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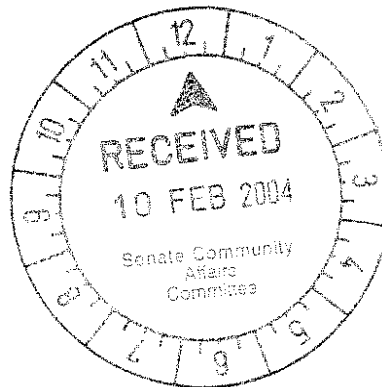
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Your Ref:  
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30 January 2004

The Secretary  
Community Affairs  
References Committee  
Parliament House  
Canberra ACT 2600



Dear Mr Humphrey

**INQUIRY INTO CHILDREN IN INSTITUTIONAL CARE**

I refer to your letter dated 20 January 2004, and note that my draft submission that was emailed to you has been accepted as a public submission.

I now enclose a final copy of this submission, which I request be accepted as my public submission, in place of all others I have forwarded you to date.

Thank you for your assistance.

Yours sincerely,

Patmalar Ambikapathy  
Commissioner for Children

End.

INDEPENDENCE



OFFICE OF THE  
COMMISSIONER FOR CHILDREN

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SUBMISSIONS TO THE SENATE COMMUNITY AFFAIRS  
REFERENCES COMMITTEE INQUIRY INTO CHILDREN IN  
INSTITUTIONAL CARE

Patmalar Ambikapathy  
Commissioner for Children  
Tasmania

2003

MEMORANDUM TO SENATE COMMITTEE

FROM: Patmalar Ambikapathy  
Commissioner for Children

RE Submissions to the Senate Community Affairs  
References Committee Inquiry into Children in  
Institutional Care - 2003

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## INTRODUCTION

The Senate has referred to the Committee, issues relating to children in institutional care for inquiry and this is the final submission and supersedes the draft submission sent earlier.

The Commissioner for Children in Tasmania has a function under section 79 (1) (d) of the *Children, Young Persons and their Families Act 1997* (the Act):-

*“ to increase public awareness of matters relating to the health, welfare, care, protection and development of children ”*

Under section 79 (1) (f) the Commissioner has a function:

*“ on the Commissioner’s own initiative, or on the request of the Minister, to advise the Minister on any matters relating to the health, welfare, education, care, protection and development of children placed in the custody or under the guardianship , of the Secretary under this or any other Act;*

This section gives me a function with respect to children in any welfare care, but in addition, it also gives me a role with respect to children and young people who are in juvenile justice custody.

Under section 124(1) of the *Youth Justice Act 1997*, children and young people are the responsibility of the Secretary of the Department of Health and Human Services when they are held in custody whether for remand or upon conviction at custodial juvenile justice facilities. The Secretary is responsible for their “safe custody and well being” of all such children and young people as set out below:-

*124. (1) The Secretary is responsible for the security and management of detention centres and the safe custody and wellbeing of detainees.*

In accordance with the above functions, I have received concerns and inquiries from the public on issues of alleged abuse of under 18's whilst in the care of the State of Tasmania. This Office only commenced in the latter part of the year 2000, so our information is limited. These concerns expressed to this Office by the public, are not many in number, as the first point of contact is with the Division. Our processes require us to first notify the Division of Children and Families (the Division) of such notice of abuse for them to investigate first under their investigative and internal review processes. The Division have a responsibility and a duty of care pursuant to a statutory delegated authority from the Secretary, under the Act, to investigate all cases of alleged abuse and risk of abuse to any child. After this process is completed, or during this, I scrutinise all systems issues that relate to the concern I have received, to advise the Minister on them. These systems issues are related to policy, practice and service delivery concerns. I assess if they are a proper implementation of the Act and if they function in accordance with the best interests of the child in matters related to the health, welfare, care, protection and development of children.

