoria).

80 *Committee Hansard* 12.11.03, p.69 (Anglicare Victoria).

81 Cashmore J, 'Child protection in the new millennium', *Social Policy Research Centre Newsletter*, May 2001, No 79, quoted in submission 35.

82 Thomas 19.10.03.

83 Thomas 19.10.03.

removing kids from families. We may not put them in institutional care – we might put them in foster care and they go around and around – but the abuse continues.<sup>84</sup>

3.70 The theme that abuse continues and that the state has neglected its duty of care towards children in its care is reflected often: 'if the state was a birth parent, on many occasions the children would be removed'.<sup>85</sup>

3.71 Dr Maria Harries cited United States research showing that 50 per cent of children in foster care have been sexually abused as well as statistics showing that one in three to one in five children have been abused yet they have not lived in institutional care. CBERSS noted that figures are likely to under estimate the prevalence of child sex abuse given that victims often do not report abuse because they fear negative consequences from disclosure.<sup>86</sup>

3.72 The Committee was advised that contemporary situations are such that children are not necessarily safe in care, as the CREATE Foundation noted:

We would also argue and recommend that there is vigorous recruitment of people who work within institutional care and residential care type places. The feedback we have had from young people is that the staff there are not always professional in their manner of dealing with children and young people.<sup>87</sup>

3.73 As well, a number of young people related stories of harsh conditions in care in recent times including the following examples:

[There were] fights, harsh discipline towards the kids around me from the supervisors that were there and low living standards.

People getting hit with towels and wooden spoons and things like that, pretty much right in front of me. There would be someone at your table mucking up and a supervisor would come out of nowhere and slam on the table, and plates and everything would bounce up.<sup>88</sup>

3.74 The WA Department for Community Development acknowledged that various abuse allegations had been raised with it through children's advocacy groups such as: Watchmen In God's Service; Advocates for Survivors of Child Abuse; Help All Little Ones; the Juvenile Justice Association and the Family Support for Victims of Paedophiles. The Department raises such concerns with the State Police.<sup>89</sup>

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84 *Committee Hansard* 9.12.03, p.46 (CBERSS).

85 Radio National, Interview with delegate -Knowledge into action: effective practice for children and family services conference, Sydney, 2-4 August 2004, *Life Matters*, 3.8.04.

86 *Committee Hansard* 9.12.03, pp.46-47 and *Submission* 49, p.9 (CBERSS).

87 *Committee Hansard* 4.2.04, p.58 (CREATE Foundation).

88 *Committee Hansard* 4.2.04, p.71.

89 *Submission* 55, p.13 (WA Department for Community Development).

3.75 Sexual abuse in foster care featured in many submissions though much of it related to earlier days. Descriptions of abuse in evidence included situations of wives being complicit where their husbands sexually abused foster children; government departments not acting to remedy bad situations; good care becoming bad, and of children being abused over long periods of time; and situations of humiliation where a child was treated like an animal for 10-years and locked in kennels where he had to pilfer dog food to survive, while another child was locked in a pitch-black garden shed with spiders and mice and had to wear a nappy with a dummy in her mouth and parade in front of children on the school bus.<sup>90</sup>

3.76 A common theme in evidence was that any outside perceptions of abuse in the foster home would have been anathema, where from the outside everything seemed to be stable, often in very good 'Christian' homes. One former foster child outlined details of her life in the 'apparently perfect placement' in a leafy Sydney suburb. In reality, she was sexually, emotionally and physically abused for years. Another person described her 'lucky' situation of 14 years 'stable' care, where she and her sister appeared to be happy when in fact they were isolated, lonely and terrified of a very controlling foster mother.<sup>91</sup>

3.77 As with children who experienced slave labour in institutions, many outlines were given about the use of child slave labour by foster parents, regardless of the era or the location. Often children were required to undertake some unusual tasks, along with the drudgery of housework and domestic work:

If they had a party you had to stay up and clean up and be up early and look after their children and keep them quiet till they got up...I used to eat the left overs...I didn't want to go to Perisher Valley as their friends used to come with their family and doing the washing under the house was cold.<sup>92</sup>

3.78 Some people have described situations of being treated differently, working hard and receiving no love or family nurturing and affection, or being isolated, both in the home and from other children at school; and having excessively disciplinarian and inflexible dominating foster parents.<sup>93</sup> One former foster child told of her loss of identity when her foster mother made the decision to change her name:

...I asked her not to change my name because that is all that I own. It belongs to me. But like everybody else she did not listen either and changed that to Rosemarie. But my name is Marie Rose. Nobody ever listened they just did whatever they wanted.<sup>94</sup>

3.79 The Committee also received positive stories as the following excerpts show:

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90 *Submissions* 131; 239, p.2; 185, p.2; 190; 237, p.3; 139, p.2; 258, p.1.

