

An inquiry into Australians' experiences of institutional and out-of-home care



NICK RICHARDSON provides a summary of the first report of the Commonwealth inquiry into Australians' experiences of institutional and out-of-home care

It is estimated that 500,000 Australians experienced childhood care in an institution or out-of-home environment in the past century. Children were placed in care for many reasons including being orphaned, being born to a single mother, being mistreated or neglected, family dislocation, domestic violence, family poverty, and parents' inability to cope with their children often as a result of some form of crisis or hardship. Many of these children did not receive adequate care, affection and nurturing, and often children experienced physical, sexual and emotional abuse while in care.

On 30 August 2004, the Australian Government Senate Community Affairs Committee tabled in parliament the findings of the first of two reports examining Australians' experiences and treatment in institutional and out-of-home care.

The report came about after years of lobbying from the many thousands of adults who had experienced abuse and neglect while in such care. The impetus for the inquiry also arose from the release of the Human Rights and Equal Opportunity Commission report *Bringing them home* (HREOC 1997), which focused on the "stolen generations" of Indigenous children, and the more recent Senate Community Affairs Committee report *Lost Innocents* (2001) inquiring into the care of unaccompanied child migrants. The report was seen as an acknowledgement that other Australians who experienced institutional or out-of-home care also deserve recognition and access to services as a result of their experiences.

Terms of reference

The Senate referred matters to the Senate Committee, including:

1. whether any unsafe, improper or unlawful care or treatment of children had occurred in any government or non-government institutions, or foster care practices, established to provide care for children;

2. the extent and impact of the long-term social and economic consequences of child abuse and neglect on individuals, families and Australian society as a whole, and the adequacy of existing remedies and support mechanisms;
3. the nature and cause of major changes to professional practices employed in the administration and delivery of care compared with past practice;
4. whether there is a need for a formal acknowledgement by Australian governments of the human anguish arising from any abuse and neglect suffered by children while in care;
5. in cases where unsafe, improper or unlawful care or treatment of children has occurred, what measures of reparation are required; and
6. the need for public, social and legal policy to be reviewed to ensure an effective and responsive framework to deal with child abuse matters in relation to: (i) any systemic factors contributing to the occurrences of abuse and/or neglect, (ii) any failure to detect or prevent these occurrences in government and non-government institutions and fostering practices, and (iii) any necessary changes required in current policies, practices and reporting mechanisms.

Submissions

The Committee invited submissions from state and federal government departments and other interested organisations and individuals. A total of 440 public submissions and 174 confidential submissions were received. Survivors of child abuse in institutional care who provided submissions came from all states and territories in Australia and experienced care spanning a period from the 1920s to the 1990s. A large volume of these submissions outlined highly personal and emotional accounts of traumatic childhood experiences of institutional care, which often constituted physical and emotional abuse.

Report

Due to the broad scope of the terms of reference and magnitude of the evidence received, the Committee decided to produce two reports on this inquiry. The first report, released in August 2004, included background information on the role of governments, churches and other institutions in placing children in care, the treatment of children in care, and the long-term effects of experiences while in care. The issues of responsibility, acknowledgement and reparation were also canvassed, as were issues relating to the provision of services for care leavers that are critical in ensuring that they can improve their quality of life.

The Committee will produce a second report by December 2004 (subject to the resumption of Parliament after the election) to cover remaining matters in the terms of reference including foster care, children with physical and mental disabilities in care, and other contemporary issues of child welfare and child protection.

Recommendations

A total of 39 recommendations were made by the Committee, the most important of which are summarised below:

Statements of an acknowledgement and apology

- That the federal and state/territory governments and agencies issue a formal statement acknowledging the hurt and distress suffered by many children in institutional care, particularly the children who were victims of abuse and assault, and apologising for the harm caused to these children.

Addressing legal barriers

- That state/territory governments consider amending their statutes of limitation legislation so those who experienced possible criminal abuse in institutional care may conduct legal proceedings.
- That the Commonwealth Government examine the feasibility of introducing whistleblower legislation for the not-for-profit religious and charitable sectors.