In addition, the Ombudsman can also investigate such allegations, if it involves an administrative decision that a child, parent or carer is dissatisfied with. At present the Ombudsman has been authorised by the Minister of Health and Human Services to inquire into all reports of past abuse of children and young people whilst in the care of the State. I am advised that a Protocol is being drawn up between the Department of Health and Human Services and the Ombudsman for this purpose, and that the investigation is ongoing. I also understand that it is in relation to past abuse cases, and as such only includes those who are above the age of 18.

My observations to this Committee are thus restricted to instances of abuse that the public has informed this Office of in the course of the concerns and inquiries addressed to us.

### TERMS OF REFERENCE ADDRESSED

The terms of reference and possible issues relevant for submission by this Office are as follows:

- (a) **In relation to any government or non-government institutions, and fostering practices, established or licensed under relevant legislation to provide care and/or education for children:**
- (i) **whether any unsafe, improper or unlawful care or treatment of children occurred in these institutions or places,**

The concerns have been received by this Office relate to allegations of abuse by individual foster carers as well as to those at a designated children's home, a family day care centre and at Ashley Youth Detention Centre. These concerns involve allegations of -:

- physical abuse
- sexual abuse
- poor living conditions
- carers being unable to met the needs of children, i.e. a lack of mobility
- to supervise children outside (children then forced to spend too much time inside playing and therefore become disruptive)
- failure to consult with all parties concerned (including the child) when moving a child,
- failure to recognise the adverse impact this may have on the child
- children being told to do the washing up and laundry (unsafe for young children).

All of these current allegations have been investigated by the Division of Children and Families, some by the Department of Education and many by Tasmania Police. However, I am informed that many allegations have not been "substantiated". This is a systems issue I will deal with in this submission.

- (ii) whether any serious breach of any relevant statutory obligation occurred at any time when children were in care or under protection, and

At present the abuse of children in care is a breach of the statutory obligations imposed under the *Children, Young Persons and Their Families Act 1997*, which places a responsibility on every adult to protect children from abuse and neglect. In addition, the object of the Tasmanian *Children, Young Persons and Their Families Act 1997* is to:

*“provide for the care and protection of children in a manner that maximises a child’s opportunity to grow up in a safe and stable environment and to reach his or her full potential.” (Section 7)*

Under sections 13 of the Act, it the responsibility of every adult to prevent abuse and neglect:

*13. (1) An adult who knows, or believes, or suspects on reasonable grounds, that a child is suffering, has suffered or is likely to suffer abuse or neglect has a responsibility to take steps to prevent the occurrence or further occurrence of the abuse or neglect.*

Under section 14, certain persons are also mandated to report abuse or neglect, and a penalty is imposed for failing to do so.

In the past, it has always been a crime to physically or sexually abuse a child, but the law was not effectively implemented against adult perpetrators. This is demonstrated by the fact that adult survivors are only now coming forward to speak about their abuse whilst in care. This is a systems issue that will be referred to in this submission.

- (iii) an estimate of the scale of unsafe, improper or unlawful care or treatment of children in such institutions or places;

- I am in no position to assess this, as I do not have a specific statutory function to do this, nor do I have the resources to collect such data. These figures, are known to the Division and the Inquiry needs to obtain such data from them.
- I respectfully suggest that the numbers of all allegations must be collected by Tasmania Police or the Division and recorded. This needs to include the figures that are deemed ‘substantiated’ or ‘non substantiated’. From information received, it appears that this is being done now in Tasmania.