91 *Submissions* 293, p.1; 244, p.1; 395, pp.2-4.

92 *Submission* 315, pp.2-3; see also *Submissions* 367, p.1; 368, p.7; 434 and 443.

93 *Submissions* 327, p.6; 320, pp.1-2; 16, p.2; 17, p.1.

94 *Submission* 126, pp.7-8.

...I believe that my foster care experience was a positive one; I was taken well care of and was treated like their natural child. My placement broke down as a result of my need to establish myself as a young adult.<sup>95</sup>

...I went through quite a few public schools until I was placed at a foster home. I am probably one of the luckiest people you will ever hear about. It was a great home for me and I was there for eight years. I had a great relationship and I still talk to them now.<sup>96</sup>

3.80 As well, some people described contrasting experiences of foster homes:

We were then sent to Mrs Ingham's place at Bendigo. I don't think we could have found a better home. She was a great church woman and lived her religion...She looked after us better than our own mother...We were then sent to a woman a Mrs Bramley...The verandah, a cellar under the house and the backyard were our home and we could sleep in the bedroom at night. In the cold weather we were always cold and hungry...half starved and eaten by bed bugs. We were sent to school with our head full of lice.<sup>97</sup>

3.81 Another person described one of her foster care experiences as her 'first real family' and the 'happiest time of my young life' which contrasted markedly with her later foster care where she was subjected to horrific sexual abuse.<sup>98</sup>

### ***Multiple placements***

3.82 The Committee heard evidence that children and young people in out-of-home care often experience many moves in their home and school lives. Multiple placements have serious negative effects on young people's emotions, educational and employment chances and long-term personality development. Unfortunately, the following excerpt from a Radio National program is indicative of the high number of placements experienced by some children:

I remember being really surprised when you said, in fact I thought I'd misheard you, you said you had 80 different placements, I thought I must have misheard and you'd said 18, because 80 seems like an awfully large number for any kid.<sup>99</sup>

3.83 Resultant problems from the many moves can be wide ranging and may include experiences of ongoing depression, anxiety, anti-social attitudes, nightmares, fear of people, and lack of confidence, social skills and identity. MacKillop Family Services commented that multiple placements can be unavoidable, often because it

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95 *Submission* 142, p.2.

96 *Committee Hansard* 4.2.04, p.69.

97 *Submission* 413, pp.3-4; also *Submission* 364, p.2.

98 *Submission* 419, pp.4-5.

99 Thomas 7.9.03.



can be difficult to find suitable carers for children and young people with complex needs.<sup>100</sup> One former foster child stated that:

...by the age of six I had undergone seven failed placements, due to the inability of the foster families to cope with a child whose needs were so great for a loving family...I was declared unsuitable for immediate placement and sent to the children's home.<sup>101</sup>

3.84 Child welfare practitioners are aware of the damaging effects for children's development from all forms of inconsistency and proponents of attachment theory have demonstrated that children need consistent routines of care from one or two preferred attachment figures.<sup>102</sup> As well, if adults in the out-of-home sector are to gain the trust of the children and young people and therefore assist them, it is obvious that some semblance of stability is required:

In one case we helped a young teenage boy in relation to criminal matters. In the eighteen-month period before he came to us he had in excess of twenty foster places. One pair of initial foster parents had been keen to look after him on a more permanent basis but lost interest after the department delayed and procrastinated in getting back to them. The boy had been so disappointed that it was very difficult for him to trust anyone again. This...is commonplace for young children who have been in care and protection, as they experience what they see as betrayal.<sup>103</sup>

