



STATE OF DENIAL

***THE NEGLECT AND ABUSE OF INDIGENOUS
CHILDREN IN THE NORTHERN TERRITORY***

RESEARCHED AND WRITTEN BY JULIAN POCKOCK

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1998 NAICD Poster: Featured on the cover is the Goanna from the 1998 SNAICC National Aboriginal and Islander Children's Day Poster. This poster was produced by children from the Multifunctional Aboriginal Children's Service, Birrelee MACS, in Tamworth NSW

2000 NAICD Poster: Featured on the pages 8 and 22 is artwork from the 2000 NAICD poster and the painting, Home is Where the Heart Is by Irene O'Loughlin. The painting tells the story of the stolen generations – not only the sorrow and loss of having been taken but the joy and sense of belonging from returning home. At the centre of the painting are four hearts, North, South, East and West – the width and breadth of our country. Out of this centre point is a circle of women representing the mothers who have waited for the return of their children. The four tracks represent the direction from which the children find their way home. Along the paths are the footprints of the lost children. The tears represent the anguish, loss and happiness and the child's handprints the searching for children to find their identity and the welcome of their return when the mother holds the child's hand in hers.

2001 NAICD Poster: Featured on pages 28, 54 and 60 is artwork taken from the 2001 NAICD poster including the painting Walking in Your Footsteps by Mark Egan. The painting includes two young children beginning their journey in life as their Elders did before them. The serpent eggs and the light and dark spirals are of the journey of life and death. The footsteps follow the serpent of life with footsteps crossing the water and seas and walking on Mother Earth. The teardrops represent joy, happiness and sadness through life's many journeys.

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Researched and written by Julian Pocock

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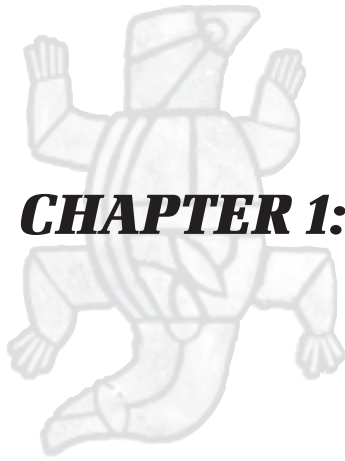
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CHAPTER 1: INTRODUCTION AND BACKGROUND

OVERVIEW

The over representation of Aboriginal and Torres Strait Islander children in the child welfare system across Australia has been widely noted and commented upon (Johnstone 2000, Dodson 1999, SNAICC 1996). However little research has been carried out which compares the rate of Indigenous child removal across States and Territories. In the Northern Territory the rate of Indigenous child removal is very low when compared to the rates for Indigenous children in other States and Territories and only marginally higher than the rate of child removal for all children across Australia (AIHW 2000).

This research explored reasons for the lower recorded rates of child abuse and neglect and child removal for Indigenous in the Northern Territory taking account of:

- historical practices of forcibly removing Indigenous children from their families,
- recognised risk factors for child abuse and neglect,
- the socio-economic position of Indigenous families, and
- the views of a number of community based agencies.

Regrettably the research found no cause for celebration in the lower recorded rates of child abuse and neglect and child removal. Rather it found that the child protection system in the Northern Territory is seriously failing Aboriginal and Torres Strait Islander children and their families.

In examining the prevalence of known factors which give rise to child abuse and neglect the research establishes that these factors are as prevalent and in most instances more prevalent within the Northern Territory than in other states and territories. This would suggest that the Northern Territory has the highest levels of hidden or ignored child abuse and neglect in Australia.

Key Aboriginal agencies expressed a lack of confidence in the child protection system and described a system

which is fragmented, poorly resourced, unpredictable and unresponsive to the needs of Aboriginal and Torres Strait Islander children at risk of child abuse and neglect and the needs of their families. Of grave concern is the fact that all agencies interviewed were able to cite examples of where they had reported serious cases of child abuse or neglect only to witness little or no response from child protection authorities. Agencies indicated that this, (not responding to notifications of abuse), was typical of the child protection system in the Northern Territory.

There is evidence that at the local community level fear of reprisals, poverty and a lack of confidence in the child protection system result in abuse and neglect not being reported.

The research highlights that high levels of child neglect brought about by endemic inter-generational poverty, unemployment, homelessness and dispossession are being largely ignored by child protection authorities with this form of neglect seen as ‘the norm’ by communities, police and people with a direct role in child protection. Thus Indigenous children who are not having their most basic needs of food and shelter met are ignored by child welfare authorities who seemingly view their situation as ‘normal’ for Aboriginal communities and therefore ‘acceptable’.

The research found that the child protection system in the Northern Territory is not a system at all and that it is failing to meet its statutory obligations to Indigenous children under the Northern Territory Community Welfare act of 1983. It found little evidence of any serious or sustained attempt from the Northern Territory or Commonwealth Governments to address the underlying causes of child abuse or neglect in partnership with Indigenous communities.

The following report includes a series of reform proposals focussed on ensuring Indigenous children are protected from harm, by recasting the child protection system to work holistically with Indigenous families and by addressing the underlying causes of abuse and neglect through building negotiated partnerships with Indigenous communities to replace the imposed, ineffective and residual child welfare system currently in place.

RESEARCH GOAL, HYPOTHESIS AND OBJECTIVES

The research was carried out within the framework of the following overall research goal, hypothesis and objectives in order to keep the research focussed and transparent.

OVERALL RESEARCH GOAL

To develop an understanding of the factors which give rise to a reported lower level of substantiated child abuse and neglect, and placement in out-of-home care, for Aboriginal and Torres Strait Islander children within the Northern Territory, than for Aboriginal and Torres Strait Islander children in other states and territories within Australia.

RESEARCH HYPOTHESIS

Aboriginal and Torres Strait Islander children in the Northern Territory are as likely to suffer through child abuse and maltreatment as Aboriginal and Torres Strait Islander children in other parts of Australia; yet they are less likely to be assisted by child protection authorities.

RESEARCH OBJECTIVES

1. To develop an understanding of the factors which give rise to a recorded lower level of substantiated child abuse and neglect and placement in out-of-home care for Aboriginal and Torres Strait Islander children in the Northern Territory, compared to Aboriginal and Torres Strait Islander children in other states and territories.
2. To illustrate, through comparative data, how the Northern Territory child protection system operates compared to child protection systems in other states and territories.
3. To determine if the current child protection system in the Northern Territory is meeting its obligations to Aboriginal and Torres Strait Islander children as prescribed under the *NT Community Welfare Act of 1983*.
4. To determine if the Northern Territory Government responds to alleged and potential cases of child abuse and neglect involving Aboriginal or Torres Strait Islander children in accordance with:
 - a) the expectations of Aboriginal and Torres Strait Islander agencies working in the area of child protection and welfare; and
 - b) the provisions of the *NT Community Welfare Act of 1983*.

5. To determine if there are likely to be significant numbers of Aboriginal or Torres Strait Islander children in the Northern Territory who would fall within the definition of suffering maltreatment, pursuant to the *NT Community Welfare Act of 1983* but who are not provided with protection by the NT child welfare authorities.

ACKNOWLEDGMENTS

There are many people who have given of their time, energy, knowledge and expertise to the development and finalisation of this work. Acknowledging them here is one important way of thanking them.

PREPARATION OF THE RESEARCH TOPIC:

The following organisations and people provided advice on the focus of this research:

Muriel Cadd, SNAICC Chairperson,
Nigel D'Souza, former SNAICC Executive Officer,
Brian Butler, ATSIC Commissioner for South Australia 1999 - 2002
Karu Aboriginal and Islander Child Care Agency, (Darwin)
Central Australia Aboriginal and Islander Child Care Agency, (Alice Springs)

RESEARCH METHODOLOGY:

Comments were provided on the research methodology by the following staff from RMIT University;

Professor Charles Choguill,
Fiona Wahr,
Associate Professor Linda Briskman.

INTERVIEW PARTICIPANTS:

Central to the research project was the preparedness of non-government agencies in the Northern Territory to comment on and help shape the research project and, agree to be interviewed. The Northern Territory, despite its vastness, is in many ways a small place, and all those people interviewed were open and forthright in answering questions relating to child abuse and neglect in Aboriginal and Torres Strait Islander communities. Doing so involved them taking a risk by trusting me to work with them in a manner which respected their integrity and advanced issues of concern to them, above all else I have endeavoured to do just that.

I am particularly grateful therefore to the interview participants, namely; Rosie Baird, Sharon Manhire and Sandie Kitching from Karu, Sara and Astri Baker from Alice

Springs Youth Accommodation and Support Service, Dawn Fleming, Alison Breheny, Franny Coughlan, Dr Peter Tait and Tahnia Edwards from the Central Australia Aboriginal Congress and Anne Ronberg and Geoff Miller from Central Australia AICCA.

Added thanks are due to Franny Coughlan who provided great assistance in contacting agencies in and around Alice Springs and to Karen Hall, Director of Karu who provided comments on the final report and its recommendations.

RESEARCH ETHICS, SUPERVISION AND ASSESSMENT:

The research proposal and methodology was endorsed by the RMIT University Faculty of the Constructed Environment Research Ethics Committee and the research was supervised by Associate Professor Linda Briskman, RMIT School of Social Science and Planning. The research was carried out as a part of the Master of Social Science (Policy and Management) program with the final paper accepted as a minor thesis after internal and external academic examination.

Finally thanks to my partner Fiona and our kids Fynn and Eadie for their tolerance when my focus on completing this work meant I was spending less time on things closer to home.

ABBREVIATIONS

AIHW	Australian Institute of Health and Welfare
AICCA	Aboriginal and Islander Child Care Agency
AIM	Aborigines Inland Mission
ABS	Australian Bureau of Statistics
ACOSS	Australian Council of Social Service
ACPP	Aboriginal Child Placement Principle
ATSIC	Aboriginal and Torres Strait Islander Commission
CAEPR	Centre for Aboriginal Economic Policy Research
CDEP	Community Development Employment Program
FACS	Family and Community Services branch, NT Department of Health and Community Services
HCINS	ATSIC Housing and Community Infrastructure Needs Survey
HREOC	Human Rights and Equal Opportunity Commission
NATSIS	National Aboriginal and Torres Strait Islander Survey
NT	Northern Territory
SNAICC	Secretariat of National Aboriginal & Islander Child Care
THS	Territory Health Services ¹ , Northern Territory Department of Health and Community Services

¹ Up until November 2001 Territory Health was the Northern Territory Department with responsibility for child protection and for administering the 1983 NT Community Welfare Act. The Family and Community Services branch within Territory Health had day to day responsibility for child protection. From November 2001 the Department's name was changed to the Department of Health and Community Services whilst the name of the branch, Family and Community Services, and its responsibility for child protection remained unchanged. Interviews for this research took place the week these name changes took place with some interviewees referring to Territory Health and or FACS when talking about the NT child protection authorities.

DEFINITIONS AND TERMINOLOGY

This paper utilises the same definitions of child abuse, child neglect and child maltreatment prepared by the AIHW, Angus & Hall 1996; Broadbent & Bentley 1997 and utilised by Tomison 1997 in a paper for the NSW Child Protection Council (Tomison, 1997). The definition of out of home care is taken from the AIHW Child Welfare Series, *Child Protection Australia*, (AIHW, 2000).

Child Abuse is defined to include sexual abuse, physical abuse or emotional abuse, each separately defined as follows;

Sexual abuse: any act which exposes a child to, or involves a child in, sexual processes beyond his or her understanding or contrary to accepted community standards.

Physical abuse: any non-accidental physical injury inflicted upon a child by a person having the care of a child.

Emotional abuse: any act by a person having the care of a child which results in the child suffering any kind of significant emotional deprivation or trauma.

Child Neglect is defined as any serious omissions or commissions by a person having the care of a child which, within the bounds of cultural tradition, constitute a failure to provide conditions that are essential for the healthy physical and emotional development of a child.

Child Maltreatment is defined as child abuse and/or neglect and the terms child maltreatment and child abuse and neglect are used interchangeably.

Out-of-Home Care is defined consistent with the definition of out-of-home care provided by the Australian Institute of Health and Welfare through their annual publication on child protection data covering all states and territories (AIHW, 1998). The definition is as follows:

Out-of-home care includes out-of-home overnight care for children and young people under the age of 18 where the state or territory makes a financial payment. This includes placements with relatives, other than parents, but does not include placements in disability services, psychiatric services, juvenile justice facilities, overnight child care services or supported accommodation. It may include various forms of home-based care such as foster care or kinship care where some payment is made for the care of the child, facility based care in family group homes or other arrangements.

(AIHW 1998, page 32)

EXECUTIVE SUMMARY

The evidence from this research shows that the Northern Territory has the highest levels of unrecorded child abuse and neglect in Australia and that the Northern Territory child protection system is failing in its statutory obligations to protect Indigenous children and provide for their welfare. The system is fragmented and poorly resourced with major non-government Aboriginal agencies expressing an alarming level of dissatisfaction with the systems operation.

AIHW Child Protection reports show that the recorded rates of substantiated child abuse and neglect, rates of children on care and protection orders and the rates children in out-of-home care are significantly and consistently lower in the Northern Territory than for all other states and territories combined. The national rate of Aboriginal and Torres Strait Islander children being removed from home and placed in out-of-home care is consistently between four and five times higher than the rate for the Northern Territory.

Whilst the number of Aboriginal children in the Northern Territory child protection system is disproportionately low the prevalence of factors which cause child abuse and neglect are disproportionately high.

There is a chronic shortage of foster care placements for the relatively small number Aboriginal children in the child protection system who need out-of-home care. Worse still there are at least 10 times the number of Aboriginal children who are suffering maltreatment, as defined by the Northern Territory Community Welfare Act, who currently receive no support or protection through the child protection system.

Rather than address the needs of Aboriginal and Torres Strait Islander children the Northern Territory child protection has in effect withdrawn from service provision abandoning the most impoverished children and families in Australia.

KEY FINDINGS

The key findings from the research can be summarised as follows:

- the socio-economic factors which give rise to child abuse and neglect are higher in the Northern Territory than in any other State or Territory
- the number of child protection notifications, substantiations and placements of Indigenous children in out-of-home care, (measured per 1,000 children), in the Northern Territory are the lowest for all States and Territories
- non-reporting of child abuse and neglect is significantly higher in the Northern Territory than in any other State or Territory
- to not report child abuse and neglect is a common practice of Aboriginal communities and non government agencies as reporting child abuse and neglect either results in no discernible response or an intervention from Police or child protection which makes matters worse
- confidence amongst non government agencies in the Northern Territory child protection system is so low that the system is seen as almost completely ineffective
- specific forms of child maltreatment included in the Northern Territory child protection legislative definition of maltreatment, such as malnutrition leading to physical impairment, occur at much higher rates within the Aboriginal community than the child protection data would suggest
- the Northern Territory child protection system is not meeting its statutory obligations to protect children or provide for their welfare with chronic levels of poverty, homelessness and preventable diseases amongst children often viewed as 'normal' for Aboriginal children and therefore not requiring a child welfare response
- the narrow investigative approach of the Northern Territory child protection system tends to blame Aboriginal parents and families for factors which are beyond their control – such as poverty and homelessness
- non-government agencies that work directly with Aboriginal and Torres Strait Islander children and families consistently experience major difficulties in getting child protection authorities to respond to or even register

notified cases of child abuse or neglect

- there is a lack of clarity around the role of Northern Territory police in the child protection system with no evidence found of their current role being useful or effective in supporting children at risk of abuse or neglect
- mandatory reporting of child abuse and neglect in the Northern Territory appears to have failed as the general community and more particularly Aboriginal communities have not been provided with useful, systematic and ongoing education and training about the requirements to report child abuse and neglect
- on the evidence of non-government agencies the Northern Territory Police are typically ineffective in either responding to child abuse and neglect or protection children from further harm
- current child protection interventions in the Northern Territory fail to address the support needs of Aboriginal children and families in a manner which assists families to raise children – rather the system, when it does respond, tends to penalise families that have a severely limited material capacity to care for their children by removing their children
- the alternative care and foster care systems in the Northern Territory are woefully inadequate creating scenarios where Aboriginal children are left in situations where they are likely to be maltreated as child protection authorities have no alternative care options for at risk children
- past practices of forcibly removing Aboriginal children and forcibly relocating Aboriginal communities continue to impact significantly on Aboriginal people and dramatically undermine the effectiveness of the Northern Territory child welfare system
- the resources directed by governments, Commonwealth and Territory, and by churches and their associated organisations, towards the break up of Aboriginal families and forced removal of children in previous generations massively exceed the resources now dedicated to supporting Aboriginal families with children
- Aboriginal and Torres Strait Islander communities in the Northern Territory have no significant or secure role, purpose, resources or power within the child protection system – a system which continues to operate as an external source of control rather than as a collaborative partnership for advancing the welfare of children within a framework of rights and respect.

GENERAL FINDINGS

The research was carried out within the framework of a number research objectives which have been used to report general findings.

Research Objective 1.

To develop an understanding of the factors which give rise to a recorded lower level of substantiated child abuse and neglect and placement in out-of-home care for Aboriginal and Torres Strait Islander children in the Northern Territory compared to Aboriginal and Torres Strait Islander children in other states and territories.

UNDER REPORTING OF CHILD ABUSE AND NEGLECT

The exploratory nature of this research means that it is unlikely to have identified all the factors which give rise to the lower recorded levels of abuse and neglect and placement in out-of-home care.

However, a number of significant factors have been identified and these include:

- Non reporting of child abuse and neglect by non-government agencies working with children, by members of the Northern Territory Police and by members of the public where the people concerned understand their obligations to report but for a variety of reasons decline to do so. Non reporting in these instances seems to arise due to a lack of faith in the child protection system through a combination of the legacy of past practices of child removal but equally the deficiencies of current child protection practice.

Geoff Miller: (CA AICCA)

A lot of the non reporting too is because lots of people still have that thing about welfare - the old welfare system- and that's why they won't be involved with it and so they won't report it because they don't want to be dragged through it.

- Non reporting caused by a lack of community awareness and understanding of the definitions of maltreatment and their obligations to report. All interview groups noted, that in recent years, there had been no significant community education campaigns relating to child maltreatment and mandatory reporting. They also identified a lack of systematic efforts to educate people in professions which involve significant contact with Aboriginal and Torres Strait Islander children in relation to indicators of abuse and neglect and strategies for responding to possible cases of child maltreatment, including through reporting to child protection staff.

Anne Ronberg: (CA AICCA)

Or they might not know how to report or who to report to and may not know what abuse is and when you should report it.

- Non reporting where members of the public fear personal reprisals including threats of violence or the fear that children will be removed and that families will be ‘broken up by welfare’.

Sandra Kitching: (Karu)

These people that live on a community they live in the same house - you don't want to get flogged do you - so you just say, (to child protection), that Uncle so and so is good because if she doesn't than the rest of them ten people are just gonna give it to her, (slams fist into hand).

FAILURE OF CHILD PROTECTION AUTHORITIES TO RESPOND TO NOTIFICATIONS

All the agencies interviewed gave clear examples of where they had made notifications of child abuse or neglect and little or no response had been made to the notification. This included cases of alleged sexual abuse of children and other forms of child maltreatment.

Agencies also noted that when they did make notifications they would typically be locked out of the investigative process with their expertise and knowledge of a family or child's circumstances ignored.

Agencies were able to provide copies of written notifications which had not produced a discernible response or cite numerous cases of when they had taken the concerns of Aboriginal families regarding the abuse of children directly to child protection authorities only to see no investigation proceed.

Clearly this constant pattern of their being no response to notifications fuelled mistrust and lack of confidence in the system making non-reporting more likely in relation to subsequent cases.

Sarah: (ASYASS)

The other thing that is really horrible is they will tell you all the other things they tried themselves before telling you to keep themselves safe and that hasn't been heard by anyone ever or if it's been heard it's been ignored so then they have got to a stage where they are saying my god somebody do something so they tell you knowing you are going to make this notification and then if nothing happens again it is really very horrific for that young person.

Peter Tait: (Congress)

Usually you ring them up and you don't know what happens - there is no feedback and they tell

you nothing. Recently when I reported something I had to ring daily for ten days to find out what had happened which involved ringing daily for five days to get to speak to the right worker, her not calling back, and having to ring daily for another five days to speak with her again only to find out that nothing had happened in relation to the report that I had made.

COMPARING NT RATES OF ABUSE AND NEGLECT WITH OTHER STATES AND TERRITORIES

Research Objective 2.

To illustrate through comparative data how the Northern Territory child protection system operates compared to child protection systems in other states and territories.

The evidence on this point is clear. The rates of substantiated child abuse and neglect, child protection orders and removal of children for placement in out-of-home care involving Aboriginal or Torres Strait Islander children are consistently and significantly lower in the Northern Territory. The recorded national rates for Aboriginal or Torres Strait Islander children are between four and five times higher than rates for the Northern Territory.

LEGISLATIVE OBLIGATIONS TO PROTECT ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN

Research Objective 3.

To determine if the current child protection system in the Northern Territory is meeting its obligations to Aboriginal and Torres Strait Islander children as prescribed under the NT Community Welfare Act of 1983.

It is clear that the Northern Territory Department of Health and Community Services, formerly, Territory Health, is not meeting its obligations as prescribed under the NT Community Welfare Act of 1983.

In their response to the interview questions the Department of Health and Community Services indicate that their responsibility is limited to protecting children from maltreatment where there has been a notification to the Department. This is quite wrong; the NT Community Welfare Act of 1983 provides a broad definition of maltreatment¹ and a general obligation upon the Minister and Department administering the legislation to protect children from maltreatment. Nowhere does the legislation limit the responsibilities of the Minister and Department to only protect, or provide for the welfare

¹ The definition of maltreatment is provided in the NT 1983 Community Welfare Act under Section 4 Interpretation sub section (3). See appendix one.

of, those children who are the subject of a notification. That the Department has chosen to narrow its focus to reactive responses to notifications does not dissolve it of its more general, broad and proactive responsibilities towards all children.

The purpose of the Act as stated in the preliminary section of the legislation is;

to provide for the protection and care of children and the promotion of family welfare, and for other purposes (NT Government, 1983).

Section 4 sub section (2) of the 1983 Community Welfare Act outlines that children are in need of care when, among other things, they have been maltreated and the legislation then provides a definition of maltreatment. This definition has been referred to in Addendum –Research Methodology which is included as appendix one.

The definition of maltreatment applies to any child experiencing the circumstances described in the definition - not exclusively to children who are the subject of a notification.

The Department could quite appropriately conduct or commission on-going research to identify the number, groups and locations of children who fall within the definition of maltreatment and provide services and support in partnership with their families to better care for and protect these children. That the Department limits its activities and seeks to narrow its responsibility to investigating notifications is an administrative choice made by them, not a position dictated by the legislation.

Further under Part III of the act - Community Welfare Assistance the Minister can provide a broad range of assistance to persons, families or groups.

Section (8) Assistance in certain circumstances.

(1) A person, family or group claiming to be in need of assistance under this Act may apply to the Minister for such assistance.

(2) Where, in the opinion of the Minister, a person, family or group is in need of assistance as a result of problems related to social, personal or economic reasons, he may provide such assistance as he thinks fit to promote the welfare of the person, family or group.

Given the impact of previous policies of child removal and the current socio-economic disadvantage experienced by Aboriginal and Torres Strait Islander families, it is a difficult to imagine a group more deserving and needing of support under this section of the act.

Finally Under section 68. Assistance to Aboriginal Communities the Act states:

The Minister shall provide such support and assistance to Aboriginal Communities and organisations as the Minister thinks fit in order to develop their efforts in respect of the welfare of Aboriginal families and children, including the promotion of the training and employment of Aboriginal welfare workers.

Clearly the legislation is framed to do far more than allow for the operation of a child protection system which responds on a case by case basis. The information provided through interviews about the focus and operation of the Department along with their own response to the research questions provide strong evidence that the Department is failing to meet its obligations under the *NT Community Welfare Act of 1983*.

In relation to the Departments obligation to investigate possible cases of child abuse or neglect clear evidence was provided of the Department's failure to carry child protection investigations in response to the most serious forms of abuse and neglect. This highlights that whilst the Department may accept its obligation to investigate notifications of abuse or neglect it lacks the capacity and/or willingness to do so.

COMMUNITY EXPECTATIONS OF CHILD PROTECTION AUTHORITIES

Research Objective 4.

To determine if the Northern Territory Government responds to alleged and potential cases of child abuse and neglect involving Aboriginal or Torres Strait Islander children in accordance with;

- a) the expectations of Aboriginal and Torres Strait Islander agencies working in the area of child protection and welfare, and*
- b) the provisions of the NT Community Welfare Act of 1983.*

In relation to a), the expectations of agencies, the overwhelming evidence from the interviews is that the Department does not respond to alleged cases of child abuse and neglect in accordance with the expectations of agencies. It should be noted that their expectations were not inconsistent with the range of possible functions which might be carried out under the *NT Community Welfare Act of 1983* and as such their expectations can be described as reasonable.

They included that notifications are investigated, that they be consulted and their expertise called upon in the investigation process, that the Department relay in general terms the outcomes of investigations and more generally that the Department work in partnership with them in addressing the underlying causes of child maltreatment. There is no evidence that any of this is occurring beyond

the isolated yet admirable efforts of individual child protection workers. Certainly there was no evidence of the Departmental wide cooperation, negotiation and liaison sought by non-government agencies working with Indigenous children and families.

In relation to b), the provisions of the Community Welfare Act, the Department's response to the interview questions provides some useful evidence. It states that;

The Department's mandate to protect children from maltreatment extends to cases where the person alleged responsible for the maltreatment is:

- a parent or family member
- someone who has the custody of the child, including departmental caregivers
- another child within the family
- a non-relative and the child's parent is not acting protectively (Sherman, 2002).

This is incorrect and is a further example of the Department failing to carry out its full range of responsibilities under the 1983 Community Welfare Act.

Within the definition of maltreatment there are five clauses which describe and define child maltreatment. Section 4, sub-section (3) clause (a) refers to physical abuse whilst Section 4, sub-section (3) clause (d) refers to sexual abuse. Both of these clauses make specific reference to parents, guardians or those with the custody of children and their responsibility to protect children from these forms of maltreatment.

In relation to physical abuse the definition of maltreatment includes the following;

...inflicted or allowed to be inflicted by a parent, guardian or person having the custody of him or where there is substantial risk of his suffering such an injury or impairment.

(NT 1983 Community Welfare act Section 4, sub-section (3) clauses (a))

In relation to sexual abuse the definition of maltreatment includes the following;

...and his parents, guardians or persons having the custody of him are unable or unwilling to protect him from such abuse or exploitation.

(NT 1983 Community Welfare act Section 4, sub-section (3) clauses (d))

In relation to physical abuse the definition extends to situations, where there is substantial risk of his suffering such an injury or impairment, regardless of the parental

capacity, willingness or preparedness to prevent such physical abuse.

More importantly though, the other three clauses which define child maltreatment, Section 4, sub-section (3), clauses (b), (c) and (e); make no reference to parents, guardians or others with the custody of children.

Clauses (b) and (c) define maltreatment by reference to emotional, intellectual or serious physical impairment caused, not by the action or inaction of parents or guardians, but caused by the effects of the child's physical surroundings, nutritional deprivation, emotional or social environment.

By narrowing the focus of its concern to issues relating to the actions or in-actions of parents and guardians the Department is ignoring the social and environmental factors which cause child maltreatment.

The final clause in the definition of maltreatment relates to female genital mutilation and this clause makes no reference to parents, guardians or others with the custody of children.

There is no doubt that the Department's mandate to protect children from maltreatment is not limited to maltreatment caused or allowed to occur by parents or guardians, as the Department's response to the interview questions claimed. That the Department appears to be operating in this manner may constitute a serious dereliction of their responsibility to investigate and respond to child maltreatment.

The legislation states that children who have been maltreated are in need of care and provides a definition of maltreatment. It does not restrict the need to respond to maltreatment based on the matter of who might, allegedly, be responsible for maltreatment.

It is clear that the Department is not meeting all of its obligations under the 1983 Community Welfare Act and that it has inappropriately and with no legislative authority narrowed its functions to only concern itself with notifications where the person alleged responsible is a member of the child's family, has custody of the child or where such persons have failed to protect the child. This reflects the narrow investigative approach the Department has chosen to apply to its child protection and welfare responsibilities and for which there is no legislative authority.