- (b) the extent and impact of the long-term social and economic consequences of child abuse and neglect on individuals, families and Australian society as a whole, and the adequacy of existing remedies and support mechanisms;

Given the relatively short duration of the existence of this Office, I am in no position to comment on the first part of the question. With respect to the second part, I comment briefly as follows:-

- my initial assessments of the few Tasmania Police investigations undertaken, suggests that such investigations can be developed to higher best practice standards with respect to abuse of children in foster care;
- with respect to the one series of incidents I assessed in 2001 of reported abuse/assaults of juveniles in custody, it was my respectful view that investigations of those incidents by Tasmania Police could be improved. All investigations since then have been more satisfactory, as my concerns have been made known to the Minister for Health and Human Services;
- I had concerns about the processes of the Division in these series of incidents as well and have made my concerns known to the Minister of Health and Human Services, no such abusive incidents have come to my notice since then at the this particular institution;
- I have no direct evidence of the social impact of abuse in care, except for anecdotal evidence that it has adverse implications on an already vulnerable group of children and young people;
- The financial and economic cost of maintaining programs for those who have been abused is a reality. There has been a great deal of research into this that can be accessed by the Committee. However, if we can address the issues of trauma created, then evidenced based research is readily available to indicate that children can be assisted at the time the abuse occurs. If their issues are addressed early and resolved, there is less financial costs to the state and the community in the future;
- In addition, litigation later in life to redress abuse that has occurred in the past can be costly, and not a viable option for all victims / survivors;
- There is in Tasmania, a current understanding of the need to integrate and increase support services and information for victims and those dealing with victims and offenders. For instance, recognition of risk factors, training for this, the need for support, special needs of child victims and their families etc.
- there is also a current appreciation of the need to increase public awareness of mandatory reporting requirements and duty to *prevent* abuse / neglect under the *Children, Young Persons and Their Families Act 1997*.
- We have also acknowledged that the universal support of parents and children early by the provision of services and assistance to them will greatly assist with the prevention of child abuse in families.
- Information on this issue will become more known as research in this area continues.
- There is current research and publications on this that the Committee can access.

- (c) The nature and cause of major changes to professional practices employed in the administration and delivery of care compared with past practice;

#### NEW LEGISLATION

- In Tasmania, the government, agencies and the community recognised a need for change in child protection and this resulted in new legislation being passed in 1997;
- In July 2000 there was the introduction of new *Children, Young Persons and their Families Act 1997*, (the Act) based on the guiding principles of the *United Nations Convention on the Rights of the Child* (the Convention) after it was proclaimed;
- New practices to better reflect the Act are ongoing to enable delivery of services in a different manner based on new legislative requirements;
- In essence this heralded a change that was a departure from the "child rescue" model, to a "strengthening families" model;
- This emphasised the responsibility of parents for children with support services from the State to parents, to enable them to discharge this responsibility;
- It was seen as the best interests of the child to remain within the family providing the family could be supported;
- Only if this was not possible would children be removed from home;
- However, there was also a provision for the danger to the child being removed so that the child could remain at home and the abuser removed instead;
- This allowed for greater stability for the child as the child would not have to suffer disruption by removal from the home;
- Mandatory reporting and statutory obligation on all adults to prevent abuse was also introduced by this new legislation;
- Under the Act, in any exercise of powers in relation to a child:-  
" *the best interests of the child must be the paramount consideration;*";
- Legal representation of the child can also be provided for in all court proceedings.

However, implementation of the legislation has not been without its problems and I have made 10 Reports to Parliament on this, which have been attached to my 2002 and 2003 Annual Reports. I have recommended that all policies, practices and service provisions, be re assessed so that the best interests of the child are factored in as the paramount consideration in any decision making processes. This must of necessity focus on the rights of the child and not an emphasis on parents, carers or service system issues. However, the legislation clearly states that intervention to assist and support parents and those in their position, must be the first option, and this is a right and expectation that parents and carers can legitimately have. This is not the same as a parent having a right to have a child live with them in a neglectful or abusive parenting environment that compromises the care, protection, safety and stability of the child.



WATCHING BRIEF STRATEGY DEVELOPED BY COMMISSIONER FOR CHILDREN FOR CHILDREN WHO HAVE NOT HAD ABUSE SUBSTANTIATED

This process of ongoing monitoring has been devised by me to assist with early information about children being at risk. However, I am dependent on information being received from parents or the community for this strategy.

