

## INQUIRY INTO CHILD PROTECTION

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Confidential



## MARTIN LEGAL

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Parliament of New South Wales  
Parliament House  
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BY EMAIL: [gpscno2@parliament.nsw.gov.au](mailto:gpscno2@parliament.nsw.gov.au)

Dear Madam,

**Legislative Council General Purpose Standing Committee No. 2: Inquiry into Child Protection**

We act for \_\_\_\_\_ whose date of birth is \_\_\_\_\_  
\_\_\_\_\_ is the biological son of \_\_\_\_\_ (DOB \_\_\_\_\_) and \_\_\_\_\_ (DOB \_\_\_\_\_). \_\_\_\_\_ were legally married. \_\_\_\_\_ arrived in Australia on \_\_\_\_\_ and \_\_\_\_\_ was an Australian citizen. From their marriage they lived entirely in Australia, principally in the \_\_\_\_\_ and \_\_\_\_\_ areas. During their marriage, \_\_\_\_\_ brought into the world \_\_\_\_\_ children, all of whom survived into adulthood and, as far as my client is aware, none of that issue are yet deceased. In birth order (+ year), those issue were as follows:

- \_\_\_\_\_
- (born \_\_\_\_\_) but named \_\_\_\_\_ upon adoption
- (born \_\_\_\_\_) but named \_\_\_\_\_ upon adoption and now known as \_\_\_\_\_
- (born \_\_\_\_\_) but now known as \_\_\_\_\_ (a twin) who was not adopted
- ( \_\_\_\_\_ ) but named \_\_\_\_\_ upon adoption and now known as \_\_\_\_\_ ( \_\_\_\_\_ ) (the other twin)
- (born \_\_\_\_\_ or \_\_\_\_\_) but known as \_\_\_\_\_ upon adoption ( \_\_\_\_\_ )

- (birth name unknown) but known as upon adoption ( )
- but now known as upon adoption ( ) (another twin), and
- but now known as upon adoption ( ) (another twin).

The first, remarkable thing about this family history is that all children were forcibly removed from their birth parents. The first children were forcibly taken into care by the precursor of the Department of Family and Community Services, then known as the Department of Child Welfare, in . The children, born after , were forcibly removed from the home of , shortly after each of those subsequent respective births.

Some of those children were legally adopted by their carers ( ). Each of those adoptions was done against the express wishes of . Other children were fostered ( ) without any formal or *de facto* adoption process taking place.

Our client was fostered into the care of & , who were legally married. :

- legally adopted (DOB )
- (DOB ), and
- fostered , now known as or

During the period of 's fostering (between ) he was known as but since then he has resumed his birth name of .

We now revert to first person singular, to record 's story more personally, for the Committee's benefit.

I understand that my birth certificate records me as but that, within family circles, I have always been known by the given names of and my surname during my period of fostering was but I am now known as .

The process of me being fostered into the family was a miserable experience, wherein I was beset with the fear of physical violence on a daily basis, which was inflicted upon me by my putative adopted sibling, , who was 6 years older than me and pathologically violent towards me, among others.

Furthermore, my foster mother was also very violent and meted out excessive corporal punishment, almost on a daily basis, but only towards me (out of the 3 children in her home).

violence was perpetually inventive in the methods he engaged, to psychologically intimidate and physically beat me, whereas methods were fairly repetitious, namely using the wooden handle of a feather duster to strike me on my buttocks, sometimes across the lower back and also across the lower legs.

Her attacks were astonishingly ferocious, for a woman. On some occasions, during these attacks, spittle would be in the side corners of her mouth and she would scream at me words to the effect,

"I'll thrash you to within an inch of your life".

physical attacks did not subside until shortly prior to my 21<sup>st</sup> birthday.

physical attacks became worse after , when he had a catastrophic personal injury, .....

and essentially became a more violent and out of control person after that brain injury. The police were never called to my home because of his attacks but I am aware that he was in trouble with police for violence in public on numerous occasions.

' physical attacks continued until I was 19, when I decided to fight back and that succeeded in stopping him from attacking me. I threw against the wall and my foster father tackled me to the floor to stop me. and I were about the same height but he was a big brutish individual. At this time, was about 1.9m tall and he weighed about 120 kilograms.

The main features of my foster circumstances and my central complaints with the Department are these:

- firstly, as I was only a one year old infant at the time of my removal from the care of my biological parents, I was clearly incapable, for many years, to evaluate that forced removal from my parents, and
- I was told at various times, between (when I was 1 – 10 years of age) by each of that I was adopted into the family but it came to my attention in that I was only a State Ward within the guardianship of the Minister of Child Welfare.

The effect of me discovering that I was not legally a part of the family, in the sense that there were no biological children of that union but the process of adoption had been formally pursued for and but not with me, led to a progressive and swift deterioration of my status within the family unit.

