

## INQUIRY INTO CHILD PROTECTION

**Organisation:** Alliance for Family Preservation and Restoration  
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Inquiry Into Child Protection  
LEGISLATIVE COUNCIL  
GENERAL PURPOSE STANDING COMMITTEE NO. 2

Submission to the NSW Parliament inquiry into Child Protection by the  
Alliance for Family Preservation and Restoration.

**Alliance  
for Family Preservation**



**and Restoration**

We are grateful for the opportunity to provide a submission to this inquiry into Child Protection. Our Alliance was formed to provide help, support and advocacy for children and families impacted by the Australian Child Protection industry and its stakeholders. The Alliance is now in its third year and while requests are received from all over Australia the majority of those needing support come from NSW. We receive no funding and work on a voluntary basis using our own money.

Most members of the Alliance come from backgrounds where they have spent many years involved in various aspects of child protection including the lived experience.

Our submission aims to give a voice to the common issues raised by children and families involved with child protection in NSW.

The following terms of reference for this inquiry are relevant to our submission:

1. That General Purpose Standing Committee No. 2 inquire into and report on the role of the Department of Family and Community Services in relation to child protection, including:
  - a) the capacity and effectiveness of systems, procedures and practices to notify, investigate and assess reports of children and young people at risk of harm
  - b) the adequacy and reliability of the safety, risk and risk assessment tools used at Community Service Centres
  - c) the support, training, safety, monitoring and auditing of carers including foster carers and relative/kin carers
  - d) the structure of oversight and interaction in place between the Office of the Children's Guardian, Department of Family and Community Services, and non-government organisations regarding the provision of services for children and young people at risk of harm or in out of home care
  - e) any other related matter.

It has become increasingly clear to us that the NSW Child Protection System is arguably the worst of the entire failed systems nation wide as we had increasing contact with children and families in NSW impacted by Family and Community Services (FACS). After studying the cases of thousands that have turned to us for help it became obvious why NSW has the highest numbers by far of children in Care and is in fact the reason why Australia has shamefully become the child stealing capital of the western world per head of population that have similar child protection systems.

After researching statistics in 2014 from the various Government publications we were so horrified at the realisation that Australia removes more children then other western nations because of NSW that we produced the banner below to try and draw some attention to the failings of the FACS NSW system in particular as NSW are responsible for the high removal rates, almost half of children in care in Australia are taken by NSW.

## **AUSTRALIA IS CURRENTLY REMOVING MORE CHILDREN PER HEAD OF POPULATION THEN OTHER WESTERN NATIONS**

<b>COUNTRY</b>	<b>POPULATION</b>	<b>CHILDREN IN CARE</b>	<b>RATE PER MILLION</b>
<b>AUSTRALIA</b>	<b>22 million</b>	<b>50,000</b>	<b>2272</b>
<b>FINLAND</b>	<b>5.4 million</b>	<b>10,675</b>	<b>1851</b>
<b>CANADA</b>	<b>34 million</b>	<b>47,000</b>	<b>1382</b>
<b>USA</b>	<b>319 million</b>	<b>400,000</b>	<b>1255</b>
<b>UK</b>	<b>64 million</b>	<b>67,000</b>	<b>995</b>
<b>NEW ZEALAND</b>	<b>4.5 million</b>	<b>3,783</b>	<b>840</b>
<b>SPAIN</b>	<b>46.8 million</b>	<b>35,000</b>	<b>747</b>
<b>NORWAY</b>	<b>5 million</b>	<b>3,300</b>	<b>660</b>
<b>SWEEDEN</b>	<b>9.5 million</b>	<b>5,000</b>	<b>526</b>
<b>ITALY</b>	<b>54.9 million</b>	<b>29,000</b>	<b>488</b>

We have held many workshops, information days and rallies for those dealing with child protection in NSW in addition to individual case support.

Australia has conducted more then 85 Inquiries into children in state and territory care in the last 160 years. All have evidenced the failures of the various systems. Governments have been more concerned with costs than the care of vulnerable children, making past inquiries more about "damage control" than reform. Children have been left exposed to systems more interested in economics than their best interests. Great recommendations from some of these inquires have never been implemented allowing further lives to be destroyed.

This current Inquiry into Child Protection must result in recommendations that will place NSW at the forefront of evidenced best practice. The recommendations must then be implemented as a priority of government.

The NSW Government must evidence that vulnerable children in this state are important to them; by ensuring accountability in child protection is at the forefront of all their decisions for reform because children are our most valuable assets.

**Lack of accountability at all levels of Child Protection is the single most harmful systemic failure.**

We will now highlight the main issues of systemic failure that vulnerable NSW families experience once they become involved with Family and Community Services (FACS) NSW.