3.85 The multiple placements of children and young people in out-of-home care is well documented. A Victorian Department of Human Services report shows that of all clients in placement at 30 June 2001, seven per cent had had just one placement, 65 per cent had had four or more placements and 11 per cent had 10 or more placements. The impact of multiple placements on a developing child's behaviour and educational attainment is substantial, often resulting in negative life patterns including those related to instances of stealing, absconding and bullying. Severe learning disorders can be a by-product of constant changes in a child's carer. This can affect a young person's academic performance which of course is compounded by constant changes in schools. A 1996 NSW study demonstrated that 80 per cent of children who lived at home with their families completed their Higher School Certificate compared with 36 per cent of young people in out-of-home care. The average number of schools attended by young people living at home with their families was 2.3 compared with 5.4 schools for those in out-of-home care.<sup>104</sup>

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100 *Submission 50*, p.14 (MacKillop Family Services).

101 *Submission 20*, p.2.

102 *Submission 45*, p.6 (NSW Committee on Adoption and Permanent Care).

103 *Submission 127*, p.2 (West Heidelberg Community Legal Service).

104 Cashmore, Dr Judy & Paxman, Ms Marina, *Wards leaving care: a longitudinal study*, NSW Department of Community Services, Sydney, 1996.

3.86 A 23-year-old man who had been moved around by DoCS 'every three months – here, there and everywhere', described to the Committee, his situation of not ever having been to school and being unable to read and write, having difficulties in relating to people, never having had a job and being unsure of what he wanted. He advised that if given the opportunity, he would like to learn literacy and numeracy skills but felt unconfident that any employer would give him a job.<sup>105</sup> Another young man aged 22 years who had also experienced many institutional placements, told the Committee that although he had done well at school, he had very little confidence and was experiencing difficulties in gaining meaningful employment. He considered that finding decent employment would be a key to assisting him:

I actually did all right in school. I did not finish year 12 but I finished year 11. I was quite gifted in a couple of subjects...help with employment is the main thing. I need something behind me like a trade or anything like that. I have nothing.<sup>106</sup>

3.87 Professor Dorothy Scott emphasised that the multiple placements of today's system can be more damaging than the relative stability which some children and young people may have experienced in the old-type institutions.<sup>107</sup> The Post Adoption Resource Centre-Benevolent Society stated that many past mistakes in policies and practices in the out-of-home care sector have not necessarily served as lessons for contemporary policymakers:

...we continue to over burden and underpay those working in child protection and out-of-home care, causing high staff turnover. Similarly, we invest large sums of money into problematic 'time-saving' strategies such as the DCS Helpline and into child protection, which works on short-term goals and is crisis-driven, and fails to provide children with long-term futures. Time, money and effort should be invested into supporting existing and coming foster care placements to give children a better chance of stability and continuity.<sup>108</sup>

3.88 Adding to problems for children in out-of-home care can be the lack of consistency with departmental caseworkers, usually the result of a high turnover in workers. A 2002 CREATE Foundation survey of 143 children and young people aged nine-18 years across Australia, found that 80 per cent of the children and young people surveyed had a departmental caseworker, six per cent were unsure if they had one and 14 per cent did not have one. Of the children and young people who had a caseworker, 32 per cent had had more than five workers while in care, 23 per cent said that they had the same caseworker for three months or less and only 10 per cent had

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105 *Committee Hansard* 4.2.04, pp.62-68.

106 *Committee Hansard* 4.2.04, pp.60-61.

107 Scott D, 'Looking back to see ahead: enduring insights and emerging understanding in relation to vulnerable children and their families in the child welfare system', Lecture to mark Child Protection Week, October 2000.

108 *Submission* 53, p.7 (Post Adoption Resource Centre-The Benevolent Society).

had the same departmental worker since being in care. CREATE advised that the significant change in caseworker numbers impacts negatively on their capacity to meet the needs of children and young people in care. One young person noted:

I found [it] didn't work having so many case managers in such a short period of time. [More than 5 in less than two years]. They never seemed to respond to what I wanted, they didn't organise contact with my brothers. Since I have had a stable case manager in the last few weeks it has been a lot better because she has established contact with me and my brothers.<sup>109</sup>

