



CENTACARE

Catholic Family Services

Building Better Futures Together

28 July 2003

The Secretary
Senate Community Affairs References Committee
Suite S1 59
Parliament House
CANBERRA ACT 2600

Dear Sir/Madam,

Thank you for the opportunity of making comment in relation to your **inquiry into children in institutional care**. I am attaching our submission together with an Executive Summary.

Our Agency has a 68 year history in working with children, their birth families and their permanent out of home care parents.

In relation to the proposed public hearings, I would like to advise that, as well as myself, the following Agency delegates would be available should you wish to hear from us in person -- Ms Mary Rose Yuncken, Director of Family and Counselling Services and Ms Chris Kealy, Regional Manager.

Yours faithfully,

Kevin P. Larkins
Chief Executive Officer



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Services

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SENATE COMMUNITY AFFAIRS COMMITTEE
INQUIRY INTO CHILDREN IN INSTITUTIONAL CARE

Submission from:

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EXECUTIVE SUMMARY

Centacare Catholic Family Services, formerly Catholic Family Welfare Bureau, was founded in 1936 by Archbishop Mannix for the specific task of getting young children in Catholic Institutions out of those institutions and into permanent families. Many children were entering the care system during the depression and few had the opportunity to leave institutional care and return to their families due to the economic and social realities of the times.

This Agency commenced as an adoption agency and its core business was the arrangement of adoption placements for infants. Since our beginning, the Agency has been involved in the placement of approximately 14,000 placements of infants and children.

Centacare Melbourne has not owned or managed congregate care institutions for children or any residential or placement service.

For the last 35 years, Centacare has operated a large counselling service, with the predominant focus on relationships. Our counselling program has given us a snapshot of the issues which individuals, couples and families face in the tasks of daily living and survival. It also has shed light for us on the resultant effects of childhood abuse on people and the stress for some people in trying to manage this pain/devastation for 60 or 70 years, alone.

It is from these 2 differing perspectives of placement and counselling programs that we submit our views to your Inquiry.

The issues raised in this submission will focus on the care of children in 2003 and the increasing systemic abuse of children in care in Victoria. Our submission will focus on 4 main issues, which continue to concern us:

- ❖ **The lack of understanding of the preconditions to the abuse of children. The current culture of abuse focuses on abuse being a discrete action and protective investigators appear to narrow their focus on the actuality of HARM and the likelihood of further harm**
- ❖ **Treatment options are not available or accessible to abused children in the short term largely because the legal system does not focus on the right of a child to have security and stability in his/her life so that treatment can occur**
- ❖ **The lack of early intervention programs and a culture that promotes home and healthy family life is remarkably absent. The social policy messages across the national arena appear to be focussed on the family having to make its own way and often through a "user pay" system**
- ❖ **The continued tension between family preservation services and the rights for children in having timely decisions made about their future require urgent attention. It would not be unusual for a 6 year old child to have had 37 placements prior to a decision being made that she/he cannot return to the care of her parent**
- ❖ **The abuse to children in the past when they were placed in large institutions has now, we would argue, been replaced by a climate of profound systems abuse**

TERMS OF REFERENCE.

- 1.b. **The extent and impact of the long term social 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.**

As well as being licenced to arrange adoption and permanent care placements for children in Victoria, we are an approved counselling organization under S.19 Family Law Act(1975). The Agency also operates programs for long term unemployed and for families in crisis because of child at risk issues .

Throughout our seven Branches in East Melbourne, Malvern, Dandenong, Footscray, Mitcham and Geelong, we provide counselling for in excess of 3500 clients per year. We have estimated that between 27 and 33% of clients requesting assistance with relationship issues, also have a history of childhood abuse. This included all forms of abuse and neglect, from parents, siblings, extended family, grandparents, uncles, teachers, trusted others in positions of authority. Clients also report abuse while they were "wards of State" living in care facilities. Clients report the various effects that the abuse has had on their lives and relationships.- from low self esteem and lack of trust, deep seated insecurity, to substance misuse, depression/anxiety, suicide attempts, self harm and aggression and or criminality.

While this abuse occurred generations ago, there is ample evidence of the ways in which it has impacted on the client, their families and partners/friends. In addition factors of substance misuse, self harm and or suicide/chronic depression can be traced as maladaptive responses to the initial abuse/s.

Our concern is not only for those people who suffered abuse in their childhood, but for the children of today who have and are being abused. While counselling and self-help services were generally not available 20 years ago for abuse victims, there is a real danger that our modern, supposedly, informed service (health/welfare/child protection) system will repeat similar mistakes of ignoring the impact of abuse on the child in the immediate and long term.