Child protection workers are NOT a registered Profession in Australia as they are in many other countries. Unlike all other professions in Australia they have no Governing Body to establish and mandate codes of practice, conduct or even base levels of education and training. No external Board is monitoring their performance to protect the public from the harm their opinions and misconduct are doing to

children and families everyday. No one is holding these unregistered workers accountable in an environment of secrecy, yet they have more power than any other Profession. Too much power with no accountability breeds an environment of incompetence, misconduct and corruption experienced daily by children and families in NSW.

We have been campaigning for years for Mandatory National registration for all child protection workers. The Federal Senate Inquiry last year into Out of Home Care made it a recommendation as well as the recent Royal Commission into Families SA. But so far nothing had been done to implement this vital frontline accountability measure.

Our investigations into thousand's of cases proves principles of practice in FACS NSW that are supposed to help and support families to remain safely together, that children are only taken if there is a significant risk and as a last resort and always placed with extended family when possible are not in fact being practiced on the frontline lived experience of the NSW families that approach us in desperation. We have identified that the majority of FACS departments, agencies, organisations and other stakeholders dealing with child protection matters fail to abide by, policy, procedure and legislation and engage in harmful, expensive, adversarial forced removals and prosecution as a tactic of first choice.

There is no transparency or accountability with FACS NSW who refuse to publish the data for children who die and are abused in their care, who the perpetrators were and the causes so that sets the poor example for Non Government Agencies (NGO's) continuing the cover ups that have always been a part of the failed secret child protection industry.

Most cases report they had no investigation done by FACS before the forced removal of their children and very little if any investigation done after the child was removed. The majority of cases report they were never given any warning or had any contact from FACS NSW before their children were forcibly removed. Most families received no offer at all of any type of support before their children were forcibly removed.

The most common complaint is that FACS NSW does not work with families in the best interest of their children but in fact works against them. This is a very consistent concern that is evidenced in the case documents we audit. There is very little if any communication between FACS NSW and children and families once the child has been forcibly removed. This detrimentally impacts on the close and loving bonds that children had with their families before they were forcibly removed from all they new and loved especially when most are placed initially with strangers causing lifelong trauma. FACS NSW in most of the cases we have been involved do not keep the families informed about their children and the children complain they are not told information about their families or even why they have been forcibly removed and receive no psychological help to deal with their grief, loss and trauma.

Most parents report that FACS NSW won't listen to or respond to their concerns about their children, which causes great distress to families.

Most families report that they were never even consulted or given the opportunity to know what FACS required of them to get their children back, some were given what appears to be a standard list of parenting courses run by NGO's and even when those courses were completed at their own initiative, expense and time off work that FACS kept raising the bar by adding to the list or changing it. Often they were not given enough time due to long waiting lists for these courses, no support was provided by FACS nor were they given an opportunity to put what they had learned into practice because their children had been removed and they had limited if any contact with their children.

Most families complain about the abusive way they are treated by caseworkers, who ignore them, undermine them, speak in a derogatory way to them, threaten them with reduced contact with their children, punishing the child or even jail time if a parents tries to defend themselves, or report a caseworker for misconduct or ignoring abuse of their children in care. The tragic reality is that if a caseworker or manager takes a dislike to a parent, or there is a disagreement in opinion or a personality conflict with FACS workers which is very common FACS are very vindictive and do abuse their power to punish families to the extent that parents lose their children, lose contact visits and even in several cases never see their children again as families are powerless against FACS.

Many parents have reported losing their employment because of all the time they have to take off work to abide by FACS and Care Court requirements as there is no flexibility for parents with meetings, court attendances and FACS supervised contact all conducted in business hours. Many parents also lose significant amounts of family income when their children are removed and some lose their housing, they struggle to find money for legal fees and courses, travel to all FACS and Care Court appointments making their family situation worse and more difficult to fight for the return of their children.

We have many cases from children and parents with disabilities and mental health issues that show discrimination against them by FACS. Instead of receiving support their families are just torn apart exacerbating their conditions. We have dealt with tragic cases where parents have taken their lives after the forced removal of their children and children in care have died under suspicious circumstances and these matters are kept from the public by FACS to protect themselves.

In the majority of cases we have reviewed there has been a violation of the rights of children and families when they were denied a support person while two FACS workers have interviewed children and parents alone. Then the account of that interview no matter how inaccurate is accepted as fact as it is 2 FACS workers against a parent or child. When parents have requested to record the interviews with FACS workers to prove accuracy they have been denied.

#### Unregistered caseworkers have too much power but no real accountability:

In the majority of cases we have audited in NSW caseworkers are breaking both the Care and Protection Laws and Criminal Code Laws to pervert the course of justice when children are forcibly removed, to win cases, throughout case management and the legal process in the secret Care Courts and no one is holding them accountable for these crimes.