What effectively occurred was that I ceased being a *bona fide* family member and I ended up being a burdensome, free loading lodger within their family unit. I have never ascertained why it was the case that I was not adopted. I gather that was embarrassed, by not having pursued the formal legal process of having me adopted, as she was the driving force behind my status (as a State Ward, rather than as an adopted child within the family), actively being concealed from me.

There were regular (about 6 monthly) visits to our home by the relevant District Officer on behalf of the Minister for Child Welfare, who regularly 'checked up on me'. I have obtained a copy of my file as a State Ward from the Department of Child Welfare. As early as , it was recorded in the records of the Department,

" , who is known as , is progressing well in this home and he is regarded as one of the family by his foster parents and their adopted children. The children have all been told that this Ward has also been adopted. The lad is of good intelligence and is successful at school."

and this issue continued to be central to the District Officer's Review. In a report dated , it stated,

"The question of 's knowledge of his present legal position was raised again with regards himself as an adopted child and the other children in the home, who are adopted, believe him to be adopted too and is most apprehensive lest he learn that he is a State Ward. She was strongly advised to tell the lad the true position when the opportunity became available and the dangers of her present approach to the problem were pointed out. She agrees that the situation is fraught with some danger and has agreed to discuss it with her husband and to broach the matter with at the first opportunity. She was advised to tell the lad application has been made for adoption and that this would proceed some time in the future, but that in the meantime he would be under the guardianship of the Minister for Child Welfare.

Present position is rather ridiculous as each succeeding District Officer is passed off as a friend who has come to talk and the door is shut with great secrecy in case the lad or the other children overhear something which will disclose the truth. This matter will be followed up on the next visit."

The circumstances of my non-adoption / State Ward status arose in , when I was joining , one condition of which was the provision of a birth certificate, to obtain my membership thereof. As a consequence of me not having been adopted into the family, my birth certificate recorded my legal name to be and, in one sense, that is when the problems really started for me in the family.

Instantly from the discovery of me not being and my legal name being , between that discovery (in ) and until I made the decision to discard my heritage and resume being a (which occurred in about ) I suffered from a loss of identity and during the intervening 33 years, I essentially felt like a "counterfeit" person, who did not have a real identity within the world in which I was interacting.

From shortly after I discovered that I was really and not , I developed a strange habit. Often during school hours and during other idle occasions, I would sign my name on scraps of paper and then tear up that scrap of paper, before anyone could see what I was doing and throw it away. This developed into an

obsession, which continued in concealed circumstances until I confided to a friend of mine, , my true identity of , shortly after we had both completed the HSC in .

That disclosure commenced the catharsis of me beginning to accept that I was not truly an emotional member of the family and I have eventually come to accept myself and I have presented myself to the world as (known as ) since , which is when I was married to my current (only) wife,

It was a long, soulless and lonely period, for me to be uncomfortable with my identity, for 33 years, between . Even leaving to one side the: physical abuse inflicted upon me by and ; and the emotional abuse inflicted upon me by and ; during the period (when I discovered that I was not an adopted member of the family) and (when I moved out of our family home at ), I attribute my emotional damage to the acts and omissions of the Department. The experience was nothing short of harrowing, especially taking into account the four serious assaults committed by against me, when I and others thought he was actually going to murder me.

I did not attempt to sever all contact with the family, upon me moving out. I maintained social contact with , between my departure from the family home in and his death in but I had very little contact with:

- principally as a result of her physical abuse and absence of what might be described as 'ordinary / normal maternal support', which I attribute to her guilt about the way she treated me and her emotionally absent demeanour
- , because he was such a violent brute towards me, and / or
- with whom I have never had a close emotional attachment. She left home, when I was about 15, and I did not ever choose to re-establish or maintain contact with her. In she and I argued and I have actively sought to have no contact with her from that time,

### **Complaints against the Department**

Therefore, my central complaints against the Department of Child Welfare / Department of Family and Community Services, are these:

- my status in the family was bungled by my State Ward status having been actively concealed from me, firstly by with which the various District Officers of the department were complicit, even though the Department's records demonstrate that they held a different point of view

- the lie about my State Ward status (which was principally [redacted]'s failure but [redacted] and the Department went along with it) turned into the psychological disaster of my loss of identity, when the true position was revealed to me in [redacted]
- lest it be thought that the State Ward / non-adoption was one event that I should have been able to better cope with emotionally, the reality is that I was regularly confronted with this identity loss dilemma, whenever I dealt with government authorities. For example, as I embarked upon adult life, I had the problem of my birth certificate being in the name of [redacted] but my school reports, my bank accounts, my driver's licence, and my first passport and similar identity documents, were in the name of [redacted]. That anomaly presented both practical and legal hurdles that are not usually dealt with by ordinary members of the public and the constant practical problems that this contradiction in my legal identity posed, as between whether I was [redacted] or [redacted], had the effect of me not getting over this identity loss trauma, because the tension about who I really was, kept getting 'thrown in my face', as I tried to participate in the ordinary steps of life
- my next complaint, about the Department's supervision of my fostering within the [redacted] family is that, when I became aware that I was the biological child of [redacted] and [redacted], I developed, what I think is a fairly natural curiosity in:
  - their identity
  - their life outcome, and
  - the existence of my biological siblings, if any.