3.89 The Committee recognises the complexity of the issue of multiple placements which is symptomatic of a range of problems for families including drug and substance addiction, unemployment and family breakdown, which often lead to situations of children being placed into out-of-home care. At times the anti-social behaviour of some children who have experienced abuse and spent too long in abusive situations, escalates to a point where no carer is able to provide care for them. In this context, Youth Off The Streets advised:

So young people are inappropriately placed. When they are placed, there are insufficient resources on the ground to support those placements. You can predict from that point onwards that inevitably they will rotate in and out of foster care placements until they are deemed 'unfosterable'. Then, when they are teenagers, we see the result. Some may come to us...Others end up on the streets as a result of the systems failure that they have experienced throughout their care history.<sup>110</sup>

3.90 Therefore, a multi-faceted problem develops which can only be addressed by a comprehensive multi-faceted response. Initiatives which can be successful to address problems include early intervention programs to assist people with their parenting and caring abilities. As well, other areas that need to be addressed are those to engage more foster carers and to provide them with support and also ensuring that children have access to education and worthwhile employment.

### ***Indigenous children***

3.91 Indigenous children are over represented in out-of-home care. As well, systems breakdowns seem to be occurring regarding indigenous children's placements. As mentioned, all jurisdictions have adopted the Aboriginal Child Placement Principle regarding preferred placements of indigenous children.

3.92 The Law Society of New South Wales submitted that there is frequent failure to give proper effect to the principle. In particular, Aboriginal or Torres Strait Islander children are not being identified as required by legislation; indigenous children are not being placed in culturally-appropriate out-of-home care; and no consultations are

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109 *Submission 69*, pp.19-21 (CREATE Foundation).

110 *Committee Hansard 4.2.04*, pp.2-3 (Youth Off The Streets).

occurring with the welfare or indigenous community groups that could assist in identifying suitable placements. The Law Society stated:

...there is typically no real attempt to allow the child to develop any understanding of the child's heritage and culture. Any plans proposed by the Department are espoused in a general way and non-specific in their services. There is frequently a reliance upon the foster carer doing the right thing without any commitment by the Department and its Officers to ensure the heritage and culture needs are followed through...indigenous siblings are separated, sometimes into indigenous appropriate placements and sometimes not. There is frequently a failure to provide regular contact not only between the siblings but with their extended family members...That failure is both in breach of the principles referred to and the objects of the Act which require a child to know and develop a relationship with the child's family and in the wider sense his or her community.<sup>111</sup>

3.93 SNAICC stated that:

...the continuing practice of placing children with non Indigenous foster care constitutes a serious risk to the cultural identity of Indigenous children in Australia. In particular it places at risk their right to grow up in a community with other members of their group, to enjoy their own culture, profess and practice their own religion and use their own language.<sup>112</sup>

3.94 Families Australia noted that while kinship care is very important to indigenous people for indigenous children needing out-of-home care, a serious shortage of indigenous carers is part of the reason why the Aboriginal Placement Principle is often not adhered to.<sup>113</sup>

3.95 In response to the high number of indigenous children in care, SNAICC has recommended a national commitment to Aboriginal and Torres Strait Islander children including:

- the development of a National Aboriginal and Torres Strait Islander Family policy between indigenous organisations, the Commonwealth and State and Territory Governments to reduce the number of indigenous children being removed from home for child protection and poverty related reasons; an expansion of the availability of Aboriginal and Islander Child Care Agencies and Family Support Services; and an outline of targets for reducing the current rates of child removal;
- the provision of improved access to family support services to prevent family breakdowns and reduce the number of indigenous children removed from their families by welfare authorities; and

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111 *Submission 253*, pp.1-3 (The Law Society of New South Wales).

112 SNAICC, p.8.

113 *Submission 175*, p.23 (Families Australia).

- the implementation of recommendations from the *Bringing them home* inquiry, including those related to the reform of the current systems of child protection and minimum standards of care, protection and support for Aboriginal and Torres Strait Islander children in need of care.<sup>114</sup>

### ***Children returning from out-of-home care to abusive situations***

3.96 The primary goal of out-of-home programs is to reunify children and young people with their families, where this is in the best interests of the children. However, with children being placed in out-of-home care as a consequence of complex family problems, including parental substance abuse, difficulties can be encountered in ensuring that children are returned to suitable family situations.