We are yet to read a FACS affidavit that does not contain false allegations, defamation of parents and outright lies. Child abuse cases marked as substantiated are done so on an unregistered worker's opinion, not evidence as NO evidence is required in the secret Care Courts. So all data related to 'substantiated' cases of child abuse and neglect is flawed. Most are collated from collateral hearsay often second or third hand and would never be able to be filed and relied on in any other court jurisdiction in NSW. Even when matters are evidenced to be unsubstantiated in Court they still remain in FACS notes and the history of false allegations is written in those notes as fact and accumulated and repeated for all the years of a parent's life as if they are fact.

The false, defaming and untrue information is then given by FACS to Court reporters who then produce reports the Care Courts rely on that are inaccurate and biased. Many of these so-called 'independent' Court reporters are in fact ex DOCS workers or professionals making a lot of money on supporting FACS who pay their hefty fees so report the outcomes FACS want giving little if any attention to parents and children's perspectives.

Most Case decisions are made by Managers behind closed doors that never meet the children and families whose lives they are deciding. No organisation or business model could succeed if managers had no involvement with those they were making life-altering decisions about.

FACS internal Complaints Unit is a frustrating waste of time for children and families. Few have ever got any even minor satisfactory responses regardless of the seriousness and evidence involved in the complaint. Most report they are just ignored or receive a letter informing them they need to work with the very caseworkers they are complaining about in the best interests of their children. Children and families are then punished by the worker they have made the complaint about, most commonly by reduced contact, which is cruel and inhumane.

#### **Care Courts Issues**

FACS frequently request and are granted adjournments, as they are not ready to proceed. Parents are often served documents relied on as they are entering the court room which is illegal and they are denied time to even read those documents let alone get an adjournment.

NSW has by far the harshest Care Court process and Application for Restoration process of all the others states and Territories. That is why FACS is able to place so many children in care until they are 18 so easily.

Once a child is forcibly removed a parent usually has only a day or so to be in court and very often is not even served with the paperwork, which is illegal. That court appearance is just a formality. The second Court appearance is an Establishment Hearing usually 4 to 6 weeks after a child has been removed but most parent are not aware of this and certainly don't understand the significance. Sadly most parents rely on legal aid to defend them and with or without their knowledge Legal Aid almost always concede Establishment to FACS without admissions. They do this because it is very quick as they claim they are not paid enough. What that means is Legal Aid don't even bother to defend parents. What parents don't realise until it is too late is that by conceding Establishment of the case without admissions actually means that the Legal Aid solicitor has informed the court that the parent accepts the FACS case to be established but will not be admitting to anything. So right there the case has already been lost to FACS, there children are taken and final orders are a mere formality as you have no chance of fighting once you have conceded the case presented by FACS to have been established.

We have never seen a case where a Care Court Conference or Dispute Resolution Conference has been of any benefit to families. Nothing discussed is admissible in court and all FACS do is try to pressure parents to consent to the orders FACS want, some FACS workers even come with pre prepared orders for parents to sign showing they have no intention of listening to parents and have a set agenda to get the order they want so these are a waste of time and money.

More then half of the NSW cases we have been involved with evidence that their children were not returned to them at final orders because the Magistrate stated in was not in the best interest of the child to unsettle them as they had been in out of home care for a year. There is no opportunity to say anything as this kind of judgment is given. It occurs most often when FACS have no reasons left for not returning a child to their loving family because the parents have evidenced they are innocent of the false allegations made against them, or completed all requirements FACS have asked of them. It is another travesty of Justice that a child is traumatised by forcibly being removed from their family and spending one year in Care and that one year in care is used to make an order till a child is 18 for stability despite the many years of loving care they may have spent with their families before they were removed. But these are the disgusting decisions being made daily in the secret Care Courts.

Many parents do not believe that the Care Court Magistrates even reads their Affidavits of evidence, the judgments themselves evidence this because the Magistrates make statements that clearly show their ignorance of what parents have filed.

Many children and parents complain about the Independent Child Lawyers (ICL). The most common complaints are that they do not independently investigate the case and most often just side with FACS, many never even meet the child they represent and fail to convey the wishes of the child. This leaves the parents up against 2 Legal teams, poorly represented by Legal Aid or trying to represent themselves as Legal Aid funding has reduced and they are cut off in the middle of a case or not accepted for a legal Aid grant because FACS inform Legal Aid there is no merit in a parents case giving Legal Aid the right to decline a grant.

Court Transcripts are very expensive but for those who have applied as they wanted to use them as evidence they have found them to be inaccurate, had a lot of parts missing, some were completely altered and there is no way for parents to be able to get the transcripts corrected.