NUMBERS OF CHILDREN SUFFERING MALTREATMENT AND RECEIVING NO SUPPORT

Research Objective 5.

To determine if there are likely to be significant numbers of Aboriginal or Torres Strait Islander children in the Northern Territory who would fall within the definition of suffering maltreatment

pursuant to the NT Community Welfare Act of 1983 but who are not provided with protection by the NT child welfare authorities.

Here too the evidence is clear and unequivocal. Even by the simplest measure, such as a reference to number of Aboriginal and Torres Strait Islander children who the Department of Health and Community Services themselves report as suffering malnutrition, there are significant numbers of Aboriginal and Torres Strait Islander children who fall within the definition of maltreatment but who are not provided with a protective response.

As noted in the findings of stage one there were just under 300 Aboriginal and Torres Strait Islander children reported by the Department to be suffering malnutrition from just three rural areas of the Northern Territory. The Department reports that such children are clinically underweight and/or stunted in their growth. Yet the child protection statistics of the same Department for the same year for the entire Northern Territory suggest that only 81 Aboriginal and Torres Strait Islander children were suffering child neglect (AIHW 1999, see tables 2.6 & 2.8 ; Collins 1999 page 149).

The definition of maltreatment in the legislation includes specific reference to physical impairment or bodily malfunction caused by nutritional or other deprivation (NT Government, 1983). Children who are malnourished

and not growing are *by definition* suffering maltreatment. That these children, (and presumably others in regions of the Northern Territory where statistics were not collected), have not come to the attention of child welfare authorities highlights the systemic flaws in the NT child protection system. Reporting child abuse and neglect is mandatory for every citizen in the NT. It is incongruous that so many Aboriginal and Torres Strait Islander children can be clinically assessed as malnourished whilst child welfare authorities record so few notifications of this type of maltreatment.

Based on this information, and other factors including the number of Aboriginal and Torres Strait Islander children reported to have permanent hearing loss from repeat middle ear infections to the extent that they cannot hear their teachers in class, (Collins, 1999, page 150) a conservative estimate would be that there are between ten and twenty times the number of Aboriginal and Torres Strait Islander children who meet the definition of maltreatment than is recorded in the current child protection data by the Department of Health and Community Services.

It is reasonable to conclude then that there are a significantly higher number of Indigenous children in the Northern Territory who suffer harm either through inflicted abuse or inescapable neglect than is reported to or recognised by child protection authorities.

SUMMARY

The Northern Territory child protection system is hardly a system at all. Non-government agencies working directly with Aboriginal children and families and Aboriginal communities continue to have profoundly negative experiences with the system. Making a child protection notification does not seem to provide people with any confidence that the child they are concerned about will be protected. In fact the commonly held view is that making a notification will simply make the child's situation worse. Non reporting of child abuse and neglect is higher in the Northern Territory than elsewhere with mandatory reporting requirements either ignored or not understood.

In relation to child neglect the prevailing levels of poverty, homelessness and preventable disease amongst Aboriginal children are higher than for other states and territories. Despite this, or perhaps because of this, the Northern Territory child protection system is ignoring its legislative,(and moral), responsibility to support and care for these children.

The most useful thing the Northern Territory Government could do in the area of child protection is start again. In starting over the government should provide Indigenous communities with an equal stake in determining how a new system should be designed and operate to ensure it advances rather than denies Indigenous child welfare.

SUMMARY RECOMMENDATIONS

RECOMMENDATION ONE:

Indigenous Child Welfare Summit

That the Northern Territory Chief Minister convene a Territory wide Indigenous child welfare summit in partnership with SNAICC, Aboriginal and Torres Strait Islander children's services and ATSIC to discuss and agree on key principles and strategies for the reform of child protection and welfare services in the Northern Territory.

RECOMMENDATION TWO:

Indigenous Child and Family Welfare Council

That the Northern Territory Government agree in principle to establish a Northern Territory Indigenous Child and Family Welfare Council under the *NT Community Welfare act* of 1983, and finalise this proposal after detailed consultations with Indigenous communities and agencies.

RECOMMENDATION THREE:

Review the role of the Northern Territory Police in child protection

That the Northern Territory Government commission an independent review of the role of the Northern Territory Police in child welfare matters including in conducting investigations into alleged child abuse and neglect, the application of mandatory reporting requirements and in recognising and reporting child abuse and neglect.

RECOMMENDATION FOUR:

Review of Mandatory Reporting

That the Northern Territory Government commission an independent review of mandatory reporting requirements including:

- the extent to which mandatory reporting requirements are understood and adhered to by professionals and others working with children and by the broader community
- the need for professional development and training for specific professions which involve contact with children

- the need for specific classes of persons or professions to be separately mandated within the legislation and for the child protection investigation system to gather appropriate information from and seek the advice of such persons when investigating child abuse and neglect

RECOMMENDATION FIVE

Compliance with the Aboriginal Child Placement Principle

That the Northern Territory Government conduct an independent audit of compliance with the Aboriginal Child Placement Principle including the current capacity of Indigenous foster care and other out-of-home care services to meet demand for the placement of Aboriginal and Torres Strait Islander children.

RECOMMENDATION SIX:

Community education and awareness

- 6a. That the Northern Territory Government establish long term community education and awareness programs which are conceived and implemented in partnership with Indigenous communities
- 6b. That the Northern Territory Government establish an ongoing program of professional development focussed on issues of child abuse and child neglect for government and non government staff who have contact with Indigenous children
- 6c. That such professional development programs be designed and implemented in the consultation with Indigenous communities and services, take account of the historical practices of child removal and take a holistic community based approach to child welfare and protection.

RECOMMENDATION SEVEN:

Developing a needs based approach to child welfare

That the Northern Territory Government support the long term development of broad, community based and universally accessible family support and child welfare services which recognise parenting as a societal obligation and focus on the holistic needs of children.

RECOMMENDATION EIGHT:

Focus on child neglect

That the Northern Territory Government consult and negotiate with Indigenous agencies and communities around the need and appropriateness of developing separate child welfare interventions and support systems for child neglect as distinct from child abuse.

RECOMMENDATION NINE:

Expand Indigenous family support services

That the Northern Territory Government develop and fund a network of Indigenous family support services and programs which are universally accessible and focussed on primary prevention of family conflict, breakdown, family violence, child abuse and child neglect.

RECOMMENDATION TEN:

Child welfare reform funding package

- 10a. That the Northern Territory Government develop a child welfare reform funding package in consultation with Indigenous agencies and communities of not less than \$20 million per annum with elements directed towards:
 - community education, training and professional development
 - establishment of additional Indigenous community based child and family welfare services

- resourcing Indigenous community based child protection teams, as provided for under the Community Welfare Act, to work from within communities on the prevention of child abuse
 - supporting the long term development of Indigenous community based child and family welfare services
 - establishing effective foster care programs for all Indigenous communities in the Northern Territory
 - providing additional support for the recruitment, training, financial assistance, support and supervision of foster carers with the care of Indigenous children
- 10b. That the majority of the child welfare reform funding package be directed towards development and support of community based Indigenous child and family welfare services and programs.
- 10c. That the Northern Territory Government seek Commonwealth assistance with the establishment of a funding package for child welfare reform given the direct responsibility of the Commonwealth Government for past practices of child removal and their ongoing role to support the welfare of all children and families, particularly in the areas of family support and early intervention.

RECOMMENDATION ELEVEN:

Indigenous child welfare policy statement

That the Northern Territory Government develop a Indigenous child welfare policy statement in partnership with Indigenous communities which:

- recognises the ongoing impact of past practices of child removal in the Northern Territory
- outlines support for ecological, holistic and community based approaches to child welfare,
- clearly states the objectives of child welfare policy including prevention of family breakdown, family violence, child abuse and child neglect and child removal, and
- supports the establishment of national standards legislation for Indigenous child welfare as recommended by the Bringing Them Home report.

RECOMMENDATION TWELVE:

Long term planning

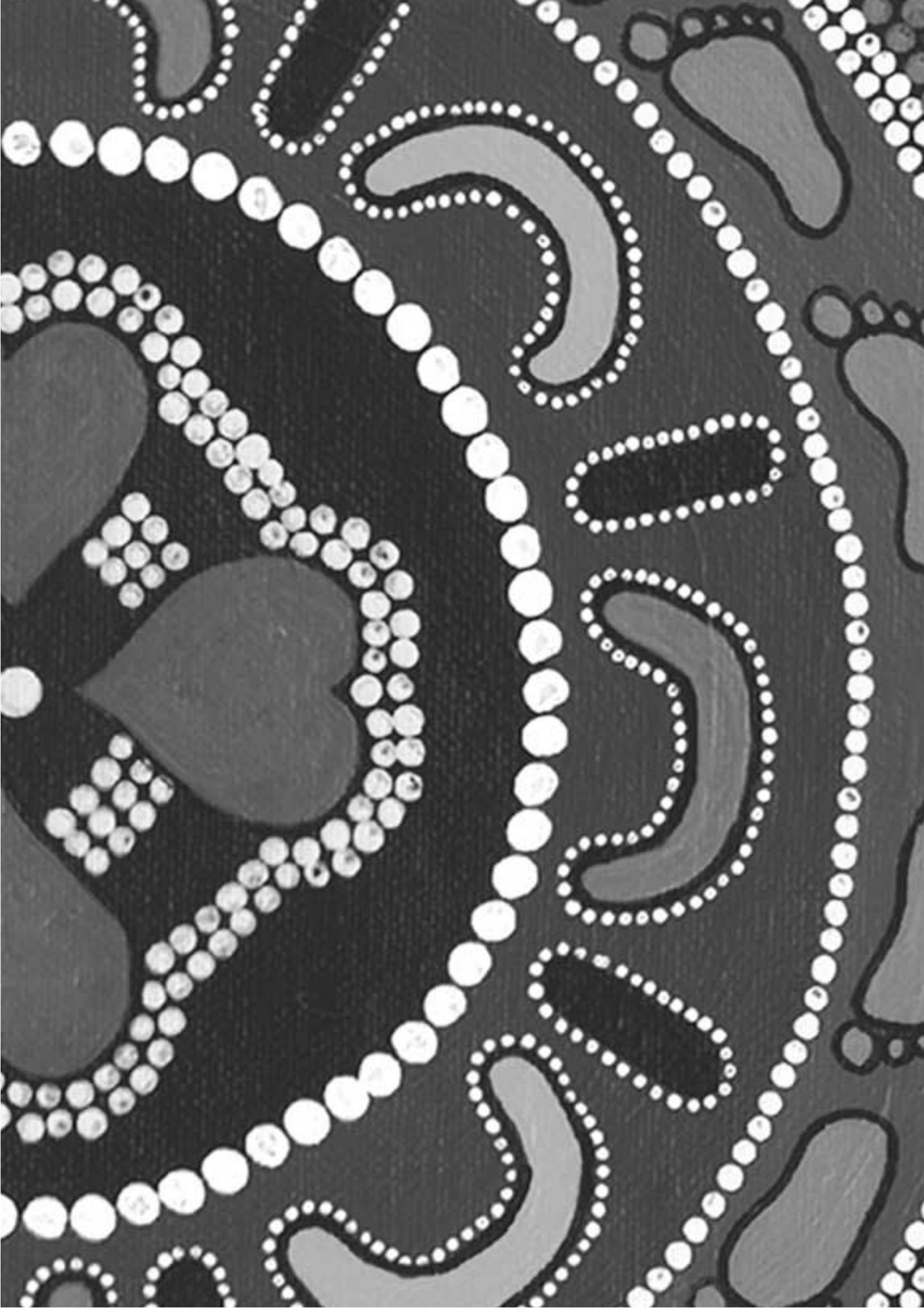
That the Northern Territory Government establish planning mechanisms to ensure that all portfolio areas of government take account of the high proportion of children and young people within the Indigenous population, including by allocating additional funding to cater for the increasing number of Indigenous children and young people.

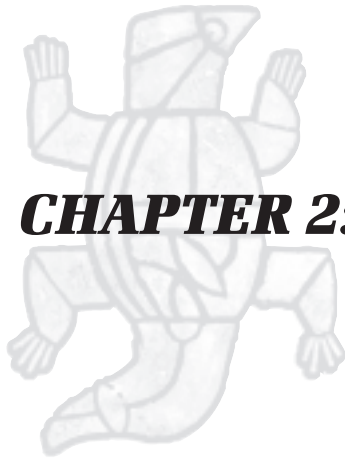
RECOMMENDATION THIRTEEN:

National Reforms

That the Northern Territory Government use its membership of the Council of Australian Governments, the Community Services Ministerial Council and other inter governmental forums to seek national support for:

- a national policy framework for Indigenous child welfare under pinned by support for ecological, holistic and community based approaches to child welfare with the objective of preventing child abuse and neglect and child removal
- the establishment of national standards legislation for Indigenous child welfare as recommended by the *Bringing Them Home* report





CHAPTER 2: COLONISATION, PROTECTION AND ASSIMILATION: SEEDS FOR A BITTER HARVEST

INTRODUCTION

Since the earliest days of colonisation Aboriginal and Torres Strait Islander peoples were subjected to harsh, discriminatory, racist and profoundly damaging policies of state intervention into the lives of their families (HREOC 1997a, Austin 1993, Butler 1993b). The control and forcible removal of children from their families became the dominating intervention in child welfare practice, motivated by the desire to eliminate Aboriginal and Torres Strait Islander people by preventing their children from being raised as Aboriginal or Torres Strait Islander (Cummings 1990, Briskman 2001, Van Krieken 1991). These policies and practices gave rise to what has become known as the Stolen Generations with calls for a national apology and compensation to those affected featuring as prominent political issues in recent years (HREOC 1997a, Ridgeway 2001). Critical to the elevation of these issues to national prominence has been the work of the national peak advocacy body for Aboriginal and Torres Strait Islander children and families, SNAICC, the Secretariat of National Aboriginal and Islander Child Care (Briskman, 2001). In 1981 SNAICC became the first national Indigenous organisation to demand a national inquiry into the Stolen Generations. Following a campaign of sustained advocacy from SNAICC and others, in 1995 the Commonwealth Attorney General established the terms of reference for a national inquiry to be conducted by the Human Rights and Equal Opportunity Commission, HREOC. The report of that inquiry, *Bringing Them Home*, concluded that;

between one in three and one in ten Indigenous children were forcibly removed from their families and communities between 1910 and 1970. (HREOC 1997b, page 4)

The *Bringing Them Home* report highlighted that the ongoing effects of previous separations were devastating and had touched the lives of every Indigenous family in Australia.

The fourth term of reference of the inquiry was to examine the removal of Indigenous children today. Aboriginal and Torres Strait Islander children, taken as a whole, are still far more likely to be removed from their families than non Indigenous children through the child protection systems of Australia's states and territories (Jackson, 1979). In the past ten years this continued over representation of Aboriginal and Torres Strait Islander children in the child welfare system has been formally recorded by the Australian Institute of Health and Welfare (Johnstone, 2000). The AIHW note that Aboriginal and Torres Strait Islander children are approximately six times more likely to be removed from home for welfare related reasons than non-Indigenous children. In the Northern Territory however, the recorded rates of child abuse and child neglect for Aboriginal and Torres Strait Islander children are only marginally higher than the national rates for all other children (AIHW, 2000).

How the rates of child abuse, child neglect and child removal for Indigenous children compare across states and territories is an issue which has received very little attention. Reports such as the *Bringing Them Home* report have not compared the contemporary removal of Indigenous children across state and territories in great detail but focussed on recommendations for application at the national level. This research project was initiated in response to the significantly lower recorded rates of substantiated child abuse and neglect amongst Aboriginal and Torres Strait Islander children in the Northern Territory and subsequently the lower recorded rates of child removal. Its central purpose has been to explore and explain these differences.

EARLY CHILD WELFARE POLICY IN AUSTRALIA - SOCIAL REFORM AND CHILD SAVERS

Just over a hundred years ago, the development of the Northern Territory child protection system occurred within a prevailing climate of racism and antagonism towards Aboriginal and Torres Strait Islander people. Racist attitudes towards Aboriginal people were commonly justified using concepts of Social Darwinism and the belief that Aboriginal people belonged to a lesser and doomed race from which children had to be saved (Gilbert 1993, Van Krieken 1991). At the same time it occurred within the framework of prevailing views and attitudes towards children, child welfare and child protection. As Van Krieken (1991) points out, maintaining social order and protecting the established rights and privileges of the middle class were exposed as the dominant motivations of the 'child savers' through the work of Anthony Platt's *The Child Savers*. Tomison

(2001) notes that the child rescue movement was driven by non-government child protection societies with an emphasis on saving children and the use of institutionalised care, domestic or low skilled training and boarding out children into foster families in order to give them a better start in life.

The influence of the child welfare movement can be seen in the work of the Aboriginal Protectors in the Northern Territory, with their policies of segregation, detention in reserves and missions for the purposes of training for domestic employment and in the policy of assimilation through elevating 'suitable 'half-castes' to take their place in society along side whites (Cummings 1990, Austin 1993).

ABORIGINAL CHILD WELFARE POLICY AND THE NORTHERN TERRITORY

It is important to recognise the link between past practices of child removal and the impact these practices continue to have on Aboriginal and Torres Strait Islander families (HREOC 1997a, HREOC 1997b, D'Souza 1994, Cummings 1990, Edwards & Read 1989).

All agencies interviewed for this research noted that the past practices of child removal continue to affect the physical, social, emotional and cultural well-being of Aboriginal and Torres Strait Islander families. Child removal and the economic, social and political segregation of Aboriginal people throughout the Northern Territory, for a period of a hundred years or more, laid the foundations for the unemployment, poverty, homelessness, poor educational access and family dysfunction which Indigenous people experience today. Arrangements for the welfare of Indigenous children today need to recognise the racism, abuse, violence and cruelty which has been practiced against them in the past. Failing to recognise how the past lives on is to allow the injustice of the past to continue.

PROTECTION

In *I can see the old home so clearly* (Austin, 1993) provides a detailed account of the Aboriginal protection policies, which authorised the removal of Aboriginal children of mixed descent from their families throughout the Northern Territory in the first half of the 20th century.

Prior to the Commonwealth taking responsibility for the Northern Territory, the South Australian Parliament passed the 1909 *Northern Territory Aboriginals Act*, which

established a legal hierarchy of races: Europeans, Asians, Aborigines of mixed descent and other Aborigines; and provided for the removal of Aboriginal children from their families (Austin 1993, page 37). The legislation did not differentiate between Aborigines and 'half-castes' and, under the legislation, the Chief Protector of Aboriginals was made the legal guardian of every Indigenous child regardless of their circumstances. Within designated areas local protectors were appointed as the local guardians of children with these positions usually filled by members of the Police force (Austin 1993, page 37).

Motivations which led to the legislation were largely economic as the South Australian government sought to take control of land in the Northern Territory (Austin 1993, page 32). Whites were concerned that large numbers of Aborigines living in poverty on the fringes of settlements may lead to incidences of theft and that Aborigines on town fringes were unwilling to become a source of cheap labour. These factors and fears about inter breeding and the growing number of 'half-castes' were significant influences in formulating policy towards Aboriginal people.

Barbara Cummings in her book, *Take this child: From the Kahlin Compound to the Retta Dixon Children's Home*, provides an equally detailed account of the protection period but from the perspective of an Aboriginal woman whose mother had been removed as a child. She outlines the development of the Aborigines Inland Mission, (AIM), the establishment of compounds, reserves and missions for the control of Aboriginal people and the duplicitous

relationship between legislators and missionaries in giving effect to policies of child removal.

Under the 1910 *Aborigines Act* and the *Aboriginal ordinances* of 1911 legal sanction was provided for the removal of any Aboriginal children and their confinement to reserves, compounds and missions (Cummings 1990).

Cummings (1990) and Austin (1993) both outline how the Commonwealth continued the policies of child removal under the direction of Professor Baldwin Spencer who during his 12 months as Chief Protector of Aboriginals recommended that:

no 'half-caste' children should be allowed to remain in any native camps, but they should all be withdrawn and placed on stations...(Cummings, 1990, page 10).

Policies of forced removal and detention were applied to whole communities, not just children, and in 1911 Spencer chose the site for the Kahlin compound in which all of Darwin's Aboriginal people would be forced to live. In 1913 a 'half-caste' home was opened within Kahlin compound and, in the same year, a tin shed known as the Bungalow, was erected in Alice Springs to house 'half-caste' children from in and around Alice Springs (MacDonald 1995). The 1910 *Aborigines Act* was later amended to transfer powers under the Act to the Police Department with all Police officers to act as local protectors.

Dr Cecil Cook served in the position of Chief Protector from 1927 to 1939 and during his term the Federal Government appointed John Bleakley to examine the 'Aboriginal question' (Austin 1993). As Cummings (1990) notes, Bleakley saw the issue of 'half-castes' as *how to check the breeding of them and deal with those now with us* and proposed the segregation of Aboriginal communities on the basis of the amount of European blood they possessed. He proposed the complete segregation and breeding out of 'half-castes' and the separation of blacks from whites in order to ensure they could only marry amongst themselves (Cummings 1990 page 13).

Austin (1993) notes that Cook was particularly concerned that the 'half-caste' population may grow to match that of the white population and argued that the Northern Territory could not possibly provide work for all. As Cook saw it this left the Commonwealth exposed, as he feared that if whites were fully employed then thousands of 'half-castes' would be left unemployed and need to be maintained by the Commonwealth. The solution, as he saw it, was to raise the 'half-caste' to a status similar to whites so that they might migrate to other parts of Australia and compete for employment elsewhere (Austin 1993 page 198).

Bleakley recommended the hand over of 'half-caste' and other children of mixed descent to missions with separate missions to take control of children depending on their proportion of Aboriginal blood. Part of his motivation was to minimise the cost of segregating and training Aboriginal children in government run institutions - missions were both eager and cheaper (Cummings 1990).

Between 1910 and 1950 church and government missions or reserves were opened and operated in over 15 locations across the Territory. They included: Melville Island - 1910 (Roman Catholic); Croker Island - 1941 (Methodist); Goulburn Island - 1916 (Methodist); Elcho Island - 1921 (Methodist); Yirrkala - 1935 (Methodist); Groote Eylandt - 1924 (Church Missionary Society); Roper River - 1908 (Church Missionary Society); Phillip Creek - 1946 (Church Missionary Society); Oenpelli - 1920 (Church Missionary Society); Kahlin Compound - 1911 (Government); Retta Dixon home - Darwin 1947 (Church Missionary Society); Pine Creek - 1913 (Government); The Bungalow, Alice Springs - 1913 (Government); St Mary's, Alice Springs - 1946 (Anglican) and Hermannsburg - 1877 (Lutheran) (MacDonald & Archives, 1995).

Conditions in the missions, reserves and compounds were harsh and children were only to be trained for domestic, pastoral and low skilled areas of employment. This was consistent with the racist belief that Aboriginal people, mixed descent or not, were not capable of anything more, and conveniently corresponded to fulfilling the economic needs of the Territory for these forms of labour (Cummings 1990 page 10).

The interference, intervention and control over the lives of Aboriginal people implemented through legislation and ordinances extended to curfews, restrictions on movement, restrictions on marriage, attendance at the cinema, exclusion from school and exclusion from employment. Austin estimates that in the fifty years after 1912 two out of three part descent Aboriginal children were removed from their parents.

THE NEW DEAL AND ASSIMILATION

In 1939 the Minister for the Interior, John McEwen, after visiting the Northern Territory, announced his New Deal for Aborigines the central aim of which was to raise the status of Aboriginal people, 'so as to entitle them by right, and by qualification to the ordinary rights of citizenship, and enable them and help them to share with us the opportunities that are available in their own native land' (McEwen 1939, as cited in Cummings 1990 page 39).

The position of Chief Protector was abolished, and replaced by the Native Affairs branch headed by a Director with a small number of staff. Whilst officially the

new policy of assimilation did not share the protection periods' policy objective of *breeding out 'half-castes'*, the removal of Aboriginal children to missions continued. The policy towards Aboriginal people living in what was described as a 'tribal' or a 'semi tribalised state' was to continue, to 'protect them' through the establishment or continued operation of Aboriginal reserves on the outskirts of major towns (Cummings 1990 page 42).

During the Second World War concerns over the possible invasion of Australia saw many Aboriginal people from missions and reserves evacuated to other parts of the country. Ironically, during the war the military command over the Northern Territory had seen some Aboriginal people benefit from access to paid work and improved living conditions. With the Native Affairs Branch resuming responsibility for the welfare of Aboriginal people the policies of child removal, segregation and assimilation resumed under the New Deal (Cummings 1990).

In the early 1950's a new welfare ordinance was implemented under the *1953 Welfare Act* which placed more emphasis on child neglect rather than race. Under the *1953 Welfare Act* children declared by the Director of Welfare to be state wards were still subject to vigorous regulation and control. Cummings (1990 page 93) highlights the opposition of the non Aboriginal community to the bill fearing that if non Aboriginal children were declared wards their lives would be subject to the same restrictions and regulation commonly imposed on Aboriginal people. Amendments were introduced to narrow the application of the legislation and declare all Aboriginals as state wards unless they had previously been granted an exemption from Aboriginal ordinances. Thus whilst the *1953 Welfare Act* was broadly applicable to all children in the Northern Territory, the declaration that all Aboriginal children were state wards meant that in practice Aboriginal families faced continued discrimination.

Neglected and destitute children in the post-war period were the responsibility of the State Children's Council, a non-government body that worked with the Welfare branch. Population increase and the implementation of the *1953 Welfare Act* had seen the number of children of mixed descent placed in the care of the Council continue to increase until in 1958 new legislation was passed; the *1958 Child Welfare Act* (Cummings 1990). Under the *1958 Child Welfare Act* the Children's Court was established to exercise powers previously in the hands of administrators and, the Child Welfare Council was created comprising of church, missionary, government, Police and Commonwealth public service representatives to subsume the role of the State Children's Council.

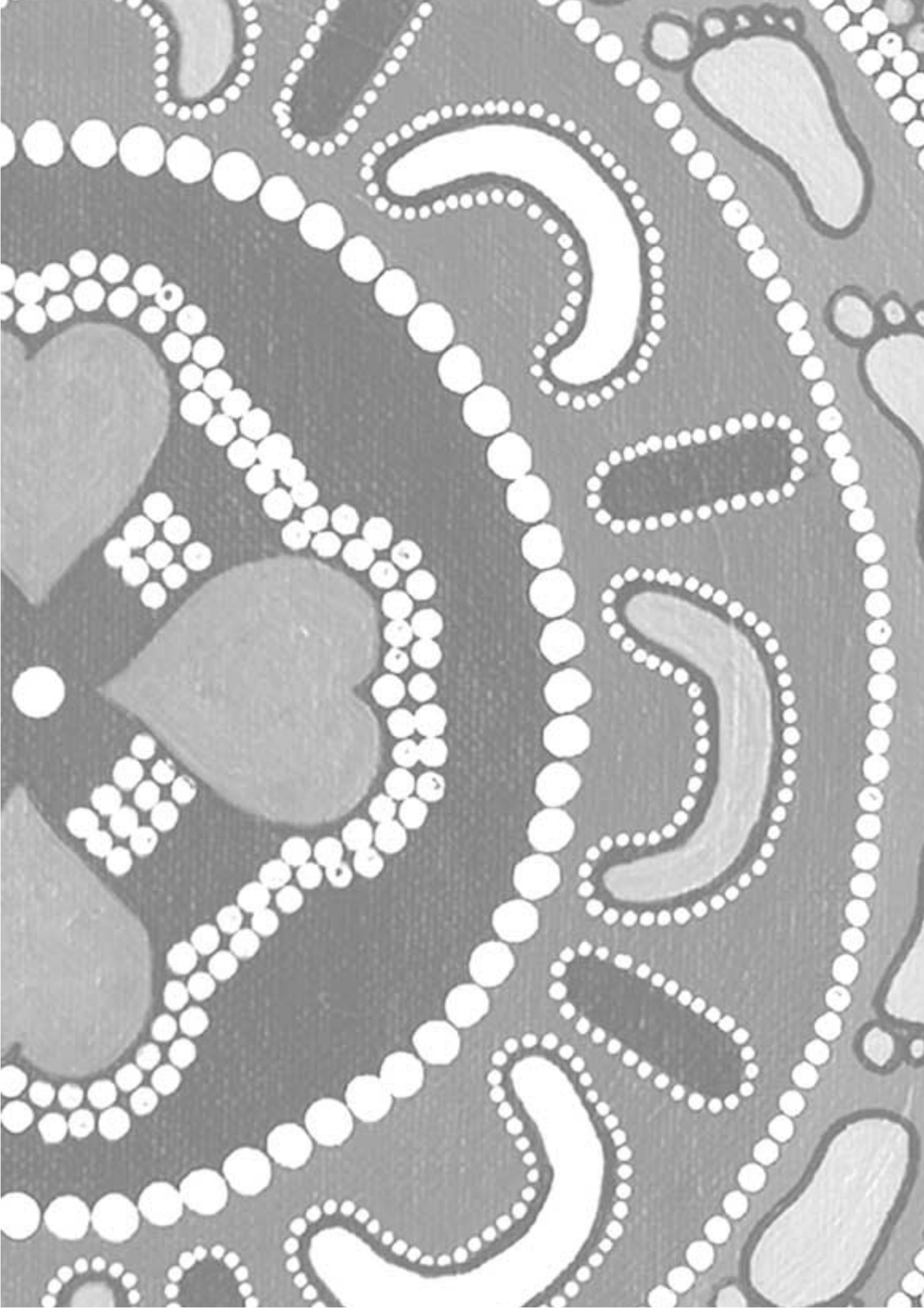
From the early 1960's legislative reforms began to reduce the power exercised over state wards however the discrimination between 'part' Aboriginal and Aboriginal people continued with the 1964 *Social Welfare Act* prohibiting 'part' Aboriginal people and any other persons from entering Aboriginal reserves as they were not considered Aboriginal (Cummings 1990 page 129).