3.97 The Committee received evidence about children being returned from out-of-home care to abusive family homes, including instances where parents are on drugs. Many care organisations acknowledge parents' rights to request the return of their children but they highlighted the difficulties associated both with assessing parents' suitability and being able to monitor such situations. The CREATE Foundation stated:

If we say that, yes, the parent has to undertake a drug program, we do not then go thoroughly enough into making sure that they have undertaken that program, that they are clean and that these children are going to be safe when they return to that home. And then, once they are back in that home, there is no monitoring in the home to make sure that everything is going well and there are no alarming characteristics.<sup>115</sup>

3.98 A parent with extensive experience of providing foster care cited her first-hand experiences of returning a child to a home where he would be exposed to abuse:

...it is very hard...to have to send the child back to a situation that you know the child does not want to return to, that you know is going to be detrimental and where the child is probably going to end up back in your care...this little boy's mum was given additional access time with him, unsupervised, when it was patently obvious – and everybody knows – she was abusing again.<sup>116</sup>

3.99 The difficulties of reunification are reflected in data reported by the Victorian Department of Human Services. It was found that there was a fairly high level of attempt at reunification with parents over a five-year period. However, it was estimated that of children who enter home-based care, 'only between about 20-30 per cent will be successfully reunited with their parents over a five-year period'.<sup>117</sup> The WA Department for Community Development noted that while a return to families is

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114 SNAICC, p.5.

115 *Committee Hansard* 4.2.04, p.66 (CREATE Foundation).

116 *Committee Hansard* 11.11.03, p.74 (Mrs Ziino).

117 Department of Human Services Victoria 2003, p.57.

preferred, the Department recognises that some children and young people will never return home due to unresolved safety concerns at home. The department noted:

Repeated attempts at family preservation has meant some children and young people experiencing frequent placement changes and broken relationships as they move between parents and carers.<sup>118</sup>

3.100 The Committee heard that the parents and family members of children in care are often marginalised or disempowered and that insufficient attention and resources are given to ameliorating the damage to children or to addressing the behaviour or parents' attitudes that led to their children being placed in care. Mercy Community Services argued that governments need to provide more services for behavioural and attitudinal problems to ensure that parents are able to have their children returned at the earliest and safest opportunity.<sup>119</sup>

3.101 Some organisations have called for funding to help keep children with their families via intensive support services, and to ensure that a child's removal from their family is in accord with permanency planning so that the child is given opportunities to maintain contact and relationships with significant members of their family, particularly with their siblings. This is crucial in assisting children to develop a sense of stability and identity.<sup>120</sup>

### ***Children and young people leaving foster or out-of-home care***

3.102 Each year, about 1700 Australians aged 15-17 years are discharged from out-of-home care. Some return to the family home, others exit care into independent living.<sup>121</sup> They are one of the most vulnerable and disadvantaged groups in society, yet, often they do not receive support to help them to settle their lives or to find accommodation and employment. Of particular concern is that many children and young people enter out-of-home care with myriad problems and many depart the system with additional problems. It seems to be a continuum of difficulties for them.

3.103 Young care leavers face barriers in accessing educational, employment and other developmental and transitional opportunities. As mentioned earlier, many could have experienced abuse and have had many changes in carers, placements and schools and have no real assistance networks as they move to independence.

3.104 As the following excerpt shows, some young people have experienced abusive and unstable foster care conditions from which they often carry 'scars' for life:

At age 14 after leaving home for the 3<sup>rd</sup> time and just not wanting to get hit anymore, I was 5 foot tall, wore size 6 kids clothes and weighed just 5

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118 *Submission 55*, p.45 (WA Department for Community Development).

119 *Submission 61*, p.18 (Mercy Community Services Inc).

120 *Submission 45*, pp.6-7 (NSW Committee on Adoption and Permanent Care).

