

Standing Committee on Social Issues

Care and Support

Final Report on Child Protection Services

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Terms of Reference

1. That the Standing Committee on Social Issues inquire into and report on the following aspects of the Department of Community Services:
 - (a) the adequacy of systems to receive, investigate and assess reports of children and young people at risk of harm,
 - (b) the ability of systems to receive and respond to requests for assistance concerning children, young people and families,
 - (c) the availability of appropriate out of home care placements for children and young people,
 - (d) outcomes for children and young people in out of home care.

In respect to matters (a)-(d) above, the Committee is to examine:

 - (i) the training and morale of DOCS employees,
 - (ii) the adequacy of resources allocated for child and family services,
 - (iii) the role of research and consultation.
2. That the Committee table an interim report by 26 September 2002 and a final report by 5 December 2002.

These terms of reference were referred to the Committee by the Legislative Council on the motion of the Hon Dr Arthur Chesterfield-Evans on 10 April 2002 (Minutes of Proceedings No 18 pages 107-110).

Committee Membership

Jan Burnswoods, MLC, **Australian Labor Party, Chair**

The Hon James Samios, MLC, **Liberal Party, Deputy Chair**

From 20 June 2002

The Hon Dr Arthur Chesterfield-Evans, MLC, **Australian Democrats**

The Hon Amanda Fazio, MLC, **Australian Labor Party**

The Hon Ian West, MLC, **Australian Labor Party**

The late Hon Doug Moppett MLC, National Party, served as Deputy Chair of the Committee from 25 May 1999 to 14 June 2002. Mr Samios was appointed in place of Mr Moppett.

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Chair's Foreword

I am pleased to present the Committee's final report on child protection services. Our interim report, *Prevention*, was tabled in October 2002.

The Social Issues Committee has a long history of involvement with issues concerning children and young people. We have undertaken inquiries into youth violence, children's advocacy, children of imprisoned parents, parent education and early intervention into learning difficulties. This report builds on the knowledge of those past inquiries.

Many clear recommendations have come out of this inquiry. They address the two issues that stand out over all else. First, we must ensure that the Department of Community Services fulfils its statutory responsibility in the care and protection of vulnerable children and young people. This requires clear direction and considerable resources. Without the necessary funds, the Department of Community Services will not be able to pursue its program for reform. The renewal process must begin now if we are to see real change in our child protection system over the next four years.

The second message is that this State must develop a strong, coordinated approach to universal children's services and prevention, so that as few children as possible ever come into contact with the child protection system. There is a groundswell of community support for a major investment to promote the wellbeing of children, for all our sakes.

New South Wales has a great tradition in innovation and reform and we urge the Government to act urgently on this issue. Our Committee will follow with deep interest the direction taken by the Government on child protection and on the broad range of children's services.

I would like to thank the many people who presented submissions and gave evidence. During the course of the inquiry we spoke to over 200 people, visiting a number of metropolitan, rural and regional centres. We pay tribute to Departmental staff and the sector for their profound dedication to the children and young people they care so deeply about. We are especially grateful to the young people in care and the care leavers who helped us understand what the child protection system really means for children and young people.

My thanks go to the Committee Members for their ongoing commitment to the development of better care and protection of children and young people in this State. Their commitment has once again been manifest in the hours of debate we have put into the achievement of a unanimous report.

The skills, dedication and perseverance of the Committee Secretariat have, as ever, left us in their debt. We thank Tony Davies, Julie Langsworth, Merrin Thompson, Beverly Duffy, Victoria Pymm, Heather Crichton and our student intern Kirrily McDermott who, in various combinations while they also worked on other inquiries, spent many long days and nights putting this report together.

I commend this report to the Government.

Jan Burnswoods MLC
Chair

Executive Summary

A central tenet of the child protection system is the right of children and young people to a safe, loving and secure living environment. In New South Wales the system for caring for children and young people, particularly those who are vulnerable, is inadequate. An effective child protection system must support the growth and development of all children, and at the same time provide the necessary interventions and supports for those already at risk of harm. There must be a balance of prevention and intervention.

The development of the preventative capacity of the child protection system is the only way to reduce demand for statutory child protection interventions and out-of-home care. A system that emphasises support for vulnerable families will promote better outcomes for children than one that is focused on removal. The *Children and Young Persons (Care and Protection) Act 1998* provides the framework for this balanced system, but the potential of the Act is yet to be realised. Our interim report, *Prevention*, highlighted the need for an effective system of prevention and early intervention.

Clarifying the role of the Department of Community Services (DoCS) is a necessary step in developing the way forward for the child protection system. The Committee believes that DoCS should not be responsible for the overall coordination and management of primary prevention programs, which are intended to support the entire population of children and families and are delivered by a wide range of agencies. The Committee recommended in its interim report that a new Department of Child Development should be established to coordinate and fund programs that promote the development and wellbeing of children and young people. There is a consensus in evidence that significant reform is required to early children's services generally. These issues should be addressed through a Summit on Children to be held in the second half of 2003.

We consider that DoCS has a clear responsibility to lead the provision of secondary and tertiary supports to vulnerable children and families who need more intensive or targeted assistance. However, the Committee believes that the Department should not have a direct service delivery role in secondary prevention. Instead, the capacity to deliver secondary prevention services should be built largely within the non-government sector. The Committee believes DoCS needs to clarify and develop its role in relation to funding, planning, monitoring, assessment and referral.

A number of strategies are required to address the standing and performance of the Department and to develop a strong and accountable child protection system. There is an urgent need to develop a new relationship with the community, the non-government sector and DoCS staff, based on trust, collaboration and transparency. In particular, the Department should build a management culture that is open and accountable. By addressing staffing issues through training, professional development, clinical supervision and improved internal review processes, it will significantly improve staff morale while at the same time building effective practice. The Department must also develop a new approach to both external review agencies and non-government stakeholders.

DoCS' capacity for quality service delivery and planning will be improved by effective systems for collecting data, recording and storing client information and managing financial matters. Establishing robust data collection mechanisms is a key priority, to be informed by the work of the Kibble Joint Working Party. The Department must ensure that its new data systems enable effective policy, planning, resource allocation and accountability. Particular attention to the implementation of the new Client Information System to operate from mid 2003 will be critical as it underpins so much of the

Department's work. The directions of the recent Reid inquiry provide a way forward for improving the standard and consistency of records management.

The massive growth in demand that accompanied the 1998 Act has tested the Department's intake and assessment systems. In the Committee's view, a comprehensive evaluation of the Helpline, including a trial of a localised model, is necessary to determine the most efficient and cost-effective system for intake. The Department also needs to realise the potential of its new assessment framework to achieve the necessary integration of assessment of risk with analysis of family support needs and strengths. A formal strategy to reduce the number of unallocated cases is required, as is a commitment to ensuring that all Level 1 and Level 2 cases are fully assessed.

In order to move beyond its current status as the overlooked arm of the child protection system, and ensure better outcomes for children and young people, we believe that reform must occur in the out-of-home care system. Central to this process is proclamation of the outstanding sections of the Act, and the strict quarantining of 40 percent of staff resources within DoCS. Reform should be founded on the development of a strategic policy framework, underpinned by substantial investment in both government and non-government service provision. A new funding framework for the non-government sector is also required. In addition, a range of improvements are necessary in relation to casework and support, foster care, kinship care and alternative models of out-of-home care.

Various improvements are needed to ensure a better interface between the Department and the court system. These include a strategy to optimise the management of Children's Court matters within Community Service Centres. Apprehended Violence Order arrangements should also be addressed, and a pilot project based on Victoria's *Project Magellan* should be established to enhance coordination between DoCS and the Family Court.

Several groups require particular attention in the development of a more effective and preventative child protection system. In the case of culturally diverse communities, an approach which values diversity and collaborates with community organisations is required. For Aboriginal families, parents with disability and parents with mental illness, all of whom are over-represented in the child protection system, there is a critical need to ensure access to preventative supports. Families with complex needs typify the systemic need for more effective and coordinated secondary and tertiary prevention services.

We believe that research and evaluation must become a core function of the Department in order to improve the effectiveness and transparency of DoCS, and to ensure that the system has a sound knowledge base on what is effective in prevention and early intervention, child protection and out-of-home care. A range of strategies will assist this goal, including expansion of the current DoCS research unit, creation of a research advisory group, establishment of formal links with universities, and routine publication of all evaluation and review findings.

Together, our recommendations in all these areas highlight the need for reform across the child protection system. This will require both political and financial commitment on the part of the Government, as well as the patience and cooperation of staff, the non-government sector and the broader community. The support of these groups will rest on how well the Department articulates its role and the goals of the broader system and on its openness and accountability. The process of reform requires a long-term commitment of significant resources, based on a recognition of the critical importance of the work of DoCS. The Government must ensure that the Department of Community Services is adequately resourced to fulfil its statutory responsibility for the care and protection of children and young people.

Summary of Recommendations

Recommendation 1 *Page 15*

The Department of Community Services should clarify its role in relation to prevention and early intervention so that it is not involved in the direct provision of secondary or tertiary prevention services. The Department's role should include assessment and referral as well as funding, planning and monitoring.

Recommendation 2 *Page 16*

The Department of Community Services should increase funding to the Prevention and Early Intervention Directorate to allow for the establishment of dedicated and quarantined caseworker positions in Community Service Centres to manage the prevention and early intervention role of the Department. The responsibilities of these caseworkers should include assessment and referral to government and non-government services.

Recommendation 3 *Page 16*

The Department of Community Services should establish and coordinate formal local interagency forums. These forums should:

- Occur at the local level on a regular basis
- Involve other government agencies including police, health, education and disability services
- Involve non-government agencies, including family support services, children's services, youth services, adolescent family counsellors and supported accommodation services.

Recommendation 4 *Page 18*

The Government should provide additional funding for secondary and tertiary prevention services, including intensive family support programs. Funding should be allocated according to regional need and be sufficient to ensure that there is an equitable distribution of services across the State.

Recommendation 5 *Page 18*

In developing a framework for secondary prevention, the Department of Community Services should establish a system for ensuring coordination through formal agreements between relevant agencies including NSW Health, the Department of Juvenile Justice, the Department of Ageing, Disability and Home Care, the Department of Corrective Services, the Department of Education and Training, and the Department of Housing.

Recommendation 6 *Page 27*

The Government should convene a Summit on Children in the second half of 2003 to consider how to improve coordination, funding and structures for services that maximise the wellbeing and development of children, young people and families in New South Wales. The Summit should involve all the key departments and agencies involved in health, education, childcare, preschool, disability and other service provision and planning for children, along with peak bodies, relevant academics and non-government providers.

Recommendation 7 *Page 30*

The Department of Community Services should be open, transparent and accountable in dealing with the child welfare sector, staff and public. To achieve this the Department should

- Collect and make public on a regular basis, clear and definitive data on Departmental performance and outcomes
- Provide timely and accurate responses to media and public inquiries.

Recommendation 8 *Page 33*

The Department of Community Services should ensure that the new Departmental structure is supported by:

- Significant and quarantined resources to support the three Directorates of Prevention and Early Intervention, Child Protection and Out-of-Home Care
- Clear lines of accountability and decision-making structures
- Effective linkages to support coordination between the three Directorates.

Recommendation 9 *Page 36*

The Department of Community Services should develop processes to ensure that the knowledge, skills and experience of operational staff are valued and incorporated into policy development and planning. Specifically, processes should be developed to ensure that Departmental staff are consulted on issues relating to policy and work practices.

Recommendation 10 *Page 36*

The Department of Community Services should routinely publish clear and accurate data on staffing issues including workload and staff turnover.

Recommendation 11 *Page 39*

The Department of Community Services should ensure adequate time is given to orientation and professional development, clinical supervision and training. Specifically, the Department should ensure that the half-day Thursday closure each week is used for professional development, clinical supervision, training and sessions on policy and procedures.

Recommendation 12 *Page 41*

The Department of Community Services should review, in consultation with staff and relevant experts, the curricula for pre-service education, orientation training and ongoing professional development and training. Consideration should be given to

- A multidisciplinary approach to training and professional support, particularly in relation to parenting capacity, early childhood development and assessing needs
- Ways to ensure Departmental staff at all levels have access to up-to-date knowledge and research on issues relating to families, children and young people.

Recommendation 13 *Page 42*

The Department of Community Services should introduce a policy to manage the information on *Business Help* and monitor the changes that occur in that system. The policy should include:

- The introduction of a standard procedure for use in all offices detailing how the information on *Business Help* is to be monitored and implemented
- Training for all staff in the use of *Business Help*.

Recommendation 14 *Page 44*

The Department of Community Services should develop effective systems for clinical supervision of operational staff. In particular, the Department should consider:

- Strategies to ensure regular and quality supervision for caseworkers, including the need for time relief
- Appropriate and specific training and support for managers and supervisors
- Ways to ensure that caseworkers have sufficient access to specialist expertise in psychology and other relevant disciplines

- Ways to ensure adequate supervision arrangements in rural and regional areas
- Ways to ensure constructive feedback is provided to staff on work practices, case reviews, decisions and process.

Recommendation 15 *Page 47*

To enhance systems for internal review and handling of grievances, the Department of Community Services should implement each of the suggestions of the Reid inquiry in relation to

- Section 6 – Practices dealing with grievances
- Section 7 – Processes for dealing with disciplinary actions.

The suggestions of the Reid inquiry are listed in Appendix 3

Recommendation 16 *Page 48*

To ensure that an effective system of external oversight is established, the Department of Community Services should

- Work in partnership with oversight bodies in the identification of problems and in finding appropriate solutions
- Ensure a timely and comprehensive formal response is provided to all recommendations made by oversight agencies
- Address suggestions outlined in the Reid inquiry in relation to Section 5 - Process for dealing with oversight agencies.

The suggestions of the Reid inquiry are listed in Appendix 3

Recommendation 17 *Page 49*

The Department of Community Services should rebuild an open and transparent relationship with the non-government sector and undertake to meet regularly with peak organisations and consult on policy directions and planning.

Recommendation 18 *Page 50*

The Minister should ensure that the Ministerial Advisory Council consider how the Department can establish a service delivery system that reflects the Act and emphasises support for vulnerable families, children and young people. To assist in this debate, the advisory body should consult with relevant experts, particularly in the early childhood development, intensive family support, drug and alcohol and mental health fields.

Recommendation 19 *Page 57*

In relation to the Kibble Joint Working Party:

- The Department of Community Services should fully implement the recommendations of the Joint Working Party's report of June 2002
- The Government should, as necessary, extend the life of the Joint Working Party to oversee the implementation of strategies to address demand management and data collection
- The Government should publish all Joint Working Party reports and recommendations.

Recommendation 20 *Page 60*

The Department of Community Services should, in implementing new data collection mechanisms, ensure that they enable effective policy, planning, resource allocation and accountability. The data must:

- Provide an accurate picture of demand by measuring the time required to process reports, undertake investigations and carry out the range of casework tasks

- Allow an assessment of the unit costs of prevention, intake, child protection and out-of-home care services
- Enable an accurate determination of the number of caseworkers required for each Community Service Centre in a way that takes into account local demand characteristics
- Enable analysis of both the quantity and quality of the Department's work
- Provide a greater understanding of the consumers of DoCS services.

The Department should ensure that all such data is released to the public on a regular basis.

Recommendation 21 *Page 63*

The Department of Community Services should ensure that the new Client Information System to operate from mid 2003 supports the following Departmental objectives:

- Informed risk assessment, decision-making and case management
- Transparency of decisions about individual children and families
- Consistency of process
- Efficiency in work practices
- Flexibility to adapt to evolving needs over time
- Clarity of data
- Effectiveness in monitoring and planning.

Recommendation 22 *Page 63*

The Department of Community Services should develop a comprehensive strategy for implementing the new CIS, which explicitly addresses:

- Staff consultation and training
- Measures to ensure compliance with its use.

Recommendation 23 *Page 66*

The Department of Community Services should implement each of the suggestions of the Reid inquiry in relation to file keeping practices, records management and the reduction of paperwork. In particular, the Department should:

- Centrally determine the minimum requisite content of each file and implement this consistently across the State
- Train all Community Service Centre staff in these new practices
- Monitor compliance through random file audits in all Community Service Centres.

The suggestions of the Reid inquiry are listed in Appendix 3.

Recommendation 24 *Page 67*

The Department of Community Services should ensure that its financial management systems support:

- The development of unit costings for the Department's work across intake, child protection and out-of-home care
- Effective quarantining of resources between the three Directorates of the Department
- A systemic focus on outcomes for children and families.

Recommendation 25 *Page 79*

The Department of Community Services should undertake a comprehensive evaluation of the Helpline, commencing prior to and continuing after the establishment of the new Client Information System. The evaluation should include a trial of a localised intake model in all Community Service Centres within an identified region. It should include consideration of:

- Timeliness, quality of response and feedback
- Consistency and reliability of assessments
- The extent to which matters are reclassified once assessed by local Community Service Centre staff
- Efficiency in using staff resources, including the extent to which field staff time is freed
- Impact of the new Client Information System
- Adequacy of staff training
- Effectiveness in direct referrals to other services
- Relationships between the Helpline and Community Service Centres and between Community Service Centres and local agencies
- The effectiveness of various reporting mechanisms including phone, fax and email
- Cost-effectiveness.

Recommendation 26 *Page 83*

The Department of Community Services should liaise with relevant NSW Government agencies to ensure that all government mandatory reporters have a clear understanding of their reporting requirements under the *Children and Young Persons (Care and Protection Act) 1998*. In particular, the Department should liaise with the NSW Police Service concerning their reporting requirements in relation to incidents of domestic violence where a child is present.

Recommendation 27 *Page 87*

The Department of Community Services should ensure that the aim of the Secondary Risk of Harm Assessment framework is fully realised, so as to shift practices from incident-based assessment of immediate risk to analysis of risk within the broader context of the support needs and strengths of families. To achieve this, the Department should ensure:

- Policies and procedures are consistently adhered to across all Community Service Centres
- All staff receive comprehensive training and clinical supervision
- Monitoring of assessment practices occurs and changes reflecting best practice are implemented
- Assessment practices explicitly address neglect
- Research and evaluation is undertaken, particularly on the need for multidisciplinary teams or a broader multidisciplinary approach to assessments by Departmental caseworkers.

Recommendation 28 *Page 90*

The Department of Community Services should ensure that all Level 1 and Level 2 reports are allocated and receive a Secondary Risk of Harm Assessment.

Recommendation 29 *Page 90*

The Department of Community Services should establish a formal strategy to reduce the number of unallocated cases, both those which are requests for assistance and those which are reports of children at risk of harm, and should also establish data collection systems to monitor levels of unallocated cases. This data should be made public.

Recommendation 30 *Page 90*

The Department of Community Services should ensure the establishment of designated Prevention caseworker positions, referred to in Recommendation 2, are sufficient to ensure that

all Level 3 cases are addressed. These positions should be in addition to current allocations for child protection and out-of-home care.

Recommendation 31 Page 92

The Department of Community Services should re-establish administrative positions within Community Service Centres with a view to reducing time spent by caseworkers on paperwork and general administrative duties.

Recommendation 32 Page 100

The Government should proclaim the outstanding sections of the *Children and Young Persons (Care and Protection) Act 1998* by June 2003 at the latest and should publish a timetable for proclamation as soon as possible. The Government should also publish a statement of the resource impact of proclamation.

Recommendation 33 Page 101

The Government should:

- Adequately resource both government and non-government agencies to fulfil the out-of-home care role set out for them in the *Children and Young Persons (Care and Protection) Act 1998*
- Ensure that the Office of the Children's Guardian is adequately resourced to effect its legislated roles.

Recommendation 34 Page 102

The Government should, in developing a way forward for out-of-home care in New South Wales, formally consider and respond to the findings of the Community Services Commission's Substitute Care inquiry.

Recommendation 35 Page 103

The Department of Community Services should ensure that all children and young people in out-of-home care have an identified and designated caseworker.

Recommendation 36 Page 104

The Department of Community Services, the Office of the Children's Guardian and the Commission for Children and Young People should develop tools and resources for the participation of children and young people in case planning. These should be used by the Department of Community Services and other out-of-home care providers to ensure such participation occurs.

Recommendation 37 Page 105

The Department of Community Services should:

- Implement procedures to ensure that all children and young people are informed of what they can expect will happen to them within 24 hours of entering care
- Ensure that all children who are the subject of an assessment of risk of harm and/or who enter care are given the option of a support person who they know and trust.

Recommendation 38 Page 106

The Department of Community Services and other out-of-home care providers should ensure casework practice supports contact between children and young people and their siblings and families.

Recommendation 39 Page 107

In order to improve provision for restoration:

- The Department of Community Services and other out-of-home care providers should, in cases where there is a reasonable possibility of restoration of a child or young person to their family, make a concerted effort to facilitate that restoration
- The Department of Community Services should establish clearly defined systems and procedures to ensure adequate support for families where a child has been restored. These systems should provide links to secondary and tertiary prevention services and ensure effective coordination and continuity of casework between the out-of-home care and early intervention streams.

Recommendation 40 *Page 107*

The Department of Community Services and other out-of-home care agencies should provide adequate casework and coordinate other necessary support services to families of children who have been placed in out-of-home care.

Recommendation 41 *Page 108*

The Department of Community Services, in consultation with other out-of-home care providers and the Children's Guardian, should develop standardised case management tools for all children and young people in out-of-home care. These tools should be used consistently by all out-of-home care providers.

Recommendation 42 *Page 108*

The Department of Community Services should ensure that all children and young people under its responsibility have a case plan by December 2003.

Recommendation 43 *Page 110*

The Department of Community Services should use a caseload formula to set limits for each caseworker in out-of-home care and to determine the number of out-of-home care caseworkers in each Community Service Centre.

Recommendation 44 *Page 112*

In order to improve the foster care system of New South Wales, the Department of Community Services should:

- Develop and implement a standard assessment process for all prospective and current foster carers and ensure that no placement is made with a foster carer who has not passed this assessment
- Implement the 'Shared Stories, Shared Lives' training package uniformly across the State
- Develop a compulsory ongoing training program for all foster carers
- Systematically monitor and provide casework support to all its foster carers.

Recommendation 45 *Page 115*

The Department of Community Services should:

- Undertake an extensive consultation process, particularly with Aboriginal communities, on whether the proclamation of Schedule 1 [17] of the *Children and Young Persons (Care and Protection) Amendment (Permanency Planning) Act 2001*, to include kinship care in the definition of out-of-home care, should occur. This should be finalised by December 2003
- In partnership with the Association of Children's Welfare Agencies, the Aboriginal Child, Family and Community Care State Secretariat and other relevant bodies, develop a framework for supporting kinship care that includes systematic screening, monitoring, training and support

- Provide additional funding to indigenous out-of-home care services to support Aboriginal children and young people in kinship care and their carers
- Assign a caseworker to, and ensure a case plan is in place for, all children and young people in kinship care under a care order.

Recommendation 46 *Page 117*

The Department of Community Services should:

- Pilot and evaluate alternative models of out-of-home care
- Develop a policy framework for alternative models of out-of-home care, and use this framework to guide significant service investment. The framework should consider the appropriate role for private for-profit agencies in this area.

Recommendation 47 *Page 119*

In order to improve after-care service provision:

- The Department of Community Services and other out-of-home care providers should ensure that after-care planning is integrated into case management for all young people, including those in kinship care, well in advance of leaving care
- The Department of Community Services should ensure that after-care services are available to young people in regional, rural and remote areas and that young people can access adequate emotional support.

Recommendation 48 *Page 120*

The Department of Community Services should finalise the charter of rights for children in out-of-home care and implement a comprehensive and ongoing dissemination strategy for the charter.

Recommendation 49 *Page 120*

The Department of Community Services and other out-of-home care agencies should ensure that they have effective complaint handling mechanisms in place.

Recommendation 50 *Page 120*

The Office of the NSW Ombudsman should ensure that its complaint services are appropriate for and accessible to children and young people.

Recommendation 51 *Page 123*

The Department of Community Services should, as a priority and in consultation with non-government organisations, develop a strategic policy framework for reform of the out-of-home care system in New South Wales. This framework should be based on the principles and provisions of the *Children and Young Persons (Care and Protection) Act 1998* and should articulate the goals, outcomes, parameters and priorities for the out-of-home care system.

Recommendation 52 *Page 123*

The Department of Community Services should develop and implement a new out-of-home care funding framework that accurately reflects the true costs of running services, and which builds on the funding formula developed through the Care 2000/2001 process.

Recommendation 53 *Page 127*

The Department of Community Services should develop a strategy to optimise the management of Children's Court matters within Community Services Centres. In particular, the Department should:

- Ensure that caseworkers receive adequate specialist legal support to prepare for Children's Court matters, preferably through the employment of legally qualified staff to work in Community Service Centres

- Develop a specialist senior casework role and responsibility for the preparation and management of Children's Court matters within Community Services Centres
- Ensure that caseworkers receive sufficient and appropriate training on the requirements of the Children's Court.

Recommendation 54 *Page 128*

The Department of Community Services should ensure that the new records management system and Client Information System store and provide information that is relevant and in a form that is usable by the Children's Court.

Recommendation 55 *Page 128*

The Department of Community Services, the Attorney General's Department and the Children's Court should jointly review Children's Court procedures to determine whether documentary requirements and Court processes can be streamlined to assist all parties to Children's Court proceedings. This review should be finalised by December 2003.

Recommendation 56 *Page 129*

The Attorney General's Department and the Children's Court should review legal aid guidelines and the procedures of the Court to ensure that non-departmental parties have a genuine opportunity to present their case. In particular they should ensure that Children's Court processes are accessible to parents with disability.

Recommendation 57 *Page 131*

The *Children and Young Persons (Care and Protection) Act 1998* should be amended so that:

- The Children's Court has the power to grant Apprehended Violence Orders in favour of a child or young person who is at risk of harm,
- The Department of Community Services has the power to apply to the Court for an Apprehended Violence Order in lieu of a care order.

Recommendation 58 *Page 132*

In relation to Recommendation 57 the Department of Community Services should ensure that Community Service Centre staff receive appropriate training regarding their role and responsibilities in relation to the use of Apprehended Violence Orders as a child protection intervention.

Recommendation 59 *Page 134*

The Government should establish a pilot project based on *Project Magellan* to enhance coordination between the Family Court and the Department of Community Services.

Recommendation 60 *Page 134*

The Attorney General should as a matter of urgency approach the Commonwealth Attorney General to ensure that adequate legal aid funding is available to support the pilot project referred to in Recommendation 59.

Recommendation 61 *Page 136*

The Attorney General and the Minister for Community Services should approach their counterparts in the Commonwealth and other States and Territories to support the recommendations of the Family Law Council Report, *Family Law and Child Protection: Final Report*, and to ensure that these recommendations are placed on the agenda of the Council of Community Services Ministers and the Standing Committee of Attorneys General as soon as possible.

Recommendation 62 *Page 140*

In order to enhance the capacity of indigenous communities to care for their children and young people, the Department of Community Services should, when implementing Recommendation 45:

- Fund a state-wide, systematic and culturally sensitive prevention and early intervention strategy, including family support, which is controlled by Aboriginal communities
- Adequately fund indigenous organisations for their role in supporting children and families
- Work in partnership with indigenous organisations to recruit more Aboriginal foster carers
- Develop an effective system of support for Aboriginal Departmental staff.

Recommendation 63 *Page 144*

In order to enhance the cultural competency of the child protection system, the Department of Community Services should:

- Provide culturally and linguistically appropriate information, including material that is translated into community languages, on all its services and programs
- Provide systematic and ongoing cross-cultural training to Helpline and Community Service Centre staff, including training in the use of interpreter services
- In consultation with ethnic community organisations, develop and implement an approach to out-of-home care that actively seeks to keep children and young people connected to their culture and community
- Establish a pool of bilingual or bicultural support workers who have been trained to work with children and families who are at risk
- In consultation with ethnic communities, develop a comprehensive, community based prevention strategy
- Develop and implement a strategy to support Departmental staff from culturally and linguistically diverse backgrounds.

Recommendation 64 *Page 147*

NSW Health should expand community-based mental health services, including child mental health services and non-government services, to ensure adequate supports for families with parents with mental illness.

Recommendation 65 *Page 147*

The Department of Community Services, NSW Health and the Department of Housing should jointly fund additional supported accommodation services for women with mental illness and their dependent children.

Recommendation 66 *Page 148*

The Department of Community Services should initiate discussions with NSW Health and other relevant agencies about services for parents with a personality disorder, and develop a strategy to improve access to and coordination of prevention and early intervention services for these families.

Recommendation 67 *Page 150*

As part of the system of coordination between agencies referred to in Recommendation 5, the Department of Community Services should ensure that adequate funding is in place to support families with complex needs.

Recommendation 68 *Page 154*

The Department of Community Services should recognise research and evaluation as one of its core functions, and in so doing, should:

- Consolidate and expand its research unit into a research office to lead the Department's monitoring, evaluation and research activities, have a direct role in policy and planning and establish formal links with tertiary institutions
- Establish a research advisory group
- Develop a strategy for dissemination of research throughout the Department
- Establish an evidence-based approach to policy and planning, service delivery and purchasing
- Ensure that an evaluation component is built into the budget of all new models, programs and initiatives
- Establish outcome measures for all programs
- Routinely publish all evaluation and review findings
- Establish and fund a research agenda for child welfare in New South Wales.

Recommendation 69 *Page 155*

The Department of Community Services should undertake an evaluation of the impact and effects of the *Children and Young Persons (Care and Protection) Act 1998*.

Recommendation 70 *Page 160*

The Government must adequately resource the Department of Community Services to allow it to undertake the full range of its statutory responsibilities in the care and protection of children and young people.

Chapter 1 Introduction

My one wish would be that children and young people in care get treated like a real person with feelings and needs and things, instead of just another number on a caseload.¹

At the outset of this report we acknowledge the children and young people who come into contact with the child protection system. Each is a unique human being with a right to care and protection and to supports that will enable them to fulfil their potential. The Department of Community Services (DoCS) has a statutory responsibility to ensure this care and protection. Along with a range of other government and non-government agencies and the community more broadly, DoCS has a responsibility to promote the wellbeing of children and families.

A concern for the rights of children and the capacity of the Department to protect those rights led to the reference of this inquiry into child protection services to the Standing Committee on Social Issues by the Legislative Council on 10 April 2002. The same concern has been a touchstone for the Committee as the inquiry has progressed. It underpins each of the recommendations made in this report. We particularly appreciate the compelling evidence of young people whose stories brought to life the realities of being in care. Similarly, the frontline workers that we spoke with gave us vital insights into the child protection system.

This chapter provides a brief overview of the inquiry process, including details of submissions and witnesses, a summary of the main findings of our interim report, and an outline of the content of this final report.

Purpose of this report

- 1.1 The terms of reference of this inquiry required the Committee to provide both an interim and final report. Our interim report, tabled in Parliament on 16 October 2002, provided an overview of the key issues and evidence raised with the Committee up to that time, and discussed the crucial issue of prevention.
- 1.2 The purpose of this final report is to explore the key issues and evidence before this inquiry in greater detail, and to make recommendations on the full terms of reference.
- 1.3 A major theme of this report is that in New South Wales there is currently an over-emphasis on the process of forensic investigation of specific incidents of harm, often at the expense of attention to preventing harm or caring for children after harm has occurred. While ensuring that an effective child protection system is in place, we need to develop a more holistic approach which emphasises supporting families so that they are better able to nurture their children.

¹ Young person, confidential evidence

Scope of the inquiry

- 1.4 The short timeframe for this inquiry and systemic focus of the Committee's terms of reference led us to examine broad issues rather than individual cases of contact with the child protection system.² While the individual experiences that have been brought to our attention have illuminated our understanding of systemic issues, we have not referred to them directly in this report. Instead, we trust that our observations and recommendations for reform reflect the personal experiences of the many people who shared their stories with us.
- 1.5 Similarly, we decided to focus on the present child protection system, rather than systems that have operated in the past. We do, however, acknowledge the experiences of people who had contact with past systems and the many issues yet to be resolved in relation to past practices, especially those associated with out-of-home care.
- 1.6 A number of submissions made specific allegations about the conduct of the Department of Community Services or about individual staff. The terms of reference for the inquiry did not provide for the investigation of specific allegations. The Committee encourages people with specific allegations to raise these with the appropriate bodies, including the NSW Ombudsman or the Independent Commission Against Corruption.

Inquiry process

- 1.7 Recognising the diversity of stakeholders in the child protection system, throughout this inquiry the Committee has sought input from a broad range of interest groups, organisations and individuals. We have done this through calling for submissions, taking oral evidence and conducting field visits in metropolitan Sydney and in regional and rural New South Wales.
- 1.8 We are enormously grateful to each of the people who participated in this inquiry.

Submissions

- 1.9 The Committee received a total of 273 submissions. These came from individuals and representative organisations including the Public Service Association (PSA), the Commission for Children and Young People, the Community Services Commission and the Association of Welfare Agencies (ACWA) and the Department of Community Services. We also received submissions from many non-government support services, local child protection interagency committees, researchers and representatives of the health, legal, and education professions. In addition, we received many submissions from past and present employees of the Department of Community Services.
- 1.10 In view of the sensitive nature of this inquiry, the Committee instituted special procedures for the handling of submissions. Those made to us in confidence were stored securely and were circulated among Committee members with all identifying information removed. The Committee has published all submissions other than those where the author requested

² Standing Committee on Social Issues, Minutes of Proceedings No.82, 9 May 2002

confidentiality, where contents of the submission revealed the identity of a child or young person who is in contact with the child protection system, or where the author of the submission was an employee of a government agency. All submissions have been lodged with the Legislative Council and those which are not public are available only to the Members of the Legislative Council.

- 1.11 A list of submissions to this inquiry is set out in Appendix 1.

Hearings and consultations

- 1.12 The Committee has taken both public and *in camera* evidence. A full list of public witnesses is provided in Appendix 2. We have now spoken with over 200 people.

- 1.13 In our interim report we noted that we had received public evidence from witnesses including the Minister for Community Services, the Hon Carmel Tebbutt MLC, the Director-General of DoCS, Dr Neil Shepherd, and the previous Director-General, Ms Carmel Niland. The Committee also heard from representatives of oversight bodies such as the Commission for Children and Young People and the Community Services Commission, and from peak non-government organisations including the Association of Childrens Welfare Agencies (ACWA), the New South Wales Council of Social Services (NCOSS) the Family Support Services Association of NSW and the Foster Carers Association. Further witnesses included representatives of the Public Service Association (PSA), the NSW Police Service, NSW Teachers' Federation, and the Chair of the Joint PSA/DoCS Working Party on the Department of Community Services, Ms Gabrielle Kibble. We also took evidence from representatives of the Women's Refuge Movement, the Aboriginal Child, Family and Community Care State Secretariat and the Ethnic Child Care, Family and Community Services Co-operative, in addition to a range of other child welfare service providers, academics and individuals.

- 1.14 Since the release of our interim report the Committee has taken further public evidence including from the Create Foundation, the NSW Ombudsman, the Family Court, the Australian Medical Association, the Mental Health Co-ordinating Council, Link-Up Aboriginal Corporation, and representatives of people with disability. We concluded our evidence with a second public hearing with the Director-General, Dr Shepherd.

- 1.15 The Committee also held a forum with a range of key stakeholders on 7 November 2002. The forum was attended by Mr Robert Fitzgerald, Commissioner for Community Services; Ms Karen Bevan, Community Services Commission; Ms Gillian Calvert, Commissioner for Children and Young People; Ms Linda Frow, Senior Policy Advisor, NCOSS; Dr Judy Cashmore, academic and Chair, ACWA; Mr Nigel Spence, Executive Director, ACWA; Professor Graham Vimpani, Professor of Paediatrics and Child Health, University of Newcastle; Professor Patrick Parkinson, Professor of Law, University of Sydney; Mr Laurie Brady, PSA; Ms Virginia Wilson, PSA; and Ms Tonia Goddard, consultant.

- 1.16 Participants in our consultations agreed that the evidence given confidentially could be used in our reports with identifying information removed. The Committee has spoken on this basis with a range of groups including care leavers, past and present DoCS employees and representatives of Aboriginal communities. The evidence we gained from these diverse

sources provided the Committee with vital insights into the child protection system across New South Wales.

Key findings of our interim report

- 1.17** The Committee's interim report on child protection services was released together with our first report for the inquiry into early intervention for children with learning difficulties. A key theme of both inquiries has been the recognition that intervening early in the lives of children so that problems are avoided or minimised produces the best outcomes for children, families and communities. Our interim report on child protection services thus concentrated on prevention.
- 1.18** The Committee identified as an immediate priority the need to develop a better system to support families and promote the wellbeing and development of children in order to prevent problems from emerging and escalating. We saw this as the first and most vital step to address the challenges facing the Department of Community Services, arguing that a well organised, robust and properly funded approach to prevention and early intervention is a necessary foundation for effective and lasting reform within DoCS.
- 1.19** To this end we recommended a strengthened population-based system of children's services to support all families and provide a firm base for the development of all children, to be coordinated through a new Department of Child Development. We also called for a comprehensive and systemic approach to secondary prevention, including family support services, to assist families in need and prevent their needs escalating into crisis.
- 1.20** Our interim report also identified a number of significant issues relating to the performance of the Department of Community Services that must be addressed if New South Wales is to develop an effective child protection system. We noted the poor public image of DoCS as an overarching problem, and hence the pressing need for the Department to build a new relationship with the community, based on trust, collaboration, transparency and accountability. We observed that additional resources will be critical to, but not the panacea for, an invigorated and effective child protection system: both structural and cultural change will need to occur at the same time.

Summary and structure of this final report

- 1.21** This final report takes as its starting point the broad, systemic issues associated with child and family wellbeing and the Department. **Chapter 2** explores the goals of the child protection system, the role of DoCS, and the need for a robust system of prevention and early intervention.
- 1.22** **Chapter 3** discusses the critical need for the Department to establish a culture of openness, transparency and accountability and identifies the steps that must be taken to achieve this.
- 1.23** The Department's administrative systems are the focus of **Chapter 4**, which draws on evidence before this inquiry and from the Ombudsman, the Kibble Joint Working Party and the Reid inquiry.

- 1.24 **Chapter 5** explores the Helpline and its future, the impact of mandatory reporting and the need for better systems for understanding and managing demand. The chapter concludes with a discussion of the Department's assessment framework.
- 1.25 A comprehensive analysis of the current out-of-home care system is provided in **Chapter 6**, which discusses the need for substantial reform in order to improve outcomes for children and young people in care.
- 1.26 **Chapter 7** considers the interactions between the Department and the courts.
- 1.27 **Chapter 8** discusses specific issues for indigenous children and families, culturally and linguistically diverse communities, parents with disability, parents with mental illness and families with high and complex needs.
- 1.28 The need to establish a systematic, transparent and collaborative approach to monitoring, research and evaluation is discussed in **Chapter 9**.
- 1.29 The report concludes with a discussion of reform and resources in **Chapter 10**.

Chapter 2 Rethinking the child protection system

The changing needs of the core client group of the child protection system, and a recognition that any real impact on children's protection requires primary and secondary prevention strategies in balance with tertiary intervention, must be the starting point in planning the future.³

A central tenet of the child protection system is the right of children and young people to a safe, loving and secure living environment. Communities and families as well as government and non-government agencies share the responsibility for the wellbeing of our children. In New South Wales the system for caring for children, and particularly vulnerable children and young people, is inadequate. The problems are not new. For over a decade, numerous inquiries and reviews have proposed reforms which in the main have failed. Real reform will require a commitment to philosophical, structural and cultural change. We must develop a system which is dynamic in its response to the needs of children and young people.

In this chapter we discuss the contemporary broad understanding of child protection in New South Wales, the principles of which are outlined in the *Children and Young Person's (Care and Protection) Act 1998* (the Act). We consider the need to establish unambiguous goals and directions for that system. We argue that one of the greatest difficulties facing the current system is the lack of clarity about the roles of the Department of Community Services and other key players.

The Department's role in prevention and early intervention with regard to funding, planning and referral is considered in this chapter. It also explores the need to build the system's capacity for primary and secondary family and youth support and ensure that this support is effective. The Department's statutory role in child protection and out-of-home care is dealt with in the remainder of this report.

The child protection continuum

2.1 An effective child protection system should be situated within a broader system of services that promotes the overall wellbeing of children, young people and families. The system must support the growth and development of the child and recognise that certain situations and relationships within the child's life can be damaging or dangerous. The goals of the broader system should be to promote the health, education and social development of children and young people and to support families to care for children well. The benefits of such a system extend well beyond child protection issues to domains such as health, education and the criminal justice system. This system is necessary to address broader trends that are making the task of raising children more difficult for parents. As we noted in our interim report, *Prevention*, new patterns of work and family life, increasing social inequalities and entrenched patterns of social exclusion, are all placing added pressure on families.

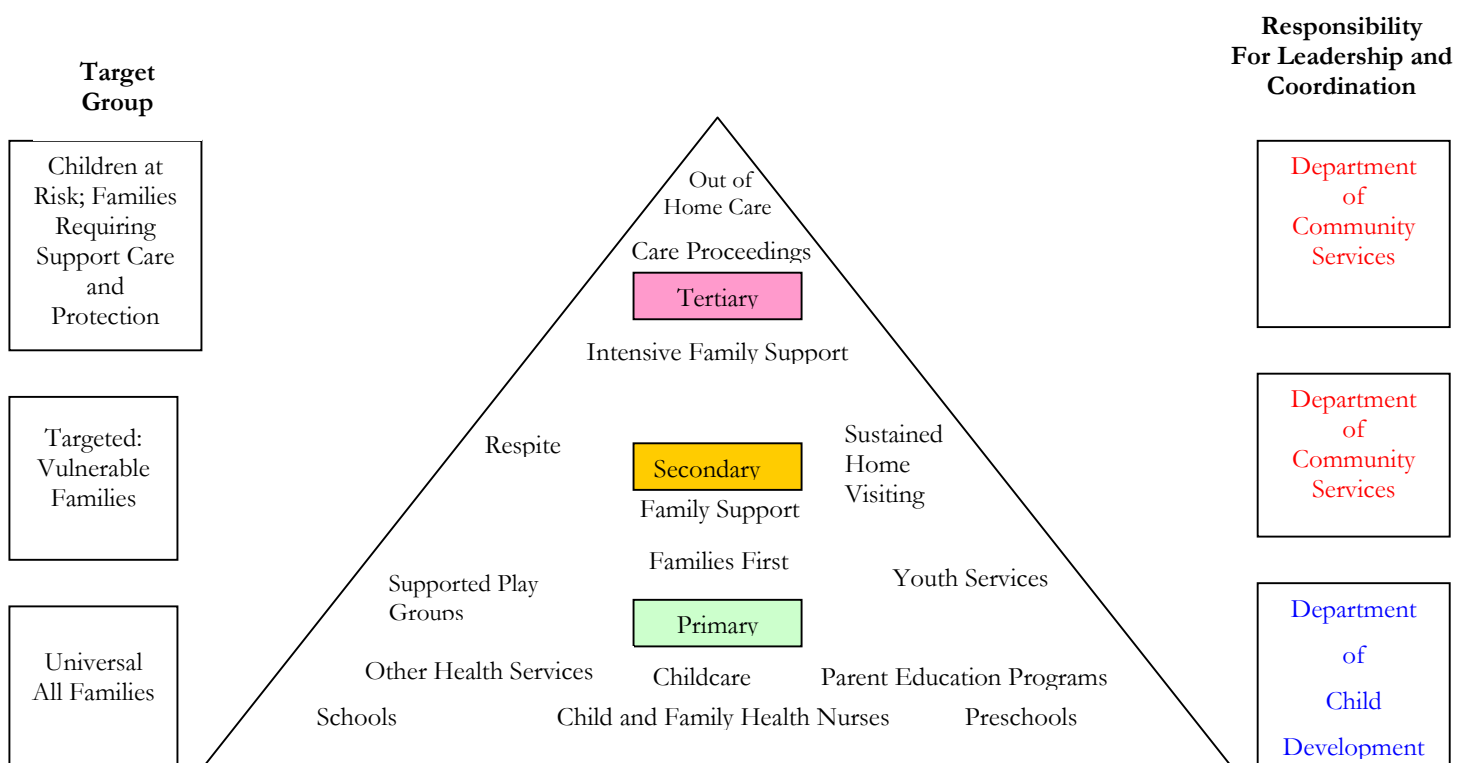
³ Submission 269, NSW Commission for Children and Young People, p.3

2.2

In the interim report we outlined a service delivery model that reflects this broader understanding of child protection. This model, which incorporates the new Department of Child Development proposed by the Committee, is represented in Figure 2.1. In summary, the model proposes:

- Primary – A universal service delivery system designed to promote children’s wellbeing and development, with a particular focus on the early years in life
- Secondary – Targeted services for vulnerable families, children and young people to provide more selective and intensive support due to particular needs or circumstances
- Tertiary – Programs and interventions where there is evidence of abuse or neglect, aimed at preventing the recurrence of abuse or neglect. It is at this stage that there may be a need for statutory intervention.

Figure 2.1: Child care and protection continuum



Interim Report Recommendations**Recommendation 1**

The Government should develop and fund a comprehensive and systemic approach to prevention and early intervention to support families, reduce the risk of harm to children and limit the number of children moving into out-of-home care. The Committee has strongly recommended the establishment of a new Department of Child Development in our interim report on early intervention for children with learning difficulties. The Committee envisages that:

- Responsibility for primary prevention would rest with the new Department of Child Development
- Responsibility for secondary prevention would remain with the Department of Community Services

Significant additional funding should be allocated to support both primary and secondary prevention strategies.

Recommendation 2

To ensure that the Department of Community Services is effective in carrying out its role in secondary prevention:

- Effective systems to handle the receipt, assessment and referral of requests for assistance should be developed
- Sufficient capacity must be developed within Community Service Centres to ensure that unallocated cases are properly assessed and support or referral is provided as required
- The exact nature and role of departmental caseworkers in providing direct support should be clarified.

Recommendation 3

In consultation with relevant stakeholders, the Department of Community Services should develop a co-ordinated framework for secondary prevention including family support services to address:

- The role and responsibilities of family support services within the broader child protection system
- The industry development and funding requirements of family support services
- The establishment of appropriate mechanisms for consultation and collaboration at the regional and local level
- Planning for the distribution of family support services to ensure that each area has the full range of integrated service options, particularly for families and children at risk
- The specific funding and service provision needs of identified groups of people with high and complex needs
- Ways to measure the effects and outcomes of family support.

Recommendation 4

As a matter of urgency, the Government should review the adequacy of the current funding of family support services through the Community Services Grants Program.

- 2.3** The development of the preventative capacity of the child protection system is the only way to reduce demand for statutory child protection interventions and out-of-home care. A progressive child protection system should wherever possible maintain relationships and connections between children and their families, and support parents so they can be skilful and responsive in their role. Children's relationships with their parents and families are extremely important, and as our report in 2000 into past adoption practices revealed, people whose ties with their parents have been severed can experience many lifelong difficulties. A system that emphasises support for vulnerable families will promote better outcomes for children than one which is focussed on removal.
- 2.4** The approach to care and protection in New South Wales is currently out of balance. The principles and objectives of the *Children and Young Persons (Care and Protection) Act 1998* provide the framework for a balanced system capable of providing support and intervention along the child protection continuum of primary, secondary and tertiary prevention and intervention. The Act has almost universal support for its emphasis on shifting the focus from a child protection system based on forensic investigation to one of non-coercive support. Equally important, the Act emphasises that the care and protection of children is a shared responsibility. As the Commissioner for Community Services told the inquiry, the Act:
- passed by this Parliament with the unanimous support of all parties represents the ... foundation upon which we can develop a care and support system.⁴
- 2.5** There is substantial agreement that the Government has yet to realise the potential of the Act. While the Act provides the legal underpinnings for a broader care and support system, there has been little exploration of the service system required to deliver this new approach. Despite the intention of the Act, the current system remains heavily focussed on risk assessment and investigation. This focus is all the more misplaced given the fact that in New South Wales, just as elsewhere in Australia, only a small minority of reports result in court action being taken to remove a child who is in need of care and protection. For example, in 2001/2002, there were 107,000 contact reports received by the Helpline,⁵ but only 3,272 applications were made for a care order in the Children's Court.⁶
- 2.6** Many child protection reports relate to children and families who are in need of support. Such reports may identify issues of neglect rather than abuse. While a child living in one of these families may not be at immediate risk of harm, failure to provide appropriate and sustained assistance can have tragic consequences. In their analysis of the circumstances of 21 children from 20 families who died between June 2000 and February 2001 for reasons related to abuse and neglect, the Child Death Review Team (CDRT) highlighted that while most of the families had prior involvement with a human service agency not one of the

⁴ Fitzgerald evidence, Community Services Commission, 20 May 2002

⁵ Joint Working Party on NSW Department of Community Services, *Demand for DoCS Services and Management of the Intake and Casework Process: Final Report*, 21 June 2002, p.iv

⁶ Attorney General's Department of NSW, *Annual Report 2001-2002*, p.182

children received ongoing care and support services.⁷ Our current system compels mandatory reporters and the community to report cases of abuse and neglect, as well as families in need, and then does little in response. To achieve positive and lifelong outcomes for children and young people, long term investment in care and support is essential.