RECENT DEVELOPMENTS AND CURRENT LEGISLATIVE ARRANGEMENTS FOR CHILD WELFARE

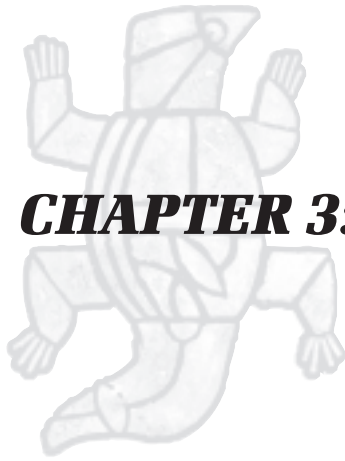
Dissatisfied with ongoing high levels of child removal in the late 1970's Aboriginal and Torres Strait Islander communities agitated for direct control over the welfare of their children (Jackson 1979, Briskman 2001, Chisholm 1983). Cummings highlights the original decision to establish an autonomous Aboriginal and Islander child care agency in Darwin, Karu, and to recognise the rights of Aboriginal people in relation to the care and custody of their children. Significantly the *1983 Northern Territory Community Welfare Act* was among the first pieces of child welfare legislation in Australia to enshrine the Aboriginal Child Placement Principle which aims to preserve rather than eliminate Indigenous culture.

The *1983 Community Welfare Act* provides the current framework for the operation of the child welfare system in the Northern Territory. Significantly it makes no reference to the history of child removal in the Northern Territory, to the ongoing impact of previous separations, or to addressing the underlying causes of poverty and disadvantage which threaten the health and well being of Aboriginal and Torres Strait Islander children and families. Like all the Northern Territory child welfare legislation that preceded it, it was neither negotiated with, or developed by and for Aboriginal and Torres Strait Islander families, but imposed upon them continuing what D'Souza has described as 'Institutionalised Colonialism' (D'Souza, 1994).

The silence of the current legislation on the history of child removal and the deliberate break up of Aboriginal communities tends to suggest that legislators have overlooked the ongoing impact of past policies, with the result that the legislation is inherently flawed. It is the past policies and practices which have so profoundly disrupted the capacity of Aboriginal families to care for and raise their children today. This is the bitter harvest of the seeds sown in previous generations – failing to recognise this undermines attempts to repair the damage.







CHAPTER 3: RESEARCH ANALYSIS AND FINDINGS

THEORETICAL FRAMEWORKS FOR RESEARCH ANALYSIS

SELECTING A THEORETICAL FRAMEWORK

Much of the existing research in the area of Aboriginal child welfare in Australia has adopted theoretical frameworks which focus on race, colonisation or citizenship. For this research I took a different approach and selected a theoretical framework which focussed on holistic community based approaches to the prevention of child maltreatment. There are three major reasons for choosing this framework.

Firstly this framework seems to most closely reflect the expressed views of AICCAs, and Indigenous communities more generally, regarding preferred models or underlying principles for child welfare systems. These include that the child welfare system work with children and families holistically, in the context of their family and community, and in a manner which seeks to resolve underlying causes of child abuse and neglect. This is not to say that organisations and communities have not also spoken in terms of race, colonisation and citizenship, but merely places emphasis on analysing issues from a perspective which has received relatively less attention.

Second, in selecting a theoretical framework I was cognisant of the expressed desire of SNAICC and its member organisations to achieve self determination and community control by establishing autonomous child welfare systems (Briskman 2001, SNAICC 1998). The development of autonomous Indigenous community controlled systems for the care and welfare of children, to replace the current state and territory based systems of child welfare, lies at the heart of SNAICC's very existence (Butler 1993a). Arguably progress towards this goal has been modest as SNAICC's member agencies in the area of child welfare, Aboriginal and Islander Child Care Agencies, or AICCAs, act as components of their respective state and territory based child welfare systems (Cadd & D'Souza, 1999). Typically AICCAs have narrowly specified roles in the child welfare system and are limited by government funding contracts which fail to fully respond to the needs or desires of their local communities. They undoubtedly operate as part of, rather than as alternatives to, the child welfare system (Briskman 2001). Whilst previous research and reports

in this area have supported the notion that AICCAs and Indigenous communities take control of Indigenous child welfare, such research and reports have typically provided little practical advice on the manageable steps to such an endpoint (ALRC, 1986, HREOC 1997b, Rayner 1994).

Discussing the research findings within a child protection theoretical framework should assist SNAICC and its members to better understand the current child welfare systems they operate within. In turn, this should assist them to make strategic judgements regarding the further development of their claims for autonomy and self determination in the area of child welfare. It enables the recommendations and conclusions of the research to be framed in a way that recognises not only the endpoint sought by SNAICC members, ie self determination and autonomy, but equally their starting point of operating from within state and territory child welfare systems.

The third significant factor in my choice of a theoretical framework was that there are, in my view, two distinct periods in the legislative history of Aboriginal child welfare in the Northern Territory. The first period in the Northern Territory is marked by the application of separate and distinct legislation to provide for the welfare of Aboriginal children commencing in 1909, when the South Australian Parliament passed the *Northern Territory Aboriginals Act*, and ending in 1958 with passage of the *1958 Welfare Act* which was to apply to all children - not specifically Aboriginal children. Notwithstanding that child welfare legislation may include specific provisions for Indigenous children, since 1958 the Northern Territory has operated a unified child welfare system.

In the first period, issues of race and colonialism were the dominant motivations for legislation, policy and practice. In the latter period issues of institutionalised racism and colonialism were still prevalent however the motivations of legislators when framing child welfare legislation had begun to change. This research is focussed predominantly on the latter period and the contemporary removal of Indigenous children. Analysing the research findings through a theoretical framework

focussed on the development of holistic community based approaches to preventing child maltreatment complements previous analysis focussed on racism and colonialism, whilst recognising the shifts in policy motivations for child welfare legislation.

HOLISTIC COMMUNITY BASED APPROACHES TO CHILD PROTECTION

Tomison and Wise (1999) writing for the National Child Protection Clearinghouse, provide an overview of the major theoretical elements in developing holistic community based approaches aimed at preventing child abuse and neglect. These they describe as ecological frameworks, risk and resiliency and social capital with the elements working not as separate constructs but as part of a community based approach to child abuse prevention.

Ecological approaches to prevention of child maltreatment recognise that to comprehensively prevent child maltreatment, child welfare programs need to address the factors which give rise to maltreatment (Tomison & Wise, 1999). They argue that the tendency has been to construct child protection systems to operate within environmental or societal constraints, noting that child protection staff may perceive changing structural forces as beyond their scope.

They outline that risk and resiliency frameworks focus on identifying and minimising the known risk factors for child maltreatment, whilst enhancing the protective factors which seem to enable some children to become resilient to maltreatment. The resilience of children is determined by the combination of risk and protective factors. Protective factors may include the disposition of the child, positive family relationships or external factors such as access to other networks of social support (Tomison & Wise, 1999). Prevention strategies which arise from risk and resiliency might typically include teaching children protective behaviours

Social capital is discussed by Tomison & Wise as the third theoretical element of developing a holistic community based approach to preventing child maltreatment. They describe social capital as *social relations of mutual benefit that are characterised by norms of trust and reciprocity* (Tomison & Wise 1999 page 4). Social capital theories rely on the assumption that,

The connections made with family, friends, neighbours, and local professionals, positively influence the ability to cope when problems arise, providing opportunities to seek advice and assistance (Tomison & Wise, 1999 page 4).

However, the experiences of Aboriginal and Torres Strait Islander families highlight the possibility that increased connectedness may not always be beneficial. The severely overcrowded housing and abject material poverty which confronts many Aboriginal and Torres Strait Islander families in the Northern Territory, (see Chapter Three - Research Findings, stage one), may in fact cause increased social connectedness to simply reinforce life's pressures. Tomison & Wise cite extensive research to make this point;

Living in an environment plagued by various social ills may adversely impact on the quality of life of community members. Residing in a community of high unemployment, high crime rates, poor transport facilities and poor access to professional services, where the social interactions which take place are predominantly with others who are also struggling to cope with life's pressures, is less likely to produce favourable social outcomes. (Tomison Wise 1999 page 5).

Research findings are discussed and analysed in Chapter Four utilising the outline of holistic community based approaches to the prevention of child maltreatment provided by Tomison and Wise (1999).

STAGE ONE: CHILD PROTECTION AND SOCIO-ECONOMIC DATA ANALYSIS

This section of the report compares the available child protection data relating to Aboriginal and Torres Strait Islander children across states and territories.

CHILD PROTECTION DATA

The Australian Institute of Health and Welfare publish reports annually on the child protection data for all states and territories. Included in these reports is information for Indigenous and non-Indigenous children on:

- child protection systems in each state and territory including legislative frameworks,
- notifications, investigations and substantiations of child abuse and neglect,
- types of care and protection orders,
- numbers and rates of children on care and protection orders; and
- numbers and rates of children placed in out-of-home care.

OVERVIEW

As reported by Johnstone (2000) there are some gaps in the data provided by states and territories for Aboriginal and Torres Strait Islander children and published by the AIHW. This is due to variances in the data collection practices of states and territories, differences in the way in which Aboriginal and Torres Strait Islander status may be defined or recorded and changes in policy such as the screening of what might previously have been counted as a notification in states including Western Australia and Tasmania (Johnstone 2000 page 17). However the AIHW have been collecting and publishing child protection data for over a decade and comparisons between states and territories are now possible (Johnstone 2000).

Data on substantiations covers the longest period, with data on care and protection orders and placement in out-of-home care only being recorded more recently.

Table 1 below summarises the available data from the AIHW Child Protection Reports and clearly demonstrates the gaps in data for Indigenous children.

Table 1: Child protection summary data - Indigenous Children

Substantiations, care and protection orders and placements in out-of-home care for Indigenous Children in the Northern Territory and Australia; Rates listed as number of children per 1,000 aged 0-17 years by Indigenous status and by state and territory - 1994/5 to 1999/2000

	1999/2000		1998/99		1997/98		1996/97		1995/96		1994/95	
	NT	AUST	NT	AUST	NT	AUST	NT	AUST	NT	AUST	NT	AUST
Substantiations												
Number	172	na	na	na	163	na	128	na	117	2,449	194	3,102
Rate per 1,000	7.6	na	na	na	7.3	na	6.1	na	5.6	18.0	na	19.1
Care and Protection Orders												
Number	118	3,861	93	na	72	2,868	58	2,548	56	1,951	na	na
Rate per 1,000	4.9	20.2	3.9	na	3.1	15.5	2.6	14.9	2.6	13.6	na	na
Out of Home Care												
Number	94	3,496	93	na	71	2,634	58	2,785	na	na	na	na
Rate per 1,000	3.9	18.3	3.9	na	3.0	14.2	2.6	16.3	na	na	na	na

Sources:

Child Protection Australia 1999/00. AIHW. cat no CWS 13.
 Child Protection Australia 1998/99. AIHW. cat no CWS 11.
 Child Protection Australia 1997/98. AIHW. cat no CWS 8.
 Child Protection Australia 1996/97. AIHW. cat no CWS 4.
 Children on Care and Protection Orders Australia 1995/96.
 AIHW. cat no CWS 2.
 Child Abuse and Neglect Australia 1995/96. AIHW. cat no CWS 1.
 Child Abuse and Neglect Australia 1994/95. AIHW. cat no CWS 16.

Notes:

1. Substantiations are for children aged 0-16 due to small number of substantiations for children aged 17
2. Care and Protection orders recorded as the number of orders at June 30th
3. Care and Protection orders and placements in out-of-home care are for children aged 0-17
4. n/a indicates that data was not available for that category for that year

Trends for Aboriginal and Torres Strait Islander Children.

Despite limitations in the available data Johnstone notes some of the trends which can be observed for Aboriginal and Torres Strait Islander children (Johnstone 2000 page 16). These include the wide range in rates of Aboriginal and Torres Strait Islander children in substantiations, noting that this may be due to differences in the number of Aboriginal and Torres Strait Islander children who actually require a child protection response but more significantly differences in the child protection policy and practices across jurisdictions (Johnstone 2000 page 16).

Data for the Northern Territory

AIHW Child Protection reports show that the recorded rates of substantiated child abuse and neglect, rates of children on care and protection orders and the rates children in out-of-home care are significantly and consistently lower in the Northern Territory than for all other states and territories combined. This is true for both Aboriginal and Torres Strait Islander and non Indigenous children.

Only Tasmania and the ACT have recorded lower rates of substantiations, lower rates of children on care and protection orders and lower rates of children in out-of-home care. The small Aboriginal and Torres Strait Islander population size for both the ACT and Tasmania can contribute to greater variations in figures from year to year with Johnstone noting that for these two jurisdictions no clear trends are evident in the available data (Johnstone 2000 page 18).

SUBSTANTIATIONS OF CHILD ABUSE AND NEGLECT

Excluding the ACT and Tasmania, for reasons cited above, the Northern Territory records the lowest rate for substantiations of all state and Territories. Tables 2 and 2a present data for the two most recent years for which the Northern Territory has compiled and published data 1999/2000 and 1997/98.

In terms of the actual number of substantiations a comparison with the figures for Western Australia is useful in that Western Australia has a resident Aboriginal and Torres Strait Islander population similar in size to that of the Northern Territory - 56,200 and 51,900 respectively in 1996 (ABS Census of Population and Housing, table 1.1 page 7).

In each of the nine years for which data on substantiations is available the number of substantiations in the NT is approximately half the number for Western Australia. For the most recent six years the number of substantiations in the Northern Territory is less than the number for South Australia which has 60% fewer Aboriginal and Torres Strait Islander children. (see Table 3 Number of Substantiations: Ten Year Summary)

Table 2: Substantiations 1997/98

Number and rates of children per 1,000 aged 0-16 years who were the subject of substantiated abuse and/or neglect; by Indigenous status and by state and territory - 1997/98.

	NSW	VIC	QLD	WA	SA	TAS	ACT	NT
Indigenous Children								
Number of Children	655	460	771	272	260	3	33	163
Rate per 1,000	12.9	46.4	15.8	10.8	26.3	0.4	23.7	7.3
Other Children								
Number of Children	6,841	5,932	3,582	783	1,309	127	324	148
Rate per 1,000	4.7	5.6	4.5	1.9	4.0	1.1	4.4	4.4
Total Children								
Number of Children	7,496	6,392	4,353	1,055	1,569	130	357	311
Rate per 1,000	5.0	5.9	5.1	2.4	4.7	1.1	4.7	5.6

Source: Child Protection Australia 1997/98. AIHW. cat no CWS 8. table 2.6

Table 2A: Substantiations 1999/2000

Number and rates of children per 1,000 aged 0-16 years who were the subject of substantiated abuse and/or neglect; by Indigenous status and by state and territory - 1999/2000.

	NSW	VIC	QLD	WA	SA	TAS	ACT	NT
Indigenous Children								
Number of Children	761	568	502	329	337	4	6	172
Rate per 1,000	14.6	55.5	9.9	12.7	33.0	0.7	2.5	7.6
Other Children								
Number of Children	5,054	6,218	4,303	724	1,354	73	184	179
Rate per 1,000	3.5	5.8	5.4	1.7	4.2	0.7	2.5	5.3
Total Children								
Number of Children	5,815	6,786	4,805	1,503	1,691	77	190	351
Rate per 1,000	3.9	6.3	5.6	2.3	5.1	0.7	2.6	6.2

Source: Child Protection Australia 1999/2000. AIHW. cat no CWS 13. table 2.7

Table 3: Number of Substantiations -Ten Year Summary

Number of substantiations of child abuse and/or neglect for Indigenous children by state and territory from 1990/1991 to 1999/2000

		90/91	91/92	92/93	93/94	94/95	95/96	96/97	97/98	98/99	99/00
% Indigenous Population	state/Territory	Number of Substantiations of Child Abuse or Neglect									
28.47%	NSW	1,098	815	1,044	1,576	1,405	1,060	na	655	864	761
5.85%	Vic	37	42	125	139	239	269	365	460	na	568
27.15%	Qld	468	413	452	529	660	539	565 ^a	771	492	502
14.55%	WA	272	227	375	486	342	208	217	272	598	329
5.71%	SA	60	52	129	234	225	203	239	260	269	337
3.96%	Tas	13	18	12	9	14	12	16	3	8	4
0.79%	ACT	11	10	43	42	23	42	23	33	23	6
13.43%	NT	130	121	142	187	194	117	128	163	na	172
100%	Aust	2,089	1,689	2,322	3,202	3,102	2,449	na	2,584		2,679

Sources:

Child Protection Australia 1999/00. AIHW. cat no CWS 13.
 Child Protection Australia 1998/99. AIHW. cat no CWS 11.
 Child Protection Australia 1997/98. AIHW. cat no CWS 8.
 Child Protection Australia 1996/97. AIHW. cat no CWS 4.
 Children on Care and Protection Orders Australia 1995/96. AIHW. cat no CWS 2.
 Child Abuse and Neglect Australia 1995/96. AIHW. cat no CWS 1.
 Child Abuse and Neglect Australia 1994/95. AIHW. cat no CWS 16.
 Child Abuse and Neglect Australia 1993/94. AIHW. cat no CWS 13.
 Child Abuse and Neglect Australia 1992/93. AIHW. cat no CWS 9.
 Child Abuse and Neglect Australia 1991/92. AIHW. cat no CWS 5.
 Child Abuse and Neglect Australia 1990/91. AIHW. cat no CWS 2.

Notes:

a. Data for Qld in 96/97 is for the 1996 calendar year
 na - denotes not available

CARE AND PROTECTION ORDERS

As would be expected the relatively low rate of substantiations in the Northern Territory, is mirrored in the number and rate of Aboriginal and Torres Strait Islander children on care and protection orders.

In 1998 and 2000 the Northern Territory recorded the lowest rate of Aboriginal and Torres Strait Islander children on care and protection orders in all states and territories with rates of 3.1 per 1,000 and 4.9 per 1000 respectively. These figures compare with the national rate for Aboriginal and Torres Strait Islander children on

care and protection orders of 15.5 per 1,000 in 1998 and 20.2 per 1,000 in 2000. (See Tables 4 and 4a)

Figures for the rates of Aboriginal and Torres Strait Islander children for the Northern Territory and for Australia on care and protection orders for earlier years are listed in Table 1 and include; 1997 NT 2.6 per 1000 - Australia 14.9; 1996 NT 2.6 per 1000 - Australia 13.6.

Put another way the national rate of Aboriginal and Torres Strait Islander children on care and protection orders in all recorded years is between four and five times higher than the rate for the Northern Territory.

Table 4: Care and Protection Orders - June 1998
Number and rates of children per 1,000 aged 0-17 years on care and protection orders; by Indigenous status, by state and territory - as at June 30 1998.

	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	AUST
Indigenous Children									
Number of Children	1,195	294	852	215	160	34	47	72	2,868
Rate per 1,000	22.3	28.2	16.5	8.1	15.3	4.6	31.2	3.1	15.5
Other Children									
Number of Children	4,792	3,921	2,581	584	942	486	209	66	13,581
Rate per 1,000	3.1	3.5	3.1	1.3	2.7	4.2	2.7	1.9	3.0
Total Children									
Number of Children	5,987	4,215	3,433	799	1,102	520	255	138	16,449
Rate per 1,000	3.8	3.7	3.8	1.7	3.1	4.2	3.2	2.4	3.5

Source: Child Protection Australia 1997/98. AIHW. cat no CWS 8. table 3.4

Table 4A: Care and Protection Orders - June 2000
Number and rates of children per 1,000 aged 0-17 years on care and protection orders; by Indigenous status, by state and territory - as at June 30 2000.

	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	AUST
Indigenous Children									
Number of Children	1,826	448	856	327	215	31	40	118	3,861
Rate per 1,000	33.1	41.4	15.9	12.0	19.9	4.2	26.0	4.9	20.2
Other Children									
Number of Children	5,835	4,304	2,756	778	995	439	192	102	15,401
Rate per 1,000	3.8	3.8	3.2	1.7	2.9	3.9	2.5	2.9	3.4
Total Children									
Number of Children	7,661	4,752	3,612	1,105	1,210	470	232	220	19,262
Rate per 1,000	4.8	4.2	4.0	2.3	3.4	3.9	3.0	3.7	4.1

Source: Child Protection Australia 1999/2000. AIHW. cat no CWS 13. table 3.8

CHILD REMOVAL AND PLACEMENT IN OUT-OF-HOME CARE

Out of home care refers to the placement of children, with or without a child protection order in place, in the care of people other than their parents or guardians. Out of home care includes placement with relatives or kin and is generally distinguished by the fact that the carer receives financial support for the care of the child from the relevant State or Territory Department.

As the data only refers to situations which have had some formal involvement of state and territory welfare

departments it does not include the informal arrangements families may make for their children to be cared for, either long or short term, by relatives, kin or others. These types of arrangement are often referred to as kinship care and may or may not have been organised with the knowledge, assistance or involvement of a state or Territory welfare department. Kinship care placements are not included in out-of-home care data.

As with the data on child protection orders and substantiations, the rate at which Aboriginal and Torres Strait Islander children are placed in out-of-home care in the Northern Territory is very low.

Table 5: Children in out-of-home care - June 1998

Number and rates of children per 1,000 aged 0-17 years by Indigenous status and by state and territory - as at June 30 1998.

	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	AUST
Indigenous Children									
Number of Children	1,153	320	522	310	188	34	36	71	2,634
Rate per 1,000	21.5	30.7	10.1	11.6	18.0	4.6	24.4	3.0	14.2
Other Children									
Number of Children	4,450	3,295	1,824	783	819	408	143	66	11,788
Rate per 1,000	2.9	2.9	2.2	1.7	2.4	3.5	1.8	1.9	2.6
Total Children									
Number of Children	5,603	3,615	2,346	1,093	1,007	442	179	137	14,422
Rate per 1,000	3.5	3.2	2.6	2.3	2.8	3.6	2.2	2.3	3.1

Source: Child Protection Australia 1997/98. AIHW. cat no CWS 8. table 4.4

Table 5A: Children in out-of-home care: June 2000

Number and rates of children per 1,000 aged 0-17 years by Indigenous status and by state and territory - as at June 30 2000.

	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	AUST
Indigenous Children									
Number of Children	1,815	297	592	420	211	38	29	94	3,496
Rate per 1,000	32.9	27.5	11.0	15.4	19.5	5.1	18.9	3.9	18.3
Other Children									
Number of Children	5,226	3,570	2,042	906	920	510	171	82	13,427
Rate per 1,000	3.4	3.2	2.4	2.0	2.7	4.5	2.2	2.3	3.0
Total Children									
Number of Children	7,041	3,867	2,634	1,326	1,131	548	200	176	16,923
Rate per 1,000	4.5	3.4	2.9	2.8	3.2	4.6	2.6	3.0	3.6

Source: Child Protection Australia 1997/98. AIHW. cat no CWS 8. table 4.4

In both 1998 and 2000 the Northern Territory recorded the lowest rate of Aboriginal and Torres Strait Islander children in out-of-home care with rates of 3.0 per 1,000 and 3.9 per 1000 respectively. These figures compare to the national rates for Aboriginal and Torres Strait Islander children on care and protection orders of 14.2 per 1,000 in 1998 and 18.3 per 1,000 in 2000. (see Tables 5 and 5a).

In 1997, the only other year for which data on out-of-home care for both the Northern Territory and Australia as a whole is available, the rates were 3.0 per 1,000 and 14.2 per 1,000. (Refer Table 1.)

Again the data highlights the markedly low rates for the Northern Territory. The national rate of Aboriginal and Torres Strait Islander children being removed from home and placed in out-of-home care is consistently between four and five times higher than the rate for the Northern Territory.

SUMMARY - CHILD PROTECTION DATA

Aboriginal and Torres Strait Islander children in the Northern Territory are the least likely of any Aboriginal and Torres Strait Islander children to be the subject of

substantiated reports of child abuse or neglect, be the subject of a care and protection order or be removed from home and placed in out-of-home care.

The rates of substantiations, care and protection orders and placements in out-of-home care for Aboriginal and Torres Strait Islander children in the Northern Territory are significantly and consistently below rates for other Aboriginal and Torres Strait Islander children. The difference in the rates is marked with the national rates for Aboriginal and Torres Strait Islander on child protection orders and placement in out-of-home care being four or five times higher than those for Northern Territory.

As noted earlier Johnstone (2000) suggests that the wide range in rates of Aboriginal and Torres Strait Islander children in substantiations may be due to differences in the number of Aboriginal and Torres Strait Islander children who actually require a child protection response. However she argues it is more likely to be caused by differences in the child protection policy and practices across jurisdictions. This strongly suggests that the Northern Territory has the highest level of unrecorded child abuse and neglect amongst Aboriginal and Torres Strait Islander children in Australia.

FACTORS CONTRIBUTING TO THE INCIDENCE OF CHILD ABUSE AND NEGLECT

One explanation for the lower rates of substantiated child abuse and neglect and placement in out-of-home care for Indigenous children in the Northern Territory is that the factors which cause child abuse and neglect are less prevalent in the Northern Territory. Thus it is necessary to identify what types of factors are thought to contribute to child abuse and neglect. If these factors are far less common in the Northern Territory then it may explain the lower rates of substantiated child abuse and neglect and placement in out-of-home care.

As noted by the Australian Institute of Health and Welfare, (AIHW),

- poverty,
- poor socio-economic status,
- differences in child rearing practices, and
- inter-generational effects of previous separations,

are all considered significant factors in the national over representation of Aboriginal and Torres Strait Islander children in substantiated cases of child abuse and neglect and in placement in out-of-home care (AIHW 2000, page 16).

In discussing family type and the over representation of children from sole parent families in substantiations, (both Aboriginal and Torres Strait Islander and non Indigenous), the AIHW note that the likely reasons for this are that these families are more likely to;

- have low incomes and be financially stressed
- live in poor quality housing, and
- suffer from social isolation (AIHW 1999, page 17).

Like sole parent families, Aboriginal and Torres Strait Islander families across Australia are far more likely than other families to experience poverty, financial stress and live in poor quality housing (AIHW 1999, page 20).

In relation to differences in child rearing practices, (that is child rearing practices differing from those of the dominant culture), and the inter-generational effects of previous separations, these two factors are common to Aboriginal and Torres Strait Islander communities throughout Australia. As such they are less likely than other factors, such as the incidence of poverty and the prevailing socio-economic circumstances, to provide an explanation for the lower rates of recorded abuse and neglect in the Northern Territory. The report of the

Human Rights and Equal Opportunity Commission, (HREOC), *Inquiry into the separation of Aboriginal and Torres Strait Islander children from their families, Bringing Them Home*, illustrates that the effects of previous separations are at least as prevalent in the Northern Territory as any other part of Australia (HREOC 1997a).

