

SUBMISSION – INQUIRY INTO CHILDREN IN INSTITUTIONAL CARE

(Author - Stephen J Harrison)

Re- Senator Jan McLucas

C/O Mr Elton Humphrey
Secretary, References Committee
Australian Senate
Community Affairs
Parliament House
Canberra, ACT, 2600

Born in 1955, and raised as an orphan, the author of this submission reflects on the experiences in a quagmire mix of often-violent government institutions, inappropriate foster family placements, homelessness, state-wardship, and the progression to adult “rehabilitation centres”, as still is often the case with many state-wards whom in society’s perception simply “make these choices”.

Social welfare standards around 1960 for the foster-placement of children were as lax as the advertising of tobacco products. My first placement occurred as the result of two pensioners placing an add in the local newspaper. Aged in their 60’s, my foster father was mostly confined to bed, his injuries the result of military participation in both world wars. A heavy smoker, and regular drinker, his bedside table always littered with all sorts of pills and oral medicines. My foster mother didn’t drink or smoke, and most outings consisted of excursions to horse racing tracks and places filled with people playing cards and drinking. Over those years they frequently fought. Sometimes it was physical; mostly it was slanging matches with a diversity of swearwords. A number of times I ended up in hospital, from malnutrition or poisoning from swallowing pills that had found there way to the floor, tasted sweet and looked like lollies. When arguments started I would often “do the bolt”, walking the streets by day, and finding an “open” car or bench at a railway station to sleep at night. Often the police would pick me up, accuse me of crimes and take me home. After missing out on so much schooling, my foster parents decided it was time to get the local Presbyterian minister to visit and dish out some floggings, something that was meant to get rid of all the evil. I could never work out why the minister would take so much time playing and rubbing one’s bare-backside before dishing out the treatment. The more I got flogged the more I wanted to get away.

At the age of 9, I was classified as “uncontrollable”, made a ward of the state, and detained until the age of 17, again ending up homeless after an unsatisfactory lodgings placement. Institutions included Allambie (Victoria), The Gordon Boys Home (Victoria), Yasmar (NSW), Derek (NSW), Torana (VIC), Ashdene (VIC), and later adult institutions including Victorias, Morwell River, Wron Wron and Coburg’s once famous “Blue-stone-College”, infamous for the way first time detainees could be educated in all sorts of crimes.

As a child I was always told that my parents had been killed in a car accident, only to discover at the age of 40, my mother and other relatives, a result stemming from personal research. There has been little contact since.

From today’s perspective there is much to criticise about the welfare of children in institutional care, whilst also recognising some improvement in standards regarding foster-

family placements. As a media researcher, there have been frequent articles over the years, ranging in revelations from DOCS (NSW), The Ford Inquiry (QLD), to complaints from Victorian Magistrates, alarmed at the high numbers of State-wards coming before the courts.

Decades after my own experiences, It appears that Institutions that can't better-cater for the needs of vulnerable and disadvantaged children, can become environments more conducive to establishing individuals with criminal records, than fulfilling one in education of society, science and the arts. Young children with criminal records who become young adults with criminal records have little prospect of ever maximising their lifelong employment potential and opportunities that would otherwise be available to those without such records. Society's zero tolerance to illicit drugs is achieving the same results but on a much greater scale, and I shudder to think of the long term consequences made invisible by the sub- realities of logical justification, legal necessity and political correctness.

The demands from an increasingly complex society (social, economic, financial, competitive) raise the bar even more for socially disadvantaged children. The concepts of a fair go, the level playing field, competition policy, mean very little to powerless children in institutions, and yet mean so much to politics, society and the corporate world. It is the consequences of failing lives that should concern everyone, taxpayers, economists, academics, the justice system, health and medical professionals, law-enforcement, politicians, because of the inter-generational nature of outcomes for many who suffer this fate. It is a problem that has impacted on my own children, an outcome already complicated by separation, and relationship breakdown. It is an outcome that left one reduced to living in an old caravan for close to 20 years, and surviving on a disability pension. A social out-cast.