ESTABLISHMENT OF CREATE IN TASMANIA

This is an organisation that provides advocacy for children in care, and commenced in Tasmania in 2001. They maintain contact with them and liaise between stakeholders to improve foster care experiences and outcomes.

A NEW ADMINISTRATIVE PRACTICE FOR CHILDREN IN CARE AND LAW REFORM INITIATIVES

- In July 2003, the government introduced the Looking After Children system for children in care.
- The introduction of this will, it is hoped, herald an improved system of recording and tracking information about children in care.
- There is new Family Violence legislation being assessed for a proposal for law reform, that will be pro arrest, pro charge and pro prosecution that would cover all in the community if it transpired including all those who have the care of children and young people.
- In addition I have been informed that the Department and some residential care agencies are developing new procedures for dealing with allegations, but these have not been finalised yet.
- Foster carers in Tasmania are developing their own protocol for the investigation of abuse of children in care.
- I am continuing with law reform advocacy, so that physical abuse and any hitting of children will be made illegal.

A NEW STRATEGIC POLICY CALLED "OUR KIDS"

This suggests a refocus of service delivery to those under the age of 12, so that parents and children receive the support they need to achieve the object of the Act. It is hoped that this new policy will have the ultimate outcome of reducing child abuse in the community and increasing the wellbeing of all children.

(d) Whether there is a need for a formal acknowledgment by Australian governments of the human anguish arising from any abuse and neglect suffered by children while in care

- In my view there is a need to acknowledge this so as to assist the community and survivors with understanding that:-
  - We as a society care that children were abused.
  - It was no fault of theirs.
  - They would understand that we had an obligation to them.

- That we failed in that obligation to protect them.
- It is not an issue of shame for them, but for their abusers.
- It was the fault of those who abused them.
- They will not have to deal with their issues alone.
- That we as a society will support them.
- It will enable victims / survivors not to internalise / deny what happened to them.
- We can assist them to understand what happened;
- They would understand that a crime was committed against them.
- That they have a right to have their story told and issues addressed.
- That there was no 'right' for adults to behave in this way towards them.
- That all forms of abuse are unacceptable even if they do not amount to a crime;
- There is an official recognition of their suffering.
- There is an understanding that some of the difficulties they have experienced are a direct result of the abuse they suffered.
- That such difficulties can be re-assessed, treated and sometimes resolved so they can have a chance for a better future.
- All this could assist with their recovery.

Research shows that consequences of abuse / neglect are very real, and acknowledging its causes and effects would encourage public awareness and understanding of its consequences, and a resolve to prevent or take steps to minimise the future abuse of children in care.

**(e) In cases where unsafe, improper or unlawful care or treatment of children has occurred, what measures or reparation are required**

- Integrated support services – includes the need for increased funding and collaboration between State and Commonwealth.
- Need for case management between Agencies and homes etc.
- Better sharing of information between agencies.
- Increased training for carers.
- Improved monitoring of carers.
- Advocacy for children to articulate their concerns.
- A Charter of rights for Children in care.
- Reparation and compensation for loss, pain and suffering at the very least as a solatium.
- Criminal prosecution where possible.

This is a minimum position, given our past failure to address these crimes against children.

**(f) Whether statutory or administrative limitations or barriers adversely affect those who wish to pursue claims against perpetrators of abuse previously involved in the care and protection of children; and**

Barriers presented to children who participate in court proceedings need to be removed. This can be commenced by the provision of information on rights of legal representation for a child or child's parents or non abusive carers. In

addition, once the process in court has commenced, there is a need for barriers in this process to be identified, with a recognition of special needs of children in the court environment, and addressed by measures that include:

- Separate legal representation for children to promote common law rights on duty of care owed to them by the State.
- Separate legal representation for children to uphold rights under the new legislation based on the Convention.
- Separate legal representation or advocacy for children during investigation process.
- Separate legal representation for children to enable them to have a right to be heard, and right to fair trial.
- Child friendly processes.
- The right to support throughout all processes.
- Improved methods of police investigations.
- Improved responses from all other relevant agencies.