As was documented through *Bringing Them Home* the forced removal of children took place in all states and territories.

Indigenous children have been forcibly removed from their families and communities since the very first days of the European occupation of Australia. In that time, not one Indigenous family has escaped the effects. Most families have been affected in one or more generations by the removal of one or more children (HREOC 1997b, page 4).

In reviewing the research and literature relating to child neglect Adam Tomison from the National Child Protection Clearinghouse notes that,

Child neglect is commonly associated with low income, larger, multi problem families, families receiving government benefits, poor housing and living conditions and low educational and employment levels (Tomison 1995b, page 3).

In 1995 the Secretariat of National Aboriginal and Islander Child Care, SNAICC, was commissioned by the Commonwealth to prepare a national plan for the prevention of child abuse and neglect. SNAICC carried out a series of consultations with Aboriginal communities in rural, remote and urban areas following the preparation and distribution of a national discussion paper.

Consultations identified issues which were seen by Aboriginal communities as contributing factors or as directly related to child abuse and neglect. These included: -

- Breakdown of traditional Aboriginal society and loss of child rearing practices
- Deprivation of culture and loss of identity arising from previous generations of child removal from families and forced relocation of communities
- Inadequate housing and housing facilities
- Alcohol and other substance abuse

More specifically the plan states,

The relationship between poverty and the high incidence of child abuse and neglect was frequently noted in consultations. Aboriginal children are more likely to experience an absence of a decent standard of diet, clothing, housing and health care

than is acceptable to the majority of Australians. Aboriginal people experience high levels of unemployment, reduced participation rates in education and recreation pursuits. Many parents are single, unemployed, living in crowded conditions and have little access to formal child care (SNAICC 1996, page 6).

It adds that,

Dispossession, racism, a sense of hopelessness and powerlessness and poverty are all factors leading to stresses in families that lead to child abuse and neglect (SNAICC 1996, pages 5-6).

The key factors which are commonly associated with child abuse and neglect have been well identified. They include:

- poverty and unemployment
- family stress, family violence and family breakdown
- homelessness and inadequate housing
- substance and alcohol abuse
- poor health
- low educational attainment
- sole parent families or families with multiple problems and complex needs
- families suffering from loss of culture and the effects of dispossession and child removal in previous generations

The lower recorded rates of substantiated child abuse and neglect and placement in out-of-home care for Indigenous children in the Northern Territory could be an indication that Indigenous children and families in the Northern Territory are relatively well off compared to those in other states and territories. Alternatively they could indicate that the NT child protection system is less likely to identify and respond to the needs of children at risk of maltreatment.

SOCIO ECONOMIC PROFILE OF ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE IN THE NORTHERN TERRITORY

This section of the paper examines the socio-economic profile of Aboriginal and Torres Strait Islander people in the Northern Territory to assess if the factors which are thought to contribute to child abuse and neglect are more or less common in the Northern Territory than in other states and territories.

SOCIO-ECONOMIC INDICATORS - ABORIGINAL AND TORRES STRAIT ISLANDER FAMILIES AND HOUSEHOLDS

NUMBER OF PERSONS PER HOUSEHOLD

(ABS 1998)

In relation to the adequacy of housing, Aboriginal and Torres Strait Islander families in the Northern Territory have the least adequate housing of all Aboriginal and Torres Strait Islander families.

For Aboriginal and Torres Strait Islander households the average number of persons per household across Australia was 3.7 persons whilst for the Northern Territory it was 5.4. Aboriginal and Torres Strait Islander households in the Northern Territory also have the highest proportion of households with two or more families in the household.

In the Northern Territory ATSI regions of Jabiru and Nhulunbuy the average number of persons per household was 7.9 and 8.5 respectively.

OVERCROWDING IN HOUSEHOLDS

(ABS & AIHW 1999)

Aboriginal and Torres Strait Islander dwellings in the Northern Territory are the most overcrowded of any Aboriginal and Torres Strait Islander households in Australia. 29% of Aboriginal and Torres Strait Islander people in the Northern Territory live in households with more than 10 people compared to 8% in West Australia, 5% in Queensland, 4% in South Australia and less than 1% in the remaining states and territories.

EMPLOYMENT

(ABS 1998)

Unemployment persists as a major problem within the Northern Territory for Aboriginal and Torres Strait Islander families.

The Northern Territory has the lowest proportion of employed Aboriginal and Torres Strait Islander males, (37.8%) and employed Aboriginal and Torres Strait Islander females, (30.1%). In addition the proportion of employed Aboriginal and Torres Strait Islander people who are employed through the ATSI compulsory 'work

for the dole program,' the Community Development Employment Program, CDEP, is highest in the Northern Territory, (42.5%). This compares to a national average of only 14.9% of employed Aboriginal and Torres Strait Islander people being employed through CDEP.

PERSONAL INCOME

(ABS 1998)

Based on 1998 ABS figures Aboriginal and Torres Strait Islander people in the Northern Territory have the lowest incomes of all Aboriginal and Torres Strait Islander people with a median personal income of \$182 per week compared to a national figure for Aboriginal and Torres Strait Islander people of \$218 per week. Aboriginal and Torres Strait Islander people in the Northern Territory are the only Aboriginal and Torres Strait Islander people in Australia with a median weekly income below \$200 per week.

AGE LEFT SCHOOL

(ABS 1998)

8.84% of Aboriginal and Torres Strait Islander people in the Northern Territory have never attended school, the highest figure for all states and territories. The Northern Territory also has the second highest proportion of children who have left school before the age of 15, 17.66% compared to 18.04% in West Australia.

HOUSEHOLD UTILITIES

(ABS & AIHW 1999)

According to the NATSIS Aboriginal and Torres Strait Islander households in the Northern Territory are the most likely of all Aboriginal and Torres Strait Islander households to experience periods without access to running water or other basic and essential utilities such as toilets, electricity or gas.

At the time of the survey about 6% of Aboriginal and Torres Strait Islander households in the Northern Territory had no running water and 16% had been affected by the break down or loss of essential utilities, water, toilets, electricity or gas, in the four week period leading up to the survey.

ACCESS TO TRANSPORT/VEHICLES

(ABS & AIHW 1999)

Aboriginal and Torres Strait Islander people in the Northern Territory have the worst access to private vehicles for transport of all Aboriginal and Torres Strait Islander people. The number of vehicles per Aboriginal and Torres Strait Islander dwelling in the Northern Territory is 0.7 vehicles per dwelling compared to 1.1 vehicle per dwelling for all Aboriginal and Torres Strait Islander dwellings.

The figure for the Northern Territory needs to be considered with the higher number of people per dwelling in mind. 13.2 % of all Aboriginal and Torres Strait Islander dwellings in the Northern Territory have more than 10 people living in them compared to a national rate of only 2.4% of Aboriginal and Torres Strait Islander dwellings with more than 10 residents.

ADDITIONAL BEDROOM REQUIREMENTS

(ABS & AIHW 1997)

In relation to the suitability of dwellings and additional bedroom requirements seven of the 35 ATSI Regions which cover Australia accounted for 40% of all the additional bedroom requirements for all Aboriginal and Torres Strait Islander families.

The four ATSI regions with the highest need for additional bedrooms are all from the Northern Territory; Jabiru, Nhulunbuy, Aputula and Katherine.

In all four of these regions Aboriginal and Torres Strait Islander people were far more likely to indicate that their housing did not meet their needs. Only 22% of people in Jabiru, 35% in Nhulunbuy and 27% in Aputula indicated satisfaction with their dwellings. These figures compare to the national satisfaction rate for all Aboriginal and Torres Strait Islander people across all ATSI regions of 70%.

WATER QUALITY

(ABS & AIHW 1997)

The ATSI National Housing and Community Infrastructure Needs Survey 1992 (HCINS) was conducted to obtain information on the needs of communities, out-stations and town camps in rural and remote Australia. A second stage of the survey involved developing consistent information for larger Aboriginal and Torres Strait Islander population centres utilising ABS census data (ABS & AIHW, 1997).

Water quality and its suitability for human consumption was tested against the National Health and Medical Research Council guidelines. Results were obtained from 838 communities from Western Australia, the Northern Territory, Queensland and South Australia. Of these

838 communities water in 306 communities was unfit for human consumption affecting 14,500 Aboriginal and Torres Strait Islander people.

Over half of the Aboriginal and Torres Strait Islander people affected were from the Northern Territory even though the Northern Territory accounts for less than 15% of the total Aboriginal and Torres Strait Islander population in Australia.

20% or 2,900 of all those affected across Australia lived in the ATSI Region of Nhulunbuy, 16% or 2320 lived in Aputula and 10% or 1450 in Jabiru.

Put another way there were 6,670 Aboriginal and Torres Strait Islander people in these three ATSI regions without access to drinking water fit for human consumption. 2670 of these were children aged 15 years or less.

LOW BIRTH WEIGHT

(ABS & AIHW 1999)

The proportion of low birth weight babies born to Aboriginal and Torres Strait Islander mothers was highest in South Australia, (15.7%), followed by the Northern Territory (14.4%). These figures compare to a national average of 12.4% of babies born to Aboriginal and Torres Strait Islander mothers and 6.2% of babies born non-Indigenous mothers.

In their submission to Learning the Lessons Territory Health Services noted that,

A high percentage of Indigenous school aged children who are underdeveloped at birth due to poor maternal health and nutritional status are more likely to suffer ill health and shorter life spans than those of normal birth weight (Collins 1999, page 149).

PERINATAL MORTALITY

(ABS & AIHW 1997)

In the Northern Territory the perinatal mortality rate, (babies which are stillborn or die within 28 days of birth), for Aboriginal and Torres Strait Islander babies was

34.0 per 1,000 compared to 12.2 for non Indigenous babies born in the Northern Territory.

This was the second highest rate for Aboriginal and Torres Strait Islander babies behind South Australia where the rate was 35.1 per 1,000.

COMMUNICABLE DISEASE NOTIFICATIONS

(ABS & AIHW 1997)

As reported by the ABS and AIHW Aboriginal and Torres Strait Islander people suffer a greater burden

of infectious diseases than do non-Indigenous people. Notifiable communicable diseases are those that can spread from person to person and are recorded by health authorities.

The ABS note that the data in relation to communicable disease notifications has limitations due to the possible non recording of a persons Indigenous status by some health professionals and service providers in some areas, and in relation to some diseases. This leads to under reporting of the prevalence of these diseases amongst Aboriginal and Torres Strait Islander people.

In the Northern Territory the reported rates per 100,000 people for the following communicable diseases were as follows:-

	Indigenous	Non Indigenous
Tuberculosis	12.5	5.7
Shigellosis	199	6.1
Gonococcal Infection	1,145	16.7

LIFE EXPECTANCY AT BIRTH

(ABS & AIHW 1999)

The ABS report that for all Aboriginal and Torres Strait Islander people life expectancy at birth is estimated to be between 18-19 years lower than the life expectancy of other Australians.

They also report that life expectancy for Aboriginal and Torres Strait Islander people living in the Northern Territory, West Australia and South Australia is marginally lower than that of other Aboriginal and Torres Strait Islander people.

PETROL SNIFFING

Territory Health Services recognise that petrol sniffing is a significant health and social problem and report that a 1997 survey found that approximately 200 young people, (Aboriginal and non Aboriginal), were sniffing. These represented 1.5% of all young people aged 8 to 25 in the Northern Territory (Condon, Warman, & Arnold 2001, page 46)

MALNUTRITION

As noted by Territory Health Services surveys carried out in various NT remote communities between 4% and 8% of Aboriginal children under the age of 5 were clinically too thin and between 15% and 17% were too short compared to accepted child development and growth parameters.

In the Darwin, Katherine and Alice Springs rural areas a total of just under 300 Aboriginal children aged under five or between 13% and 22% were clinically under weight (Collins 1999, page 149). Territory Health Services also note that Aboriginal children between one and five who were admitted to hospital were 120 times more likely to be diagnosed as undernourished than non Aboriginal children of the same age (Condon et al, 2001 page 121).

HEARING LOSS

Territory Health Services reports, (Condon, et al, 2001 page 122), note that;

- data from 1988 to 1994 indicated that one third of school aged Aboriginal children in NT remote communities could not hear their teacher in class due to hearing loss suffered through preventable ear infections.
- a 1997 survey of children under four years who attended Darwin urban day care centres found that 48% had middle ear disease.

The Health and Welfare of Territorians report also notes that,

Hearing loss affects communication skills, social development and employment opportunities later in life (Condon, et al, 2001 page 122).

Learning the Lessons noted that,

There is clear evidence within Territory Health services, that given the poor environmental health conditions of many communities, the problem of repeat ear infections continually recurs (Collins 1999, page 150).

SUMMARY - SOCIO-ECONOMIC DATA

The available socio-economic data clearly indicates that the health and welfare of Aboriginal and Torres Strait Islander children in the Northern Territory is in fact worse than that of Aboriginal and Torres Strait Islander children in the rest of Australia.

Problems such as overcrowded and inadequate housing, unreliable access to essential utilities such as clean drinking water and power and limited access to transport are more prevalent in the Northern Territory than any other part of the country.

The Northern Territory has the second highest perinatal mortality rate of 34.0 per 1,000 just behind South Australia with 35.1 per 1,000. Communicable diseases are more prevalent and life expectancy of Aboriginal and Torres Strait Islander people in the Northern Territory is lower than the national average for Aboriginal and Torres Strait Islander people.

Personal income levels of Aboriginal and Torres Strait Islander people in the Northern Territory are the lowest in the country, whilst unemployment and dependence on the Community Development Employment Program, (CDEP), for paid work are the highest.

The chronic environmental health problems and poverty experienced by communities put children at risk of major health problems including hearing impairment and malnutrition. These health problems create learning and developmental problems with as many as one third of primary school age Aboriginal children in remote communities unable to hear their teachers in class.

In 1998 Territory Health Services identified just under 300 Aboriginal children in the Darwin, Katherine and Alice Springs rural areas as clinically under weight (ie they were malnourished and stunted in their growth). In the same year only 81 Aboriginal or Torres Strait Islander children were recorded as suffering neglect according the Territory Health Services child protection statistics for the entire Northern Territory (AIHW 1999, see tables 2.6 & 2.8 ; Collins 1999, page 149). The definition of child maltreatment applicable in the Northern Territory under the 1983 *Community Welfare Act* specifically includes nutritional deprivation making it difficult to reconcile the above statistics.

The factors which give rise to child abuse and neglect in Aboriginal and Torres Strait Islander communities, such as poverty and inadequate housing, are more prevalent in the Northern Territory than in any other state or Territory. Despite this the substantiated rates of child abuse and neglect are the lowest.

STAGE TWO: VIEWS FROM THE FIELD

INTRODUCTION

All the agencies interviewed for the research were able to provide significant accounts of the day to day operation of the child protection system in the Northern Territory and its impact on the lives of Aboriginal and Torres Strait Islander children and their families. There are, from their accounts, significant and damaging flaws in both the conceptualisation and operation of the child protection system in the Northern Territory.

A frightening revelation from the interviews was the concern from participants that people in the Northern Territory, themselves included, can become numb in the face of overwhelming neglect and poverty. That having seen so much neglect, poverty, violence and abuse that it stops making the same impact as when first encountered. Not that any of the agencies interviewed have stopped pursuing and responding to the rights, needs and aspirations of Aboriginal and Torres Strait Islander children. On the contrary they all maintain a passionate, professional, rigorous and determined commitment to the children and families they work with. Within that commitment people spoke of their preparedness to work in partnership with the Department of Health and Community Services and child protection staff. None expressed resentment or anger towards the Department, and all expressed sympathy and a form of solidarity for the enormity of the task that confronts them. They all spoke in terms of partnership, working together and joint responsibility for protecting and supporting Aboriginal children.

The apprehension of the Department to participate in the research and the brief and terse nature of their email response to the interview questions is a cause for concern. My view is that Departmental officers were less than enthusiastic about external scrutiny of the child protection system. One explanation for the very low rates of child abuse and neglect in the Northern Territory may be that in the Northern Territory the government and communities have managed to do what none of the other seven states and territories have - to bring down the rate of Indigenous child removal to the rate comparable for all other children nationally - by addressing the underlying causes of family breakdown, child abuse and child neglect. If the Department of

Health and Community Services do have such positive news in relation to preventing child abuse and neglect they seem strangely reluctant to tell it.

The apparent unwillingness of the Department to recognise the scale of child maltreatment according to their own legislative definition remains as a major obstacle to progress. As might be said in the 'helping professions', (Jamrozik & Nocella 1998), the first step is to admit you have a problem - the Department need to take the first step.

Interviews provided opportunities for people to advocate alternatives to the current scenario. Suggested reforms included the need to attract additional Aboriginal families to act as foster carers, to support and fund agencies on a longer term basis, to increase the number of child protection staff, (including the employment of Aboriginal workers), improve employment conditions and training for government and non-government staff, work with families as a whole rather than focussing on one individual within a family and ultimately to mirror developments in the Aboriginal health sector and support community controlled Indigenous organisations to take control of Indigenous child welfare.

As outlined in *Addendum - Methodology*, the interview findings have been coded and reported under six key themes which emerged from the interview material. They are as follows:

1. Responses to child protection and socio-economic data
2. Community confidence in the Northern Territory Child Protection System
3. Responsiveness of the NT Child Protection system to situations where children are reported to be at risk of abuse and neglect
4. Role of the Northern Territory Police in child protection
5. Child maltreatment in the context of endemic family and community poverty
6. Ways forward - priorities for reform

RESPONSES TO CHILD PROTECTION AND SOCIO-ECONOMIC DATA

Interview participants were asked to comment on a briefing kit which included the findings from stage one and to give their reactions to the lower recorded rates of abuse and neglect and the socio-economic data.

There was agreement across all four interview groups that the recorded rates of child abuse and neglect did not reflect what was happening in communities and that the actual rates were much higher.

Sarah: (Alice Springs Youth Accommodation and Support Service)

Neither was really a surprise as it is really apparent that Aboriginal and Torres Strait Islander people are the most socially disadvantaged people living in the Northern Territory. It doesn't really surprise me either that the level of substantiated reports are so low compared to other States and Territories.

When asked why the statistics relating to the low rates of substantiated child and abuse and neglect were not a surprise to them Astri Baker responded;

Astri Baker: (Alice Springs Youth Accommodation and Support Service)

Well a lot of our working time is spent advocating for young people and asking someone to please conduct an assessment and work with us to put something in place and we know how frustrating and difficult it is to get anything to happen.

Services expressed a lack of confidence in the child protection data, surprise that the recorded rates were so low compared to elsewhere and indicated that they were shocked by the socio-economic data.

Alison Breheny: (Congress)

I was shocked at some of the statistics in the research brief; I knew things were bad but the brief actually shocked me. I also have a concern that the statistics, (on child abuse and neglect), for the NT are not accurate and that there are actually a higher number of child abuse cases that are not being recorded - they are my initial two reactions.

Peter Tait: (Congress)

I was surprised by the numbers because you sort of get an impression but you don't realise until you look at the numbers that things are far worse off than elsewhere. The interesting thing for me was where you define neglect in a situation of poverty and where on a continuum between living in poverty and abuse where is the line where it becomes reportable.

In relation to living conditions, services were asked if their experiences matched the brief and if they thought they were likely to be the worst in Australia.

Geoff Miller: (CA AICCA)

I would say that they are the worst here in the Territory because in other states and places you haven't got as many of the town camps and that like we got here with people living in creek beds and kids living in little humpies. You don't see that in other places.

And in other places if they see them in that sort of poverty they go in straight away and do something. But up here they are slow to react because they think that it is the way people live so we will let them live that way. But it is not really - it just because they are down and out and they are living in the creek because there is no housing.

None of the organisations or individual participants said they felt that the officially recorded rates of child abuse and neglect reflected the true picture of what was happening with children and families based on their experience. In contrast they all agreed that the living conditions of Aboriginal and Torres Strait Islander people in the Northern Territory were very poor, and that the socio-economic data on living conditions reflected their experience and knowledge.

COMMUNITY CONFIDENCE IN THE NORTHERN TERRITORY CHILD PROTECTION SYSTEM

It was clear from very early in each interview that services had very little or no confidence in the capacity of the child protection system to deal with the scale of child abuse and neglect in the Northern Territory. Community confidence in the child protection system is a factor in determining the extent to which people will choose to report situations they recognise as possible cases of child abuse or neglect. In part, the relatively low recorded rates of child abuse and neglect in the Northern Territory may be due to people lacking confidence in the system.

Geoff Miller: (CA AICCA)

A lot of the non reporting too is because lots of people still have that thing about welfare - the old welfare system- and that's why they won't be involved with it and so they won't report it because they don't want to be dragged through it.

Peter Tait: (Congress)

But if in the case of abuse rather than neglect my limited experience is that most people don't want to talk about it and don't want to deal with it and therefore it probably isn't being dealt with in house at all. People just don't want to know about it.

In responding to this set of issues two themes emerged in relation to the non reporting of child abuse and neglect. Interview participants commented on the reasons why and tendency for individual members of the community to not report child abuse and neglect and secondly the reluctance of their own and other non-government agencies to report.

Firstly in relation to why members of the Aboriginal community may not report child abuse or neglect there were a variety of reasons. People spoke of the fear of reprisals against those who may report, and the inability of those who may report to keep themselves safe. This latter point related to the living conditions prevailing in many Aboriginal communities including over-crowded housing. There is in effect little chance that members of the community can remain anonymous after they report, as it is likely that they are literally trapped in the same over-crowded house with the perpetrator they have reported.

Sandra Kitching from Karu commented extensively on the problem of fear of reprisals:

Sandra Kitching: (Karu)

These people that live on a community they live in the same house - you don't want to get flogged do you - so you just say, (to child protection), that Uncle so and so is good because if she doesn't than the rest of them ten people are just gunna give it to her, (slams fist into hand).

I would say that a lot of it, (sexual abuse), is kept quiet here; on several occasions we've had young girls here and we've tried to sort it out and it just turns into a match where she is accused of telling lies and she will get flogged for it - and that's the end of the story.

In discussing the possibility that fear of reprisals can lead to people on communities not reporting child abuse and neglect Sandra Kitching was adamant;

Sandra Kitching: (Karu)

That is so right mate - it should be mandatory - they should be told that - that they have to do it, (report).

Because we are going around in circles mate - if our kids don't understand it - if they're not gunna learn at a young age that they shouldn't have anyone touching them how are they going to teach their kids. So it goes on and on. And we try and empower our people.

The last case we had here was a young girl 14 and the husband of one of the sisters was touching her when the Mum went to town each week... And I said

Sis but it only takes five minutes. But do you think I could convince her and I said to her you gotta stop growling this girl - Sis - she don't need this trouble and I asked her why her girl would want to cause this trouble her herself.

And the main thing is we have to tell our families that they have to do their relies in whether they like it or not to stop it.

Interviews noted that a specific reprisal which people are threatened with is that welfare will break up their families.

Astri Baker: (ASYASS)

When young people do tell us about things that they have been worrying about for a long time they also tell you the stories about how it was kept secret for so long and one of the stories or threats will be that welfare will take you away, that you can't mention this to anyone or welfare will break up the family.

Lack of community awareness in relation to what constitutes child abuse and neglect, was also a major theme emerging from interviews or what might be described as the why, when, what and how to report child abuse and neglect.

Anne Ronberg: (CA AICCA)

Or they might not know how to report or who to report to and may not know what abuse is and when you should report it.

Sandra Kitching: (Karu)

So we still have to educate our people that sex abuse is bad and it shouldn't happen and these people that live out there and know the people doing it have to be responsible and start telling.

Another significant factor cited as to why people are reluctant to report child abuse and neglect relates to the history of forced removal and assimilation, the Stolen Generations.

Sandra Kitching: (Karu)

A lot of it stems from I think - the whole discouragement to say anything to welfare - from breaking up families and Stolen gens. And a lot of our people as soon as they hear about welfare - they run.

Agencies themselves are reluctant to report child abuse and neglect as their experiences with Territory Health Services when they have reported have been less than positive. Agencies reported that after making notifications nothing happens which makes workers more hesitant to report next time.

Sarah: (ASYASS)

There are two different sets of reasons why people don't notify, reasons for the general public and different reasons why workers in agencies don't notify. With workers in agencies they tend not to notify because of past experiences when they have notified and that nothing happened when they did notify. With the general public I think people feel overwhelmed and become apathetic.

Astri Baker: (ASYASS)

I think there are a lot more situations than ever get notified of child abuse and neglect and I think there is a particular hesitancy, (to make notifications), a general hesitancy because of the bad history for all young people and for Indigenous young people in particular.. Stolen generations; because of that history and the knowledge that potentially you are only putting someone through a form of systems abuse so you don't do it lightly. A lot of people, (including workers in agencies), in the community don't do it at all.

Real or imagined fear of reprisals, mistrust due to past practices of child removal and a lack of community understanding of child abuse and neglect combine to undermine confidence in the Northern Territory child protection system. Non reporting of abuse and neglect is an issue which all agencies spoke openly about and cited as a major contributor to the official rates of child abuse and neglect not reflecting the reality.

RESPONSIVENESS OF THE NT CHILD PROTECTION SYSTEM TO SITUATIONS WHERE CHILDREN ARE REPORTED TO BE AT RISK OF ABUSE AND NEGLECT

Interviewees discussed the experiences of their agencies and staff in working with Territory Health Services, (THS), where reports of suspected child abuse or neglect have been made including what they consider to be good and bad responses from THS.

The examples of poor, inadequate, inconsistent, unpredictable, incomplete and damaging responses were many as were examples of there being no discernible response from the Department in relation to notifications. Examples of responses which met the expectations of agencies were few.

A particular issue which was raised by all interview groups was the failure of THS to liaise with them when they did make notifications, or to use their expertise and knowledge of a families circumstances in making decisions in relation to the welfare of Aboriginal or Torres Strait Islander children.

Typical of what interview participants had to say was the following story from, Rosie Baird;

Rosie Baird: (Karu)

There was the girl I was telling you about earlier that was eight when we first made the notifications to child protection and when she got pregnant at eleven we wanted them to do something about it or for someone in there, (child protection), to be held accountable and they came back at us with; 'Aren't Aboriginal people promised at that age anyway', like we were the dumb ones for not understanding our own culture.

I know myself I've made notifications when people have come in here. I've done it and sent it up to them and the severity of those cases I would have thought that something would have been done and in those cases nothing has been done at all.

One case where there was blood on one little girls pants and two families were actually fighting about who did it whether it was the brother or the father. And nothing was done in that case and that was given to child protection to investigate.

Agencies were prompted during interviews to clarify how they came to the conclusion that there had been little or no follow up after they had made a notification.

Sara: (ASYASS)

You talk to that young person and you find out that they are in the same situation that they were in before except that now they might be in more trouble after child protection has talked to their parents or family and there has been some come back at the kid.

Astri Baker: (ASYASS)

But a lot of young people don't remember anyone coming to see them or talk to them, don't remember anyone coming to talk to the family, no one from the family has mentioned anything to them about anyone from welfare coming to see them or getting in touch. Nothing has changed at all.

Peter Tait: (Congress)

Usually you ring them up and you don't know what happens - there is no feedback and they tell you nothing.

Recently when I reported something I had to ring daily for ten days to find out what had happened which involved ringing daily for five days to get to speak to the right worker, her not calling back, and having to ring daily for another five days to speak with her again only to find out that nothing had happened in relation to the report that I had made.

Services were also asked what constitutes a good response with Astri Baker commenting;

Astri Baker: (ASYASS)

The features of a really good response are I think being willing to take on a primary role of case management, getting together meetings of services working with the young person, communicating information to make sure the young person is aware of everything, making sure that information is communicated in a way that looks after the safety of the young person and we have seen really good examples of that. A lot of it does come down to the skills of the case worker and their experience of having worked with other organisations.

There is a lot of contrast though and the poor responses are, no response, why are you telling us, closing dialogue.

These experiences of agencies in working with THS are clearly driving the lack of confidence agencies and others have in the system which is likely to create further hesitation to report.