The goals of a responsive child protection system

- 2.7** A central goal of our child protection system should be to provide non-coercive support for families. There is substantial agreement on this principle. However, there will always be a need for coercive interventions and the removal of children from their families. As we discuss in Chapter 6, there is a real and immediate need to address out-of-home care, often seen to be the overlooked aspect of this State's child protection system.
- 2.8** Tragically, there will always be parents who harm their children, and there will always be non-accidental child deaths. The challenge for a contemporary child protection system is to find ways to prevent abuse and neglect, while providing the necessary interventions and supports for children and young people already at risk of harm and abuse. There must be a balance of prevention and intervention.
- 2.9** At each phase of the child protection continuum, the aim must be to ensure positive outcomes for families, children and young people in New South Wales. At all times, however, the rights of children and young people are to be considered paramount. The system must respect and value the needs and opinions of children and young people, and as far as possible consult with them on the decisions being made about their lives.
- 2.10** Where intervention takes place, the outcomes for children and young people must be positive and measurable. Prior to any intervention, the question should be put: how will this improve the life of this child or young person?

Defining the role of DoCS

- 2.11** Responsibility for care and protection of children and young people is shared across government and non-government agencies, the community and families. The Department of Community Services is the lead agency in child protection and therefore must establish a clear and focused direction for that system. Other government agencies and the sector look to the Department for leadership on goals and objectives, roles and responsibilities, policy and procedure, and service delivery. The Department must also ensure that the Act is fully implemented and that services and systems are in place to achieve the goals of that legislation.
- 2.12** There was agreement in evidence that there is a lack of clarity on the roles and responsibilities of DoCS. The failure to know and articulate the core function of the

⁷ NSW Child Death Review Team, *2001-2002 Report*, NSW Commission for Children and Young People, 2002, p.120

Department is clouding community expectations regarding what DoCS can achieve in relation to the care and protection of children and young people:

Unless there is a clarity of role you could have a thousand more caseworkers and I do not think they would be able to respond adequately, simply because at the moment there is an expectation that the Department of Community Services' workers will somehow be able to do everything, and that is simply not the case.⁸

2.13 Part of the problem for the Department is the tension that exists between its role in supporting and helping families and its statutory role of investigation and the removal of children from their families. There is presently too much emphasis on the crisis end of child protection with the bulk of funding going to assessment and investigation. One of the challenges for the Department is how to ensure resources for supporting families are not directed towards crisis. Achieving this balance is a difficult and delicate task.

2.14 There was considerable optimism that should DoCS clarify its role and focus:

[W]e will have the opportunity for DoCS again to be seen as a valued and respected local human service provider, where they are known to be a local professional network ...⁹

2.15 The Committee considers that while not a cure-all, clarifying the Department's role is a necessary step in developing a way forward for the child protection system. This will require strong leadership that provides clear, consistent and transparent direction. In the section below we discuss the Department's role in relation to prevention and early intervention. The role of the Department in relation to child protection and out-of-home care is the subject of the following chapters of this report.

The role of DoCS in relation to prevention and early intervention

2.16 Our interim report highlighted the need for an effective system of prevention and early intervention. The objective of this system should be to ensure first, that the number of children and families entering the child protection system is limited. Second, the system should ensure that those families that do enter the system are dealt with effectively and early so as to prevent an escalation of their needs and the risk of harm to the child. This requires adequate investment in a balanced system of primary, secondary and tertiary services.

2.17 In the interim report, we stated that the Department of Community Services should not be responsible for the overall coordination and management of primary prevention programs. While many of the services funded by the Department will have a role in primary prevention, the objectives of primary prevention programs extend well beyond issues of risk and child protection. Primary prevention services are intended to support the entire population and are delivered by a wide range of agencies. DoCS should be a significant partner, along with other agencies such as education, health, disability services and housing.

⁸ Peltola evidence, 24 October 2002

⁹ Confidential evidence

In the Committee's view, responsibility for whole of government coordination of these programs should lie outside DoCS. We reiterate the view outlined in our interim report that a new Department for Child Development should be established to coordinate child and family services and primary prevention strategies. A way forward for primary prevention is discussed at the end of this chapter.

2.18 We consider that the Department of Community Services does, however, have a clear responsibility within a system of prevention to lead the provision of secondary and tertiary supports to vulnerable children and families that need more intensive or targeted assistance. In the interim report we stated that the Department must act as a point of intake for these services, and that the intake role must include:

- Receiving and responding to requests for assistance
- Ensuring that the needs of children and families who are the subject of child protection reports, but are not at immediate risk, are assessed and linked to appropriate supports.

2.19 The Committee therefore recommended that effective systems and sufficient capacity be developed within Community Service Centres (CSCs) to ensure that this occurs (see interim report recommendations at the start of this chapter).¹⁰

Direct service provision

2.20 The need to clarify the exact service provision role of DoCS caseworkers was raised in the interim report. The Department has recently adopted a new structure to reflect the three streams outlined in the Act: prevention and early intervention, child protection and out-of-home care. However, to date there has been very little information provided about how the Prevention and Early Intervention Directorate of the Department will operate, how it will be resourced and what actual direct service provision role it will undertake.

2.21 The Department's submission has indicated that caseworkers currently have very little role in providing these services:

DoCS funds Family Support Services and therefore provides a limited amount of direct support to families and young people.¹¹

2.22 In recent evidence to the Committee, the Director-General indicated that the Department's prevention activities remain centred on funding non-government agencies and participation in the *Families First* initiative rather than direct service delivery.¹²

¹⁰ Standing Committee on Social Issues, Report 26, *Prevention: Interim Report on Child Protection Services*, NSW Legislative Council, October 2002, Chapter 3

¹¹ Submission 248, Department of Community Services, p.20

¹² Shepherd evidence, Department of Community Services, 29 November 2002

2.23 A key dilemma for the Department is that the community finds it difficult to separate its statutory child protection role from the supportive role:

I am of the view that prevention and early intervention are best performed by the non-Government sector in terms of service delivery ... My reason for saying that is that no matter how much you separate the aspects of the department's work, in general people tend to see the department as the statutory agency.¹³

2.24 Most agree that the tension between the two roles may limit the Department's ability to work in a preventative way. We understand that this tension is felt particularly by indigenous communities and that Aboriginal people are more inclined to contact Aboriginal services for help.¹⁴ For families in rural and regional areas, there are also problems in contact with DoCS:

If you happen to drive up a particular street in a country town in a DoCS car you will know exactly what happens; everybody looks out the window to see what you are going to do to that family you are visiting.¹⁵

2.25 Correspondingly, non-government agencies are seen to be more neutral and therefore able to develop more effective relationships with families.

2.26 It should be said that some people strongly disagree with this view and believe that the Department should be involved in direct casework with families who need support. Some participants to the inquiry argued that while current workloads do not allow for DoCS caseworkers to work in a preventative way with families, this should be a greater focus of their work.

2.27 A majority of participants to the inquiry believe that it is not possible or practical to return to a previous time where the Department was directly involved in prevention and early intervention:

It is inconceivable that DoCS will be able to return to a situation where it can do family casework ... I think we have to accept that DoCS will inevitably have to narrow its role to statutory intervention with high-risk families ... [The] moderate-to low-risk families ... must be given help but this will have to come from outside agencies.¹⁶

2.28 The Committee considers that the Department of Community Services should not have a direct service delivery role in the provision of targeted and intensive support services to children and families.¹⁷ Evidence to the inquiry has demonstrated that there is currently no

¹³ Peltola evidence, 24 October 2002

¹⁴ Aboriginal support service, confidential evidence

¹⁵ Llewellyn evidence, University of Sydney, 5 November 2002

¹⁶ Confidential evidence

¹⁷ See paragraphs 2.41 to 2.67 for discussion on primary prevention and feedback on the establishment of a new Department of Child Development

spare capacity in the Department to undertake preventative work. In view of the inherent tension between prevention and child protection intervention, we consider that this capacity should be built largely within the non-government sector.

Recommendation 1

The Department of Community Services should clarify its role in relation to prevention and early intervention so that it is not involved in the direct provision of secondary or tertiary prevention services. The Department's role should include assessment and referral as well as funding, planning and monitoring.

Other aspects of the Department's role

2.29 The capacity within the non-government sector for prevention and early intervention must be supplemented by capacity within the Department to ensure that effective assessment and referral takes place. Community Service Centre (CSC) staff that we met highlighted their inability, due to workload, to refer families who are not at immediate risk to appropriate supports. It is imperative that the CSCs develop this capacity. As we heard in evidence:

Staff actually want to do ... those things. They want the capacity to be able to refer. They want to have enough staff where all that work is coming in to be able to refer, all of those reports that are coming in under the legislation for wellbeing issues apart from the core, they want the staff to be able to refer them out to what we already have in health, education and all the non-government sectors ...¹⁸

2.30 This can only happen if there are caseworkers within CSCs directly responsible for referrals, planning and local coordination.

2.31 In recent evidence, the Director-General acknowledged that dedicated capacity should be developed within CSCs to manage and refer lower level reports to ensure that family needs do not escalate:

Within the field, what you would seek to do if you received additional resources in the future would be to quarantine some staff to deal with the level 3 cases. As we have done with out-of-home care, you would do the same thing within the child protection system. I would regard that as an early intervention initiative, because you are simply trying to stop these things escalating.¹⁹

2.32 The Committee agrees that there is a need to develop and quarantine casework resources to manage the prevention and referral activities of the Department. We note that this is consistent with Recommendation 2 of the interim report (refer to interim report recommendations at the start of this chapter). Additional resources should be allocated to

¹⁸ Caseworker, confidential evidence

¹⁹ Shepherd evidence, Department of Community Services, 29 November 2002

the Prevention and Early Intervention Directorate to establish extra casework positions in CSCs for the purposes of prevention and early intervention.

2.33 Effective referral and prevention work also depends on the Department having the capacity to participate in local interagency planning and collaborative work with other government agencies and non-government support services. Caseworkers need to be engaged with local services and to have an input into service planning for the local area.

2.34 It is also necessary to ensure that effective links are established between CSCs and the Department's existing prevention activities. We were told that presently there is little interaction between caseworkers in CSCs and the Community Program Officers (CPOs) who are based in area offices and are responsible for *Families First*, the Community Services Grants Program and Children's Services Officers. Given the importance of these programs to the prevention work of the Department, greater collaboration between caseworkers and CPOs is essential.

Recommendation 2

The Department of Community Services should increase funding to the Prevention and Early Intervention Directorate to allow for the establishment of dedicated and quarantined caseworker positions in Community Service Centres to manage the prevention and early intervention role of the Department. The responsibilities of these caseworkers should include assessment and referral to government and non-government services.

Recommendation 3

The Department of Community Services should establish and coordinate formal local interagency forums. These forums should:

- Occur at the local level on a regular basis
- Involve other government agencies including police, health, education and disability services
- Involve non-government agencies, including family support services, children's services, youth services, adolescent family counsellors and supported accommodation services.

Investing in secondary and tertiary services

2.35 The interim report noted that investment in secondary and tertiary prevention services is deficient. There is a need to develop greater capacity within the non-government sector. The report recommended that the Government should develop a coordinated framework for secondary prevention, including the establishment of methods for measuring the effectiveness of these services, and a clear evidence base for family support (see interim report recommendations at the start of this chapter).

2.36 The importance of further investment was highlighted in consultations following the release of the interim report. Planned investment, based on local and regional needs, is required to ensure a sufficient spread of services is in place across the State to support families in need. Participants drew attention to the continued failure to properly fund the existing network of family support services that are a key component of a child protection system that is focussed on prevention:

We have a base there to build it ... but we refuse, for reasons which I do not understand, to actually build capacity within the pre-existing systems.²⁰

2.37 Participants noted that the paucity of resources for secondary and tertiary services is most evident in the lack of intensive family support services to provide sustained support to families with high and complex needs. The only widely available long-term and intensive intervention within the current child protection system for families with high needs is out-of-home care. As Chapter 6 notes, outcomes for children in out-of-home care can be poor, yet the cost of this system is high. The average cost per child in out-of-home care, including children in kinship care, for 2001/2002 was \$19,089.²¹ By comparison, the average cost per family of the three intensive family support models that are currently operated by *UnitingCare* Burnside ranges between \$9,324 and \$14,275. According to Burnside, many of the families that are supported by these services have several children so that the cost per child is actually lower.²²

2.38 The Committee notes that while intensive family support cannot be expected in every case to prevent the placement of a child in out-of-home care, there are strong arguments on grounds of cost alone to provide additional funding for these types of program. We do not argue for a reallocation of existing funding from child protection and out-of-home care. Rather, family support and other preventative services require additional funding now to ensure that a structural shift in funding from child protection and out-of-home care to prevention occurs over time through reduced demand for child protection intervention. Sufficient funding should be provided to non-government prevention services to ensure that each area of the State has a spread of service options, including access to intensive family support for families and children with high needs.

²⁰ Key stakeholder forum, confidential evidence

²¹ According to the Budget Papers, there were 10,000 children in substitute care services at year end, 2001/2002, and the net cost of services was \$190,089,000: Budget Estimates 2002-2003, *Budget Paper No. 3, Volume 1*, pp.5-28, 5-29. The figure of \$19,089 per child assumes that a constant number of 10,000 children were in care for the entire 2001/2002 financial year

²² Correspondence from Ms Jane Woodruff, CEO *UnitingCare* Burnside, 29 November 2002, referring to the New Parent Infant Network, Intensive Family Support Service Macarthur and a proposed Intensive Family Support Service Coffs Harbour and Hastings; support for children and families with complex needs is discussed further in Chapter 8

Recommendation 4

The Government should provide additional funding for secondary and tertiary prevention services, including intensive family support programs. Funding should be allocated according to regional need and be sufficient to ensure that there is an equitable distribution of services across the State.

2.39 In addition to family support services we note that there are a range of programs and services that contribute to secondary and tertiary prevention strategies. These include:

- Targeted and sustained professional home visiting
- Subsidised high quality early childhood education and care services through programs that target vulnerable families and children
- Drug and alcohol programs
- Sexual abuse and domestic violence services
- Youth services and adolescent family counselling
- Community-based mental health services
- Respite services
- After-care and post-restoration support services.

2.40 Responsibility for these services is shared across several Departments, including NSW Health, the Department of Juvenile Justice, the Department of Ageing, Disability and Home Care, the Department of Corrective Services, the Department of Education and Training, and the Department of Housing. Planning for secondary prevention services needs to be undertaken in consultation with these agencies.

Recommendation 5

In developing a framework for secondary prevention, the Department of Community Services should establish a system for ensuring coordination through formal agreements between relevant agencies including NSW Health, the Department of Juvenile Justice, the Department of Ageing, Disability and Home Care, the Department of Corrective Services, the Department of Education and Training, and the Department of Housing.

Developing a system of prevention that works

Universal services for children

- 2.41** In our interim report we recommended the establishment of a Ministerial portfolio for children and a new Department of Child Development.²³ We did so on the basis of the strong links between our other inquiry, into early intervention for children with learning difficulties, and this inquiry. The evidence to both these inquiries converged around the same message: the need for a focus on universal services that promote wellbeing and healthy child development. As the interim report on child protection noted, significant research demonstrates that investment in effective primary services for children and families limits the need for later expenditure in areas such as child protection intervention, educational support, income support and the criminal justice system.
- 2.42** The child protection system and the targeted preventative supports we have discussed above must sit within a universal service structure that supports families, optimises children's development and provides a non-stigmatising point of entry to more intensive services for families that are vulnerable or have higher needs.
- 2.43** Our consultations in both inquiries with sector leaders, academics and frontline workers have revealed a range of concerns about the current state of the broad raft of services for children and families. These concerns do not relate to the performance of DoCS, but they have a significant impact on the workload of the Department and will continue to do so if they are not addressed. In addition to the reforms within the Department outlined in this report, lasting change to DoCS will depend on reform to the external environment in which the Department operates. The key concerns are outlined below.

Fragmentation

- 2.44** There is no clear policy direction or line of accountability for the broad range of services that contribute to early child development. As our first report on early intervention for children with learning difficulties pointed out:

Three levels of government, four separate agencies within the New South Wales Government, as well as numerous non-government organisations, are responsible for children's services, each with their own policy objectives, planning processes and funding criteria. In addition, there is a tendency for professionals to work within their own professional silos and so contribute to this fragmentation. The

²³ Standing Committee on Social Issues, *Prevention: Interim Report on Child Protection Services*, Report 26, NSW Legislative Council, October 2002; Standing Committee on Social Issues, Report 27, *Early Child Development: A Co-ordinated Approach. First Report on Early Intervention for Children with Learning Difficulties*, NSW Legislative Council, October 2002

complexity of early childhood services means that they are not as effective as they should be in supporting children and families.²⁴

- 2.45** The delivery, coordination and funding for these services can come from a range of departments, and New South Wales has no unified budget for children's services. Policy direction for early childhood services is diffuse and there is no joint agreement as to outcomes or strategies to achieve them:

[W]e have little dollops of money allocated to promotion of wellbeing spread around a number of agencies and no mechanism for determining, if you put all of them together, where would you put your priorities. Would you put it into supporting existing services? Would you put it into expanding childcare and preschool, or would you put it into casework? Until you have a mechanism for prioritising across the human services system for this population group, we will continue to face this problem of resources being inadequately and inappropriately applied.²⁵

- 2.46** Participants have acknowledged that there are structures in place to promote coordination, but they seem to have little impact in terms of service delivery:

[Y]ou get the coordination at the more senior levels of government but you do not actually get the delivery anywhere ... The human services group has been meeting for some time now, the interdepartmental committees on child protection have been meeting for ever, and at the end of the day we still have major problems and weaknesses.²⁶

- 2.47** There is a need for strong leadership to ensure that there is a joint commitment to clearly defined outcomes for children, greater coordination of services, and agreed priorities for spending.

Early Childhood Education and Care services

- 2.48** Funding for Early Childhood Education and Care (ECEC), predominantly childcare and preschool, is poorly targeted and significantly lower than in other States:

NSW invests a total of \$150.90 per child for child care and preschool, comparing unfavourably with the average investment by other States and Territories of \$350.74. While this can be partly explained by the fact that NSW has not taken the initiative of providing a free year of preschool for 4-year-olds, NSW also contributes considerably less to other forms of child care per child than a number of other States and Territories do.²⁷

²⁴ Standing Committee on Social Issues, Report 27, *Early Child Development: A Co-ordinated Approach – First Report on Early Intervention for Children with Learning Difficulties*, NSW Legislative Council, October 2002, p.3

²⁵ Key stakeholder forum, confidential evidence

²⁶ Key stakeholder forum, confidential evidence

²⁷ NSW Commission for Children and Young People, *Report of an Inquiry into the Best Means of Assisting Children and Young People with No-one to Turn to*, 2002, p.69

2.49 Access to high quality ECEC is a necessary component of primary, secondary and tertiary supports for vulnerable children and families, and is particularly important for children from disadvantaged backgrounds. Evidence to our early intervention inquiry suggested that between 20 and 30 percent of children in New South Wales not attend ECEC services before school, and that participation is lower amongst disadvantaged children.²⁸ However, current policy directions are making it more difficult for these children to gain access. Commonwealth funding arrangements for childcare have directed Commonwealth subsidies to working parents and to commercial services. As a consequence:

There is less commercial incentive for private child care providers to operate in areas of high socio-economic disadvantage and little incentive to provide the additional supports that families with high support needs, or children with additional needs may require ... Where there are no, or only limited, community-based services, these children and families may have no access to child care.²⁹

2.50 The NSW Government's early childhood services policy recognises that childcare 'provides respite for families and can be a means of preventing child neglect and abuse'.³⁰ The policy states that planning and funding processes will give priority to children from disadvantaged backgrounds, including children at risk of neglect and abuse. However, State funding for community based ECEC services has been largely frozen since 1989, despite rising demand and population growth in many areas. New services in high growth and disadvantaged areas are not able to access State subsidies, meaning that affordable services in areas that need them most are not being established. The decade-long freeze has led to considerable inequity, despite warning from the Audit Office in 1994 that the program was poorly targeted.³¹

2.51 Many participants noted that implementation of the existing early childhood services policy will have significant benefits for vulnerable children and families. State funding for childcare and preschool services through DoCS is currently \$87.8 million.³² The effectiveness of this funding is limited unless it is properly targeted. We note that this can only be achieved by either reallocating existing funding to areas of higher need, which carries significant political costs, or by developing a program of growth funding that is targeted to areas of high need.

2.52 The problem of State funding to ECEC services is made even more complex by the fact that the Department of Education and Training operates 79 free preschools (soon to rise to 100). While these preschools were intended to support children from disadvantaged

²⁸ For detailed discussion of issues relating to childcare and preschool, see: Standing Committee on Social Issues, Issues Paper 4, *Foundations for Learning: A New Vision for New South Wales?*, NSW Legislative Council, March 2002

²⁹ Ibid.

³⁰ New South Wales Government, *Early Childhood Services Policy*

³¹ Audit Office of New South Wales, *Performance Audit Report Children's Services, Pre-school and Long Day Care*, 1994.

³² Budget Estimates 2002-2003, *Budget Paper No. 3, Volume 1*, pp.5-23

areas, the distribution of many of these preschools is related to historical, rather than current need, and they are available to only a small number of children.

Families First

- 2.53** Linked to these issues is the debate over the role and location of the *Families First* strategy within government. *Families First* is a coordinated strategy sponsored by the NSW Government to increase the effectiveness of early intervention and prevention services in helping families to raise healthy and well adjusted children.³³ The strategy focuses on supporting families through a system of universal and targeted supports and has the potential to significantly influence the external environment in which DoCS operates.
- 2.54** There has been considerable support and expectation attached to *Families First* on the basis that it aims to overcome the problems of fragmentation by providing a structure for coordination of programs for children and families and for collaborative planning at State, regional and local level. *Families First* also focuses on evidence-based programs, funding programs such as sustained home visiting that are known to make a difference to children and families.
- 2.55** Feedback about *Families First* to both our inquiries has been extremely positive, however significant concerns were raised about its future. Many participants noted that the strategy has not yet engaged properly with existing local service networks, including ECEC services and family support services. While growth funding for some services is being channelled through *Families First*, funding issues for both ECEC services and family support services remain unaddressed. Unless there is greater integration between *Families First* and existing programs there is a risk that the complexity and fragmentation of the sector will increase rather than reduce.
- 2.56** There was also significant concern that strategy is not sufficiently funded to achieve its objectives. As Professor Graham Vimpani told our inquiry into early intervention, similar programs in other countries operate from a higher funding base:

Families First is only modestly resourced. New British Government initiatives outlined in the recent Spending Review (July 2002) will amount to 1.5 billion pounds annually. These include increased availability of child care, the extension of *Sure Start* to cover the 20 percent of the most disadvantaged neighbourhoods in the country and universal preschool availability for all three and four year olds. Even when Commonwealth funds expended in NSW through the Stronger Families and Communities strategy are added to the NSW investment, together they fall far short of what Britain is doing.³⁴

- 2.57** The more intensive forms of targeted support originally envisaged as part of *Families First*, including sustained home visiting for vulnerable mothers and support for high needs

³³ Office of Children and Young People, *Families First: A Support Network for Families Raising Children*, April 1999

³⁴ Vimpani evidence to the inquiry into early intervention for children with learning difficulties, University of Newcastle, 14 August 2002

families (known as ‘field of activity three’) have not yet commenced. It is unclear how they will be funded within current allocations to the strategy.

2.58 An overriding issue has been where responsibility for management of the strategy should lie. Currently located in the Cabinet Office, it has been the intention of government to ultimately locate *Families First* with the Department of Community Services. Participants in both inquiries were overwhelmingly against locating *Families First* within DoCS on the basis that location of the strategy within any service delivery agency, whether it be DoCS, Health or Education, will undermine its ability to achieve a whole-of-government focus and direction. There was also particular concern about the fact that DoCS must ultimately operate from a deficit-based model – that is, to intervene in the lives of children who are at risk of harm – means that it is inappropriate for a population-based strategy that emphasises positive intervention and wellbeing to operate from within the Department:

Stigma [is] associated with the role of the statutory authority which has responsibility for ensuring the safety of children and which has the right and ability to have those children removed ... [A] concern is that if all primary prevention and early intervention functions were located with DoCS that stigma would transfer to it.³⁵

A Department of Child Development

2.59 Our proposal for a new Department of Child Development was intended to address a spectrum of concerns regarding services for children. Our interim report on early intervention listed the following key rationales for the new Department:

- It would establish a much needed focus on children, and reflect similar developments in other countries that have recognised that investing in children is an investment in human capital and a dynamic economy and culture³⁶
- It would facilitate leadership in children’s services and an outcomes-focussed approach to prevention
- It would provide a means to develop integrated policies and services across government to reflect the clear evidence that early intervention programs have the greatest impact when they address a broad range of issues and are provided as part of a coordinated network
- It would provide an ideal base for *Families First*.

2.60 In addition we note that a new Department would enable DoCS to clarify its core business in relation to providing targeted support to families, child protection intervention and out-of-home care.

³⁵ Key stakeholder forum, confidential evidence

³⁶ Young ME (ed), *From Early Child Development to Human Development: Investing in our Children’s Future*, World Bank, March 2002, p.5

- 2.61** Response to our proposal has been mixed. Support for our call for a robust universal system of primary services that promotes children’s wellbeing and development was unanimous. There was consensus that the existing state of children’s services must be reformed, and unless this happens demand for child protection will continue to rise. Participants stressed the need for a significant political and financial commitment to develop and maintain a universal system of services for families and children. Overall, there was widespread support for a central organising body, particularly in relation to providing a better system of coordination for child and family services and establishing a unified budget for services that supports the wellbeing of children and families.
- 2.62** Some inquiry participants were sceptical about whether it was appropriate to establish a new Department. There was concern about the costs and energy associated with the establishment of another level of ‘bureaucracy’.³⁷
- 2.63** Others were concerned about the separation of universal services from secondary and tertiary prevention services. As one witness suggested, a simple division between these services is simplistic and does not reflect the reality for families, many of whom may move between services assisting families and the child protection system. A separate department, the witness argued, may result in further fragmentation and confusion about service delivery.³⁸ Another witness suggested that:
- If you were to create that new structure we would absolutely say that secondary and primary need to go together. It is a dangerous disjuncture to take those apart.³⁹
- 2.64** NCOSS and others suggested that as *Families First* and family support services range across primary, secondary and even tertiary prevention, these programs ‘should sit together and interact.’⁴⁰ Others were also concerned about the focus of the proposed new department on early childhood (0-8), and emphasised the need to focus not only on children but also on young people and families.
- 2.65** Some people made alternative suggestions. One proposal was that responsibility for prevention strategies such as *Families First* should be retained within a significantly expanded Office of Children and Young People in the Cabinet Office. This function could be made accountable to a Cabinet subcommittee on children that was supported by the human services CEOs group with input from a non-government advisory body and regional planning boards or groups.⁴¹

³⁷ See McConnell evidence, University of Sydney, 5 November 2002

³⁸ Key stakeholder forum, confidential evidence

³⁹ Key stakeholder forum, confidential evidence

⁴⁰ Correspondence, Council of Social Services of New South Wales, 26 November 2002

⁴¹ Key stakeholder forum, confidential evidence

The Committee's view

- 2.66** The Committee remains of the view that a new Department that is focussed on issues of wellbeing and development rather than 'prevention' is the best way to develop a comprehensive and coordinated system of universal services for children. The Department would provide a means to integrate a diverse range of programs and funding streams and to develop a consistent approach to policy and funding. Importantly, the Department would provide a base from which to significantly expand *Families First* and to integrate the strategy with other programs for children and young people. We acknowledge the concerns about adding an additional layer of bureaucracy to an already complex system but note that a plethora of coordinating and interagency structures may be even more complex. A key role for the Department should be to remove rather than increase layers of bureaucracy.
- 2.67** In recognition of the constructive criticism raised in relation to our proposal for a new Department, we consider that further debate is required on the most appropriate model or agency to coordinate and deliver these services. We acknowledge that there are a range of views on the best model for the coordination, funding, administration and delivery of prevention services.
- 2.68** We note that structures are no more than a means to an end. There is a consensus that major systemic reform is required to develop an effective system of population-based services for families and children. The fragmentation of the early childhood sector needs to be overcome and funding issues, particularly those relating to ECEC, need to be addressed. The future and role of *Families First* should also be clarified. Our proposal for a new Department has opened up debate around these issues and we believe that this is a very positive development. It is necessary to look beyond the child protection system as such if we are to develop lasting solutions to the problems that are within that system.
- 2.69** As outlined at the beginning of this chapter, the task of parenting is getting more difficult for all families, and this has detrimental outcomes for children. Our interim report on early intervention for children with learning difficulties noted that there is worrying data that shows a decline in indicators of child health and wellbeing, particularly in relation to their emotional and mental health:
- [A]lmost one third of children [in New South Wales] aged 4-12 years were reported to have emotional or behavioural problems, reflecting the findings of a recent national survey which found that 15 per cent of children in the same age group had emotional or behavioural problems in the 'clinical range'.⁴²
- 2.70** Multiple agencies provide services and programs that contribute to children's wellbeing and development. NSW Health has a significant responsibility, yet we were told in our early intervention inquiry that community-based services such as child and family health services are not well funded. Priority setting for children's services varies considerably across Area Health Services. The Schools as Community Centres program run by the Department of

⁴² Standing Committee on Social Issues, Report 27, *Early Child Development: A Co-ordinated Approach – First Report on Early Intervention for Children with Learning Difficulties*, NSW Legislative Council, October 2002, p.2, citing NSW Child Health Survey 2001, *NSW Public Health Bulletin Supplement*, Vol 13, No S-3, September 2002, NSW Health, pp.42-43

Education and Training plays a major role in linking families to support and services, yet the program is limited to only a few schools. A variety of parent education and support programs are operated by different agencies but as this Committee found in its 1998 inquiry into parent education and support, there is no unifying or coordinating structure for the provision of these programs. While substantial funding is invested in universal services for children and families, we do not know whether it is sufficient and whether it could be used more effectively. In our view, it is essential that these problems be addressed.

- 2.71** Substantial research is now in place that demonstrates the efficacy of a well coordinated and properly resourced approach to supporting families and children. This research demonstrates the savings to government and the social and economic benefits to society from proper investment in the early years. We know what programs work and how they should be implemented. There is also research that shows the detrimental effect on children of a failure to provide adequate support in the early years of life. We need to develop a way forward to ensure that this research is acted upon.
- 2.72** The Committee believes that this issue is of such significance that the Government should convene a Summit on Children to consider the options for a coordinated and outcomes-based approach to service delivery for children and families. While we are confident that the reform processes now under way within DoCS, supplemented by the recommendations of this report, will address the current problems of that Department, there is a need to focus on the services and systems that surround DoCS. The issues that affect children's services more generally are different from those which affect DoCS. It is these broader issues that should be addressed through the Summit.
- 2.73** A Summit on Children would provide the opportunity for the diverse range of stakeholders that comprise the broader system of child and family services to come together in a cross-disciplinary policy forum. At present the various stakeholders do not see themselves as comprising one broader system that promotes child and family wellbeing. A Summit would enable government and non-government players to share their perspectives and expertise, debate their ideas, and together, forge the basis for a new way forward for child and family services in New South Wales. The Summit itself would act as a key catalyst for improving coordination and the systemic integration of services.
- 2.74** The Summit should address the whole-of-government and whole-of-community responsibility to promote the wellbeing of children and young people. It should bring together the full range of players and disciplines that provide support to children and families. Within government, key agencies include NSW Health, the Department of Education and Training, the Department of Ageing, Disability and Home Care, the Department of Housing, the Department of Juvenile Justice, and the Cabinet Office and Treasury. Academic disciplines relating to early childhood, education, child welfare and social work will also be relevant as will the various non-government sectors involved in the provision of childcare and preschool, family support and child welfare services.
- 2.75** We note that a State Election will be held in March 2003. Regardless of which Government is in place following the election, it will not be possible to delay any further the need to establish a coordinated and properly funded approach to primary services for children and families. We consider that the Summit can provide the means to develop an agreed direction and collaborative way forward for children's services over the next

Parliamentary term. We therefore consider that the Summit should take place in the second half of 2003.

Recommendation 6

The Government should convene a Summit on Children in the second half of 2003 to consider how to improve coordination, funding and structures for services that maximise the wellbeing and development of children, young people and families in New South Wales. The Summit should involve all the key departments and agencies involved in health, education, childcare, preschool, disability and other service provision and planning for children, along with peak bodies, relevant academics and non-government providers.

Chapter 3 The culture of DoCS

The research is very clear that the thing that makes a difference to the quality of service and outcomes for kids is how staff feel about the organisation ... So if we want to get better outcomes for kids through better service delivery then we have to focus on staff feeling good about their work in the organisation.⁴³

This chapter looks at the public perceptions of the Department, its management culture, staff morale and training, internal and external review processes, its relationships with the non-government sector and its record of consultation. In the examination of these issues we do not seek to further destabilise the Department, but rather to contribute to the way forward for the Department in developing a robust and accountable child protection system. There is an urgent need to develop a new relationship with the community, the sector and with staff based on trust, collaboration, transparency and accountability.

Public perceptions of the Department

- 3.1** As stated in our interim report, a widespread sense of distrust and lack of confidence in DoCS lies at the heart of this inquiry. It was the unanimous view of inquiry participants that for some time now the Department has operated in an environment of defensiveness and secrecy. The NSW Ombudsman observed:

[T]he culture of the Department ... has for a very long time been a very defensive, closed operation which has largely been reactive to external pressures, media interest, political interest, in a very defensive way.⁴⁴

- 3.2** According to witnesses, evasive and misleading public announcements made over recent times by senior management have contributed to the lack of trust and accountability. On occasions, announcements made by the Government or the Department have not been acted upon. As an example, the Government has made numerous changes to the timetable for the proclamation of the remaining sections of the *Children and Young Persons (Care and Protection) Act 1998*. These delays have come with little or no explanation and are the cause of considerable frustration within the sector.⁴⁵

- 3.3** The new Minister and Director-General have acknowledged the need to develop a constructive and responsive culture. In evidence to the inquiry the Minister admitted that the Department cannot do its work unless DoCS has credibility with the community, other government agencies and the non-government sector:

⁴³ Key stakeholder forum, confidential evidence

⁴⁴ Barbour evidence, NSW Ombudsman, 20 November 2002

⁴⁵ In August 2001 in Answers to Questions on Notice, Budget Estimates, the then Minister for Community Services, the Hon Faye Lo Po', MP proposed a timetable for the implementation of the remainder of the Act. Minister Lo Po', announced that Chapter 3, Section 28 – Records of reports and subsequent action and remaining sections of Chapters 8, 9, 10, 12, and 16 would be proclaimed in March 2002 and in July 2002, the remainder of the Act, Chapter 7, 11, 13 and 15 would be proclaimed. In February 2002, the Minister announced an extension of the timetable for implementation.

My approach has been to say that the Department must operate with openness and with transparency.⁴⁶

3.4 There is a clear need for the Department to develop new relationships based on trust, collaboration, transparency and accountability. The Committee notes that changing the entrenched culture of secrecy and rebuilding community confidence will take some time to achieve. Addressing the issues raised in this report, as well as the Kibble Joint Working Party and Reid inquiry recommendations, will assist in this process. We note the recent commitment of the Director-General to make public basic statistical information on a quarterly basis.⁴⁷ Changing the culture of the Department will require strong leadership and management, and a clear vision. As the NSW Ombudsman, Mr Bruce Barbour suggested:

[T]ransparency early on is probably a very good ingredient in relation to change, and I welcome the fact that the Director-General has recognised that as being something that is important ... The fact that the Director-General is willing to publicly provide information when issues are now aired in the media, I think is a very positive step forward, because what that suggests to the staff is that it is important for the public to have genuine information about what is going on ...⁴⁸

Recommendation 7

The Department of Community Services should be open, transparent and accountable in dealing with the child welfare sector, staff and public. To achieve this the Department should

- Collect and make public on a regular basis, clear and definitive data on Departmental performance and outcomes
 - Provide timely and accurate responses to media and public inquiries.
-

Management and structure

3.5 Numerous restructures of the Department over the past 15 years have attempted to address problems and criticisms. The considerable increase in the complexity of child protection work, coupled with the loss of approximately 1000 staff a decade ago, many of them experienced middle management people, have driven some of the more recent restructures.

3.6 The *Transformation* process instituted by the Department in 2000 was the most recent restructure intended to address some of the problems. It introduced a matrix management structure that separated the responsibilities of funding and planning from the Directorate

⁴⁶ Tebbutt evidence, Minister for Community Services, 19 August 2002

⁴⁷ Shepherd evidence, Department of Community Services, 29 November 2002

⁴⁸ Barbour evidence, NSW Ombudsman, 20 November 2002

responsible for service delivery. It centralised core activities such as information exchange and business planning into one area away from the Directorate responsible for the target group.⁴⁹ According to the Director-General, Dr Neil Shepherd, the matrix arrangement was introduced:

to improve cross-agency interaction (many of our functions are closely linked eg. child protection and out-of-home care). It achieved this, but in the process brought with it the known evils of matrix structures: confused lines of accountability and slow responses.⁵⁰

3.7 Witnesses told us that the matrix structure contributed to the problems of the Department by fragmenting accountability and leaving no identified positions for key program responsibilities. In addition, the duplication of reporting requirements for some Departmental activities resulted in confusion about responsibilities and decision-making.⁵¹ Other concerns raised have been about the dominance of child protection over the other core business strands of prevention and early intervention and out-of-home care, and the poor integration between the Helpline and the Community Service Centres.

3.8 One issue concerns the layers of administration and management. DoCS operates through its Central Office and has eight area offices, 16 network offices and 84 CSCs. The Ombudsman reported that some managers spend considerable amounts of time travelling between offices and:

this means senior managers with significant responsibilities are hard to contact and are often unable to deal with matters when they are contacted because they are away from their own office⁵²

3.9 A significant criticism of the Department is the lack of adherence by staff to policy and procedures. For example, in an audit of files transferred between CSCs, the Ombudsman found that the file transfer policy is not being complied with in the majority of CSCs. Most files were not transferred within the set timeframe or compiled according to guidelines.⁵³ In evidence, the Ombudsman noted the inconsistency of practice from one part of the Department to another, and one CSC to the next.⁵⁴ The non-government sector also commented on this lack of consistency. As one major organisation commented:

Our managers report that one of the worst aspects of working with the Department of Community Services is the inconsistency between Departmental staff. It seems that there are no clear policies and procedures to guide staff. We

⁴⁹ Submission 241, Community Services Commission

⁵⁰ Submission 248, Department of Community Services, attachment, *Director-General's Bulletin No.3*

⁵¹ Submission 241, Community Services Commission

⁵² NSW Ombudsman, *DoCS - Critical Issues: Concerns arising from investigations into the Department of Community Services*, April 2002, p.16

⁵³ Ibid.

⁵⁴ Barbour evidence, NSW Ombudsman, 20 November 2002

have seen families with similar concerns receive very different care, support and assistance.⁵⁵

3.10 The Department is currently implementing a restructure in an attempt to address issues of concern, particularly around accountability, consistency and responsiveness. The new structure includes an Operations Directorate responsible for the Helpline and field service delivery to allow for a clear focus on effective integration of the main elements of service delivery. In addition, it divides the Department's key functions into three main Directorates: Prevention and Early Intervention, Child Protection and Out-of-Home Care.

3.11 The Director-General has indicated that the new structure will provide for cleaner alignment of executive responsibilities and clear accountabilities. Dr Neil Shepherd told the Committee that there are a number of arrangements to ensure accountability and connections between the three streams. These include: holding formal joint meetings of those three streams at executive level, regional level and within the CSCs; ensuring the full spectrum of views of each Directorate is considered prior to decisions being made; and making sure all managers effectively communicate with their colleagues in the other Directorates.⁵⁶

3.12 We note also the Director-General's commitment to establishing processes to refocus the direction of the Department:

We need a major project with a small, dedicated team of strategic thinkers - social workers and economists. They need to be quarantined from the day-to-day work of DoCS and their objective is to provide some ways to shift the arrow back from out-of-home care, and beyond that in fact, towards early intervention and prevention.⁵⁷

3.13 The Committee is conscious that there have been many restructures and is hopeful that this new structure will address many of the previous problems. It is important to acknowledge that decisions taken by past administrations, including the considerable loss of staff in the early 1990s, have robbed the Department of considerable corporate knowledge. These decisions have had a continuing and detrimental effect on the Department. As restructures can be destabilising for the Departmental workforce it is essential that this structure is implemented properly and given sufficient resources to ensure that it works. We also note the importance of maintaining the close links between the three streams in recognition of the continuum from prevention and early intervention to out-of-home care. Maintaining these links, and ensuring that the child protection strand does not dominate available resources, will require strong and clear leadership. This will require unambiguous decision-making rules and financial accountability.

⁵⁵ Submission 99, Society of St Vincent de Paul, NSW/ACT State Council, p.7

⁵⁶ Shepherd evidence, Department of Community Services, 29 November 2002

⁵⁷ Shepherd evidence, Department of Community Services, 19 August 2002

Recommendation 8

The Department of Community Services should ensure that the new Departmental structure is supported by:

- Significant and quarantined resources to support the three Directorates of Prevention and Early Intervention, Child Protection and Out-of-Home Care
 - Clear lines of accountability and decision-making structures
 - Effective linkages to support coordination between the three Directorates.
-

- 3.14** The incomplete separation of DoCS from the Department of Ageing, Disability and Home Care (DADHC) is also a cause of concern. As noted in our Final Report on Disability Services, *Making It Happen*, many DADHC staff remain in DoCS offices and continue to use DoCS systems. We recommend in that report the need for a clear process and timeframe for the formal separation of DADHC from DoCS.⁵⁸ In recent evidence, the Director-General explained that the two businesses are largely separated now except for the corporate service functions, and he anticipates the final separation should occur in the first half of 2003.⁵⁹

Departmental morale

Management culture

- 3.15** High turnover and frequent restructures have resulted in the organisation being depleted of staff with corporate history, professional skills and experience. Staff turnover is noticeable at all levels of the Department.
- 3.16** According to evidence, the morale of DoCS staff, and particularly frontline staff at the Helpline and in local CSCs this year reached a very low point. According to the PSA, reasons for this include:
- continued high staff turnover, an increased lack of confidence in senior management, high workloads, long work hours and inadequate and unsupportive systems.⁶⁰
- 3.17** The Department acknowledges that there has been no direct measure of staff morale in DoCS, such as a staff survey, since 1998. The organisational health indicators commonly used to measure morale include staff turnover, sick leave and mental stress. In its

⁵⁸ See Recommendation 34, in Standing Committee on Social Issues, Report 28, *Making It Happen: Final Report on Disability Services*, NSW Legislative Council, November 2002

⁵⁹ Shepherd evidence, Department of Community Services, 29 November 2002

⁶⁰ Submission 199, Public Service Association of New South Wales, p.13

submission the Department states that annual turnover for permanent DoCS caseworkers to 30 June 2002 is 7.64 percent (the industry median is 8.3 percent and public sector median 7.79 percent); and sick leave for caseworkers is 3.5 days per 100 (the public sector average is 3.065 percent and all industry 3.49 percent).⁶¹

3.18 There is some dispute over the accuracy of the statistical data provided by the Department. The PSA claims that information given in the past by senior management on staff turnover ‘often does not give a correct and balanced view.’⁶² For example, concern was expressed that the measurements of the annual turnover rates do not include temporary employees.

3.19 Caseworkers also expressed their frustration with the ‘top down’ management style of the Department. They told us they felt disempowered and that their expertise and opinions were not valued. They suggested management regularly makes decisions on issues affecting their work practices without prior consultation. As one caseworker told the Committee:

But the thing is they do not consider that we have any expertise down on the bottom level. All the expertise, everything is forced down upon us, any changes in the department. They present us with what they are going to do, and then we have this tokenistic consultation, and it is a token gesture. This is the plan, everybody.⁶³

3.20 Other caseworkers told us that one of the biggest problems for the Department is that some senior managers lack the knowledge and experience of frontline work:

There is no more ... knowledge of what really happens, so that people that write policy hardly have ever done that type of work and you really get removed from it, so if you do write policies or procedures, you do not really know what the impact actually is for workers, and because of the information not going up ... you do not really know what is happening, and I think that is one of the biggest systematic problems the organisation has.⁶⁴

3.21 It was suggested that there should be greater opportunities for senior staff to gain experience at CSCs and similarly, for frontline staff to be recruited into management positions.

3.22 We heard from a number of frontline staff who had poor experiences in their dealings with middle management. Some felt there was a degree of nepotism within the Department that was hindering the movement of experienced frontline workers into middle management positions. Staff told the Committee that this management style has undermined their effectiveness in the delivery of child protection services. One past DoCS employee explained:

⁶¹ Submission 248, Department of Community Services

⁶² Submission 199, Public Service Association of New South Wales, p.14

⁶³ Caseworker, confidential evidence

⁶⁴ Caseworker, confidential evidence

I saw it as a preparedness to put their promotions, their positions, well above the needs of the service to children and their actions also, in my view, compromised themselves as individuals.⁶⁵

3.23 The other strong point made in evidence is the lack of accurate transmission upwards to the departmental executive, through the area and regional layers of management, of information about the operations of the Department. Other witnesses stressed the importance of exit interviews and the need for the Department to collate exit information and then report on that data. They suggested that exit interviews can provide useful feedback and, where appropriate, this information should be used by the Department to make positive changes in policy and practice.

3.24 The non-government sector also believes that the management culture can cause problems for caseworkers in their dealings with families:

Because they are being driven by ... having to answer a ministerial about what they did, they are always operating on the basis 'What if something goes wrong?' rather than 'How do we do what is right for the families?' We need to change that culture around.⁶⁶

3.25 A further issue is that there is a lack of clarity about the nature of the relationship between DoCS and NGOs. UnitingCare Burnside's CEO, Jane Woodruff told the Committee:

The relationship that DoCS has with NGOs is fundamentally problematic ... It is not always clear what the nature of the relationship is, what it is that people are expecting us to do, who it is who has the authority within DoCS to make decisions.⁶⁷

3.26 The Department has acknowledged the need to work more collaboratively with staff and develop a structure and culture that values their experience and skills. The inclusion of the PSA on the Kibble Joint Working Party was an important step in the recognition that DoCS staff have a major contribution to make in decision-making and policy formation for the child protection system.

3.27 The Committee has found that the failure to consult staff and to respect their expertise and experience not only has a profound effect on their morale, but also has a negative impact on the development of informed policy, decision-making and service delivery. This issue must be addressed if the Department is to re-establish itself as a professional agency capable of delivering quality services to families, children and young people. This will require a commitment to consulting staff and valuing their skills and expertise.

⁶⁵ Confidential evidence

⁶⁶ Spencer evidence, Parent Access Program, 5 November 2002

⁶⁷ Woodruff evidence, UnitingCare Burnside, 18 July 2002

Recommendation 9

The Department of Community Services should develop processes to ensure that the knowledge, skills and experience of operational staff are valued and incorporated into policy development and planning. Specifically, processes should be developed to ensure that Departmental staff are consulted on issues relating to policy and work practices.

Effects of workload

- 3.28** A number of factors have had an effect on caseworkers' workload, including the significant increase in the volume of reports of children at risk of harm as well as the demands placed on caseworkers as a result of the requirements of the 1998 Act. The increasing complexity of the needs of families and children coming into the child protection system has also impacted on staff workload.
- 3.29** Caseworkers told us that increased workloads, inadequate systems and lack of supports to manage their workload have had a negative impact on staff morale. Caseworkers are distressed by their inability to meet the needs of the families and children in their care. Several non-government family support services suggested that the current workload has contributed to the deterioration of local relationships and the poor attendance of DoCS workers at interagency meetings. ACWA expressed concern about the staff turnover of frontline workers and the subsequent loss of local knowledge about children and families.⁶⁸
- 3.30** The Department acknowledges in its submission that the work of DoCS caseworkers is stressful and difficult and that there has been a 'substantial increase in workload and complexity of cases for DoCS.'⁶⁹ Addressing the issue of workload is a complex task that will require more resources, better systems to support workers and improvements in information systems.⁷⁰ In addition to addressing workload issues, the Committee believes that the Department could significantly improve staff morale by providing clear and accurate data on workloads, staff turnover, stress leave and mental stress. This information should be publicly available.
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Recommendation 10

The Department of Community Services should routinely publish clear and accurate data on staffing issues including workload and staff turnover.