The following changes to our laws are also required to assist those wishing to pursue claims:

- Statute of limitations modified for charges to be laid;
- Statute of limitations modifications for extensions of time in claiming injuries;
- Amendment of other criminal injuries compensation legislation to extend time period for making claims; and
- Improved administrative process that incorporate rights of the child.

This is not an exhaustive list as I have addressed these issues in more detail in papers I have presented in conferences since 1987, in my Monthly Reports since November 2000 and my Memoranda of Advice to the Minister attached to my Annual Reports.

(g) The need for public, social and legal policy to be reviewed to ensure an effective and responsive framework to deal with child abuse matters in relation to:

- (i) any systematic factors contributing to the occurrences of abuse and/or neglect,

#### DIFFICULTIES WITH SUBSTANTIATED ABUSE AND ABUSE THAT CANNOT BE SUBSTANTIATED

All allegations, that I have had notice of have been investigated by the Division of Children and Families, and some by the Department of Education and the Police, and I am informed that many allegations have not been "substantiated". Given the fact that such allegations have been made, it is not appropriate in my view to shelve our concerns, for the following reasons:

- Non substantiation does not necessarily indicate that abuse did not occur, just that there is insufficient evidence. This is an entirely different matter to concluding that there has been no abuse.

- We have to be conscious of the fact that these concerns are serious, as in most instances, these are children who would have already suffered abuse and neglect, prior to entry into care. Any abuse may well adversely impact on the child even if such alleged abuse cannot be substantiated. In cases where it is a child who makes a disclosure, I suggest that it is best practice to always assist the child, and not only provide assistance when there is substantiation.
- Fabrication indicates a dysfunction in the past or in the present, and non substantiation must not result in no assistance to the child. There are three possibilities here:
  - Something may have occurred, and we cannot prove this.
  - Something has occurred but the child has no credibility.
  - Nothing occurred, but the child has a problem that needs attention.
 All three require a protective response to identify what is of concern.
- At the very least there must be reassurance to the child and protective mechanisms put in place so that if abuse did occur, it does not occur again.
- If abuse did not occur, mechanisms must be put in place to assess and address the child's issues, and resolve any placement or other issues that may arise.
- In all these instances, where parents, relatives and carers have made these allegations, they too must be given such advice and assistance.
- In accordance with best practice, all disclosures or allegations of abuse must at the very least be recorded and the child assisted. In Tasmania, my information is that all such allegations are documented, and as such can be referred to later in any later or further concerns about the same child or the same carer or institution.

### STANDARDS OF PROOF IN DIFFERENT AGENCIES

What needs to be remembered here is that standards of proof vary between agencies. The standard of proof in child abuse matters in the child protection system, is much lower than in Tasmania Police investigations. In police investigations there is a need to have prima facie evidence of abuse for a brief to proceed. There is a need for sufficient evidence for the matter to be within the bounds of being able to be proven beyond reasonable doubt. This is extremely difficult when you have the evidence of adults against the evidence of children.

Once investigations have been undertaken by the Division, and they have referred a concern to the Police, if the police find abuse unsubstantiated, it is my view that the Division needs to have a continuing role. They can continue to assess the matter in accordance with the lower civil standard of proof and the level of evidence needed to prove a likelihood of harm to the child. In such situations we are in a position to help the child, when a prosecution does not proceed.

In addition, I respectfully suggest that best practice indicates that at all times even if abuse cannot be substantiated in either system, we address these issues in accordance with what is in the best interests of the individual child that has made this disclosure.

