

**A response by the
San Remo Neighbourhood Centre**

to the

**Senate Community Affairs References Committee
Inquiry into Children In Institutional Care**

Prepared For:

**Mr Elton Humphery
Secretary
Senate Community Affairs References Committee
Suite S1 59
Parliament House
Canberra ACT 2600**

Prepared By:

**Alexis Hegarty
San Remo Neighbourhood Centre
1/28 Brava Avenue,
San Remo NSW 2262**

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**Mr Elton Humphery
Secretary
Senate Community Affairs References Committee
Suite S1 59
Parliament House
CANBERRA ACT 2600**

Dear Mr Humphery

I am writing regarding the Committee's inquiry into children in institutional care. On behalf of San Remo Neighborhood Centre, commissioned by Jillian Hogan.

Enclosed is a submission to the Inquiry. As requested in the submission guidelines, I will also be forwarding an electronic copy to the Committee Office.

With the approval of Jillian Hogan, I would like to place a copy of my submission on the Commission's website. For the process of the submission and the inquiry into children in Institutional care, I would appreciate the recommendations be taken into account. However, I do not recommend them as a main course of action.

I would be more than happy to discuss any further matters with the Committee on the issues instigated by the inquiry's terms of reference and the submission it's self.

If you require any further information, please do not hesitate to contact Jillian Hogan via San Remo Neighborhood center at snc@comcene.com.au or on 0409591387 or myself at alexis.hegarty@studentmail.edu.com or 0415394773

Yours sincerely,

Alexis Hegarty

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3.0 Terms Of Reference

- 3.1 (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: ...
- 3.2 (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;
- 3.3 (f) whether statutory or administrative limitations or barriers adversely effect those who wish to pursue claims against perpetrators of abuse previously involved in the care of children;
- 3.4 (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: ...
 - 3.4.1 any systemic factors contributing to the occurrences of abuse and/or neglect,
 - 3.4.2 any failure to detect or prevent these occurrences in government and non-government institutions and fostering practices, and
 - 3.4.3 any necessary changes required in current policies, practices and reporting mechanisms.

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1.0 Executive Summary

San Remo Neighbourhood Centre inferred that this Inquiry into children in Institutional care is very important in insuring the safety of children in schools, foster care and detention centres.

Indeed, many of the experiences recorded at institutional care facilities include some form of abuse whether it is sexual, emotional, psychical or spiritual. This submission covers these areas within the context of children in institutional care.

It is imperative that children in detention centres are monitored, as mistreatment or abuse of the child can lead to re-offence and the individual's return into state care.

Foster Care presents many problems for children in relation to abuse. The shortage of funds, adequate carers and facilities are just a few examples. The pressures put on these features creates an environment in which abuse is more likely to occur.

The abuse suffered by those in institutional care such as schools, orphanages, is the most highly covered and reported form of abuse. Often the abuse is not reported till years after it occurred, with the children becoming adults and then reporting the abuse they suffered at the hands of their carers. This abuse is commonly sexual in nature along with severe beatings and heavy corporal punishment.

In relation to the terms of reference specified in the submission requirements, San Remo Neighbourhood centre points that the terms refer to several institutions in which abuse was rampant and the processes set in place today to change this. Also highlighted were the many reports and inquiries that highlight these terms and the extent of the abuse within these Institutions.

The fact that attitudes and ideals of a past era still linger today and that they have an effect on the way child abuse is thought of and dealt with within the judicial system creates some concern. These attitudes allow children to be heavily beaten a tortured as a way of punishment and also support the detention of children who have not committed any criminal offence.

Finally, that the *San Remo Neighbourhood Centre* supports the efforts to sustain services which are free to individuals and support preventive measures.