⁶⁸ Submission 189, Association of Childrens Welfare Agencies

⁶⁹ Submission 248, Department of Community Services

⁷⁰ Information systems are discussed in Chapter 4

Qualifications, training and recruitment

Qualifications and recruitment

- 3.31** New South Wales for many years emphasised its own in-house training regime whereas other States have looked to tertiary institutions for the basis of their workforces. Since 1989 child protection caseworker positions in New South Wales have required tertiary qualifications in social work, social welfare, psychology or behavioural science or equivalent experience. The qualifications preferred by the Department and considered to be most appropriate for child protection caseworkers are Bachelor of Social Work, Bachelor of Social Welfare, Bachelor of Social Science and Diploma in Community Welfare.
- 3.32** The Department's Learning and Development Council established in 1999 sets strategic directions for training and professional development.⁷¹ The Department currently has strategic alliances with several universities and has developed a Student Placement Program. According to the Department this program 'has increased the perception by university students, of DoCS as a preferred employer.'⁷²
- 3.33** There was some concern among witnesses that it is not an absolute requirement in New South Wales to have a relevant degree to work in the Department, particularly in the recruitment of temporary staff who then may go on to be made permanent.⁷³
- 3.34** There is a consensus that the Department needs to move to a more professionalised workforce. Dr Neil Shepherd agreed that the Department should have a much greater emphasis on the intake of professionally trained graduates. The Committee believes the Department is endeavouring to do this, and we are especially encouraged by the initiatives of the Learning and Development Council, particularly in relation to the Student Placement Program.⁷⁴ There is also a need to retain and build upon the skills of long-term staff. In relation to DoCS staff employed prior to 1989, we suggest that the Department should provide staff who wish to do so with appropriate support and opportunities to upgrade their qualifications.
- 3.35** The Committee notes the dilemma facing the Department in the recruitment of staff. The poor public image of the Department and perception of unmanageable workloads can make it difficult for the Department to attract new graduates as well as experienced staff. In recent evidence, the Director-General commented on this difficulty particularly for the Helpline. The natural turnover rate that occurs at call centres, around 30 percent, is a complicating factor for the Helpline.⁷⁵

⁷¹ We note that the Department is a Registered Training Organisation under the national training framework overseen by the Australian National Training Authority

⁷² Submission 248, Department of Community Services, p.44

⁷³ Peltola evidence, 24 October 2002

⁷⁴ Submission 248, Department of Community Services

⁷⁵ The Helpline and staffing issues are discussed further in Chapter 5

- 3.36** While the recruitment of staff with professional qualifications is a positive start, in the section below we consider the need for a broadening of the focus of pre-service and ongoing professional training.

Adequacy of time given for training

- 3.37** We heard a number of specific criticisms about the time allowed for orientation training and ongoing professional support. In relation to orientation, all new permanent and temporary caseworkers to DoCS attend a face-to-face Caseworker Development Course. The course runs over 30 days and includes assessment tasks for key content areas.⁷⁶ It has been suggested that this does not allow caseworkers to develop the depth of knowledge required to undertake their work effectively. For example, Dr Louise Newman, Director of the NSW Institute of Psychiatry, which provides part of the core orientation for DoCS caseworkers, indicated that only three hours orientation training is provided on mental health issues and three hours on the effect of neglect on early brain development.⁷⁷ According to Dr Newman these topics are central to the core business of DoCS caseworkers and need far greater coverage:

[T]he issues of mental health and parenting capacity are fundamental to the work of child protection officers ... and that without an understanding of the basics about parenting capacity and the many factors that can impair parenting capacity it does not make much sense then to look at things like domestic violence and substance abuse problems in isolation in that way.⁷⁸

- 3.38** Ms Mary Jelen, from the Mental Health Co-ordinating Council and until recently a DoCS caseworker, also suggested the orientation training is inadequate:

So you have inexperienced, untrained caseworkers going out and doing home visits and undertaking assessments, and they have not even received basic training. When I was a caseworker I went straight into three months of training and then went into the field.⁷⁹

- 3.39** We were also told that the training at the Helpline should be enhanced. We were told that Helpline staff receive six weeks training and a two-week placement with a CSC. According to caseworkers, this is insufficient:

Caseworker 1: The Helpline staff do not get the full training that the CSC staff do, and they miss out on predominantly the risk assessment and interviewing skills component of that training.⁸⁰

⁷⁶ Submission 248, Department of Community Services

⁷⁷ Newman evidence, NSW Institute of Psychiatry and Faculty of Child and Adolescent Psychiatry, Royal Australian and New Zealand College of Psychiatry, 6 November 2002; Dr Newman made the distinction between mental health issues and mental illness

⁷⁸ Ibid.

⁷⁹ Jelen evidence, Mental Health Co-Ordinating Council, 6 November 2002

⁸⁰ Caseworker, confidential evidence

- 3.40** Other caseworkers suggested that in some cases tensions arise between Helpline staff and CSC staff due to the limited understanding of how a CSC works:

Caseworker 2: For those of us who have never had the chance to work at the CSC or who do not come from the CSC, we do not know how it operates. Without [this] understanding, obviously our relationship is not going to be that good ... We do not understand the restraints the CSC work under.⁸¹

Caseworker 3: I think the placements they are putting out in the field during the caseworker training is too limited. You need at least a one month, may a two month placement in the field to get a better concept of how things work out there.⁸²

- 3.41** It should be noted that Community Service Centres are closed for a half-day Thursday each week for professional development, training and sessions on policy and procedures. It was suggested by staff and the sector, however, that this time is often used not for its stated purpose but to catch up on paperwork. In addition to professional development and training we believe that consideration should be given to the use of the half-day Thursday closure for clinical supervision.
- 3.42** The Committee believes that in reviewing professional training, the Department should consider the quantity of time spent for orientation and ongoing training for the Helpline and the CSCs.

Recommendation 11

The Department of Community Services should ensure adequate time is given to orientation and professional development, clinical supervision and training. Specifically, the Department should ensure that the half-day Thursday closure each week is used for professional development, clinical supervision, training and sessions on policy and procedures.

Content of pre-service training and professional development

- 3.43** Despite an increased awareness in research of the profound impact of chronic neglect on children, particularly on younger children, a forensic approach still dominates DoCS practice. While the Department has developed a new assessment framework as part of an attempt to shift the emphasis of casework from an incident-based assessment to one focused on an analysis of the risk of harm and consideration of family needs and strengths, old practices persist in many CSCs.⁸³

⁸¹ Caseworker, confidential evidence

⁸² Caseworker, confidential evidence

⁸³ For more discussion on the risk assessment process, see Chapter 5

- 3.44** Work in child protection involves a high order of skills and knowledge across a number of areas. Witnesses questioned whether the content of pre-service and ongoing training adequately allows caseworkers to deal with the complexity of the issues facing vulnerable families and children.
- 3.45** Witnesses also suggested that many new recruits come to work with the Department without adequate skills for the identification of people who are potentially at risk of abusing children. Many witnesses suggested that the training of DoCS workers should have a broader multidisciplinary focus to assist them in this process. A health professional asked:
- How much understanding of child development goes into their preparation for working as DOs, particularly some of the newer concepts and ideas around interagency collaboration? Secondly, how much orientation do they get to the services that are available ... If you do not have that basic level of knowledge, if you do not have relationships with people in the health system, how do you make effective referrals?⁸⁴
- 3.46** Some witnesses felt that opportunities for professional training outside the DoCS organisation would assist in opening up the current culture of DoCS and allow for a greater level of critical thinking. The exposure to multidisciplinary learning within a university environment can assist in ‘breaking down the cultures’.⁸⁵
- 3.47** The Director-General has recognised the need to improve the training of caseworkers, and in particular opportunities for ongoing training in order to encourage staff to continue to develop and progress into caseworker manager roles. Dr Shepherd acknowledged the importance of training and ongoing professional support to the retention of caseworkers.⁸⁶
- 3.48** The consensus in evidence is that helping children, particularly in cases of chronic neglect, depends upon caseworkers’ capacity to conduct effective assessment and referral to appropriate secondary and tertiary prevention services. The Committee believes that there should be a broader, multidisciplinary approach to pre-service training, as well as orientation and ongoing training and professional support. In particular consideration should be given to the need to include training in relation to parenting capacity, early childhood development and assessing needs.
- 3.49** The Department should collaborate with experts from a range of fields including mental health, psychology, social work and social welfare, and review the curricula for pre-service training, orientation and ongoing professional development and training. The Committee notes the importance of ensuring caseworkers are equipped with the best possible skills to undertake this work. The Department should consider ways to ensure staff have access to up-to-date knowledge and research in relation to their work with families, children and young people.

⁸⁴ Key stakeholder forum, confidential evidence

⁸⁵ Spencer evidence, Parent Access Program, 5 November 2002

⁸⁶ Shepherd evidence, Department of Community Services, 29 November 2002

Recommendation 12

The Department of Community Services should review, in consultation with staff and relevant experts, the curricula for pre-service education, orientation training and ongoing professional development and training. Consideration should be given to

- A multidisciplinary approach to training and professional support, particularly in relation to parenting capacity, early childhood development and assessing needs
 - Ways to ensure Departmental staff at all levels have access to up-to-date knowledge and research on issues relating to families, children and young people.
-

Training and *Business Help*

3.50 As mentioned above, a significant criticism of the Department is the lack of adherence by staff to policy and procedures. In many respects, the failure or lack of consistency in adherence is an issue of training and supervision. We understand there is some concern about the Department's directory for policies and procedures, containing 40 *Business Help* topics and 200 policies and procedures. Caseworkers told us that some of their training is conducted via *Business Help*. One caseworker explained that when the Department introduced the Client Information System (CIS):

They put a training section in our *Business Help* so we can actually go in and train on it but the problem is that we have not got the hours to do that ... It is just given to you, and that is the way in which the department [conducts training]... It just comes out on computer.⁸⁷

3.51 The Director-General explained that he had sought additional funding from Treasury to ensure the training for staff on the introduction of the new CIS in July 2003 is adequate for the purpose:

One of the areas where these things can fail is in the training of the staff to use the system and the training of the managers to supervise the staff in the use of the system. So we have sought additional resources from Treasury to do that and we have Treasury support for that.⁸⁸

3.52 The NSW Ombudsman observed that there is a lack of clarity in how staff use *Business Help* and how management ensures staff refer to *Business Help* for up-to-date information. The Ombudsman has recommended that the Department should introduce a policy to deal with the information on *Business Help* and to monitor the changes that occur on that system. He suggested the policy should include the introduction of a standard procedure

⁸⁷ Manager Casework, confidential evidence

⁸⁸ Shepherd evidence, Department of Community Services, 29 November 2002

for use in all offices detailing how the information on *Business Help* is to be monitored and implemented, and training for all staff in the use of *Business Help*.⁸⁹

3.53 The Department is currently drafting a budget enhancement proposal recommending a complete evaluation and review of *Business Help*. If the proposal proceeds, it would be intended that a new version of *Business Help* would be launched to coincide with the introduction of the new CIS.⁹⁰

3.54 There are a range of complex reasons for the lack of adherence to policy and procedures across CSCs which need to be addressed. Nevertheless, we believe that clarifying the use of *Business Help* and ensuring staff receive adequate training is a practical step towards improving the adherence of staff to policy and procedures.

Recommendation 13

The Department of Community Services should introduce a policy to manage the information on *Business Help* and monitor the changes that occur in that system. The policy should include:

- The introduction of a standard procedure for use in all offices detailing how the information on *Business Help* is to be monitored and implemented
 - Training for all staff in the use of *Business Help*.
-

Clinical supervision

3.55 The establishment of a system of genuine and effective clinical supervision is an immediate priority. Frontline staff told the Committee that they had limited opportunities for support and constructive feedback from their managers. Witnesses suggest that the managerial culture of the Department has not permitted a culture of clinical supervision to thrive. Similarly, the atmosphere does not allow staff to develop their clinical acumen or capacity to observe and make decisions.⁹¹ One caseworker explained:

The casework we do is ... dealing in highly emotional issues, we are removing children ... so it is work that affects people and if you want to keep a level-headed mind to making really vital decisions in children's and young people's lives, you need to have a supervision structure that is more than what we currently have. The current one is for the person who has overworked him or herself trying to look at, 'Okay, this is what we find. What is our next decision?' That is the supervision we have right now.⁹²

⁸⁹ Correspondence, NSW Ombudsman, 26 November 2002

⁹⁰ Correspondence, Department of Community Services, 2 December 2002

⁹¹ Newman evidence, NSW Institute of Psychiatry and Faculty of Child and Adolescent Psychiatry, Royal Australian and New Zealand College of Psychiatry, 6 November 2002

⁹² Caseworker, confidential evidence

- 3.56** Clinical supervision is especially valuable for new caseworkers. Effective supervision assists new recruits to the Department to integrate their knowledge gained in pre-service and orientation training with experience in the field.
- 3.57** Caseworkers expressed concern that there is no relief system to allow adequate time for training, supervision and feedback:
- There should be a replacement of staff while they are doing [training and supervision] so that they are not under the pressure of having a caseload and having to do that work as well.⁹³
- 3.58** Other caseworkers raised in evidence the limited time their supervisors have to provide feedback and support. One caseworker located in a rural area explained that her casework manager looks after a group in two offices that are an hour apart, and the majority of their contact occurs over the phone or by email.⁹⁴
- 3.59** The Department has acknowledged that training and professional development for supervisors is currently inadequate. In evidence the Director-General told the Committee that the Department needs to train the supervisors:
- ... that is frontline supervisors, the managers of caseworkers essentially, to be both professional supervisors as well as effective administrative supervisors. That is a piece of work we do not do particularly well at the moment.⁹⁵
- 3.60** The Director-General explained that he has put in place a project to provide a proper training module for effective frontline supervision.
- 3.61** The Director-General also suggested that the Department is considering professional supports for caseworkers and casework managers such as psychology and legal supports. As noted in evidence, the Department has an historically low level of psychologists, and the number has not increased since 1983.⁹⁶ Given the importance of a comprehensive understanding of child psychology in assessing the needs of families and risks to children we consider there is an urgent need to ensure that Departmental caseworkers have access to this knowledge.
- 3.62** The Child Death Review Team (CDRT) highlighted the need for specific strategies for casework supervision for enhancing the capacity of district officers, assistant managers and child protection specialists to conduct risk assessments. CDRT referred this for our attention, and we address the issue in Chapter 5.⁹⁷

⁹³ Caseworker, confidential evidence

⁹⁴ Caseworker, confidential evidence

⁹⁵ Shepherd evidence, Department of Community Services, 29 November 2002

⁹⁶ Shepherd evidence, Department of Community Services, 29 November 2002

⁹⁷ NSW Child Death Review Team, *2001-2002 Report*, NSW Commission for Children and Young People, 2002, p.152-154

- 3.63** The Committee urges the Department to ensure that an effective system of clinical supervision that feeds into planning and evaluation is built into the basic operations of the Department. In particular, we support the comments of the Director-General on the need to improve the training of supervisors. We also note the difficulties for caseworkers and managers in relation to finding time for supervision away from workload pressures. This is a particular problem for rural and regional areas, where managers may be responsible for several CSCs, located some distance from each other. Training frontline managers to develop professional supervision skills is a clear priority.
- 3.64** Effective support and supervision for staff at all levels is essential to good performance and a satisfied workforce. This supervision should occur on a regular basis and should be of a high quality. The Department should ensure that caseworkers have access to specialist expertise in psychology and other relevant disciplines. We encourage the Department, in consultation with staff and experts in the field, to review the issue of clinical supervision. This aspect of the Department's internal systems should be addressed immediately to produce improvements in staff morale, lower levels of stress leave, and fewer premature resignations.

Recommendation 14

The Department of Community Services should develop effective systems for clinical supervision of operational staff. In particular, the Department should consider:

- Strategies to ensure regular and quality supervision for caseworkers, including the need for time relief
 - Appropriate and specific training and support for managers and supervisors
 - Ways to ensure that caseworkers have sufficient access to specialist expertise in psychology and other relevant disciplines
 - Ways to ensure adequate supervision arrangements in rural and regional areas
 - Ways to ensure constructive feedback is provided to staff on work practices, case reviews, decisions and process.
-

Internal review processes

- 3.65** One of the most significant cultural issues facing the Department is the need to ensure that internal review processes are effective and have the confidence of both the general public and staff. The Ombudsman told the Committee that all agencies need to recognise the benefits of robust internal complaint handling processes:

They provide ... one of the best tools for proper management of any organisation, and DoCS is no different to any other. So we see a sound, quality, internal investigative process as being a key to the ongoing success of the agency.⁹⁸

3.66 There are variations across the Department in the practices for dealing with complaints, staff grievances and disciplinary action. Procedures for dealing with complaints are perceived by staff as being secretive, time-consuming and biased towards the complainant:

There have been experiences before where a client can come in and make some outrageous type of complaint. The manager, or whoever is taking the information, automatically believes the client. They do not then go ... through a consultation process of coming to the person that the complaint belongs to. They do not ask questions directly to the staff member before it goes anywhere else. They conduct their inquiry without talking to the staff member.⁹⁹

3.67 On the other hand, submissions from members of the public revealed a view that the Department's internal review processes do not always result in a proper investigation of their concerns. The Community Services Commission submission suggested that there has been a growing reluctance by the Department to participate in conciliation of complaints and a restriction of the ability of CSCs to resolve matters locally.¹⁰⁰

3.68 The Committee notes that there will always be a degree of frustration with complaint handling processes. Complainants and staff will not always be satisfied with the outcome of every investigation that takes place. For this reason, it is necessary to ensure that internal review processes operate as transparently and consistently as possible. Clear information about complaint handling processes should be provided to both complainants and staff, including information about their rights, obligations and opportunities for further review. Timeframes for the handling of complaints need to be established and adhered to, and complaint handling processes should ensure that timely feedback is provided to both complainants and staff.

3.69 Both the Ombudsman and the Reid inquiry have identified a particular need to improve practices for handling staff grievances and disciplinary action. The Reid inquiry noted that while the unit charged to deal with disciplinary cases, the Professional Conduct Unit, acts with objectivity and fairness, 'there is little confidence in the current system.'¹⁰¹ The Reid inquiry found there was inadequate training for casework managers in grievance resolution and that local staff often confused grievances with other workplace issues such as anti-discrimination. As a result, disputes escalated unnecessarily and turned into formal complaints. Failure of the grievance process at the local level has a systemic cultural effect, creating animosity in the workplace and diverting attention from the core business of the

⁹⁸ Barbour evidence, NSW Ombudsman, 20 November 2002

⁹⁹ Caseworker, confidential evidence

¹⁰⁰ Submission 241, Community Services Commission

¹⁰¹ Reid M, *Independent Investigation of Four Corners Allegations*, Institute for International Health, October 2002, p.12

care and protection of children.¹⁰² Specific recommendations made by Professor Reid include:

- Provision of mandatory training in grievance handling for senior staff at the CSC level and the need to review training for caseworkers on what constitutes a grievance
- Establishment of a timeframe for dealing with all long-standing grievances
- Appointment of auditors to assess internal investigations and monitor assessments undertaken by the Professional Conduct Unit.¹⁰³

3.70 In correspondence to the Committee, the Ombudsman highlighted the importance of ensuring that the Professional Conduct Unit is adequately resourced to carry out its stated duties.¹⁰⁴

3.71 In evidence, the Director-General acknowledged there was a need to address the way in which grievances and disciplinary actions are dealt with. Dr Shepherd explained that, as the first step, he would take personal responsibility for the oversight of grievances and disciplinary actions:

I have withdrawn the delegation for anyone other than myself or the Executive Director, Operations to institute disciplinary inquiries, in order to get some regularity and to get some confidence around the institution of those types of inquiries, and to encourage managers to take a more constructive approach to resolving performance issues...¹⁰⁵

3.72 In relation to the specific long-standing disciplinary cases, the Director-General informed the Committee that he is currently working through a number of longstanding disciplinary cases. Dr Shepherd acknowledged the need to deal with disciplinary cases directly and efficiently. He told us that it is appropriate for the Director-General to be responsible for instituting internal inquiries and not middle management, as was previously the case in the Department.

3.73 The Committee believes that one-off inquiries, such as the Reid inquiry in relation to the allegations made on *Four Corners*, demonstrate a commitment to open and transparent governance. We note the Department is in the process of implementing the majority of the recommendations made by Professor Reid. We also note, however, the need for an ongoing commitment to ensuring that internal complaint handling procedures are fair, credible and responsive.

¹⁰² Ibid.

¹⁰³ Ibid, p.26

¹⁰⁴ Correspondence, NSW Ombudsman, 26 November 2002

¹⁰⁵ Shepherd evidence, Department of Community Services, 29 November 2002

Recommendation 15

To enhance systems for internal review and handling of grievances, the Department of Community Services should implement each of the suggestions of the Reid inquiry in relation to

- Section 6 – Practices dealing with grievances
- Section 7 – Processes for dealing with disciplinary actions.

The suggestions of the Reid inquiry are listed in Appendix 3.

Relationships with external review bodies

3.74 Over the last decade the Department has dealt with a number of oversight agencies, including the Community Services Commission, the Child Death Review Team, the Commission for Children and Young People and the Office of the Ombudsman. The number of bodies has been reduced by one with the merger of the Ombudsman and Community Services Commission taking effect from 1 December 2002.

3.75 There was consensus in the evidence and submissions to our inquiry that a key problem has been the failure of the Department to engage willingly with the review bodies and respond to recommendations. For example, many witnesses have expressed their concern that the Department has not formally responded to the recommendations made by the Community Services Commission's Substitute Care inquiry in 2000. This was also acknowledged by Professor Reid:

A key concern however, is that DoCS over time has inadequately considered recommendations from these agencies ... it is critical that they do respond to recommendations of previous reports that remain relevant. If they do not do this the concerns that oversight agencies have about the lack of responsiveness of the Department will remain.¹⁰⁶

3.76 The Department lists as one of its priorities in addressing the need for openness and transparency, the development of a robust and cooperative relationship with oversight agencies.¹⁰⁷ In evidence, Dr Shepherd explained that he recently met with all oversight bodies and 'thrashed out' a way forward for the Department in its relationship with those bodies.¹⁰⁸

3.77 We believe the Department must adopt a proactive approach to external review agencies. In particular, an open and transparent approach to external review will help restore the confidence of stakeholders and staff. As with internal review, external review bodies provide necessary performance information that should contribute to a process of

¹⁰⁶ Reid, op cit, p.17

¹⁰⁷ Submission 248, Department of Community Services, p.52

¹⁰⁸ Shepherd evidence, Department of Community Services, 29 November 2002

continuous improvement. Timely responses to recommendations and the integration of constructive advice and suggestions from oversight bodies is necessary to assist the creation of a robust child protection system. External review and investigation must be accepted as a normal aspect of the Department's operations and should be viewed as an opportunity for challenge and improvement, rather than a threat to its operations.

Recommendation 16

To ensure that an effective system of external oversight is established, the Department of Community Services should

- Work in partnership with oversight bodies in the identification of problems and in finding appropriate solutions
- Ensure a timely and comprehensive formal response is provided to all recommendations made by oversight agencies
- Address suggestions outlined in the Reid inquiry in relation to Section 5 - Process for dealing with oversight agencies.

The suggestions of the Reid inquiry are listed in Appendix 3.

Relationships with non-government organisations

3.78 A trusting and open relationship between the government and non-government sector is essential to an effective service delivery system. Given the considerable input from the sector, particularly in the delivery of prevention, early intervention and out-of-home care services, this relationship is especially important.

3.79 Many witnesses suggested that there has been a breakdown in the relationships with family and youth support services, particularly over the last couple of years. Many people put this down to the introduction of the centralised Helpline:

[T]he lack of contact with a local Intake Officer continues to alienate local child protection workers in the community from DoCS Caseworkers.¹⁰⁹

From the perception of an agency who is seen to be a 'partner', the partnership is very one sided, with the expectations being totally on the Department's side.¹¹⁰

3.80 A regional family support service also told us of their current working relationship with the Department:

It would be fair to say that we currently have a very poor relationship with the local CSC (not necessarily with individual staff) but rather with the current processes. These processes are not transparent and there appears to be an air

¹⁰⁹ Submission 96, Parramatta/Hills Child Protection Committee, p.3

¹¹⁰ Submission 148, Rosemount Youth and Family Services, p.1

(culture) of secrecy about what is happening internally ... This has not always been the case.¹¹¹

3.81 Other witnesses expressed concern that the Department, while responsible for the monitoring and evaluating of the non-government sector, does not adequately monitor and evaluate its own work.¹¹²

3.82 The Department addressed the issue of the relationship with the non-government sector in its submission, acknowledging the crucial role that non-government organisations play in the delivery of services for children and young people. The Department suggests that while it is difficult to resolve all tensions over funding and policy issues, it will commit to:

- Quarterly meetings with peak organisations from the sector to discuss developments and general policy issues
- Bilateral or multilateral discussions on specific issues of concern
- Consultation on policy initiatives that may impact on the non-government sector directly, or that may be of interest to the sector.¹¹³

3.83 The Committee is encouraged by this commitment and urges the Department to engage in open and honest dialogue with the non-government sector. The Committee notes also the need to ensure excellence in service delivery by both the government and non-government sectors. An open and responsive relationship between the sectors is pivotal in the pursuit of this excellence. As discussed in Chapter 9, the Department must also ensure that it undertakes thorough evaluation and monitoring of its own work.

Recommendation 17

The Department of Community Services should rebuild an open and transparent relationship with the non-government sector and undertake to meet regularly with peak organisations and consult on policy directions and planning.

Consultation

3.84 There is a need for consultation between all stakeholders and the Department at central, regional and local levels. We note that the Minister recently established a Ministerial Advisory Council to provide expert advice. The group is chaired by Ms Leonie Manns, the former Chair of the NSW Disability Council, and currently a Member of the Mental Health Review Tribunal. The group includes the Director-General, Mr Robert Fitzgerald and representatives from ACWA, NCOSS and the Aboriginal Children's Services State

¹¹¹ Submission 150, Orange Family Support Service Incorporated, p.1

¹¹² Confidential evidence

¹¹³ Submission 248, Department of Community Services, p.59

Secretariat. The group will examine policy development and the administration of community services and the delivery of services to people in need. This Committee believes the establishment of this group is a positive initiative and should greatly enhance the coordination between the government and non-government sectors. It is pleasing to note that the first task of the group is to provide advice on progressing the proclamation of the sections of the Act regarding the Children's Guardian.

- 3.85** The Committee also encourages the Ministerial Advisory Council to consider providing the government with advice on ways to address the need to shift the forensic approach to child protection that currently dominates Departmental thinking and work practices. In particular, we would encourage the Council to consider the need to ensure the service delivery system reflects the Act and emphasises support for vulnerable and high needs families, children and young people. As we discussed in Chapter 2, there is a critical need to address the requirements of high needs families, particularly those affected by drug and alcohol, domestic violence, criminal history, mental illness, social isolation, poverty and homelessness. To assist in this debate, the Council should consult with relevant experts, particularly in early child development, intensive family support, and experts in mental health and drug and alcohol.

Recommendation 18

The Minister should ensure that the Ministerial Advisory Council consider how the Department can establish a service delivery system that reflects the Act and emphasises support for vulnerable families, children and young people. To assist in this debate, the advisory body should consult with relevant experts, particularly in the early childhood development, intensive family support, drug and alcohol and mental health fields.

- 3.86** We note also that consultation at the local level is a vital component of a healthy and receptive child protection system. In Chapter 2 we note the importance of interagency collaboration and the role of the Department in working with other players in the delivery of supports and services for families, children and young people. However, evidence to this inquiry suggests that DoCS caseworkers are not attending interagency meetings as they once did:

District officers, Community Service Centre staff, seem unable to get to interagencies as much as they used to or be as available. So I think it is a time issue as well ...¹¹⁴

- 3.87** In Chapter 2, we recommend the establishment of formal processes to ensure this relationship is cultivated and sustained. In our travels around the State, we witnessed a number of examples where an effective relationship between Departmental staff and stakeholders can make a real difference to the lives of children and young people. While the pressures of workload are the same across the State, we observed that in places where there was a strong commitment to interagency collaboration, there was a greater level of shared understanding of the needs of the community and commitment to working together. The

¹¹⁴ Richards evidence, Family Support Services Association of New South Wales, 20 May 2002

importance of interagency collaboration is illustrated by this exchange between DoCS caseworkers and representatives from other departments and non-government agencies:

Witness 1: I also think it is to do with the fact that they have to do things together here and everyone has sort of got a hand in each other's pocket so basically all the services are the same.

Witness 2 (Caseworker): To survive we have got to.

Witness 3: So to survive they have built those relationships on that.

Witness 4: But I think it has also got to do with the interagency cooperation between the services. Like we have said, you do see [in this region] DoCS people at different meetings. ...

Witness 5: I have got to say working at the family support service for about 10 years now we have always had a good relationship with both [DoCS] offices.

Witness 6: I think ... that is where I might make a plea. You have heard today that there is a plea for further resources to handle casework, and that is undoubtedly correct. The problem is we are all too - we are not, the two of us at this end - overwhelmed with casework. I would like to make a plea that if there are additional resources, and there should be, some should come for functions of prevention, e.g. training and interagency coordination, work with interagency.¹¹⁵

3.88

The Committee reiterates its view about the importance of nurturing the relationships between DoCS caseworkers and other agencies and services. At a local level, interagency forums provide an opportunity for collaboration and communication on issues that affect families, children and young people.

¹¹⁵ Confidential evidence

Chapter 4 Administrative systems

No government organisation with poor systems can provide good service to its clients or effective reporting to its regulators or government. Systems underpin good, consistent, professional practice.¹¹⁶

In the previous chapter we explored the need for the Department of Community Services to restore its credibility with the community and to rebuild an internal culture of integrity. In the Committee's view, a critical task in this process is for DoCS to establish effective systems for collecting data, recording and storing client information and managing financial matters. Only when these systems are in place will the Department be able to become more effective in planning and service delivery, thereby achieving better outcomes for children and families. This chapter explores current problems associated with DoCS' administrative systems and identifies the improvements necessary. Of particular importance in achieving these improvements will be the work of the Kibble Joint Working Party.

The need to establish effective systems

- 4.1 The critical need for the Department of Community Services to establish effective administrative systems has been widely recognised.
- 4.2 The Department's systems were a primary focus of the Ombudsman's report released in April 2002, which highlighted the vital link between operational systems and effective actions to protect children and young people. The report documented a range of significant systems-related problems including poor record keeping practices and a lack of standardised file processes and forms, poor documentation of risk assessments and reliance on the outdated and inadequate Client Information System database. It also noted the absence of centralised data collection on and monitoring of unallocated cases, a lack of knowledge among staff about policies and procedures and a range of administrative problems. The report concluded:
- Without the right systems, records and support, appropriate child protection interventions become as much a matter of good luck as good management.¹¹⁷
- 4.3 The Department's demand management and data collection systems were the focus of the DoCS/PSA Joint Working Party chaired by Gabrielle Kibble (Kibble Joint Working Party). It was established in April 2002 to review the process of allocating work from the Helpline to Community Service Centres, to verify DoCS' data on demand for services, and to review the rigour of the Department's information systems and report counting rules.¹¹⁸
- 4.4 Systems associated with record keeping were also at the centre of the independent inquiry undertaken by Professor Michael Reid into the 'file tampering' allegations raised in the *Four Corners* program. Professor Reid identified numerous 'issues of concern' associated with file

¹¹⁶ Submission 248, Department of Community Services, p.53

¹¹⁷ NSW Ombudsman, *DoCS - Critical Issues: Concerns arising from investigations into the Department of Community Services*, April 2002, p. 18

¹¹⁸ Kibble Joint Working Party, document tabled in evidence by Kibble, 19 August 2002

keeping practices, records management policies and practices, and onerous paperwork requirements.

- 4.5 The findings of the Ombudsman, the Reid inquiry and the Kibble Joint Working Party are discussed in greater detail throughout this chapter. The imperative to address the major concerns about systems highlighted in each of these processes was acknowledged by Dr Neil Shepherd when he appeared before the Committee in August, shortly after becoming Director-General of DoCS.
- 4.6 Dr Shepherd indicated that improving administrative systems was a necessary foundation for enabling 'the field services to operate with maximum efficiency and effectiveness' and was thus a key priority for the Department. The Client Information System, the Records Management System, and the financial management system were all identified as needing improvement. Dr Shepherd also singled out gaining an understanding of 'demand and its drivers' as a critical step in his framework for moving the child protection system forward.¹¹⁹

The Kibble Joint Working Party report

- 4.7 The Kibble Joint Working Party is the primary vehicle through which the Department's administrative systems are being evaluated and improved. The Joint Working Party was established by the Premier's Department in April 2002 in a climate of significant disagreement between key stakeholders about the meaning of available data on the growth in demand for DoCS services arising from the introduction of the 1998 Act and the Helpline, and the implications of this growth for staff resources.¹²⁰ Following the introduction of the Helpline, the Department's counts of contact reports had risen from around 73,000 in 1999/2000 to approximately 107,000 in 2000/2001. They rose by 76 percent from approximately 80,000 in the 2000 calendar year to around 140,000 in 2001.¹²¹
- 4.8 The Joint Working Party brought together under an independent chair the diverse interests of representatives of DoCS, the PSA, the Cabinet Office, Treasury, the Premier's Department and the Minister's Office.¹²²
- 4.9 The Joint Working Party's report of June 2002 made a number of findings in relation to demand for services and data collection mechanisms which were profoundly critical of existing arrangements. It found:

¹¹⁹ Shepherd evidence, 19 August 2002

¹²⁰ Kibble evidence, 19 August 2002

¹²¹ Joint Working Party on NSW Department of Community Services, *Demand for DoCS Services and Management of the Intake and Casework Process: Final Report*, Price Waterhouse Coopers, 21 June 2002. Different methods of counting mean that, for example, the Australian Institute of Health and Welfare figures for 2000/01 indicate that there were 40,937 notifications (reports on child abuse and neglect) in relation to around 31,500 children

¹²² Kibble evidence, 19 August 2002

- There had been a significant increase in the volume of reports of children at risk of harm made to DoCS, and greater demands on caseworkers as a result of requirements under the 1998 Act, but staffing resources had not increased in line with this growth.
- The Department lacks effective data systems to inform operational management, planning and budgeting. Existing data collection systems (counting of contact reports, that is, reports of children and young people at risk of harm and requests for assistance) do not provide an accurate picture of demand for services, of work being done, or of the match between demand and supply. The *time required* to process reports, undertake investigations or assessments, and carry out ongoing casework tasks should be measured.
- There has been a very substantial increase in the proportion of cases being closed under the Priority One policy,¹²³ estimated at 230 per cent from 2000 to 2001, indicating either a shortfall in resources available to undertake work or a disproportionate increase in inappropriate cases being referred from the Helpline to CSCs.
- The absence of a common line of reporting and accountability for the Department's child protection functions means that the Helpline and CSCs operate separately when they should be providing a single, seamless process of service delivery. There is also a lack of clarity in the roles of the Helpline and CSCs.
- There is confusion among CSC and Helpline staff about operational policy, and poor work practices associated with standards of information received by CSCs from the Helpline. There is also a 'lack of alignment' between existing business rules, the new Act, casework practice and the Client Information System.
- There is a need for a 'fundamental rethink' about the nature of the workforce the Department requires and the most appropriate terms and conditions of their employment.¹²⁴

4.10 The report's Executive Summary concluded:

Demand and supply need to be re-defined and measured with greater validity and reliability. The gap between demand and supply can be addressed by increasing resources, or by making structural or process changes, or by some combination of

¹²³ The Priority One policy is used to prioritise cases coming into a CSC from the Helpline. If, after 28 days a case has not reached sufficient priority to be allocated to a caseworker, it is reviewed and may be closed permanently without further investigation or action: Submission 248, Department of Community Services. Priority One is discussed in Chapter 5

¹²⁴ Joint Working Party on NSW Department of Community Services, *Demand for DoCS Services and Management of the Intake and Casework Process: Final Report*, Price Waterhouse Coopers, 21 June 2002, pp.iii-ix

the two. The increase in resources in the absence of structural change is likely to yield little in the way of long term benefit.¹²⁵

- 4.11** In light of these findings, the Joint Working Party made a number of recommendations concerning organisational realignment, a 'Demand Management Strategy', business processes and workforce management. Our Committee endorses each of these, set out below.

Kibble Joint Working Party recommendations of June 2002

1. The JWP recommends immediate relief in the form of additional resources. (This recommendation was made to the Minister on 23 May 2002).

In relation to organisational realignment

2. Organisational realignment must establish clear accountabilities for DoCS' three business streams and consistency of practice across the State. Responsibility for HelpLine, Areas and CSCs must sit with the same senior manager.

3. DoCS should clarify all of the organisation's decision making and supervision structure, including professional support, management responsibility and accountability.

In relation to Demand Management Strategy

4. DoCS should develop, with the involvement of central agencies and the PSA, an integrated demand management strategy.

5. Included within this work will need to be additional work with central agencies on the quality and reliability of demand data to enable a common basis for continuing discussion on how to address demand.

6. The independent Joint Working Party, with its current membership and knowledge of the issues, is well equipped to continue this work.

In relation to Business Processes:

7. DoCS should review business rules operating at the HelpLine and CSCs in light of what is required under legislation and, from a client's view, to enable a seamless service.

8. DoCS should establish clear and common definitions in DoCS' business processes between Community Service Centres and the HelpLine.

9. DoCS should continue working with the working group chaired by the Commissioner for Children and Young People of Deputy Directors-General of Police, Health and Education and Training to streamline the making of and responding to reports.

In relation to Workforce Management

10. DoCS should develop an ongoing recruitment and training strategy. This might include the creation of a pool of suitable temporary employees.¹²⁶

Current work of the Kibble Joint Working Party

- 4.12** The Kibble Joint Working Party has been extended to December 2002, in order to advise the Department on the implementation of strategies to address its demand management and data collection systems. In summary:

¹²⁵ Ibid, p.x

¹²⁶ Kibble Joint Working Party, document tabled in evidence by Kibble, 19 August 2002

The Kibble [Joint Working Party] is looking at what comes into the Helpline, how it is processed in the Helpline, what goes from the Helpline to the CSCs, how it is processed in the CSCs, what are the things you might do in order to process that material better, to classify it differently, to stream it differently within CSCs or within the Helpline. It is also looking at the patterns across the State in terms of individual CSCs in terms of the kinds of work they get ... and how they deal with that different kind of work in order to try and get consistency in practice where consistency is desirable and in order to get a better alignment of resources where resources do not appear to be well aligned.¹²⁷

- 4.13** In recent evidence Dr Shepherd advised the Committee that this work is nearing completion, and confirmed that the process of implementation will commence in the first quarter of 2003.¹²⁸ In the Committee's view, there may be particular value in the Joint Working Party overseeing the implementation process until it is completed, rather than simply providing advice in the lead-up phase.
- 4.14** In the interests of transparency and accountability regarding this highly significant process, we also believe that the Department should make public the reports and recommendations of the Joint Working Party.

Recommendation 19

In relation to the Kibble Joint Working Party:

- The Department of Community Services should fully implement the recommendations of the Joint Working Party's report of June 2002
 - The Government should, as necessary, extend the life of the Joint Working Party to oversee the implementation of strategies to address demand management and data collection
 - The Government should publish all Joint Working Party reports and recommendations.
-

Demand data, resources and planning

- 4.15** The establishment of effective data collection mechanisms is now a key priority for the Department, to be accelerated under the guidance of the Kibble Joint Working Party. Our Committee reinforces the urgency of this task. As the Committee was told:

The data is particularly poor and it makes it, I would say, almost impossible to reform a system if you do not have the data to understand what is happening in your agency.¹²⁹

¹²⁷ Shepherd evidence, Department of Community Services, 29 November 2002

¹²⁸ Ibid.

¹²⁹ Peltola evidence, 24 October 2002

It is impossible to plan and evaluate services and very difficult to undertake quality case work without reliable and accessible data. This problem has been pointed out in every inquiry and review over the past decade and yet is still unaddressed. It is unacceptable that this problem has been allowed to continue thereby undermining the development of good policy and planning of the child welfare system in NSW.¹³⁰

4.16 It is crucial that the Department establish effective data collection mechanisms if it is to break the current cycle of poor planning and inadequate funding. Robust data systems are essential so as to:

- Gain an accurate picture of the full range of work being done by the Department
- Enable an effective comparison of demand for services with available resources
- Determine the true level of additional resources required
- Achieve an appropriate allocation of staff and funding between the three Directorates of Prevention and Early Intervention, Child Protection and Out-of-Home Care at the central, area and local levels.

4.17 Most significantly, robust data is essential to the development of successful budget enhancement proposals.

4.18 There is a particular need for an effective system for determining the number of caseworkers in an office, which takes into account numbers of cases – both incoming and ongoing – and the nature of the service they require. Consistent caseload and case mix formulae for CSCs are yet to be developed. Staff allocation to CSCs is therefore not currently linked to actual CSC workload. As we were told by one staff member:

In my centre [the number of caseworkers] is determined by how much office space there is to accommodate people.¹³¹

4.19 The Committee is aware that such mechanisms do exist in other jurisdictions. Victoria, for example, has mechanisms to cost out every step of the child protection and out-of-home care process, including investigation, preparation for and participation in Court proceedings, and the various tasks relating to out-of-home care. This enables that State to reliably calculate the numbers of staff required to undertake the work that exists.¹³²

4.20 Along with data on demand for services, a number of participants in this inquiry including the Commission for Children and Young People, *UnitingCare* Burnside and the Association of Childrens Welfare Agencies have called for systematic data collection not just on the quantity, but also the *quality* of DoCS work. According to *UnitingCare* Burnside, this data should evaluate agreed outcomes for children and young people, based on the

¹³⁰ Submission 189, Association of Childrens Welfare Agencies, p.18

¹³¹ Caseworker, confidential evidence

¹³² Peltola evidence, 24 October 2002

1998 Act. While we deal with this issue more fully in Chapter 9, we note our support for such systems here.

4.21 The Commission for Children and Young People has also called for the Department to gather data on the consumers of DoCS services in order to improve policy and planning. This would include:

- How many children and which children (age, gender, culture, location, income, family structure etc) are at different points in the system (eg requests for assistance, reports of risk of harm, receiving assessment, supportive intervention, mandated intervention, out of home care) and what is their status at any time?
- What are their circumstances and needs?
- Which children in what circumstances tend to be drawn deeper into the system? What factors are linked to this?
- What is working and what is not for different groups of children in the system?
- What is the actual capacity of local services and networks?¹³³

4.22 Finally, many witnesses to this inquiry stressed the need for data collected by the Department to be made publicly available. A lack of openness about data has contributed to what has been described as the ‘fortress mentality’ of the Department. Regular release of performance data will ensure greater accountability and transparency for DoCS. Published data should include both qualitative and quantitative information that is broken down into useful and meaningful form. Greater transparency should be seen as an opportunity to improve performance through accountability.

¹³³ Submission 269, Commission for Children and Young People, p.16

Recommendation 20

The Department of Community Services should, in implementing new data collection mechanisms, ensure that they enable effective policy, planning, resource allocation and accountability. The data must:

- Provide an accurate picture of demand by measuring the time required to process reports, undertake investigations and carry out the range of casework tasks
- Allow an assessment of the unit costs of prevention, intake, child protection and out-of-home care services
- Enable an accurate determination of the number of caseworkers required for each Community Service Centre in a way that takes into account local demand characteristics
- Enable analysis of both the quantity and quality of the Department's work
- Provide a greater understanding of the consumers of DoCS services.

The Department should ensure that all such data is released to the public on a regular basis.

The Client Information System

4.23 The primary source of DoCS data is the Client Information System (CIS) which, as the Department's database for each client's history of contact with DoCS, is critical to its core business at the Helpline and in Community Service Centres. In particular, the CIS plays a vital role in risk assessment and casework decision-making, and as with all the Department's records systems is crucial to the Department's accountability. Previous endeavours to rectify the CIS have not borne fruit.

Problems with the current system

4.24 It is widely accepted by both the Department and a broad range of observers that the CIS is both primitive and extremely inadequate, such that it actually hinders the Department's capacity to do its job effectively. The system's inability to adequately record, transfer and exchange information internally within the Department has been highlighted in successive reports of the Child Death Review Team.¹³⁴

4.25 The criticisms of the CIS as it operated up to the middle of this year have been outlined by the Ombudsman and Children's Commissioner:

- The system has not been updated to reflect the 1998 Act and does not hold the information necessary for staff to implement that legislation

¹³⁴ Calvert evidence, NSW Commission for Children and Young People, 21 May 2002

- There is no ability to transfer client information electronically between agencies for assessment or referral purposes
- It is not equipped to hold or report information necessary for both casework decision-making and monitoring
- The system is slow to operate and not networked, and extracting information is complex and very time consuming
- It is unable to furnish DoCS management with vital and robust information for planning.¹³⁵

4.26 Many of these problems are reflected in the poor data collection discussed in the previous section. Moreover, the deficiencies of the CIS act as disincentives for staff to use the system, and to document essential information and decisions about clients, which is vital both to inform future work with families and to ensure the Department's accountability for its decisions.¹³⁶ The client history held within the CIS is a vital tool for Helpline staff as they assess the level of risk of harm to individual children and young people. Yet as we note in Chapter 5, its inefficiency has proved a major obstacle to the effective running of the Helpline.

A new CIS

4.27 The Ombudsman's report observed:

Clearly a user friendly, efficient and comprehensive client data base which provides centralised management information is essential for the effective operation of DoCS.

4.28 The development of a new CIS is now underway. Dr Shepherd recently told the Committee that the new system will commence operating in July 2003 and be fully implemented by December 2003. A \$5 million contract has been let to Accucentre Australia Limited to supply and configure a new system, which is based on one currently being used in New Zealand.¹³⁷ The Department has advised the Committee:

The system will be consistent with the legislative base, provide quick access to the full range of relevant information for effective case management and assessment of risk of harm, allow effective transfer of information between CSCs for mobile clients, provide a basis for better caseload management, and provide for collation of better data for both internal, and external reporting.¹³⁸

¹³⁵ NSW Ombudsman, *DoCS - Critical Issues: Concerns arising from investigations into the Department of Community Services*, April 2002; Calvert evidence, 21 May 2002

¹³⁶ Ibid.

¹³⁷ Department of Community Services, Correspondence, 2 December 2002; Shepherd evidence, Department of Community Services, 29 November 2002

¹³⁸ Submission 248, Department of Community Services, p. 53

- 4.29** This new system is expected to be faster, more user-friendly and comprehensive, and will thus have a 'significant impact on streamlining caseworker functions with regard to recording and reporting requirements'.¹³⁹ The Department has indicated that the new CIS will be underpinned by a comprehensive training program and will be effectively linked to a new Records Management System (see below). The Committee has also been advised that the new CIS will differentiate between requests for assistance and reports of risk of harm.¹⁴⁰
- 4.30** In the meantime, the Department is relying on a 'patched up' version of the system - CIS 4.2 - which commenced in July 2002, so that it is now at least in line with the legislation and contains more information on clients. However, the system remains far from ideal. Helpline staff have told the Committee that while the interim system is more comprehensive, it is more difficult to retrieve information now than ever:
- Under the old system, pre-4.2 the files were listed. There was a code and there was a brief statement of what the risk of harm to that child was, so it would be neglect or risk of physical harm or actual physical harm or actual physical harm if the child had been assaulted. Now you actually have to go through and read the narrative to understand what the issues are, rather than quickly look at screens. The new system is in fact becoming more time consuming.¹⁴¹
- 4.31** This quote reflects an inherent tension between comprehensiveness and user-friendliness that the new system will have to resolve. Certainly, new technologies will assist this task. In the meantime, it is clear that caseworkers will have to live with these difficulties until the new system is fully operational in one year's time. The Department should do everything it can to improve the efficiency of the system for caseworkers during that period. Moreover, as noted by the Ombudsman, DoCS has a responsibility to its clients to make sure that its systems work in the meantime, 'rather than simply relying on the fact that the CIS is going to be rolled out down the track'.¹⁴²
- 4.32** The Ombudsman was also clear that the new CIS and Records Management System must be implemented well:
- One of the challenges I think for management is going to be to not only introduce these new processes but to appropriately train and inform staff, and perhaps more importantly, have staff adhere to them.¹⁴³
- 4.33** In the Committee's view, the new Client Information System must ensure that a number of critical objectives are supported. The system must support informed risk assessment, decision-making and case management. It must provide for transparency of decisions about individual children and families as well as consistency of process. The new CIS must

¹³⁹ Shepherd, Answers to Questions on Notice, 12 September 2002

¹⁴⁰ Stein evidence, Department of Community Services, 19 August 2002

¹⁴¹ Confidential evidence

¹⁴² Barbour evidence, NSW Ombudsman, 20 November 2002

¹⁴³ Ibid.

support efficiency in work practices, and provide for clarity of data and effective monitoring and planning. The system must also be flexible to adapt to evolving requirements over time.