Sarah: (ASYASS)

The other thing that is really horrible is they will tell you all the other things they tried themselves before telling you to keep themselves safe and that hasn't been heard by anyone ever or if it's been heard it's been ignored so then they have got to a stage where they are saying my god somebody do something so they tell you knowing you are going to make this notification and then if nothing happens again it is really very horrific for that young person.

Staff turnover in child protection was commented upon by all agencies as a major concern as was the lack of training for child protection staff and the generally poor working conditions.

Anne Ronberg: (CA AICCA)

My concern, because I keep going back to my time when I was working with FACS, I found that there were workers coming up on short contracts, lack of experience, they had no knowledge of Aboriginal culture, they had no training you know the system itself isn't strong enough.

Sandra Kitching: (Karu)

They turn over every three months, sometimes less than that sometimes more and it's a struggle for us to try and teach them. We have to train them all the time over and over again.

Alison Breheny:(Congress)

Or you ring back and find out that the first worker

that was going to deal with it has left town as staff change constantly.

Despite the understandable frustration that workers felt in relation to the poor or inadequate responses from THS when they had reported matters all agencies retained a commitment to assist THS improve its service delivery. There were no comments which were bitter, or which sought to blame the individual workers in child protection. Rather, all agencies expressed a strong desire to pursue better outcomes for children and families in partnership with THS.

Peter Tait: (Congress)

They, (THS), can actually lobby for a partnership between Aboriginal communities and government to make more resources more effectively available to address communities needs and start to address these issues.

ROLE OF THE NORTHERN TERRITORY POLICE IN CHILD PROTECTION

Northern Territory Police have a specific power to investigate alleged cases of child abuse or neglect under section 14 the Northern Territory Community Welfare Act of 1983. The current role of the NT Police in responding to and investigating child abuse and neglect and in particular the inter-face between their role and that of THS was a major focus of concern for agencies.

In the briefing kit prepared prior to interviews I indicated that it was mandatory under section 13 of the act for all citizens in the Northern Territory to report suspected cases of child abuse and neglect with the exception of members of the Northern Territory Police. Whilst that is true the Northern Territory Police **are required** to notify the Minister under section 14 'as soon as practicable' and may also investigate suspected cases of abuse or neglect. Where they do investigate the results of the investigation must be provided to the Minister within 24 hours of the investigation being completed.

Prior to interviews this incorrect reading of the legislation was pointed out to the interview participants, although some were already aware of the particular provisions of the act including that the NT Police must report suspected child abuse or neglect.

Regardless of the legislative role of the Northern Territory Police all agencies expressed the view that the day-to-day role of Police in child protection was often unhelpful, counter productive and unclear to members of the Aboriginal community. Further some agencies commented on the failure of Police to either notify child protection authorities of suspected cases of child abuse and neglect or carry out their own investigations.

It was also noted that if Police do investigate child abuse or neglect they seem not to liaise with or utilise the expertise of local Indigenous services.

Dawn Fleming: (Congress)

It is difficult to comment as it is unclear if the NT Police do or don't report but one thing I would say is that if they do report then they don't liaise with anybody.

A lot of it comes back to what Dr Tait¹ was saying earlier, how we interpret neglect, how other states and territories interpret neglect and how the NT Police interpret neglect are probably all different.

Whether or not Police pass on notifications they receive of suspected abuse or neglect to the child protection staff within Territory Health Services was questioned by interview participants.

Rosie Baird: (Karu)

Remote area communities need to be educated about who to report to because you can tell the Police and the Police aren't obliged to pass it on up here; that would be the first they'd think of - going and telling the Police - but they don't have to pass it on.

Police and in particular those operating on small and isolated communities were considered to be in a position to know what is happening on communities. However, interview participants were convinced that the Police often ignore situations of abuse and neglect.

Sandra Kitching: (Karu)

I've always wondered why cops never said anything, (in relation to child abuse), on the communities. Come on, we all know cops know everything and see everything that goes on in the communities.

Sharon Manhire: (Karu)

Constables² on communities are usually family and they just turn a blind eye - everyone else is turning a blind eye - so they do the same.

Anne Ronberg expressed detailed knowledge of the Community Welfare act and the fact the Police do have to report child abuse and neglect, however she expressed the same doubts as other participants in relation to whether or not they do report appropriately.

Anne Ronberg: (CA AICCA)

My understanding of the Police was that under the welfare act they were just like any other profession

or person and that if they came across it, you know abuse or neglect, they would report it the same way.

They turn a blind eye because they see everyone else turning a blind eye. It should be like other states, you know, mandatory for Police to report abuse if they see it going on. Not for them to investigate - no they should report it like everyone else to child protection and only investigate themselves if it is a case of sexual assault.

There was also a distinction drawn between the role of Police in investigating child neglect and child abuse. Typically it seems that where Police do investigate a possible case of abuse, the emphasis is on establishing criminality rather than assessing the support needs of a child at risk and those of their family.

Franny Coughlan: (Congress)

Our experience is that we will always report to FACS. If FACS think there is a criminal issue then they have to involve the Police and our experience has sometimes been that the next thing a family has the Police on their door with no FACS support or involvement; and FACS argue that they don't want to contaminate the evidence - which I question - and then so the Police might investigate in their way and if they assess that there is insufficient evidence to pursue charges then they walk away and the whole thing is abandoned.

The whole of issue of whether there is a child at risk falls into a black hole, that has been our experience.

Peter Tait: (Congress)

Or you have situations where FACS go and send the Police in and the Police say there is not enough evidence to pursue charges but you damn well know something has gone on and the family know something has gone on and then FACS drop it and say 'well the Police didn't mount any response'. But the family still needs support to not only piece itself together because they have had the Police come through but also to deal with the original issue, whatever happened, even if we don't know exactly what it was, we know something happened.

When asked in what types of situations Police typically get involved Franny Coughlan responded as follows:

Franny Coughlan: (Congress)

I am thinking of young women who have notified that they are being sexually abused by a family

¹ Dr Peter Tait is a staff member at the Central Australia Aboriginal Congress and was a participant in the interview along with Dawn Fleming and others.

² This reference to Constables is a reference to Aboriginal Constables from the NT Police working on rural and/or isolated communities.

member or by someone with family knowledge and so the fact is that that young woman is at risk and needs a lot of support. We are trying to make sure that FACS don't just ring the Police.

Typical situations involving very young women who are or may be the victims of violence were reported with the Police and child welfare authorities failing to protect children from violence or abuse. In particular that young women, from as young as 12 years old, are expected to act like adults and use the Police and courts to obtain restraining orders to protect themselves from violence, rather than child welfare authorities intervening to assist them.

Astri Baker: (ASYASS)

One of the big gaps in the community welfare act is clarification around domestic violence issues and an understanding of the broadness of it. We have lots of young, young, women, 12, 13, 14, 15 and they are supposedly under the protection of the welfare act until they are 18 but realistically it is applied until about the age of 12. That's how it works, they should really have two different acts because they, (FACS) function so differently for different ages..

Instead of seeing that a Department like welfare is much more appropriate for a child to be getting support from, they have this idea that a child can act as an adult and use the Police. Now the Police aren't the right people to deal with children in these situations, that's why we have a Welfare Department.

In relation to child neglect people expressed serious doubts about whether the Police do anything at all, particularly on remote communities, perhaps in part because Aboriginal community Police are often family and subject to the same family obligations and loyalties as other members of the community.

Sandra Kitching: (Karu)

That's what I think is happening - they're getting these Aboriginal people to do constable job and they are not going to do it because they are not going to do their family in.

Geoff Miller: (CA AICCA)

I reckon the Police don't report - they couldn't be bothered they think they see people living like that every day on town camps and other places and they reckon they don't need to report it. They see it everyday and just don't worry about it.

The role of the Northern Territory Police in reporting and investigating child abuse and neglect seems far from satisfactory. Rather than the dual responsibility they share

with child protection staff, leading to increased vigilance in protecting children at risk, it appears to create an investigation system in which the support needs of children are often overlooked. Pre-occupation with collecting evidence and bringing charges whilst noble enough in principle, seems to lead to non cooperation between families and the child protection system. As a result, where abuse and neglect are occurring, the involvement of Police makes it more likely that families will cover up the issues rather than deal with them with support from Territory Health Services. In relation to reporting child abuse and neglect Northern Territory Police, particularly in rural and isolated communities, appear to be failing to report issues of abuse and neglect.

CHILD MALTREATMENT IN THE CONTEXT OF ENDEMIC FAMILY AND COMMUNITY POVERTY

The Northern Territory Community Welfare act of 1983 outlines the legislative framework for the child protection system including issues of mandatory reporting and the definition of child maltreatment. Maltreatment covers issues of child abuse and child neglect.

Clause 3(b and (c) which form part of the definition of maltreatment are as follows

- (3) For the purposes of this Act, a child shall be taken to have suffered maltreatment where –
 - (b) he has suffered serious emotional or intellectual impairment evidenced by severe psychological or social malfunctioning measured by the commonly accepted standards of the community to which he belongs, because of his physical surroundings, nutritional or other deprivation, or the emotional or social environment in which he is living or where there is a substantial risk that such surroundings, deprivation or environment will cause such emotional or intellectual impairment;
 - (c) he has suffered serious physical impairment evidenced by severe bodily malfunctioning, because of his physical surroundings, nutritional or other deprivation, or the emotional or social environment in which he is living or where there is substantial risk that such surroundings, deprivation or environment will cause such impairment;

None of the agencies were familiar with the clause which states that maltreatment arising from serious emotional or intellectual impairment evidenced by severe psychological or social malfunctioning is to be measured

according to the commonly accepted standards, (emphasis added), of the community to which the child belongs.

It was agreed by all though, that determining what the commonly accepted standards are becomes critical in determining if a child is being maltreated under this section of the Act. Further, it was noted that this can only be achieved through close cooperation and negotiation between communities and their representative organisations and the Department. There was no evidence found that this level of cooperation was in place. Rather, all the agencies highlighted the pressing need for much stronger liaison and negotiation. All were able to cite instances where a lack of cooperation from the Department had acted against children at risk of abuse or neglect being properly supported and protected. It must be remembered that included amongst the agencies interviewed were the only two Aboriginal and Islander Child Care Agencies operating in the Northern Territory, Karu and CA AICCA. In this context there is little to suggest that 'the commonly accepted standards of the community' could be applied as the Department appears to lack the processes of community consultation and negotiation to determine what those standards are at any given time.

Rosie Baird: (Karu)

They used to but with all the new workers they haven't even been bringing them down to meet Karu and our staff. There should be an orientation for them to meet with us and find out what we do. They haven't been doing that for a while because of their staff turnover.

A particular focus for discussion and questions was whether or not all Aboriginal children growing up in appalling living conditions are by definition maltreated.

In relation to clause 3(c) of the act a child is defined as being maltreated when there is a **substantial risk** that their physical surroundings, deprivation or environment will cause serious physical impairment.

Agencies were asked to indicate if they thought a child who was malnourished and clinically under weight was being maltreated. All interview participants agreed they were, but argued that it was not right to blame their families as they were victims of the same inadequate living conditions which cause their children to suffer maltreatment.

Anne Ronberg: (CA AICCA)

Yes because it has been an on going thing that's the way our people have had to live and they are not sure any more what is maltreatment and what is not. Yes, children who are malnourished, are being maltreated according to the definition in the act.

Tahnia Edwards: (Congress)

I think that some of it is out of control of the parents though. They don't actually choose to live in a house with 30 other people, they don't actually choose to buy a fridge only to have someone come and take it away from them because of a family obligation they don't choose to pay \$4 for a mango out bush. So there are all sorts of other things that have to be taken into consideration.

Geoff Miller: (CA AICCA)

What seems abuse to us is part of their everyday life. Or we might think they are neglecting kids. But it doesn't seem that way to them because that's how they grew up and how they got grewed up. So it doesn't get reported because people don't know what to report.

Whilst the 'commonly accepted standards' clause applies only to assessing the evidence of emotional or intellectual impairment and not to 'physical impairment' there was discussion regarding whether or not the poor living conditions might be considered normal or acceptable and how you define or identify neglect in that context.

Sara: (ASYASS)

Whilst they are probably trying to be well meaning and culturally appropriate by having that in the act, (the clause on commonly accepted standards), but people are living in such extreme social disadvantage and after awhile and after living in those conditions for successive generations if you don't sort of accept it to some degree and get on with your life it just must be tormenting ... fighting against it, .. that it almost becomes acceptable or normal but that doesn't mean that it should be this way ... just that some people choose not to be continually fighting and torturing themselves about it so that they can deal with it.

It is not a part of culture to live in such poverty and people shouldn't have to be living in those conditions.

Workers from Karu indicated that they did not accept that the poverty and poor conditions people lived in were acceptable.

Rosie Baird: (Karu)

No not to us but it would seem that it is acceptable to Territory Health. It is inevitable that if the whole community lives in poor conditions that children are neglected because the whole community is neglected - but it is not acceptable - the children have no where else to live they've got to live in overcrowded housing with their families.

The determination by members of the Aboriginal community to address issues which impact upon their families, as well as the responsibility of others to advocate on their behalf, was noted.

Alison Breheny: (Congress)

And we can see that the women in particular in communities are fighting to survive. It is the women who are strong and working for change they are working really hard to change things for their whole family not just for little children. They are tackling substance abuse, youth suicide, domestic violence - the family violence affects the whole family and women out there are working really hard to change that.

Astri Baker: (ASYASS)

And it is about whose responsibility is it to advocate for social change. If you are living in those conditions all the time to actually be trying to make sure that those things change is not easy and it is not just their responsibility.

The child protection system in the Northern Territory, like others in Australia, operates on the assumption that there are victims and perpetrators, that when a child is abused or neglected that some individual(s) are in some way to blame. Participants were asked who was to blame, if anyone, for child neglect in the context of extreme levels of community poverty and marginalisation.

Geoff Miller: (CA AICCA)

It is not fair to blame the parents. It is like I said before our people just think it is part of life because that's how they got growed up.

Dawn Fleming: (Congress)

There is victim blaming at work here with Aboriginal parents being blamed for the conditions their children are in when often much of it is outside their control and those issues that are inside their control involve very difficult decisions.

WAYS FORWARD - PRIORITIES FOR CHANGE

Focussing on ways forward and what changes were required to address both the underlying causes of child abuse and neglect as well as the current short-comings of the child protection system was an important focus of each interview. This included how the agencies interviewed, SNAICC and the Northern Territory Government should work together in the best interests of children specifically what agencies would like to see happen through the research project.

An issue which came out during this part of the interviews was the need to ensure compliance with the Aboriginal Child Placement Principle, ACPP. The ACPP is included in the *Community Welfare Act* of 1983 and outlines the priority for placement of Aboriginal and Torres Strait Islander children who have been removed from their families and placed in the care of the Minister. Under the ACPP children are to be placed with extended family as a first option and within the non-Aboriginal community as a last resort. Agencies reported that there is a majority of Aboriginal children placed within the non-Aboriginal community including some children being removed from the country altogether. Ensuring that placements comply with the ACPP was seen as an urgent priority.

Geoff Miller: (CA AICCA)

.... most are still placed with non Aboriginal families, in the Alice Springs area.

Anne Ronberg: (CA AICCA)

The majority of Aboriginal kids under the care of the Minister are still placed with non Aboriginal families, off hand I would say probably about 80% are placed with non Aboriginal families.

Dawn Fleming: (Congress)

I think a lot more resources need to be put into that to allow Aboriginal families to be identified, (as potential foster carers), including who is appropriate and who is not. And the other thing too is about the Aboriginal children who are taken out of this country without our knowledge - or decisions being made about Aboriginal children in foster care when Aboriginal people don't have any input into those decisions..... but it isn't happening and kids are totally isolated and there is currently a case where two Aboriginal children have been taken out of the country and the family wasn't aware of it - they are not even in the country.

Increasing support to and the number of Indigenous foster carers, including recognising and supporting those people providing informal care to kin, was highlighted as a critical need in all interviews.

Anne Ronberg: (CA AICCA)

Yes, and the thing is that unfortunately a lot of our families are not recognised as carers to be paid or get any financial assistance and that was my concern when I was working in FACS that we were creating more problems by placing kids with extended family but not providing financial support. That was something I raised time and time again when I was in FACS - how about providing a bit of financial support because a lot of our Aboriginal families are low income families and it is just putting more and more pressure on them.

Sara: (ASYASS)

One of the big difficulties in terms of lack of resources that the Department does have is the lack of foster parents, they can never get enough foster parents and the foster parents they do have never receive enough resources, support, training or financial assistance for what's involved.

One particular aspect of this issue was that the Department has used the lack of available Indigenous carers as a reason to not proceed to child protection interventions. This would suggest that a lack of alternative care options is compromising the needs of children assessed to be at risk of abuse or neglect.

Astri Baker: (ASYASS)

Over a period of years one of the things we have constantly heard from FACS is that we, (FACS), can't bring someone into care unless we can offer them something better than they already have which I find an incredible suggestion.

Developing whole-of-family focussed responses, rather than just focussing on one child within a family, was seen as important particularly when one considers that if one child in a family is suffering from poverty and health related maltreatment then the whole family probably is.

Sandra Kitching: (Karu)

Look at the whole family and see what we can do to make the family happy and then we have a functioning family which is healthy - but if you are gonna start just pulling one kid out then what are we doing, what are we doing.

Dawn Fleming: (Congress)

If you are working with a family, which is what we do, and we do assessments on a family and work with them and yet FACS will go into that family and do total destruction to a family without regards to the whole family environment it is only one particular person in the family they will pick up.

Negotiating an effective partnership between the Department and agencies was seen by all agencies as critical. It was noted that in Alice Springs there is some movement towards developing a protocol between agencies and the Department but on the whole the advice and expertise of community based agencies in relation to the best interests of children and families is simply not sought. In Darwin however, progress towards development of a protocol has stalled as the Department is said to be reluctant to create an argument that they need to fund the local Aboriginal and Islander Child Care Agency, Karu.

Astri Baker: (ASYASS)

Another reform would be establishing a process that had been negotiated with and supported by the Aboriginal community, so that people in the community knew what would occur when a notification was made - a process that utilised Aboriginal organisations - was transparent and was consistent.

Dawn Fleming: (Congress)

You need to have a collaborative approach in dealing with this sort of stuff. Now they will always say that they can't breach confidentiality. Yet in our profession people off load on us in the medical service, we know these families and we know their history but if you ring FACS to talk about a situation they say sorry we can't discuss anything due to confidentiality.

Rosie Baird: (Karu)

We have tried to put in place protocols between Karu and child protection but that never ever went ahead because they didn't want to be responsible for funding Karu.

Insufficient staff within child protection, the lack of formal training for child protection staff, high staff turnover and the lack of any Aboriginal staff within child protection all need to be overcome if the current system is to work more effectively.

Anne Ronberg: (CA AICCA)

And another issue is staff training and being able to train our workers in this sort of area. Because I have been in this area for a while and there is no training for staff including child protection staff, staff involved in alternative care and foster care.

It was also highlighted that agencies were very poorly funded and that programs were often funded for short time frames which diminished the prospect that long term change could be achieved.

Tahnia Edwards: (Congress)

Nothing is ever sustained long enough to have an effect in the long term. Funding is allocated for some project but it is never sustained and you never get the long term results.

Anne Ronberg: (CA AICCA)

It is like a cycle but we have got the services here to help our people but it is not happening I think due to a lack of resources for services. When I say resources I mean things like funding. You get one year funding so one year you can do a good job and get things happening and then the next there is no funding to do it. So there is no long term approach

or goals to help our people.

All agencies advocated that there was a pressing need for community education and awareness to assist communities to come to terms with the realities of child abuse and neglect and encourage them to start talking more openly about child abuse and neglect.

Anne Ronberg: (CA AICCA)

That was one of the things I wanted to do in FACS when I was the Aboriginal Child Protection Adviser and I always requested that I be allowed to go out to the remote communities and have sessions teaching people on issues on what to look for and what is abuse and when to report and how you should report it - but I never got that chance.

Sandra Kitching: (Karu)

And if we are going to have mandatory reporting and educate our people about child abuse can we do it properly - let's do it properly. Lets not throw a pamphlet at them and say read this - how do we know they can read. Lets do it properly and use organisations such as Karu to support families before the damage is done.

Beyond the reforms which might be achieved through additional resources and improved working relationships there was a call for far reaching reforms which reflect the principle of self determination. These were aimed at resolving the underlying causes of child abuse and neglect and establishing a child protection system through negotiation with Aboriginal communities rather than making minor amendments to the imposed system currently in place. Suggested reforms included legislative reforms to the *Community Welfare Act* in relation to mandatory reporting, agreeing on a more appropriate role for Police in relation to child protection and the possible separation of issues of abuse and neglect to allow for neglect to be dealt with through non punitive interventions, ie through supporting families to cope with poverty rather than punishing them because of it. Reforms to address inadequate housing, poverty and the increasing number of people who are excluded from income support were also cited as precursors to any real improvement in the health and welfare of Aboriginal and Torres Strait Islander children.

Astri Baker: (ASYASS)

... also given the history, Stolen Generations and all of that, it is surprising that we don't have a system yet that people are more comfortable with and confident in using where they are assisted to understand the whole process so you don't feel like you are sending some kid through this process which is just going to be worse for them. I think it is quite amazing how little has changed.

There were also comments that in the long term properly resourced and supported community based Aboriginal and Torres Strait Islander organisations held the key to supporting families and responding to the welfare needs of Indigenous children.

Franny Coughlan: (Congress)

Two things keep coming into my head here and one is that the Aboriginal community for a long long time has been wanting to develop their own ways of dealing with issues and providing services. And therefore we shouldn't sit waiting for FACS because FACS will probably never be able to address the needs of Aboriginal children who are at risk - it is something that the Aboriginal community through organisations like this and the others that is the only way it is going to happen.

Anne Ronberg: (CA AICCA)

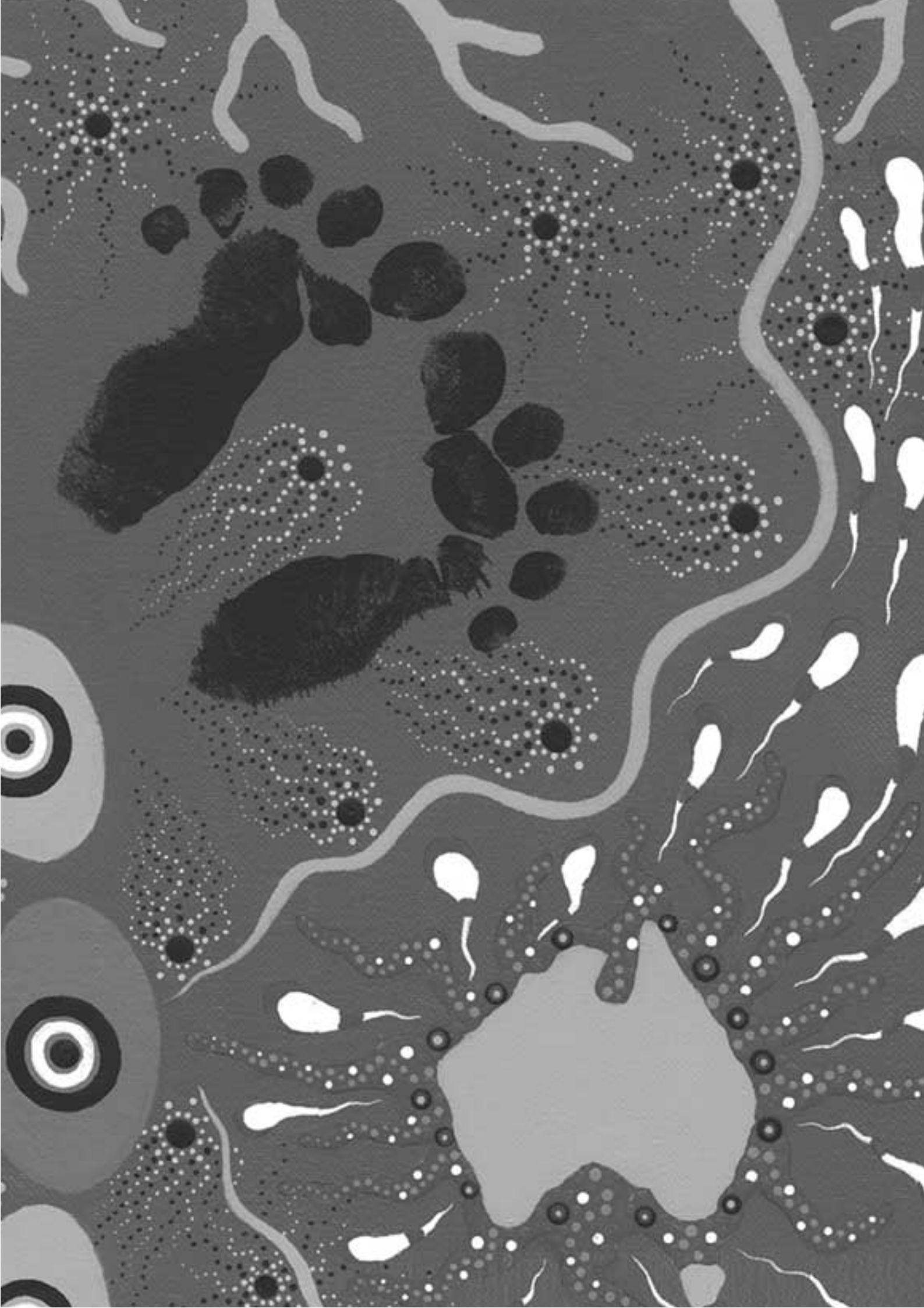
I think we need to start to look at alternative systems because this method, this system is not working, this way of dealing with things is not working properly we need to look at other ways and we have organisations here that are prepared to work on these things.

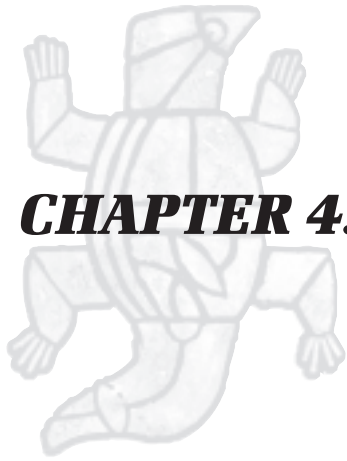
RESEARCH FINDINGS - SUMMARY

In 1999/2000 the Northern Territory child protection authorities substantiated 172 cases of child abuse and neglect involving Aboriginal or Torres Strait Islander children for the whole of the Northern Territory, approximately half of these cases were cases of child neglect (AIHW, 2000). At the same time, the same Northern Territory Government Department, Territory Health Services, reported that in the Darwin rural, Katherine rural and Alice Springs rural areas alone a total of just under 300 Aboriginal children aged under five were clinically underweight due to malnutrition (Collins, 1999, page 149). Nutritional deprivation is specifically noted within the definition of maltreatment provided by the 1983 *Community Welfare Act* and reporting child maltreatment is mandatory for all persons in the Northern Territory.

All of the recognised factors which give rise to child abuse and neglect are as prevalent or more prevalent in the Northern Territory than any other State or Territory. All of the non-government agencies interviewed for this research cited clear examples of the failure of the child protection system to protect children at risk - examples which they believe are typical of a system which is conceptually flawed and operationally undermined by a lack of resources.

It is clear that the current arrangements for protecting Aboriginal and Torres Strait Islander children from abuse or neglect are woefully inadequate. It is equally clear that the Department of Health and Community Services are unwilling to recognise this and operate in a state of denial. There are without doubt many hundreds, probably thousands, of Aboriginal children in the Northern Territory who suffer maltreatment according to definition of the *NT Community Welfare Act* of 1983. That so few are identified and assisted is tragic. Equally tragic is the fact the current system creates an invidious choice for communities - if they report child abuse and neglect it may lead to a form of systems abuse being perpetrated against families, and if they don't, children remain exposed to harm.





CHAPTER 4: CHILD PROTECTION IN THE NORTHERN TERRITORY: FROM TOTAL CONTROL TO ABSOLUTE NEGLECT

This chapter of the report discusses the current operation of the child protection in the Northern Territory in the light of the research findings, historical development of child welfare policy in the Northern Territory and theoretical frameworks for child protection.