1.1 Introduction

San Remo Neighbourhood Centre is located on Brava Avenue San Remo. This report/ submission was authorised personally by Chairwoman Jillian Hogan, who is deeply involved in all aspects of Youth and Neighbourhood services. San Remo Neighbourhood Centre funded by several government bodies including:

- Department of Community Services
- Department of Fair trading
- Department of Infrastructure and Urban Structures
- Wyong Shire Council

There are also many Ministers, on both State and Federal levels, who are involved in the San Remo Neighbourhood Centre. These people include; Local council member Neil Rose, State MP Milton Orkopoulis, Federal MP Jill Hall and Deputy Mayor Warren Wellham.

The reasoning behind establishing San Remo Neighbourhood Centre was to provide services to a local area, which were based on child protection, and the services to deal with child abuse in all forms.

For example the services provided by San Remo Neighbourhood centre revolve around children and youth, these include:

- Emergency accommodation
- Counselling
- Links Youth Service
- Secure play groups

All people who work and volunteer at the Centre are chosen to provide the best service and care to those individuals who have been abused.

2.0 The context of Institutional care

To understand the terms of references provided by the senate in relation to abuse of children in institutional care there must be a development of the concepts or terms of care.

The traditional ideas of care must be replaced with new definitions, as the forms of care change within society.

2.1 Detention

For a child to be placed into Detention they must either have committed a criminal act or be placed into state care.

There are several reasons why the state may intervene within a family and judge that the child should no longer remain within that family. Often the reason revolves around abuse, which includes physical, sexual and emotional abuse.

Once a child is declared a ward by a children's court magistrate on application or due to some criminal act, they may be taken into respite care of temporary foster care, with the option to be taken into permanent care.

(Community Services Commission, 1996)

However, the abuse may not end at the removal from the 'family unit' but may continue at the hands of their new carers. In a Juvenile Justice Centre children, especially young boys, may be preyed upon by paedophiles who go un-noticed in the already stressed systems.

The placing of children into Detention Centres has come into the media spot light with the children of Asylum Seekers and Refugees being held in un-satisfactory conditions.

Penelope Debelle of the Sydney Morning Herald reported that Immigration Minister, Amanda Vanstone, had been forced to apologise to the Federal Court after returning five children to custody- by declaring that the suburban house they live in to be a detention centre.

They were freed from Baxter detention centre last August, but the High Court ruled their release invalid.

(Sydney Morning Herald, May1 2004)

The children had already settled in a local school and were developing a standard of living that was more appropriate than that of Baxter. It was a situation, which took them out of an abusive environment and enabled them to have normal experiences.

2.2 Foster Care

Any Child in residential or foster care should be offered what Wedelken (1983 Winnicott 1965) cites as

“Real experiences of good care, comfort and control”

Good care is defined as using

“ A sense of timing that can allow personal experiences to be completed and a sense of achievement attained”

(Wedelken, 1983, p.54)

However, these aspects of ‘good care’ are harder to fulfil as the availability of foster care placements for children and young adults is diminishing. Foster care centres and other organizations are over extended and receive little funding by state and federal governments.

Choosing the placement for a child is a heavy responsibility; it can depend on availability or vacancy rather than the best interests of the child. Thus, this can lead to subsequent abuse of the child by in-appropriate carers or untrained individuals.

Nevertheless, foster care can induce problems within the original family as well as with the child. These problems may include:

- Foster parents feeling superior to natural parents
- Natural parent feeling resentful to foster parents and child
- Foster parents developing non- altruistic motives concerning the child
- Child developing hostile feelings to authority figures, feelings of abandonment

(Wedelken, 1983, p.68)

The ramifications of damaging foster care may see the natural parent become even more abusive to the child/children when a healthy relationship is built with the foster family.

Continuos investigation of foster care must be conducted to insure that the individuals in question are not moved from an abusive home to another.

2.3 Institutional Care

The abuse of children within institutional care is perhaps the recorded example of abuse of children by those in charge of their protection and care.

In the 'Scheme' Coldrey (1993) describes the Christian Brothers of Australia as being involved in the care and education of children for almost a century. They were involved in Clontarf, Castledare, Bindoon and Tardun boy's schools in Western Australia.