- 4.34** The Committee notes that major information technology initiatives are difficult, with many IT projects failing to achieve their stated objectives within their allocated budget. Implementation must be well resourced and undertaken in a way that builds support rather than engenders resistance within the Department's workforce. Dr Shepherd told us that implementing the new CIS is the single most important project in DoCS at present as its effectiveness underpins so much of the Department's work. It is likely to be a key test of his performance as Director-General.

Recommendation 21

The Department of Community Services should ensure that the new Client Information System to operate from mid 2003 supports the following Departmental objectives:

- Informed risk assessment, decision-making and case management
- Transparency of decisions about individual children and families
- Consistency of process
- Efficiency in work practices
- Flexibility to adapt to evolving needs over time
- Clarity of data
- Effectiveness in monitoring and planning.

Recommendation 22

The Department of Community Services should develop a comprehensive strategy for implementing the new CIS, which explicitly addresses:

- Staff consultation and training
 - Measures to ensure compliance with its use.
-

Records management

- 4.35** The Department's electronic systems for client information are supplemented by systems for records management, which the Committee understands to be largely paper-based case files.
- 4.36** The Ombudsman's report noted that departmental record keeping practices are 'extremely poor' with:
- no centralised or unified records management system,

- casework files which are hard to follow and contain inadequate records,
- documents out of chronological order,
- no or inadequate file notes about decisions or actions,
- no or inadequate notes of important meetings, and
- no or inadequate notes of telephone conversations.¹⁴⁴

4.37 In a number of files examined by the Ombudsman's officers it was even hard to identify basic information such as the child's address or carer's name. The report concluded that in some instances:

... it would be impossible for a worker unfamiliar with a case to gain essential information rapidly from the casework file. Caseworkers frequently have to respond urgently to changing situations; however, the current records keeping practices of DoCS mean that workers may not have all known information when required to make serious decisions in potentially life threatening situations. This has implications for staff safety ... as well as for the quality of the decisions that can be made in such circumstances.¹⁴⁵

4.38 Practitioners of the Children's Court told us that they find the quality of record keeping in case files which have been subpoenaed is often very poor, and that this can impede the Court's decision-making, or at least can add significantly to the time taken to gather information in order to make decisions.¹⁴⁶ On the other hand, representatives of the Family Court said that the files were very helpful.¹⁴⁷ The issue of adequate documentation for court procedures is dealt with in Chapter 7.

The findings of the Reid inquiry

4.39 While the Ombudsman emphasised the implications of poor records management for decision-making, the Reid inquiry underscored the pertinence of records to consumer protection and accountability.

4.40 While the inquiry found insufficient evidence to substantiate the specific allegations made about file tampering, it noted a number of issues of concern. Many of these relate to broader issues of management, accountability, grievance handling and so on, and were dealt with in the previous chapter concerning the culture of DoCS. Those issues related to record practices are summarised here.

4.41 The Reid report noted the various deficits of the CIS outlined in the previous section. It also observed the lack of consistency in file keeping practices across the Department, the result of an absence of guidelines including what information is to be maintained on files. The report noted that many files are not kept secure and many officers keep their own files, and attributed these problems at least in part to inadequate resources and time for file

¹⁴⁴ NSW Ombudsman, op cit, p. 14

¹⁴⁵ Ibid.

¹⁴⁶ Confidential evidence

¹⁴⁷ Chisholm evidence, Family Court of Australia, 6 November 2002

upkeep. The report also observed the substantial increase in paperwork requirements resulting from the 1998 Act. While these perhaps rectify previously inadequate documentation of decisions, they are onerous for caseworkers, who feel that they do not have enough administrative support to do this work.¹⁴⁸ The issue of administrative support for casework is explored in greater detail in Chapter 5.

4.42 In response to these issues of concern, the Reid report suggests that the Department make a number of improvements including:

- The enforcement of one single and standardised approach to file keeping across all CSCs, using a centrally determined minimum requisite content of files
- Providing training to CSC staff on this standardised model
- Monitoring compliance with the model
- Reviewing the case for recreating additional administrative positions in order to reduce the amount of time caseworkers spend on paperwork and general administrative tasks.

4.43 Given the defective file keeping and record systems that have been widely documented, and the potential these have both for poor client outcomes and for a continued perception of resistance to scrutiny, the Committee endorses the Reid report's suggestions.

4.44 The Department's submission notes that the new Records Management System is to be introduced in parallel with the new CIS via the NSW businesslink system to operate across a number of human service agencies.¹⁴⁹ Dr Shepherd told us that assuming Treasury approval for this system, installation will occur from mid 2003, but will take a number of years to complete. In the meantime, the Department is seeking to address its file keeping practices by trialing a standardised file cover sheet, which is expected to be implemented across the State in early 2003.¹⁵⁰

¹⁴⁸ Reid, *op cit*, pp. 8-12

¹⁴⁹ Submission 248, Department of Community Services

¹⁵⁰ Shepherd evidence, Department of Community Services, 29 November 2002

Recommendation 23

The Department of Community Services should implement each of the suggestions of the Reid inquiry in relation to file keeping practices, records management and the reduction of paperwork. In particular, the Department should:

- Centrally determine the minimum requisite content of each file and implement this consistently across the State
- Train all Community Service Centre staff in these new practices
- Monitor compliance through random file audits in all Community Service Centres.

The suggestions of the Reid inquiry are listed in Appendix 3.

Financial management systems

- 4.45** One final administrative system warranting further discussion is that of financial management. While there has not been a great deal of evidence before this inquiry on systems for financial management, we note their significance for the effective functioning of DoCS and the non-government organisations it funds. There are three key issues that should be noted.
- 4.46** First, the Department needs to establish unit costings for all of the work that it does throughout its intake, assessment and case management functions. This is essential to developing accurate and meaningful estimates of the resources – in terms of both funding and caseworkers – that the Department requires to meet demand for its services. The report of the Kibble Joint Working Party notes that the recent implementation of a new financial management system in DoCS enables such information extraction, but before this can occur the Department and Joint Working Party need to decide exactly how demand for services is to be conceptualised. The Demand Sampling Project underway through the continued activity of the Joint Working Party is a step towards that end.
- 4.47** Second, the quarantining of resources the Director-General indicated will accompany the Department's structural separation into the three Directorates of Prevention and Early Intervention, Child Protection, and Out-of-Home Care¹⁵¹ must be supported by the Department's financial management systems, in order to ensure true quarantining and financial accountability at the local, regional and central levels.
- 4.48** Third, the Department's financial systems need to support a broader focus on outcomes for children and families. Examples of current difficulties in this area were provided by the Children's Commissioner, who gave evidence that it can be difficult to arrange for more than one agency to jointly contribute to the costs of implementing case plans for shared clients such as children with disability who are in out-of-home care, young people in State care who enter the juvenile justice system and homeless young people seeking support

¹⁵¹ Shepherd evidence, Department of Community Services, 19 August 2002

from Centrelink.¹⁵² Similarly, caseworkers told us that a lack of flexibility in financial arrangements and approval processes stopped some children and families from getting the supports that they needed in a timely way. This is an important reminder that systems should never be an end in themselves but exist in order to assist the Department to provide a quality service.

Recommendation 24

The Department of Community Services should ensure that its financial management systems support:

- The development of unit costings for the Department's work across intake, child protection and out-of-home care
 - Effective quarantining of resources between the three Directorates of the Department
 - A systemic focus on outcomes for children and families.
-

Conclusion

4.49 Establishing effective administrative systems is essential to modernising the Department, improving its service delivery, and improving its capacity for planning and budget enhancement. The Committee reiterates an important point made by the Ombudsman and in both the Reid and Kibble reports that information systems will only be effective if staff are adequately resourced to maintain their electronic and paper files. Similarly, there needs to be sufficient time and resources allocated for new staff to be properly trained in using systems. Without these measures, the Department risks the consistency, completeness and accuracy of its information, whether in the CIS or in case files.

4.50 We also note an important caution in the Joint Working Party's report, that an 'underlying problem' of accountability must be addressed if new information systems, both electronic and paper-based, are to work effectively.¹⁵³

4.51 There needs to be a clear line of accountability within the Department for information systems and procedures. We note that under the new Departmental structure, the responsibility for Information Management and Quality Assurance will rest with the Executive Director, Governance, while Information Technology will be among the responsibilities of the Executive Director, Corporate Services. These two arms must be closely coordinated if the desirable outcomes for information management in DoCS are to be realised. As many government agencies will attest, the challenges of information management in human services are many, and it is vital that the development and maintenance of systems be driven by policy and planning, rather than the reverse.

¹⁵² Calvert evidence, NSW Commission for Children and Young People, 20 May 2002

¹⁵³ Joint Working Party on NSW Department of Community Services, op cit, p. 15-16

Chapter 5 Intake and assessment

At the time this inquiry commenced, the Department was dealing with a massive increase in demand and was seen to be doing so poorly. At the same time, the Department lacked clarity as to what was behind the demand and how it could be dealt with effectively. This chapter looks at the systems for receiving and assessing reports of children and young people at risk of harm. A robust system of intake and assessment is a critical element of an effective child protection system, yet it is complex to achieve. The majority of witnesses to this inquiry expressed frustration in relation to their dealings with the Department's current system of intake, the Helpline. In this chapter we examine these problems and consider the way forward for the Helpline. We also examine assessment processes, the Priority One policy, unallocated cases and the need for additional supports in Community Service Centres (CSCs).

Pressure on frontline staff

- 5.1 The volume and nature of work in the child protection system have changed markedly over the past ten years. These changes have had a profound impact on professional service delivery, particularly for frontline DoCS staff. The system's net has been broadened by a better understanding of the impact of chronic neglect and child maltreatment, particularly in the early years. At the same time, changing community attitudes, increased community awareness and greater professional knowledge have all increased the number of children coming to the attention to the system.
- 5.2 The 1998 Act reflected this change in approach to child welfare, spelling out the legal underpinning of a broader mandate for service delivery. In addition, the Act brought with it additional requirements for staff in relation to record keeping and documentation, thus increasing their administrative load.
- 5.3 As we have explored in previous chapters, since the introduction of the Act there has been a substantial increase in the volume of reports to the Department of children and young people at risk of harm. There is little clarity at present on the extent to which this increase in demand reflects an actual increase in abuse, increased public awareness, changes in reporting requirements and intake processes, or better data capture.
- 5.4 Whatever the case, the impact of this demand on frontline staff at the Helpline and particularly in Community Services Centres (CSCs) has been significant. Yet at the time this inquiry commenced, the inadequacy of the Department's data collection systems meant that it had no way of measuring the impact of demand on caseworkers and the system as a whole. As noted in Chapter 4, the Kibble Joint Working Party observed that by simply counting 'contact reports' made to the Helpline, DoCS had no measure of the time required to process reports, undertake investigations or assessments, or carry out ongoing casework tasks.
- 5.5 Until very recently, the growth in demand has not been accompanied by additional staffing resources. Further resource requirements will not be known until the Joint Working Party's current work is completed.

5.6 In the sections below, we discuss the implications of the increase of demand for the Department's service delivery in relation to its child protection work, both through the process of intake at the Helpline and the assessment and other tasks of CSCs.

The intake system

Establishment of the Helpline

5.7 The Helpline was established in December 2000 as the single entry point for all reports concerning the safety, welfare or wellbeing of children, and as the primary entry point for requests for assistance.¹⁵⁴ It was introduced as a result of calls from bodies such as the Child Death Review Team, the Community Services Commission and the Wood Royal Commission for a single child protection intake system. Prior to the Helpline, each of the local CSCs was responsible for, and devoted significant resources to, the process of intake.

5.8 The Helpline was designed to provide:

- A consistent response to reports across the State
- Easy access for the public to information and assistance
- A single reporting line for mandatory reporters
- A better mechanism for data collection and monitoring.

5.9 At the time, Minister Lo Po' envisaged:

It is going to give us a road map to what is happening in this State to children and what is happening with their abuse. ... The overall objectives of the Helpline are to improve consistency, improve service delivery and, consequently, improve performance and efficiency.¹⁵⁵

5.10 Essentially the Helpline was established as a triage system where reports and requests for assistance are sifted, and where reports are rated according to risk and then referred to CSCs for response.

¹⁵⁴ Sections 20 and 21 of the Act provide for children, young people and families to make 'requests for assistance from the Director-General'. In the case of a parent, this may be in order to 'enable the child or young person to remain in, or return to, the care of his or her family'. Section 22 establishes that in responding to a request for assistance, the Director-General can provide services, or arrange for another agency to provide services, including assessment of risk or need, service coordination, counselling, family support, respite, health services and children's services. Section 113 allows for other persons to seek assistance where there is 'serious and persistent conflict' or where parents are 'unable to provide adequate supervision'.

¹⁵⁵ Lo Po' evidence, Budget Estimates, General Purpose Standing Committee No. 2, 22 June 2001

The intake process

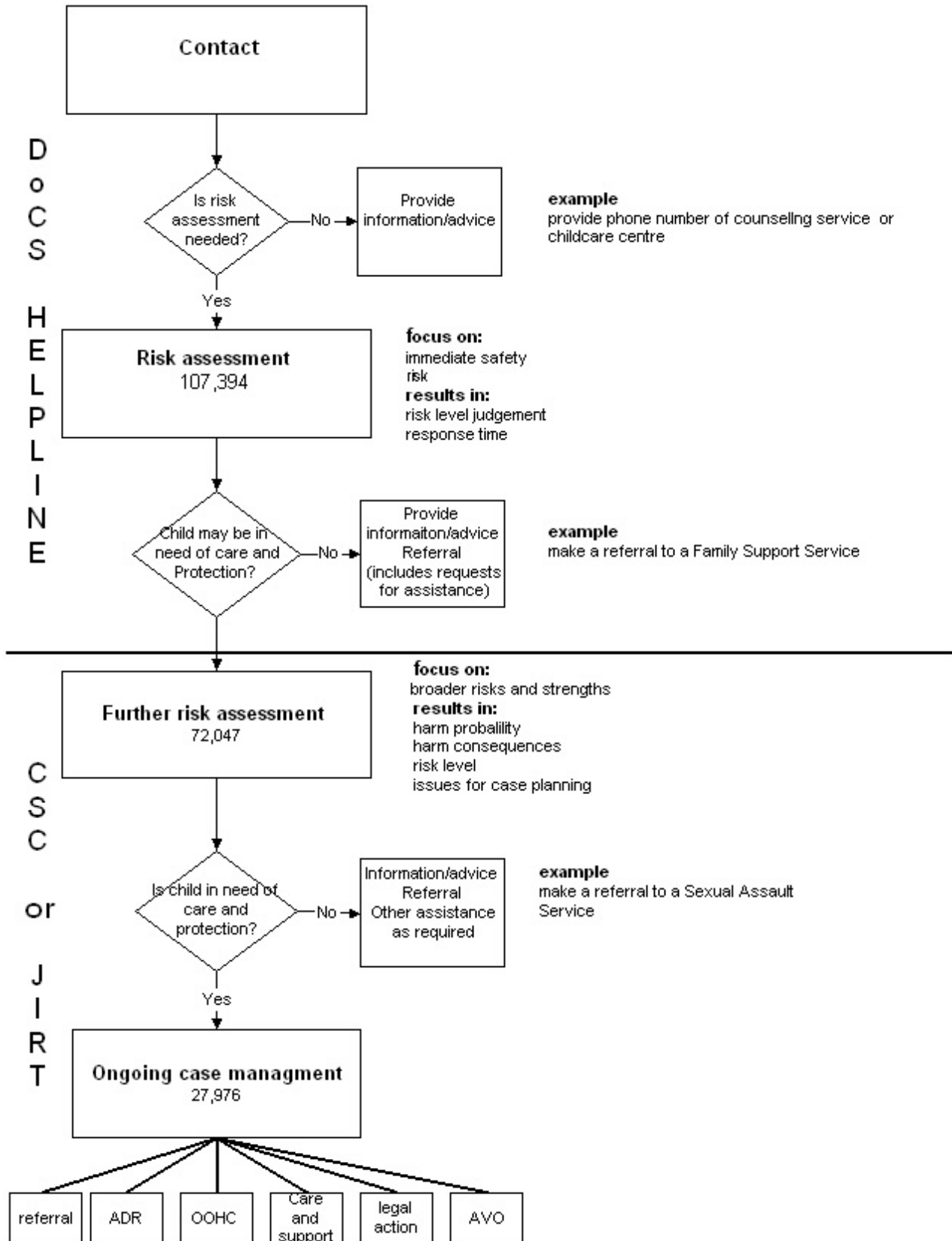
- 5.11** The Department's submission to our inquiry outlines its intake and response processes. Chart 5.1, taken from that submission, presents this process in visual form.
- 5.12** When Helpline staff receive a report they conduct an initial risk assessment with twelve safety questions, using the information provided by the caller and any information contained in the Client Information System. After examining both the urgency of the case and the risk of harm to the child or young person, each report is classified into one of four response levels:
- Level 1 requires a response within 24 hours of referral to the CSC and may necessitate an immediate response if the level of risk is considered very high. Within this level there are degrees of urgency: some require a 'drop everything' response involving the police, while others require intensive investigative work that may not involve contact with the child within 24 hours
 - Level 2 requires a rapid response within 72 hours due to serious safety concerns
 - Level 3 requires a response within 5 to 10 days
 - Level 4 requires a response at some stage after 10 days, with these requests typically being for 'information only' about appropriate services.¹⁵⁶
- 5.13** On the basis of this risk assessment, the Helpline caseworker develops an initial Required Action Plan (RAP) identifying some of the tasks to be completed in the secondary assessment.¹⁵⁷ If the initial assessment is that the child 'may be in need of care and protection', the case is referred to a CSC or Joint Investigation and Review Team (JIRT) for a more comprehensive Secondary Risk of Harm Assessment. The details of the report and RAP are entered in the CIS and cases requiring action are transferred to the relevant CSC. Where a case has been assessed as requiring an urgent response, its details are also telephoned through to the relevant CSC or JIRT.
- 5.14** The DoCS submission explains that if, as a result of the Secondary Risk of Harm Assessment, the child is assessed as not in need of care and protection, appropriate support and referral is provided and the case is closed. The issue of assessment is discussed below.

¹⁵⁶ Submission 248, Department of Community Services, p.11

¹⁵⁷ A Required Action Plan is not prepared for reports classified as 'intake only', that is reports not requiring secondary assessment or investigation: Submission 248, Department of Community Services; Joint Working Party on NSW Department of Community Services, *Demand for DoCS Services and Management of the Intake and Casework Process: Final Report*, Price Waterhouse Coopers, 21 June 2002

Chart 5.1: Department of Community Services process of intake and response

Source: Submission 248, Department of Community Services, p.13



- 5.15** If a child is assessed as in need of care and protection, ongoing casework services may be provided, either by DoCS or by another agency, with options for action including referral, alternative dispute resolution, out-of-home care, care and support, care proceedings in the Children's Court and/or an Apprehended Violence Order.¹⁵⁸

Feedback about the Helpline

- 5.16** The Helpline has generally been successful in its objective to improve consistency of intake. According to many participants, however, it has been less successful in improving the Department's service delivery, performance and efficiency. This is indicated in the range of problems identified by participants in our inquiry. Participants told us that:

- There are long call waiting times before contact is actually made with a caseworker
- Reporters receive little or no feedback on reports, which means they have to follow them up themselves or are left not knowing the outcome for their clients
- There is some double handling of reports during the assessment process
- Urgent cases may not receive a speedy response and some reporters find it necessary to contact their local CSC to ensure that these cases are attended to
- Ratings ascribed to reports by the Helpline are not always accurate and may be revised at the CSC
- The Helpline has weakened local connections between CSCs and other agencies in the community
- The quality of Helpline risk assessments has been affected by the absence of local knowledge about particular families and children
- There has been a significant drop in referrals to agencies such as family support services since the Helpline was established
- Reports made by fax (available for mandatory reporters) often receive no response
- The capacity of the Helpline to deal effectively with requests for assistance is unclear
- Casework resources have not been freed up at the local level as anticipated.

- 5.17** As we noted in our interim report, the range of concerns about the Helpline point to the basic tension that exists between the need to handle a high volume of reports and to provide a quality service to CSCs, reporters, children and young people, and families. This tension is reflected in many participants' questioning of the appropriateness of the call

¹⁵⁸ Submission 248, Department of Community Services, p.11-14

centre model for human service delivery, and more particularly, child protection assessment.

- 5.18** There has also been concern among some participants that the Helpline, which now costs \$15 million annually to run,¹⁵⁹ has drawn considerable resources away from other aspects of the child protection system. The Community Services Commission notes that resources for the Helpline have steadily increased since its establishment in response to implementation problems and overwhelming demand. Despite this steady increase, there is concern that the Helpline is not yet an effective intake system.¹⁶⁰

Reasons for Helpline problems

- 5.19** One of the architects of the Helpline, the Department's former Executive Director of Child and Family Services, Ms Carol Peltola, told the Committee that it was anticipated that the Helpline's success would rest on three elements: highly experienced staff, effective training and an efficient information system. Nevertheless, it commenced without any of these.¹⁶¹
- 5.20** Inexperienced staff were recruited and the training was not as comprehensive as it should have been.¹⁶² The initial staffing level at the Helpline totalled 88 operational staff including 55 caseworkers, 13 team leaders and 20 customer service officers.¹⁶³ It became clear very quickly that this level was inadequate to deal with demand. While the Committee accepts that it may have been difficult for the Department to predict the increase in the number of reports after the introduction of the Helpline, we believe the response to increasing staffing numbers has been far too slow. The total target number of Helpline caseworkers has since been revised to 130. Dr Shepherd has advised that there are presently 91 caseworkers,¹⁶⁴ with further recruitment underway to reach the target. He also noted that the turnover rate for call centres is 30 percent annually.¹⁶⁵ The Department has recently engaged the services of a recruitment agency to assist in the task of recruiting suitably qualified and experienced staff.¹⁶⁶
- 5.21** The Client Information System is widely acknowledged as a significant obstacle to the effective operation of the Helpline, given its slowness and its inability to hold all the information necessary to inform risk assessment. While the Department's intention was to

¹⁵⁹ Submission 189, ACWA; Submission 241, Community Services Commission

¹⁶⁰ Submission 241, Community Services Commission

¹⁶¹ Peltola evidence, 24 October 2002

¹⁶² Peltola evidence, 24 October 2002

¹⁶³ These figures do not include clerical staff and an operations manager

¹⁶⁴ Department of Community Services, Correspondence, 3 December 2002

¹⁶⁵ Shepherd evidence, Department of Community Services, 29 November 2002

¹⁶⁶ Department of Community Services, Correspondence, 2 December 2002

introduce the Helpline in conjunction with a new CIS this did not occur.¹⁶⁷ As detailed in Chapter 4, a new system is expected to be operational from mid 2003. In the meantime an interim system is in place, but staff report that it is very inefficient.¹⁶⁸

5.22 The Department's submission identifies a number of problems, in addition to the CIS, in the way the Helpline was introduced:

- The Department introduced too much change, that is, the Helpline, mandatory reporting and significant casework practice reforms, simultaneously
- The Department failed to predict the huge increase in reports that accompanied the proclamation of the new Act, particularly its provisions concerning mandatory reporting
- It also did not anticipate the lengthy call waiting times that occurred when the Helpline commenced
- Some Departmental staff resisted the introduction of the centralised system.

5.23 The Kibble Joint Working Party also identified significant difficulties with the Helpline:

There is a lack of clarity in the roles of the Helpline and CSCs respectively. The Helpline was originally established along 'pure' call centre lines, with a focus on screening calls and passing on work to the CSCs where an [investigation or assessment] was deemed necessary. The clear distinction in roles has, over time, disappeared and the Helpline has gradually adopted more of a traditional CSC role ... The planned clear distinction in roles has proved difficult to articulate, much less administer.¹⁶⁹

5.24 At the same time, the absence of any clear data on demand has significantly hindered the capacity of the Department to understand exactly what comprises the massive and steadily growing volume of reports made to the Helpline, and which in turn drive demand at CSCs.

The future of the Helpline: central versus local

5.25 At present there is limited support from mandatory reporters and others for the retention of the centralised Helpline. Those who do support the Helpline do so on the basis that the centralised intake model:

- Provides a clear indication of demand

¹⁶⁷ Submission 248, Department of Community Services

¹⁶⁸ Supplementary Submission 199, Public Service Association

¹⁶⁹ Joint Working Party on NSW Department of Community Services, *Demand for DoCS Services and Management of the Intake and Casework Process: Final Report*, Price Waterhouse Coopers, 21 June 2002, p.vii

- Enables standardisation of assessments
- Offers anonymity, which is particularly important in rural and regional areas
- Assists in breaking down entrenched local prejudices about families.

5.26 Some witnesses remain optimistic about the capacity of the Helpline to be an effective central intake system. Ms Carol Peltola argued that with effective links between the Helpline and CSCs in place:

I still believe if you have the right number of staff who are adequately trained, with an information system that is easy to use and that works, I cannot see why the Helpline cannot work ...¹⁷⁰

5.27 In recent evidence the Director-General told the Committee he remains committed to the Helpline for the time being:

... because I do not believe we have tested it. It has significant advantages as well as significant disadvantages ... We have to make it work better than it is working. We need to get it fully staffed before we can fully develop its potential and then we need to review it to see whether minor or major changes will make a difference.¹⁷¹

5.28 Dr Shepherd also indicated that some efficiency improvements are underway in relation to intake systems for mandatory reporters. The Department is canvassing better systems for managing faxes, and may abandon them altogether as they are the least effective form of report. DoCS is also negotiating access to the police database, as well as a trial of receiving reports from teachers via email.¹⁷²

5.29 The Committee notes that the outcomes of the Kibble Joint Working Party will almost certainly have an impact on the way the Helpline's business is conducted. The Joint Working Party is examining the work that comes into the Helpline, how it is processed, and what is sent from the Helpline to CSCs. It is explicitly considering how those processes might be organised differently so that the Helpline is more effective in managing demand.¹⁷³

5.30 A large number of stakeholders do not believe that the Helpline can be an effective intake system. While acknowledging the benefits of a standardised approach, the Community Services Commission points to the 'inherent risks and potential inefficiencies of centralising intake' and creating an additional step in the process of taking and responding to reports. These risks and inefficiencies are reflected in many of the problems listed above

¹⁷⁰ Peltola evidence, 24 October 2002

¹⁷¹ Shepherd evidence, Department of Community Services, 29 November 2002

¹⁷² Ibid.

¹⁷³ Ibid.

such as double handling and weakened referral mechanisms.¹⁷⁴ The Commission and others also stress the critical importance of local relationships and knowledge for effective assessment of reports, and the need to re-establish effective interagency relationships:

The establishment of the Helpline has definitely been a central factor in the fracturing of the relationship between the workers of DoCS and agencies.¹⁷⁵

5.31 Dr Judy Cashmore concentrates on the deficiencies of the call centre model, with its focus on throughput and use of quotas:

Experience at intake is essential to quality assessments and action plans, but the most dedicated and experienced staff are unlikely to want to spend all their working time in a call centre. Thus there is likely to be a systemic problem in the uneven quality of intake assessments and action plans ... Call centre work is not very attractive work, whatever the industry.¹⁷⁶

5.32 Dr Cashmore points to the inevitable inefficiencies of call centres when a premium is placed on long-term experience but turnover and training costs are high. She also notes that both quality initial assessment and referral require local knowledge, but this is not available to the Helpline. CSCs generally have a core group of high needs families in their area on which their work tends to concentrate. Their knowledge of this group is extremely useful in assessing the significance of reports of risk to those children. Similarly, in her view, effective referrals and follow-up require a detailed understanding of the strengths, limitations and capacity of all service providers in an area.¹⁷⁷

5.33 On all these grounds, many in the community sector are calling for a return to a localised intake model. They believe that the advantages of the centralised model could be maintained at the local level provided that appropriate systems and procedures were in place to ensure consistent intake processes across the State and clear data on demand. Participants noted that in a localised model there would still be the need for an after-hours service and some centralised point of intake for callers seeking anonymity.

The Committee's view

5.34 In the Committee's view, one of the positive outcomes of the Helpline and the debate that has accompanied it is the recognition of intake as a critically important process in child protection. Before the Helpline, this process was under-valued and under-resourced. Similarly, the standardised processes used at the Helpline have introduced consistency and greater transparency.

5.35 We believe there is some merit in proposals for a localised but standardised intake system. However, it is impossible at present to fully understand the causes of the Helpline's

¹⁷⁴ Submission 241, Community Services Commission

¹⁷⁵ Caseworker, confidential evidence

¹⁷⁶ Supplementary submission 243, Dr Judy Cashmore and Professor Patrick Parkinson

¹⁷⁷ Ibid.

problems and thereby design a more effective intake system. The Department's poor data on demand, and the absence of an evaluation framework for the Helpline, mean that it is difficult to discern which of the Helpline's elements are more or less successful, and therefore to judge which of these elements should stay or go. It is anticipated that the work of the Kibble Joint Working Party will provide useful information for determining the most effective intake system.

- 5.36** We consider it would be unwise to move to a major new model prior to the introduction of the updated CIS from mid 2003. Until the new CIS is fully implemented by the end of next year, the Department will not be in a position to assess how many of the problems of the Helpline are related to the current CIS. Similarly, until the 130 Helpline staff are in place, the Department cannot assess its true capacity.
- 5.37** We believe that the centralised intake model should remain until such time as a full and thorough evaluation, judging both efficiency and cost-effectiveness, is completed. This evaluation should commence as soon as possible, starting before and continuing after the introduction of the new CIS, so that its impact can be effectively measured.
- 5.38** We also urge the Department to ensure that the Helpline is fully staffed, and that staff have appropriate training and experience. We note that the Department cannot afford an annual turnover rate at the Helpline that is equivalent to the call centre average of 30 percent. This suggests the need to investigate staff retention strategies such as higher levels of rotation between CSCs and the Helpline.
- 5.39** However, the Committee considers there is value in undertaking a trial of localised intake. We believe the problems of double handling, local knowledge and relationships and appropriately skilled staff could potentially be overcome by a localised intake system. We propose that a trial occur in all Community Service Centres within an identified region, and that this occur as part of the Helpline evaluation. It would provide a valuable 'case control' comparison of the centralised and local models, particularly in relation to access of clients, quality of assessments, satisfaction among local agencies and overall efficiency. The Helpline itself would provide the necessary after-hours service and centralised point of contact for callers seeking anonymity.

Recommendation 25

The Department of Community Services should undertake a comprehensive evaluation of the Helpline, commencing prior to and continuing after the establishment of the new Client Information System. The evaluation should include a trial of a localised intake model in all Community Service Centres within an identified region. It should include consideration of:

- Timeliness, quality of response and feedback
- Consistency and reliability of assessments
- The extent to which matters are reclassified once assessed by local Community Service Centre staff
- Efficiency in using staff resources, including the extent to which field staff time is freed
- Impact of the new Client Information System
- Adequacy of staff training
- Effectiveness in direct referrals to other services
- Relationships between the Helpline and Community Service Centres and between Community Service Centres and local agencies
- The effectiveness of various reporting mechanisms including phone, fax and email
- Cost-effectiveness.

Mandatory reporting

5.40 The marked increase in demand that occurred after the introduction of the Helpline and mandatory reporting¹⁷⁸ led to the establishment of a system to sift and prioritise the most urgent cases for further investigation and potential intervention, and has resulted in a high number of unallocated cases.¹⁷⁹ The Committee is aware that some are opposed to the principle of mandatory reporting. Dr Frank Ainsworth argues that:

¹⁷⁸ Mandatory reporting refers to the requirements that those working with children must notify DoCS if they have reasonable grounds to suspect children are at risk. Mandatory reporting for some professional groups has existed in New South Wales since at least 1987 and has gradually been extended to a range of other professions; it now includes teachers, police, doctors, child care and family support workers. It does not apply to family members, neighbours or to members of the general public

¹⁷⁹ The number of 'unallocated cases' or cases which receive no further investigation or action once received by a CSC was raised as a matter of great concern and is discussed in detail in the final section of this chapter

Mandatory reporting systems are overburdened with notifications, many of which prove not to be substantiated, but which are time consuming and costly. As a result it is more than likely that mandatory reporting overwhelms services that are supposed to be targeted at the most at-risk children and families who then receive less attention than is required to prevent neglect and abuse. In the final analysis this may be the strongest argument against mandatory reporting.¹⁸⁰

- 5.41** In evidence to our inquiry, Barnardos Chief Executive Officer, Ms Louise Voigt, expressed reservations about mandatory reporting, suggesting the system should focus on particular families at risk, such as families in need of assistance with their child rearing, families who are socially excluded or who have mental health or addiction problems:

You need services for those things. You need to know which are the ones that are likely to be the most dangerous. You cannot do any of this when you are just overwhelmed.¹⁸¹

- 5.42** Others such as indigenous organisations told us that while they fully support the principles of mandatory reporting, the lack of action taken on notifications undermines the process of reporting:

Even if mandatory reporting exists, people still make their own assessment. Unfortunately, some of those assessments are made on the basis that if there is no action, why do it? Why continue to put yourself at risk as a person in a community to notify ... a child at risk when you have to live and work within that community?¹⁸²

- 5.43** Despite these criticisms, mandatory reporting is overwhelmingly supported in New South Wales as an effective mechanism for protecting children from harm:

At the end of the day we would contend that mandatory reporting is a vital development if we are to have any chance of identifying children at risk, and having done that, being able to get services to them. If we cannot identify them, we will not be able to deliver services to those kids and families.¹⁸³

- 5.44** The Department's submission notes that mandatory reporting is now an essential element of the child protection system. However, DoCS identifies some aspects of the current system which are causing problems for both mandatory reporters and DoCS:

These problems relate to wait times, the use of faxes, multiple accountability for reporting within institutions and the level of assessment required before reporting.¹⁸⁴

¹⁸⁰ Ainsworth F, 'Mandatory reporting of child abuse and neglect: does it really make a difference?', *Child and Family Social Work*, 2002, 7, p.62, attached to Submission 7, Dr Frank Ainsworth

¹⁸¹ Voigt evidence, Barnardos, 18 July 2002

¹⁸² Rennie evidence, Aboriginal Child, Family & Community Care State Secretariat, 18 July 2002

¹⁸³ Spence evidence, Association of Childrens Welfare Agencies, 20 May 2002

¹⁸⁴ Submission 248, Department of Community Services

Police and other mandatory reporters

5.45 A number of stakeholders, including ACWA and *UnitingCare* Burnside, have argued for more informed reporting by mandatory reporters, particularly police.¹⁸⁵ As shown in Table 5.1 there was a substantial increase in contact reports from police between 1999/00 and 2000/01.

Table 5.1: Numbers of contact reports by source of reports

Source of report	1999/00	2000/01	Increase
Parent / relative	14,378	20,620	+ 6,242
School education	11,459	15,250	+ 3,791
Preschool / child care	803	1,074	+ 271
Police	19,998	31,466	+ 11,468
Health	9,269	14,928	+ 5,659
Friend / neighbour	5,474	6,873	+ 1,399
Non-government city service	4,087	7,195	+ 3,108
DoCS staff	2,044	2,363	+ 319
Other government departments	1,460	2,470	+ 1,010
Child	657	859	+ 202
Anonymous / other	3,211	4,081	+ 870
Not specified	146	215	+ 69
Total	72,986	107,394	+ 34,408

Source: Derived from percentages in Department of Community Services Annual Reports 1999/00 and 2000/01¹⁸⁶

5.46 The Community Services Commission suggests further analysis is required to determine whether the increase reflects the police practice of reporting on all domestic violence situations where children and young people are present.¹⁸⁷ Detective Superintendent John Heslop told the Committee that the Act's use of the term 'at risk of harm' as the basis for mandatory reporting encouraged a broader interpretation of what should be reported than would the terms 'having been abused', 'having been harmed' or 'having been assaulted'. He acknowledged that the police interpretation is not confined to serious harm or physical

¹⁸⁵ Spence evidence, Association of Childrens Welfare Agencies, 20 May 2002; Woodruff evidence, *UnitingCare* Burnside, 18 July 2002. The evaluation of the Act is discussed in Chapter 9

¹⁸⁶ Submission 241, Community Services Commission, p.19

¹⁸⁷ Police were included as mandatory reporters in the 1998 Act because they were already mandatory reporters as a matter of government policy. The Act identifies domestic violence as a grounds for reporting to the Department, where there is a serious risk of harm to the child or young person

harm, but also includes psychological or emotional harm.¹⁸⁸ The Committee understands that police consider that it is not their role, or within their core competencies, to judge whether risk of harm is serious.

- 5.47** Professor Patrick Parkinson told the Committee that the police are not applying the test of *serious* harm contained in the Act. He also noted that of the 98,400 domestic violence cases reported to police in 2001, approximately 40,500 of these resulted in reports to the Helpline. This massive volume, he says, ‘negates the possibility of sensible response’.¹⁸⁹
- 5.48** Professor Parkinson has suggested that the police should adopt a narrower interpretation of what they should report. He recommends that police be released from their requirements under the Act. Instead, their operating instructions should direct them to report domestic violence situations when children and young people have been *physically harmed*.¹⁹⁰ In addition, he suggests the issue of what to do with those incidents where children have not suffered physical harm but may have experienced psychological harm could be determined through a review process involving independent experts on domestic violence.
- 5.49** More broadly, Table 5.1 points to the impact that mandatory reporting has had on the numbers of reports from a broad range of sources. Both teachers and health professionals are major reporters. The Committee has been advised that these groups are the most reliable category of reporters.¹⁹¹ We also note the significant proportion of parent and relative reporters, which points to the growing community awareness of child abuse and neglect.
- 5.50** In her evidence to the inquiry Minister Tebbutt stated that mandatory reporting is ‘here to stay’, but she indicated that there may be changes arising out of information provided by the Kibble Joint Working Party, particularly in relation to multiple reports and the role of police as mandatory reporters.¹⁹² We also understand that a committee consisting of the Deputy Directors-General of DoCS, Education and Training, Health and Police, and chaired by the Commissioner for Children and Young People, is looking into issues for government reporters, ‘and it is expected that major improvements will flow from this work before the end of 2002.’¹⁹³ As noted earlier in this chapter, Dr Shepherd has indicated that the Department is also seeking to establish more efficient processes for mandatory reporters, including through access to the police database.

¹⁸⁸ Heslop evidence, NSW Police Service, 11 September 2002

¹⁸⁹ Supplementary submission 243, Dr Judy Cashmore and Professor Patrick Parkinson

¹⁹⁰ Ibid.

¹⁹¹ Key stakeholder forum, confidential evidence

¹⁹² Tebbutt evidence, 19 August 2002. For more on the recommendations of the Kibble Committee, see Chapter 4

¹⁹³ Submission 248, Department of Community Services, p.56

The Committee's view

- 5.51** The concurrent expansion of mandatory reporting requirements with the introduction of broader definitions of reporting and the Helpline make it difficult to know what impact mandatory reporting has had on demand. We note that the substantial numbers of parents and relatives among reporters indicate that demand has not simply been driven by mandatory reporting.
- 5.52** In the Committee's view, further work is required to clarify the nature of the reports being made by mandatory reporters. An analysis of the increase in reports from police requires particular attention. We acknowledge that the interpretation currently being taken by police offers greater opportunities for care and protection of children, but like Professor Parkinson we are mindful that these opportunities are not being acted on because the system does not have the capacity to deal with them. At the same time, the great volume of these reports is perhaps undermining the ability of the system to deal with other reports.
- 5.53** The Committee believes that further interrogation of data is necessary to determine whether there is a need for more informed reporting by police, or amendments to the Act to refine police reporting requirements. We note that this is occurring through the Kibble Joint Working Party. At the same time, the Department should liaise with the range of relevant agencies, and particularly police, to consider their reporting patterns and processes.

Recommendation 26

The Department of Community Services should liaise with relevant NSW Government agencies to ensure that all government mandatory reporters have a clear understanding of their reporting requirements under the *Children and Young Persons (Care and Protection Act) 1998*. In particular, the Department should liaise with the NSW Police Service concerning their reporting requirements in relation to incidents of domestic violence where a child is present.

Assessment

The process of assessment

- 5.54** Mandatory reports and other reports to the Department do not just mean work at the Helpline. As Chart 5.1 indicates, a key task of the staff of Community Service Centres and Joint Investigative Response Teams is to conduct a Secondary Risk of Harm Assessment of children and young people determined by the Helpline as 'may be in need of care and protection'. The Department's submission explains that during this process, caseworkers gather and analyse information on the child and family, often in liaison with health, education or non-government services. This information is used to assess the immediate safety of the child, along with the likelihood and consequences of future harm, and to determine whether the child *is* in need of care and protection. One of the following will be concluded:

- The child or young person is not at risk of harm and not in need of care and protection
- Harm or risk of harm is indicated, but the child is not in need of care and protection. In this case additional services such as counselling or family support may be provided
- Harm or risk of harm is indicated and the child is in need of care and protection.

5.55 If either of the first two options is determined, the case may be closed permanently without further action. If the assessment determines that the child is in need of care and protection, and there is a risk of serious physical or emotional harm or neglect, the Department may obtain a court order to remove the child from his or her family under the Act and place him or her in out-of home care. Other options for intervention include referral, alternative dispute resolution, care and support, legal action and use of Apprehended Violence Orders.¹⁹⁴ As shown in Chart 5.1, these children and young people receive ongoing case management from the Department.

Balancing risk, needs and strengths

5.56 High quality assessments are central to an effective and responsive child protection system. However, according to the NSW Ombudsman, risk assessments are not always being completed at CSCs in accordance with DoCS guidelines:

On many of the files we have examined, there is no documentation with respect to the process or outcome of risk assessment. It is therefore unclear whether a risk assessment has not been carried out or has been conducted but not documented. Neither situation is satisfactory.¹⁹⁵

5.57 The findings of the Child Death Review Team *2001-2002 Report* highlighted a number of problems concerning the Department's assessments. The Child Death Review Team found that of the child deaths that were related to abuse and neglect:

Not one of the 21 children ... received ongoing care and support services. Workers were caught in an intervention cycle that focused on reports of risk of harm and immediate issues that flowed from each of these reports. Trapped in this recognise-report-assessment cycle workers never progressed to the point where they seemed able to focus on the long term needs of the child of (sic) their family.¹⁹⁶

5.58 Evidence to our inquiry also questioned the adequacy of the Department's assessment processes. Several witnesses suggested that defining all reports in terms of 'risk' rather than

¹⁹⁴ Submission 248, Department of Community Services

¹⁹⁵ NSW Ombudsman, *DOCS – Critical Issues. Concerns arising from investigations into the Department of Community Services*, April 2002, p.16

¹⁹⁶ NSW Child Death Review Team, *2001-2002 Report*, NSW Commission for Children and Young People, 2002, p.120

‘support needs’ is unhelpful. For each assessment at the Helpline and at the CSCs, the matter of risk is considered and classified:

Therefore, we have 160,000 or 170,000 calls classified as involving risk, and many of the level fours and level threes would be much more usefully understood as families in need.¹⁹⁷

- 5.59** Witnesses suggested that a range of different assessments may be required and that while some families will require a less extensive assessment, other families will require a more comprehensive approach:

I do not think it is a problem that someone spends two weeks doing a risk assessment ... If we are talking about DoCS role as the lead agency in child protection, it has no option but to do good quality risk assessment.¹⁹⁸

- 5.60** Other participants suggested that risk assessments should have a broader, multidisciplinary approach to assist caseworkers to address the support needs of families, particularly high needs families such as those facing drug and alcohol misuse, domestic violence or mental illness. As noted in Chapter 3, this could be facilitated through additional caseworker training and professional development.

- 5.61** The implementation of the Secondary Risk of Harm Assessment Framework, the principal assessment tool for CSC caseworkers, commenced earlier this year. The Framework is an attempt to shift the emphasis from an incident-based assessment to one that incorporates an analysis of the risk of harm within broader consideration of the service and support needs and the strengths of families. While the Framework has the in-principle support of many witnesses including the Community Services Commission, concern was expressed about its capacity to be effectively implemented without addressing issues of high volume workloads, inexperienced caseworkers and inadequate clinical supervision. Several participants questioned compliance levels with the Framework across CSCs. The Child Death Review Team has highlighted the absence of monitoring of caseworkers’ use of the Framework and has referred this for our attention.¹⁹⁹

The Committee’s view

- 5.62** There is clearly a need to ensure comprehensive and effective assessments. In our view, in addition to addressing workload issues, there must be a change in both thinking and practice across all levels of the Department. We note that the very terminology of ‘risk assessment’ reflects a previous mindset. While there will always be a need for the assessment of risk, particularly for the serious cases of abuse and neglect (for example, priority ranking Level 1 and 2 situations), a needs-based assessment of all cases is necessary to properly determine and address the needs of families, children and young people. As we were told by Dr David McConnell:

¹⁹⁷ Key stakeholder forum, confidential evidence

¹⁹⁸ Key stakeholder forum, confidential evidence

¹⁹⁹ NSW Child Death Review Team, op cit, pp.152-154

They are asking the wrong question. The more honest question would be: what kind of support and what amount of support will it take to ensure the safety and wellbeing of this child? If we are unable to provide that level of support, then when that child is 16 and is leaving care they can go back and look at their records and say, 'Okay, I understand the State at that time was unable to provide my mum or dad with the support they needed at that time.' That would be the more honest approach.²⁰⁰

- 5.63** An approach that really does seek to identify and harness the strengths of children and families is essential to a system that prioritises early intervention and prevention. It is also necessary to ensure that there are sufficient secondary and tertiary services in place to provide the supports that the assessment identifies as required.
- 5.64** The Child Death Review Team has also referred for our consideration its concern that DoCS 'has no [assessment] practice that prioritises neglect as an issue'.²⁰¹ We agree that it is essential that assessments give adequate consideration to neglect. There is a considerable body of research that sustained neglect, particularly of young children, has damaging and lifelong consequences. In our view, a needs and strengths-based approach to assessment and response will be particularly beneficial for families characterised by chronic neglect, as well as those with higher needs.
- 5.65** Achieving a shift in assessments to ensure that they focus on needs and strengths will, in the Committee's view, go a long way to achieving the cultural and structural shift towards prevention and early intervention that both we and the Director-General are seeking.
- 5.66** We believe the successful implementation of the Secondary Risk of Harm Assessment Framework will depend on clear and consistent policy and procedures, adequate training and clinical supervision. We note that the Department is currently looking at how the Framework can be consolidated and strengthened to provide a 'higher level of consistency'.²⁰² Assessment practices should be monitored and where necessary, changes made to reflect best practice. In its ongoing research and evaluation, the Department should investigate the adequacy of the Framework to determine whether there needs to be a broader multidisciplinary approach. In the Committee's view, each of these endeavours is necessary to ensure the full realisation of the Framework's aim that assessments consider not only immediate risk but also the support needs and strengths of families.

²⁰⁰ McConnell evidence, 5 November 2002

²⁰¹ NSW Child Death Review Team, op cit, pp.142-143

²⁰² Submission 248, Department of Community Services, p.14

Recommendation 27

The Department of Community Services should ensure that the aim of the Secondary Risk of Harm Assessment framework is fully realised, so as to shift practices from incident-based assessment of immediate risk to analysis of risk within the broader context of the support needs and strengths of families. To achieve this, the Department should ensure:

- Policies and procedures are consistently adhered to across all Community Service Centres
 - All staff receive comprehensive training and clinical supervision
 - Monitoring of assessment practices occurs and changes reflecting best practice are implemented
 - Assessment practices explicitly address neglect
 - Research and evaluation is undertaken, particularly on the need for multidisciplinary teams or a broader multidisciplinary approach to assessments by Departmental caseworkers.
-

Priority One and unallocated cases

5.67 Many of the cases that are referred to CSCs from the Helpline do not receive a Secondary Risk of Harm Assessment. The permanent closure of cases without further investigation by CSCs through the Priority One policy has been raised as a matter of great concern by many participants in this inquiry.