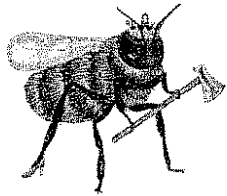
Whilst it is not my intention to detail the violence, drug-use or witnessed sexual assaults that occurred in some institutions, (believing that the committee will receive more than enough to ponder), it was my experience that being the smallest or youngest detainee in a boys home was never as secure as was for individuals who were bigger, older, stronger, ruthless, stand overs and violent. Some things that young people went through were horrific whether physical, mental or emotional. It was also my experience of an unfriendly callous society that looked down on Homeboys as the dregs of society, by-products of a decaying social fabric, troublesome, illegitimate, and mostly bullied at school, a class destined to the bottom of the social economic ladder. All quite logical if one accepts that history is littered with examples of the need to dominate through suppression and coercion.

As such children raised as orphans, and or in institutions, don't rate high on the radar of social sympathy, the platform already dominated by the stolen generations, people with disabilities, the elderly and in a back-drop high-lighted by wars on terror. Wars that achieve the same outcome in the destruction of families, and children left to defend for themselves, as history repeats.

For most of my adult life I have always wondered how events may have been different had there been strong support, resources, and encouragement given through the government between the expiry of my state ward-ship at 17 to the age of 21. The inherent problem is realising that institutions in my time instilled the traits of being rebellious, fearful, self-dependant, non-emotional, and not relying on anyone for help. Tools not particularly helpful in dealing with the out-side world, social interactions and relationships. Has anything really changed for children in Institutional care?

Finally, it is the last 20 years of life in Canberra that serves as a contrast to the above. The discoveries made about the nature of the society we live in, clarified in the enclosed Community News Publications (contained at The National Library of Australia – publications of Queenbeeannes Community News and Canberra/Queanbeyan Community News-Centenary of Federation Editions) that completed 7 years of research (involving 13000 newspapers, 9000 documentaries) gaining a doctorate in Alternative Education (USA). I had hoped to put forward a much more comprehensive submission but due to time restrictions will conclude this report and remain available should further communications eventuate.

**Yours Thankfully
Dr Stephen Harrison**



Queen Bee Anne's Community NEWS

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THE WELFARE TRAP

THE STATE OF W.A. VERSUS EDDIE AND KAREN KING

On the 21st May 1999 Judge French delivered a judgement awarding custody of the four King Children to the W.A. Department of Family and Children's Services for a period of five years.

The Kings appealed to the Department for help in caring for their four disabled children. The department responded by apprehending the children and handing them over to foster parents.

This case stands as a warning to anybody who believes that welfare departments are there to help parents resolve family problems and maintain family unity.

This case is an example of how powerless parents are and how their families can suffer when their rights are disregarded. Story on page 10-12.



BEFORE WELFARE AND AFTER WELFARE

From left to right the children's names are Brett, Sharna, Rochelle and Natasha. This photograph was taken at a family gathering before the King children were apprehended. The inserts were taken with a digital camera on an access visit while the children were in foster care.

COUNCIL'S 'CONFLICT OF INTEREST DEBACLE CONTINUES

Cr. Atkins put up a motion for Council meeting 4th October "that Councillors be provided, on a confidential basis, with the Susan Carew Report, copies of correspondence from Privacy NSW received by the GM and Mayor and an outline of the most recent verbal advice from the Ombudsman's office regarding the Centrelink and other matters."

In her rationale for the motion she argued that: "Councillors need to be fully informed in order to give their support to a vote of No Confidence in the General Manager and the Mayor." Cr. Atkins believed that if Councillors were fully briefed, then their only ethical course of action would be to support a vote

The General Manager responded by informing Cr. Atkins that her rationale for the notices of motion were omitted "on the basis of advice from the Council's insurers, which turned out to be alleged defamation by Cr. Atkins. The General Manager conveniently chose to ignore Councillors' "qualified privilege" under the Defamation Act.