Even when a parent is able to prove a caseworker has lied or committed perjury, which is very common in most cases, and even if the Magistrate acknowledges it they do nothing. We are not aware of any caseworker that has had any action taken against them in Care Court when they have had crimes evidenced against them.

Contact with children after final orders is a standard 4 times a year for 2 hours and if you are lucky you will get that, some parents get only 2 contacts a years and some get none making it impossible to maintain a real relationship with their children and any chance of restoration near impossible.

Once parents lose their children till they are 18 at final orders the Legal Aid Solicitor will tell them not to worry come back in 6 months or a year and apply for a Section 90 to have their children restored to their care. What they don't tell the parents is that Legal Aid rarely will even fund a Section 90 application and how near impossible the process is.

That is why parents in NSW call the specialist Care Courts rubber stamps for FACS because basically that is what happens FACS makes an application, files a care plan, Legal Aid do not defend parents and FACS win the case.

Legal aid does not fund appeals against final orders and most parents don't even know they can appeal. In the past parents were able to appeal to the district court and get their children back because evidence not hearsay is required in the District Court. So the law was changed to stop that happening. Now if a parent does appeal to the district Court in NSW the District court can chose to hear the appeal on the same premise of Care Court with the rules of no evidence and even if a parent does win the appeal they are then sent back to the Care Court to have their case reheard. All this takes years with minimal contact with their children further reducing their chances so there is no justice.

In NSW to apply for restoration of your children you must first apply to the Care Court for their permission and this is called a Section 90 Leave application. After the case known as the matter of "Troy" in the Care Court at Parramatta in 2010 where the Judgment was made by the President of the Children's Court under the instruction of the Government as outlined is his reasons showing that he had collaborated and been instructed by government to make it more difficult for parents to be granted a Sec90 Hearing because they were too expensive and causing court delays it is very rare since then to be able to get Leave to proceed to a Hearing for restoration. This judgment is arguably illegal but until some parents succeeds far enough and has enough money to challenge its validity in a higher Court it remain unchallenged but is now relied on to deny parents any chance at restoration.

Basically in the matter of "Troy" you now have to meet the entire criteria for a full section 90 Hearing in the Application for a Leave Hearing, prior to then you only had to meet a much lower criteria to get leave based on a significant change in circumstances and then prepare to cover all criteria under the law for the actual Hearing. Section 90 Leave Hearings are now only granted 2 hours for all parties to present their case by submission. Now all the criteria for a full Hearing must be covered in that 2 hours Leave Hearing by submission, so there is no cross examination allowed leaving parents with little or no hope of achieving anything in their 30 minute time allocation. It is now rare for a parent to be granted leave for a Sec 90 to have their children restored to their care despite significant changes in their circumstances since the matter of "Troy" in 2010. So thanks to the President of the Care Court giving into the directions of the NSW Government families with children in Care in NSW are denied justice from start to finish in the specialised Care Courts for economic reasons most certainly not in the best interests of children.

By comparison having attended Care Court Cases as support in both NSW and QLD a Child can only be removed on a one month order at a time in QLD and DOCS must reapply for an extension of that order every month which gives the parents an opportunity to both oppose the application and defend themselves every month to get their children back home. This continues if the parents oppose the application by DOCS until a court ordered mediations session has been arranged and if the matter is not settled then the matter proceeds to usually an application for a one or two year order and the parents have a very good opportunity to defend themselves and ample time to attend to any demands by DOCS required for their children to be returned. As there is only one Children's Court Magistrate that is in Brisbane most Care Court cases in QLD are heard by the local Court Magistrate who is very clear on law and justice and will give parents a fair Hearing and rely on evidence. Then after an order has been made all a parent needs to make an application to have the order changed or their children restored in QLD is provide new evidence.

There is no legal definition in NSW Care and Protection legislation that defines the term 'In the best interest of the child'. Our case audits evidence that term is used and abused by FACS to mean anything that want it to be to justify whatever decision they make even when it is clearly not in a child's best interest.

The wishes of a child are not often even heard or considered and used in Care Court cases only when it suits FACS case from the reports we receive. So for example if a child wants to return home FACS either fail to inform the court of the child's wishes or state that the child is not competent to know what is best for them.

The Care Courts rely heavily on the Care Plans filed by FACS when making their orders. In most of the cases we have audited parents were not consulted at all or given any input into these care plans. When parents are not consulted or even allowed to file their own Care Plan the Magistrate is left with a one way judgment that favours the FACS view. Most of the Care Plans I have read that are first filed in NSW all state that there is no possibility of restoration to the parents and FACS seeks orders until the child is 18 years old, with few rare exceptions. Having read so many they are almost repititious like a set format is used with only name changes inserted and some minor adjustments made to attempt to make the Care Plan appear personalized for that particular case. No evidence is required to back up the care plan, as there are no rules of evidence in the secret Care Courts.