5.68 The Department has explained the policy as follows:

When a case comes into a CSC, it is examined and assessed by a Casework Manager to determine its priority for action against other incoming cases and the existing workload in the Office. If, after 28 days the case has not reached sufficient priority to be allocated to a caseworker, it is then reviewed to determine whether to make a recommendation to the Manager Client Services to close the file. The recommendation is either confirmed (file closed) or it remains open. In some CSCs an initial independent review by a second Casework Manager is inserted before the recommendation to the Client Services Manager. There are at least two and possibly three assessments made by different senior officers before a case can be closed under this policy.

The reason for the existence of the policy was to manage workload in Offices in a consistent manner and to prevent individual caseworkers from having to make decisions about prioritising workload in potentially life-threatening situations.²⁰³

²⁰³ Submission 248, Department of Community Services, p. 57-58

Concerns about Priority One

5.69 The Community Services Commission has raised a number of significant concerns about Priority One, including that its criteria for closure appear inconsistent with the statutory responsibilities of the Department, and there is no guarantee that the risk to the child diminishes simply through the passage of time.²⁰⁴ Moreover, in the Commission's view, the policy does not acknowledge the more fundamental need to reduce the number of unallocated cases, or to gain additional resources to enable the Department to fulfil its statutory responsibilities.

5.70 Priority One is essentially a tool by which DoCS rations its resources, and the Department acknowledges it as such:

The review of Priority One will be done in conjunction with the other Kibble Committee projects to ensure that the outcome is a logical system for managing workload in a demand-driven environment ... there will never be enough resources to do everything we or the community want and we have to manage within that context in the most effective way possible.²⁰⁵

Attacking the policy seems to me to be missing the mark. The issue is really about the dramatic increase in demand and the ability of the Department of Community Services to service those massive increases in demand.²⁰⁶

5.71 The Department has indicated that Priority One is under review²⁰⁷ but it is the Committee's understanding that in the interim it is continuing as operational policy throughout all CSCs. As part of this review the practices of other jurisdictions are being surveyed.²⁰⁸

5.72 The Community Services Commissioner told the Committee:

We understand very clearly that Priority One is a work management tool but it is an unacceptable tool that entrenches bad practice and normalises it as good practice. It is overwhelmingly clear from all reports that Priority One has led to a situation where the vast majority of cases that get to the CSC are closed without further active involvement. That is now clear. What is more concerning is that at first we thought they would only be Level 4 or Level 3 cases; it now appears overwhelmingly that a number of Level 2 cases, which are meant to be dealt with in a very prompt way, are also not being followed up adequately.²⁰⁹

²⁰⁴ Submission 241, Community Services Commission

²⁰⁵ Submission 248, Department of Community Services, p. 58

²⁰⁶ Shepherd evidence, Department of Community Services, 19 August 2002

²⁰⁷ Submission 248, Department of Community Services

²⁰⁸ Department of Community Services, Correspondence, 2 December 2002

²⁰⁹ Fitzgerald evidence, Community Services Commission, 19 August 2002

The Committee's view

- 5.73** The Committee notes that, the Director-General indicated that preliminary figures from an audit of responses to Level 1 cases found that around 50-60 percent had had 'face to face contact' with the Department.²¹⁰ That the remaining 40-50 percent of the most urgent cases, where the child has been assessed as needing an 'immediate response', had no such contact with a Departmental officer is a matter of extreme concern to this Committee. We believe that every Level 1 case, where 'risk levels are very high' and every Level 2 case, where 'serious safety concerns'²¹¹ are present, should be subject to a Secondary Risk of Harm Assessment.
- 5.74** While there is some evidence that a proportion of cases are downgraded when they reach CSCs,²¹² the Committee is deeply concerned at the implications of closing files for the children and families involved and finds it unsatisfactory that the Department closes cases with no further investigation or action. Behind each of these cases is a real child or young person who is likely to have been abused or neglected, or a parent who requires support in order to more effectively care for their child. The decision not to investigate a report further, especially when it has been given a Level 1 or Level 2 rating, leaves children and young people at risk of harm.
- 5.75** Correspondingly, we share the view of the Community Services Commission that the closure of cases initially assessed as at risk of abuse runs counter to the Department's statutory responsibilities to protect children from harm. There is an inherent contradiction in a system that compels people to report abuse and then does nothing about a major portion of those reports. The Government must adequately resource its system of mandatory reporting.
- 5.76** We noted in our interim report that many of the unallocated Level 3 and 4 cases are missed opportunities for early intervention through the provision of advice and support by DoCS or by other support agencies. As has been suggested by the Director-General, a substantial number of these cases simply do not need to reach CSCs, but would be much better sifted and dealt with at the Helpline.²¹³ Dr Shepherd told the Committee that his aim is to have all Level 4 cases dealt with at the Helpline, by providing direct referrals from there. As noted in Chapter 2, Dr Shepherd also indicated that ideally he would like to have designated CSC staff for dealing with Levels 3s.
- 5.77** We believe the Department needs to build the capacity of CSCs to respond to the full range of reports. CSCs must be able to respond to crises quickly, and also to provide timely and appropriate assessments to families where there are issues of parenting capacity or neglect, but they have not yet reached the stage of 'serious risk of harm'. At the same time,

²¹⁰ Shepherd evidence, Department of Community Services, 19 August 2002

²¹¹ Submission 248, Department of Community Services, p. 11

²¹² In the September 2002 quarter, 9 percent of initial assessments had their response time redesignated by a CSC, 8.5 percent were redesignated downwards and 0.4 percent redesignated upwards: Department of Community Services, Correspondence, 3 December 2002

²¹³ Shepherd evidence, Department of Community Services, 19 August 2002

DoCS needs to develop more efficient systems of service so that a greater proportion of reports are investigated, and a greater number of requests for assistance are answered.

5.78 As highlighted by the Ombudsman, DoCS must also establish robust and centralised data systems to monitor, and inform decisions about, unallocated cases. In the Committee's view, decisions to close a case without response are of such magnitude that they warrant both quantitative and qualitative monitoring.

5.79 The number of unallocated or closed cases is perhaps a key indicator of the current mismatch between the work demanded of the Department and its capacity to do that work. The Department has indicated that in line with the work of the Kibble Joint Working Party, options for the management of unallocated work are currently being considered.²¹⁴ We support the review of Priority One in tandem with the other work of the Joint Working Party, given the policy's critical links to the broader issues of data and demand for services.

Recommendation 28

The Department of Community Services should ensure that all Level 1 and Level 2 reports are allocated and receive a Secondary Risk of Harm Assessment.

Recommendation 29

The Department of Community Services should establish a formal strategy to reduce the number of unallocated cases, both those which are requests for assistance and those which are reports of children at risk of harm, and should also establish data collection systems to monitor levels of unallocated cases. This data should be made public.

Recommendation 30

The Department of Community Services should ensure the establishment of designated Prevention caseworker positions, referred to in Recommendation 2, are sufficient to ensure that all Level 3 cases are addressed. These positions should be in addition to current allocations for child protection and out-of-home care.

Additional supports in CSCs

5.80 As noted at the beginning of this chapter, the changes in the nature of child protection work and in particular the changes heralded by the Act, have had a significant impact on the work, and the workload, of frontline staff in CSCs.

5.81 In Chapter 7 we explore the need for greater legal support for caseworkers, to assist them in preparation for and participation in court processes. In Chapter 3 we discussed Dr Shepherd's commitment to build the number of psychologists in DoCS as a resource for staff supervision, and to support decision-making about children and families.

²¹⁴ Shepherd, Answers to Questions on Notice, 12 September 2002

- 5.82** There has been considerable evidence to our inquiry in favour of re-establishing administrative supports for caseworkers lost to the CSCs in the 1991 Departmental restructure.
- 5.83** Witnesses to this inquiry, as well as information provided to the Kibble Joint Working Party and the Reid inquiry, suggested that the administrative workload of CSC caseworkers has increased substantially over the last decade. There are a range of factors contributing to the increase in paperwork. DoCS workers told the Reid inquiry that the implementation of the 1998 Act has increased requirements for documentation. Requirements include the Secondary Risk of Harm Assessment, preparing for court and supporting foster care and out-of-home placements.²¹⁵
- 5.84** Witnesses told the Committee:
- Witness 1: The documentation, the paperwork and all that (is) adding to the workload.
- Witness 2: We have taken on a whole lot of admin tasks, so we do our own clerical work.
- Witness 3: It is our biggest problem.²¹⁶
- 5.85** Other caseworkers explained that the administrative work was reducing their time in face-to-face client work:
- We do not get in the field, and it is that simple, because of all the computer work we have to do, all the typing...²¹⁷
- 5.86** As noted in Chapter 4, Professor Reid suggested that the Department should review the need for the recreation of administrative positions with a view to reducing the amount of time caseworkers spend on paperwork and general administrative functions that support their case management.²¹⁸
- 5.87** A key message in this chapter is that the Department needs to enhance the capacity of its operations to respond to demand and to provide a quality service to clients with various levels of need. As part of this process, DoCS needs to find ways of improving its efficiency, especially at the CSC level. In our view, there are clear opportunities for greater efficiency by engaging additional administrative staff in CSCs.

²¹⁵ Reid M. *Independent Investigation of Four Corners Allegations*, Institute for International Health, October 2002: Reid notes that there is some support for the changes to documentation requirements supporting child protection decision-making

²¹⁶ Confidential evidence

²¹⁷ Confidential evidence

²¹⁸ Reid, op cit, p.19

Recommendation 31

The Department of Community Services should re-establish administrative positions within Community Service Centres with a view to reducing time spent by caseworkers on paperwork and general administrative duties.

Conclusion

- 5.88** The growth in demand for child protection services has tested the capacity of the Department's systems to deal with the volume of reports and assessments, and to provide a quality service to children, young people and families. It has also resulted in substantial pressures on frontline staff, both at the Helpline and in CSCs. The focus of this chapter has been on achieving greater clarity about demand and improving the intake and assessment systems. We have emphasised the potential in the Department's new assessment framework to achieve the necessary integration of assessment of risk with analysis of family support needs and strengths. This integration is fundamental to a system that emphasises early intervention and prevention and which seeks to enable families to care for their children well.
- 5.89** We also recognise that in order to build the effectiveness of DoCS service provision, this system-focussed work must be matched with the various measures discussed in Chapter 3 to improve staff morale. As we spoke with DoCS employees over the course of this inquiry, we were struck by their investment in the quality and outcomes of their work. This investment should be recognised and nurtured through a Departmental culture that actively values its staff.

Chapter 6 Out-of-home care

Out-of-home care is such a vital part of our work. If we are removing children from a dangerous or problematic place, we need to place them in a situation that is better than what they have experienced. We need to start to work to recuperate those children, who have had massive changes in their very short lives and are really quite remarkable people because they have survived such difficulties.²¹⁹

Unless we can guarantee children's safety and good life chances and good long-term adult outcomes, we really have to question what we are trying to do in out-of-home care.²²⁰

A key message throughout this inquiry has been that the demands of the forensic and investigative work of the Department of Community Services have persistently undermined its other roles. While we have argued for a greater emphasis on prevention and early intervention, we also recognise the significant advances that must be made in out-of-home care. There will always be children who need to come into care, and the Department has very significant responsibilities towards them. It must ensure that they are safe and that they are offered a better future than had they stayed in an environment of abuse or neglect. Over the course of this inquiry, many concerns were raised about the out-of-home care system in New South Wales. In response to the breadth of these concerns, and the recognition that out-of-home care is often eclipsed by the Department's other work, this chapter provides a comprehensive discussion of the current out-of-home care system. It explores the reforms that must occur in order to improve the system and deliver better outcomes for children and young people in care. Critical among these is proclamation of the outstanding sections of the 1998 Act. During this inquiry we spoke to a number of young people who had been in care. Their perspective was enormously useful in helping us to understand the impact the system has on the lives of those it seeks to assist.

The overlooked arm of the child protection system

- 6.1** Many participants in this inquiry told us that out-of-home care is the overlooked arm of the New South Wales child protection system. Despite the significant numbers of children and young people both coming into and living in care, and in spite of the weighty statutory responsibilities that rest with the Department in relation to them, DoCS is seen to be functioning very poorly in this area.
- 6.2** There are many indicators that the out-of-home care system is not working effectively: there are high rates of placement breakdown and multiple placements; the long-term outcomes for children and young people are frequently poor; some children have no case manager nor a plan for their pathway through care; foster carer numbers are falling; significant amounts of money are spent 'containing' young people with high needs; and

²¹⁹ Caseworker, confidential evidence

²²⁰ Mallett evidence, Office of the Children's Guardian, 18 July 2002

non-government providers express a lack of confidence in the Department to manage the planning, funding, coordination and development of the out-of-home care sector.²²¹

- 6.3** The consensus of opinion expressed to our Committee is that the out-of-home care system currently lacks the capacity to adequately meet the needs of the children and young people for whom it is responsible.
- 6.4** Two primary reasons are given for these systemic problems. The first is that the ‘black hole’ of the Department’s child protection work has for many years drained resources and attention away from out-of-home care. Both at the central and local levels, the Department’s work to support children and young people in care has been chronically undermined by the crisis-oriented work of investigation of reports of children at risk of harm.
- 6.5** The second key reason given is lack of will. Many of the deficiencies of the out-of-home care system have been known for some time, and solutions have been proposed or even developed. Yet reforms have not been implemented. Inquiry participants told the Committee of their frustration that the promises of reform - most particularly those included in the 1998 Act, but also the Community Services’ Commission’s Substitute Care inquiry and even DoCS’ own Care 2000/2001 strategy - have not been realised.

The current out-of-home care system

- 6.6** Out-of-home care comprises foster care, kinship care, residential care, independent living and professional care.²²² Children and young people enter this system through either voluntary arrangements or through the statutory intervention of the Department; in the latter case their entry is generally formalised through a care order made by the Children’s Court. As the most intrusive intervention available to the Department, the decision to remove a child from his or her family is taken only when the child is considered at immediate risk of serious harm or in need of care and protection.²²³
- 6.7** As at 30 June 2001 there were 7,786 children and young people in New South Wales in out-of-home care under a care and protection order, a sharp increase from 5,486 as at 30 June 1997. An additional 1,365 children were in voluntary care.
- 6.8** As we noted in our interim report, New South Wales has more than twice the number of children in care than the next nearest State, Victoria. According to the Department, the overall increase in numbers of children in care does not reflect a greater number of children being brought into care for the first time, as this figure has remained fairly stable and has even decreased slightly to 5,007 in 2000/2001. Rather, the rising number of children in care reflects the fact that children and young people are now staying in care for

²²¹ Submission 189, Association of Childrens Welfare Agencies; Submission 241, Community Services Commission

²²² Out-of-home care is defined more narrowly in the 1998 Act as excluding relative or kinship care: *Children and Young Persons (Care and Protection) Act 1998*, s.135

²²³ Submission 248, Department of Community Services

longer periods, and also the repeated re-entry of some children.²²⁴ The Department has told the Committee that the children and young people entering care have increasingly complex problems and that this ‘presents more challenges for the service system’.²²⁵

6.9 Table 6.1 provides a breakdown of the proportion of children and young people in care as at 30 June 2001 by their placement type, indicating that the vast majority of children are placed in either kinship/relative care or foster care.

Table 6.1: Children and young persons in out-of-home care in New South Wales as at 30 June 2001 by current placement type²²⁶

Placement type	Percent
Parent/s	5.6
Other family/kinship (including Aboriginal kinship)	41.5
Non-related family	10.6
Independent	1.4
Supported accommodation	1.5
Residential care	2.8
Foster care	32.2
Adoptive	0.9
Departmental Family Group Home	0.1
Other	3.3
No fixed place	0.1
Total percent	100
Total number	9,151

6.10 Table 6.2 provides a comparison of placement types over the period 1996 to 2000, indicating a marked and steady increase in kinship care, with a matching reduction in both foster and residential care. These forms of care are discussed in greater detail in later sections of this chapter.

²²⁴ Submission 248, Department of Community Services; Department of Community Services, *Annual Report 2000/2001*; the Committee has been advised that the difference between New South Wales and other States is at least partly explained by the fact that New South Wales makes greater use of care orders for children who live in kinship care; that is, many children in other jurisdictions in similar circumstances would not be captured in these figures: key stakeholder forum, confidential evidence

²²⁵ Submission 248, Department of Community Services, p.39

²²⁶ Department of Community Services, *Annual Report 2000/2001*: the total of 9151 children comprises 7,786 children under a care and protection order and 1,365 children in voluntary care

Table 6.2: Children and young people in out-of-home care by type of care, as a proportion of all types of care, 30 June 1996 to 30 June 2000²²⁷

Type of care	1996 Percent	1997 Percent	1998 Percent	1999 Percent	2000 Percent
Residential care	9	6	6	5	4
Foster care	49	47	42	37	36
Living with relatives/kin	39	43	45	51	54
Other	3	4	6	7	6
Total	100	100	100	100	100

6.11 DoCS is only one of many providers of out-of-home care placements in New South Wales. The Department of Ageing, Disability and Home Care is the major provider for children with disability, and there are approximately 80 non-government providers plus 8 private for-profit agencies.²²⁸ The vast majority of out-of-home care placements are, however, provided by DoCS, with 77 percent currently provided by the Department.²²⁹

6.12 The budget for out-of-home care for 2002/2003 is \$185.8 million out of a total Departmental budget of \$641.1 million.²³⁰ Around \$41 million of this for DoCS service delivery (primarily casework services) and \$43 million for purchasing services from non-government providers. The remainder is to be spent on foster care allowances, after-care services and administration.²³¹

Outcomes for children and young people in out-of-home care

6.13 As noted above, the decision to take a child into care is a highly intrusive one. It is made in the best interests of the child, to provide necessary care and protection, both in the immediate and longer-term. Yet there is substantial evidence that the long-term outcomes for children who have been in care are poorer than those of their peers in terms of education, employment, standards of living, emotional wellbeing and interpersonal relationships. Children and young people who have been in care are also over-represented in the juvenile justice and adult corrections systems.²³²

²²⁷ Australian Institute of Health and Welfare, *Australia's Welfare 2001*, AIHW, p.433: 'Other' includes other family care, independent living and unknown living arrangements.

²²⁸ Mallett evidence, Office of the Children's Guardian, 18 July 2002

²²⁹ Shepherd evidence, Department of Community Services, 29 November 2002

²³⁰ Budget Estimates 2002-03, *Budget Paper No.3, Volume 1*, p.5-5 and 5-7

²³¹ Submission 248, Department of Community Services

²³² Submission 189, Association of Childrens Welfare Agencies; Cashmore J and Paxman, M, *Wards Leaving Care: A Longitudinal Study*, Department of Community Services; the 2001 Prisons Inmate Survey conducted by Corrections Health found that 19.4 percent of respondents reported having

- 6.14** The longitudinal Wards Leaving Care study conducted in New South Wales by Dr Judy Cashmore and Ms Marina Paxman found that one year after leaving care, most participants had unstable living arrangements and around half were unemployed and had financial troubles. Almost one in three of the young women had been pregnant or had a child, and over half the group reported thinking about or attempting suicide.²³³ Subsequent interviews with the same young people four years after leaving care found the following problems were common: drug and alcohol misuse, domestic violence, turbulent relationships, mental health issues including depression and suicide ideation, poor support networks, unresolved family issues, and a lack of plans for the future.²³⁴
- 6.15** There is little evidence before the Committee that the out-of-home care system has improved significantly in the five years or so since these young people left care. Thus the findings point to the continued risks to the long-term wellbeing of children and young people in care if the system continues to remain unaddressed. At the same time, the poor outcomes for children and young people in out-of-home care also reflect their experiences prior to care.²³⁵ They highlight the need for better support for families early on to prevent circumstances arising that necessitate care.
- 6.16** Poor outcomes for children are foreshadowed by a number of interrelated features in the current out-of-home care system. These include the lack of suitable placements, so that children have to settle for less than ideal arrangements such as those at some distance to their siblings and school, or those that they do not prefer. As we were told by a young person who entered care when she was twelve:
- At 17 I was put into a placement, a refuge. I was not very comfortable there. I was told that that was where I had to go, because the home has been closed down. I said, 'I don't feel comfortable here'. It was a very rough place. I had to go through court proceedings for a while, so that did not help. I changed school a few times. I went to behavioural school for a while, because of conduct and not going to school. That did not play a very good part in stability.²³⁶
- 6.17** Similarly, the multiple placements of many children and young people, due to arrangements breaking down and/or repeated unsuccessful restorations with their family, mean that

been placed in care before the age of 16 years: quoted by Tony Butler, 'Mental health aspects of prisoners affected by family separations', paper presented at conference at Liverpool Hospital, 10 November 2002

²³³ Cashmore and Paxman, op cit

²³⁴ Cashmore J, 'Leaving care research: what it tells us about creating a better future for children and young people', paper presented to the Child Welfare Association of Victoria, October 2002

²³⁵ For example, there is evidence that by the time children enter care, they are significantly educationally disadvantaged. Research from South Australia found that children entering care are typically performing four years behind their age peers in both numeracy and literacy: Voigt L and Tregear S, 1996, cited in submission 151, inquiry into early intervention for children with learning difficulties, Association of Childrens Welfare Agencies

²³⁶ Young person, confidential evidence

children do not have the stability necessary for their short and longer-term wellbeing. A representative of the CREATE Foundation told us:

Every time a child moves placement, they have to get accustomed to the rules. The rules are very strong in units, and they are different at each unit. Getting along with other people, not only the foster carers and workers, but also the children and young people is not managed well ... For many young people who have had lots of placements, they get to the point of wondering why bother unpacking their bags; how long am I going to be here?²³⁷

6.18 The Committee notes the contradictions of a system that focuses on investigation at the expense of response, that determines that a child or young person needs a better alternative than their family but does not guarantee it. If the government sees it necessary to remove a child from their family, it has a duty of care to protect them from further harm and to provide them with opportunities for a different and better future. Children and young people coming into care are among the most vulnerable of all children. Government must ensure that they are not further disadvantaged by the experience of being in care. More than that, in the Committee's view, the government must ensure that children actually have better outcomes as a result of being in care.

6.19 Yet the Committee heard in evidence that the experience of many children and young people does not reflect that duty at the most basic and day-to-day level. As we were told by one young woman:

At 17 I was renting and working and looking after myself. DoCS was supposed to take care of me until I was 18, because I was a ward of the State. But they did not carry out their duty. It made it difficult for me, especially doing my HSC. I had no support.²³⁸

Proclamation and the provisions of the 1998 Act

6.20 As we stated in our interim report, one of the most urgent issues raised in evidence to this inquiry is the need to proclaim and implement the outstanding sections of the Act that relate to out-of-home care and the Children's Guardian. These sections concern the definitions of out-of-home care and key aspects of the system, along with provisions for out-of-home care under a court order, and arrangements during and on leaving out-of-home care. Perhaps more contentiously, they also concern the Children's Guardian's responsibilities in relation to the monitoring and regulation of the out-of-home care system, including the regular review of case plans for children in care and accreditation of providers.²³⁹

²³⁷ Townsend evidence, CREATE Foundation, 6 November 2002

²³⁸ Young person, confidential evidence

²³⁹ The sections yet to be proclaimed, as at June 2002, are: sections 181-184 of Chapter 10, concerning the Children's Guardian; Chapter 3 section 28, concerning records of reports by the Director-General; Chapter 7 part 3 on Compulsory Assistance; all of Chapter 8, which concerns out-of-home care, except for section 139 and 151-154 about temporary care by the Director-General and 162, which are already proclaimed; Chapter 9 section 176 concerning Special Medical

- 6.21** Participants in the inquiry have told us that once proclaimed, the Act will provide the framework around which good policy and practice can be built, thereby bringing about practical and cultural change in the entire out-of-home care system.
- 6.22** The Children’s Guardian’s functions, none of which are yet in effect, are expected to have significant impact on outcomes for children and young people in care by providing important safeguards and measures to improve the quality of care that children and young people receive. Participants in this inquiry have told us that these functions will ensure that:
- The whereabouts and circumstances of every child in care will be known
 - Case plans taking account of individual needs will be in place for all children in care
 - Regular reviews of case plans will occur for every child in care
 - Annual external monitoring of case plans and reviews will take place
 - All service providers, including DoCS, will be accredited and will provide services at an adequate level of quality.²⁴⁰
- 6.23** That sections of the Act are yet to be proclaimed is a source of anger, frustration and increasing disillusionment within the sector. Over the course of this inquiry not one person has told us they would be prepared to accept an abandonment or contraction of the Children’s Guardian’s provisions.
- 6.24** When Minister Tebbutt appeared before the Committee in August she did not make an outright commitment to proclamation, but was explicit in her commitment to:
- ensure that appropriate case plans are developed for every child and young person placed in out-of-home care, to ensure that there is appropriate oversight and monitoring of those plans, and to ensure that proper standards exist for service providers.²⁴¹
- 6.25** Minister Tebbutt told the Committee that she saw the need to further investigate and consult on the impact, and particularly the resource impact, of proclamation on both the government and non-government sectors. In November she announced that the first task of the newly established Ministerial Advisory Council would be to provide advice on

Examinations; Chapter 11 which deals with the Child Death Review Team; Chapter 12 which concerns Children’s Services, except section 200; Chapter 13 regarding children’s employment; Chapter 15 on entry into premises without warrant; Chapter 16 on decisions reviewable by the Administrative Decisions Tribunal; and Schedules 1 and 2: Submission 241, Community Services Commission

²⁴⁰ Submission 189, Association of Childrens Welfare Agencies

²⁴¹ Tebbutt evidence, Minister for Community Services, 19 August 2001

progressing proclamation.²⁴² In late November Dr Shepherd advised the Committee that a resource impact statement is currently being prepared and will be provided to the Ministerial Advisory Council.²⁴³

- 6.26** The Committee considers it essential that proclamation occur as soon as possible. An immediate priority for the Government is to finalise the resource impact statement so that the Ministerial Advisory Council can provide advice on this issue as a matter of urgency. In the interests of transparency we consider that the resource impact statement should be made public.
- 6.27** We note that if the Ministerial Advisory Council cannot provide advice on proclamation in the very near future, proclamation may need to be delayed until next year. However, the State election, to be held on March 22, will then add a layer of complexity as to when it is possible to proclaim the outstanding provisions of the Act. These difficulties should be resolved by May 2003 by which time Parliament should have resumed. For this reason the Committee has set June 2003 as the very latest date by which the Act should be fully proclaimed.
- 6.28** The Committee notes that the Department has previously paid a price for introducing significant systemic change without adequate resources, and it has been suggested that the imperative to prevent this happening again has been a factor in the delay. We consider that the issue of resources is a longstanding one that has simply been highlighted in this context. Proclamation should become the catalyst for achieving an appropriate level of funding for out-of-home care.
- 6.29** As noted by the Commission for Children and Young People, it is also important that the Children's Guardian be adequately resourced to carry out its functions when they come into effect.²⁴⁴ It is a matter of concern to the Committee that the Guardian's capacity itself may be used as a reason for delaying proclamation. Were this the case, that capacity could be readily addressed by making fairly modest additional resources available. We note that in the absence of its full legislative powers, the Office of the Children's Guardian has been preparing for proclamation by developing procedures and standards for accreditation, and has commenced a voluntary accreditation process.

Recommendation 32

The Government should proclaim the outstanding sections of the *Children and Young Persons (Care and Protection) Act 1998* by June 2003 at the latest and should publish a timetable for proclamation as soon as possible. The Government should also publish a statement of the resource impact of proclamation.

²⁴² The Hon Carmel Tebbutt MLC, Minister for Community Services, media release 19 November 2002

²⁴³ Shepherd evidence, Department of Community Services, 29 November 2002

²⁴⁴ Submission 269, Commission for Children and Young People

Recommendation 33

The Government should:

- Adequately resource both government and non-government agencies to fulfil the out-of home care role set out for them in the *Children and Young Persons (Care and Protection) Act 1998*
 - Ensure that the Office of the Children's Guardian is adequately resourced to effect its legislated roles.
-

The Substitute Care inquiry

6.30 The directions for change developed through the Community Services Commission's Substitute Care inquiry have also not been adopted. The inquiry, conducted in 2000, concluded:

[The] substitute care system in NSW lacks the capacity to focus on the needs of, and ensure adequate outcomes for, children and young people in care ... The inquiry's key observation is that there is a very real need for significant, sustainable change to the structure and function of the substitute care system in NSW.²⁴⁵

6.31 The report diagnosed the following factors as contributing to the repeated failure to address the problems of the system:

- The absence of a clear policy framework to guide the provision and organisation of substitute care
- A disenfranchised non-government sector
- The failure to quarantine substitute care, particularly from child protection
- The lack of effective supports and resources for the Department's workforce
- The absence of extensive forward planning and program management, and of an effective finance system for substitute care
- The absence of agreed program definitions and caseload formulas.²⁴⁶

6.32 Despite the extensive nature of the inquiry and the significant support it garnered from the sector, the government has not made a formal response to its findings. Nor has it proposed how its reforms might be considered and implemented.²⁴⁷ The Community Services

²⁴⁵ Community Services Commission, *Inquiry into the Practice and Provision of Substitute Care in NSW: New Directions – from Substitute to Supported Care*, Final report, November 2000, p.2

²⁴⁶ Submission 241, Community Services Commission

²⁴⁷ Ibid.

Commissioner told the Committee that the inquiry's final report remains a blueprint for reform,²⁴⁸ and this position was supported by submissions to our own inquiry.²⁴⁹

- 6.33** In August, Dr Shepherd told the Committee that he saw 'substantial agreement between DoCS and the Commission on many elements' of the inquiry findings. He did, however, identify two areas where there was less agreement: that the non-government sector take over all longer-term out-of-home care placements and that children with disability be brought into the substitute care system.²⁵⁰ The Committee notes that the preferred position of the Department of Ageing, Disability and Home Care is that out-of-home care services for children with disability be considered as part of the substitute care system. In our recently tabled final report on the disability services inquiry, we recommended this approach be taken. Specialist services for children with disability should focus on facilitating their inclusion in mainstream services, rather than support through a segregated system.²⁵¹
- 6.34** Given the extensive work that went into the Substitute Care inquiry and the credibility it has with many stakeholders, the Committee considers that the Department must as a priority provide a formal response to the inquiry's final report, and use that report as the basis for future work in the out-of-home care system.

Recommendation 34

The Government should, in developing a way forward for out-of-home care in New South Wales, formally consider and respond to the findings of the Community Services Commission's Substitute Care inquiry.

Casework and support

- 6.35** An issue of critical importance raised in evidence and submissions was casework and support for children and young people in out-of-home care. Sound casework practice and case management are essential to ensuring that children receive the supports they need while in care and are not further disadvantaged by the system.
- 6.36** The Committee notes that the focus of our evidence was on the Department, however, all of the issues around casework and case management set out below are equally relevant for non-government organisations. In recognition of the importance of equally high quality services in both the government and non-government sectors, most of our

²⁴⁸ Fitzgerald evidence, Community Services Commission, 19 August 2002

²⁴⁹ Submission 189, Association of Childrens Welfare Agencies; Submission 169, *UnitingCare* Burnside

²⁵⁰ Shepherd evidence, Department of Community Services, 19 August 2002

²⁵¹ Standing Committee on Social Issues, Report 28, *Making It Happen: Final Report on Disability Services*, NSW Legislative Council, November 2002

recommendations in the following section refer both to DoCS and to other out-of-home care providers.

A consistent and ongoing caseworker

- 6.37** Evidence from children and young people who had been in care highlighted the difference that a caseworker can make. We heard two very different stories:

I went into care in 1992 and I had the same DO [caseworker] for nine years. I suppose I am really fortunate because a lot of people I know do not have DOs for that long. In that time we got a really close bond together and it was as if she treated me as her own daughter. I have now not been a State ward for two years and we still keep in contact now on a regular basis.²⁵²

My case management history is that I had eight DOs, and there were a lot of times when I did not have a DO at all; I was not assigned one. The second place I lived in was a very strong advocate for me in terms of ringing up, finding out, and getting answers. A lot of times I would ring up and leave a message but I would not get an answer back. I would ring up and complain again and would be told, 'Such and such is not here, so I can't help you. I am sorry'.²⁵³

- 6.38** The importance of a consistent and trusted caseworker is borne out in research. Dr Judy Cashmore's work with former wards has highlighted the link between good long-term outcomes for young people and the presence of a trusted person in their life while in care.²⁵⁴ Ms Michelle Townsend of the CREATE Foundation told us that children and young people are very clear that they want regular contact with a caseworker:

If there was only one thing we could get as an organisation ... it would be the important difference having a consistent caseworker makes in a child's life when you come into the care system and continue their journey. It is critical.²⁵⁵

- 6.39** That some children and young people have no designated caseworker, when the Department has case management responsibility for them, is of serious concern. The absence of a caseworker can only mean that a child or young person's immediate and longer-term needs are neither known nor being actively addressed.

Recommendation 35

The Department of Community Services should ensure that all children and young people in out-of-home care have an identified and designated caseworker.

²⁵² Young person, confidential evidence

²⁵³ Young person, confidential evidence

²⁵⁴ Cashmore, op cit

²⁵⁵ Townsend evidence, CREATE Foundation, 6 November 2002

- 6.40** A number of other issues were raised in evidence about the quality of casework, and the various areas that case management must address if it is to be effective. Underscoring them all is a recognition that the poor resourcing of out-of-home care prevents good casework from taking place. These are discussed in the following sections.

Participation

- 6.41** Children and young people stressed the symbolic and practical importance of participating in decisions about their lives, for example about their placements, their contact with family, and where they will go to school. While this principle is enshrined in the Act, they told us that DoCS struggles to realise it in its day-to-day work. They also pointed out that if they are denied the opportunity to participate in decision-making while in care, they will be much less empowered to make decisions about their own lives after care. They accepted that sometimes decisions will go against their wishes, and asked that in those instances they receive an explanation as to why.
- 6.42** We are aware that the Children's Guardian, the Commission for Children and Young People and DoCS are planning to develop tools and resources for participation of children and young people in case planning. In the Committee's view this work should be a priority, and a strategy for implementing these tools should also be developed.

Recommendation 36

The Department of Community Services, the Office of the Children's Guardian and the Commission for Children and Young People should develop tools and resources for the participation of children and young people in case planning. These should be used by the Department of Community Services and other out-of-home care providers to ensure such participation occurs.

Support during entry into care

- 6.43** Children and young people also stressed the importance of ensuring that caseworkers provide proper support when children enter care. This, they told us, was a time of fear, isolation, confusion and distrust:

It's a very scary time when nobody tells you what is going on and what is going to happen to you.²⁵⁶

- 6.44** They highlighted the need for Departmental caseworkers to explain as early as possible what was happening and what children and young people could expect in relation to what will happen when they are taken into care. The Committee was advised that while best practice would require caseworkers to advise children and young people of this within 24 hours of being taken into care, this task is often left to foster carers, who may not be well informed either. Young people also stressed that they should always be given the option of

²⁵⁶ Young person, confidential evidence

having a support person who they know and trust to assist them through the processes of assessment and entry into care. We understand that the presence of a support person is compulsory when children attend the Children's Court.²⁵⁷

Recommendation 37

The Department of Community Services should:

- Implement procedures to ensure that all children and young people are informed of what they can expect will happen to them within 24 hours of entering care
 - Ensure that all children who are the subject of an assessment of risk of harm and/or who enter care are given the option of a support person who they know and trust.
-

Case study

Lisa told a friend at school she was being abused at home. Her friend told a teacher, who notified the school principal. The principal then contacted DoCS and a caseworker came out to the school that afternoon. After speaking to Lisa, the caseworker told her she wouldn't be going home that afternoon and that the Department would find a placement for her. A bed in a group home was found and the caseworker dropped Lisa off, saying she would call in a couple of days. Lisa was very nervous about her new placement - nobody had properly explained to her exactly what was going to happen - and to make matters worse she was also worried about other family members who were still at home.

It became apparent that the house parents at the group home had not been provided with much information about Lisa's circumstances. She was now living quite some distance from her family home and school and was told she would be catching public transport to and from school. Because Lisa was unfamiliar with public transport, trying to navigate long distances on buses and trains by herself was an unnerving and stressful experience.

When Lisa was removed from the family home, she was not able to keep in contact with her siblings, though she later discovered her brother had also gone into care. Because of this separation Lisa and her brother have only a distant relationship now.²⁵⁸

Contact with siblings and families

6.45 Many participants in this inquiry called for a greater commitment by DoCS to the maintenance of contact with siblings and families. The Committee spoke to one brother and sister who had entered care three years apart, and who had had no contact for 9 to 10 years:

I did not meet up with [my sister] until I was in a stable foster home and my foster parents opted for me to have contact with the family.²⁵⁹

²⁵⁷ Townsend evidence, CREATE Foundation, 6 November 2002

²⁵⁸ This case study is based on confidential evidence from a young person whose name has been changed

²⁵⁹ Young person, confidential evidence

- 6.46** Ongoing contact with their families of origin is vital to children's identity; conversely, a lack of contact compounds the grief and loss that children and young people experience through entering care. While contact and access are supported in legislation, the Committee was told that in practice they are often not a priority for caseworkers. This is especially the case for supervised access visits, which take time and organisation.²⁶⁰

Recommendation 38

The Department of Community Services and other out-of-home care providers should ensure casework practice supports contact between children and young people and their siblings and families.

Restoration and support for families where a child has been removed

- 6.47** Linked to the issue of contact is that of restoration of the child or young person to their family. Many families are capable of addressing the problems that placed their child at risk if they are given the right supports, and should be given the opportunity to do so. Many children would be better off with their families in the longer term.
- 6.48** While there is now greater provision for restoration under the 1998 Act, the Committee was told that there needs to be a more active approach to supporting restoration where 'there is a realistic possibility of the child or young person being restored to his or her parents'.²⁶¹ While the Act requires the preparation of restoration plans for these children, often they are not implemented. Conversely, for those children and young people for whom restoration is inappropriate, there needs to be greater commitment to the recently enacted Permanency Planning provisions.²⁶²
- 6.49** Once a child is restored, the family generally needs continuing support, for example from mental health, respite and family support services. However, these supports are often withdrawn too early or are not available at all. Continuity of caseworker is especially important at this time.²⁶³ The Committee notes that post-restoration support is necessary to reduce the likelihood that a child will have to return to care. The Department needs to properly monitor children following restoration and to ensure that families are linked to appropriate secondary or tertiary prevention services. Systems need to be established to ensure that the prevention and early intervention and out-of-home care streams coordinate

²⁶⁰ Townsend evidence, CREATE Foundation, 6 November 2002

²⁶¹ *Children and Young Persons (Care and Protection) Act*, s.83

²⁶² The *Children and Young Persons (Care and Protection) Amendment (Permanency Planning) Act 2001* was mostly proclaimed in February 2002. It requires DoCS and the Children's Court to make early decisions about permanency of care arrangements for children and young people. This may be achieved by restoration, kinship placement, long-term placement with an authorised carer, sole parental responsibility order, parenting order under the Family Court or adoption: submission 248, Department of Community Services

²⁶³ Key stakeholder forum, confidential evidence

so that effective supports remain in place as long as necessary. Again this supports the Committee's call for proper systems to manage prevention in Community Service Centres, and for greater investment in secondary and tertiary prevention.

- 6.50** The Committee was told that once a child enters care the files of birth parents are rarely allocated to caseworkers. This means that parents are given little or no support to address their problems and fulfil the conditions of temporary care orders, and consequently the child may be removed from their care long-term.²⁶⁴ Similarly, as has been identified by the Child Death Review Team, when parents do not receive support services to address the issues that led to abuse and neglect, other children in the family are at risk.²⁶⁵

Recommendation 39

In order to improve provision for restoration:

- The Department of Community Services and other out-of-home care providers should, in cases where there is a reasonable possibility of restoration of a child or young person to their family, make a concerted effort to facilitate that restoration
- The Department of Community Services should establish clearly defined systems and procedures to ensure adequate support for families where a child has been restored. These systems should provide links to secondary and tertiary prevention services and ensure effective coordination and continuity of casework between the out-of-home care and early intervention streams.

Recommendation 40

The Department of Community Services and other out-of-home care agencies should provide adequate casework and coordinate other necessary support services to families of children who have been placed in out-of-home care.

Case plans and case management

- 6.51** The debate about proclamation of sections of the Act relating to the Children's Guardian has highlighted the longstanding issue that many children do not have a case plan which identifies their needs and articulates how these needs will be met. This is precisely what the Act's provision for the examination of all case plans and reviews was intended to address.
- 6.52** Participants saw strong value in standardised case management tools such as Looking After Children, developed by Barnardos Australia and the University of New South Wales. They argued that such tools should be used by every provider to ensure that all children have in

²⁶⁴ Jelen evidence, Mental Health Co-Ordinating Council, 6 November 2002

²⁶⁵ NSW Child Death Review Team, *Report 2000-2001*, NSW Commission for Children and Young People, 2001

place a high quality case plan that is regularly reviewed, and more broadly, to improve the quality of case management for children. Looking After Children has been implemented throughout the Australian Capital Territory and is currently being implemented in Victoria. It focuses on the developmental needs of children and young people, has a strong emphasis on participation, and is explicitly intended to promote better outcomes for children and young people in care. It has also been endorsed by the Children's Guardian and Community Services Commission.²⁶⁶

Recommendation 41

The Department of Community Services, in consultation with other out-of-home care providers and the Children's Guardian, should develop standardised case management tools for all children and young people in out-of-home care. These tools should be used consistently by all out-of-home care providers.

Recommendation 42

The Department of Community Services should ensure that all children and young people under its responsibility have a case plan by December 2003.

Quality standards for out-of-home care

- 6.53** While the problem of poor casework is not exclusive to the Department, the evidence before our inquiry suggests that it is concentrated there. As the Community Services Commission noted in its *Voices of Children and Young People* report:

Children and young people in DoCS placements had less frequent worker contact, were less likely to know their worker well, appeared to experience a higher turnover in workers, and raised concerns about access to workers and lack of responsiveness to requests or complaints. Lack of individual time with workers was a concern for half the children and young people in DoCS placements and a few in NGO placements.²⁶⁷

- 6.54** The Children's Guardian has prepared draft *Updated Standards for Substitute Care Services*, which must be implemented by both government and non-government out-of-home care agencies if they are to achieve accreditation. These comprehensive standards are designed to improve the quality of casework and other services. The Committee is aware that there has been some discussion of whether the Department will participate in the process of accreditation. In the Committee's view it should do so.

²⁶⁶ Voigt evidence, Barnardos, 18 July 2002

²⁶⁷ Community Services Commission, *Voices of Children and Young People in Foster Care: Consultation Report*, July 2000, p.5

Caseloads

- 6.55** While we anticipate that the quality of casework will be improved by the compulsory use of service standards, we note that a common theme underpinning problems with casework is the inadequate resourcing of the Department's work in out-of-home care.
- 6.56** Caseworkers need time to support children and young people's participation and their contact with siblings and families, for supporting families of a child who has been removed and working towards restoration. Caseworkers cannot make good decisions about the welfare of individual children and young people without information and spending time with the child. Yet the Committee was told repeatedly and by a broad range of participants that DoCS out-of-home care caseworkers simply have too much to do, to do any of their work well.
- 6.57** Caseworkers themselves told us that daily they experience the dilemmas of the mismatch between demand and supply:
- [A]s a caseworker, I am working with twenty children in one month. How can I possibly give them a decent level of service as well as have contact with their family and their parents? How can I possibly do that work? I cannot, but if I put the hours that are required into one particular child, that means that a number of the other kids will be unallocated and that is a decision that my casework manager has to make.²⁶⁸
- We wait until a crisis occurs. We wait until things fall apart. We cannot touch the cases that we do not hear about or if they are not requesting the services. We are only attending to the squeaky wheel as such, and the ones that are allocated are the ones that are in major crisis.²⁶⁹
- 6.58** Feedback to the Committee is that casework is better and more participatory in non-government out-of-home care providers, and that this is directly related to the respective caseloads of DoCS and non-government organisation staff. Witnesses cited various caseload levels for DoCS caseworkers, and the Committee acknowledges that these are uniformly much higher than for non-government agencies. While non-government agencies can and do enforce limits on the caseload of any worker, DoCS as the statutory authority, is unable to do so. As we were told by a Manager Casework:
- [I]f you are going to do quality rather than quantity you have to have some limit as to the number of cases. It cannot just increase and you be expected to provide a reasonable level of service ...²⁷⁰
- 6.59** The Department's commitment to quarantining 40 percent of staff resources to out-of-home care should help achieve a more appropriate spread of caseloads across staff. However, we do not have enough information to determine whether this will be sufficient to address the caseload problems in DoCS. The Kibble Joint Working Party's demand

²⁶⁸ Caseworker, confidential evidence

²⁶⁹ Manager Casework, confidential evidence

²⁷⁰ Manager Casework, confidential evidence

sampling project is seeking to quantify current resourcing and demand for out-of-home care services. Presumably this will form the basis for future budget enhancements that seek to expand the capacity of CSCs.

- 6.60** We support the proposal of many participants in our inquiry that caseload limits be set for the Department which reflect not just case numbers but also their complexity. These limits would be used to determine the number of caseworkers for out-of-home care in each CSC.

Recommendation 43

The Department of Community Services should use a caseload formula to set limits for each caseworker in out-of-home care and to determine the number of out-of-home care caseworkers in each Community Service Centre.

Foster care

- 6.61** Foster care comprises a significant but decreasing proportion of all out-of-home care placements in New South Wales. Evidence before the Committee indicates the urgent need to better support the provision of foster care.

- 6.62** The Committee was advised that the Department is caught in a cycle where foster carers and the children and young people placed with them are set up to fail. The number of foster placements available is less than the number of children and young people for whom they are sought. This leads to poor matching of children to foster carers, and the use of inadequately assessed and trained carers. At the same time, out-of-home care is increasingly used as a last resort, so that the children coming into foster care have more complex needs. Insufficient caseworker resources mean that the Department is unable to provide adequate support to foster carers. This means that placements are very likely to break down, and carers are likely to become disenchanted with the system.²⁷¹ Even where placements work well, this takes significant energy and generosity on the part of carers.

- 6.63** Foster carers themselves say they would like more acknowledgement and respect from individual caseworkers. They feel that despite their contribution and their insights into the children they care for, they are often excluded from decision-making and case planning:

Our major problem is lack of respect ... We often hear, 'What would you know, you're only a foster carer?' It seems to me that intelligent, articulate and educated carers are often seen as a threat rather than as a co-worker.²⁷²

- 6.64** Several witnesses agreed that there must be more effective assessment and screening of prospective carers, with the use of a standard assessment process for all carers.²⁷³ As noted

²⁷¹ Caseworker, confidential evidence; Fitzgerald evidence, Community Services Commission, 19 August 2002; Submission 269, Commission for Children and Young People

²⁷² Lambert evidence, Foster Care Association, 18 July 2002

²⁷³ Submission 152, Joan Lambert; key stakeholder forum, confidential evidence

by the Ombudsman, no carer should be allowed to take a placement unless they are authorised.²⁷⁴

- 6.65** The Foster Care Association told the Committee that both initial and ongoing training should be compulsory for all foster carers. They also reported that while the Department and ACWA had developed the highly regarded ‘Shared Stories Shared Lives’ mandatory initial training program, CSCs are not implementing it uniformly, nor in the way it was designed, with foster carers as co-presenters.²⁷⁵ There was broad agreement from many participants that foster carers must be adequately supported by caseworkers, and that they should participate in decision-making and case planning. The Ombudsman also highlighted the need for more systematic monitoring of foster carers.²⁷⁶
- 6.66** Several witnesses acknowledged the recent gains that have been made in the new foster care payment system. Nevertheless, according to ACWA there is still some way to go before the financial costs of foster caring are fully acknowledged, with evidence from the Social Policy Research Centre showing that older children in particular have greater costs.²⁷⁷
- 6.67** The Committee notes that many of these concerns would be addressed by our earlier recommendation for appropriate caseloads for DoCS caseworkers, and by the Children’s Guardian’s accreditation process discussed above. The accreditation standards have a section dealing with managing foster carers, including recruitment and selection, training, supervision and support, and carer participation and rights.
- 6.68** In our view, work in these areas to improve the quality of foster care provided to children will, over time, also serve to strengthen and enlarge the foster care workforce.