It was at these Western Australian institutes where several examples of extreme corporal punishment was reported and documented. One such example was reported at Castledare in 1952

P.B and myself were taken down to the river by Brother Y where we were told to take all our clothes off. P.B was the first to receive a beating by Brother Y. to stop P.B from crying out he grasped P's ankles and put his head under water up to his armpit's, then with a leather strap started hitting seven or eight year old P's feet. Bubbles were coming out.. as if a diver was going down. I received the same treatment and I was eight years old.

(Anonymous)

(Coldrey, 1993, p.358)

However, the sexual abuse of children within Institutions particularly the sexual abuse by members of the church and clergy is a major issue in modern Australian society, but has been reported as early as the 1900's.

Sexual abuse was reported at the Clontarf Orphanage on December 26th 1918. The Brother in question was Brother Phillip Carmody who was reported to deliver systematic sexual abuse to several individuals. He was later trialed and pleaded guilty and was then sentenced to a three -year sentence.

Nevertheless, the abuse of children continued through to the 1990's. This is an example of the largest litigation cases in Queensland history. It involved the Sisters of Mercy and the Catholic Church in 1998 with more than 60 former residents of Neerkol Orphanage claiming they

Were "victims of physical, psychological, emotional and spiritual abuse"

(Eros Foundation website)

3.0 Terms of References

3.1

(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,**
- (ii) whether any serious breach of any relevant statutory obligation occurred at any time when children were in care or under protection, and**
- (iii) an estimate of the scale of any unsafe, improper or unlawful care or treatment of children in such institutions or places;**

San Remo Neighbourhood Centre commends the Committee on its attempts to estimate the 'scale of any unsafe, improper or unlawful care or treatment of children in such institutions or places'

Several works and publications such as reviews, sworn testimonies and individual published poems, stories and recollections of the abuse received in Institutional care. These works give example to the scale of abuse and give testimony to the occurrence of unsafe and unlawful care of children.

The 'Scheme' by Coldrey (1996) again gives examples of the recorded, physical abuse of children in the care of the Christian Brothers.

Brother Francis Keaney, resident at both Clontarf and Bindoon Boy's Homes was reported for severely beating several young boys in his care.

Nigel Fitzgibbon reported in the 'Lost Children of The Empire' an incident in February 1948 at St. Joseph's Bindoon where Keaney asked a young boy a question to which a simple answer of "I don't know Sir" was replied. For which he received a savage blow to the head, which drew blood.

(Coldrey, 1996, p.349)

The incidents of corporal punishment were the result of a mind set in which the teachers, parents and caretakers of children thought they had the right to have children beaten across the head with weapons for incidents as minor as a four year-old wetting the bed.

The many publications, which seek to investigate the scale and occurrence of child abuse, include:

- Report of the Commission of Inquiry into the Abuse of Children in Queensland Institutions (The Forde Report) 1999.
- Child Abuse and Neglect *Policy and Protocols* (Central Coast Health Service)
- Children and Youth Persons (care and protection) regulation 2000.

3.2

(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;

Over the last decade the many accounts and reports of child abuse have made the Australian public aware of the long-term damage and consequences of neglect and abuse on the individual as well as society.

In terms of long-term effects on the Individual, the story of Peter Jackson is a prime example.

Peter Jackson was a well-known Rugby League and media figure, who was unable to overcome the psychological and emotional problems developed after his abuse at the Southport School on the Gold Coast between 1979 and 1980.

Jackson sought help to battle drug addiction and manic depression. However, he ended up taking his life with a Heroin overdose. Weeks before he died Jackson had written a letter, which detailed the abuse he received as a 16 year-old boy.

The teacher implicated was Ossie Mc Namara, a former Catholic Marxist Brother who later confessed to molesting Jackson.

"Jackson was something special to me and it just got out of hand....I have always felt guilty about what did happen, I thought he grew out of all that"

(Eros Foundation website)

Therefore, it seems that the effects of abuse cannot be 'grown out off' and the individual problems can last a lifetime.