The **Child Guardian** is useless for children and especially families, despite legislation giving them the power to investigate cases it has never been ratified so there is no point at all making complaints to the Child Guardian about your children in care as they can do nothing.

The **State Ombudsman** fails children in care and their families by ignoring their responsibility of oversight, transparency and accountability in Care matters. The Ombudsman uses a part of their legislation that says they cannot investigate any matter that is before the court and every case where a child has been forcibly removed in before the court. Then once the court matter has ended the Ombudsman responds that it won't investigate any issue over 12 months old so it is too late.

The **State Attorney-General**, the highest legal authority in the state, continues to respond that issues of corruption by caseworkers breaking the law do not fall within their guidelines, when clearly they do, just as the **Human Rights Commissioner** also ignores human rights violations of children in OOHC and their families. Yet violation of the United Nations Human Rights and the International Covenant of Children's Rights are occurring on a daily basis for children and families involved with the child protection industry in NSW.

### **Risk Adverse System taking children and tearing innocent families apart.**

Alarming in more than half of the cases we have examined the children were forcibly removed and placed under orders till they are 18 years old for a 'POSSIBLE RISK OF FUTURE HARM' in the opinion of an unregistered FACS worker. So with no evidence of abuse or neglect these children are taken with no consideration given to the risk of harm children in care are exposed to or the emotional abuse of forced removal from their families and everyone they new and loved. There is a significant body of evidence all over the world including Australia that proves the outcomes for children in care are much worse than for other children.

In the cases of removal for neglect we noticed perceived poverty was the main cause so instead of helping these families out of perceived poverty many of whom are indigenous and have different cultural values to FACS workers their children were just forcibly removed. Judgments based on every child must wear shoes and have their own room which is inconsistent with some indigenous lifestyles is not sufficient reason to forcibly remove children as we have seen documented by FACS as neglect.

The other common reason for removal in the cases we have examined is emotional abuse and most of those cases were due to domestic violence. But rather than removing the perpetrator of domestic violence and helping and supporting the victim and children to remain safely together FACS just forcibly remove the children further victimising the victims.



We have also examined several cases where one parent had a history of drug abuse but has been clean by drug tests and even in some cases completed rehabilitation but still had their children forcibly removed and this is happening frequently with new born babies.

New born babies are also being taken simply because one of the parents already had or has a child in care as NSW Care and Protection legislation allows for subsequent children to be forcibly removed without any reason at all.

The majority of children forcibly removed in NSW have not been physically or sexually abused, as the governments own statistics prove. Most have been removed for emotional abuse, neglect or possible future risk of harm. If no crime has been committed against a child then the family should be supported to stay safely together which is recognised best practice around the world but not happening in FACS NSW resulting in far too many children needlessly being placed in care.

Less than 5% of children in care have ever had a parent criminally charged for abuse or neglect of their children, proving no evidence can substantiate a FACS workers opinion and that the majority of forcibly removed children should have been supported to remain safely at home. The recent Carmody inquiry into the failed QLD Child protection system evidenced in its findings that the risk adverse mentality of child protection over the past decade had placed far too many children in care that should never have been removed and with NSW having more than triple the number of children in care than QLD this risk adverse mentality which spread through DOCS NSW now FACS at the turn of the century is clearly the main cause of such high numbers of children currently in care needlessly.

Emeritus Professor Dorothy Scott urged Australia to follow the European Care System that focuses on preserving families, rather than the failed US and UK "grab the child and run" model because the evidence for best practice proves that forced removal of children and forced adoptions do not ensure a safe, stable and loving homes for vulnerable children and the outcomes are far better for children, families and society when they are supported to remain safely at home.

Most cases that applied to have extended family care for their children were refused even an assessment. Of the department controlled and decided kinship placements more than half of the cases had their children placed with relatives they did not get on with which appears to be deliberate by FACS. This reduces the chances of restoration and creates family division. We see often that the one relative a parent does not want their children placed with is the very placement the department chooses to deliberately keep children and parents separated and so often the children are alienated against the parents by the kinship placement damaging and even severing the child – parent bond. The Government's own data proves that fewer children are restored from kinship care than foster care.

Most cases children are taken in NSW until they are 18 from the start with no case review. Even prisoners get a review of their cases, but parents who have never committed a crime do not get a review of their case with FACS NSW.