²⁷⁴ NSW Ombudsman, *DoCS: Critical Issues – Concerns Arising from Investigations into the Department of Community Services*, April 2002

²⁷⁵ Hocking evidence, Foster Care Association, 18 July 2002

²⁷⁶ NSW Ombudsman, *op cit*

²⁷⁷ Submission 189, Association of Childrens Welfare Agencies

Recommendation 44

In order to improve the foster care system of New South Wales, the Department of Community Services should:

- Develop and implement a standard assessment process for all prospective and current foster carers and ensure that no placement is made with a foster carer who has not passed this assessment
 - Implement the ‘Shared Stories, Shared Lives’ training package uniformly across the State
 - Develop a compulsory ongoing training program for all foster carers
 - Systematically monitor and provide casework support to all its foster carers.
-

Kinship care

6.69 More than half of all children and young people in out-of-home care are in kinship care, and this group is growing rapidly. Table 6.2 shows that the proportion of children placed with relatives in New South Wales rose from 39 percent in 1996 to 54 percent in 2000. Generally these children are under Children’s Court orders but are living with relatives, often grandparents.²⁷⁸ Kinship care is the major form of care in Aboriginal communities.

6.70 According to the Department, there is evidence to show that children are better off in kinship care than non-relative care, and the placement of children with kin accords with the Act’s principle of least intrusive intervention.²⁷⁹ From children’s point of view, kinship care is generally less disruptive to their lives and relationships. Yet this form of care is not necessarily the best option. As the Committee was told by a young person:

I stayed with my grandmother for only a week. My grandparents are quite ill and have been on their own for ages. Having a 12 year old girl in their home was too much for them. I had to travel 40 minutes to and from school each day. I was not getting home until six o’clock. That was a real concern for them. They did not know how long they were going to be around and also knew that I needed more stability. Financially they could not support me, because they were on pensions.²⁸⁰

6.71 Many inquiry participants advised the Committee that these carers have little or no access to the financial and casework supports they often need, they cannot access the training provided to foster carers, and importantly, their suitability for caring is not assessed. The children and young people in kinship placements do not necessarily have caseworkers as

²⁷⁸ Community Services Commission, *Inquiry into the Practice and Provision of Substitute Care in NSW: New Directions – from Substitute to Supported Care*, November 2000

²⁷⁹ Submission 248, Department of Community Services

²⁸⁰ Young person, confidential evidence

this support is provided at the discretion of the Department.²⁸¹ The Child Death Review Team has specifically referred to our Committee the need for the Department to ensure that it has:

- Systems for monitoring whether assessments for kinship care, foster care and adoptive placements are equally thorough
- Systems for monitoring kinship care
- A policy position addressing the monitoring of placements with relatives for the first 12 months of placement.²⁸²

Legislative definition of out-of-home care

6.72 Despite the predominance of kinship care, the 1998 Act explicitly excludes it from the definition of out-of-home care. Thus while proclamation of the outstanding sections of the Act will deliver monitoring and review safeguards for children and young people in foster, residential and other types of care, it will not do so for those who are placed with their families, even when they are the subject of a Children's Court order.

6.73 This omission will be addressed through currently unproclaimed sections of the *Children and Young Persons (Care and Protection) Amendment (Permanency Planning) Act 2001*. As we were told by one witness:

I think the important thing is the change to the definition of out-of-home care. That is one that should be proclaimed as soon as possible because a large number of children are actually placed with family members, and those family members have often got problems and need support. The children that [are placed there] often have enormous problems. So the support and monitoring that the Children's Guardian can give to those placements will be very welcome.²⁸³

6.74 In recent evidence, the Director-General told the Committee that further consultation is necessary, particularly with Aboriginal communities, to determine whether legislative change is the most appropriate and effective remedy for improving supports for kinship care. He also noted that the Department is currently considering the issue of greater financial support for kinship carers.²⁸⁴

6.75 While indigenous issues will be dealt with further in Chapter 8, we acknowledge here that the inclusion of kinship care in the definition of out-of-home care does raise particular issues for Aboriginal communities, especially as kinship care is the most common arrangement for Aboriginal children in care. We are aware that inappropriate or culturally

²⁸¹ Submission 248, Department of Community Services

²⁸² NSW Child Death Review Team, *2001-2002 Report*, NSW Commission for Children and Young People, 2002

²⁸³ Confidential evidence

²⁸⁴ Shepherd evidence, Department of Community Services, 29 November 2002

insensitive arrangements for monitoring and review of these children and young people could further exacerbate the tensions between indigenous communities and 'the welfare'.²⁸⁵

6.76 Representatives of the Aboriginal Child, Family and Community Care State Secretariat told the Committee:

The Department's own figures identify that up to 87 per cent of indigenous children are placed in relative care. Under the previous definition of out-of-home care in the Act, relative care would exclude all of those people from the support and supervision they are afforded in the out-of-home care classification. That is of concern to us. We have not yet consulted appropriately ... however, we would appreciate that when a young person is placed in out-of-home care the State has intervened and decided that they were at risk. With the shift in parental responsibility, the State is obligated to ensure that the young person maintains a safe and secure environment. That can be done via an Aboriginal service.²⁸⁶

6.77 The Committee supports the view that children and young people in kinship care who are subject to court orders should be afforded the same safeguards as other children in out-of-home care. Similarly, their carers should be screened and should have the same opportunities for training and for financial and casework support. We note that this new approach, with or without legislative change, would have significant resource implications.

6.78 We agree however, that consultation needs to occur, especially with indigenous communities, to determine whether the legislative redefinition of out-of-home care is the most appropriate means to achieve change in supports for kinship care. This consultation should also seek to identify options for culturally appropriate monitoring and review procedures. We consider that this could occur within 12 months.

6.79 In any case, we believe the Department must develop a framework for supporting kinship care that includes systematic screening and training plus financial and casework support for kinship carers, along with adequate supports and monitoring for children and young people. The Department must also provide for an expansion of autonomous Aboriginal out-of-home care services so that they can adequately support kinship care.

²⁸⁵ Community Services Commission, op cit

²⁸⁶ Rennie evidence, Aboriginal Child, Family and Community Care State Secretariat, 18 July 2002

Recommendation 45

The Department of Community Services should:

- Undertake an extensive consultation process, particularly with Aboriginal communities, on whether the proclamation of Schedule 1 [17] of the *Children and Young Persons (Care and Protection) Amendment (Permanency Planning) Act 2001*, to include kinship care in the definition of out-of-home care, should occur. This should be finalised by December 2003
- In partnership with the Association of Childrens Welfare Agencies, the Aboriginal Child, Family and Community Care State Secretariat and other relevant bodies, develop a framework for supporting kinship care that includes systematic screening, monitoring, training and support
- Provide additional funding to indigenous out-of-home care services to support Aboriginal children and young people in kinship care and their carers
- Assign a caseworker to, and ensure a case plan is in place for, all children and young people in kinship care under a care order.

Other models for out-of-home care

6.80 The Committee received evidence that the range of models of care currently available in New South Wales is inadequate. As shown in Table 6.1, of all children and young people in out-of-home care, 1.4 percent lived independently, 1.5 percent were in supported accommodation, 2.8 percent in residential care, 0.1 percent in a Departmental group home, and 3.3 percent in other arrangements. By contrast, 52.1 percent were in relative or kinship care and 32.2 percent in foster care. The proportion of residential and supported accommodation placements in out-of-home care has declined steadily over time.

There is quite simply not enough placements ... and there is an inadequate spread and range of services.²⁸⁷

6.81 The Committee was told that this narrow range of options is at odds with the growing number and diverse needs and preferences of children and young people in out-of-home care. It is also an important factor in inappropriate and multiple placements. Older children and young people are especially in need of a range of placement choices as traditional 'nuclear family' foster care arrangements are not always appropriate for their often complex needs.²⁸⁸

²⁸⁷ Submission 153, Southern Youth and Family Services, p.11

²⁸⁸ Submission 269, Commission for Children and Young People; Barwick evidence, NSW Ombudsman, 20 November 2002

- 6.82** There was a particular concern that the Department has reduced the number of institutional places but not replaced them with appropriate residential alternatives.²⁸⁹ The failure to invest in this area is at odds with many other jurisdictions and has created significant pressure on crisis services for homeless young people which do not operate under the same guidelines as out-of-home care.²⁹⁰
- 6.83** The lack of effective options for out-of-home care is perhaps most starkly illustrated in the use of 'fee for service' arrangements for the small group of young people with extremely complex needs, on whom \$21 million was spent in 2001/2002.²⁹¹ These placements are 'holding arrangements' which do not provide care and support but only accommodation and containment. The Committee was advised that the use of these arrangements, generally with for-profit providers, has evolved in the absence of policy or planning.²⁹²
- 6.84** Submissions and witnesses called for significant investment in alternative residential and community placements including residential services, family group homes, intensive support services and supported independent living arrangements. Professional foster care is seen as a model that could have particular benefits for children and young people with high needs and for sibling groups. Participants also stated that the range of models should be evaluated so as to feed into future policy decisions.²⁹³
- 6.85** The Department's submission also identifies a range of potential models from semi-independent living programs through to secure therapeutic options:
- DoCS requires a service model which offers a broad range of service options within a continuum of specialised therapeutic care. The service framework needs to develop clear residential policy and models.²⁹⁴
- Sufficient, well-planned service types within DoCS and the funded out-of-home care sector need to be developed within an overall service framework.²⁹⁵

²⁸⁹ Submission 211, Youth Accommodation Association; Submission 153, Southern Youth and Family Services

²⁹⁰ Submission 211, Youth Accommodation Association; Coffey evidence, 19 July 2002

²⁹¹ Submission 248, Department of Community Services

²⁹² Key stakeholder forum, confidential evidence

²⁹³ Townsend evidence, CREATE Foundation, 6 November 2002; Fitzgerald evidence, Community Services Commission, 19 August 2002; Cashmore evidence, Association of Childrens Welfare Agencies, 20 May 2002

²⁹⁴ Submission 248, Department of Community Services, p.32

²⁹⁵ Ibid, p. 37

Recommendation 46

The Department of Community Services should:

- Pilot and evaluate alternative models of out-of-home care
- Develop a policy framework for alternative models of out-of-home care, and use this framework to guide significant service investment. The framework should consider the appropriate role for private for-profit agencies in this area.

Case study

Amy came into care when she was 12. Both she and her elder sister were forced to leave the family home at the same time because of abuse, but her sister who was 17 was told she was too old to receive any support from the Department and after a few months, she returned home.

Initially, Amy stayed with a family friend until her grandmother offered to care for her. Staying with her grandparents was only possible for a short time however, as they struggled to support her emotionally and (without any assistance from the Department) financially. Eventually, as a result of intervention by a member of her extended family, Amy became known to Barnardos, who then contacted DoCS.

As a result of the Department's involvement Amy's case went to court. This was a particularly traumatic time for her as she did not understand why she was there or what was happening to her - all she knew was that she was being signed over to the government. After being made a state ward, Amy spent the next few years moving constantly between a variety of foster homes and refuges. While the Department struggled to find a permanent placement, Amy would sometimes spend her day ringing refuges, trying to find somewhere to stay for the night. Staff at the refuges could see the negative impact this lack of stability was having on Amy and they tried to convince the Department to find a longer-term arrangement.

Eventually, when Amy became pregnant, the Department found independent accommodation for her. DoCS co-signed a lease on a rental property, which allowed her to move into a comfortable environment in which she could raise her child. The Department subsidised her rent, and also helped pay for antenatal and parenting classes. They supplied her with furniture for her new home. When she turned 18, the Department transferred the lease to Amy, who now has sole responsibility for her property, and a stable home life in which to raise her son.²⁹⁶

Transition and after-care

6.86 Around 300 young people leave care each year when they turn 18.²⁹⁷ The importance of effective transition arrangements is well established. As the CREATE Foundation has stated:

The transition to leaving care is a vital time for young people in care. Young people need to be aware of and informed and supported into independent living,

²⁹⁶ This case study is based on confidential evidence from a young person whose name has been changed

²⁹⁷ Community Services Commission, op cit

in order to ensure a positive experience of leaving care, and smooth transition into the next stage of a young person's life.²⁹⁸

6.87 Yet CREATE told the Committee in evidence:

[T]here is varied experience of these young people leaving care, from receiving a lot of information and support about, 'You are 18, now you are off to the big wide world. This is how we are going to help you, support you, get some brokerage, hook you up with an after-care service.' Unfortunately that is a rare experience and happens in the metropolitan area. In the rural areas there is nothing at all for young people who leave. I know some young people receive a letter from the Minister saying, 'Happy birthday, you are 18, you are on your own, have a good life.'²⁹⁹

Case Study

Nathan was moved into a foster home when he was 8 years old. He had a variety of placements before moving into a stable foster home. He remained with these carers for the next eight years, during which time DoCS made visits to make sure everything was going well.

During his placement Nathan was made a ward of the state, and at 16 DoCS asked him if he would like to be adopted by his foster family. Nathan felt it was a bit late for him to be adopted when he wouldn't be in care for much longer, though he felt that if the Department had asked him when he was younger it may have been an option.

Whilst in foster care, Nathan had contact with his family, and at 17 he decided he would like to return to his family home. The Department asked him if he would like them to continue their visits or if they should wait for him to call them if he needed their assistance. Nathan decided he would call them if he needed their help as he had been visiting his family home regularly and felt comfortable in that environment.

Just before he turned 18, Nathan received a letter from DoCS explaining that on his 18th birthday he would no longer be a ward of the state. Unfortunately, the letter was not accompanied by any telephone numbers or names of organisations he could contact to get further information or support. Nathan felt that after so many years of contact and assistance, the Department was simply no longer interested in his wellbeing.³⁰⁰

6.88 CREATE and other agencies told the Committee that there is a need for after-care arrangements, developed in consultation with young people, to be integrated into case planning well in advance of moving out of care. Greater access to emotional support and guidance is required, and the links between the Department, other agencies and after-care services need to be strengthened. More generally, there is a need for after-care services to be better funded and supported by the Department.³⁰¹ The Substitute Care inquiry called for the recognition of after-care as an essential but discrete program of the substitute care system, incorporated into policy and practice frameworks, with adequate resourcing and monitoring.

²⁹⁸ Submission 210, CREATE Foundation, p.13

²⁹⁹ Ludowici evidence, CREATE Foundation, 6 November 2002

³⁰⁰ This case study is based on confidential evidence from a young person whose name has been changed

³⁰¹ Submission 210, CREATE Foundation; CREATE Foundation, *Report to the Department of Community Services on Policy Framework for After Care Services*, February 2002

- 6.89** DoCS has indicated in its submission that it is currently expanding its service provision in this area, and is developing output measures for funding after-care services.

Recommendation 47

In order to improve after-care service provision:

- The Department of Community Services and other out-of-home care providers should ensure that after-care planning is integrated into case management for all young people, including those in kinship care, well in advance of leaving care
 - The Department of Community Services should ensure that after-care services are available to young people in regional, rural and remote areas and that young people can access adequate emotional support.
-

Charter of rights

- 6.90** The 1998 Act stipulates the development of a charter of rights for children in out-of-home care. While this section of the Act has not yet been proclaimed, the Committee has been advised that this work commenced some time ago.
- 6.91** Given its symbolic and practical significance, we believe the charter should be finalised and brought into effect as a priority. The Department must also develop and implement a comprehensive and ongoing information strategy so that all children and young people become aware of, and can exercise, their rights.
- 6.92** As we were told in evidence, it is also vital that complaint mechanisms be accessible and ‘user friendly’ for children and young people, otherwise their rights will go unclaimed.³⁰² This is equally important for out-of-home care providers and complaint bodies. As the Office of the NSW Ombudsman commences its expanded role in the area of community services, we encourage it to ensure the accessibility of its services.
- 6.93** The Committee acknowledges the importance of support organisations for past and present children and young people in care. We also recognise the work that they do to support consumers and to provide opportunities for mutual support. We encourage the Department to actively support CREATE and other organisations, and to assist them make contact with children and young people in care.

³⁰² Townsend evidence, CREATE Foundation, 6 November 2002

Recommendation 48

The Department of Community Services should finalise the charter of rights for children in out-of-home care and implement a comprehensive and ongoing dissemination strategy for the charter.

Recommendation 49

The Department of Community Services and other out-of-home care agencies should ensure that they have effective complaint handling mechanisms in place.

Recommendation 50

The Office of the NSW Ombudsman should ensure that its complaint services are appropriate for and accessible to children and young people.

The way forward for out-of-home care

- 6.94** In the Committee's view, five key elements are essential to reform the out-of-home care system and improve outcomes for children and young people: proclamation, effective quarantining of resources, a focus on outcomes, a policy framework and funding. We note that in combination, these will address each of the factors identified in the Substitute Care inquiry as contributing to past failure to achieve change.
- 6.95** The starting point for the way forward in out-of-home care is clearly proclamation of the outstanding sections of the Act, discussed earlier in this chapter. The second critical element is the structural separation and quarantining within the Department of out-of-home care. It is essential that the quarantining of 40 percent of staff resources for that function be genuine and strictly enforced. Third, the system must be driven by a focus on outcomes for children and young people. It is for their wellbeing that the system exists. This focus should be formalised through the establishment of outcomes measures for children and young people in care, which will then inform planning, funding and policy decisions.

A policy framework

- 6.96** The Committee is strongly concerned that there is no policy framework for the out-of-home care system in New South Wales. Such a framework is essential to the effective planning and delivery of out-of-home care, and must be the foundation for reform. It should be based on the principles and provisions of the Act, and articulate the goals, outcomes, parameters and priorities for the out-of-home care system. It is only when this framework is in place that the community can be confident in the Department's ability to fulfil its duty of care to children and young people.
- 6.97** The Department's submission recognises this need:

If we are to maximise the opportunities for children entering the out-of-home care (OOHC) system, we must maximise the efficiency and effectiveness with

which the government and non-government sectors provide services. This requires an OOHC policy framework that recognises the contributions of both sectors and, to the maximum extent possible, represents a shared view of the way forward.

Agreement across the sector is needed about the service system framework, components of the service system, and costs. The respective roles and functions of DoCS and non-government service providers must be clearly defined.

There are significant challenges facing non-government and DoCS service providers in developing a shared vision for out-of-home care:

- history of mistrust between DoCS and non-government organisations;
- DoCS' role as both funder and provider;
- significant differences in the workload between agencies;
- differing views on the scope of the program.

However, we will have to overcome these challenges if we wish to improve the system. DoCS will approach the other government agencies and the non-government peak organisations with a view to establishing a process to develop an agreed framework.³⁰³

- 6.98** The Committee understands that the process of re-engaging with non-government agencies recently commenced with the formation of the Ministerial Advisory Council.

Funding for out-of-home care

- 6.99** Hand in hand with a policy framework must come substantial investment in out-of-home care. In the Committee's view, before the respective roles of government and non-government organisations can be determined, standards need to be implemented for all agencies and more equitable and effective funding arrangements are required.
- 6.100** Earlier in this chapter we recommended that the Department use a formula to set limits on the caseload of each DoCS caseworker in out-of-home care, and to determine the number of out-of-home care caseworkers in each Community Service Centre. In the Committee's view it is critical that the Department establish a direct link between demand for its services and supply. More broadly, there is a need to achieve greater equity between DoCS and other agencies. Currently around 77 percent of out-of-home care services are provided by the Department and the remainder by non-government agencies, with funding split fairly evenly between the two.³⁰⁴ In other words, the Department is expected to do much more with around the same amount of money.
- 6.101** Yet it would be wrong to assume non-government agencies are over-resourced. They are calling for more adequate funding for their work in out-of-home care so that they too can improve standards and outcomes. Both they and the Department agree that current grants-

³⁰³ Submission 248, Department of Community Services, pp.36-37

³⁰⁴ Shepherd evidence, Department of Community Services, 29 November 2002

based funding arrangements are inadequate.³⁰⁵ Agencies remain bitter about the experience of the Care 2000/2001 process, in which they and DoCS jointly developed a funding formula that was then abandoned by the Department. They maintain that what is necessary is a funding framework that accurately reflects the true costs of running services, including caseload, infrastructure and operational costs. An agreed funding formula, starting with the work of the Care 2000/2001 Reference Group, would form the basis of the new framework.

6.102 The Department's submission indicates that it plans to introduce input and outcome measures to all out-of-home care programs from 2003/2004, but that this is:

dependent upon the development of a service agreement framework for purchasing services ... DoCS has introduced a purchasing policy for all funded programs which articulates the shift from a grants-based funding model to funding linked to outputs and outcomes. However, the framework for out-of-home care, including models and costings, has not yet been completed.³⁰⁶

6.103 In the Committee's view, the Department needs to expedite the development of this funding framework for the non-government sector. In the long term, it will be important to achieve greater consistency in how the Department purchases its own services and those of non-government agencies.

6.104 In recent evidence, the Director-General told the Committee that the Department had prepared a budget submission for out-of-home care, on which it is awaiting a decision. He indicated that the submission had been developed after a comprehensive examination of the system and consultation with staff and non-government organisations.³⁰⁷

6.105 In broad terms, Dr Shepherd told us that the Department's proposal is aimed at ensuring that both government and non-government out-of-home care providers have the capacity to meet the Children's Guardian's standards. He also flagged the potential movement of some out-of-home care services to the non-government sector, in order to achieve a more equal distribution of responsibilities between the Department and non-government organisations, while at the same time building the capacity of that sector.

6.106 The Committee is hopeful that this proposal will succeed, and in doing so, provide both the funding and policy frameworks for the reforms so needed in out-of-home care. In this, as in other aspects of the child protection system, the capacity of the Department to effect genuine reform is dependent on decisions that are made by Treasury.

³⁰⁵ Submission 248, Department of Community Services; Submission 189, Association of Childrens Welfare Agencies

³⁰⁶ Submission 248, Department of Community Services, p. 33

³⁰⁷ Shepherd evidence, Department of Community Services, 29 November 2002

Recommendation 51

The Department of Community Services should, as a priority and in consultation with non-government organisations, develop a strategic policy framework for reform of the out-of-home care system in New South Wales. This framework should be based on the principles and provisions of the *Children and Young Persons (Care and Protection) Act 1998* and should articulate the goals, outcomes, parameters and priorities for the out-of-home care system.

Recommendation 52

The Department of Community Services should develop and implement a new out-of-home care funding framework that accurately reflects the true costs of running services, and which builds on the funding formula developed through the Care 2000/2001 process.

Chapter 7 The court system

This chapter considers issues regarding the interaction between the child protection system and the courts. The child protection system interacts with the courts in a number of ways. First, and most importantly the Children's Court is the legal gateway through which children move into out-of-home care. Second, Apprehended Violence Orders (AVOs) issued by courts are often used as a form of child protection intervention. Third, child protection matters are often raised or become apparent during custody proceedings in the Family Court.

Children's Court

- 7.1 Participation in Children's Court proceedings is part of the core business of DoCS. Any decision to remove a child or young person from their family must be reviewed by the Children's Court. The *Children and Young Persons (Care and Protection) Act 1998* (the Act) requires the Department to apply to the Children's Court for a care order as soon as possible after removal.³⁰⁸ A care order is necessary to permit the continued removal of the child. This requirement is intended to ensure that the Department is accountable for the very serious decision to remove a child or young person, and that there is a proper reason for the removal. In 2001-2002 3,143 new applications were made to the Children's Court.³⁰⁹
- 7.2 The Children's Court has the power to make a wide range of orders, including emergency care and protection orders, interim care orders and final care orders. The Court also has the power to determine parental responsibility, order that a child or their parent undertake an assessment, and order that the Department continue to supervise a child or young person.

Case preparation

- 7.3 Cases in the Children's Court rely largely on documentary evidence. To support an application for a care order, the Department needs to prepare an affidavit³¹⁰ outlining the factual basis for the order along with other documentation such as a care plan for the child.
- 7.4 While strict rules of evidence do not apply, the evidence presented during a Children's Court application must meet basic standards relating to relevance, probative value and procedural fairness. A specialist understanding of legal principle is often necessary to prepare documentation to meet the Court's requirements.

³⁰⁸ *Children and Young Persons (Care and Protection) Act 1998*, s.45

³⁰⁹ Between 1995/96 and 2001/02 the number of applications to the Children's Court rose from 2,508 to 3,143: Attorney General's Department of NSW, *Annual Report 2001-2002*, p.182

³¹⁰ An affidavit is a written form of sworn evidence

7.5 Stakeholders have argued that the quality of preparation by DoCS caseworkers for the Children's Court is poor. While legally qualified staff appear in Court to present the actual case, DoCS caseworkers are responsible for all aspects of case preparation, including the drafting of affidavits and providing instructions to departmental solicitors. Due to workload issues for both caseworkers and departmental solicitors, sufficient time is not available to ensure that adequate case preparation takes place. Poor preparation can lead to multiple adjournments of Children's Court matters to obtain further evidence and can significantly delay their resolution. This presents difficulties for other parties in Children's Court matters, and ultimately can place children at risk.

7.6 Our interim report highlighted the need to ensure that caseworkers receive sufficient legal support to help them to prepare for Children's Court matters. The expertise required for casework is different to that required to prepare court documentation, and we believe that appropriate legal support will help to assist caseworkers to make the most productive use of their time and skills. The report suggested the following options for enhancing legal support for caseworkers:

- Expanding DoCS Legal Services so that it has the capacity to undertake this role
- Employing staff with legal or paralegal qualifications to work in CSCs or regional offices
- Providing a budget to CSCs to purchase legal services from private practitioners.

7.7 The Law Society has suggested that procedures for case preparation within CSCs could be streamlined by making one manager casework, or other senior officer, responsible for preparation and presentation of Children's Court matters.³¹¹ This officer would oversee case preparation and receive specialist training about the evidentiary requirements of the Court. To limit the unproductive use of caseworker time, the officer would also attend Court in place of individual caseworkers:

Currently the legal process is seen by many case workers as intrusive into their case work time. Such a fundamental shift would:-

- (a) enable specialised officers with knowledge of court process and authority to instruct and be present at court.
- (b) release most case workers to do case work where they would otherwise be primarily at court on an appearance that may only last 10 to 20 minutes.³¹²

7.8 Dr Shepherd told the Committee that he is currently investigating ways to ensure that caseworkers have access to better legal support. Dr Shepherd advised that his preference was to have specialist legal staff located within larger Community Service Centres, rather than remotely in area or regional offices, to ensure that caseworkers have direct support for this aspect of their work.³¹³

³¹¹ Submission 271, Law Society of New South Wales

³¹² Ibid, p.7

³¹³ Shepherd evidence, Department of Community Services, 29 November 2002

- 7.9 The Committee agrees that it is preferable to have direct access to legal support within CSCs. While it may not be feasible to employ legal staff in smaller CSCs, arrangements could be developed to purchase services from private practitioners or to access departmental legal staff on a rotational basis. We also believe that there may be merit in the Law Society's suggestion that a senior caseworker should be given a specialist role and responsibility within CSCs for preparation and oversight of Children's Court matters. There is also a need to ensure that caseworkers receive sufficient training on the requirements of the Children's Court.

Recommendation 53

The Department of Community Services should develop a strategy to optimise the management of Children's Court matters within Community Services Centres. In particular, the Department should:

- Ensure that caseworkers receive adequate specialist legal support to prepare for Children's Court matters, preferably through the employment of legally qualified staff to work in Community Service Centres
 - Develop a specialist senior casework role and responsibility for the preparation and management of Children's Court matters within Community Services Centres
 - Ensure that caseworkers receive sufficient and appropriate training on the requirements of the Children's Court.
-

- 7.10 The issue of record keeping within CSCs also has an impact on the role of the Department in the Children's Court. Past inadequacies in file keeping and problems with the Client Information System (CIS) make it difficult for caseworkers to present usable historical information to the Court to support a care application. In Chapter 4 we note that the Department is currently reforming its record-keeping processes and information systems. We consider it essential to ensure that the new records management system and CIS stores information that is required by the Court and provides information that is in a form that the Court can use.

- 7.11 There is also value in examining the extent to which Children's Court procedures could be made less demanding. Witnesses have placed considerable emphasis on the responsibility of DoCS to accommodate the Court's requirements. There is equally a responsibility for the Children's Court to ensure that its procedures are not unnecessarily demanding for the Department. Very little information has been provided to this inquiry about the extent to which the Court's procedures can, or should, be streamlined to reduce the workload for DoCS caseworkers. However, modification of Children's Court procedures could have a significant effect on the workload of DoCS staff, and may assist other stakeholders. We therefore consider that the Attorney General's Department, the Children's Court and DoCS should undertake a joint review of Children's Court procedures to determine whether there are opportunities to make Court processes less onerous. Given the importance of the new records management system and CIS to this issue, this review should be undertaken as part of the development of these systems and be completed by the end of 2003.

Recommendation 54

The Department of Community Services should ensure that the new records management system and Client Information System store and provide information that is relevant and in a form that is usable by the Children's Court.

Recommendation 55

The Department of Community Services, the Attorney General's Department and the Children's Court should jointly review Children's Court procedures to determine whether documentary requirements and Court processes can be streamlined to assist all parties to Children's Court proceedings. This review should be finalised by December 2003.

Other parties

7.12 While this inquiry is focussed largely on the role of DoCS, we note that the Department is only one party to care proceedings in the Children's Court. It is equally important within an effective child protection system to ensure that Children's Court proceedings are fair to parents. In many cases, the best interests of a child will only be served if one or both parents have a proper opportunity to present their case in Court. In keeping with our focus on prevention and supportive interventions, where there is a realistic and safe alternative to removal, a child's parents must be able to present their case properly.

7.13 The main issues raised by participants in the inquiry include that:

- Strict eligibility criteria for legal aid means that many parents cannot obtain legal representation or assistance with case preparation. As one practitioner commented:

[W]e had a case ... quite recently where there was a married couple and the mother was assessed to be of a very low intellectual ability, a very low functioning mother, and she was married; her husband was low average IQ and was in a very menial low-paying job. They were refused legal aid ... on the means test. Neither of them was able to write. The father was unable to read very much; the mother could not read at all, and this jurisdiction is based on affidavit evidence, so how were these parents supposed to actually file affidavits?³¹⁴

- Court processes can be confusing and difficult for many parents to follow. This is particularly so for parents with intellectual disability, who are involved in 1/6th of the matters that come before the Court.³¹⁵ According to the Intellectual Disability Rights Services:

³¹⁴ Confidential evidence

³¹⁵ Submission 158, Dr David McConnell

It is important that people understand what happens in court because ... the majority of these matters are resolved by consent. That seems to be a little bit of a nullity unless a person is able to understand what they are consenting to and what the consequences of those agreements are for the person.³¹⁶

7.14 It has therefore been suggested that legal aid guidelines need to be revised to ensure that parents who cannot afford representation obtain legal advice in Children's Court matters and that Court processes should be adjusted to make them more accessible to people with intellectual disability. Research into the Children's Court undertaken by the Family Support and Services Project at the University of Sydney and funded by the Law and Justice Foundation, recommended that Children's Court procedures should be reviewed to address the difficulties experienced by people with disability. Suggested strategies to address these difficulties included:

- The development of a video and accompanying plain English resources to explain the process
- Development of a network of volunteers to provide support to parents with disability
- Additional funding to support adequate legal representation of parents with a disability.³¹⁷

7.15 The Committee believes that there is considerable merit in these proposals. In particular, the production of clear and accessible material in plain English that explains Children's Court procedures would greatly assist many parents, including people from culturally and linguistically diverse backgrounds and people with limited literacy. We therefore support the recommendation that Children's Court procedures should be reviewed.

Recommendation 56

The Attorney General's Department and the Children's Court should review legal aid guidelines and the procedures of the Court to ensure that non-departmental parties have a genuine opportunity to present their case. In particular they should ensure that Children's Court processes are accessible to parents with disability.

Apprehended Violence Orders

7.16 The interim report noted a range of concerns about the role of Apprehended Violence Orders (AVOs) within the child protection system. The Act requires the Department to consider whether an AVO would provide sufficient protection to a child or young person who is believed to be at risk, before making the decision to remove the child from their

³¹⁶ Rogers evidence, Intellectual Disability Rights Service, 5 November 2002

³¹⁷ McConnell D, Llewellyn G and Ferronato L, *Parents with a Disability and the NSW Children's Court*, Family Support and Services Project, University of Sydney, August 2000, p.v

family.³¹⁸ This requirement recognises that, appropriately used, AVOs are a less intrusive intervention than removal because they allow a child to remain in their home environment. The requirement also recognises the strong association between domestic violence, which AVOs are intended to address, and child protection concerns.

7.17 A range of concerns were raised about the way this requirement has been translated into DoCS casework practice. Applications for an AVO must either be made by the police or privately by the non-offending parent, usually the mother of the child. A number of submissions, particularly from community legal centres and women's groups, suggested that there is a tendency for caseworkers to encourage women to apply for an AVO in circumstances where a child is at risk when the Department should actually be bringing care proceedings in the Children's Court. There is concern that reliance on AVOs effectively privatises the issue of child protection and places significant responsibility for child protection on the mother, who may herself be in a highly vulnerable position.

7.18 According to the Law Society, AVOs are not always an appropriate or effective tool in child protection matters:

In some family domestic violence situations, children may not always be included in AVOs;

In other family violence situations, mothers are sometimes pressured by Departmental officers to seek AVOs against their partners, under threat of having the child removed. In some circumstances, women have difficulty in persuading the court that an AVO is necessary. In other cases, where orders are granted and the parties subsequently wish to reconcile, the order is breached and affords no protection to the child.³¹⁹

7.19 The Women's Legal Resources Centre noted that applying for an AVO can be a difficult and intimidating process for women. DoCS does not provide support for private applications and women only receive limited assistance through Court Assistance Schemes. As an alternative to AVOs, the Women's Legal Resources Centre suggested that DoCS should make greater use of its power to apply for a care order that places children in the care of the mother and limits contact with the violent father. It was also suggested that the Act be amended to remove the requirement that DoCS first consider whether an AVO is more appropriate than care proceedings.³²⁰

7.20 Other concerns about the use of AVOs as a child protection tool include that:

- The focus of an AVO is the protection of the mother rather than the child
- DoCS officers do not have the power to apply directly for an AVO
- The Children's Court, which has specialist expertise in child protection, does not have the power to grant an AVO.

³¹⁸ *Children and Young Persons (Care and Protection) Act 1998*, s.43

³¹⁹ Submission 271, Law Society of New South Wales, p.8

³²⁰ Submission 233, Women's Legal Resources Centre

- 7.21** The Committee acknowledges the concern that AVOs may be used inappropriately in place of care proceedings. Where there is a risk to the safety of a child or young person, it is important to ensure that responsibility for child protection is not transferred to the non-offending parent. However, we consider that AVOs should be retained as an option for the protection of children. AVO proceedings are less complex and are faster than care proceedings and have the potential to provide a more immediate solution to child protection concerns. It is also preferable, where possible, for a child to remain at home and with the non-offending parent than for the child to be placed in out-of-home care.
- 7.22** The difficulty with the current system is that AVO proceedings are not integrated into the child protection system. The onus is on the mother rather than DoCS to apply for an AVO and they can only be granted by the Local or District Court. Unlike the Children's Court, these Courts do not have the specialist capacity to monitor the effect of an AVO by making supervision orders that require the Department to report back to the Court about whether the order has been sufficient to protect the child.
- 7.23** We therefore consider that the Act should be amended to enable the Children's Court to grant AVOs. The need to ensure the safety and wellbeing of a child or young person would be the explicit focus of an AVO issued by the Children's Court. This would supplement the current range of child protection powers available to the Children's Court, and make use of the Court's specialist child protection expertise. A particular advantage of this approach is that it would give the Court the opportunity to consider whether it would be more appropriate to use one of the other orders that are available to it to protect the child from harm. This approach is also consistent with the 'one Court principle' discussed below.
- 7.24** In addition, the Department should be given the power to apply for an AVO in lieu of a care order. The inability to apply for AVOs limits the options available to caseworkers and creates a significant gap in the child protection system. Ensuring that the Department has a capacity to apply for an AVO on its own initiative will ensure that responsibility for a child's safety and wellbeing is retained within the Department.
- 7.25** To be effective, these legislative changes must be supplemented by changes to casework policy and practice to ensure that caseworkers play a more active role in AVO proceedings. One of the most pervasive general criticisms of AVOs has been that while police have the power to apply for an AVO on a woman's behalf, they are reluctant to do so. It is therefore important to ensure that additional powers granted to DoCS workers are used effectively to protect children.

Recommendation 57

The *Children and Young Persons (Care and Protection) Act 1998* should be amended so that:

- The Children's Court has the power to grant Apprehended Violence Orders in favour of a child or young person who is at risk of harm,
- The Department of Community Services has the power to apply to the Court for an Apprehended Violence Order in lieu of a care order.

Recommendation 58

In relation to Recommendation 57 the Department of Community Services should ensure that Community Service Centre staff receive appropriate training regarding their role and responsibilities in relation to the use of Apprehended Violence Orders as a child protection intervention.

Family Court

7.26 Child protection issues are raised in approximately one quarter of defended cases in the Family Court that involve children.³²¹ The Commonwealth Family Court therefore has a significant child protection role. A number of participants were concerned that DoCS caseworkers are reluctant to pursue child protection matters that are also the subject of Family Court proceedings. The Committee was told that the Department rarely intervenes in Family Court matters even where it has serious concerns about the safety of a child. According to the Women's Legal Resources Centre, the effect of this is similar to the use of AVOs: child protection matters become the responsibility of the non-offending parent to pursue in private and costly legal proceedings.³²² As a result the Family Court must make decisions about the best way to ensure the safety of a child without proper investigation of child abuse allegations. This can result in harm for children who are at risk.

7.27 Ineffective interaction between DoCS and the Family Court was also criticised by the Ombudsman:

We have looked at DoCS procedures for making decisions whether or not to join Family Court proceedings and the adequacy of guidance to its officers about the circumstances in which it is appropriate to join such proceedings. We have found both to be inadequate. It is currently unclear what information is needed to make such decisions, who is to be consulted, who the final decision maker is or the time in which such a decision should be made.³²³

7.28 Correspondence to the Committee from the NSW Ombudsman indicates that the Department should:

- Review its policy regarding the circumstances in which it will join Family Court proceedings and when it will take action in the Children's Court when a matter is before the Family Court

³²¹ Nicholson evidence, Family Court of Australia, 6 November 2002; see also Family Law Council, *Family Law and Child Protection: Final Report*, Commonwealth of Australia, September 2002, pp.20-21

³²² Submission 233, Women's Legal Resources Centre

³²³ NSW Ombudsman, *DoCS - Critical Issues: Concerns arising from investigations into the Department of Community Services*, April 2002, pp.11-12

- Develop a procedure for deciding whether or not to join Family Court proceedings
- Produce written guidelines for departmental staff in relation to Family Court proceedings
- Develop a case management system for matters in the Family Court where the Department has confirmed abuse and the matter is in the Family Court.³²⁴

7.29 A key criticism in evidence to this inquiry has been that New South Wales is the only jurisdiction in Australia that has not entered into a protocol with the Family Court to improve coordination between the two agencies. While protocols do not provide a complete answer to problems of coordination between child protection agencies and the Court, they provide a basis for greater collaboration. A protocol that clearly defines the circumstances in which the Department will investigate allegations that are raised in the Family Court, supported by appropriate policy, would address many of the concerns raised by the Ombudsman and others.

7.30 The Government has committed itself to establishing a protocol with the Court as soon as possible. A draft protocol was sent by the Department to the Family Court in June 2002³²⁵ and is currently with the Court for consideration. The Committee considers it important to ensure that an effective protocol is finalised as soon as possible.

Project Magellan

7.31 A number of States have undertaken pilot projects to improve coordination between child protection agencies and the Family Court. The most highly regarded of these was *Project Magellan*, a Victorian pilot to improve the management of 100 cases involving serious allegations of child abuse. Agencies involved included the Family Court, Legal Aid, Police and the Victorian Department of Human Services. Key aspects of *Project Magellan* were that the Department undertook to investigate all child abuse allegations arising out of the project and to provide a written report to the Court, that the child was able to obtain uncapped Commonwealth legal aid to obtain a separate legal representative and that parties to the case were able to obtain uncapped legal aid (subject to the normal means and merit test). Evaluation of *Project Magellan* indicated that the collaborative approach was highly cost effective, saved considerable time and produced better and more lasting outcomes for children.³²⁶

7.32 Importantly, the project did not result in a significantly increased workload for the Victorian Department of Human Services. Better management and earlier resolution of

³²⁴ Correspondence, NSW Ombudsman, 26 November 2002

³²⁵ Ibid.

³²⁶ Submission 233, Women's Legal Resources Centre

cases involving child protection allegations meant that less caseworker time over the longer term was required.³²⁷ The evaluation report therefore noted:

It would appear that there were no additional costs to the state child protection services but rather some cost reductions.³²⁸

According to the Family Court, the pilot has also enhanced collaboration generally with the Victorian Department of Human Services.³²⁹

7.33 Negotiations to extend *Project Magellan* to other States, including New South Wales, are now under way. According to Justice Nicholson, the main impediment to progress is that the Commonwealth has not yet committed itself to making legal aid available on the same terms as it did for the pilot project.³³⁰ Dr Shepherd advised the Committee that the Department is currently considering a pilot of *Project Magellan* in one region of New South Wales.

7.34 The Committee notes there is a high level of support for *Project Magellan*. We therefore believe that *Project Magellan* should commence as a pilot project as soon as possible in New South Wales. *Project Magellan* provides an opportunity to promote practical collaboration between DoCS and the Family Court and to ensure that any protocol developed between the two agencies is effective in practice. We therefore urge the Commonwealth Attorney General to ensure that adequate legal aid is made available to ensure that the project is effective.

Recommendation 59

The Government should establish a pilot project based on *Project Magellan* to enhance coordination between the Family Court and the Department of Community Services.

Recommendation 60

The Attorney General should as a matter of urgency approach the Commonwealth Attorney General to ensure that adequate legal aid funding is available to support the pilot project referred to in Recommendation 59.

An expanded Commonwealth role in child protection

7.35 The Family Law Council recently examined the relationship between state-based child protection agencies and the Family Court in detail.³³¹ It is clear from this examination that

³²⁷ Ibid.

³²⁸ Brown T, Frederico M, Hewitt L and Sheehan R, *Resolving Family Violence to Children: The Evaluation of Project Magellan*, Monash University, Melbourne, 2002, p.65

³²⁹ Harrison evidence, Family Court of Australia, 6 November 2002; see also *ibid*

³³⁰ Nicholson Family Court of Australia, 6 November 2002

³³¹ Family Law Council, *op cit*

many of the difficulties in the relationship between DoCS and the Family Court identified by participants in this inquiry exist in other State and Territories. The Council noted that for a range of reasons, including resource issues, child protection agencies around Australia do not investigate a significant proportion of cases that are referred to them by the Family Court. They also rarely intervene in Family Court cases even where the agency is aware of significant concerns about the safety and wellbeing of the child.

- 7.36** While noting that protocols and initiatives such as *Project Magellan* can improve coordination, the Council pointed out that the objectives and priorities of state-based child protection agencies and the Family Court system will always differ. This means that some children at risk of harm will not be supported by either system:

[T]his systemic failure could have the most serious and damaging consequences for children's lives. The fact that neither system operates to protect the child is a very serious one.³³²

- 7.37** To address these concerns, the Council recommended that a national child protection service be established to ensure that proper investigation of child abuse allegations that are raised in the Family Court always occurs. This recommendation recognises that there is a significant Commonwealth responsibility for child protection that arises out of the high number of Family Court matters that involve child abuse allegations.

- 7.38** The Committee supports the establishment of a national child protection service. This would supplement the above recommendations aimed at promoting more effective collaboration between DoCS and the Court. The agency would buttress the current child protection work of State agencies such as DoCS. We note that considerable work would be required to implement this recommendation and it is unlikely that a national child protection service will become operational in the short-term. However, we consider that the implementation process should commence as soon as possible.

- 7.39** We note that establishment of a national child protection service would form part of a longer-term strategy. The formation of a better relationship between DoCS and the Family Court, through the adoption of a protocol and the implementation of *Project Magellan* is therefore a clear priority for the short and medium term.

The 'one Court principle'

- 7.40** The Council also noted that there is significant overlap between the responsibilities of the State Children's Courts and the Family Court and poor coordination between the two systems. This may result in the same issue being litigated in both courts and can lead to conflicting decisions between the two Courts. For example, where a party is dissatisfied with the outcome of a case in one court they may commence proceedings in another to reverse the original decision. According to Justice Chisholm of the Family Court, this creates significant difficulty:

³³² Ibid, p.49

It places enormous strain on people and their funds to have to go through allegations of child abuse in two different courts ... If you get inconsistent results it does not say much for the system either way.³³³

- 7.41** The Family Law Council therefore recommended that a decision should be made early about which court system is the most appropriate one to determine a particular matter. Once this decision is made, the matter should proceed to its conclusion in that court. This would be known as the 'one Court principle'. We note that this principle would not in any sense amount to a merger of the two court systems, but would involve the establishment of clear decision-making criteria and policy about when an action should be brought in either court and when agencies such as DoCS should intervene in Family Court matters.
- 7.42** The Committee notes that this approach would require a high level of cooperation and coordination between the different courts and between child protection agencies and the courts. As with the proposed Federal child protection agency, we note that implementation of this reform would take some time. However the avoidance of duplication and inconsistency between the two court systems has the potential to deliver better outcomes for children and families and to reduce the workload for child protection staff. We therefore support further investigation of the 'one Court principle' as part of a longer-term child protection strategy.
- 7.43** The Family Law Council suggested that its recommendations should be implemented by a Committee jointly appointed by the Council of Community Services Ministers and the Standing Committee of Attorneys General. We concur with this approach and believe that the consideration of these recommendations be placed on the agenda of both ministerial councils as soon as possible.

Recommendation 61

The Attorney General and the Minister for Community Services should approach their counterparts in the Commonwealth and other States and Territories to support the recommendations of the Family Law Council Report, *Family Law and Child Protection: Final Report*, and to ensure that these recommendations are placed on the agenda of the Council of Community Services Ministers and the Standing Committee of Attorneys General as soon as possible.

³³³ Chisholm evidence, Family Court of Australia, 6 November 2002

Chapter 8 Support for higher needs groups

Several groups have emerged in this inquiry as requiring particular attention to their needs, especially if we are to create a child protection system with a greater preventative focus. This chapter considers specific issues in child protection, family support and out-of-home care as they relate to indigenous children and families, culturally and linguistically diverse communities, parents with disability and parents with mental illness. It also explores the necessity for the child protection system to provide effective and coordinated secondary and tertiary supports for families with complex needs.

Indigenous children and families

- 8.1** It is widely recognised that indigenous children and young people are greatly over-represented in the child protection system. While indigenous people comprise 2.4 percent of the Australian population,³³⁴ Aboriginal children and young people comprise 13.4 percent of cases where abuse of neglect has been substantiated and 27.5 percent of children in out-of-home care.³³⁵
- 8.2** Issues relating to indigenous families have been raised throughout this report. This section considers specific issues such as the Aboriginal Child Placement Principles, out-of-home care, prevention, and the allocation of resources to child and family support services.