By not including the supporting rationale for the motion, the General Manager suppressed the vital information that the

motion provided the rationale for a future vote of No Confidence in himself and the Mayor.

If the motion was introduced with its vote of No Confidence rationale included, the ensuing debate could have called into question the integrity and the performance of the General Manager and the Mayor. In this instance, they would have been obliged to declare a conflict of interest and would have to absent themselves from the debate and from the vote, or be guilty of breaching the Council's Code of Conduct (not that this ever worried them).

When the motion was debated on the 4th October, both the Mayor and the General Manager were absolved from declaring a conflict of interest, because none existed as the General Manager had prepared the ground beforehand, underhandedly

If the Atkin's motion had been presented with all its supporting rationale, the Councillors might have voted that they should be fully informed about the issues. As it is the Mayor and the General Manager saved their respective bacons and the Councillors went their merry way in blissful ignorance.

(QueenBeeAnne says "and they thought they were being clever little dicks".)

10 THE WELFARE BETRAYAL OF AUSTRALIAN FAMILIES

Story by Andrew Thompson

A lawyer commented "we call them 'dingoes' ". She was referring to the various departments of Family and Community Services which always gets the baby.

The theft of children by officialdom must be an Australian oddity. In countries where the extended family has a strong tradition, the state would have no opportunity to plunder families of their children. Not so in Australia. Once children were stolen because they were Aboriginal. But now such theft would be politically incorrect and the welfare system has become more careful about its overt racism. Once babies were taken away from women who were unmarried mothers. These days the official reason for child theft is 'emotional abuse' which covers anything from smacking the kid on the backside to denying him or her ice cream three times a day, depending on official ideology and the bias of the presiding Judge.

Recently in Queanbeyan such a case came to public attention. This story is about Karen and Eddie King whose four children were apprehended by the WA Department of Family and Community Services (FACS) and made wards of the state for a period of five years by a Judge French of the Children's Court of Western Australia, Care and Protection.

BACKGROUND TO THE STORY

Karen and Eddie King are survivors of childhood abuse. Both they and the children have both been diagnosed as suffering from Attention Deficit Hyperactivity Disorder (ADHD). An added complication is that the children were all delivered prematurely which affected their early childhood health. These problems affected the quality of family life but the parents did remarkably well under the circumstances. Anybody who has parented or taught an ADHD child knows that he or she can wreck havoc in a family or a classroom.

Karen in particular has suffered from chronic anxiety as a result of feeling abandoned by those who should have rescued her from her oppressive and abusive childhood. This anxiety has left her feeling insecure about her own parenting skills. Without the help of an extended family, Karen sought help and support from the welfare system, which was her right. She truly believed that help would come from the 'caring' profession. So the dingoes did not have to dig their way into the tent, the flap was opened for them and they came for the babies.

THE CASE: JUDGE FRENCH'S SUMMARY

The application was made by a Kay Mander of the WA FACS. She collected evidence from a wide variety of sources including Departmental files and family friends, neighbours, doctors, teachers and anyone else who would support her case. Judge French summarised the evidence upon which she based her judgement as:

"1. Exaggeration of medical symptoms and medicalisation of the children's behaviour problems.

2. Psychological assessment and the issue of Attention Deficit Disorder.

3. Neglect and maltreatment of the children.

4. The adverse environment due to the behaviour of Mr and Mrs King and the extent of family conflict." (page 13)

THE CREDIBILITY OF THE EVIDENCE ISSUE

Karen and Eddie were not represented by Council, though their daughter, Natasha, was represented.