However, I have been seeking clarification for some time about definitions, procedures and processes for the investigation of allegations and claims, as these may contribute to allegations being concluded as unsubstantiated. For example, until recently only instances of very harsh physical discipline have been considered as abuse by the Division. This means, some lesser forms of abusive discipline may have been considered as abuse by a child, but not by the Division.

The position changed when I asked for a Law Reform Institute Report to seek the repeal the defence of domestic discipline that allows parents to use "reasonable" force on their children for the purposes of "correction" . The position of the Department of Health and Human services now is as follows:-

*"the Department also does not support the view that physical punishment is an acceptable form of discipline, which parents must use if they are to raise children properly. The Department would support the development of educational programs that point out to parents the range of alternatives to physical punishment and the assistance available to families to help in the management of children."*

This amended position was set out in their Submission to the Law reform Institute. In my view this is an excellent outcome to the request I made to the Law Reform Institute to examine the criminal law in this area. It has had an immediate impact in the child protection area, as the Department have abandoned their former definition, and an implied acceptance of certain forms of physical punishment.

**(g) The need for public, social and legal policy to be reviewed to ensure and effective and responsive framework to deal with child abuse matters.**

There is a need for public, social and legal policy to be reviewed to ensure and effective and responsive framework to deal with child abuse matters. Initially there needs to be a proper understanding of the rights of the child in care by:-

- An increase in awareness of the rights of a child by all agencies.
- An acknowledgement of such rights in all processes.
- An increased access to information and understanding by the general public of the rights of the child.
- Efficient and thorough investigations of all allegations of abuse in care needs to be established, based on the rights of the child.
- Children must participate as fully as possible in all processes.
- Children need to be fully informed of all processes.
- Children must be informed of their rights
- The processes undertaken then needs to be scrutinised by an independent source to assess that they have been in keeping with natural justice, the law and due process.

In addition, other systemic factors that can contribute to abuse or neglect can be addressed by accessibility to services by children in care and transparency of processes in care.

With respect to the former there needs to be improved services and access to services by children in care:-

- Empowerment, advocacy and increased support of children in care;
- An effective internal review processes in child protection agencies that is child friendly.
- The need for child representation in criminal proceedings (for further information please see my article titled: *Acting for Child Victims: A Proposal for Their Legal Representation in Tasmanian Criminal Cases*, October, 2001);

With respect to the latter, there needs to be clearer recording of allegations by children and a reporting of this in Annual reports, for public scrutiny and surveillance of government and non government institutions.

**(ii) any failure to detect or prevent these occurrences in government and non-government institutions and fostering practices, and**

In the past, until research and recent law reform, practices in government and non government institutions as well as the law and legal system were not based on the reality of children's experiences but received wisdom based on adult perceptions. As a result there were no, or no effective processes to address the disclosures children made. There were also no, or no effective avenues of redress for children who had been abused. As a result such abuse was not in the public domain as children were silenced. Given the recent changes in public perceptions and increased knowledge in the community as well as avenues for redress, adult survivors are able to relate incidents of abuse of them as children. There are processes now to receive such allegations and deal with them more effectively than before, and as the survivors are adults, their disclosures are given much more credibility than their disclosures when they were children.

However, failure to detect and prevent such abuse in the past has led to great reluctance in survivors coming forward and facing difficulties in for instance substantiation, as the recording and accessing of such past information is still difficult. In addition, they have had to live with and deal with the consequences of abuse with little help and consequent dysfunction in their lives. This makes them less plausible witnesses, as it still has to be their word against a respected person, who has not had to carry the burden of the abuse. This must be seen as much of a systems issue, as an issue with respect to individuals and their difficulties in substantiating the abuse against them.