The Aboriginal Child Placement Principles and out-of-home care

- 8.3** The Aboriginal Child Placement Principles enshrined in the Act are intended to address past policy and practice of removing Aboriginal children from their families. The Principles affirm the self-determination and participation of indigenous people in the care and protection of their children and young people. They stipulate that when an indigenous child or young person needs to be placed in out-of-home care, he or she should be placed, in order of preference, with a member of his or her family or kinship group, a member of the community to which he or she belongs, or a member of some other Aboriginal family living near the child's usual place of residence. Where none of those placements is practicable or it would be detrimental to the child, the Principles state that he or she should be placed with a suitable person approved by the Director-General after consultation with members of the child's extended family or kinship group and appropriate indigenous welfare organisations.³³⁶
- 8.4** There is strong support among Aboriginal organisations for the Principles. However participants told the Committee that more should be done to ensure that they are fully implemented. Around 13 percent of children and young people in out-of-home care are

³³⁴ Australian Bureau of Statistics, *Population Distribution, Indigenous Australians*, Cat. No. 4705.0

³³⁵ Australian Institute of Health and Welfare, *Child Protection Australia 2000-01*, AIHW, Canberra, p.18 and 45

³³⁶ *Children and Young Persons (Care and Protection) Act 1998*, s.13

still being placed with a non-indigenous carer.³³⁷ Organisations such as Link-Up and Aboriginal Children's Services Redfern argue that as long as the Principles are not fully realised, the 'cycle of removal' of Aboriginal children will continue, and the long-term costs of grief and displacement to Aboriginal people and the broader community will be perpetuated.³³⁸

8.5 Witnesses told the Committee that there are a number of factors limiting the effectiveness of the Aboriginal Child Placement Principles including:

- Difficulties faced by the Department in recruiting Aboriginal foster carers
- The lack of sufficient resources for DoCS and particularly Aboriginal out-of-home care providers
- Extended family and community members may already have 'enough on their plate' and be unable to take on the additional responsibilities of caring for a child
- Failure of the Helpline at intake to identify the Aboriginality of a child at risk of harm.³³⁹

8.6 The Committee was told that the Department's inability to recruit Aboriginal foster carers reflects the mistrust arising from the history of removal of Aboriginal children and has many negative consequences. As well as undermining the realisation of the Principles, we were told that it leads DoCS to leave some children in situations of risk for longer than should be the case.³⁴⁰ At the same time, the small pool of available carers means that those who do exist are overused, particularly in rural and regional areas. As one caseworker told us:

[W]e have one Aboriginal foster carer that we used to flog to death. They have six foster kids in care and they have four of their own children, and we used to place other kids with them [short term].³⁴¹

8.7 One indigenous young person said she had mixed views on the Principles: being placed within your family and community was important, but when this is not possible you may be placed some distance from home. Also, an indigenous family may not live according to Aboriginal customs, so 'you might as well just be placed with a white family ... what was the difference between them and other people?'³⁴² In the Committee's view, this points to

³³⁷ Submission 122, Coalition of Aboriginal Legal Services NSW

³³⁸ Submission 155, Link-Up Aboriginal Corporation and Aboriginal Children's Services Redfern

³³⁹ Ibid.

³⁴⁰ Confidential evidence

³⁴¹ Caseworker, confidential evidence

³⁴² Young person, confidential evidence

the need for appropriate training for carers, so that they support the child's continued contact with their culture.

- 8.8** The Aboriginal Child, Family and Community Care State Secretariat told the Committee of instances where indigenous organisations were very effective in recruiting ATSI foster carers. They suggested that it would be beneficial for recruitment to occur through, or in partnership with, those organisations.
- 8.9** The Committee was told that there is a critical need to support indigenous kinship carers, who provide the vast majority of out-of-home care. Often this care is provided by grandmothers, who may care for several children at once. In Chapter 6 the Committee recommended that the Department expand indigenous out-of-home care services and that in partnership with Aboriginal and other bodies, it should develop a framework for supporting kinship care. We also recommended that the Department consult with Aboriginal communities as to whether the legislated definition of out-of-home care should be amended to include kinship care.
- 8.10** In the Committee's view, measures to enhance and support indigenous kinship and foster carers will significantly improve the actualisation of the Principles, as well as outcomes for indigenous children and young people. There may also be a need for further work to ensure the Principles are effectively interpreted on the ground.

Prevention

- 8.11** In the Committee's view, the vastly disproportionate numbers of Aboriginal children and young people in out-of-home care, as well as among children whose death was related to abuse or neglect,³⁴³ speak volumes about the need for more preventative supports throughout indigenous communities. As noted in our interim report, a systematic, culturally sensitive prevention and early intervention strategy, which is owned and controlled by Aboriginal communities, is greatly needed in order to break the damaging cycle of risk that exists among this population.

Funding

- 8.12** The Committee was advised that Aboriginal out-of-home care and family support services are significantly under-resourced to meet the needs and the sheer volume of clients they are expected to service. According to Link-Up and Aboriginal Children's Services Redfern, while Aboriginal children comprise more than a quarter of all children in out-of-home care, Aboriginal out-of-home care services received only 5 percent of total funding last year.³⁴⁴ We acknowledge, however, that non-indigenous services support some of these children.

³⁴³ The Child Death Review Team found that of the 21 children whose death was related to abuse or neglect, 5 were Aboriginal: NSW Child Death Review Team, *Report 2001-2002*, NSW Commission for Children and Young People, October 2002

³⁴⁴ Submission 155, Link-Up Aboriginal Corporation and Aboriginal Children's Services Redfern

- 8.13** The Committee has been advised that funding inequities between indigenous and other non-government agencies are being addressed, but that these Aboriginal organisations have been so disadvantaged for so long, and have such demands on them, that they may continue to need additional funding support for some time. In our view, the significant disadvantage that exists in Aboriginal communities and the overrepresentation of their children in out-of-home care provides a strong rationale for additional funding for indigenous organisations.

Aboriginal caseworkers

- 8.14** Finally, participants told the Committee of the enormous responsibilities placed on Aboriginal caseworkers, who are not sufficiently supported to balance the tensions of working for 'the welfare' and being a member of an indigenous community. We are mindful that it is often these workers who have to reconcile the Aboriginal Child Placement Principles and the realities of alternative care:

[P]ressure often falls on the Aboriginal district officer ... to have all the answers about placement and every other issue to do with Aboriginal children and families.³⁴⁵

- 8.15** It is vital that these workers are supported in their role, and that they are employed in sufficient numbers, if the Department is to improve its work with indigenous communities.

Recommendation 62

In order to enhance the capacity of indigenous communities to care for their children and young people, the Department of Community Services should, when implementing Recommendation 45:

- Fund a state-wide, systematic and culturally sensitive prevention and early intervention strategy, including family support, which is controlled by Aboriginal communities
 - Adequately fund indigenous organisations for their role in supporting children and families
 - Work in partnership with indigenous organisations to recruit more Aboriginal foster carers
 - Develop an effective system of support for Aboriginal Departmental staff.
-

³⁴⁵ Ibid.

Cultural and linguistic diversity

- 8.16** People from culturally and linguistically diverse backgrounds make up a significant proportion of the population, with around 19 percent of people in New South Wales speaking a language other than English at home.³⁴⁶ As with all human services, it is important that prevention, early intervention, child protection and out-of-home care services adequately and appropriately support this substantial and diverse group. The Department's submission also points to the vulnerability of many non-English speaking families, who as a group have poorer health and developmental outcomes than the broader population.³⁴⁷
- 8.17** Representatives of non-English speaking background (NESB) communities identified a number of areas where systemic improvement is required. Underpinning all of these was the view that the Department needs to be much better at recognising and supporting diversity, to be more connected to communities at the local level, and to work more collaboratively with support services and community members.
- 8.18** Participants told us that the Anglo-Saxon value base of the Department means a narrow interpretation of family forms and child rearing practices. This works against diverse communities by pathologising their difference and devaluing their skills and resources:

It is also to do with the value system. That is the problem: that we are assessing people according to our personal values. Once a person starts to work in DoCS, they have to realise that they may have a personal view, and that is fine, but they need to have respect for diversity, accepting that maybe someone lives in an extended family and that is okay as well.³⁴⁸

Effective communication

- 8.19** Community representatives told the Committee that there is a need for effective cross-cultural communication practices across prevention and early intervention, child protection and out-of-home care. Culturally and linguistically appropriate information is widely lacking, and there is a need for a range of information and outreach strategies so that communities are more aware of the Department's role and services, of parenting issues and child development milestones.
- 8.20** Participants pointed out that there is a great deal at stake for a child and their family in the child protection system, and they need to fully understand the processes in which they are involved. Correspondingly, all who have a role to play in assessment and intervention must be actively committed to effective communication. Of particular benefit here would be greater and more effective use of interpreter services by caseworkers.³⁴⁹

³⁴⁶ Australian Bureau of Statistics, *2001 Census of Population and Housing*, New South Wales

³⁴⁷ Submission 248, Department of Community Services

³⁴⁸ Greenwood evidence, Ethnic Child Care, Family and Community Services Co-operative, 23 August 2002

³⁴⁹ Submission 232, Ethnic Child Care, Family and Community Services Co-operative

- 8.21 Participants were concerned about the accessibility of the Helpline, and suggested this could be improved by training Helpline staff on how to use the Telephone Interpreter Service, and by improving its base of bilingual staff.³⁵⁰

Out-of-home care

- 8.22 In relation to out-of-home care, community representatives called on the Department to work in collaboration with NESB communities and, as far as possible, to maintain children and young people's connections with their culture and community. The Committee heard of several instances where the Department did not place children in their own community despite people's willingness to take them:

Even in the Tongan community, none of them were good enough for these four kids, so they had to be removed and put with a family in the Eastern Suburbs ... The community came together to help, but DoCS came in and just said, 'No, we don't want that. You can't cope with that. We don't think you are good enough.'³⁵¹

- 8.23 Participants called on the Department to develop an ethnic-based framework for out-of-home care, where a key aim is to keep the child connected to their community. Such a framework would have a number of elements:

- Like the Aboriginal Child Placement Principles, it would prioritise placement with extended family members, then members of the same local community, then a foster carer of the same cultural and linguistic background, then at least a carer who is supported by a worker from that community.
- Caseworkers would routinely liaise with ethnic organisations or workers to facilitate and support an appropriate placement, including through case conferencing
- Translated information, interpreters and bilingual workers would be ensured.³⁵²

Other culturally appropriate service provision

- 8.24 Community representatives stressed the need for ongoing cross-cultural training for caseworkers in order to improve their skills in working with culturally diverse families.

- 8.25 They pointed to a model currently used in the day care area that is particularly effective in improving the Department's capacity to work with communities. This model involves establishing a community based, state-wide, external network of bilingual/bicultural

³⁵⁰ Germanos-Koutsounadis evidence, Ethnic Child Care, Family and Community Services Co-operative, 23 August 2002

³⁵¹ Ma'ake evidence, Ethnic Child Care, Family and Community Services Co-operative, 23 August 2002

³⁵² Submission 232, Ethnic Child Care, Family and Community Services Co-operative

workers trained to work with families, children and the Department on child protection matters. Those workers would have a number of roles:

- Direct support for families and children during and after child protection intervention
- Provision of advice to the Department and other agencies on working with particular communities
- Community education.³⁵³

8.26 They provided an example of how this could work:

If DoCS had a Vietnamese family, for example, and they needed someone to support them, then in our program we lend the workers ... to work with the child and also to work with the parents and the staff. We lend out our worker, and that worker will have the cultural and language expertise, as well as the confidence of the Vietnamese community that you can utilise to assist that family.³⁵⁴

8.27 Participants also called for a greater use of preventative strategies such as the Protective Behaviours Program that works within a community development model to raise awareness about abuse, teach children to protect themselves, and empower individuals and groups in the community to support families at risk.³⁵⁵ In the Committee's view it is very important that the enhanced prevention system envisaged in this report take an explicitly inclusive approach.

8.28 One way of conceptualising effective services for NESB communities is 'culturally competent service provision', which the Committee noted in our final report on the disability services inquiry.³⁵⁶ We believe that this model is equally appropriate for the child protection system. A culturally competent service system has two key elements:

- Enhanced capacity of all mainstream services to provide appropriate services as a matter of course to people from NESB. Such culturally diverse mainstream services, where an inclusive approach is integral to all service delivery, would be able to service the needs of people from all cultural backgrounds

³⁵³ Chowdhary evidence, Ethnic Child Care, Family and Community Services Co-operative, 23 August 2002

³⁵⁴ Germanos-Koutsounadis evidence, Ethnic Child Care, Family and Community Services Co-operative, 23 August 2002

³⁵⁵ The Protective Behaviours Program is a preventative strategy run by the Protective Behaviours Consultancy Group and is funded by DoCS under the Community Services Grants Program: Submission 232, Ethnic Child Care, Family and Community Services Co-operative; Balzan evidence, Ethnic Child Care, Family and Community Services Co-operative, 23 August 2002

³⁵⁶ Standing Committee on Social Issues, Report 28, *Making It Happen: Final Report on Disability Services*, NSW Legislative Council, November 2002

- Development of culturally specific services for groups that have very specialised requirements. Such services would form the exception rather than the norm and would have to be justified on grounds that particular ways of working are more appropriate to people of a particular cultural group.

Departmental staff

8.29 Community representatives also told the Committee that the shift in emphasis away from working with the community meant that the skills and networks of bilingual and bicultural workers were not being recognised or effectively harnessed. Like Aboriginal groups, they called on the Department to better resource and support its bilingual and bicultural staff, and to make better use of their skills for the benefit of NESB groups.

Recommendation 63

In order to enhance the cultural competency of the child protection system, the Department of Community Services should:

- Provide culturally and linguistically appropriate information, including material that is translated into community languages, on all its services and programs
- Provide systematic and ongoing cross-cultural training to Helpline and Community Service Centre staff, including training in the use of interpreter services
- In consultation with ethnic community organisations, develop and implement an approach to out-of-home care that actively seeks to keep children and young people connected to their culture and community
- Establish a pool of bilingual or bicultural support workers who have been trained to work with children and families who are at risk
- In consultation with ethnic communities, develop a comprehensive, community based prevention strategy
- Develop and implement a strategy to support Departmental staff from culturally and linguistically diverse backgrounds.

Parents with disability

8.30 In comparison with other families, parents with intellectual disability are more likely to come into contact with the child protection system, to have a child removed early in life and to have more than one child removed.³⁵⁷ In Chapter 5 we identified people with

³⁵⁷ Submission 237, Family Support Services Association of NSW; Submission 158, Dr David McConnell; Llewellyn, McConnell, Rogers and Spencer evidence, 5 November 2002

disability as having particular needs in relation to the Children's Court and made a number of recommendations to address this.

- 8.31** The Committee was told that that there are several interrelated reasons for the overrepresentation of people with disability in the child protection system. Departmental caseworkers have a poor and often prejudiced understanding of the capacity of parents with disability to care for children, of the prospects for their children, and of effective supports for these families. Disability is constructed as a risk factor for abuse and neglect rather than as an indicator of possible support needs. These views run counter to well established evidence that with the right supports, people with intellectual disability are very capable of meeting the needs of their children.³⁵⁸
- 8.32** At the same time, the systemic focus on crisis rather than prevention means that like many families, parents with disability find it hard to access the supports that might assist them. In particular, there are very few supports tailored to the needs of parents with disability available. As one caseworker said in research presented to the Committee:
- I've been with the Department now for 17 years. So I've come across a lot of parents with other intellectual or psychiatric disabilities. My biggest concern has always been that most of those parents love their children and they want to be good parents. But the kinds of services that they need to be able to achieve that, to keep them together, are non-existent. We have all sorts of services, they can go to parenting skills, they can go to this service or the other service, and they do go. But obviously they don't get anything out of it because they are not services that are targeted at this particular group of people.³⁵⁹
- 8.33** The Committee was told that at present, there is only one specific program focusing on parents with intellectual disability, the Parent Access Program run by the Family Support Services Association. The Program provides state-wide support, training and resources for workers in family support services. While it is well regarded, it receives only \$45,000 in recurrent funding, and employs one specialist worker for two days per week. Apart from CPI adjustments, the service has not received a funding increase since 1994.³⁶⁰
- 8.34** The Committee also heard that from the time parents with disability have children, or even before, mainstream health providers often assume they will not keep them and do not refer them for even mainstream supports. At the same time, the Department's focus on risk acts as a disincentive for parents to approach it for support.³⁶¹
- 8.35** There is a need for a broad-based approach to support for parents with intellectual disability, for generic parenting programs to become more inclusive and accessible to parents with disability, and for more intensive and specialist models. There is also a need to ensure caseworkers are properly trained about the support needs of parents with disability.

³⁵⁸ Submission 158, Dr David McConnell; Submission 237, Family Support Services Association of NSW

³⁵⁹ DoCS caseworker cited in submission 158, Dr David McConnell, p.4

³⁶⁰ Submission 237, Family Support Services Association of NSW

³⁶¹ McConnell, Llewellyn, Rogers and Spencer evidence, 5 November 2002

8.36 In our recent report on disability services, the Committee recognised that support for parents with disability is a cross-agency responsibility. As the lead agency for disability services in New South Wales, the Department of Ageing, Disability and Home Care (DADHC) has a notable role to play, as does the Cabinet Office given its role in coordinating *Families First*. In that report, the Committee recommended that DADHC, in consultation with DoCS, the Cabinet Office and other relevant agencies develop and fund a support strategy for parents with disability, with the following elements:

- Development and provision of training for Department of Community Services child protection caseworkers on ways to support parents with disability and their children
- Provision of additional funding to the Parent Support Project to enable it to operate on a full-time basis
- Development of service access guidelines to ensure that parents with disability receive priority access to Home Care services and support
- State-wide implementation of the Home Learning Program as a support model for parents with disability
- Establishment of a residential supported accommodation service to provide short, medium and long-term support for parents with disability.³⁶²

8.37 The Committee reiterates the importance of that recommendation in the context of this inquiry.

Parents with mental illness

8.38 Like parents with disability, parents with mental illness are over-represented in the child protection system and have poor access to prevention and specialist early intervention supports. Their needs and parenting capacity are also poorly understood.

8.39 Several participants including Dr Louise Newman, Director of the NSW Institute of Psychiatry, which provides part of the core orientation for DoCS caseworkers, called for more training on mental health for caseworkers, particularly during orientation. Dr Newman told the Committee this was necessary to adequately deal with the complexity of the issues and was well justified by the fundamental links between mental health and child protection.³⁶³ In Chapter 3 we recommended that this be addressed.

8.40 It has been suggested to the Committee that the lack of community mental health services means that many parents with mental illness are not getting the supports they need to

³⁶² Standing Committee on Social Issues, Report 28, *Making It Happen: Final Report on Disability Services*, NSW Legislative Council, November 2002, p.128

³⁶³ Newman evidence, NSW Institute of Psychiatry and Faculty of Child and Adolescent Psychiatry, Royal Australian and New Zealand College of Psychiatry, 6 November 2002

ensure their own and their children's wellbeing. Child mental health services, which provide an important clinical service for both children and parents, are significantly under-resourced in many areas. Also, the Mental Health Co-ordinating Council highlighted the need for more community-based support services for mental health consumers such as those provided by Charmian Clift Cottages. This service provides supported accommodation for women with mental illness and their dependent children and is jointly funded by the DoCS, NSW Health and the Department of Housing.³⁶⁴

Recommendation 64

NSW Health should expand community-based mental health services, including child mental health services and non-government services, to ensure adequate supports for families with parents with mental illness.

Recommendation 65

The Department of Community Services, NSW Health and the Department of Housing should jointly fund additional supported accommodation services for women with mental illness and their dependent children.

Parents with a personality disorder

- 8.41** Dr Newman told the Committee that there is a particular need for more appropriate and better coordinated supports for parents with personality disorders. She used this term to refer to many parents who have themselves experienced abuse and maltreatment as children, who have difficulties managing anger and frustration and lack skills in nurturing their children's development. These parents are over-represented among consumers of DoCS, mental health services and drug and alcohol services, and are at high risk of repeating the maltreatment they experienced. It is especially important that these families receive early supports to prevent that from happening during the critical period of their child's development between 0 to 3 years of age.³⁶⁵
- 8.42** Dr Newman explained that these families often experience numerous social problems and are usually known to multiple services, but are difficult to 'engage' with services. She called on NSW Health, DoCS and other agencies to coordinate their services more effectively to ensure better outcomes for the children of these families.³⁶⁶ NSW Health told the Committee in their submission to our inquiry into early intervention for children with learning difficulties:

³⁶⁴ Jelen evidence, Mental Health Coordinating Council, 6 November 2002

³⁶⁵ Newman evidence, NSW Institute of Psychiatry and Faculty of Child and Adolescent Psychiatry, Royal Australian and New Zealand College of Psychiatry, 6 November 2002

³⁶⁶ Ibid.

Infants are at particular risk when the parents themselves have a history of neglect, childhood abuse, relationship difficulties, or emotional and mental disorders. These parents should be targeted through preventive interventions to help them care for their child sensitively, responsively and effectively. Programs need to pay particular attention to factors such as social disadvantage, inadequate antenatal care and lack of understanding of the tasks of parenting.³⁶⁷

Recommendation 66

The Department of Community Services should initiate discussions with NSW Health and other relevant agencies about services for parents with a personality disorder, and develop a strategy to improve access to and coordination of prevention and early intervention services for these families.

Families with complex needs

- 8.43** Families of parents with a personality disorder are part of a larger group of complex needs families that require both intensive support and coordinated services. These are families characterised by a cluster or pattern of problems strongly associated with abuse and neglect such as drug or alcohol misuse, domestic violence, criminal history, mental illness, poverty, homelessness and social isolation. Their problems are very entrenched.
- 8.44** The absence of an effective system of identification and support for these families has been highlighted by the Child Death Review Team, which found that of the 20 families where a child's death was related to abuse or neglect, 15 were characterised by at least three of the risk factors of domestic violence, alcohol or drug misuse, relationship difficulties, mental health problems and a history of criminal activity. In addition, all families had had contact with either DoCS, NSW Health or the Police, and 13 had had contact with all three.³⁶⁸ The needs of these families were also highlighted in the Commission for Children and Young People's report on vulnerable children.³⁶⁹
- 8.45** As we note in Chapter 2, there is a critical need for evidence-based secondary and tertiary services in New South Wales, and this is especially the case for those that provide a high level of support for families with complex problems. An initial strategy recommended by the Child Death Review Team is sustained professional home visiting for all high risk families for up to two years. We note that there is a need for further research about the most effective way to support families with high needs.³⁷⁰

³⁶⁷ Submission 193, inquiry into early intervention for children with learning difficulties, NSW Health, p.12

³⁶⁸ NSW Child Death Review Team, *Report 2000-2001*, NSW Commission for Children and Young People, October 2002

³⁶⁹ NSW Commission for Children and Young People, *A Report of an Inquiry into the Best Means of Assisting Children and Young People with No-one to Turn to*, 2002

³⁷⁰ Vimpani evidence to inquiry into early intervention for children with learning difficulties, University of Newcastle, 14 August 2002

8.46 Witnesses have emphasised the need for strong coordination between the various agencies with which these families have contact and measures to ensure they do not fall between gaps. As Dr Newman told the Committee:

You have got very established, complex problems for children of those families ... One of the tasks then becomes to sort out who coordinates in a more efficient way the care of these sorts of children and families and where they should be and who should provide a service. With a complex system like that there is always a risk that some families will fall between different agencies.³⁷¹

8.47 When *Families First* was established, it was envisaged that it would seek to establish better links between services assisting families with complex needs, potentially by establishing multidisciplinary teams, pooling funds or co-locating premises.³⁷² This aspect of *Families First*, known as field of activity 3, has not yet commenced. The Committee is aware that there is some discussion at present as to the most appropriate role of *Families First* in this area. We are also aware that DoCS, NSW Health, the Department of Juvenile Justice and the Department of Education are currently considering the issue of service coordination for families with complex needs.³⁷³

8.48 In the Committee's view, these Departments should address this issue of coordination as a priority, and that other government agencies should also be involved. At the local level, any of the government or non-government agencies involved with a family could take a case coordination role. At the central level, given its statutory responsibility for the care and protection of children, the Department should lead the process of gaining agreement with other agencies on strategies to ensure service coordination.

8.49 Establishing an effective system of support for families with complex needs is a central task for the Department as it builds a framework for secondary and tertiary prevention. We note that various human service systems accept the need for comparatively intensive and ongoing supports for particular groups of clients. A key example is the health system's comprehensive array of services to support people with chronic illness. Similarly, part of the disability service system's core business is to provide support services for people with disability, with the aim of maximising their ability and preventing their need for high level supports such as supported accommodation.

8.50 It seems to the Committee that in the current child protection system the only long-term and intensive intervention for families with high needs is out-of-home care. While there will always be some children who need to live outside their families, the evidence is clear that in many cases, removal from one's family is associated with poorer long-term outcomes. There is also evidence that with the right supports many families can care for their children well. In the Committee's view, there is a vital need to expand the menu of

³⁷¹ Newman evidence, NSW Institute of Psychiatry and Faculty of Child and Adolescent Psychiatry, Royal Australian and New Zealand College of Psychiatry, 6 November 2002

³⁷² Office of Children and Young People, *Families First: A Support Network for Families Raising Children*, the Cabinet Office, April 1999

³⁷³ Newman evidence, NSW Institute of Psychiatry and Faculty of Child and Adolescent Psychiatry, Royal Australian and New Zealand College of Psychiatry, 6 November 2002

services available for high needs families. While options such as sustained, intensive family support may be more expensive in the short term than out-of-home care, in the longer term they are well justified in terms of better outcomes for children and young people, and the long-term savings that these outcomes will achieve for the community.

Recommendation 67

As part of the system of coordination between agencies referred to in Recommendation 5, the Department of Community Services should ensure that adequate funding is in place to support families with complex needs.

Conclusion

- 8.51** In rethinking and reconfiguring the child protection system of New South Wales, the Department of Community Services needs to pay particular attention to the needs of indigenous communities, people from culturally and linguistically diverse communities, parents with disability and parents with mental illness. In the case of culturally diverse communities, an approach which respects diversity and which collaborates with community organisations is required. In the case of Aboriginal families, parents with disability and parents with mental illness, all of whom are over-represented in the child protection system, there is a critical need to ensure access to preventative supports. The importance of an effective and coordinated system of secondary and tertiary prevention services is highlighted by families with complex needs.

Chapter 9 Research and evaluation

There is a long way to go for the Department to be seen as a professionalised workforce that has a strong intellectual life, that has a scientific base, that has a research program, that has reliable data that informs its own work and the work of others, that has a library, and that values new theory and research in issues such as child development.³⁷⁴

Many would agree that monitoring, research and evaluation are essential to a transparent and effective human service system. The absence of an active commitment in the Department to research and evaluation is symptomatic of many issues highlighted in this report, and is a major factor behind DoCS' present crisis. The child protection system must be driven by a sound knowledge base on what is effective in prevention and early intervention, child protection, and out-of-home care. This chapter identifies the costs of the current absence of monitoring, research and evaluation, and the many benefits to be gained from a systematic approach to this work.

The current approach

- 9.1** The Committee was told that research and evaluation have a low priority in the Department and have had for some time. Rather than being systematically built into the system, research and evaluation are seen as an option if the funds are available. The Department has no clear research agenda, and what research is conducted – largely by funded non-government organisations – is not coordinated or centrally collected.³⁷⁵ Academics seeking to work cooperatively with DoCS on projects of mutual benefit report significant barriers to doing so.³⁷⁶
- 9.2** The Department's capacity for monitoring and evaluation is obviously hampered by its data collection systems. As highlighted in Chapter 4, the current Client Information System is so poor that the Department is unable to fully analyse the volume and quality of its own work. There are no mechanisms in place to systematically monitor the Department's services, or to provide the information that is vital to effective service planning, policy development and resource allocation.
- 9.3** Participants emphasised to the Committee that this was not just a mechanical problem, but also a cultural one. The absence of effective systems for monitoring and evaluation, they told us, is indicative of the Department's resistance to both learning and scrutiny. Witnesses highlighted the reluctance of the Department to commission and release data and evaluation findings.³⁷⁷ In doing so, they pointed to the effects this approach has on both transparency and DoCS' relationship with the services it funds:

³⁷⁴ Key stakeholder forum, confidential evidence

³⁷⁵ Submission 234, NCOSS; Submission 189, Association of Childrens Welfare Agencies

³⁷⁶ Submission 243, Dr Judy Cashmore

³⁷⁷ Submission 241, Community Services Commission; Submission 243, Dr Judy Cashmore

A department that hides or refuses to do evaluation of its own work cannot go to the sector and say, 'We hold you accountable.' It is impossible.³⁷⁸

9.4 Of particular concern to many participants has been the failure of the Department to put in place an evaluation of the 1998 Act, despite having contracted the Social Policy Research Centre to develop a comprehensive framework for that research. This has meant that the Department is poorly equipped to understand and learn from the comprehensive change that has occurred as a result of the legislation.³⁷⁹

9.5 The absence of an active commitment to research and evaluation has contributed significantly to the many problems the Department now faces. A lack of data on service demand, outputs and outcomes has meant that the Department has had no credible base from which to seek additional resources. That DoCS is starting to put these measures in place indicates that it is starting to build the foundations that will benefit it greatly in the medium and longer-term.

Improving research and evaluation in DoCS

9.6 Good systems for monitoring, evaluation and research will enable the Department to:

- Understand and improve the outcomes of its work
- Judge the most effective services and programs
- Undertake informed service planning and policy development
- Invest more strategically in the service system
- Make credible and effective cases for budget enhancements
- Fulfil its responsibilities concerning accountability and transparency
- Rebuild trust with the sector.

9.7 Participants called for research to become a core function of the Department, reflected at all levels of its work. The Department needs to establish a continuous loop between knowledge and practice. This would mean establishing robust data collection and monitoring systems, and pursuing an evidence-based approach to policy and planning, management of staff and especially to direct work with children and families. Crucially, it would mean independently evaluating the systems and tools that the Department itself uses, such as the Helpline and the Risk Assessment Framework.

9.8 Similarly, an evidence-based approach should drive the Department's purchasing and investment in the service system. This would require a commitment to evaluating new

³⁷⁸ Key stakeholder forum, confidential evidence

³⁷⁹ Submission 243, Dr Judy Cashmore

models and programs as a matter of course. It would also mean, as a priority, establishing effective and agreed outcome measures, so that decisions about policy and service delivery are driven by what is known to be effective for children, young people and families. As the Commission for Children and Young People told us:

Valuable resources should not be wasted on approaches that do not show positive outcomes in terms of children’s development, and protection. Service models and programs which are not shown to be effective in moving towards the agreed framework of policy outcomes should be discontinued and those which are shown through evaluation to contribute to positive outcomes should be retained and expanded.³⁸⁰

- 9.9** More broadly, the sector is looking to the Department to take a leadership role by establishing and funding a research agenda for child protection in New South Wales.³⁸¹ There is a need for both short-term and longitudinal, qualitative and quantitative studies of child and family welfare. In particular, participants called for research on the outcomes of prevention, early intervention and out-of-home care, as well as models of support for young people with complex needs.³⁸²
- 9.10** Importantly, the sector wants the Department to take an approach to evaluation that is transparent and is implemented in partnership with non-government organisations. It is essential that the Department publish data on its own work, as well as the findings of the evaluation it funds, so that a range of stakeholders can learn from them.
- 9.11** The Department’s submission notes that DoCS is currently developing a new agenda and priorities for research over the next 1-5 years to ensure that research ‘supports and guides longer-term goals’.³⁸³ Dr Shepherd recently told the Committee that he planned to expand the role of the current research unit so that it becomes a source of ‘sound evidence-based advice’ for policy and operations across the Department. It will also have an applied research capacity and will establish links with academic institutions.³⁸⁴
- 9.12** In the Committee’s view, an expanded research office would not only have a direct and formal link into policy and planning, but would also lead the Department’s monitoring and evaluation, run its own research projects, and oversee contracted research. It would have a role in setting the goals for the agency, and its advice would be seen as essential. It would have its own budget and produce regular monitoring and research bulletins for staff and external stakeholders. We consider it particularly important to ensure that formal links are established with academic institutions. The research office would also form the basis for the retention of corporate memory. Appropriate resources must be made available to

³⁸⁰ Submission 269, Commission for Children and Young People, p.16

³⁸¹ Submission 189, Association of Childrens Welfare Agencies

³⁸² Key stakeholder forum, confidential evidence

³⁸³ Submission 248, Department of Community Services, p.48

³⁸⁴ Shepherd evidence, Department of Community Services, 29 November 2002

ensure that the office is effective in supporting research as a core function of the Department.

9.13 Finally, in the Committee's view, the research office should be overseen by a research advisory group in order to ensure both continuous relevance to, and strong links with, external stakeholders.

9.14 Research and evaluation is a critical and frequently overlooked aspect of reform. It is essential that the outcomes of current and future reforms are properly measured. An evaluation component should therefore be built into the budget of all future initiatives.

Recommendation 68

The Department of Community Services should recognise research and evaluation as one of its core functions, and in so doing, should:

- Consolidate and expand its research unit into a research office to lead the Department's monitoring, evaluation and research activities, have a direct role in policy and planning and establish formal links with tertiary institutions
- Establish a research advisory group
- Develop a strategy for dissemination of research throughout the Department
- Establish an evidence-based approach to policy and planning, service delivery and purchasing
- Ensure that an evaluation component is built into the budget of all new models, programs and initiatives
- Establish outcome measures for all programs
- Routinely publish all evaluation and review findings
- Establish and fund a research agenda for child welfare in New South Wales.

Evaluating the 1998 Act

9.15 The Committee believes that as a first step in a commitment to research, the Department should commence the evaluation of the 1998 Act. The opportunity to learn from such systemic change has already been partially lost, and has meant that solutions to the current crisis of the Department are being sought with little insight into the outcomes of that change.

9.16 On the other hand, in our view, it is not too late to put in place an effective evaluation strategy to provide valuable data on the system over time. We also note that the delayed implementation of the out-of-home care provisions presents an ideal opportunity for

systematic before-and-after evaluation of change to that system. The recently established Ministerial Advisory Council would be well placed to provide advice on how to progress this work.

- 9.17** Dr Shepherd has indicated that the Department will evaluate the reforms it is planning for the child protection and out-of-home care systems:

It is crucial that we have a robust system to evaluate any of the changes that we make to this system. I am totally committed ... to making sure that we collect proper data, that we report on it and that we analyse it properly. We will put in place a very structured evaluation framework ...³⁸⁵

Recommendation 69

The Department of Community Services should undertake an evaluation of the impact and effects of the *Children and Young Persons (Care and Protection) Act 1998*.

Conclusion

- 9.18** The Department is currently living with the legacies of limited investment in research and evaluation. It has implemented systemic change without being able to assess either progress or outcomes. Consequently, it has little insight into which elements of this change have been positive and which have been problematic. This has affected its credibility and its ability to improve its operations or make an effective case for necessary resources. The Department needs to recognise research as core business, invest in it and build the infrastructure to support it. In doing so, it will markedly improve its ability to drive necessary change.

³⁸⁵ Shepherd evidence, Department of Community Services, 29 November 2002

Chapter 10 Conclusion: A time for reform

For my Centre to do its job properly I need to double the resources I can command. At the moment I have 10.2 child protection caseworkers and a child protection casework specialist, and I need at least double that to get close to what I have to get done, and what I am responsible for.³⁸⁶

This report has outlined a major program of reform for the child protection system in New South Wales. Many of the recommendations build upon those of other inquiries and reflect the considerable scrutiny that the Department has been under in recent years. The reform process must be comprehensive, timely and realistic. The Committee firmly believes that adherence to the reform process outlined will give New South Wales a child protection system that guarantees support and where necessary intervention to protect vulnerable children, young people and families. Review, reform and renewal need to be a continued part of the Department's operations.

Reform and resources

10.1 Evidence presented in this report outlines the steps the Department must take to ensure New South Wales has an effective and responsive child protection system. The reform process must:

- Define the role of the Department, particularly in relation to prevention and early intervention
- Establish designated caseworker positions in all Community Service Centres to support the vital preventative and referral work of the Department. These positions should be in addition to current allocations for child protection and out-of-home care
- Ensure there is a comprehensive system of secondary prevention to assist families, children and young people and particularly families with high or complex needs
- Rebuild a management culture that is open, transparent and accountable at all levels of the organisation
- Develop a professionalised child protection workforce by addressing staffing issues such as training, professional development, clinical supervision and internal review processes
- Engage openly and responsively with external review bodies
- Develop a new Client Information System that overcomes the deficiencies of the current system and provides the basis for the effective management of the child protection system for the next decade

³⁸⁶ Community Service Centre Manager, confidential evidence

- Ensure consistent adherence to policy and operational guidelines, particularly in the use of information systems such as the Client Information System
- Based on the work of the Kibble Joint Working Party, establish effective information and data collection systems
- Institute consistent systems for records management and financial management
- Undertake a comprehensive evaluation of the Helpline, including a trial of a localised model, to ensure an efficient and cost-effective process for intake
- Ensure that all Level 1 and Level 2 cases receive a Secondary Risk of Harm Assessment and receive the necessary response
- Reduce the number of unallocated cases, and establish data collection to monitor levels of unallocated cases
- Proclaim the outstanding sections of the *Children and Young Persons (Care and Protection) Act 1998*
- Build a policy framework for out-of-home care based on the 1998 Act
- Optimise the management of Children's Court matters within CSCs
- Address the specific issues for indigenous children and families, culturally and linguistically diverse communities, parents with disability and parents with mental illness
- Ensure research, evaluation and monitoring are core parts of the Department's functions.

Ensuring an effective child protection system

10.2 Child care and protection is a complex system involving many government and non-government agencies with a wide range of responsibilities and roles. As the lead agency in child protection, the Department of Community Services must provide leadership and strategic direction. As we have demonstrated in this report, the effective functioning of the child protection system is dependent on a well-run Department with unambiguous goals that are articulated and understood.

10.3 There is clearly a need for reform of the child protection system. For over a decade numerous inquiries and reviews have proposed reforms which in the main have failed. The failure of reform is a demonstration of the complexity of the problems facing the Department. These problems include the massive increase in demand for services, and the changing needs of the core group of families and children coming into the system. A better understanding of the impact of chronic neglect and abuse has broadened the system's net. For example, a comprehensive body of international and local research has shown the importance of intervening early in the lives of children to produce the best

outcomes for children, young people and their families. As we outlined in our interim report and again in Chapter 2, the changes in the child protection landscape require a balance of primary and secondary prevention and, where necessary, tertiary intervention.

- 10.4** The Committee remains of the view that a new Department of Child Development that is focussed on issues of wellbeing and development is the best way to ensure a comprehensive and coordinated system of universal services for children. In recognition of the differing views put forward on our proposal, we note the need for further debate on the best way to coordinate, fund, administer and deliver prevention services. We believe this issue is of such significance that the Government should convene a Summit on Children in the second half of 2003.
- 10.5** The challenge for government is to design and resource a service delivery system that is capable of responding to the new child protection landscape. The development of the 1998 Act provided the legislative unpinning for a new way to approach the care and protection of vulnerable children and young people. The Act was developed with wide consultation with the sector and was passed by the Parliament with the unanimous support of all political parties. The challenge for government now is to realise the vision of the Act. Each phase along the child protection continuum must be planned, coordinated, interconnected, adequately resourced and focused on outcomes. One of the strongest messages to come out of this inquiry is the critical importance of evidence-based service delivery, and thorough processes for monitoring, research and evaluation.
- 10.6** There are no quick fixes in the program of reform. The Director-General told the Committee that the reform process will take four years and we acknowledge that a significant period is required. The process will require political and financial commitment from government, and the patience and support of the staff, the sector and the wider community. The cooperation of these groups will depend on how well the Department articulates its role and the goals of the child protection system. It will also depend on the openness, transparency and accountability of the Department. Keeping the sector informed on decisions, consulting widely on policy direction and responding openly to criticism will contribute to the rebuilding of the vital relationships with key stakeholders. This Committee has witnessed the results of the deterioration of this relationship, at both the local and central level.
- 10.7** The Department has taken a number of positive steps since the inquiry began. The work of the Kibble Joint Working Party and the Reid inquiry have provided valuable analysis of data and information that will provide directions for policy and planning. The recent establishment of the Ministerial Advisory Council will enhance coordination and planning between the non-government and government sectors.
- 10.8** The process of reform will require a long-term commitment of significant resources. The Department will simply not be able to deliver on reform without these resources. It is clear from recent evidence given by the Director-General that his program is largely dependent on the success of a budget enhancement proposal that is currently before Treasury. It is important to ensure that no reforms are implemented without the required resources. Past administrations have not had the necessary resources to allow them to fulfil their statutory function.

- 10.9** The Committee urges the Government to ensure that the Department of Community Services is adequately resourced to fulfil its statutory responsibility for the care and protection of children and young people.
- 10.10** Review, reform and renewal of the child protection system must be a continuing process. The effectiveness of reform will depend on the Department having a continuing capacity to embrace new ideas and be adaptable and receptive to change. We must develop a system which is dynamic in its response to the changing needs of children and young people.

Recommendation 70

The Government must adequately resource the Department of Community Services to allow it to undertake the full range of its statutory responsibilities in the care and protection of children and young people.

Appendix 1

Submissions Received

No	Author
1	Ms Christine Murray
2	Mr John Varley, Managing Director, Ensign Ordinance Pty Ltd
3	Leanne and Stephen Wilton
4	Mr Lesley Howard, Nimbin Neighbourhood Information Centre
5	Confidential Submission
6	Mr Bao Er
7	Dr Frank Ainsworth, Evaluation and Research Services
8	Mr Richard Johnson
9	Ms Cheryl Kelly
10	Confidential Submission
11	Ms Thora Mae Jennings
12	Mr Adam Todd
13	Ms Moira McGuire
14	Anonymous Submission
15	Confidential Submission
16	Ms Lynn Hodges and Mr Robert Tonkin
17	Mr Mark Pearce
18	Mr Chris Hunter
19	Dr Graham Woolley
20	Mr Michael Gray
21	Mr Lindsay Jackall
22	Mr Edward Mamo
23	Mr Greg Cairns
24	Ms Jill West
25	Confidential
26	Ms Heather McKinnon
27	Ms Jenny Patel
28	Ms S Lacascio
29	Ms Sue Brown, Executive Manager Individual and Family Support Services Northcott Society
30	Mr Mark Bourne
31	Confidential Submission
32	Ms Christine Thomas
33	Ms Sahra Joseph

34	Confidential Submission
35	Mr George Jereley
36	Mr Kevin Hogg
37	Mr Andy Soames
38	Ms Kylie Flanagan and Mr Michael Wallace
39	Ms Anita Leadbetter
40	Ms Coral Slattery
41	Mr Bill Thompson
42	Mr Keith Botterill
43	Mr Shane Nicholls
44	Confidential Submission
45	Confidential Submission
46	Ms Carol Medeiros, Co-ordinator, Botany Family and Children's Centre
47	Confidential Submission
48	Ms Cheryl Keogh
49	Confidential Submission
50	Ms Lyn Higgins
51	Mr Kevin Howard, Chief Executive Officer, St Anthony's & St Joseph's Centre of Care
52	Confidential Submission
53	Ms Toni-Anne Rowan
54	Ms Nicole Peel, Manager, Community Services Division, Interaction Disability Services
55	Confidential Submission
56	Mr Dennis Lidington
57	Mr Jim Lester
58	Mr Glen Spears
59	Mr G Bennett, Co-ordinator, Mudgee Family Support Services
60	Confidential Submission
61	Ms Maria Peters, Secretary, Milton Ulladulla Interagency
62	Ms Patricia Wagstaff
63	Mr Gregory Charlton
64	Ms Heather Johnston
65	Ms Louise Denver
66	Ms Judith Feldman
67	Mr J D Wheadon
68	Ms Daphne Burke, Acting Co-ordinator, Cessnock Family Support Service Inc

69	Ms Maria Losurdo, Service Manager, Blue Mountains Family Support Service
70	Mr Shane Bolt
71	Ms Karlene Connolly
72	Mr Leith and Mrs Rosemary Bowes
73	Ms Patricia Keill, General Secretary, Country Women's Association of NSW
74	Mr John Martin
75	Ms Sandra Reiman, Acting Co-ordinator, Illawarra Family Support Service
76	Confidential Submission
77	Coffs Harbour Child Protection Advisory Committee
78	Confidential Submission
79	Ms Ann Woods
80	Confidential Submission
81	Ms Trish Hussell
82	Confidential Submission
83	Anonymous Submission
84	Mr Laurie Beattie
85	Mr Roman Marchlewski
86	Confidential Submission
87	Confidential Submission
88	Ms Joanne Villa, Co-ordinator, Northern Illawarra Family Support Service Inc
89	Ms Nellie Fennell
90	Ms Bernadette Power, Area Co-ordinator, Aunties and Uncles Co-operative Family Project
91	Ms Pat Walker, Senior Co-ordinator, Volunteer Advisory Services
92	Ryde Family Support Service Inc
93	Ms Hannah Dow, Manager, Campbelltown Family Support Service Inc
94	Ms Marnel La Garde, Co-ordinator, Parramatta/Holroyd Family Support Inc
95	Ms Anne Meredith
96	Ms Faye Hansen, Convenor, Parramatta/Hills Child Protection Committee
97	Ms Jenna Bateman, Executive Officer, Mental Health Co-ordinating Council
98	Ms Mavis Tersteeg, Family Support Worker, Women's Group, Manning Support Services
99	Mr Owen Rogers, Executive Officer, Society of St Vincent de Paul
100	Ms Dawn Amos
101	Mr George Ferrari, Executive Officer, NSW Association for Adolescent Health Inc
102	Mr Phillip Hart and Mr Warren Simmons
103	Ms Julie Baturynsky, Manager, The Cottage Family Care Centre

104	Confidential Submission
105	Riverwood Community Centre Inc
106	Ms Toni Francis, Co-ordinator, Northern Beaches Lone Parent Family Support Service
107	Ms V Ashbourne, President, Newcastle-Lake Macquarie Foster Care Association
108	Port Stephens Family Support Service Inc
109	Ms Patrice McCallum
110	Mr Ian Hutchinson
111	Ms Sabra J Platt
112	Mr Wayne Buckley
113	Confidential Submission
114	Confidential Submission
115	Mr Trevor Vandenberg
116	Mr Matthew Osbourne, Director of Research, Family Law Council
117	Ms Maria Edwards
118	Sutherland Shire Family Support Service
119	Rosebank Child Sexual Abuse Service Inc
120	Mr Bryan Dunn, Director, Centacare Newcastle
121	Confidential Submission
122	Mr John Boersig, Coalition of Aboriginal Legal Services NSW
123	Ms Carmel Excell, YES Youth and Family Services
124	Confidential Submission
125	Confidential Submission
126	Mr Gregory Scott
127	Confidential Submission
128	Mr R Hamill, Manager, Anglicare Child and Family Services
129	Confidential Submission
130	Confidential Submission
131	Confidential Submission
132	Confidential Submission
133	Dr Gordon Rennick, Consultant Paediatrician, Albury-Wodonga Paediatric Group
134	Board of Management, South-West Child Adolescent and Family Services
135	Ms Myra Weddell, Co-ordinator, Granville Family Support
136	Confidential Submission
137	Ms Mandy Law
138	Ms Hayley Brockmann
139	Father John Usher, Director, Centacare, Sydney

140	Ms Catherine Vines, Co-ordinator, Coffs Harbour Child and Adolescent Sexual Assault Services
141	Dr Viera Scheibner
142	Mr John Kells
143	Mr Lawrence Reardon
144	Newcastle Family Support Services
145	Confidential Submission
146	Ms Janine Maddon, Workers of Hawkesbury Area Family Support (WHAFS)
147	Ms Janine Maddon, Co-ordinator, Family Support Unity, Hawkesbury Care Inc
148	Ms Marcia Cunningham, Director, Rosemount Youth and Family Services Inc
149	Family Advocacy, Epping
150	Orange Family Support Service Inc
151	Ms Tessa Parsons, Manager, Child and Family Services, Illawarra Child Protection Committee
152	Ms Joan Lambert
153	Ms Narelle Clay, Chief Executive Officer, Southern Youth and Family Services
154	Confidential Submission
155	Ms Wendy Hermeston, Link-Up Aboriginal Corp and Aboriginal Children's Services Ltd
156	Ms Louise Voigt, Chief Executive Officer, Barnardo's Australia
157	Ms Cathy Want and Ms Melissa Wightman, Rosie's Place, Child and Adolescent Sexual Assault Counselling Services NSW
158	Mr David McConnell, ARC Post-Doctoral Research Fellow, University of Sydney
159	Ms Barbara McCann, Manager, St Vincent's Adolescent Care
160	Mr Tony Madden
161	Ms Sue Richards, Executive Officer, Family Support Services Association of NSW
162	Mr Michael Framp
163	Confidential Submission
164	Mr Ian Baker, Director – Education Policy and Programs, Catholic Education Commission NSW
165	Ms Lilian Camenzuli, Stretch-A-Family Inc
166	Mr Boyd Pearson
167	Ms Pamela Foster
168	Confidential Submission
169	Ms Jane Woodruff, Chief Executive Officer, UnitingCare Burnside
170	Mr Randall Kelly
171	Mr Barry Johnson, General Secretary, NSW Teachers Federation
172	Ms June Ryan, Children's Services Co-ordinator

173	Confidential Submission
174	Confidential Submission
175	Ms B Stevens
176	Riverwood Family Support Service
177	Mr Brendan Hartnett, Director of Policy, Local Government Association of NSW
178	Ms Julie Baturynsky and Mr Peter Gormley, Macarthur Child Protection Committee
179	Ms Sally Lattin, Counsellor, Lismore Child and Adolescent Sexual Assault Counselling Service
180	Ms Kate Dyer, Convenor, Auburn Child Protection Interagency
181	Ms Roslyn Foskey
182	Confidential Submission
183	Confidential Submission
184	Ms Tammy McCaw
185	Ms Sue Black
186	Ms Constance Morgan, Co-ordinator, Westlake Macquarie Family Support Service
187	Ms Robyn Monro Miller, Management Committee member, Network of Community Activities
188	Ms Trish Milgate, Co-ordinator, Ballina-Byron Family Support Service Inc
189	Mr Nigel Spence, Chief Executive Officer, Association of Children's Welfare Agencies
190	Confidential Submission
191	Confidential Submission
192	Mr John Hellyar, President, Macarthur Foster Parents Association
193	Confidential Submission
194	Anonymous
195	Confidential Submission
196	Confidential Submission
197	Confidential Submission
198	Confidential Submission
199	Public Service Association of NSW – Partially Confidential Submission
200	Mr A W Anscombe, Senior Lecturer in Social Work, Charles Sturt University
201	Ms Kat Booth
202	Ms Cassie Forrest, The Northcott Society Macarthur Office
203	Ms Justine Gzell, Youth off the Streets
204	Ms Astrid Hocking and Ms Jenny McCurdy, Board Member and Treasurer, Foster Care Association NSW Inc
205	Ms Astrid Hocking
206	Ms Belinda Kotris, Co-ordinator, Tamworth Family Support Service

207	Ms Antoinette le Marchant, Chief Executive Officer, KU Children's Services
208	Confidential Submission
209	Confidential Submission
210	Ms Michelle Townsend, CREATE Foundation
211	Mr Michael Coffey, Executive Officer, Youth Accommodation Association Inc
212	Ms Robina Traves
213	Ms Jean Smits
214	Mr George Lingard, Territorial Social Program Secretary, Salvation Army
215	Confidential Submission
216	Ms Barbara Day, Executive Officer, The Hills Community Aid and Information Service Inc
217	Mr Cec Shevels, Chairperson, Hunter Community Council
218	Mr Leigh Rowell, Director, Wagga Wagga Family Support Services Inc
219	Confidential Submission
220	Confidential Submission
221	Mr Brian Tranter, Manager, The Bridge Youth Service, Sutherland
222	Ms Lorraine Wheeler, Chief Executive Officer, Community Services and Health Training Australia Ltd
223	Confidential Submission
224	Ms Glenda Beattie, The Hills Family Centre
225	Professor Patrick Parkinson, Faculty of Law, University of Sydney
226	Ms Irene Pearce, Co-ordinator Bankstown Family Support Service
227	Confidential Submission
228	Mr John Murray, the Positive Justice Centre
229	Confidential Submission
230	Ms Jill Davidson, President, Australian Association of Social Workers NSW Branch
231	Ms Margaret Gleeson, Community Worker, East Sydney Combined Domestic Violence Committee
232	Ms Vivi Germanos-Koutsounadis, Executive Director, Ethnic Child Care, Family and Community Services Co-operative Ltd – Partially Confidential Submission
233	Ms Catherine Carney, Principal Solicitor, Women's Legal Resources Centre
234	Mr Alan Kirkland, Director, Council of Social Services of NSW
235	Mr Damian Griffis, Senior Policy Officer, People with Disabilities NSW Inc
236	Confidential Submission
237	Ms Margaret Spencer, Parent Access Program, Family Support Services
238	Ms Janet Christopher
239	Ms Sharon Andrews
240	Confidential Submission

241	Mr Robert Fitzgerald, Commissioner, Community Services Commission – Partially Confidential
242	Ms Fiona Christian, Regional Policy Officer, Western Sydney Community Forum
243	Ms Judy Cashmore, Deputy Chairperson, Association of Childrens Welfare Agencies
244	Ms Pauline Cashmere
245	Anonymous Submission
246	Ms Janet Loughman, Convenor, the Youth Justice Coalition
247	Ms Maureen Eagles, Director, Children and Youth Services, Centacare
248	Dr Neil Shephard, Director-General, Department of Community Services
249	Ms Elaine Fishwick, Law Reform and Policy Officer, NSW Combined Legal Centres Group State Office
250	Confidential Submission
251	Confidential Submission
252	Ms Kooryn Sheaves
253	Blacktown City Community Services Network
254	Mr B Turgut, Solicitor, Dignan and Hanrahan
255	Ms Robyn Broad
256	Confidential Submission
257	Ms Joan Lambert, Secretary, Foster Care Association NSW Inc
258	Ms Diane Underwood, Founder, Grandparents Rights Need Support
259	Confidential Submission
260	Manly Warringah Women's Resource Centre
261	Mr Patrick O'Gorman, Co-ordinator Fairfield City Youth Refuge and Accommodation Association
262	Dr Robert Blackmore, Chair, NSW Branch Paediatrics and Child Health Division, The Royal Australasian College of Physicians
263	Professor John Lawrence, Professor of Social Work, University of NSW
264	Mr Douglas Holmes, Executive Officer, NSW Consumer Advisory Group – Mental Health Inc
265	Mr Robert Ludbrook, Acting Director, National Children's and Youth Law Centre
266	Mr Terry Libesman, Lecturer in Law and Mr Chris Cunneen, Associate Professor in Law; University of Technology, Sydney
267	Dr Joanna Penglase, Founder, Care Leavers of Australia Network
268	Confidential Submission
269	Ms Gillian Calvert, Commissioner for Children and Young People, NSW Commission for Children and Young People
270	Confidential Submission
271	Ms Kim Cull, President, The Law Society of New South Wales

272 Ms Lynda Holden

273 Confidential Submission

Note: The Committee has published all submissions, other than those where the author requested confidentiality, where the contents of the submission revealed the identity of a child or young person or in certain cases where the author of the submission was a current employee of a public agency.