CHILD WELFARE INTERVENTIONS IN THE LIVES OF ABORIGINAL FAMILIES

During the periods of protection, segregation and assimilation the child welfare system had the primary role in determining the general health and well being of Indigenous families. As has been outlined earlier in this report the lives of Aboriginal families and children were subject to the absolute control of welfare authorities. Cummings (1990) concludes her book at about the time the current legislation was coming into effect. In 1990 she writes with some degree of optimism regarding the future and the prospect that Aboriginal families will no longer be subjected to the same level of interference and control as had been the case under policies of protection, segregation and assimilation. If that was an objective of the 1983 *Northern Territory Community Welfare Act* then it has certainly been achieved - but is it of itself a good outcome ?

What role the child welfare system should take in the lives of Aboriginal and Torres Strait Islander families, and the extent to which it can take a primary role in improving the general health and well-being of Indigenous families, is an important issue for consideration. For the major part of the 20th century the role of the child welfare system in the Northern Territory was one of control, oppression and coercion. Today the child welfare system would appear to play little or no useful role in the lives of Indigenous families other than compounding existing forms of disadvantage. If Aboriginal children are being neglected by anyone in the Northern Territory it is the child welfare system.

The evidence gathered through this research indicates that the current low level of substantiated child abuse and child removal is the outcome of a system which is ignoring and neglecting the needs of individual children, families and communities. The critical message from the past century of child welfare interventions in Indigenous

communities is that we must move beyond frameworks which assume that the primary form child welfare interventions will take is child removal. It is the removal of children which so fundamentally brings the child protection system undone in the eyes of Aboriginal and Torres Strait Islander people.

The issue of child removal has been central to the political struggles of Aboriginal and Torres Strait Islander people throughout the last century (Butler 1993b, Briskman 2001, D'Souza 1993). The Australian Aboriginal Progressive Association, in 1927 sent the NSW Premier a petition with the demand that:

The family life of the Aboriginal people shall be held sacred and free from invasion and that the children shall be left in the control of their parents (Goodall, 1982, as cited by D'Souza 1994)

Seventy two years later in September 1999 the national peak body for Aboriginal and Torres Strait Islander children and families, the Secretariat of National Aboriginal and Islander Child Care, (SNAICC), told the ATSIIC Indigenous Leaders 2000 and Beyond Summit that,

gaining recognition of the right to raise children remains the most important challenge we must address for Aboriginal and Torres Strait Islander families (SNAICC 1999, page 4).

All of the interview participants for the research highlighted instances of where notifications of abuse and neglect were not responded to by the child protection authorities. Agencies which are often the source of notifications were clearly of the view that not responding, ie that is there being no intervention, was not appropriate.

This issue of there being no response to notifications of child abuse or neglect involving Indigenous children is not unique to the Northern Territory. In 1999 the Queensland Aboriginal and Torres Strait Islander Women's Taskforce on Violence reported that,

Of paramount concern was the fact that a number of people had reported the sexual abuse of children to the Police and to the Department of Families, Youth and Community care, to no effect. The primary concern, however, is the flaw in the current statistics regarding child abuse or child sexual assault, due to the lack of responses when cases are reported. Many Aboriginal women believe that 'it is no use reporting sexual abuse because they don't believe you anyway' (Robertson 1999, page 100).

The form an intervention takes is largely what will determine if the intervention is seen as appropriate with agencies interviewed calling for interventions to be holistic, family focussed and deliver 'back up' and support rather than attribute blame. This was particularly the case in the discussion around child neglect, which was seen as an inevitable outcome of inter-generational poverty and dispossession, rather than the fault of individual parents - who are themselves victims of poverty and dispossession.

It would seem then that we have moved from a situation in the Northern Territory where the child welfare system completely dominated the lives of Indigenous families to one in which it plays little or no role. Ironically the evidence from interviews would suggest that Aboriginal families would welcome additional 'intervention' from the child welfare system, but only if that intervention takes the form of negotiated support and assistance rather than unwelcome interference, control and child removal.

TO PROTECT CHILDREN OR CHANGE SOCIETY ?

In considering how best to address the underlying causes of maltreatment, such as the poor socio-economic position of Aboriginal and Torres Strait Islander people, it is important to consider whether or not the child protection system is an appropriate vehicle through which to achieve fundamental social reforms. There is an argument in the academic literature that the child protection system cannot and perhaps should not seek to change society.

Whilst child protection in the early part of the last century is at times characterised as being a social reform movement aimed at imposing middle class and capitalist values upon predominantly poor working class people Van Krieken (1991) argues that this is perhaps attributing too much to the child protection system. He outlines that, with the exception of its impact on

Aboriginal communities, at any point in time, the child protection system was only involved in a tiny percentage of families lives and that other systems of labour market regulation and compulsory schooling had far more potential to impose values and drive social reform. In the case of the impact of child welfare on Aboriginal communities he agrees that it is appropriate to describe the system as one of social reform, profoundly negative reform, but reform which completely altered Aboriginal communities.

Mendes (1999) examines Marxist and feminist critiques of child protection in discussing if the role of child welfare systems should be, to protect children or to change society ? He suggests that Marxists and feminists, with their emphasis on exposing how child welfare systems reinforce class divisions or patriarchy, may at times overlook the role of child protection in responding to the protective needs of children. Mendes concludes that the core responsibility of the child welfare system should be to protect children, rather than change society.

His question though, 'To protect children or to change society ?', is based on the premise that you can't do both and neglects to take account of the resources which might be available within the child protection system for the chosen task.

Contrast the resources which were available to the child welfare system when its purpose was to destroy Aboriginal culture and communities to the resources available today when it is expected to protect and preserve those communities. As Cummings (1990) shows, the protection and assimilation based Aboriginal child welfare system in the Northern Territory had at its disposal an extraordinary level of physical resources for the time as well as powers to compulsorily acquire land, forcibly remove children, relocate and impound communities, restrict and control peoples movement and compel non-government missions and foster homes to provide training of a designated type. It coordinated and was a significant funder of a wide network of missions, compounds, training institutions and reserves across the Territory for more than half a century. There was also a significant contribution of non-government resources from church and mission groups all working towards the same goals, the elimination of 'half-castes' and Aboriginal culture. Finally there were regular debates and discussions, (which excluded Aboriginal people until at least the 1970's), at the highest levels of government and within inter-governmental forums such as the conference of State, Territory and Commonwealth Government Minister's on Aboriginal Welfare of 1937 and subsequent conferences in 1948, 1951, 1961 and 1979 (Cummings 1990, Austin 1993). The issue of Aboriginal child welfare was of major political importance to State, Territory and Commonwealth governments, albeit for reasons which have now been discredited.

Today the child welfare system in the Northern Territory consists of a skeleton staff, short term programs, relatively little contribution from church based agencies, (unless that contribution is government funded), and two Aboriginal community controlled organisations, Karu and CA AICCA, which receive an almost inconsequential level of funding.

At the national level there has been little or no ministerial level discussion of the best policy approach to Aboriginal and Torres Strait Islander child welfare since the 1983 Social Welfare Minister's conference which discussed the funding of Aboriginal and Islander Child Care Agencies. This is despite the repeated calls for national policy including from the 1979 Aboriginal Child Survival Seminar (Jackson 1979), 1983 Royal Commission into Aboriginal Deaths in Custody (Royal Commission into Aboriginal Deaths In Custody 1991), from SNAICC since its creation in 1981 (Briskman 2001, D'Souza 1993), from the 1987 *Bringing Them Home* report (HREOC, 1997a) and most recently from the Australian Democrats (Ridgeway, 2001) in the lead up to the 2001 Federal Election.

The contrast is stark; when the policy objective was to eliminate Aboriginal culture no stone was left unturned - when the policy need is to preserve Aboriginal culture and re build families we barely lift a finger. The history of Aboriginal communities in the Northern Territory shows that the child welfare system can change society. However, the question now is can it change society for the better as judged by Aboriginal and Torres Strait Islander people.

DEVELOPMENT OF CHILD PROTECTION RESPONSES BASED ON SOCIAL CAPITAL THEORY

As noted earlier, theories of social capital tend to assume that increased connectedness and interaction between people is necessarily positive. In the area of child protection it has been noted that families which are highly connected at the local level can be less likely to experience child abuse or neglect. However, this may not hold true in communities where interactions between people at the local level are often negative (Tomison & Wise 1999, Winter 2001). Interview participants described situations in which people are overwhelmed by the endemic levels of poverty, violence and abuse and feel unable to move beyond these situations. In such circumstances increased social connectedness may simply reinforce the difficulty people face in overcoming the disadvantage which confronts them. All interviews noted that there can be a tendency for agencies and individuals to become immune to the high levels of poverty and neglect, and to start viewing clear examples of child neglect as just a normal part of life. They also described the difficulties in reporting child abuse

when there is little possibility of being able to protect oneself from possible reprisals. Thus, for Aboriginal communities, and in particular rural, remote and isolated communities, it seems doubtful if child maltreatment prevention programs based solely on theories of social capital would achieve positive outcomes. Responding to the needs of these communities will need to include more fundamental strategies than those that rely on the development of social capital and increased social connectedness at the local level.

Social connectedness needs also to be seen not just in terms of connections between individuals within a community but in terms of connections from one community to another. One legacy of the history of segregation and forced relocation of Aboriginal and Torres Strait Islander people would appear to be that many Aboriginal communities continue to exist with little or no connection to the broader community and its systems of economic, social and political participation. Whilst systems of legal segregation may have ended social, political and economic segregation continue. To date the connections between Aboriginal communities and the broader community forged through child welfare policy have taken the form of colonisation, (Litwin 1997, D'Souza, 1994) and brutal intervention into the affairs of families with genocidal intent (HREOC 1997a). For social capital theory to have positive meaning for Indigenous communities these negative connections need to be replaced by new, positive connections which are based on recognition of Indigenous rights, and a commitment from the broader community to respond to Indigenous people's needs.

RESPONDING TO CHILD MALTREATMENT: FROM CHILD REMOVAL TO FAMILY SUPPORT

There has been a strong trend in recent years in Australia and overseas away from the investigative approach in child protection, with emphasis on individual cases, to a broader family support approach with emphasis on prevention (Poole & Tomison 2001). This trend from protection to prevention has been commented upon for twenty years or more (Carter 1983).

One of the suggested shortcomings of focussing the child protection system too heavily on investigating events is that it leads to issues of child neglect being overlooked and possibly ignored. The investigating events focus is more suited to dealing with individual events such as episodes of sexual or physical abuse as opposed to responding to neglect which may typically require a longer term and more detailed knowledge of a families and child's circumstances (Tomison 1995a). Certainly this would appear to be the current situation in the Northern Territory where the process of child maltreatment investigations was described by interview participants as being driven

by concerns to collect evidence as opposed to assess and respond to the support needs of children. There was also support in interviews for child neglect to be recognised as distinct from child abuse given that neglect is more closely tied to issues outside the direct control of families such as the prevailing socio-economic circumstances within their community.

The current legislative and administrative arrangements in the Northern Territory operate within a risk and resiliency framework. This is evident in the email response to the interview questions provided by a Senior Policy officer of the Department, Gary Sherman, see appendix six. As was noted above, interview participants from non-government agencies indicated that child protection staff place heavy emphasis on investigating events, and too little on supporting children and their families.

In discussing the shift to a family support approach Poole and Tomison (2001) note that three major changes have occurred to differing degrees within the child protection systems in Australia. They note that these include a shift away from narrow investigative approaches to include a broader assessment which takes in the family context, the child's wider needs and their access to other support networks and services. Secondly, highly structured risk assessment measures have been developed to screen notifications, and thirdly consistent with this screening process notifications are classified as requiring a child protection investigation response or as requiring a response based on providing support and assistance to a family.

The Northern Territory child protection system appears to lag behind developments in other jurisdictions and operate with no focus beyond a very narrow interpretation of risk and resiliency. Recent developments in child protection from other jurisdictions, including the shift towards family support and community based prevention, were discussed with interview participants. Whilst the response was generally favourable there was some concern that in the current climate screening or classifying notifications into family support issues or child protection issues may result in even less effort being directed towards the proper investigation of serious allegations of child abuse and neglect. However, there was strong support in interviews for reforms which would see the child welfare system deliver holistic family support, particularly in responding to child neglect, as opposed to responding through investigations which stigmatise and traumatise families and result in the removal of children.

Agencies interviewed for the research all supported the need to develop longer term, holistic approaches to preventing child abuse and neglect which took account of the needs of communities and the realities of life for Aboriginal and Torres Strait Islander people. This is what

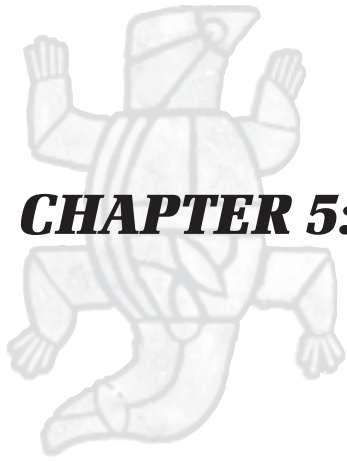
the literature would describe as an ecological approach to the prevention of child maltreatment (Tomison & Wise 1999).

SUMMARY

Arguably the child protection system in the Northern Territory is conceived to operate as a broad and interactive system of community based child welfare programs but currently operates as a residual welfare service. In practice it has failed to cast off the legacy of protection, segregation and assimilation policies and lags behind other child protection systems in Australia in terms of embracing holistic community based approaches to the prevention of child maltreatment. There is evidence from the interviews with local agencies that the focus remains on investigation of notified cases through processes which traumatise families and sabotage prospects of securing family cooperation to improve their circumstances. Whilst the system remains focussed on investigations the removal of children will remain as the major form of intervention. In these circumstances Indigenous communities will quite understandably continue to view the system as antagonistic to their rights and needs.

Tomison and Wise (1999) note that holistic community based approaches to the prevention of child abuse and child neglect should ideally combine the three theoretical elements of, ecological approaches, risk and resiliency and social capital. In the case of the Northern Territory the system is heavily weighted towards a narrow investigative approach within a risk and resiliency framework with inherent bias against dealing with child neglect and serious inconsistencies in the way in which it responds to child abuse - if it responds at all. In order to produce better results for Indigenous communities the major emphasis in the child welfare system needs to be on ecological approaches which address the underlying causes of child maltreatment. Importantly it needs to be recognised that these underlying causes include the ongoing impact of previous separations and the prevailing socio-economic circumstances confronted by Indigenous people in the Northern Territory on a daily basis.





CHAPTER 5: BEYOND APOLOGIES: NEGOTIATING THE DEVELOPMENT OF A REFORMED CHILD WELFARE SYSTEM IN THE NORTHERN TERRITORY

Consistent with SNAICC's role as a national advocacy organisation there are a number of reform options outlined below which Indigenous communities may wish to pursue with the Northern Territory Government. These options are general in nature rather than prescriptive, and aim to provide Indigenous agencies in the Northern Territory with a starting point for negotiations with the Northern Territory Government should they seek to pursue reforms to the current child protection system. As outlined in the introduction SNAICC's role in this research extends to pursuing recommendations which find support amongst Indigenous agencies in the Northern Territory.

REFORM OPTIONS AND RECOMMENDATIONS

These reform options arise as possible responses to the issues which this research has highlighted. They are by no means exhaustive but they are as follows:

NEGOTIATING WITH INDIGENOUS COMMUNITIES AN AGREED ROLE AND PURPOSE FOR CHILD WELFARE

At no stage in the past hundred years has a government for the Northern Territory negotiated with Indigenous communities in relation to what the preferred role and purpose should be of the child welfare system. As noted earlier the role of child welfare was, in the days of protection, an issue of central political importance in Australia. Today the child welfare and protection systems of the states and territories operate with little or no clear and consistent underpinning policy objectives - negotiated or otherwise (Parkinson 2000). In reviewing the child welfare administration and legislation of all States and Territories, Liddell and Liddell (1998) note,

Our States and Territories either have not thoroughly reviewed their philosophies recently or, if they have, they have focussed on only parts of them. In subsequent reforms they have then added to or changed elements in the protection and care systems, sometimes thereby creating unrecognised but crucial contradictions between the new and the old (Liddell & Liddell 1998, page 106).

In essence the policy objective of the child welfare system remains unclear - what are we currently trying to achieve through the child protection system in the Northern Territory, and is this what Indigenous communities need and want ?

RECOMMENDATION ONE: Indigenous Child Welfare Summit

That the Northern Territory Chief Minister convene a Territory wide Indigenous child welfare summit in partnership with SNAICC, Aboriginal and Torres Strait Islander children's services and ATSIC to discuss and agree on key principles and strategies for the reform of child protection and welfare services in the Northern Territory.

ESTABLISHING AN INDIGENOUS CHILD AND FAMILY WELFARE COUNCIL

Cummings (1990) noted the Child Welfare Act of 1958 established a Child Welfare Council with the role to advise and report to the then Director of Welfare on the general operation of the child welfare system and

on individual cases. Aboriginal people were excluded from its membership and as the child welfare system has become more and more residual, such advisory mechanisms have been abolished.

The current legislation (NT Government, 1983) provides for the creation of child protection teams at a local level, but includes no statutory advisory mechanisms to coordinate the overall functioning of the child welfare system. Establishing such a body, perhaps as a statutory authority with broad powers beyond providing advice to the Minister, and with a direct reporting line to the Northern Territory Parliament, would seem both a necessary and manageable reform. This would shift responsibility for the policy direction and management of Indigenous child welfare from a single Northern Territory Government Minister into a forum in which Aboriginal and Torres Strait Islander people were key stakeholders.

There are already a number of Indigenous organisations, including those interviewed, that could bring great expertise to such a body.

**RECOMMENDATION TWO:
Indigenous Child and Family Welfare
Council**

That the Northern Territory Government agree in principle to establish a Northern Territory Indigenous Child and Family Welfare Council under the *NT Community Welfare Act of 1983*, and finalise this proposal after detailed consultations with Indigenous communities and agencies.

**REVIEWING THE ROLE OF THE NORTHERN
TERRITORY POLICE IN CHILD PROTECTION**

The role of the Northern Territory Police in child protection was an issue of considerable concern expressed by all interview participants. There appeared to be no positive outcome from the Northern Territory Police sharing with child protection staff the power to investigate possible cases of child maltreatment. Rather the experience of agencies interviewed for the research was that child protection authorities tend to defer to the Police rather than responding to notifications themselves, with the result that the families involved are subjected to Police investigations rather than supported to deal with situations which are already difficult and traumatic. Further, there was very little confidence in the capacity or willingness of the Police to report or respond to cases of abuse or neglect.

One option would be to remove the specific power of the Police under the *NT Community Welfare Act of 1983* to investigate suspected cases of child maltreatment and replace it with a mandatory requirement that

they report any suspected cases to child protection authorities. This would not leave the Police with no role in child protection, but would limit their role to investigating criminal offences and assert the primacy of child protection workers to respond to child maltreatment.

**RECOMMENDATION THREE:
Review the role of NT Police role in child
welfare matters**

That the Northern Territory Government commission an independent review of the role of the Northern Territory Police in child welfare matters including in conducting investigations into alleged child abuse and neglect, the application of mandatory reporting requirements and in recognising and reporting child abuse and neglect.

**REVIEW OF MANDATORY REPORTING
REQUIREMENTS**

A further issue in the reporting of child maltreatment relates to the general provision in the *NT Community Welfare Act of 1983* that all residents of the NT are required to report suspected cases of child maltreatment. Whilst this seems reasonable, the application of this provision leads to non-government agencies which report issues being locked out of the information gathering process if and when investigations commence. Support was expressed by interview participants for the legislation to list specific professions, occupations and Indigenous agencies and outline that where they are the source of notifications that their advice and expertise will be sought and taken account of in the investigation process. This could be provided for through an amendment to the *Community Welfare Act of 1983* whilst retaining the current general provision that all residents of the Northern Territory are required to report suspected cases of child maltreatment.

**RECOMMENDATION FOUR:
Review of Mandatory Reporting**

That the Northern Territory Government commission an independent review of mandatory reporting requirements including:

- the extent to which mandatory reporting requirements are understood and adhered to by professionals and others working with children and by the broader community
- the need for professional development and training for specific professions which involve contact with children
- the need for specific classes of persons or professions to be separately mandated within the legislation and for the child protection

investigation system to gather appropriate information from and seek the advice of such persons when investigating child abuse and neglect

AUDIT OF COMPLIANCE OF WITH THE ABORIGINAL CHILD PLACEMENT PRINCIPLE

Agencies interviewed reported that it was common for Aboriginal children in Northern Territory to still be placed with non Indigenous foster carers or with Indigenous foster carers who may not have been adequately assessed with regards to their suitability to provide foster care. It would appear that the Aboriginal Child Placement Principle, ACPP, is being applied in a somewhat ad hoc manner, and that placement of Indigenous children with any other Indigenous family may be regarded as appropriate under the principle - this is not the case. Adherence with the Principle should be publicly monitored and reported on a periodic basis and the preferred placement options under the principle implemented in their order of priority. Further, substantial additional funding for effective foster care programs is warranted in order to ensure that there are appropriate placement options for children who cannot safely remain with their birth family.

RECOMMENDATION FIVE: Compliance with the Aboriginal Child Placement Principle

That the Northern Territory Government conduct an independent audit of compliance with the Aboriginal Child Placement Principle including the current capacity of Indigenous foster care and other out-of-home care services to meet demand for the placement of Aboriginal and Torres Strait Islander children.

IMPLEMENTING PUBLIC AWARENESS CAMPAIGNS IN RELATION TO CHILD ABUSE AND NEGLECT

Whilst the Northern Territory is delivering some general community awareness activities in relation to child abuse and neglect, the view of agencies interviewed for this research was that few people in Indigenous communities have had an opportunity to benefit from these activities. It was noted that, generally speaking, people are unaware of what the legislation defines as maltreatment, their obligation to report maltreatment, who they should report it to and what should occur if and when it has been reported. Agencies themselves also noted that there is little if any work carried out to educate people in rural and remote communities on child protection issues, including educating people in health clinics and other services on their responsibilities to report

maltreatment. Evaluating what community education has taken place with a particular focus on rural and remote communities, would seem timely and worthwhile. Beyond that, community education of a general nature and extensive ongoing professional development and training on issues relating to child abuse and neglect for people working with Indigenous families should become permanent priorities for the Department of Health and Community Services. Such training and professional development should be devised and delivered in partnership with Indigenous communities and agencies and include reference to the historical practices of child removal.

RECOMMENDATION SIX: Community education and awareness

That the Northern Territory Government establish long term community education and awareness programs which are conceived and implemented in partnership with Indigenous communities

That the Northern Territory Government establish an ongoing program of professional development focussed on issues of child abuse and child neglect for government and non government staff who have contact with Indigenous children

That such professional development programs be designed and implemented in the consultation with Indigenous communities and services, take account of the historical practices of child removal and take a holistic community based approach to child welfare and protection.

RECOGNISING PARENTING AS A SOCIETAL OBLIGATION AND DEVELOPING A NEEDS BASED FRAMEWORK FOR SERVICE DELIVERY.

Inherent in the types of reforms to child protection sought by interview participants was the development of an approach whereby the responsibility for the care, nurturing, support, development and protection of children is shared between, families, community and government. This is what has been called, social parenthood;

an effective approach to meeting the needs of children will be to regard services for them as a system of social parenthood in which responsibility for children's care will be shared in a positive way between, parents, the community and the state (Jamrozik & Sweeney, 1996).

Such an approach would provide opportunities to address the underlying causes of child abuse and neglect

and remove from the child welfare system the tendency to blame parents for issues beyond their control.

Recently within the United Kingdom a broader 'children in need' assessment framework for child protection and welfare has been established. The children in need assessment framework, rather than taking a narrow approach to risk and resiliency, seeks to take an ecological community based approach (Tomison & Wise, 1999), which as Wise (2001a, page 17), has noted includes,

... that the needs of the child are viewed in the context of the characteristics of the individuals (social, cognitive and emotional functioning), as well as other sources of influences. These include the immediate and wider family context, the community and culture in which the family functions (work, school, neighbourhoods) and the societal structures and policies. The assessment framework considers the inter related areas of child development (health education etc), parental capacity to respond adequately to these needs and the family and environmental issues that may affect the parental capacity (poor housing, family discord, poverty).

Broad holistic services which are oriented towards family support, not child protection, are seen as critical to effective implementation of a needs based approach with the possibility that child protection and family support are completely separated in recognition that the child protection system stigmatises families.

Wise (2001b) also notes that;

The 'Children in Need' system is designed to ensure the child welfare system functions for a broader population of children than child protection clients, as determined by need. It gives family support work the high status it deserves (Wise 2001b, page 1).

Developing a needs based approach to child welfare in the Northern Territory would have the potential to move the system beyond its current limitation of intervening as a last resort in a manner which produces no long term improvement in the health and well being of families. The 'Children In Need' assessment framework being developed in the UK and trialed in Victoria by Anglicare (Wise, 2001b), could provide some valuable insights into broader more holistic approaches to child welfare.

RECOMMENDATION SEVEN:

Developing a needs based approach to child welfare

That the Northern Territory Government support the long term development of broad, community based and universally accessible

family support and child welfare services which recognise parenting as a societal obligation and focus on the holistic needs of children.

DEALING WITH CHILD ABUSE AND CHILD NEGLECT THROUGH SEPARATE CHILD WELFARE INTERVENTIONS

This was discussed with interview participants and was viewed favourably, although with some caution. Some participants were fearful that dealing with child neglect cases separately through the provision of family support may see child abuse relegated to an even lower priority by the Department than is already the case. There was strong agreement however, that in the case of child neglect, and even in cases of emotional abuse, that blaming parents or families was not effective, fair or useful. Responding to neglect through the provision of support rather than investigating cases in order to establish which individuals are to blame, is a major paradigm shift which the Northern Territory child welfare system should embrace.

In 1994 the Commonwealth reviewed its role in relation to the prevention of child abuse and noted that it might be inappropriate to apply the conventional categorisations of neglect, given that many Indigenous parents cannot provide the necessities of life due to poverty, deprivation and the on-going effects of past separations. That report supported the approach recommended by SNAICC which was to address societal factors that directly contribute to child abuse and neglect (Rayner 1994). In order to achieve that outcome, developing different types of child welfare interventions to those typically employed in cases of child abuse would seem essential.

RECOMMENDATION EIGHT:

Focus on child neglect

That the Northern Territory Government consult and negotiate with Indigenous agencies and communities around the need and appropriateness of developing separate child welfare interventions and support systems for child neglect as distinct from child abuse.

WORKING WITH FAMILIES AND CHILDREN THROUGH HOLISTIC INDIGENOUS FAMILY SUPPORT SERVICES

Wise (2001) notes that whilst the 'children in need' assessment framework assumes that family support will play a central role in its effective operation it has been noted that the focus still tends to be on the holistic needs of individual children not the holistic needs of families.

Interview participants were firmly of the view that the child welfare system should work with and respond to the needs of families, as opposed to singling out one child from a family for particular interventions. Working with families and children holistically through ensuring all families have access to broad, well resourced and accessible family support services may well be more effective at preventing child abuse and neglect than narrowly targeted programs aimed at 'children at risk'. In relation to neglect, most Aboriginal and Torres Strait Islander children would appear to be at risk, given the poor socio economic status of their families and the ongoing effects of child removal in previous generations, rendering the concept of 'targeting' somewhat meaningless.

As Butler states,

Programs that raise self esteem, pride and self confidence in children through the arts, sports and other cultural expressions, for instance may well be more effective (Butler 1993a, page 12).

This suggests that a major program of reform is required, including major expenditure on supporting the growth and development of Aboriginal and Torres Strait Islander community controlled family support services. Currently the AICCA's in the Northern Territory are on the whole restricted in their funding and focus on child protection and foster care programs. When first formed these and other AICCA's envisaged developing much broader, holistic and open services which families could access when they needed support (Jackson 1979, SNAICC 2000, Choo 1990). However the AICCA's have been restrained and restricted through the narrow frameworks of the State and Territory child welfare systems they form part of, grossly inadequate funding and the failure of State and Territory to support concepts of self determination and community control beyond the realm of rhetoric.

RECOMMENDATION NINE:

Expand Indigenous family support services

That the Northern Territory Government develop and fund a network of Indigenous family support services and programs which are universally accessible and focussed on primary prevention of family conflict, breakdown, family violence, child abuse and child neglect.