121 AIHW 2004, p.41.

stone. For the next 2 years, I was thrust between foster family and any old place the department could place me in including brief periods with juvenile offenders although I had done no wrong...I returned home to my foster parents at 16 years of age for 18 months before being thrown out of home in the middle of repeating year 12. A week later whilst I returned to pick up my clothes, my foster mother threw the adoption papers in the bin. This was just devastating and an action I can never forgive. I meant nothing to my foster parents and they made it seem like it was somehow my fault...The abuse that I suffered at the hands of my foster parents during my childhood has scarred me for life...Fortunately I was never sexually abused, but my foster mother was the best teacher in selfishness and deprivation...the pain will not go away. I have absorbed myself in tasks to hide the pain. Later in life I will have to deal with it, somehow and some day.<sup>122</sup>

3.105 The NSW Committee on Adoption and Permanent Care also noted that often young people leave care with enormous emotional and psychological baggage.<sup>123</sup> They may have nowhere to live. Often their many years in refuges and lack of social skills means that they are blacklisted from the private rental market, and community and departmental housing waiting lists are often very long.<sup>124</sup> The 1996 NSW study of wards leaving care in that State found that one year after leaving care, most participants had unstable living arrangements and half were unemployed and had financial troubles.<sup>125</sup>

3.106 A care leaver from the 1970s who endured difficulties, even though it was easier in those days to find employment, described the situation now for care leavers:

...many young people are leaving care, without finishing high school, and without any training scheme for employment. They are effectively unemployable in today's fiercely competitive market conditions, and they do not have parents or family as a safety net. They literally have no place to go, and cannot afford rent on the private rental market, and are chronically vulnerable. Unlike Australia in the 1970s...the HSC is now the relative equivalent of year 10...There is no prospect for these people without educational resources.<sup>126</sup>

3.107 Given that young people often leave care without a proper education, some are drawn to earning a living in the sex industry. In a series of in-depth interviews, the non-government organisation, Child Wise, spoke to 21 female and nine male sex

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122 *Submission 433*, p.2.

123 *Submission 45*, p.4 (NSW Committee on Adoption and Permanent Care).

124 Mendes Philip and Moslehuddin Badal, 'Moving out from the State parental home: a comparison of leaving care policies in Victoria and New South Wales', *Children Australia*, vol 29, no. 2, 2004, pp.20-29.

125 Cashmore and Paxman 1996, *Wards leaving care*.

126 *Submission 369*, p.6.

industry workers, most of whom had left school early; all of them had a drug addiction. Of particular concern is that 16 of these young people had been in the care of the State system and noted that it had been while in the system's care, that they had been introduced to sex work and other harmful high-risk activities.<sup>127</sup>

3.108 That young people are leaving care before they turn 18 years may also be adding to their problems and inability to deal with life in contemporary society. For example, the Western Australian welfare agency, Mofflyn, made the point that many children are remaining with their families until they are in their mid to late 20s, and as such, that situation should apply for some young people in foster care.<sup>128</sup>

3.109 Many factors are contributing to disadvantages for young people leaving care, including a lack of post-care support. Evidence from Dr Phillip Mendes suggested that there is a major gap in after-care services in most Australian States and Territories, with some individual non-government agencies providing assistance on an *ad hoc* and often unfunded basis.<sup>129</sup>

3.110 The Positive Justice Centre noted that while the 1989 Burdekin inquiry into homelessness found that 50 per cent of homeless children had been in the care of the state, any acknowledgement of this does not appear in any information about homelessness services such as the Supported Accommodation Assistance Program (SAAP).<sup>130</sup>

3.111 While welfare groups such as Berry Street Victoria acknowledged that there are 'good people along the road' to assist young people leaving care, it advised of a need for improvement in service provision and supports and noted the need in Victoria for better leaving-care supports, ideally comparable to what is available in other Australian States and overseas:

...a simple thing would be rent assistance for young people when they move out of residential care, rather than having to into the SAAP system...when they are ready to leave care, where do they go? How do they gain housing, how do we support them? They tend to move into the SAAP system, which is actually a homelessness system. I find it quite abhorrent that we spend all these years trying to support, nurture and develop young people who are very damaged and then when they get to the end of their formal in-care time there is nothing but the homelessness service.

...a lot of agencies, and individuals within agencies, offer the sort of support...on an ad hoc basis. I really do feel very strongly that Victoria needs to look seriously at a leaving care program and needs to be prepared

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127 Child Wise, *Speaking for themselves: voices of young people involved in commercial sexual activity*, August 2004, p.6.

128 *Submission 160*, p.12 (Mofflyn).