In the current climate of health/welfare service delivery, we note that services are not universally available to abused children irrespective of their families' ability to pay for treatment.

Certainly, families with substantial income can afford private psychiatrists/psychotherapists; but these same families may not be willing to pursue private counselling if one of the parents caused the abuse.

There are crucial dilemmas for the child, the child's parents and extended family, as well as health, child protection staff and counsellors/therapists. Namely that the current system is not designed to meet the child's needs and to place the child's needs for treatment and recovery above all else. We believe that this current lack of understanding of the long-term effects of abuse on children is widespread in the Children's Court and in the Child Protection system. Legal decisions tend to focus on the "safety" of a child and on the parents' rights to resume care of their children. The current parameters for statutory intervention into a family's life are a minimum level of intervention. This is prescribed by S87 Children and Young Persons Act (1989).

It is our experience that the children who are referred to our permanent care program for placement are at a significant disadvantage because of

- ❖ history of abuse and neglect
- ❖ serious attachment disorder
- ❖ multiple placements - usually 10 or 15
- ❖ ambivalent feelings towards parents
- ❖ high level of Court ordered contact which can be contrary to the best interests of the child
- ❖ poor educational history
- ❖ physical and or intellectual disability
- ❖ indiscriminate and/ or sexualised behaviour

The current system of Children's Court and Child Protection does not appear to see the importance of creating stability for a child and a sense of secure lasting and nurturing relationships early on in the child's life. It seems that only after all attempts at family reunification have been tried and failed, that the child can have an opportunity to live with a non relative family. Then, and only after the child experiences a sense of belonging, can therapeutic intervention be tried. This might occur many years later.

In our clinical experience, successful therapeutic intervention can only be provided to a child when there is security in placement (either home or fostercare), and there are significant adults who can provide the child with a stable and nurturing emotional relationship during this crucial phase.

In a theoretical sense, the key to optimising a successful outcome for the abused child rests on several factors :

- ❖ *the child's ability to not regard him/her self as responsible for the abuse.*
- ❖ *His/her capacity to process feelings about the perpetrator*
- ❖ *Acknowledgement by the perpetrator of his/her responsibility for the abuse*
- ❖ *Provision of continuity of a caring and nurturing environment*
- ❖ *Presence of significant others, non abusing parent or siblings*

When children are treated, through therapy, for the abuse they suffered, their chances of recovery can be improved. It is the process of recovery over the long term, which is crucial to the psychological and emotional wellbeing of the child. The likelihood of them leading productive lives is helped too by therapeutic intervention

In view of the lack of stability and long term security that the majority of children face in the Victorian out of home care system, successful recovery from the trauma of abuse does not appear possible in the near future unless there is significant legal and practice reform.

1.b. **Adequacy of existing remedies and support mechanism**

The current system of supporting and treating children who have been abused is predicated on false assumptions. We believe that there is a presumption that the child is emotionally intact at the time of the abuse occurring. This then leads to placement decisions based on the fact that, if the abuser is removed from the child's home, the child can remain there or return home safely and **be nurtured by the other parent.**

In the majority of abuse situations, a child is caught up in the abnormal pathological patterns of family functioning, including poor marital relationship, personality differences, and lack of parental emotional availability to the child. There is a pre-existing vulnerability in the child prior to episode/s of abuse,

The child in this situation would appear to have a poor foundation for recovery despite a variety of interventions. The child's prognosis is

further compounded by the lengthy and protracted decision making by child protection staff and the Children's Court.

Decision making by child protection staff and the Children's Court must consider and focus on the issues leading to the abuse of a child. The investigation and assessment of parental ability to identify and work through their issues of pathological interaction and its effect on the child are crucial in determining the future placement of the child in the short and long term. This, we submit, is an area requiring major reform.

Our agency would not be alone in submitting that existing remedies are inadequate.

In Victoria early intervention programs have not been resourced sufficiently for the past 10 to 11 years – resources to the community in the early 90's were cut drastically and the resultant savings were shifted to Child Protection investigative services in the Department of Human Services. This was particularly obvious as the Department prepared itself for the introduction of Mandatory Reporting in 1993. There is some attempt by government to improve this situation in recent times.

The system in Victoria has continued to function on **investigation** of reported cases of child abuse. Therein lies an intrinsic dilemma for Government and the Community sector. How do the community and early intervention services recognise those families before abuse occurs? Neglect of children is all too prevalent but immediate HARM remains the focus for Child Protection notification and investigation.

Those families who are most in need of services before abuse occurs are the ones less likely to volunteer for assistance. The social policy issues surrounding this are vexed indeed.