INCREASING GOVERNMENT INVESTMENT IN CHILD WELFARE SERVICES

Despite the general over-representation of Aboriginal and Torres Strait Islander children in care, investments in services for those children are very low with resources disproportionately directed at other children in the

system. The recent national audit of child prevention programs found that across Australia only 16% of programs targeted Aboriginal and Torres Strait Islander people with only one quarter of these, or 4%, having been developed with Indigenous input or control (Poole & Tomison 2001).

One major issue identified by all agencies interviewed was the urgent need to provide additional financial and other support to Indigenous families who act as foster families for Indigenous children. This should extend to voluntary arrangements, kinship care, where families are providing substantial care for other children where there is no care and protection order in place. The lack of financial and other support was cited as a major difficulty in recruiting Aboriginal foster parents and in maintaining the stability of existing placements. A recent study on the costs of foster caring found that in all States and Territories the financial support provided to foster families was significantly below that required for the reasonable care of foster children, (McHugh 2002). It also recommended that foster care payments and other forms of support be extended to Indigenous kinship carers.

The current level of investment in non-government Indigenous services with a role in child welfare must be dramatically increased but in a managed and planned manner, which has been negotiated with them. AICCAs and other services need support, assistance and additional funding to broaden their programs and develop a comprehensive focus on family support and early intervention. The role of Indigenous non-government agencies in child welfare has been restricted by the failure of successive governments to realise that they present the best opportunity to build a community based infrastructure capable of responding to the welfare needs of Indigenous children. By comparison, over the past two decades, there has been a dramatic expansion in the role and funding provided to non-Indigenous, often church based, child and family welfare services, with such agencies receiving strong recognition for their work (Scott 2001).

The level of resources invested in the child welfare system when its purpose was to destroy Indigenous families was massive in comparison to the current level of resources invested in a system which aims to support Indigenous families. It is time that the child welfare system invested as much time, money and power in rebuilding Indigenous families as it did in pulling them apart.

RECOMMENDATION TEN:

Child Welfare Reform funding package

- 10.a That the Northern Territory Government develop a child welfare reform funding package in consultation with Indigenous agencies and communities of not less than

\$20 million per annum with elements directed towards:

- community education, training and professional development
- establishment of additional Indigenous community based child and family welfare services
- resourcing Indigenous community based child protection teams, as provided for under the Community Welfare Act, to work from within communities on the prevention of child abuse
- supporting the long term development of Indigenous community based child and family welfare services
- establishing effective foster care programs for all Indigenous communities in the Northern Territory
- providing additional support for the recruitment, training, financial assistance, support and supervision of foster carers with the care of Indigenous children

10b. That the majority of the child welfare reform funding package be directed towards development and support of community based Indigenous child and family welfare services and programs.

10c. That the Northern Territory Government seek Commonwealth assistance with the establishment of a funding package for child welfare reform given the direct responsibility of the Commonwealth Government for past practices of child removal and their ongoing role to support the welfare of all children and families, particularly in the areas of family support and early intervention.

DEVELOPING AN ECOLOGICAL APPROACH TO THE PREVENTION OF MALTREATMENT

An ecological approach to prevention would require investment of additional resources into communities to respond to the existing high levels of poverty, homelessness and unemployment. It is arguable that the provision of employment opportunities, housing and income support are responsibilities beyond the child welfare system. However, as noted by Cummings (1990) and Austin (1993) in the days of separate legislation for Aboriginal child welfare and the system of Aboriginal protectors the Chief Protector had access to extraordinary resources and powers in order to meet their legislative responsibilities. These included not only powers over the lives of Aboriginal people but powers to

compulsorily acquire land, to compel missions to provide certain standards or levels of training and to regulate the employment and movement of Aboriginal people. This reflected the power that the Chief Protector held within the Northern Territory. As noted earlier in comparison the child welfare system today is relatively powerless and impoverished.

In order for an effective ecological approach to the prevention of child maltreatment to be developed a reformed child welfare system, (within which Indigenous communities have a strong power base), would itself require additional powers. These would need to be sufficient to ensure that underlying issues such as poverty and homelessness could be addressed. Such powers could focus on directing the investment of resources by other government portfolios, health, housing and education etc, rather than the child welfare system itself becoming the direct provider of these basic services. Developing an effective ecological approach to prevention would require a substantial change to the role of child welfare within government and in its relationship to other government portfolios. Such change should embrace building communities which can support and nourish families, thus ensuring that families have the capacity to care for children (Scott 2000, James 2000b).

RECOMMENDATION ELEVEN: Indigenous child welfare policy statement

That the Northern Territory Government develop a Indigenous child welfare policy statement in partnership with Indigenous communities which:

- recognises the ongoing impact of past practices of child removal in the Northern Territory
- outlines support for ecological, holistic and community based approaches to child welfare,
- clearly states the objectives of child welfare policy including prevention of family breakdown, family violence, child abuse and child neglect and child removal, and
- supports the establishment of national standards legislation for Indigenous child welfare as recommended by the Brining Them Home report.

ASSESSING AND RESPONDING TO THE IMPLICATIONS OF THE AGE STRUCTURE OF THE INDIGENOUS POPULATION.

There is also the matter of considering the cost of not developing an ecological approach to prevention of child maltreatment, particularly given the growth in the Indigenous population and the high proportion of

Indigenous people under the age of 30, approximately 70% (ABS 1998). This has vast implications for all portfolio areas of government. In relation to foster care the implications of the age structure are that the number of Indigenous children who may require foster care will escalate at the same time as placement options decline (SNAICC 2002). The high dependence on employment programs for access to employment means that unless CDEP and other employment programs are rapidly expanded, unemployment in Indigenous communities will grow (Taylor & Hunter 1998). Access to preschool education is already declining for Indigenous children, as the early childhood education sector fails to keep pace with the growth in the number of pre school age Indigenous children (SNAICC 2002). The costs of not developing an ecological approach to the prevention of maltreatment are likely to be immense, in both monetary and human terms, as the socio-economic position of Indigenous people further declines.

RECOMMENDATION TWELVE:

Long term planning

That the Northern Territory Government establish planning mechanisms to ensure that all portfolio areas of government take account of the high proportion of children and young people within the Indigenous population, including by allocating additional funding to cater for the increasing number of Indigenous children and young people.

NATIONAL POLICY AND LEGISLATION FOR CHILD WELFARE

Aboriginal and Torres Strait Islander families have been advocating for a national approach to child welfare since at least 1979 when the formation of a peak body to pursue that objective was formally agreed (Briskman 2001, Jackson 1979, Chisholm 1985). Throughout its history SNAICC has advocated for national policy and national legislation, with an emphasis on legislation which guarantees community control over the welfare of children and recognises the unique rights of Indigenous children (D'Souza 1993).

Various inquiries over the past two decades have made similar recommendations including the:

- 1986 Australian Law Reform Commission report on the recognition of Aboriginal Customary Law
- 1991 Royal Commission into Aboriginal Deaths In Custody
- 1997 Human Rights and Equal Opportunity Commission Inquiry into the forced separation of Aboriginal and Torres Strait Islander children from their families

SNAICC's call for national policy and legislation has been widely supported including by the Aboriginal and Torres Strait Islander Commission, ATSIC, Australian Council of Social Service, ACOSS, the Australian Democrats and by the Chief Justice of the Family Court, Alistair Nicholson, (Nicholson 1995).

In discussing the prospects and likely outcomes of national legislation Liddell and Liddell (2000) note that simply homogenising the existing State and Territory systems into a national system may overcome inconsistencies, but do little to actually reform the underlying principles of child welfare and protection. Rayner (1994) also noted that this may lead to a lowest common denominator approach whereby a national system with the worst of all worlds is created.

With these reservations aside, the pursuit of national legislation and the pursuit of reformed state and territory based systems needs to proceed in parallel with reforms to be negotiated with Indigenous communities and their representative organisations. To play its part in this process the Northern Territory government could start by negotiating reforms to child protection with Indigenous communities and using its membership Ministerial Councils to support national reforms.

RECOMMENDATION THIRTEEN:

National Reforms

That the Northern Territory Government use its membership of the Council of Australian Governments, the Community Services Ministerial Council and other inter governmental forums to seek national support for:

- a national policy framework for Indigenous child welfare under pinned by support for ecological, holistic and community based approaches to child welfare with the objective of preventing child abuse and neglect and child removal
- the establishment of national standards legislation for Indigenous child welfare as recommended by the Brining Them Home report

FUTURE RESEARCH

The exploratory nature of this research means that there are a number of issues examined during my research which would benefit from more detailed investigation and consideration. In addition during interviews issues emerged which, whilst not directed related to the objectives of this research, are nonetheless important.

PRIORITIES FOR FURTHER RESEARCH

Priorities for further research could include the following:

- the historical and current role of Northern Territory Police in child protection including the extent to which Police are trained and resourced to respond to child maltreatment and the responsiveness of Police to child maltreatment.
- the relationship between child sexual assault, youth suicide and detention. This issue was highlighted by workers from Karu who indicated that fear of sexual assault in detention was a major reason for youth suicide as many young men having been victims of sexual assault as children fear further assaults if incarcerated.
- the extent to which reported child sexual abuse and neglect in rural and remote areas is investigated by Police or child protection authorities.
- Access to Federal Government income support payments by Aboriginal and Torres Strait Islander people including estimates of the number of eligible people in the population compared to the number in receipt of their entitlements. It was noted in a number of interviews that often within an extended Aboriginal family few and perhaps only one adult member of the family may be in receipt of income support and that they are expected under cultural and family obligations to share this income. This would suggest that there may be significant numbers of Indigenous people entitled to income support who do not receive it. This might be described as welfare deficiency as opposed to welfare dependency.
- comparative research which covers all states and territories with research objectives similar to those outlined for this minor thesis. This should include where community based approaches to prevention of child maltreatment have been utilised, preferred and existing service and program models for Indigenous child welfare services and adherence to the Aboriginal Child Placement Principle.

AVAILABILITY OF SOCIO ECONOMIC DATA

In relation to the ongoing availability of data on Aboriginal and Torres Strait Islander people, children, families and communities it would seem more in keeping with the spirit of the Royal Commission recommendation, for the NATSIS to be conducted periodically. In the seven years since the survey was conducted there has been a significant increase in the Aboriginal and Torres Strait Islander population (ABS, 1998, page 5). Making proper assessments of the impact of government spending and other initiatives aimed at improving the health and well being of Aboriginal and Torres Strait Islander people, is hampered by an ongoing lack of detailed data and information. Whilst it might be hoped that the socio-economic position of Aboriginal and Torres Strait Islander people has improved since 1994, this is difficult to determine. Conducting a national survey of the type envisaged by the Royal Commission every five years would provide a regular source of information and data to aid public policy development. This would be consistent with the time period for the national census of population and housing which occurs every five years.

CONCLUSION

At present the child welfare system in the Northern Territory appears to be adrift with no overarching policy goals or effective partnerships with non government agencies. In order to establish effective partnerships with Indigenous and other agencies, and develop programs of relevance to Indigenous people, the system should embrace the concept of self determination and negotiate with Aboriginal and Torres Strait Islander people for the effective transfer of power and resources sufficient to provide for the care, development and protection of children.

For a period lasting almost a century the Commonwealth and Northern Territory governments stole or removed many Aboriginal and Torres Strait Islander children and as a consequence stole and removed the parenting role of their Indigenous families. Since the late 1960's Indigenous families and communities have successfully fought to take back that role and reclaim their children. However, it was not just the children that were taken. Colonisation took away land, languages, resources, economic independence, social status, cultural rights and human freedoms (Dodson 1994). It is not enough for governments to hand back responsibility for the care of children without also handing back the other things which were taken.

On the evidence of this research the Northern Territory and Commonwealth Governments have handed back responsibility for the care of children to Indigenous

communities, whilst withholding the resources required for the task.

The Northern Territory child welfare system operates as a residual welfare service which at best randomly intervenes in the lives of small numbers of destitute, impoverished or abused Indigenous children from Indigenous communities which are themselves, destitute, impoverished and abused. These interventions, few as they are, seem at times to only add to the problems experienced by children and provide no certainty that children will be better off because of them.

Perhaps the single most important and overdue reform for child protection in the Northern Territory is for the Northern Territory Government to commit itself to a process of genuine dialogue and negotiation with Indigenous communities until agreement is reached on the role and purpose of the child welfare system in relation to Aboriginal and Torres Strait Islander families. This is what should have preceded the first Aboriginal child welfare legislation over ninety years ago.

Soon after her election Clare Martin, the current Chief Minister of the Northern Territory, apologised to Aboriginal and Torres Strait Islander people for the past practices of child removal and the damage they had caused. But the damage remains and as has been seen in other states and territories what comes after the apology is of equal importance (Sweeney 1995).

To be judged as genuine, the dialogue should encompass a review of the current legislation and the role of the Northern Territory police in child protection. The dialogue should recognise the role and purpose of community controlled Aboriginal and Torres Strait Islander services and identify the steps required to ensure self determination is more than government rhetoric. As Mick Dodson put it during the International Year of the Family,

If this country is to move towards a just relationship between its indigenous and non indigenous peoples, the dynamic of that relationship must shift from patronage, control and interference, to support, cooperation and respect (Dodson 1994 page 8).

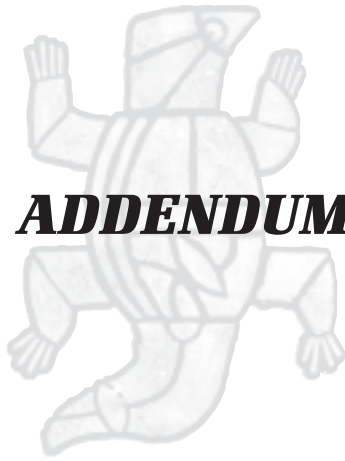
Finally, for such a dialogue to be created and maintained Indigenous non-government organisations will need to campaign together as advocates for social change and work beyond their service provider roles. They should not expect that this campaign will be either short or easy (O'Brien 2000). However, the history of struggle and success by Aboriginal and Torres Strait Islander people in previous generations to reclaim their children should provide optimism that they can succeed and that justice will prevail.

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ADDENDUM: RESEARCH METHODOLOGY

INTRODUCTION

The three major influences in developing the methodology for the research were:

- the need to establish and quantify the differences in the recorded levels of child abuse and neglect for Aboriginal and Torres Strait Islander children in Northern Territory compared to other states and territories
- the need to involve Indigenous organisations working in the Northern Territory in the research, and thirdly
- the production of a final paper, which was not only a sound thesis but which was useful for a number of audiences including government departments and Indigenous organisations focussed on child welfare.

My own observation, having worked for over 15 years as a policy advocate, is that papers which effectively combine quantitative and qualitative techniques can more effectively carry an argument to governments and others involved in public policy formulation. Thus the methodology drew together elements of action research, secondary data analysis and qualitative group interviews.

RESEARCH ORIENTATION AND PROCESS

The methodology combined quantitative and qualitative research techniques within a realist, (Sarantakos, 1988, page 12), framework which recognised and extended SNAICC's work as a politically activist organisation.

Sarantakos (1988) notes that,

The task of social research is not simply to collect observations on the social world, but to explain these within theoretical frameworks which examine the underlying mechanisms which structure people's actions.... (Sarantakos, 1988, page 11).

Whilst Jamrokoz and Nocella (1998) describe political activists as follows:

Political activists identify a social condition as a social problem and aim to bring it to public notice and to the attention of government (Jamrozik & Nocella 1998, page 64)

and that;

A feature of political activists and lobbyists is their interest in issues that, from the perspective they present, in most instances call for political decisions. Any such decisions endorses the perspective of the problem they identify as being in the political sphere (Jamrozik & Nocella 1998, page 64).

This acts against the problems being seen as personal issues or deficiencies in people rather than a systematic political problem. They argue that;

For a social condition to be seen as a social problem in a class society, it has to be acknowledged as such by the dominant class. It is to be expected that from another perspective the condition may not be seen as a social problem (Jamrozik & Nocella 1998, page 76).

My own experience working for national advocacy organisations engaged in lobbying reinforces and reflects the views of Jamrokoz and Nocella. Gaining acceptance within the political sphere that the issues an organisation represents are in fact political problems requiring a response, is a difficult and complex part of political advocacy and lobbying.

Overall the research project, commencing with my earliest ideas for the topic through to the formulation of reform options, followed the three aspects of qualitative research as outlined by Strauss (1990) and discussed by Alston and Bowles (1998). These are induction, having an initial idea based on knowledge or experience; deduction - the process of testing the ideas or hypotheses; and verification including the possible rejection or modification of the original hypotheses.

The research methodology sought to take account of this and consisted of two related components;

1. stage one: - the development of a situation analysis on the current operation of the child protection system in the Northern Territory and the general welfare of Aboriginal and Torres Strait Islander children in the Northern Territory compared to those in other states and territories, and
2. stage two: - a series of qualitative interviews with selected key informants.

STAGE ONE: CHILD PROTECTION AND SOCIO-ECONOMIC DATA ANALYSIS

Given my sense that the Northern Territory Government was likely to suggest that the lower rates of recorded abuse and neglect are the 'norm' rather than 'a problem', stage one was based on published secondary data from the Australian Institute of Health and Welfare, (AIHW), the Australian Bureau of Statistics, (ABS), and the Northern Territory Government.

Child protection data was drawn from the AIHW's annual child protection reports, which are collated from the administrative data provided by each state and territory (AIHW, 2000). As such the Northern Territory could not question the validity of the data - it is produced by them and offered to the AIHW as an accurate record of activity in their child protection system. Using this data I was able to compare the recorded rates of substantiated child and abuse and neglect for Aboriginal and Torres Strait Islander children across each state and territory. The results are included in *Chapter Three:- Research Findings*.

Stage one included a focussed review of recent literature relating to child welfare, abuse and neglect and in particular the risk factors or indicators of child abuse and neglect. The literature review;

- ascertained that no similar or related studies have been carried out which may have directly addressed the research objectives,
- identified factors commonly agreed to contribute to the incidence of child abuse and neglect, (these are also included in chapter three); and
- provided a theoretical framework for the discussion and analysis of research findings and the formulation of conclusions.

Within the academic and other literature there is considerable focus on the socio-economic conditions and other factors which are considered to be indicators of children being at a higher risk of abuse and/or neglect (AIHW 2000, James 1994, James 2000a, SNAICC 1996, Tomison 1995, Tomison 1996).

The selection of socio-economic data or indicators to include in the situation analysis was informed through the literature review and limited by the availability of data which is published on a state by state basis. In summary they included;

- malnutrition,
- rates of substance abuse,
- incidence of self harm,
- housing adequacy,
- community infrastructure,
- access to clean drinking water
- life expectancy,
- income levels (family/household),
- educational attainment,
- employment levels,
- incarceration rates and contact with the juvenile justice system, and
- prevalence of preventable diseases.

In relation to socio-economic data, the use of ABS publications, together with Northern Territory Government reports, sought to ensure that child protection authorities in the Northern Territory could not question the reliability of the sources. The socio-economic data analysis was used to demonstrate if the lower rates might be explained by a significant difference in the socio-economic position of Aboriginal and Torres Strait Islander children in the Northern Territory, compared to those in other states and territories.

Comparisons of socio-economic data sought to establish if the commonly recognised indicators of child abuse and neglect are significantly less prevalent in the Northern Territory compared to other states and territories. If they are not, then something quite different is happening in the Northern Territory in relation to the welfare of Indigenous children.

The socio-economic data analysis was also used to briefly compare indicators including the number of Indigenous children suffering malnutrition or permanent hearing loss, (due to repeated preventable ear infections), with the definition of maltreatment provided by the *1983 Community Welfare Act*. It defines maltreatment as follows:

- (3) For the purposes of this Act, a child shall be taken to have suffered maltreatment where –
 - (a) he has suffered a physical injury causing temporary or permanent disfigurement or serious pain or has suffered impairment of a bodily function or the normal reserve or flexibility of a bodily function, inflicted or allowed to be inflicted by a parent, guardian or person having the custody of him or

where there is substantial risk of his suffering such an injury or impairment;

- (b) he has suffered serious emotional or intellectual impairment evidenced by severe psychological or social malfunctioning measured by the commonly accepted standards of the community to which he belongs, because of his physical surroundings, nutritional or other deprivation, or the emotional or social environment in which he is living or where there is a substantial risk that such surroundings, deprivation or environment will cause such emotional or intellectual impairment;
- (c) he has suffered serious physical impairment evidenced by severe bodily malfunctioning, because of his physical surroundings, nutritional or other deprivation, or the emotional or social environment in which he is living or where there is substantial risk that such surroundings, deprivation or environment will cause such impairment;
- (d) he has been sexually abused or exploited, or where there is substantial risk of such abuse or exploitation occurring, and his parents, guardians or persons having the custody of him are unable or unwilling to protect him from such abuse or exploitation; or
- (e) being a female, she -
 - (i) has been subjected, or there is substantial risk that she will be subjected, to female genital mutilation, as defined in section 186A of the Criminal Code; or
 - (ii) has been taken, or there is a substantial risk that she will be taken, from the Territory with the intention of having female genital mutilation performed on her.

Attention was paid to paragraphs 3(b) and 3(c) as data sources were available to indicate if Aboriginal and Torres Strait Islander children are suffering through some form of psychological or social malfunctioning, nutritional deprivation, physical impairment or bodily malfunctioning, such as malnutrition and permanent hearing loss caused by preventable infections.

This component of the research sought to establish if there is some evidence that there are significant numbers of Aboriginal or Torres Strait Islander children in the Northern Territory likely to fall within the definition of suffering maltreatment pursuant to the *NT Community Welfare Act* of 1983 but who do not come to the attention of the NT child protection authorities.

Stage one of the research methodology concluded with the development of a detailed research briefing kit, which was provided to key informants prior to their interview in stage two. This allowed interviews to focus on reasons for the comparatively low recorded rates of child abuse and neglect rather than the interviews focussing on merely establishing or confirming this fact.

STAGE TWO: SEMI STRUCTURED GROUP INTERVIEWS

The second stage of the research was qualitative and comprised semi structured interviews (May 1997 page 111), with four non-government organisations working directly with Aboriginal and Torres Strait Islander children, young people and families. Three of these organisations were Aboriginal community controlled organisations whilst the fourth, a community based youth accommodation service, works predominantly with Aboriginal children and young people.

Through discussion with SNAICC's member agencies in Darwin, (Karu Aboriginal and Islander Child Care Agency) and Alice Springs, (Central Australian Aboriginal and Islander Child Care Agency), a list of organisations for interview was prepared. Invitations to participate in the research project were provided to these organisations with a copy of the research objectives and details of the rights of interview participants.

Five non-government organisations originally accepted the invitation and interviews were conducted with four, whilst the fifth organisation was unable to make time available during my visit to the Northern Territory. Interviews took place in Darwin and Alice Springs and were tape recorded and transcribed with the consent of participants.

Formal requests were made to Territory Health Services for interviews. Requests were accompanied by the detailed briefing kit prepared through stage one of the research and a set of questions (see appendix two).

Initially the Department agreed, and an interview was scheduled for November during my visit to Alice Springs. However, on the day of the interview the Department cancelled the interview citing 'legal reasons' after the intervention of the Department's Chief Executive Officer. Upon my return to Melbourne the Department apologised for the cancellation and agreed to participate in a recorded interview on the condition that they be able to edit the final report. Whilst agreeing that they, like any other participant, could edit or amend their own interview transcript, I could not agree to a request that they be able to edit my thesis or this report.

Finally in December 2001, they agreed to an interview and suggested late January 2002 as an appropriate time. In February 2002 a senior policy officer of the Department submitted an email response to the

questions and noted that they could not devote any further time to the project, ie that the Department was again withdrawing from the agreement to be interviewed. The Department's email response to the interview questions is included as appendix four.

The interviews with the four non-government organisations were problem-centred (Sarantakos 1988, page 252) and based on questions and the briefing kit developed through stage one. This briefing kit included the research objectives, information on SNAICC, information on their rights, ethical considerations and use of interview material, interview questions and the outcomes of stage one including the socio-economic data analysis and literature review findings. A copy of the briefing kit was provided at least one week in advance of interviews.

ANALYSIS OF INTERVIEW MATERIAL

Following interviews the interview tapes, (or data), were analysed broadly following the process outlined by Alston and Bowles (1998, pages 195 - 197) for analysing qualitative research data. This included data reduction, data organisation and data interpretation (Alston & Bowles 1998, page 195).

The tapes were listened to and all individual comments or sentences from participants were transcribed by hand in an abbreviated form with the initials of the participant and tape counter information noted. Following this each individual comment was coded with two or three key words to describe the essential point being made or the subject of their comment. For example a comment on the way in which Northern Territory Police investigate child abuse or neglect would have been coded with, {*Police/Investigations*}. This process was followed for each tape and produced a set of memos (Alston & Bowles 1998, page 196) providing the full detail of the material from each interview and a set of codes which could be used to describe any individual comment from the four interviews.

From here the codes were grouped into six broad themes:

1. Responses to the child protection and socio-economic data
2. Community confidence in the Northern Territory Child Protection System
3. Responsiveness of the NT Child Protection system to situations where children are reported to be at risk of abuse and neglect
4. Role of the Northern Territory Police in child protection
5. Child maltreatment in the context of endemic family and community poverty
6. Ways forward - priorities for reform

Coded comments were then transcribed verbatim from the tapes. Comments which were not transcribed included;

- preliminary comments which were then restated, amended or clarified until interview participant felt they had 'got it right' - only the final comment was included in the transcript,
- general comments or short remarks of a casual nature people made in the course of the interviews which were not related to interview questions or topics, and
- comments which interview participants requested not be included in the final report

The transcripts of the interviews were returned to the interview participants for them to reflect on their responses and amend or withdraw any comments made in the interviews. Included with this was a consent form allowing me to use the transcripts for the purposes of this research project.

Organising the interview material under key themes allowed for the material to be interpreted more readily as the themes brought together the expressed views of interview participants from across all interview groups. Thus in relation to each of the six themes it was possible to identify the consistent messages coming out of interviews and the points of difference. In chapter three the findings from the interviews are reported under the six themes listed above.

RESEARCH LIMITATIONS

There were a number of external factors which placed limitations upon the research in both the quantitative stage, (stage one) and the qualitative stage, (stage two). These are outlined below.

LIMITATIONS OF STAGE ONE SECONDARY DATA

In analysing published data relating to the socio-economic position of Aboriginal and Torres Strait Islander children some limitations were encountered. The major ABS reports relied upon for the research include The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples, (ABS & AIHW, 1999) a joint publication with the AIHW, and the 1994 National Aboriginal and Torres Strait Islander Survey, (NATSIS) (ABS 1995).

National census data published in these reports is collected about households and families, rather than individual children. While some specific survey data on children is available, it is confined to a narrow range of indicators such as employment, education and juvenile

justice and the 13 - 18 years old age group. Therefore, most of the indicators which have been relied upon compare Aboriginal and Torres Strait Islander families and/or households across the states and territories. Given the fact however, that the welfare of children is linked to the welfare of their families and the households they are a part of and grow up in, this data was sufficient to satisfy the aims of this component of the research.

Prior to the development of the NATSIS, data on the life circumstances of Aboriginal and Torres Strait Islander families was difficult to obtain. Recognising this, the Royal Commission into Aboriginal Deaths in Custody proposed that the ABS conduct a specific national survey covering a range of indicators for the Aboriginal population (ABS 1995, recommendation 62 page 252). NATSIS was developed in response to the Royal Commission recommendation and it remains a key source of data on Aboriginal and Torres Strait Islander people.

As noted by the ABS and AIHW the available data on Aboriginal and Torres Strait Islander people and communities, including that collected through the NATSIS, has some limitations (ABS & AIHW 1997, page 1). This includes the accurate identification of a person's Aboriginal and Torres Strait Islander status within administrative data compiled by states and territories eg, hospital and health service records, and uncertainties in the Aboriginal and Torres Strait Islander population estimates and distributions. It can be the case that a person's Aboriginal and Torres Strait Islander status is unknown or undeclared with the result that some data will underestimate the proportion of Aboriginal and Torres Strait Islander people in a particular data set.

Much of the available ABS data is survey data collected and published for Australia but not for individual states and territories as opposed to national census data which can be disaggregated to allow state and territory comparisons.