129 *Submission 2*, Additional information, p.1 (Dr Philip Mendes).

130 *Committee Hansard 4.2.04*, p.30 (Positive Justice Centre).



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to support, as in other states and other countries, young people who need that kind of after care up to the age of 25.<sup>131</sup>

3.112 Some groups advised, with a degree of ambivalence, of their after-care support services for young people. In NSW, Centacare Catholic Community Services has a State after-care service that deals only with people who have been in care up to the age of 25 years. UnitingCare Burnside provides a number of services however it emphasised that like other agencies, its focus tends to be nowadays on assisting families, children and young people before any need for out-of-home care emerges.<sup>132</sup> Youth Off The Streets cited details of its five-year quality improvement program with the NSW Office of the Children's Guardian focusing on children's daily participation in case planning and programs. This group has established semi-independent living for young people who are about to exit care. It is developing a program involving follow-up for at least two-three years, at the young person's request. In describing the Youth Off the Streets' exit-care plan, Mrs Power noted that the organisation would prefer to have more counsellors and psychologists in order to meet service requirements:

...during the last 12 months we have established a semi-independent living program recognising young people who are preparing to exit care... This is a point at which we are obviously preparing them to go out into the world but it is a point which I feel we may be letting down some of the young people if they have not received adequate support and counselling and their needs have not been addressed... We would like to be able to identify those needs and continue to meet them. We are...developing an exit program which will involve follow-up for at least two to three years, obviously at the young person's request... A lot of young people come back 10 years later and bring in their children, but what worries us as an agency are perhaps those who have left us feeling that they did not have the best experience with us... I would like to see a formal system of tracing young people when they leave us and perhaps more family workers to begin to help them in that program of reintegrating into the communities that they choose.<sup>133</sup>

3.113 In terms of government assistance for leaving-care plans, Dr Mendes made the point that there are no Commonwealth Government national leaving-care benchmarks or legislation. He asserts that while the 1995 Standing Committee of Community Services and Income Security Administrators endorsed out-of-home care standards which included an obligation to develop exit plans for each young person leaving care, many States have failed to implement these standards.<sup>134</sup> He also noted examples of overseas legislative and program supports for care leavers including in the United Kingdom and the United States.<sup>135</sup>

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131 *Committee Hansard* 12.11.03, p.87 (Berry Street Victoria).

132 *Committee Hansard* 4.2.04, pp.3,5 (Centacare Catholic Community Services and UnitingCare Burnside).

133 *Committee Hansard* 4.2.04, p.13 (Youth Off The Streets).

134 Mendes and Moslehuddin 2004, pp.20-29.

135 *Submission 2*, p.1 (Dr Philip Mendes), additional information.

3.114 As well, that after-care programs for young people leaving care are conducted on an *ad hoc* basis is perhaps demonstrated by the following. Some jurisdictions have transitional and after-care programs for care leavers. Under the NSW *Children and Young Persons (Care and Protection) Act 1998*, after-care services for young people aged 15-25 years are in place, including an after-care resource and advocacy centre. That State also has leaving-care services for metropolitan and surrounding areas and a State-wide Aboriginal and Torres Strait Islander Service.<sup>136</sup> Entitlements to leaving care or after-care supports are not available under the Victorian *Children and Young Persons Act 1989* other than post-placement support. However, the Victorian Department of Human Services (DHS) provides support to care leavers aged 18 years to complete their schooling. The DHS has trialled housing and support projects in the Gippsland and Southern Metropolitan regions to address the incidence of homelessness among care leavers.<sup>137</sup>

3.115 Western Australia's *Children and Community Services Act 2004* contains a range of transitional measures for out-of-home care leavers in that State which will be available when the Act is fully proclaimed. This should occur when the necessary preparatory work has been completed. Transitional arrangements will include provisions for the Department for Community Development to ensure that a child leaving care is provided with social services that the department considers appropriate, having regard to a child's needs as identified in his or her care plan. As well, the department must ensure that a person who qualifies for assistance is provided with services to assist the person to do any one or more of the following: obtain accommodation; undertake education and training; obtain employment; obtain legal advice; access health services; access counselling services.<sup>138</sup>