National reparation fund

- That the Commonwealth Government establish a national reparations fund for victims of institutional abuse in institutions and out-of-home care settings. This scheme should be funded by contributions from the federal and state/territory governments and the churches and agencies proportionately.

Internal church redress processes

- That all internal church and agency-related processes for handling abuse allegations ensure that informal, reconciliation-type processes be available whereby complainants can meet with church officials to discuss complaints and resolve grievances.
- That the Commonwealth establish an external complaints review mechanism, such as a National Commissioner for Children and Young People who would have the power to investigate complaints received by complainants dissatisfied with the relevant church authority.

Royal Commission

- That the Commonwealth Government seek a means to require all charitable and church-run institutions and out-of-home care facilities to provide full cooperation to investigate the nature and extent within these institutions of physical and sexual assault, including assault leading to death.
- If full cooperation is not received, and failing full investigation as required above, that the Commonwealth Government then consider establishing a Royal Commission into state/territory government, charitable, and church-run institutions and out-of-home care during the last century.

Location, preservation, recording and access to records

- That government and non-government agencies holding records relating to care leavers, implement and fund programs to find, identify and preserve records including photographs and other memorabilia.
- That state/territory government and non-government agencies that have not already done so provide dedicated services and officers to assist care leavers in locating and accessing records.

Provision of support services

- That the federal and state/territory governments commit to implementing a “whole of government” approach to the provision of programs and services for care leavers and their families across policy areas. Services should include the:
 - extension of specialist counselling services that address the particular needs of care leavers and their families on a long-term or as required basis;
 - development of health prevention programs, especially mental health, depression, suicide prevention and drug and alcohol prevention programs, that recognise and cater for the health needs and requirements of care leavers;
 - funding by the Department of Health and Ageing of a pilot program under the Aged Care Innovative Pool to test innovative models of aged care services focusing on the specific needs of care leavers; and
 - investigation of the options for alternative entry pathways to higher education courses for ex-residents of institutions and their children.

Research

- That the Commonwealth Government fund research – either through the Australian Institute of Family Studies or another relevant research body or university – into:
 - the social and economic impact and cost of institutional care; and
 - inter-disciplinary research into the relationship between child welfare/child protection and areas such as welfare dependency, social problems such as drug and alcohol abuse and family relationship breakdowns.
- That the Australian Institute of Family Studies National Child Protection Clearinghouse be funded by the Commonwealth Government to collect publications related to historical studies of institutional and other forms of out-of-home care and that this information be widely disseminated.



Reactions and legislative reform

Many survivors of childhood abuse in institutional care took the opportunity to provide accounts of their experiences in institutional care to the Committee. Given the trauma associated with their experiences, recounting memories of institutional care often proved to be very challenging for the survivors. The eventual tabling of the report to Parliament was met with much emotion from the survivors as well as the senators from the Committee.

Currently, the federal and state/territory governments and non-government organisations are considering the recommendations of the first report; however, legislative changes are not likely to take place until

after the release of the second report in December 2004. Some states such as Tasmania and South Australia are conducting their own inquiries into abuse of wards of the state (Kelton 2004; Stedman 2004) and will consider the findings of the Senate Committee report alongside the reports from these inquiries.

The Uniting Church and the Salvation Army are among the first organisations to have issued a formal apology to those who experienced abuse while in the care of their agencies (Wroe 2004). Others apologies are expected to follow.

A summary of the second report of the inquiry into Australians' experiences and treatment in institutional and out-of-home care will be placed in a future edition of the *Child Abuse Prevention Newsletter*.

References

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Australian Institute of Family Studies Conference
9-11 February 2005
Melbourne Convention and Exhibition Centre

The Australian Institute of Family Studies invites you to register for its 2005 Conference, *Families Matter*, to be held at the Melbourne Exhibition and Convention Centre from 9-11 February 2005.

The presentations from keynote and invited speakers aim to provide insights into the current issues facing families, and how as family members, researchers, policy makers and service providers can improve outcomes for families and individuals through greater awareness, research, networking, leadership, and evidence based policy and practice.

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