It appears that social policy is focussed on the illusions of parenting, rather than on acceptance and knowledge that every parent finds the responsibility for child rearing difficult and taxing. It is one major responsibility in life for which there is no training.

Families in the past could rely on the advice and support of their immediate families. With the changes to relationships/marriages since the 1970's, this form of support cannot always be relied upon. An additional factor involves the greater mobility of families from local communities and districts to interstate and overseas.

The basic support system for families who are financially secure can be provided by outsource specialty services—gardening, food preparation, maintenance childcare and cleaning. Life now happens outside the home.

For families on low incomes, support occurs through local services. Most families and children who need help are assessed as to their eligibility for service. They are often placed on a waiting list and seen by appointment. It is no longer possible for mothers who are feeling the pressures of managing to "call in to see the local maternal and health nurse to discuss their concerns about their baby. **Babies are now seen by appointment.**

There is an increasing level of concern about the increasing isolation of parents and children from responsive support systems. Coupled with this is the emerging data about children who have been brought up in families in which there has been generations of abuse occurring. With this group of families and children there is an even greater need for services to be redesigned to support them. Otherwise, the cycle of abuse will not be broken.

Adequacy of placement options for abused children

For those children who are removed from their parents, the services are inadequate and need major reform. Placement choices for children are not as broad as they were 20 years ago.

Children are typically placed in foster care and there appears to be a very low tolerance from foster parents to the behaviour that a child exhibits. The placements are not resourced adequately, through training, support or income. People volunteer as foster parents and they do not receive a salary. Foster care agencies have become dependant on the goodwill and commitment of foster parents to deal with disturbed and destructive behaviour of children in their care.

The result for a child is too often a move to another foster care placement and a series of disrupted placements from then on. We regard this as systems abuse and will comment further under Term of Reference 1g.

Placement services appear to be designed on the concept of short term/minimum intervention for the child and the foster parents. A significant feature of the design relates to the funding arrangements between Dept. of Human Services and the foster care agencies. Their funding is weighted to the reception placement end, i.e. removal of child by child protection, rather than to the temporary/emergency care for families in crisis. There has been a systematic erosion of primary support to families who face considerable difficulties in raising their children. These families typically have no extended family support.

While the focus of social policy is a respect for the autonomy of the family as a basic unit of society, we need to identify the influences which cause adults to harm their children.

- We need to have a flexible range of well-resourced services to employ and support children in their families at the earliest possible stage.
- An adequate, well-planned early intervention system with bipartisan political support would demonstrate that Governments are committed to the long-term investment in children as our future citizens.

1.c. The nature and cause of major changes to professional practices employed is the administration and delivery of care compared with past practice.

Significant changes in practice have occurred in the last sixty years. Although each change has been regarded as a move toward something better and progress has been significant in some areas, there is strong evidence that, in care of older children, Child Welfare has exchanged one form of systemic abuse for another.

Our Agency has worked with all types of service providers in our 68 year history—from the large orphanages and institutions which provided care based on a health model—to family group homes, short term reception units, fostercare, adoption and permanent care placement providers.

Since the late 1980's in Victoria, there has been an effective reduction in scale of both facilities for children and the placement options available to them.

Other social, legal and administrative factors have been:

- ❖ The change from salaried experienced child care staff to community volunteers (foster parents) looking after children in our care system
- ❖ The change to professional qualifications for entry to the State's Child Protection system—from social work and welfare training to general tertiary degrees This broad banding of skills and knowledge requirements which occurred in 1988, has arguable led to a dilution over time of practice wisdom and knowledge built up by the social work profession
- ❖ The systematic devaluing of social work profession in the foster care area resulting in high staff turnovers as social workers become the main means of transport for children to have contact with their parents.
- ❖ The introduction of Manuals for Child Protection has provided a technical/procedural approach to the complexities of child abuse and the statutory intervention by the State.