With the last legislation changes in NSW in March last year Care Court now has no say in contact visits, it is entirely up to the FACS caseworker to decide the frequency and duration and in the cases we have been involved in since FACS was given all the power contact visits are now less frequent in most cases, while parents and children are asking for more contact. Parents report that contact is often cancelled without notice or cut short because the caseworker is late or in a bad mood and the promised time is never made up. This is very unfair and detrimental to children and families. Contact supervised by FACS is also very unnatural as there are many rules, which seem to change all the time with different caseworkers. Children and families are not allowed to talk about their life or the case so it leaves very little to talk about and if any thing is mentioned the caseworker does not like contact is stopped immediately even if it was an innocent mistake such as a statement from a child about their placement or school. Most extended family are denied any contact with the child in care including grandparents so the loving bond they had prior to removal with extended family is broken leaving children more isolated especially in later life when they age out of care.

Parents and extended family are very distressed when they try to send gifts, money, cards or letters to their children in care as often they learn that these are never passed onto the children. There is no policy in FACS NSW for giving gifts to children and it is up to the FACS worker as to whether or not the child gets anything sent or is even informed about it. This leave children believing that their families don't care about them especially on their Birthdays and Christmas. FACS refuses to provide receipts and there is no accountability at all. This has been going on for decades and must stop. Laws need to be passed to protect children in care from the theft of their gifts and money and the emotional abuse and deprivation this causes.

The outsourcing of children in care to Non Government Organisations (NGO's) has created more harm than good from the cases we have been involved with. While attending meetings, Care Court, and examining subpoenaed files as a support person it is clear that the NGO's do what FACS requests of them and if they don't then FACS order an NGO worker to be removed from the case and the head of the NGO does what they are told because they are funded by FACS. We have even had NGO workers making great progress with families contact us to support and advocate for them when FACS has made up false allegations against them to have them removed from working with a family or discredit them because they objected to the supportive report the worker filed in court for the family.

Money rules where the NGO's are concerned and children in care are commodities of trade. They reduce costs by providing less service to make more money. Many parents have complained that as soon as their child was transferred to certain NGO's that specialise in adoptions there children were straight away assessed for forced adoptions and contact visits were cut. With NGO's that specialise in foster care NGO's do all they can to keep the children in care, as that is the source of their income.

With complaints of abuse of children in care with NGO's we are getting increasing reports that they are covering up the abuse and if a parent reports it to FACS the response is that FACS is no longer responsible for the child and to take it up with the NGO. FACS do not appear to want to even know what the NGO's are doing with children in care even though they still legally hold the parental responsibility for them. Foster care placements seem to be of declining standards and the children are suffering with no where to turn as the NGO caseworker keeps their mouth shut to protect their job and for those who still have a FACS caseworker they don't want to know about what is going on. There is nowhere for the children and families to turn to.

The only people benefitting from the multi billion dollar child protection industry in NSW is the profiteering stakeholders especially the NGO's currently before the Royal Commission for their past and ongoing abuse of vulnerable children. Children and parents have no where to go with the problems they are having with NGO's as the Ombudsman claims they are not responsible as they are not Government owned and the Child Guardian who is supposed to be responsible does not investigate individual cases.

All children and parents we have engaged with report similar short and long term harmful effects cause by involvement with FACS NSW especially after forced removal of children has taken place. For most the harm is lifelong and includes shock, grief, loss, fear, sadness, loss of trust, anger, frustration, anxiety, distress, depression, difficulties sleeping, eating, working, finding any enjoyment in life, feelings of mental and psychological torture and injustice and being unable to protect their children from the harmful out of home care system all resulting in trauma and leading to Post Traumatic Stress disorder and some take their own lives as the pain and suffering becomes unbearable.

In addition children in care have also commonly disclosed sexual, physical, emotional and medical abuse with fear of speaking out, nightmares, withdrawing, self harm, low self esteem, bullying, failure to attach to anyone, poor education levels, insecurity, teenage pregnancies with FACS taking their new born babies, smoking, drinking, drug use, eating disorders, anti social traits, panic attacks, violent behaviour and complex trauma with little interest in anything.

If you consider the harm being done to the children in care it is so often far greater than the reason FACS gave to forcibly remove them in the first place.

Domestic Violence, Substance abuse, Mental Health Issues, disability, emotional, physical and sexual abuse and even neglect span all classes of Australian society but only the marginalised, disadvantaged and poorer class including the homeless have their children forcibly removed because the well off can afford to pay for justice so unregistered caseworkers seem to overlook their children at risk. This is blatant Social Eugenics.

## **Forcibly removing children is the most drastic, costly and intrusive act a government can carry out.**

Forced removals in NSW continue to increase and are often heavy handed involving police with parents arrested for resisting when they are in a state of shock and having their screaming children torn from their arms. Forced removals commonly occur late on Friday afternoons and in the lead up to Holidays such as Easter and Christmas leaving traumatised parents with nowhere to turn for help and advise.

As the Carmody report highlighted in QLD that too little money spent on early intervention to support vulnerable families was his second main reason for the failures in QLD, second only to the widespread risk-adverse culture within Child Protection focusing on Coercive rather than supportive strategies. The very same can be said for NSW.