The judge conceded that much of the Department's evidence was: "of a derivative nature calling upon information in reports and records from government and non-government agencies, health and education authorities... and the court must be conscious of the fact that much of the content of the statements and of the evidence generally is hearsay evidence and may be deemed to be unreliable in particular circumstances... I also acknowledge that the accuracy of much of the content of the reports and files that have been relied on by the applicant is rigorously disputed by the respondents and it is therefore important that the court be conscious of the limitations of that evidence and the fact that the author of the statements contained in the reports in the files was not available in many cases to test the veracity of the comments." (p12-13)

The Kings claimed that some of the department's witnesses misinterpreted or were mistaken about the nature of the incidents they had observed. The Judge responded with the comment that: "In most cases the witnesses were not cross examined in relation to the allegations that their evidence was false and based on motives of malice or some other ulterior motive. However, neither Mr and Mrs King were legally represented and were therefore not aware of the requirement that these matters be put to the witnesses in cross examination. In addition, many of the alleged reasons for the malice appeared to be of a scandalous or embarrassing nature and may have unnecessarily sidetracked the course of the hearing." (p45)

In spite of these comments, the Judge accepted the testimony of witnesses which supported the Department's case and dismissed any evidence that supported the King's case.

In her summing up the Judge said: "the expression 'mental, physical or moral welfare of the child' are not defined in the Act. In this case there is no issue in relation to the question of moral welfare nor is there any issue in relation to the definition of physical welfare..." (p54) and: "I accept the submissions of the applicant that the evidence establishes that their [the Kings] behaviour is now so entrenched and their attitude so demonstrably obdurate that it does not appear likely any that any significant change can be effected in the immediate or short term future." (p56) If FACS were on trial instead of the Kings, then the same comment would be equally appropriate.

THE ADHD ISSUE

The Kings commissioned Wendy Mander, a psychologist who specialises in ADHD cases, to assess the children's ADHD status. She gave evidence that the family's problems were the direct result of ADHD. As a back-up to Wendy Mander, another ADHD specialist was called in, Dr Melvin Wall, a development paediatrician. FACS called upon a Mr Christman to dispute these findings.

The Judge summarised the evidence of the respondent's expert witnesses as: "While Ms Mander's assessment of the children regarding their diagnosis of ADHD was objective she had a great deal of difficulty in maintaining that approach in relation to her opinions with respect to the children's behaviour generally and the impact of the parenting and environment on the children's situation. On a number of occa-

ions she indicated that she had a very set view on the adverse effect of parental separation in relation to the children... Ms Mander was strongly critical of the assessment made by Mr Christman and considered the tests that he had administered to the parents and to the children was not appropriate. However, I consider that Ms Mander was looking at that from the point of view of an assessment for ADHD only. ... the assessment and review conducted by Mr Christman was directed to a more broad ranging assessment and was not focused solely on the issue of an assessment of ADHD.

Although I accept Ms Mander's expertise in the area of ADHD I do not accept her evidence that the diagnosis 'explains' the children's behaviour and emotional distress. I accept the evidence of Mr Christman in relation to the issue of the impact of the family environment... Although I accept that Dr Wall was doing his best to provide objective professional opinion, I considered that he suffered from the same lack of objectivity as did Ms Mander in relation to the issue... Like Ms Mander, Dr Wall had a very negative view of the Department of FACS approach to families with ADHD problems in the children and a strong view that it was in the children's interests that they be returned to their parents." (p30-32)

THE MUNCHAUSEN'S BY PROXY ISSUE

The Judge commented that "It is alleged that she [Karen] was over-presented to a wide range of medical professionals and that she exhibits symptoms of Munchausen's by proxy syndrome" (p13). This syndrome results in parents actively inducing illness in a child by inflicting injury so that the parent can be centre stage in a medical drama.

Yet the Judge further commented that "It is clear that the children have not had serious physical disabilities since infancy" (p32) and that: "This is not something [Munchausen's] that Mrs King has ever hidden from any of the medical practitioners she has come into contact with" (p50) both of which statements contradict the Munchausen's allegation.

The Judge went on to say "The evidence indicates that her [Karen's] actions are orchestrated to fill some personal need the origins of which are difficult to understand" (p32). which means that Karen is perhaps typical of most parents. If a mother does not have her personal needs met, how she can transcend her needs to fulfil the needs of her children?

An independent diagnosis of the family's ADHD was conducted by Ms Wendy Mander, a specialist in this disability. She stated that: "some of the symptoms relating to those two disorders {borderline personality disorder and Munchausen's} could be somewhat similar with the symptoms resulting from ADHD (p30)".