**(iii) any necessary changes required in current policies, practices and reporting mechanisms**

In general there is a need to review all policies, practices to factor in the rights of the child. Policies, practices and reporting mechanisms can be improved as follows:-

### INCREASED TRAINING AND AWARENESS

- Ongoing comprehensive training for carers on child development, their responsibilities and duty of care to children;
- Increased training for Tasmania Police to identify children who are at risk of abuse and the steps that need to be taken to adequately assess this risk;
- Police are mandated notifiers under s14 of the Act. This process needs to be strengthened and extended to include discussions on whether priests and other church workers and lawyers need to be mandated;
- The promotion of the responsibility of all adults to report allegations of risk of abuse / neglect under the *Children, Young Persons and Their Families Act 1997*,
- All policies and practices should take into account the Convention and the Act as guiding principles;

### IMPROVED INVESTIGATIVE PROCESSES

- Specific procedures and protocols need to be put in place in Tasmania for investigating such allegations, and these processes and their outcomes should be made clear to complainants, carers and the children involved;
- Need for increased early intervention;
- Proper systems of investigating abuse in care;
- Accountability of investigative systems of abuse in care;
- External review of investigative processes;
- Improved recording of allegations;
- Increased resources for the Division, to deal with notifications where there is a reasonably likelihood of abuse having taken place;
- Clarification to all of their rights throughout the complaints process;
- There must be specific procedures for children who are particularly vulnerable, like children with disabilities, or those with mental health issues.

### INCREASED COLLABORATION

- In Tasmania an independent assessment is required on whether the Division and designated foster home agencies where abuse is alleged but unsubstantiated are working together to review protocols and procedures;
- Need for clear case management processes and collaboration between Division and homes when there has been a report;
- Increased communication between agencies and carers;
- Increased collaboration between Tasmania Police and Department of Education with the child protection system;
- Improved communication between the Division and Tasmania Police;
- Increased collaboration between Government and non-Government agencies, community groups,

### IMPROVED MONITORING OF CARERS

- The provision of effective screening process and character checks of all carers;
- Effective screening of all volunteers or family members of the carers who are in close contact with children in care;

- Ongoing evaluation of carers and their standard of care;
- Ongoing monitoring where there is no substantiation of abuse or a police investigation does not lead to prosecution (does not necessarily mean the allegation is false or abuse did not occur)

For further suggestions on changes that are required, please see those listed under 'adequacy of services' above.

With regard to the need for increased training of carers and others involved in the care and protection of children, we have recently received information about a new federally funded program to build awareness amongst those working with children by the organisation called "Child Wise". They have a "Choose With Care" programme, that they are prepared to run on a free basis for workers and carers. They intend to run education sessions in each State and have agreed to do so in Tasmania in 2004. This is an initiative supported and promoted by this Office.

### SUMMARY

We need to ensure that all agencies have a proper regard for the child as a possessor of intrinsic and inalienable human rights and accepted as every bit as valuable a human being as an adult. This needs to be reflected in all services, policies and practices. Without this shift in attitude and culture in services, children will remain vulnerable and disadvantaged.

In 1997 the United Nations Committee on the Rights of the Child noted the absence of a comprehensive policy for children at the federal level. It was also concerned at the lack of monitoring mechanisms at federal and local levels and noted disparities between the different states' legislation and practices, including budgetary allocations. These need to be remedied.

There is a much broader aspect of this issue that is outside the terms of reference so cannot be addressed, that of the reduction of abuse in homes, to reduce the need for children to be taken into care. This initially needs increased information, support and assistance to parents to enable them to parent less abusively. The United Nations Committee suggested we could do better with education and the dissemination of information about the Convention and the rights of the child. If we do this, we may well be able to promote a climate and culture where the abuse of children is not tolerated so that abuse can be reduced.

In addition, the United Nations Committee in its Report on Australia, suggested that we go further than information and education, and legislate to make abusive practices like corporal punishment in homes, no longer acceptable. As a starting point a recommendation should be made by the present Committee that the *Family Law Act 1975* be amended to specifically indicate that the physical punishment of children in homes is unacceptable parenting that reflects inadequate parenting skills.

Patmalar Ambikapathy  
 Commissioner for Children  
 Tasmania