Far too much money is tied up and wasted on forced removal of children with 30% of funding spent on solicitors and litigation and then the highly profitable OOHHC Industry costing 60% of funding with only 10% of funding spent on family support and preservation.

No more money is required just a reversal of current spending with a focus on restoration, freeing up funding to invest in prevention of child abuse and family preservation.

The lessons of history must be headed. No longer can the NSW Government's plead ignorant. The damage to individuals taken from their families and placed with strangers, either fostered or adopted, is horrendous and lifelong. The damage to their parents has proven irreparable and is passed down to subsequent generations.

The Federal Government said "SORRY" to the "Stolen Generation" the "Forgotten Australians" and for past Forced Adoptions yet NOTHING has changed at the State level and the past atrocities and Human Rights abuses continue today. "Sorry" for past government abuse of vulnerable children and their families is meaningless while ever the abuse of the past is continued by FACS NSW.

## **Our Recommendations on behalf of children and families**

- 1) Mandatory Registration for all child protection workers.
- 2) Establish an independent complaints unit that children and families can approach with their evidenced complaints of misconduct, corruption, crimes and abuse of children in care that has full investigative and prosecutorial powers.
- 3) Mandatory CCTV footage and allow families to record every contact child protection workers have with children and families.
- 4) We advocate that the Secret Care Court jurisdiction be abolished. But at the very least the rules of evidence must be made law so parents are presumed innocent until proven guilty by evidence as in all other legal jurisdictions and the court must be open to public scrutiny.
- 5) Change the law to allow families to receive unredacted full copies of FACS case notes as only by access to these notes do families have the opportunity to apply with evidence for corrections.
- 6) Establishment a panel of independent Professionals and community members to assess and oversee every case that must by law liaise with the family and their appointed cultural representatives before an application can be made for an order to forcibly removed a child from their families. This ensures there is an independent buffer between the department and families to facilitate accountability and transparency and build trust.

- 7) Make Forced adoptions illegal. Unless both parents voluntarily consent without any duress to the adoption of a child. Adoption is for orphans not children that have families who love them.
- 8) Mandatory prosecution for any person knowingly making a false or misleading risk of harm report to child protection authorities. Currently anyone making a report is protected from both civil and criminal prosecution and this would not only give families some protection against false allegations but also reduce the amount of notifications by deterring false, malicious and vexatious reports.
- 9) Abolish the Statutes of Limitation for all children placed in OOHC and their parents so they can seek redress for the abuse and crimes committed against them.
- 10) Abolish the power of caseworkers and NGO's to determine contact between children and their families. Return that jurisdiction to the courts provided contact submissions by children and parents are given due consideration by Magistrates.
- 11) Make it law that a lay adviser is able to assist unrepresented parents and advocate for them in Care Court. Many parents are denied Legal Aid, can't afford legal representation and if they are unable to speak for themselves they should be afforded the opportunity to have a layperson of their choosing speak for them in court.
- 12) Make it mandatory that children in OOHC are placed as close to their home as possible and that no child in OOHC can be moved interstate without the consent of the parents.
- 13) Make it law that a parent must approve of the kinship placement for their child to ensure the child is not placed in an adversarial situation that will sever the bond between the child and parent as commonly occurs now.
- 14) Make it illegal to force medicate children in OOHC for restraining purposes with psychotropic drugs.
- 15) All families must receive the same amount of funding for legal representation as FACS so they have an equal chance to defend themselves in court against FACS in accordance with their Human Rights to be equal before the courts.
- 16) FACS must not fund NGO's. They need to be separately funded so they are not controlled by child protection workers to reduce corruption. Children and families must be protected from financial exploitation by NGO's especially as many are currently operating under conflicts of interest. No NGO's should be allowed involvement in more than one aspect of Child Protection. They need to specialise in either Family support and restoration or OOHC but not both. An independent governing body with investigative and prosecutorial powers to protect vulnerable children and families from the exploitation by NGO's must be established.
- 17) Eliminate Mandatory Reporting to child protection authorities in NSW who currently only have contact with less than 30% of children reported to be at risk and endangers lives. A better system implemented in QLD following the Carmody report allows mandatory reporters to refer families in need of help and support to appropriate services instead of making risk of harm reports to child protection authorities. Only escalating a mandatory report to child protection when the threshold for significant serious risk of harm is identified. This prioritises the urgent cases. For this to work effectively the definition for 'significant serious risk of harm' needs to be legally and clearly defined and then all mandatory reporters must be educated on how to fulfil their new reporting requirements.
- 18) Make it law in Domestic Violence cases that the perpetrator must be removed not the children.
- 19) Caseworkers must stop allowing foster carers to have too much power and influence over the lives of child in OOHC. As they have no legal rights they must be reminded that their role is to care for children until they can return to their families. They must be mandated to promote restoration of children to their families not impede it by opposing restoration. If foster carers want to have other people's children permanently at the expense of the children and their families then they are not suitable as foster carers.
- 20) There must be mandatory registration and regulation of all Foster Carers by an independent governing body to improve the safety of children in Care. With NGO's desperate for foster carers many are having children placed in their care without being properly screened or monitored. Foster carers that impede children with their family relationship must be deregistered as currently FACS gives them powers they do not legally have that are detrimental to restoration.
- 21) A law must be made forcing FACS to be accountable for giving letters, cards, gifts and money sent to children in care to ensure they receive them.