THE OVERUSE OF WELFARE SERVICES ISSUE

The Judge commented that: "Mrs King resorted to the use of respite and alternative care for the children from time to time and expressed difficulty in coping with the children's behavioural problems" (p8). Again she reiterated that because the parents had difficulty in coping with the children "it is alleged as a result of this situation the children have sometimes been neglected through overuse of respite care" (p33).

In the next paragraph the Judge stated that "there are many concerns expressed in relation to the children on the basis of

failure to thrive, leaving the children with inappropriate carers and overuse of respite care" (p33). This is a contradiction in terms and the question is: how can the children be 'neglected' through the use of respite care (which is the statutory right of parents of children with disabilities) unless the respite carers are themselves negligent? In actual fact the Kings received 43 respite days in 3 years. They were entitled to 67 days per year per disabled child, but the children were not recognised as being disabled by WA FACS in spite of their receiving disability support from Centrelink.

THE FAILURE TO THRIVE ISSUE

This was mentioned by the Judge on several occasions when she reported that various welfare agencies were concerned with the children's "failure to thrive" (p8) (p14).

There are several factors which can explain this observation. Firstly, Karen is both short and slim; secondly, the children were significantly premature; thirdly ADHD children are usually smaller than comparable children of their age group; and fourthly, Karen smokes heavily which could account for the children's Asthma and other complaints. However, according to the visual evidence herein reproduced, the children certainly failed to thrive, at least emotionally, after they were placed into a foster home by the FACS.

FACS FAILURE TO BRING THE CASE TO COURT WITHIN THE STATUTORY PERIOD

According to the statutory requirement under the WA Child Welfare Protection Act, FACS were required to lodge the application for guardianship in the Children's Court within 72 hours of apprehension. The case was not lodged in Court well after 96 hours had expired. Judge excused this departmental lapse in her summary: "I am satisfied that any delay in commencing these proceedings was not indicative of any lack of concern on the part of the applicant or FACS nor did it indicate that things were progressing well within the family [the children had already been apprehended]. I am satisfied that if there was any avoidable delay that means no more than that of the extent of the children's circumstances were not apparent or that work pressures prevented a more immediate response." (p56) How can respondents expect to receive any measure of justice when the judge in a case exhibits such casual disregard for the legal niceties enshrined in legislation?

WHAT HAS TRANSPIRED SINCE THE CASE?

When the judgement was delivered on the **21st May 1999**, the Kings informed the court that they intended to appeal the decision. In the normal course of events this means that court records of the case need to be preserved, including audio tapes.

The Kings wrote to the Children's Court of W.A. **9th August 1999** requesting transcripts of the proceedings, citing as a reason that witnesses had lied under oath. The Court replied on **11th August 1999** informing the Kings that "Transcript of the entire hearing was not prepared because of the length of the proceedings and the high cost involved. Judge French ordered transcript to be prepared of some of the witnesses evidence and photocopies of this transcript are enclosed. The President is currently on circuit and will return to Perth on **19th August 1999**. Upon her return, arrangements will be made with

the President's Associate to **forward copies of any documents not previously provided.**"

Some time elapsed and the Kings again requested a complete transcripts of the proceedings. As a result of one of the queries, a letter dated **18th July 2000** was forwarded to the Office of the Attorney General for W.A. from the A/Executive Director of Court Services. It stated: "Mr and Mrs King previously contacted the Children's Court on **3rd September 1999** requesting... transcripts... It is not possible to transcribe the remainder of the evidence in this matter as the tapes had been reused by the time the application was received in **September 1999** [a few weeks after Judge French had returned from circuit]. As already stated, these proceedings were lengthy and it is not the practice of that court to transcribe all proceedings due to the expense... A transcript may be prepared at the request of a party to a proceeding, providing an application is received **within sufficient time** for the tapes used in the recording of proceedings not to have been reused." The "sufficient time" was not specified. Has it been a statutory period, no doubt the court would have quoted it book, chapter and verse.