3.116 From a Commonwealth perspective, the Transition to Independent Living Allowance (TILA) provides a one-off financial payment to disadvantaged care leavers in making a transition to independent living.<sup>139</sup>

## **Conclusion**

3.117 The evidence indicates very disturbing trends in out-of-home care: that the number of children entering the system is increasing and children have increasingly complex problems as a result of extremely damaging family situations. Indigenous children are over-represented in the out-of-home care system, with indigenous children being six times more likely to be in out-of-home care than non-indigenous children. Often, the out-of-home system is unable to provide adequate care for these high-care children. This is exacerbated by multiple placements, multiple changes to

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136 Mendes Philip, 'A boost for those most in need', *The Canberra Times*, 4.9.03, p.17.

137 Mendes and Moslehuddin 2004, pp.20-29.

138 *Submission 55*, Additional information 4.3.05 (WA Department for Community Development).

139 Mendes and Moslehuddin, 2004, pp.20-29.

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caseworkers; lack of adequate after-care services; and children returning to abusive situations.

3.118 The Committee also received evidence that many children experience poor outcomes from their placement in out-of-home care: they have poor educational attainment; limited life opportunities; feature highly in homeless populations and the juvenile justice system; do not always receive adequate dental or medical care; gravitate towards substance abuse; and are more likely than their contemporaries not in care to have thought of or attempted suicide.

3.119 The Committee considers that there is a need for diversity in the provision of out-of-home care. Many children and young people can have their needs met by standard foster, kinship or family-based care. The Committee acknowledges however that for some people who are classified as 'high risk', a level of care is required that can only be met by residential care staffed by highly-trained professionals. Regardless of the category of children and young people or their needs, care that would suit a young child will not always apply in later childhood or adolescence. Therefore a continuum of options will be required within each sphere of the foster care system.

3.120 The Committee also considers that residential care staffed by specially-trained personnel is often the only way to care for high-risk children but such options are often not available and are expensive. However, given the costs and needs in maintaining high-risk children along with the many problems inherent in the service system, it is relevant to consider a model of therapeutic foster care that fits between general foster care and the full residential institutional arrangements. This form of care is required for the children and young people who require wide-ranging levels of support including behaviour monitoring, health and educational assistance and counselling support.

3.121 Given the benefits of ensuring that children have contact with their natural families, where appropriate, people with disability who have children and young people, need assistance and support so that they can carry out their everyday parenting and family activities. Greater assistance is also required for already damaged young people leaving care and attempting to live, for the first time, an independent life. There is a need to ensure they have adequate education, life skills and financial support to successfully make the transition from care to independence.

3.122 The Committee considers that there are obvious benefits for all jurisdictions to co-operate and exchange information and it may be that they can learn from each other regarding successful programs in the out-of-home care sector, particularly when assisting very high-needs children.

3.123 The Committee acknowledges that many of the areas of concern identified in the above discussion have been included in the National Plan for Foster Children, Young People and Foster Carers as key areas for action. In particular, the National Plan aims to strengthen case management, and to implement national standards for the transition planning for children and young people in foster care. The over-

representation of indigenous children and young people in foster care is also to be examined to identify possible areas for action. A further key area for action is to investigate and develop emerging models of foster care, including trends in relative/kinship care. The Committee sees this area as being of fundamental importance as greater numbers of children with more complex needs are entering the out-of-home care system.

3.124 While the National Plan has identified areas for action, the Committee is mindful that identification is not only required: implementation with long-term commitment from all stakeholders will be necessary to introduce change to a system which is severely stretched and stressed.

### **Recommendation 5**

**3.125 The Commonwealth review the level of the Transition to Independent Living Allowance (TILA) to ensure that it is adequate to meet the needs of young people leaving care.**

### **Recommendation 6**

**3.126 The Commonwealth, State and Territory Governments consider new models for the schooling and education of children in out-of-home care, particularly children who have been classified as high-risk children, for example, schooling by specialist teachers trained in both education and child psychology.**

### **Recommendation 7**

**3.127 That the strengthening of case management under the National Plan be progressed as a matter of priority, in particular to attempt to limit the turnover of caseworkers for children in out-of-home care.**

### **Recommendation 8**

**3.128 That the introduction of national standards for transition planning, particularly when leaving care, under the National Plan be implemented as a matter of priority.**