Appendix 2

Witnesses at Public Hearings

20 May 2002

Ms Carmel Niland Director-General
Department of Community Services

20 May 2002

Mr Robert Fitzgerald Commissioner
Community Services Commission

20 May 2002

Ms Anita Tang Manager, Policy and Community Education
Community Services Commission

20 May 2002

Mr Nigel Spence Chief Executive Officer
The Association of Childrens Welfare Agencies

20 May 2002

Dr Judy Cashmore Deputy Chairperson
The Association of Childrens Welfare Agencies

20 May 2002

Mr Alan Kirkland Director
Council of Social Service of New South Wales

20 May 2002

Ms Linda Frow Senior Policy Adviser
Council of Social Services of New South Wales

20 May 2002

Ms Susan Richards Executive Officer
Family Support Services Association of New South Wales Inc

21 May 2002

Ms Gillian Calvert Commissioner
NSW Commission for Children & Young People

21 May 2002

Mr Maurie O'Sullivan General Secretary
Public Service Association of New South Wales

21 May 2002

Mr Gregory O'Donohue Senior Industrial Officer
Public Service Association of New South Wales

21 May 2002

Mr Laurence Brady Chair, PSA Departmental Committee
Public Service Association of New South Wales

18 July 2002	
Ms Maureen Lacey	Refuge Worker New South Wales Women's Refuge Movement
18 July 2002	
Ms Sally Steele	Refuge Worker New South Wales Women's Refuge Movement
18 July 2002	
Ms Linda Mallett	Children's Guardian New South Wales Office of the Children's Guardian
18 July 2002	
Ms Louise Voigt	Chief Executive Officer Barnardos
18 July 2002	
Mr Glen Rennie	Secretary Aboriginal Child, Family & Community Care State Secretariat (NSW)
18 July 2002	
Mr Russell Freeburn	Chief Executive Officer Aboriginal Child, Family & Community Care State Secretariat (NSW)
18 July 2002	
Ms Jane Woodruff	Chief Executive Officer UnitingCare Burnside
18 July 2002	
Ms Karen Bevan	Policy Officer UnitingCare Burnside
18 July 2002	
Ms Astrid Hocking	Board Member Foster Care Association
18 July 2002	
Ms Joan Lambert	Secretary Foster Care Association
19 July 2002	
Mr Michael Coffey	Executive Officer Youth Accommodation Association of NSW Inc
19 July 2002	
Ms Narelle Clay	Chief Executive Officer Southern Youth and Family Services
19 July 2002	
Mr Denis Boner	Youth Worker, Fairfield City Youth Refuge Executive Member, Youth Accommodation Association of NSW Inc

19 August 2002

The Hon Carmel Tebbutt, MLC Minister for Community Services, Minister for Ageing,
Minister for Disability Services, Minister for Juvenile Justice

19 August 2002

Dr Neil Shepherd Director-General
Department of Community Services

19 August 2002

Ms Rhonda Stein Executive Director
Department of Community Services

19 August 2002

Mr Robert Fitzgerald Commissioner
Community Services Commission

19 August 2002

Ms Christine Flynn Acting Senior Policy Officer
Community Services Commission

19 August 2002

Mrs Gabrielle Kibble Chair
Public Service Association and the Department of Community Services
Joint Working Party of the NSW Department of Community Services

19 August 2002

Professor Patrick Parkinson Professor of Law
University of Sydney

19 August 2002

Ms Jennifer Leete Deputy President
New South Wales Teachers Federation

19 August 2002

Ms Kathryn Deacon Vice President
New South Wales Teachers Federation

23 August 2002

Board of Management and Staff Ethnic Child Care, Family and Community Services Co-Operative

11 September 2002

**Detective Superintendent
John Heslop** Manager, Child Protection Crime Team
NSW Police

11 September 2002

Mr Ian Baker Director, Education Policy and Programs
Catholic Education Commission New South Wales

11 September 2002	Ms Margaret Chittick	Education Officer Catholic Education Office, Diocese of Wollongong
11 September 2002	Ms Maureen Eagles	Director of Children and Youth Services Centacare, Catholic Community Services
11 September 2002	Mr William Johnston	Director, Social Policy and Research Centacare, Catholic Community Services
11 September 2002	Ms Catherine Carney	Principal Solicitor Women's Legal Resources Centre
11 September 2002	Ms Pia van de Zandt	Solicitor Women's Legal Resources Centre
24 October 2002	Ms Carol Peltola	Consultant former Executive Director, Child and Family Services, Department of Community Services
5 November 2002	Ms Wendy Hermeston	Senior Case Worker Link-Up Aboriginal Corporation
5 November 2002	Ms Glendra Stubbs	Office Manager Link-Up Aboriginal Corporation
5 November 2002	Ms Louise Coe	Solicitor Redfern Aboriginal Children's Service
5 November 2002	Dr David McConnell	Academic University of Sydney
5 November 2002	Professor Gwynneth Llewellyn	Professor of Occupational Sciences University of Sydney
5 November 2002	Ms Linda Rogers	Principal Solicitor Intellectual Disability Rights Service

5 November 2002

Ms Margaret SpencerCo-ordinator, Parent Access Program
NSW Family Support Services Association

5 November 2002

Dr Choong-Siew YongNSW President
Australian Medical Association (NSW)

5 November 2002

Dr Michael GlikzmanChairman, Medical Practice Committee
Australian Medical Association (NSW)

6 November 2002

**The Hon Justice Alastair
Nicholson, AO RFD**Chief Justice
Family Court of Australia

6 November 2002

**The Hon Justice Richard
Chisholm**Judge
Family Court of Australia

6 November 2002

Ms Margaret HarrisonSenior Legal Advisor
Family Court of Australia

6 November 2002

Dr Louise NewmanDirector, NSW Institute of Psychiatry
Chair, Faculty of Child and Adolescent Psychiatry, Royal Australia and
New Zealand College of Psychiatry

6 November 2002

Ms Mary JelenDirector, Charmian Clift Cottages Inc
Member, Mental Health Co-ordinating Council

20 November 2002

Mr Bruce Barbour

NSW Ombudsman

20 November 2002

Mr Greg AndrewsAssistant Ombudsman (General)
Office of the NSW Ombudsman

20 November 2002

Ms Anne BarwickAssistant Ombudsman (Children & Young People)
Office of the NSW Ombudsman

29 November 2002

Dr Neil ShepherdDirector-General
Department of Community Services

9 November 2002

Ms Rhonda Stein

Executive Director, Out of Home Care Policy and Review, and
Acting Executive Director, Child Protection, Department of
Community Services

Two hundred and six people have either given evidence to this inquiry or participated in consultations. In addition to the witnesses listed above, the Committee has taken *in camera* evidence during a range of metropolitan and regional consultations. The Committee undertook a total of 11 *in camera* briefings, 4 of which were in regional areas, 2 were at Parliament House and 5 were in western Sydney. During the briefings, the Committee spoke with young people with experience of the child protection and out-of-home care system, past and present departmental caseworkers, interagency child protection committees, and workers from a range of non-government organisations.

Appendix 3

Extract from
Independent Investigation of
Four Corners Allegations

Michael Reid
October 2002

(b) Terms of Reference (3)

Irrespective of findings under I or II, are there any practical actions that DoCS should consider to limit the risk of any such conduct in the future?

Improper information manipulation is minimised where there is:

- (a) a culture of honesty, integrity and pride in one's work
- (b) a culture of learning from mistakes, and systemic improvements rather than punishment and scapegoating
- (c) policies and practices that provide support to good decision making
- (d) processes that provide transparency and accountability

The following are suggestions that aim to improve the above-stated tenets of sound practice. It should be noted that; as required by the terms of reference, these are limited to the practical and relatively quick to implement suggestions.

1. File keeping practices

There needs to be one consistent and standardized approach to how files are managed across the State, not by area, or CSC as is the case now. It is understood that the Department is standardising the file coversheet which details what is to go on each file. This is a necessary improvement that could be augmented with the following suggestions:

- The minimum requisite content of each file needs to be agreed upon centrally and implemented consistently across the state.
- Ensuring that the variability caused by different local practices regarding family and individual files is clarified.
- Pagination of files.
- Elimination of the page spike as a method of containing file documents.
- Development of a policy with regard to securing files overnight to reduce risk of tampering after hours.
- Training based upon the new standardised model to ensure early compliance.
- An on-going monitoring of compliance to measure the effects of the new practices. An extension of the random file audits currently being trailed in Northern Sydney is recommended.

2. Records Management

- Central Office staff need to develop better capacity to train others in electronic document management and records management when the systems are operational.
- Department should consider appointing a file/records management specialist to develop best practice policy and guidelines and to provide advice to areas on how to manage files.

3. Reducing Paperwork

- The Department needs to review the case for re-creation of administrative positions with a view to reducing the amount of time caseworkers spend on paperwork and general administrative functions that support their case management.

4. Supporting better local management decision making

As a result of not being dealt with expeditiously, problems are often unnecessarily magnified and move “upwards” more often than they should.

- There is a need for improved management training for Managers, Client Services and casework managers. (It is acknowledged that this is a training priority for 2002/03.)

In some areas caseworkers do not understand, or are not made aware of new and existing departmental policy and procedures.

- Area directors should designate specific officers to identify and teach the new policies and practices to caseworkers.

The absence of appropriate performance appraisal mechanisms is a major hindrance to management capacity and clear accountability. It is understood that the Department is close to agreement with the PSA regarding the introduction of a system of performance appraisal.

- Staff performance appraisals should be introduced with appropriate management training.
- Extension of the Metro North random case file audit program across the Department is recommended. This type of system should also be used to provide CSC level performance appraisal for decision making practice, policy compliance and grievance handling.

5. Processes for dealing with oversight agencies

The Memorandum of Understanding between the Department and the Ombudsman has not been updated since the change in role for the Ombudsman in relation to DoCS.

- It would be appropriate to re-visit the MOU with a view to formulating new arrangements that both sides find acceptable. Performance against the MOU should be public information, available quarterly.

The Department's response to the NSW Parliamentary Report into Child Protection Services includes a proposal for new operating protocols that includes aggregating the complaints handling processes with a single area of executive responsibility within DoCS.

- The protocol identified by the Department in its response to the NSW Child Parliamentary Report should be the basis of the revised MOU. Performance indicators relating to response rates should be made public each quarter.

There are outstanding recommendations from the CSC and Ombudsman that have not been addressed by the Department's System Improvement Group.

- The Department should address key outstanding recommendations of oversight agencies. A timeframe for dealing with these outstanding recommendations needs to be agreed to as a matter of priority.

6. Practices for dealing with grievances

While the Department has in place appropriate policies for the management of grievances it is clear these policies are often not being adhered to.

- Improved training in grievance handling for senior staff at the CSC level is necessary. Improved training for caseworkers on grievances is also important.

There are a number of long outstanding, unresolved grievances, which the Department needs to resolve expeditiously.

- The Department should set timeframes for resolving all long outstanding internal grievances.

Whilst not exclusively within the scope of grievance procedures, allegations of staff relating to improper information manipulation need to be addressed directly.

- It is proposed that the Director-General deal directly with all new claims of improper information manipulation for the next two months to re-establish the credibility of the assessment system.
- That for the interim the Department should develop a robust system for dealing with these inquiries that is regularly assessed by its internal auditors.

7. Processes for dealing with disciplinary actions

There are a number of disciplinary matters that have been on-going for years and remain unresolved. In some the persons directly involved are not informed of the status of the investigation.

- For all long term unresolved disciplinary inquiries there needs to be immediate advice given to those directly involved on the status of the investigation and a timeframe for resolution.
- Internal auditors regular assessment of the work of the Professional Conduct Unit to advise on the conduct of investigations is recommended to provide an added level of independence for investigations to propose a streamlined and efficient process.
- The practice of internal investigators arriving unannounced at the homes of DoCS officers under investigation is contrary to existing policy and the practice should be discontinued as a matter of priority.

8. Communicating Change

The recent appointment of a new Director-General and Minister can provide impetus for a new regime of increased concern for accountability and transparency as well as a more open relationship with the oversight agencies and a more trusting internal culture. It is important that the Director-General and Minister be seen as driving these changes.

- It is proposed that the Director General's regular newsletter to staff be the method for communicating the proposed changes and updates on the progress of each reform.

Conclusion

There are four basic and inter-connected components of the practical suggestions for minimising the risk of inappropriate manipulation of information in the Department.

Firstly, there needs to be some immediate action to demonstrate the determination of DoCS to address this issue. It is recommended that this immediate action take the form of commitments from the Director-General to (a) deal directly with all claims of inappropriate information manipulation for the next two months, (b) end the practice of investigators turning up unannounced at DoCS officers homes. The following actions already in train need to be seen to be part of the process for reducing the risk of inappropriate information manipulation (a) reform file keeping practices; (b) improve records management, (c) commit to a timeframe for addressing all long-term outstanding grievances and disciplinary investigations, (d) introduce individual performance appraisals.

Secondly, there needs to be an extension of the training undertaken, especially by caseworkers and casework managers. This training should include best practice decision making, file upkeep, records management and grievance management. It is apparent that many of the problems that create an environment conducive to inappropriate

information manipulation come about in the first instance as the result of staff members being unclear about their responsibilities and obligations.

Thirdly, it is clear that the Department needs to consider boosting administrative resources at the local and central office level to provide a more professional method of managing paperwork and information flow and to allow caseworkers more time to devote to direct case management of clients.

Finally, the random case file audit program that is being trailed by Metro North should be extended to create a more general performance appraisal of CSCs that includes (but is not limited to) file management, grievance resolution, training outcomes, timeliness of responses to oversight agencies and compliance with legislation. This appraisal should not be a competitive “league table” system for driving specific outputs and competition between CSCs, but rather a way of understanding performance improvements at a local level given local resource and capacity constraints. In this context it is imperative that the audits are done locally, with local officers managing the process. In doing this the Department can create a legitimate method of evaluating the progress of each Area and each CSC in creating an environment where the risk of inappropriate information manipulation is minimised.

3. PRACTICAL SUGGESTIONS

SUGGESTION	MONITORING AND COMPLIANCE
<i>1. File keeping practices</i>	
Standardisation of files including, consistent coversheet, minimum requisite content, pagination and removal of paper spike.	Extended random case file audit.
Policy for protecting files after hours to be developed and implemented.	Extended random case file audit.
Training for staff in principles of clear, accurate and efficient file-keeping. To include reports, FOI's, file security and Ministerial briefing where appropriate.	Extended random case file audit.
<i>2. Records Management</i>	
Monthly training sessions for central office executive support staff on quality improvements, electronic document management and records management.	
Appointment of file management specialist.	N/A
<i>3. Reducing Paperwork</i>	
Consider new administrative positions to decrease amount of time caseworkers spend on paperwork.	N/A
<i>4. Support for better local management decision making</i>	
Mandatory management training for Managers Client Services and CSC managers.	
Area Directors should designate specific officers to identify and teach the new policies and practices to caseworkers.	
Staff performance appraisals to be introduced.	Extension of random case file audit.
Case file random audits extended to include performance appraisal of the CSC.	Extension of random case file audit.
<i>5. Process for dealing with oversight agencies</i>	
Revised MOU with the Office of the Ombudsman to reflect new roles and responsibilities.	Performance against the MOU should be public information.
New protocol for responding to Ombudsman inquiries.	Protocol to make key indicators of performance public.

Timeframe for addressing outstanding recommendations from oversight bodies.	N/A
6. Processes for dealing with grievances	
Mandatory training in grievance handling for senior staff at the CSC level is necessary.	
Review of existing training for caseworkers on what constitutes a grievance.	
All long-outstanding grievances to have a timeframe for resolution.	Grievance management to form part of random case file audit.
All new grievances relating to improper information manipulation unresolved area dealt with by D-G for the next two months.	
Appointment of auditors to assess internal investigations.	Will form part of internal audit report. Report of internal audit forms part of performance appraisal for Area Managers.
7. Processes for Disciplinary Actions	
Immediate advice given to those directly involved on the status of the investigation and a timeframe for resolution.	
Monitoring of PCU assessment by internal auditors.	Report of internal audit forms part of performance appraisal for PCU.
Practice of internal investigators interviewing DoCS workers in their homes without notice to immediately cease.	
8. Communicating Change	
Program of practical reforms to be announced to DoCS staff via D-G newsletter.	

Dissenting Statements

The Hon Dr Arthur Chesterfield-Evans: Statement of Dissent

The Australian Democrats support the conclusions of this report and its recommendations, but would like to comment on what is not in this report, and on the functions and practices of the Committee more generally.

The Committee has heard sufficient evidence to justify its conclusions, and I support these. However, an analysis of a failed company in the private sector would involve some discussion of its history and an analysis of which key decisions led to problems. The changes in the operating environment would be similarly analysed. The historic aspects of DoCS would have been controversial and time consuming, but loss of corporate memory and mid-level staff seems to have been part of the problem. Since political memory is also short, this analysis of corporate history would have been difficult but worth attempting. A bi-partisan decision to save time and to avoid mudslinging was behind the reluctance to explore this. The difficulty of the analysis also serves to emphasise the need for a better data system and for evidence-based practices, but also for the need for oversight bodies that can examine corporate history and strategies. The role of the major NGOs in the Disability inquiry and their ability to give a corporate history were an interesting contrast to the lack of these corporate oversights in this inquiry.

This lack of a corporate oversight role was compounded by a reluctance of government members to allow time for politically sensitive witnesses, who had some of these perspectives, to finish questions on their evidence under oath. The formal questions were answered, and these tended to take the scheduled time, but that is not a good reason for the Committee to be denied other insights which may have come from the witnesses.

The other important aspect that is not mentioned is the entire nature of the Committee process in NSW. Committees work in a legal model. Witnesses are sought, then give evidence or are cross-examined in a legal framework. There is an inherent assumption that someone knows what is needed and that it is merely a question of asking them, or commissioning a researcher to look at the literature. In a more scientific model, a research question or a series of these would be devised and prospective research commissioned. These studies would require more resources and may take even years to complete, which raises the question as to whether it would be a good idea to have a body such as the Social Issues Committee overseeing commissioned social research. As the Committee is tasked with answering questions in the public interest and in the long term, this idea should not be an unreasonable one, and merits serious consideration.

The Hon Jim Samios MLC: Statement of Dissent

LEGISLATIVE COUNCIL

COALITION MEMBER'S STATEMENT OF DISSENT ON FINAL REPORT ON CHILD PROTECTION SERVICES

DOCS : "IT'S A COMPLETE DISGRACE"

Introduction

This second dissenting report to the Social Issues Inquiry into Child Protection Services as the Coalition representative on the Committee again expresses the Coalition's concerns at the Committee's majority report and findings.

The comment by Professor Patrick Parkinson that "It's a complete disgrace" that the Children's Guardian provisions of the Children and Young Persons' Care and Protection Act 1998 had not been proclaimed is equally applicable to much of the deliberations and outcomes of this Labor dominated Committee.

Much of the conduct of the hearings has had the effect of negating serious critical analysis of the State Labor Government's failed policies on child protection and out of home care.

Some witnesses have not been included. Others' evidence has been minimised or disregarded. Some witnesses who did appear had their evidence carefully guided by pre-prepared questions taking them in particular directions and then finding that time or guidance from the Chair precluded them from giving their full evidence.

It is also noted that on the issue of the Interim Majority Report by this Committee, the Coalition was given effectively only an hour or so to respond. This dissenting report has been also, of necessity, rushed, as the Labor majority on the Committee supported by one Independent has again left the Coalition Member with little time (relative to the breadth of child protection issues considered or that require considering) to prepare the critical dissenting report. In most instances, draft chapters were provided the day before they were to be discussed in committee, leaving little time for critical analysis and deliberation.

Again, these actions by the Committee majority encapsulate the way in which the Committee has sought to minimise existing problems within the Department of Community Services.

It is noted that the majority Labor Members have sought to either ignore issues raised by the Coalition through the Shadow Minister for Community Services, Brad Hazzard, or minimise the significance of the issues raised. However this has been a consistent pattern of Government response from the initial calls by the Shadow Minister for a Royal Commission into DOCS.

This report has to be read with the clear understanding that the Parliamentary Inquiry was the Labor Government's way of being seen to answer the Coalition call for a Royal Commission. It also should be understood that when the Coalition joined with a crossbench Member to try and establish a Parliamentary Inquiry a year before the launching of this inquiry, the State Labor Party indicated it would oppose the inquiry and at that time there were believed to be insufficient crossbench Members supporting the proposal.

When the Coalition again sought an inquiry in early 2002 the Labor Party again tried to block the establishment of the Inquiry.

Indeed the then Director-General Carmel Niland personally contacted a number of crossbench Members to argue the case against any inquiry. The Labor Party heavily lobbied crossbench Members to stop the Inquiry proceeding. It was only when public furor arose following major exposes on “60 Minutes” (Channel 9) and “Four Corners” (Channel 2) that the State Labor Government moved to give the appearance of supporting the Inquiry.

This Inquiry was and is one that the State Labor Government never wanted but having been forced to have it then set about manipulating both the evidence before it and the outcomes of it.

The Coalition notes with that background that despite criticisms in the dissenting interim report and throughout the course of the Inquiry, the Committee failed to take evidence from the prior Minister, The Hon Faye LoPo’ MP, who had presided over DOCS for almost four years.

As with the Interim Report, the Committee has continued to focus on what the new Director and Minister of the Department of Community Services have pledged to do to improve DOCS since their appointment. Little critical analysis of either the Minister’s or Director General’s comments has been made.

This is a continuation of the Committee’s blatant attempt to shift the debate from what is wrong in DOCS.

The Committee majority’s apparent willingness to accept that systemic structural change will eventuate merely because of a change of management is simplistic. It is based more on the desire for a perception of change rather than substantiated evidence of it.

Moreover, it has not been borne out by the overwhelming majority of evidence presented to the Committee.

“The point we make—we have made it before—is that this is not about the restructuring of DOCS; it is about the complete refounding, re-engineering and redevelopment of an entire family and child care protection system...we are talking about the most significant re-engineering of a child protection system in Australia. Nothing less than that will achieve the outcomes that are required nor the principles and objects that this Parliament passed as part of the care and protection legislation of 1998.”³⁸⁷

A WRONG DIRECTION

The Coalition is also deeply concerned that the Committee majority has in effect spun the resources, both intellectual and monetary, from evidence-based inquiry examining outcomes, to one that has predominantly looked at future inputs.

This is confirmed by the fact that the first stage of the Inquiry – the Interim Report - largely replicated findings of the previous Inquiries – notably those into Family Support and Parental Education. Regrettably a simplistic approach has continued in the Final Report.

The scope of this Inquiry

This current Inquiry has not adhered to the Terms of Reference as established by the Legislative Council.

It was argued that the short time frame for this Committee to report, and the complexities of the issues led the Committee to determine that

³⁸⁷ Robert Fitzgerald, Community Services Commissioner, in evidence 19.08.02

- i) Individual stories would not be referred to directly
- ii) The focus would be on current rather than past practices in child protection and out of home care

The effect of the arbitrary decision to exclude the experiences of those who have previously been through the system means that past failure is ignored. Significantly for this Inquiry, it also means that past successes are unfortunately likewise ignored.

The NSW Coalition believes that in the field of child welfare and protection in particular, looking back at previous practices must inform current debate and direction.

DOCS 101

The Coalition is also extremely concerned that so much time and energy has been spent on discussion of what should be the basic building blocks of a Department. In evidence to the Committee the new Director General Dr Neil Shepherd (he has now been in the position almost six months and there has been no substantive improvement in child protection or out of home care) took considerable pains to point out what is needed to build a “Rolls Royce” child protection system.

“The first thing we need is to do is to get the supporting platform right so that the field services can operate with maximum efficiency.

The second thing we need to do is research the business. We need to understand the components of demand and the drivers... We need to research and understand the other cost drivers, both external and internal... We need to probe these external and internal cost drivers to see where there are possibilities for change and the likely yield of any such changes in terms of efficiency and effectiveness.

The third thing we need to do is to get a capacity to develop and analyse proposals for change in our core functions. The core functions part, of course, early intervention and prevention, child protection and out-of-home care. We need to seek out world's best practice in these areas. We need to screen rigorously those proposals and the world's best practice for their match with the New South Wales context, their costs versus their benefits, their implementability in the field and their resource implications”

The Department of Community Services or its antecedent bodies have been operating for almost 200 years. All of the Director General’s comments, while valid, sadly are nothing new. To have operated without an acceptance of these principles is, itself, a damning indictment of DOCS and its management.

CHAPTER 5 – INTAKE AND ASSESSMENT

The Helpline

As with the Interim Report, the commentary in relation to Helpline understates the continuing role of Helpline as a major problem within the Department of Community Services.

Committee comments such as *“The Helpline has generally been successful in its objective to improve consistency of intake”*³⁸⁸ and *“the standardised processes used at the Helpline have introduced consistency and greater transparency”*³⁸⁹ cannot be supported by the evidence.

³⁸⁸ At 5.16 (pg 5)

The Committee has also failed to question some of the Department's claims, namely that faxes are to be phased out because they are inefficient. No evidence was cited in support of this claim and there is no reflection of the suggestion put to Director General Dr Shepherd by Committee members that this may be seen to be a way of reducing scrutiny through the elimination of paperwork.³⁹⁰

The Coalition is also concerned that once again, DOCS systems are so inefficient and data so difficult to come by that the Committee was unable to come to any firm conclusions regarding the Helpline's operations, fax backlog (reported in November 2002 to be over 3000 and not denied by the Labor Government but minimised as "only level 3 and 4") and staffing levels, and the reasons behind the "unallocation" of client files.

The Coalition believes that Helpline should be dismantled in its present form. It also believes that the Carr Government has come to the same conclusion but is delaying the inevitable until after the 2003 State Election Campaign – an unfortunate delay which will continue the problems created by Helpline and which will continue to put children's lives at risk.

Mandatory Reporting

The Report claims that mandatory reporting is "*overwhelmingly supported in New South Wales*", citing one submission in support³⁹¹ while noting that the Department's submission that mandatory reporting is now an essential feature of child protection in NSW.

However, while expanding on its discussion of mandatory reporting compared to its analysis in the Interim Report, the Committee majority has once again failed to acknowledge the large numbers of submissions and evidence pointing out the policy's limitations.³⁹²

Again, the report has failed to address the substantive issues of mandatory reporting and the problems that have arisen as a result of broad scale lack of professional discretion in determining which cases should be reported and which should not be reported.

For example, once again there was no discussion of

- The individual professional reasons why teachers and others working with children may feel it necessary to report all possible child at risk situations notwithstanding that their professional judgement may be set to the lowest hurdle for reasons of exposure to professional discipline/criticism and or \$22,000 fines
- The incapacity of individual DoCS officers to refer families for support because of the lack of appropriate resources and support by the Department
- The impact of the introduction of Helpline and the failure to sift out, through local relationships, the reporting of children who should never have been reported as being at risk or the multiple reporting of the same children from different sources

³⁸⁹ At 5.34

³⁹⁰ Dr Shepherd Evidence, 29.11.02

³⁹¹ ACWA evidence, 20 May 2002

³⁹² Submissions 7 Dr Ainsworth; 18 (confidential)

- Frequent failure by DOCS to respond to notifications made to the Helpline, by either the general community or mandatory notifiers, so that reporters felt children remained at risk

Unallocated Cases

As the Women's Refuge Movement noted,

“Child protection is breaking down at the local office area because, even when reports get sent through to the local office—and quite often they do not, or as far as we know they do not—in our case study, the reports, the response back to us is, “We have a lot of unallocated cases. It is likely that nothing will happen about this”³⁹³

The Coalition notes with interest that the Committee majority's interim report findings that

“Due to the workloads in CSC's level 3 or 4's may not be allocated to a caseworker and may be closed without further investigation”.

The Coalition has previously stated with absolute certainty based on information made public by the Public Service Association that in some CSCs up to 90% of all reports of children at risk of harm including levels 1 and 2 are not being investigated.

This Committee's report has been revised and the majority now accepts the Coalition's view that evidence to the Committee clearly stated that levels 1 and 2 - more serious allegations of child abuse or neglect - are not addressed.³⁹⁴

The Coalition notes however that the Director Generals' initial advice, corrected in a subsequent submission in evidence in November 2002, has not been the subject of adverse comment by the Committee despite the very different picture it provides of DOCS capacity to do the job it is charged with – that of protecting children in NSW.

CHAPTER 6: OUT OF HOME CARE

A primary term of reference for this Inquiry was to examine the outcomes for those children and young people in out of home care.

Notably, this was also the term of reference that posed the greatest difficulty for the Labor Government in having the Inquiry Reference adopted when the motion was debated in the Legislative Council in April 2002.³⁹⁵

Significantly, it was also the term of reference that was the focus of considerable attention by various non-government agencies in determining the formulation of the sector's submissions to the Inquiry.³⁹⁶

³⁹³ Steel, NSW Women's Refuge Movement, in evidence, 18.07.02

³⁹⁴ Maurie O'Sullivan, Public Services Association, in evidence 21.05.02 *“Our members tell us that is consistent throughout the State. There are many level one cases sitting unallocated on desks throughout the State; see too Submissions 49 (confidential); 60; 77; 80; 96; 101; 105 and 260.*

³⁹⁵ See Hansard, Legislative Council 10.04.02

³⁹⁶ NCOSS Forum *“Finding a Way Forward for children at risk: Getting the most out of the Parliamentary Inquiry into DOCS”* 2002

The Coalition is of the view that this term of reference was crucial to the success or otherwise of this Committee. In addressing this aspect of child protection in NSW, the Committee has failed.

The totality of the Committee's findings in regard to the negative experiences of out of home care are found at 6.14, as follows –

“...one year after leaving care, most participants had unstable living arrangements and around half were unemployed and had financial troubles. Almost one in three of the young women had been pregnant or had a child, and over half the group reported thinking about or attempting suicide. Subsequent interviews with the young people four years after leaving care found the following problems were common: drug and alcohol misuse, domestic violence, turbulent relationships, mental health issues, including depression and suicide ideation, poor support networks, unresolved family issues and a lack of plans for the future”³⁹⁷

However, the Committee majority report makes almost no comment on these appalling statistics.

No evidence was taken or submissions cited on the extent of youth homelessness amongst the out of home care population, despite evidence that DOCS uses Commonwealth funded homelessness services as a ‘dumping ground’ for children it is directly responsible for.³⁹⁸

No evidence was taken on the over-representation of children and young people in out of home care in prostitution,³⁹⁹ nor was any evidence taken or submissions cited in respect of abuse suffered in out of home care.⁴⁰⁰

This last is particularly important, for it indicates the reality of the out of home care experience for too many young people, and strongly shows why care plans for those in care are so desperately needed. The failure to ensure the implementation of care plans are in place emphasises the appalling negligence of the Carr Labor Government in failing to proclaim the powers of a children's guardian which would enable the guardian to review the care plans of all children in out of home care.

Little attention was paid to the over-representation of young people in out of home care in criminal activity, and there was no examination of the path to juvenile justice and onto adult gaols. Despite a footnote that cites the Corrections Health Service as finding that 19.4% of the adult gaol population had been placed in

³⁹⁷ Cashmore J “*Leaving care research: what it tells us about creating a better future for children and young people*”, paper presented to the Child Welfare Association of Victoria, October 2002

³⁹⁸ Submissions 32 Ngoun Song Group Homes; 43 Nicholls; 209 Shopfront Legal Centre; 228 The Positive Justice Centre; 261 Fairfield City Youth Refuge Accommodation Service; Community Services Commissioner Robert Fitzgerald “*On the Government's own figures in the last annual report, 1.5% of the 9100 children were in supported accommodation...homeless persons services*” in evidence August 2002. See too Community Services Commission Issues Paper- Out of Home care and the role of SAAP September 2001

³⁹⁹ Submission 43 Nicholls; 228 The Positive Justice Centre; See too Human Rights and Equal Opportunity Commission, *The National Inquiry Into Homeless Children- Our Homeless Children*, AGPS Canberra 1989 p.111 “*State wards engaged in prostitution and were often victims of sexual abuse*”

⁴⁰⁰ Submissions 168 (confidential); 209 Shopfront Legal Centre; 267 Care Leavers Australia Network (CLAN)

care by age 16, no evidence was drawn from the Corrective Services, Corrections Health or criminal justice experts on this aspect. Again, submissions' authors were not called.⁴⁰¹

This is notwithstanding that similar evidence was presented to previous Parliamentary Committees on the over-representation of care-leavers in the criminal justice system and recommendations made on the need for further inquiry into this phenomenon.⁴⁰²

The Coalition notes that some 'consumer' representation from people in out of home care was provided by the members of Create and notes further that the Committee cites the evidence of several young people given in camera. This is to be commended.

However, the Committee's steadfast refusal to hear verbal evidence from parents of removed children or adult careleavers - so-called 'consumer representatives' - and in particular, the decision to exclude such representatives from the roundtable of expert stakeholders and the holding of that roundtable in secret⁴⁰³, is to be deplored.

In apparently preferring to take and cite evidence from agencies who are and have traditionally been responsible for the direct provision of services to children and young people in care, while steadfastly failing to explore the experiences of those once in 'care', the Committee majority has failed to seize the opportunity presented to it to fully understand the reality of care from those who have lived it.

The Committee has therefore missed much valuable information on not just the causes, but also how to mitigate against those factors giving rise to poor outcomes.

For example, the *Special Needs* section in relation to children most at risk makes no mention of the inter-generational effects of being in care. Having been a State ward is a major risk factor for having one's children enter care. Yet there is no consideration of this factor despite submissions from careleavers to this effect and warnings of the lost opportunity for far-reaching reform if this was not acknowledged.⁴⁰⁴

The exclusion of adult careleavers is especially ironic given the Committee majority's comments at Chapter 6 at 6.41, acknowledging the importance to people in care of 'participation' in decisions and events affecting them. Regrettably, the Committee majority report failed to pay more than lip service to that concept.

Transitional Care

The Committee's majority report also fails to address the issues of reform needed for those who have been through the care system but who are currently not provided for by any services.

⁴⁰¹ Submissions 209 Shopfront Legal Centre; 228 The Positive Justice Centre; 246 Youth Justice Coalition; 259 NSW Combined Legal Centres Group State Office

⁴⁰² Standing Committee on Social Issues, *Children of Imprisoned Parents* 1996; Standing Committee on Law and Justice, *Crime Prevention Through Social Support*, 2000; *Select Committee on the Increase in the Prisoner Population*, 2000

⁴⁰³ A confidential roundtable was held in November 2002, comprising agency representatives. The proceedings of that meeting have not been made public and the press / public was barred from attending.

⁴⁰⁴ Submissions 228 Positive Justice Centre; 267 Care Leavers Australia Network (CLAN)

While limited counselling, support and ‘transitioning’ services exist for young people leaving care,⁴⁰⁵ these do not cater for those aged 25 or older. Currently, no services are provided to careleavers over 25.⁴⁰⁶

The Coalition finds the Committee majority’s failure to take evidence or to acknowledge that submissions had been received from mature careleavers extremely problematic.

By ignoring evidence of the lack of official recognition or acknowledgement of the trauma of previous generations of care leavers despite submissions establishing the need for such services, the Committee majority has once again mistaken the evidence provided to it. Consequently it has lost the opportunity to make important reform and in particular, continues the likelihood of the next generation of children entering care.⁴⁰⁷

The significance of appropriate Transitional Care for children exiting out of home care has been highlighted in research in the United States (see Vera Institute, New York, Website). However it is as if the Labor majority on the Committee have deliberately avoided the issue as it would highlight the continuing incompetence of the Labor Government in addressing this vital aspect of obtaining satisfactory outcomes for children leaving care.

Assumptions / No Supporting Evidence

The Committee’s majority report repeatedly makes generalised statements based on assumptions that do not reflect the evidence provided to it. This approach is rejected by the Coalition. Comments by the Committee stigmatise and label all children entering care as having problematic pasts. This can be totally untrue.

A striking example is provided in Chapter 6: Out of Home Care pg 5 at 6.15

“At the same time, the poor outcomes for children and young people in out of home care also reflect their experiences prior to care”

Young people may enter care because a parent has died, been gaoled⁴⁰⁸ or deserted the family, and through family violence, neglect or abuse, or drug / alcohol addiction.

However, it is undeniable that deliberate welfare policies which had the effect of targeting distinct social groups such as Aborigines⁴⁰⁹ or those with an intellectual disability⁴¹⁰ or mental illness⁴¹¹ have also led to the removal of children from their birth homes where such removal may have been unwarranted.⁴¹²

⁴⁰⁵ Such as The Create Foundation and the Post Adoption Resource Centre

⁴⁰⁶ Submission 267 Care Leavers Australia Network (CLAN)

⁴⁰⁷ Submissions 228 Positive Justice Centre; 267 Care Leavers Australia Network (CLAN)

⁴⁰⁸ See Standing Committee on Social Issues, *Children of Imprisoned Parents Report* 1996

⁴⁰⁹ Submission 155 Link Up; See too Human Rights and Equal Opportunity Commission “*Bringing Them Home*” 1999

⁴¹⁰ Submission 158 McConnell, Submission 254 (confidential)

⁴¹¹ Submission 264 NSW Consumer Advisory Group, Mental Health Inc

⁴¹² Discussed in confidential submissions from former DOCS officers and other associated staff

Although the Committee failed to reflect this view, both inquiry submissions and published material suggest that these practices are continuing today.⁴¹³

Case Plans and Proclamation

Evidence to the Committee was unanimous in the view that a workable effective Children's Guardian is needed. Without such a body, the care plans and progress of the 9000 children in out of home care in NSW cannot adequately be measured.

Despite Premier Carr's personal commitment given in 1995 that all children in care would have case plans developed⁴¹⁴ however, the Government failed to proclaim the relevant sections of the Children and Young Persons (Care and Protection) Act 1998, which would permit the office to begin examining the care plans of children in care.

Witnesses to the Committee were highly critical of this inaction.

*"I am concerned about the failure to proclaim the legislation, and while I fully appreciate that the Minister and the director-general need time to understand the impact of the new legislation and that we should not hastily proclaim, it is concerning that that work should have been done over the past four years. The Act is not new. It was passed in 1998 and implications of it had been discussed for three years prior to that date."*⁴¹⁵

Professor PARKINSON: *It is a complete disgrace. The Children's Guardian's work has not been allowed to take place. These children are at the end of the queue and I understand the resource issues and the difficulties, but to have no system in place in as rich a country as this is just unbelievable... We all need to hang our heads in shame that we have not put a system in place for these kids. If a short allocation from Treasury is needed to overcome the hurdles, then so be it. This was, and is, the most crucial reform in the entire 1998 Act.*"⁴¹⁶

As the Children's Guardian acknowledged, it is unclear how many children in out of home care have their matters attended to, or see a case officer on a regular basis.

"The Hon. JAMES SAMIOS: *This is a critical question; I know that you will appreciate that, Madam Chair. Ms Mallett, do you have any idea of how many kids in foster care have not seen their DOCS supervising caseworker for months or even years?*

⁴¹³ The Community Services Commission "*Forwards, Backwards, Standing Still*" expressed concern that the current generation of Aboriginal children being taken into care constituted another stolen generation, November 2000. See too Submission 158 McConnell, noting 1 in 3 cases before the Children's Court feature parents with a disability, marginalised by poverty, social isolation, disability or minority status.

⁴¹⁴ Jacobsen "*Premier's pledge on children falls short*" Sydney Morning Herald 14.07.00

⁴¹⁵ Robert Fitzgerald, Community Services Commission, 19.08.02

⁴¹⁶ Prof Patrick Parkinson, 19.08.02

Ms MALLET: *No, I do not because I do not review the plans and I do not have the function of reviewing them. I guess I am saying that I do not know because I am not legally entitled to know at the moment.*⁴¹⁷

However, the Committee's majority report again fails to accurately state the extent of DOCS failings in this crucial area. As Commissioner Fitzgerald stated

*"The highest priority is not about money, although that is an issue and the Government has made some rectification of that, it is actually about support and you do need a caseworker."*⁴¹⁸

Legislative Definition of Out of Home Care

"...In New South Wales we do not have, and have not had for many years, any system by which we follow up on the welfare of kids in care and some kids do not have an allocated worker, particularly those in kinship care."⁴¹⁹

The Coalition is particularly concerned at the Committee majority's lightweight suggestion that there needs to be more consultation with the Aboriginal community in relation to extending the definition of out of home care to include kinship care.

This debate has been waged on numerous occasions in the Parliament where the indigenous community's support for the inclusion of kinship care into out of home care – with the financial and administrative support that comes with it – has been clearly expressed.⁴²⁰

Moreover, although pre-dating the current Director General's time, the Government has previously embarked on an exhaustive consultative process with indigenous communities on this issue, although the report has not been made public.

As Hansard states

"The Opposition has been fortunate to receive, though not through the Government, a fairly thick document, which I present to the House... it is an internal working document of the Department of Community Services.

The document shows the consultative process engaged in with a large number of Aboriginal agencies about the issue that the Opposition will address at the Committee stage. The overwhelming conclusion of the consultation team—whose report the Government has not placed before the House—is that the

⁴¹⁷ Linda Mallett, Children's Guardian, in evidence, 18.07.02

⁴¹⁸ Robert Fitzgerald, Community Services Commissioner, in evidence 19.08.02

⁴¹⁹ Prof Patrick Parkinson, in evidence 19.08.02

⁴²⁰ See Hansard 28.11.01, debate on Permanency Planning Bill – indigenous organisations calling for legislative incorporation of kinship care into the definition of out of home care included the Aboriginal Child Family and Community Care State Secretariat, Secretariat National Aboriginal Islander Child Care, Sydney Regional Aboriginal Legal Service, the Aboriginal Children's Service, Wirringa Baiya Aboriginal Women's Legal Centre and Link-Up NSW. Non indigenous supporters included Prof Patrick Parkinson, Women's Legal Resource Centre, The Association of Children's Welfare Agencies (ACWA), and the Community Services Commission.

*vast majority of Aboriginal agencies support an extension of this bill's provisions to kinship care arrangements that operate in the indigenous community.*⁴²¹

The Committee majority's position is therefore not only inadequate but insincere, in that this evidence was available to it had indigenous witnesses been called.

CONCLUSION

The Parliamentary Committee into Child Protection was set up to oversight and change the terrible history and secretive, closed culture of the Department of Community Services. Instead the Labor majority has embraced that culture.

In the Coalition's view, this Committee has done considerable disservice to the parents, families, advocates, community representatives and survivors of the NSW child welfare industry.

The outcomes of this Committee's Report are extremely disappointing. The Committee's potential to substantively address the issues has been thwarted by a deliberate strategy adopted from the outset by the State Labor Government to minimise the crisis in DOCS.

While some issues have been addressed they have generally been addressed at a very superficial level and more designed to divert attention from the failings of the Carr Labor Government than to achieve real and substantive change in New South Wales.

⁴²¹ The Hon John Ryan MLC, Legislative Council, 28.11.01 Hansard.