Subsequently, the Kings were unable to launch an appeal as they did not have access to the records. They applied for legal aid but this was refused and they were unable to proceed as they did not have enough money to take the appeal to the appropriate court, the W.A. Supreme Court.

At the time of the court case Karen was pregnant with Jacob. A welfare worker from FACS informed her that when her baby was born, he or she was to be apprehended on the same basis as her other four children. They had no choice but to leave the state. They now live in Queanbeyan.

Days of Our Lives



Cathy Freeman showed the world a brilliant display in 'running' the Olympic Games. Meanwhile Cathy's only possible rival, Percec, did not catch her breath until she reached France. And S.O.C.O.G., well done! The world will be stunned for a long time to come. We are pleased that no hint of corruption tarnished the glow of our Olympic success. Let's hope it's not business as usual tomorrow, Mr Greiner.

LATE BREAKING NEWS: The Ombudsman has stipulated that the General Manager reopen the Centrelink saga and that he step down from conducting the investigation, for obvious reasons. Apparently he suggested that the Council's lawyer, Mr Michael Murphy, do the job, and the Ombudsman agreed. Now who is pulling the wool over the eyes of whom? It is quite inappropriate for the city's lawyer to conduct an investigation into his boss's alleged misdemeanours. Such a situation is fraught with conflicts of interests and potential complicity. In addition, what guarantees does anybody have that Mr Murphy is even capable of running any kind of enquiry about anything? Its odds on that a General Manager's appointee will have to come equipped with a bucket of whitewash and a large paintbrush. QueenBeeAnne suggests that it would be fair if somebody not connected with the Council or with Cr. Atkins be appointed to conduct the enquiry. Meanwhile QueenBeeAnne has her beady bee's eyes on you all at city hall.

Ironically, FACS has given the children's carers the assistance that their parents had previously requested and which was their entitlement of a family with disabilities, such as respite care, a private tutor for Brett's reading problems and special education for Rochelle. The Kings recently received a letter from FACS informing them that consideration was being given to sending Brett and Rochelle to a special school which caters for the children's individual problems. It remains to be seen if the educational assistance consists of the ADHD programme which has been recommended for all educational institutions.

Also ironically the foster parents have encountered the same behavioural problems as did the Kings, particularly with Brett and Rochelle. The Kings have evidence that the carers are using corporal punishment in disciplining the children, which was one of the accusations FACS levelled against the Kings and which cost them the custody of their children.

footnotes: This paper is collecting material such as this story in order to publish a book on the kinds of problems people have with departments of family services. If you are interested in participating in this publication, please forward your material to: Andrew Thompson, **Investigating Dodgys** C/- of PO Box 20 Braddon, ACT 2612

NEXT ISSUE: What material was lost when the Court wiped the tapes? Was there information on the tapes that Judge French did not want released? Parts of the tapes were transcribed: why was this limited to issues that supported Judge French's summary of the case and her judgement against the Kings?

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QUEANBEYAN CITY COUNCIL OLYMPIC NON-CONTRIBUTION

Australia at the opening ceremony of the International Olympic Games, showed the billions of viewers around the world:

***Our national colours - green and gold - our Golden Wattle**

***The olive green of our Eucalyptus**

***Our indigenous heritage and culture**

While we Australians are celebrating our Patriotic features, the Queanbeyan City Council and the developers response to all this is 'bulldoze the lot' on Mt. Jerrabomberra. Everything that makes us unique as Australia is located upon our national icon, Mt. Jerrabomberra. Unfortunately, it's corruption, scams, scandals and whatever else you want to call it that's responsible for our dilemma.

Isn't it a pity that we as a nation can allow such a vandalistic, un-Australian and undemocratic organization such as the Queanbeyan City Council and its cohorts to even contemplate, let alone get away with, this national disgraceful act of vandalism?

While the media, lawyers, accountants and politicians continue to promote and protect corruption involving the 'Great Jerrabomberra Land Scams' we, the people, will continue our fight.