San Remo Neighbourhood Centre is built upon the support services for child abuse and recognises the importance of appropriate counselling and treatment for those affect by abuse. The protection of children from abuse is the responsibility of many not a few.

"Protecting children and young people from abuse and neglect is the responsibility of the whole community. No single person or agency has all the knowledge, skills or authority to safeguard a child or young person from, or to deal with the consequences of abuse or neglect"

(NSW Premier Bob Carr *NSW interagency guidelines for child protection intervention*, 2000, p. iii)

Nevertheless, the impact or long- term effects that child abuse may have on the Australian society as a whole is exhibited in economic terms. These costs or consequences include:

- The cost on the government if the child is judged a ward of the state
- The extra funding needed to develop new agencies to cope with demand
- The training of people to care and treat victims of child abuse
- The cost of lawsuits in years to come when victims speak out
- The on-going cost of running facilities

However, the present costs of government funding of Institutions are quite significant and the little funds are spread around a wide variety of causes, indicating why the child protection agencies are over extended.

3.3

(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 of children;

The Legal system of Australia has come in contact with civil and criminal cases, which have involved the abuse of children and young persons in Institutional care since the opening of these institutions. Often adults seeking compensation, for abuse received while under the care of the institutions, activate the legal action.

Nevertheless, the civil cases and class actions are instigated several years after the incidents of abuse have occurred. This sometimes presents problems for victims to pursue claims.

The legal context of child abuse and neglect is set out in a number of Acts of Parliament. The law covers three main areas:

- Care and protection of children, *Children and Young Persons* (care and protection) Act, 1998.
- Criminal law, *The Crimes Act 1900 amended*,
- Child related employment, *Commission for Children & Young People Act, 1998-Child Protection (Prohibited Employment) Act 1998*.

3.4

(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 systemic factors contributing to the occurrences of abuse and/or neglect,
- (ii) any failure to detect or prevent these occurrences in government and non-government institutions and fostering practices, and,

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

There is a pressing need for legal policy to be continually reviewed and amended to strengthen child protection and care.

There are several amendments within current legislation, which ensures a responsive frame- work, which help identify systemic factors and changes, needed to deal effectively with child abuse, these include:

- Proposed *Children and Young Persons (care and protection) Regulation* 2000 and Regulatory Impact Statement (DoCS)
- Community Services Commission, *The drift of children in care into the juvenile justice systems*, December 1996
- Child Protection (prohibited employment) Act 1998
- The sex offenders register and the Working With Children Check, April 2003

4.0 Conclusions and Recommendations

The evidence of several reports, commissions and inquires all lead to the same conclusions that the extent and long –term effects of child abuse can never be accurately measured. It is a fact that these effects will continually change along with society.

However, the experiences of child abuse can be prevented with more adequate government funding and the establishment of appropriate services. The development of in-depth background checks and the register of sex offenders and paedophiles will help stem the cases of child abuse and help protect children from those in Institutional care facilities who would do them harm.

5.0 References

Books:

- Coldrey, B M 1993, *The Scheme The Christian Brothers and Childcare in Western Australia*, Argyle-Pacific Publishing, O' Connor, WA
- Wendelken, C 1983, *Children in and out of Care*, Heinemann Educational Books, London

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- Central Coast Health Service 1990, *Child Abuse and Neglect, Policy and Protocols*.
- Community Services Commission, December 1996, *the drift of children in care into the juvenile justice systems, turning victims into criminals*.
- Department of Community Services, *Proposed Children and Young Persons (care and protection) Regulation 2000 and Regulatory Impact Statement*
- New South Wales, 2000, *interagency guidelines for child protection intervention*

Websites:

Haines, D, *Hypocrites*, Eros Foundation, viewed May 29 2004

<<http://www.eros.com.au/hypocrites1.php>>

Newspaper Articles:

Debelle, P 2004, 'Minister rebuked by child case judge', *Sydney Morning Herald*, May 1st