## **Policies and Procedures that must be made law to ensure compliance.**

1. Make it law that no child can be forcibly remove unless there is evidence sufficient to warrant a charge of criminal abuse or neglect and only after all parties have been heard by a Magistrate, especially in the case of new born babies who are so often denied colostrum vital to their immune systems. In all other cases where no crime has been committed that help and support is provided to ensure family preservation by law.
2. Make Family Preservation Law. Establish as a matter of urgency a Family Preservation unit and a Restoration unit in every department across the state. All they currently have is an Intake Team that forcibly removes children and an OOHC team that manages the removed children. Then have every current case independently assessed for restoration in consultation with children and families. Then effect mandated supported restoration immediately so healing can begin from the trauma inflicted by the failed system that have needlessly removed far too many children. As recommended by Commissioner Carmody and being implemented in QLD.
3. Make it law that families can have support people with them in Care Court, and at every meeting with FACS and their stakeholders as often parents are alone, unsupported and extremely out numbered causing intimidation and denial of justice with no independent witnesses.
4. Make it law that all parents must be notified when their children are sick and injured in OOHC as soon as possible and allow families to be able to visit their hospitalised child as that is not currently happening.
5. Make it law that child protection workers must keep parents informed about all aspects of their child's care and life including provision of photo's, school reports and other significant events in their lives.
6. Make it law that every child removed and their families are given immediate professional psychological support to help them to deal with the trauma, pain, grief and loss they all experience.
7. Make it law that all parents receive all documentation including court reports as soon as they are available and in sufficient legal time frames to be able to respond to the court.
8. Make it law that parents are allowed to film, photograph and record their contact time with their children, not just to ensure honesty but also to preserve family memories as this is so often denied.
9. All children on long-term orders until they are 18 must have mandatory case reviews by an independent auditor for any change in circumstances that could make restoration possible on an annual basis.
10. It must be made law that children are placed with suitable extended family were possible first before any other OOHC placement is considered if they must be removed from parents. All willing extended family and significant others must be independently assessed for placement by a service NOT funded by FACS.
11. Children in OOHC must by law be allowed to have regular contact with their extended family and significant others instead of being denied contact with most of them as currently occurs now.
12. Make it law that FACS must provide a written legally binding contract of what is required of parents to have their children returned that can be used in court to have their children returned once they have completed all the requirements.
13. FACS caseworkers must be mandated to focus on the strengths of families not just their weaknesses when doing family assessments, reports and writing their Affidavits as our work evidences family strengths are rarely if ever mentioned.
14. It must be mandated in law that children are restored to their families regardless of how long they have been in OOHC. The current decisions of refusing to restore children just because they have been in OOHC for a year or more so as not to unsettle them from their placement has to stop immediately and will significantly reduce the numbers of stolen children currently in OOHC.

The solution to the current failures in child protection and the rapidly increasing rate of children in OOHC is quite simple and no extra money is required just the will to achieve better outcomes for vulnerable children and their families... ACCOUNTABILITY ACCOUNTABILITY ACCOUNTABILITY!

Start with independent audits of all cases in consultation with families for legal compliance and restoration then prioritise restoration. As each child is restored funds are available to help and support families to remain safely together instead of removing their children. As restoration and family preservation will rapidly reduce the numbers of children in OOHC more funds will be available to implement prevention of child abuse and neglect programs statewide. Within a decade massive savings will be achieved, we will have stronger families and better protection of children that will continue into future generations and be in the best interest of children, their families and all of NSW.

Saying sorry for past abuse and failures in child protection is meaningless while children are still being needlessly stolen, deaths and abuse of children in care are still happening and still being covered up in NSW's multi billion dollar child protection industry that caters to the whims of the profiteering stakeholders not the best interests of our children and certainly not their families.

As we place the lives of vulnerable children and families in NSW in your hands throughout this inquiry we hope that you have the fortitude to report honestly and act with integrity and courage to force the urgent changes so desperately needed to save the current and next generation from the current and past failures as no other Inquiry has done before you.