Given the methodology relied upon making comparisons across states and territories this was discussed with the ABS National Unit for Aboriginal and Torres Strait Islander statistics. The head of the unit advised that to break down some of the national survey data into states and territories may result in it becoming unreliable due to the small proportion of respondents from any particular state or Territory within the original survey sample (Gray 2001). To avoid such sampling problems, only socio-economic data which is already published for states and territories has been used in preference to disaggregating published survey data.

Data which is specific to Aboriginal and Torres Strait Islander children, as opposed to families and households, is also in short supply. For the general population of children there are some highly detailed ABS and AIHW reports such as Children Australia: A Social Report, ABS cat no 4119.0 and Children's Participation in Culture/

Leisure Activities, ABS cat no 4901.0. Neither of these provides detailed information on Aboriginal and Torres Strait Islander children. Almost half of the Aboriginal and Torres Strait Islander population are children under the age of 18 yet there are no specific statistical collections or reports to guide policy development and service delivery in respect of these children (ABS 1998, page 2).

LIMITATIONS OF STAGE TWO GROUP INTERVIEWS WITH KEY INFORMANTS

The research project was exploratory (Alston & Bowles 1998, page 33) in nature, in that little work has previously been carried out to compare the rates of substantiated child abuse and neglect for Indigenous children between states and territories. A more complete examination of these issues could be achieved through additional interviews with:

- additional Indigenous agencies working with and providing services to children and families
- Aboriginal community councils and other Indigenous organisations with a more general role in representing communities as opposed to providing welfare services
- families, children and young people who have had contact with the child protection system, made notifications or sought some form of child welfare assistance from Department of Health and Community Services or NT Police
- Government employed child protection workers
- the Northern Territory Police
- senior policy staff of the Department of Health and Community Services
- child protection teams established under the 1983 *Community Welfare Act*.

Carrying out such an extensive range of interviews with additional key informants would involve significant time and financial resources. That this project was unable to do so does not diminish the research, but recognises that there is likely to be more to the story than has been revealed thus far.

APPENDIX 1:

NT 1983 COMMUNITY WELFARE ACT

TABLE OF PROVISIONS SECTIONS 1 TO 16 SECTIONS 68 TO 71

Reprint Number : REPC036

NORTHERN TERRITORY OF AUSTRALIA

COMMUNITY WELFARE ACT

AS IN FORCE AT 12 JULY 2000

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SCHEDULE

- Notes
- Table of Amendments

An Act to provide for the protection and care of children and the promotion of family welfare, and for other purposes

PART I – PRELIMINARY

1. Short title

This Act may be cited as the *Community Welfare Act*.
(See back note 1)

2. Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.
(See back note 1)

3. Repeal

The Acts listed in the Schedule are repealed.

4. Interpretation

(1) In this Act, unless the contrary intention appears –

“access” means the contact of a child with a person, by way of a visit by or to that person, including attendance for a period at a place other than the child’s habitual residence, or by way of a letter, telephone or other means;

“authorized person” means a person authorized in writing by the Minister to exercise powers and perform functions under this Act;

“child” means a person who has not attained the age of 18 years;

“Court” means the Family Matters Court established by section 24;

“custody”, in relation to a child, means the responsibility for the daily care and control of the child, including decisions concerning accommodation, attendance at school, clothing, feeding, transportation, behaviour and urgent or routine health needs of the child;

“guardianship”, in relation to a child, means the custody of the child and the responsibility for the long-term welfare of the child, including decisions concerning the education, changes in place of residence, religion, employment and the general health of the child and other rights, powers and duties before the commencement of this Act vested by law or custom in the guardian of a child;

“hospital” means a hospital within the meaning of the *Hospitals and Medical Services Act* or a private hospital within the meaning of the *Private Hospitals and Nursing Homes Act*;

“Juvenile Court” means the Court established by section 14 of the *Juvenile Justice Act*;

“place of safety” means an institution, hospital or other place the occupier of which is willing to receive and have temporary custody of a child;

(2) For the purposes of this Act, a child is in need of care, where –

(a) the parents, guardians or the person having the custody of the child have abandoned him and cannot, after reasonable inquiry, be found;

(b) the parents, guardians or the person having the custody of the child are or is unwilling or unable to maintain the child;

(c) he has suffered maltreatment;

(d) he is not subject to effective control and is engaging in conduct which constitutes a serious danger to his health or safety; or

(e) being excused from criminal responsibility under section 38 of the *Criminal Code* he has persistently engaged in conduct which is so harmful or potentially harmful to the general welfare of the community measured by commonly accepted community standards as to warrant appropriate action under this Act for the maintenance of those standards.

(3) For the purposes of this Act, a child shall be taken to have suffered maltreatment where –

(a) he has suffered a physical injury causing temporary or permanent disfigurement or serious pain or has suffered impairment of a bodily function or the normal reserve or flexibility of a bodily function, inflicted or allowed to be inflicted by a parent, guardian or person having the custody of him or where there is substantial risk of his suffering such an injury or impairment;

(b) he has suffered serious emotional or intellectual impairment evidenced by severe psychological or social malfunctioning measured by the commonly accepted standards of the community to which he belongs, because of his physical surroundings, nutritional or other deprivation, or the emotional or social environment in which he is living or where there is a substantial risk that such surroundings,

- deprivation or environment will cause such emotional or intellectual impairment;
- (c) he has suffered serious physical impairment evidenced by severe bodily malfunctioning, because of his physical surroundings, nutritional or other deprivation, or the emotional or social environment in which he is living or where there is substantial risk that such surroundings, deprivation or environment will cause such impairment;
 - (d) he has been sexually abused or exploited, or where there is substantial risk of such abuse or exploitation occurring, and his parents, guardians or persons having the custody of him are unable or unwilling to protect him from such abuse or exploitation; or
 - (e) being a female, she –
 - (i) has been subjected, or there is substantial risk that she will be subjected, to female genital mutilation, as defined in section 186A of the Criminal Code; or
 - (ii) has been taken, or there is a substantial risk that she will be taken, from the Territory with the intention of having female genital mutilation performed on her.

5. Jurisdiction of Supreme Court preserved

Nothing in this Act limits the jurisdiction of the Supreme Court in relation to the custody or guardianship of children.

PART II – ADMINISTRATION

6. Delegation

- (1) The Minister may, by instrument in writing, delegate to a person any of his powers and functions under this Act, other than this power of delegation.
- (2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Minister.

- (3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister.

7. Reports

The Minister shall, as soon as practicable after 31 December in each year, CAUSE a report on the administration of this Act and on the operation of community welfare services in the Territory during the year ending on that date to be prepared and cause a copy of the report to be laid before the Legislative Assembly within 3 sitting days of the Legislative Assembly after the preparation of the report.

PART III – COMMUNITY WELFARE ASSISTANCE

8. Assistance in certain circumstances

- (1) A person, family or group claiming to be in need of assistance under this Act may apply to the Minister for such assistance.
- (2) Where, in the opinion of the Minister, a person, family or group is in need of assistance as a result of problems related to social, personal or economic reasons, he may provide such assistance as he thinks fit to promote the welfare of the person, family or group.
- (3) Assistance provided under subsection (2) may be in the form of financial assistance, the provision of community welfare services or welfare programmes or otherwise as the Minister thinks fit.
- (4) Without limiting the generality of subsections (2) and (3), the Minister may enter into such arrangements as he thinks fit with charitable or other community organisations or groups for them to act as agents for the Minister for the provision of assistance under this section to persons, families or groups.
- (5) The Minister shall prepare guidelines for establishing the criteria and procedures to be followed in relation to the provision of financial assistance under this section.

PART IV – WELFARE OF CHILDREN

Division 1 – Children in Need of Care

Subdivision A – Preliminary

9. Duty of Minister

In exercising his powers under this Part, the Minister shall, at all times, have as his main consideration the welfare of the child in relation to whom those powers are exercised and particularly for –

- (a) securing for the child such care and guidance as will promote that welfare; and
- (b) the maintenance and development of those family relationships that are, in his opinion, in the best interests of the child.

Subdivision B – Custody of Children in Need of Care

10. Responsibility in respect of children in need of care

Where the Minister is of the opinion that a child is in need of care, he may –

- (a) give to the child or its parents, guardians or persons having the custody of the child, such assistance and guidance as he thinks fit for ensuring the adequate care of the child within the child's family;
- (b) on the application of a parent, guardian or person having the custody of the child, enter into an agreement under section 62 to receive the child into care and to provide for the child; or
- (c) take such other action under this Act, as he thinks fit, to ensure the adequate care of the child.

11. Taking child in need of care into custody

- (1) The Minister, an authorized person or a member of the Police Force may, where he believes on reasonable grounds that a child is in need of care and that no other action would ensure the adequate care of the child, take the child into custody.
- (2) For the purposes of subsection (1), the Minister, an authorized person or member of the Police Force may, without warrant, enter a place where a child is or is reasonably believed to be located and, unless he is satisfied that adequate steps will be taken to ensure that the child will cease to be in need of care should the child remain at that place, remove the child, and may use such force as is reasonably necessary for those purposes.

- (3) A person taking a child into custody under subsection (1) –
 - (a) subject to this Part, may have the child held in a place of safety for the period he or she considers appropriate; and
 - (b) must, not later than 48 hours after taking the child into custody, apply for a holding order under section 11A.
- (4) [Omitted]
- (5) A person taking a child into custody under sub-section (1) or in charge of a hospital acting under section 15 shall, within 48 hours after so taking the child into custody or taking action under section 15, in writing, notify the Minister of the action taken.

11A. Holding order

- (1) An application for a holding order under section 11 or 15 is to be made to a magistrate or Registrar, as defined in section 3 of the *Local Court Act* –
 - (a) in person; or
 - (b) if it is impracticable to make the application in person – by telephone, radio, facsimile or other facility.
- (2) If the magistrate or Registrar is satisfied on the oath of the person making the application that there are reasonable grounds for believing that the child to whom the application relates is in need of care, the magistrate or Registrar must make an order authorising the holding of the child in a place of safety.
- (3) An order under subsection (2) is to have effect for the period commencing on the day on which the child was taken into custody under section 11 or detained under section 15 until –
 - (a) the day specified in the order; or
 - (b) 14 days after the day the child was taken into custody or the action was taken, whichever first occurs.
- (4) If the application for the holding order is made by telephone, radio, facsimile or other facility, the magistrate or Registrar who makes the holding order must ensure a written record is kept of the making of the application and the information in relation to the application he or she obtains from the applicant.

12. Medical treatment for child taken into custody

Where a person taking a child into custody under section 11(1) believes, on reasonable grounds, that

the child is urgently in need of medical treatment, he shall take such steps as are reasonably necessary to ensure that the child receives the medical treatment and, for that purpose, may give his consent for the carrying out of a medical procedure on the child, and that consent shall, for all purposes, be sufficient consent for the carrying out of the medical procedure or treatment.

Division 2 – Children who have suffered Maltreatment

13. Investigation of maltreatment

- (1) Where a member of the Police Force believes on reasonable grounds that a child has suffered or is suffering maltreatment, he –
 - (a) shall, as soon as practicable, notify the Minister of the circumstances and the knowledge that constitutes the reasonable grounds for his so believing; and
 - (b) may investigate the circumstances to ascertain if the child has suffered or is suffering maltreatment.
- (2) Where a member of the Police Force carries out an investigation under subsection (1)(b), he shall, within 24 hours after completing the investigation, furnish to the Minister a report on his investigations and, if he is satisfied on reasonable grounds that the child has suffered maltreatment, all material facts on which the knowledge that constitutes the reasonable grounds for his belief is based.

14. Maltreatment to be reported

- (1) A person, not being a member of the Police Force, who believes, on reasonable grounds, that a child has suffered or is suffering maltreatment shall, as soon as practicable after obtaining the knowledge that constitutes the reasonable grounds for his so believing, report the fact, and all material facts on which that knowledge is based, to the Minister or a member of the Police Force.

Penalty: \$500.

- (2) Where a person, acting in good faith, makes a report under or in purported compliance with sub-section (1) –
 - (a) the report shall not be held to be a breach of confidence or of professional etiquette or ethics or of a rule of professional conduct; and
 - (b) no civil or criminal liability is incurred by reason only of the making of the report.

15. Child in hospital

A person in charge of a hospital who believes, on reasonable grounds, that a child has suffered or is suffering maltreatment –

- (a) may detain the child in hospital, for the purposes of securing medical examination or treatment for the child, for the period that is reasonably necessary to enable the examination or treatment to be carried out; and
- (b) if after the medical examination has been carried out the person is still of that belief – must, not later than 48 hours after detaining the child, apply for a holding order under section 11A.

16. Investigation where child has suffered maltreatment

- (1) Where the Minister receives a report under section 13 or 14 that a child has suffered or is suffering maltreatment, he shall, as soon as practicable, cause the circumstances of the child to be further investigated or investigated, as the case may be, and shall take such other action under this Act as he thinks fit.
- (2) For the purposes of carrying out an investigation under subsection (1), the Minister may cause a child to be medically examined and his request that a child be so examined shall, for all purposes, be sufficient consent for the carrying out of the examination.

PART IX – ABORIGINAL CHILD WELFARE

68. Assistance to Aboriginal communities, &c.

The Minister shall provide such support and assistance to Aboriginal communities and organisations as he thinks fit in order to develop their efforts in respect of the welfare of Aboriginal families and children, including the promotion of the training and employment of Aboriginal welfare workers.

69. Aboriginal child in need of care

Where a child in need of care is an Aboriginal, the Minister shall ensure that –

- (a) every effort is made to arrange appropriate custody within the child's extended family;
- (b) where such custody cannot be arranged to his satisfaction, every effort is made to arrange appropriate custody of the child by Aboriginal people who have the correct relationship with the child in accordance with Aboriginal customary law; and
- (c) where the custody referred to in paragraph (a) or (b) cannot be arranged without endangering the welfare of the child – after consultation with –
 - (i) the child's parents and other persons with responsibility for the welfare of the child in accordance with Aboriginal customary law; and
 - (ii) such Aboriginal welfare organisations as are appropriate in the case of the particular child, a placement that is consistent with the best interests and the welfare of the child shall be arranged taking into consideration –
 - (iii) preference for custody of the child by Aboriginal persons who are suitable in the opinion of the Minister;
 - (iv) placement of the child in geographical proximity to the family or other relatives of the child who have an interest in, and responsibility for, the welfare of the child; and
 - (v) undertakings by the persons having the custody of the child to encourage and facilitate the maintenance of contact between the child and its own kin and with its own culture.

70. Agreement with community government council, &c.

- (1) A community government council constituted under the *Local Government Act* or an association incorporated under the *Associations Incorporation Act* may, subject to agreement with the Minister, undertake functions under this Act in relation to the welfare of children and the provision of facilities and trained staff to provide counselling and assistance to, or in relation to the welfare of, children.
- (2) An agreement under subsection (1) shall be in accordance with –
 - (a) the community government scheme, and shall be effective within the boundaries of the area, of the community government council; or
 - (b) the rules of the association, as the case may be.

71. Delegation by community government council, &c.

- (1) For the purposes of this Act, a community government council, or the committee of an incorporated association, that enters into an agreement under section 70 may, by instrument in writing, delegate to a person any of its powers and functions under this Act by virtue of that agreement, other than this power of delegation.
- (2) A power or function delegated under this section, when exercised by the delegate, shall, for the purposes of this Act and the agreement under section 70, be deemed to have been exercised or performed by the community government council or the committee of the incorporated association, the party to the agreement.
- (3) A delegation under this section does not prevent the exercise of a power or the performance of a function by a community government council or the committee of an incorporated association, as the case may be.

APPENDIX 2: INTERVIEW QUESTIONS

- **NON GOVERNMENT AGENCIES WORKING WITH INDIGENOUS CHILDREN AND YOUNG PEOPLE**
- **DEPT OF HEALTH AND COMMUNITY SERVICES/ TERRITORY HEALTH SERVICES**

INTERVIEW QUESTIONS FOR NON GOVERNMENT ORGANISATIONS WORKING WITH ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN AND YOUNG PEOPLE

GENERAL INTRODUCTORY QUESTIONS

1. Are there any issues relating to the research project you would like clarified ? Including anything in relation to;
 - the research objectives
 - the background briefing on child protection and socio economic data
 - the conduct of interviews and use of interview material
 - what will happen after the research is complete
 - the role of SNAICC and the researcher (Julian)
2. Could you please outline your role and the role your organisation, its program or service delivery areas including the broad goals of you work with children and families ?
3. Could you please outline the key issues which bring children, young people and families in contact with your service/organisation ?
4. Are there any specific areas of work your organisation carries out for Territory Health Services including in the areas of child health, child welfare or child protection ?

QUESTIONS RELATING TO RESEARCH OBJECTIVES

(Note: No details which might in anyway identify individual members of the community should be provided in answering questions)

1. Having read the background material how do you respond to the low rates of substantiated child abuse and neglect in the Northern Territory compared to other States and Territories ?
2. Does the generally poor standard of living for Aboriginal and Torres Strait Islander children as

indicated by the socio economic data match with your own experiences ?

3. Do you believe that the actual levels of child abuse and neglect in the Northern Territory may be significantly higher than the official statistics ? If so why ?, if not, why not ?
4. Could it be the case that Aboriginal communities may rather deal with abuse and neglect 'in house' rather than report to Territory Health Services ?
5. Were you aware that under the *NT Community Welfare act* all persons in the Northern Territory, with the exception of members of the NT Police, are required to report possible cases of child abuse and neglect ?
6. Did you know that members of the NT Police were exempt and do you think members of the NT Police should be exempt from having to report child abuse and neglect ?
7. Are there reasons which you can see as to why people may be reluctant to report possible cases of child abuse and child neglect ?
8. Have you seen examples of where Territory Health Services have responded, in your opinion, very well to possible cases of child abuse and neglect and secondly very poorly ?
9. Do you think people who use your service understand the role of Territory Health Services in relation to child abuse and child neglect ?
10. Given the damage caused by the past policies of removing Aboriginal and Torres Strait Islander children from their families how should Territory Health Services and Governments in general respond to possible cases of child abuse and secondly child neglect ?
11. The *NT Community Welfare Act* defines maltreatment and includes the following in that

definition: (note the reference to 'he' in the act should be read as a reference to any child)

- (b) he has suffered serious emotional or intellectual impairment evidenced by severe psychological or social malfunctioning measured by the commonly accepted standards of the community to which he belongs, because of his physical surroundings, nutritional or other deprivation, or the emotional or social environment in which he is living or where there is a substantial risk that such surroundings, deprivation or environment will cause such emotional or intellectual impairment;
- (c) he has suffered serious physical impairment evidenced by severe bodily malfunctioning, because of his physical surroundings, nutritional or other deprivation, or the emotional or social environment in which he is living or where there is substantial risk that such surroundings, deprivation or environment will cause such impairment;

Would you agree that Aboriginal children who have permanent hearing loss, are clinically under weight or malnourished, live in inadequate over crowded housing or have no access to clean drinking water are being maltreated? If so who is it that is maltreating them and what should be done about it?

12. What do you think the act means where it says, measured by the commonly accepted standards of the community to which he belongs?
13. Do you think that Aboriginal and Torres Strait Islander families living in poverty and inadequate housing accept that it is OK for both them and their children to live in such conditions?
14. If many Aboriginal and Torres Strait Islander families in the Northern Territory are living in poverty and inadequate housing do you agree that it is inevitable that their children will fall within the definition of maltreatment provided by the *NT Community Welfare Act*?
15. How do you think Territory Health Services should respond to maltreatment of children as defined by the *NT Community Welfare Act*?
16. What would you like to see happen through this research project?
17. How do you believe SNAICC could assist in advancing the rights and needs of Aboriginal and Torres Strait Islander children in the Northern Territory?
18. Is there anything else you would like to add which might be relevant to the research project?

INTERVIEW QUESTIONS FOR INTERVIEW PARTICIPANTS FROM THE DEPARTMENT OF HEALTH AND COMMUNITY SERVICES/TERRITORY HEALTH SERVICES

GENERAL INTRODUCTORY QUESTIONS

1. Are there any issues relating to the research project you would like clarified? Including anything in relation to;
 - the research objectives
 - the background briefing on child protection and socio economic data
 - the conduct of interviews and use of interview material
 - what will happen after the research is complete
 - the role of SNAICC and the researcher (Julian)
2. Could you please outline your role and the role your organisation, its program or service delivery areas including the broad goals of you work with children and families?
3. Could you please outline the key issues which bring children, young people and families in contact with Territory Health Services?

QUESTIONS RELATING TO RESEARCH OBJECTIVES

(Note: No details which might in anyway identify individual members of the community should be provided in answering questions)

1. Having read the background material how do you respond to the low rates of substantiated child abuse and neglect in the Northern Territory compared to other States and Territories?
2. Does the generally poor standard of living for Aboriginal and Torres Strait Islander children as indicated by the socio economic data match with your own experiences?
3. Do you believe that the actual levels of child abuse and neglect in the Northern Territory may be significantly higher than the official statistics? If so why?, if not, why not?
4. Could it be the case that Aboriginal communities may rather deal with abuse and neglect 'in house'?

- rather than report to Territory Health Services ?
5. Were you aware that under the *NT Community Welfare Act* all persons in the Northern Territory, with the exception of members of the NT Police, are required to report possible cases of child abuse and neglect ?
 6. Did you know that members of the NT Police were exempt and do you think members of the NT Police should be exempt from having to report child abuse and neglect given they would have substantial knowledge of families and children's individual circumstances ?
 7. Are there reasons which you can see as to why people may be reluctant to report possible cases of child abuse and child neglect ?
 8. Given the damage caused by the past policies of removing Aboriginal and Torres Strait Islander children from their families how should Territory Health Services and Governments in general respond to possible cases of child abuse and secondly child neglect ?
 9. The *NT Community Welfare Act* defines maltreatment and includes the following in that definition: (note the reference to 'he' in the act should be read as a reference to any child)
 - (b) he has suffered serious emotional or intellectual impairment evidenced by severe psychological or social malfunctioning measured by the commonly accepted standards of the community to which he belongs, because of his physical surroundings, nutritional or other deprivation, or the emotional or social environment in which he is living or where there is a substantial risk that such surroundings, deprivation or environment will cause such emotional or intellectual impairment;
 - (c) he has suffered serious physical impairment evidenced by severe bodily malfunctioning, because of his physical surroundings, nutritional or other deprivation, or the emotional or social environment in which he is living or where there is substantial risk that such surroundings, deprivation or environment will cause such impairment;

Would you agree that Aboriginal children who have permanent hearing loss, are clinically under weight or malnourished, live in inadequate over crowded housing or have no access to clean drinking water are being maltreated ? If so who is it that is 'maltreating them' and what should be done about it ?

10. How do Territory Health Services interpret the act where it says, measured by the commonly accepted standards of the community to which he belongs ?
11. Does THS consider that Aboriginal and Torres Strait Islander families living in poverty and inadequate housing accept that it is OK for both them and their children to live in such conditions ?
12. If many Aboriginal and Torres Strait Islander families in the Northern Territory are living in poverty and inadequate housing do you agree that it is inevitable that their children fall within the definition of maltreatment provided by the *NT Community Welfare Act* ?
13. Do you think Territory Health Services has an obligation under the *NT Community Welfare Act* to respond to this form of child maltreatment ?
14. Could there be benefit in developing different responses to child abuse as opposed to child neglect?
15. How do you believe non government Aboriginal organisations, communities and Territory Health Services might be able to respond more effectively to situations which constitute neglect if removing children is not an appropriate response?
16. Is there anything else you would like to add which might be relevant to the research project ?

APPENDIX 3: NON GOVERNMENT AGENCIES INTERVIEWED FOR RESEARCH

INTERVIEW ONE

KARU ABORIGINAL AND ISLANDER CHILD CARE AGENCY

INTERVIEW PARTICIPANTS:

Rosie Baird	Link Up program
Sharon Manhire	Family Support program
Sandra Kitching	Alternative care program

INTERVIEW TWO

ALICE SPRINGS YOUTH ACCOMMODATION AND SUPPORT SERVICE, ASYASS

INTERVIEW PARTICIPANTS:

Sara	Advocacy and Support Worker/case management
Astri Baker	Senior Youth Worker

INTERVIEW THREE

CENTRAL AUSTRALIA ABORIGINAL CONGRESS

INTERVIEW PARTICIPANTS:

Dawn Fleming	Social and Emotional Well Being branch manager
Alison Breheny	Child Care Centre Manager
Franny Coughlan	Congress Project Officer
Dr Peter Tait	General Practitioner, Congress Medical Service
Tahniah Edwards	Under 2's family support program

INTERVIEW FOUR

CENTRAL AUSTRALIA ABORIGINAL & ISLANDER CHILD CARE AGENCY

INTERVIEW PARTICIPANTS:

Anne Ronberg	Director
Geoff Miller	Alternative care worker

APPENDIX 4

X-From_: Gary.Sherman@nt.gov.au Fri Feb 8 15:25:32 2002
Delivered-To: snaicc@vicnet.net.au
From: Gary.Sherman@nt.gov.au
Subject: URGENT ATTENTION: JULIAN POCOCK
To: snaicc@vicnet.net.au
Date: Fri, 8 Feb 2002 13:55:24 +0930
MIME-Version: 1.0

Dear Julian

Due to some personal misfortune I have returned to work later than expected. As you have a deadline to meet & I am also unable to devote any further time to your request, please accept response below in lieu of formal interview;

- A1 The lower rates cited are the reported rates.
- A2 Yes
- A3 Anecdotal evidence suggests that actual rates may be higher than official statistics. This may also be the case for other jurisdictions as well.
- A4 Anecdotal evidence suggests that some indigenous communities may only report after local self help efforts have failed, & an unknown number of matters may be successfully dealt with internally.
- A5 Not correct
- A6 Not correct
- A7 Like all other jurisdictions, the NT community generally is reluctant to report. In 2000 a toll free child protection reporting number was introduced NT wide. FACS Aboriginal Community Workers & PECAN (Prevention & Education Child Abuse & Neglect Unit) also provide valuable educative services to the indigenous community.
- A8 An issue for the government of the day. Not role of public servant to comment.
- A9 There is a fundamental misunderstanding here about the scope of the Community Welfare Act. The Department's mandate to protect children from maltreatment extends to cases where the person alleged responsible for the maltreatment is:
- a parent or family member
 - someone who has the custody of the child, including departmental caregivers
 - another child within the family
 - a non-relative and the child's parent is not acting protectively.

It would be strange indeed if we held protective families responsible for their poverty or standard of housing, factors they may have little control over - which seems to be the illogical conclusion of this question.

Extra familial abuse such as physical or sexual assault which occurs outside of the family eg 'stranger abuse' is a matter for police investigation. This is the case in all other Australian jurisdictions except NSW.

Furthermore, our mandate covers inflicted rather than accidental injuries. This also applies to all other Australian jurisdictions.

- A10 "Commonly accepted standards of the community to which the child belongs" as it relates to emotional abuse, is determined by workers (who are familiar with communities & vice versa) speaking to community members to see if there is some consensus about the psychological/social malfunctioning. Advice from indigenous staff is always essential. With a few exceptions, these 'standards' are not so different to mainstream 'standards', although cultural understandings of aetiology sometimes differ substantially.

- A11 An issue for the government of the day. Not role of public servant to comment.
- A12 No, irrespective of cultural heritage, not all children who live in poverty and inadequate housing are maltreated, or at risk of maltreatment. Evidence based research indicates that there are risk factors which dispose children to maltreatment and factors which protect children from harm. The resilience of indigenous family kinship networks is but one example of the latter. All causal path analysis on the subject indicates a much more complex picture than this simplistic question assumes.
- A13 See A9
- A14 Yes, also see A15
- A15 Indigenous NGOs & communities have a critical role to play in responding to child abuse & neglect & its prevention. Particularly, in historically disrupted or displaced communities with higher rates of abuse, neglect and inorganic failure to thrive, casework intervention is sometimes ineffectual and a community development approach is often required eg non statutory responses to petrol inhalation, family violence, 'family way' placements for children in need of care, 'Strong Women, Strong Babies' Program, etc.
- A16 The research methodology is simplistic and does not satisfy the requirements of the research objectives. At best the methodology may provide some working hypotheses for further research. At worst the absence of underlying logic means that the project is seriously flawed.

Gary Sherman
Senior Policy Officer
Family & Children's Services Branch
Department of Health & Community Services