- ❖ Supervision of child protection staff with Department of Human Services concentrating on procedures rather than clinical aspects of the work of the staff. This manner of work has resulted in high turnovers of staff.
- ❖
- ❖ Creation of a large health and welfare government department with the view that clients would have access to a “seamless web of services”. This is patently not the case in practice.
- ❖
- ❖ Regionalisation of adoption and permanent care services in 1988.
- ❖
 - ❖ Introduction of pre requisite qualifications for Principal Officers of Adoption Agencies. The 1984 Adoption Act and its governing regulations stipulated that principal officers must have social work qualifications. This changed the emphasis from adoption agencies being run by ministers of religion/deaconesses/nuns/confidential officers. A set of standards based on practice was then formulated. The Act also prescribed access provisions for the adopted child with his birth family and paved the way for adult adopted people to apply for their original birth history.
 - ❖
 - ❖ – Legislative amendments to the Adoption Act in 1987 thereby enabling adult adopted persons to have legal access to original birth certificate and for other parties, namely adoptive and birth family to receive non identifying information. This provision was retrospective This Act and its subsequent application has lead to impressive changes in the placement of children for adoption. Prospective couples to adoption now know that there is an expectation for contact and information between the adopted child and birth family.
 - ❖
 - ❖ Introduction of “reformist” legislation 1989 Children and Young Person’s Act which in essence meant that children would “not be subject to welfare drift”(Carney Report 1985). The practice for extension of guardianship shifted from an administrative function previously held by the Department of Human Services to a Children’s Court order. This legislative change, we submit, led to a significant **reduction in planning for children.**
 - ❖
 - ❖ DHS policy direction that adoption was not to be the preferred placement option for children in care.
 - ❖
 - ❖ Reduction in numbers of Family Group homes which had provided stability of care for children and their siblings.

In summary, many factors have affected the care of children in the system. With the introduction of mandatory professional qualifications in some areas of the care system, there has been a systematic erosion and devaluing of the knowledge and skill base provided by the social work profession to the area of Child Protection. There has been a corresponding decline in the types of

placements available to meet the diverse needs of disturbed and abused children. The level of public accountability for any one employed in this system is so high that there is a danger that the focus will shift onto actions taken, as compared with the need to develop comprehensive assessments and planning for the State's vulnerable children.

1.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.

It is our contention that since the later 1980's, Victorian children have been exposed to major policy, program and legal changes which together, have in many ways, contributed to a lack of cohesive and commonsense planning for children.

Significant policy change of de-institutionalization for

- ❖ the disabled
- ❖ children and young people in State reception centres and
- ❖ the psychiatrically ill

have led to the majority of these people being cared for in the community without adequate resourcing for community care options, all the above have become involved in a revolving-door approach to services. Service development based on the needs of children is in marked contrast to the type of care provided in institutions.

Care of institutionalised children was usually based on a health model. Doctors and mothercraft nurses were responsible for the monitoring of infant's health needs and in being able to verify that the infant "was fit for adoption". This was the most common outcome for healthy infants younger than 2.

With the decline of institutional care, this same medical/health basis did not pervade in our practice. Other notions gained favour such as family group homes and the employment of child care workers. The understanding of children's needs included social/emotional, behavioural, educational and contact with their family.

As family group home programs reduced in number due to the cost of maintaining children within these programs, fostercare was seen as the ideal program to provide for children on temporary basis. Fostercare was run by volunteers whose very status leaves them open to exploitation by agencies. Fostercare's original focus of providing support and respite to vulnerable families as a diversion from the State's Child Protection system, has now, we submit, become a defacto arm of the Department. Through a restructuring of the funding arrangements for fostercare, Department of Human Services has in effect redeveloped foster care as the placement arm of the Child Protection System

In 1985, The State government commissioned an committee, chaired by Dr. T. Carney into the child welfare legislation and practice, which affected Victorian families and their children. The Committee identified many inequities in the system and provided advice as to future legislation and the "framework of principles that should guide and govern child welfare legislation and practice ... in the foreseeable future." (Term of Reference Carney Review)

The reformist thinking of this committee appears to have been predicated on the following key factors :

- ❖ no longer leaving children in care as wards of State until 18 years
- ❖ increasing the range and scope of protection orders
- ❖ removing administrative responsibility for extension of guardianship from the Department of Human Services and locating it with the Children's Court
- ❖ creating a separate jurisdiction and legislation for juvenile offenders
- ❖ creating the notion of Minimum Intervention by the State
- ❖ increasing accountability for decision making regarding children

These latter 2 principles (factors) have proved to be most difficult and it is argued have had a deleterious effect on the wellbeing of children on/or subject to protection orders.

The Children and Young Person's Act was introduced in 1989 and no systematic review of the efficacy of this legislation was put in place by either the Department of justice or Department of Human Services.

Within our work as an agency providing adoption and permanent care to children, we have noted and observed a serious deficit in timely decision making for children removed by Child Protection staff.

Section 87 of the Children and Young Person's Act (1989), proscribes minimum intervention by the State. This appears to be open to quite curious and contentious interpretations by Child Protection staff towards children in abuse/neglectful situations.

The growing concerns from this legislative requirement and the ways in which Children's Court magistrates have interpreted this section have undoubtedly affected the behaviour of Child Protection staff to take their concerns to Court and test them. Rather, Child Protection seems to be engaged in "best guessing" the likely outcome by the Court and not taking responsible and proactive steps to secure the safety of some children.

Decision-making for children is legislated in Sections 119 and 120 of the Children and Young Person's Act. What is apparent is that the onus is on the Department to convene meetings within the statutory timelines and in not making timely and well thought out decisions for children.

Child Protection continues to overlook the wide ranging needs of children and focus on parents and their rights to resume care of their children. At the very core of administrative and legal decision making is the view that the natural family is the place where a child should belong.

Many Child Protection staff cannot counterance the view that permanent alternative arrangements should be made for children. The relative success of adoption in Victoria since 1920 ceases to be highlighted in Department of Human Services policies and programs.

Ironically, it seems that only after every effort is made for a child to return home, and with multiple delays/failures, that children are referred to permanent care programs for placement. At this stage of children's lives, they have suffered neglect/damage and harm from their natural families. It seems that the State system mirrors the child's family and children's needs come second.

Given the drift in decision making in the past 10 years since the Children and Young Person's Act has been operating, it is submitted that major changes to legislation are necessary to protect those children who cannot ever return to the care of their natural family. There are families whom, we submit, demonstrate significant and sustained resistance to treatment and who despite support, cannot consistently offer a safe or nurturing environment for their children. The notion of "untreatable families" is an actuality for many welfare agencies.

While we support the legal framework and social policy focussing on the autonomy of the family and the family being the core unit in society, research shows that some families cannot provide even minimal levels of care and protection for their children.

Firm, unambiguous checks and balances need to be in place legislatively to prevent the drift of children through multiple, or uncertain placements. When children are removed because of significant harm, we believe that there should be a maximum period of 12 months for parents to address and change the factors leading to their child's removal.

This would require very different assessment, planning and decision making frameworks to be used by Child Protection staff. The interests of the child are this paradigm shift would become central to any decision making.

If the change is not sufficient for a child to return home safely by the end of 12 months, the decision needs to be made for a child to be placed in a permanent placement (secured either through permanent care, Family Law Court order or adoption)

The legislative change would mean that a child is legally "freed" for permanent placement with his/her parents not having any right of appeal against this decision. In UK and various states in America, such legislation exists to protect children from welfare drift.

While there is provision in Section 12 of the Children and Young Person's Act for children to be placed on a permanent care order, this section needs to be re-written so that planning decisions for children to be placed with an alternative family can be earlier in their lives.

The Victorian Child Protection system operates on the value of family preservation and family reunion. It is within this framework that a child's rights are determined only in the context of his/her relationship with his/her parents. This view, we argue detracts from the focus on the child as a unique individual with specific needs for consistency and stability independent of their parental relationship.

Thus children who enter the care system come a pale second to their parents' "rights to resume care of the child". Children are, for our experience, denied a sense of permanency; they move from placement to placement or they wait for years to know where and with whom they will spend the remainder of their childhood lives.

We submit that children have not been assigned rights in our legislation. In the event that children's rights become central to decision making, the focus would shift from their immediate needs for safety to the achievement of the best possible long-term outcomes for the child. Legislation and practice could then concentrate on permanency planning approaches for the child rather than on the contradictory notions of family preservation or permanency planning for a child,

Conclusion and Recommendations

Centacare acknowledges that there are a number of new initiatives in Victoria which seek to address the problems for children being raised in care. They

include the Public Parenting Review, the impending consultations regarding amending the Child and Young Person's Act 1989, the Looking After Children initiative and the soon to be established Advocate for Children in Care.

Centacare would recommend a number of policy and legislative shifts in order that the system could lead social change rather than be restricted by ambivalent social attitudes.

- Refocus the Courts and Legislation on the child's needs. Children's Court Child Young Persons Act, and County Court Adoption Act
- Define time frame for making decision regarding permanency planning for a child. After a specified period of time, perhaps one or two years, there must be justification why there is not a permanent plan in place rather than justification to make one.
- Reframe natural rights of Parents for a better balance with the rights of the child where a parent cannot provide adequate and/or safe care.
- Recognizing in policy and legislation that permanency planning for a child begins with intervention with a family.
- Develop forms of institutional child care where quality of care can be controlled for children experiencing severe or specific problems. The two areas identified are:

Adolescents who are unable to adjust to the intensity and expectation of family life.

Highly disturbed children and young persons who cannot be cared for safely within a family setting.

- Develop policies where the Protective Investigation focuses on the child's needs rather than completely on proving parental failure.
- Define the basis for termination of Parental Rights more clearly in the legislation.
- Develop treatment options for emotionally disturbed children in out of home care.
- Develop educational options for children in out of home care.