As I tried to interrogate the various District Officers on those topics, I was actively obstructed and expressly lied to about the existence of any siblings and the identity and whereabouts of my birth parents.

Despite being continuously interested in those matters, it was not until [redacted] that I succeeded in obtaining a copy of my file in the records of the Department of Child Welfare (when I was then 42) and for reasons that I do not understand, it took more than 6 months of constant pressure from my then legal representative (over the period about [redacted]) to extract a copy of my files from the Department and ultimately I succeeded in obtaining my personal file (for [redacted]) and my family file (for [redacted] and their biological children) from the Department in [redacted].

## Conclusion

My complaints with the Department are summarised as these:

- firstly, I have suffered a loss of identity, which is hard to explain, unless you go through it. That loss started when I discovered, in [redacted], that I was not really [redacted] but I was really [redacted]. It took me until the cusp of my marriage, in [redacted], to be able to resolve in my own mind, who I was and who I would be, for [redacted]

the rest of my life. I am at peace with being \_\_\_\_\_ in married life and (mostly) in the persona I present to the public, although I have never attended my \_\_\_\_\_ reunions, principally out of my embarrassment emanating from my loss of identity crisis. I do not know how to explain to the 120+ people I went through the HSC with in \_\_\_\_\_ my \_\_\_\_\_ / \_\_\_\_\_ dilemma and that is one practical example of how this deeply personal problem keeps getting thrown up in my face, despite my best endeavours to get on with my life

- secondly, it was a bad decision by the Department to place me into a foster home, where violence was prevalent
- thirdly, it was negligent by the Department to keep me in a violent environment, once the violence had come to the attention of the Department's District Officers. When I eventually obtained the Department's files in \_\_\_\_\_ I found evidence on the Department's files that it was aware of the violence I was suffering on an ongoing basis, principally at the hands of my foster brother,
- fourthly, my State Ward status was never cured, to me becoming an adoptive member of the \_\_\_\_\_ family. At one level, that was a problem because, from onwards, I felt as though I was a stranger in, what had been my family, up until the point in time that I discovered that I was not a \_\_\_\_\_. At another level, it is now a relief that I was never legally a member of that violent clique
- fifthly, I complain about the practical problems of having most of my important identity documents in the name of \_\_\_\_\_ and my birth certificate in the name of \_\_\_\_\_
- sixthly, I complain about the process of obtaining a copy of my file, for me as an individual ( \_\_\_\_\_ ) and my biological family (the \_\_\_\_\_ ). I encountered open hostility from the Department, in trying to obtain access to that material, which I interpret as a deliberate attempt to conceal the Department's negligence in its handling of me
- seventhly, I have been permanently robbed of many of the ordinary *indicia* of emotional family connexion. I am unable to make an effective emotional connection with my birth father, because he has died, or my birth mother, who is in a stage of dementia.

I have no effective emotional connection with my biological siblings, principally because I have lived with none of them, since I was an infant, and the scattering of us to the four winds has had the apparently permanent effect of us mutually disassociating from each other, although I am having some success in establishing social contact with \_\_\_\_\_ of my \_\_\_\_\_ siblings.

I had no desire to maintain any emotional link with my foster mother, prior to her death in \_\_\_\_\_. There were long periods, of many years at a time, between when I left home in \_\_\_\_\_ and her death in \_\_\_\_\_ ( \_\_\_\_\_ ), when I had absolutely no contact

with her at all, which is a very sad situation, in circumstances where she was the only person, who has ever been a maternal figure in my life.

I have no desire to interact with \_\_\_\_\_ ever again, because he is a violent brute and I have no desire to have anything to do with \_\_\_\_\_,

I never saw or heard anything that made me suspicious of his interaction with her and my other interactions with her have caused me to allege that she is a pathological liar and a fraudster, and frankly, I do not believe any word she says on any topic

- eighthly, what has happened is that, as a direct result of the Department's intervention, I have been turned into an orphan and an only child. I have had next to no contact with my biological parents. I did not want to have any contact with my foster mother, prior to her death and although I had some emotional attachment to \_\_\_\_\_, a better way of looking at that relationship is that I was attracted to him, because he was better in comparison to my revolting interactions with \_\_\_\_\_ and \_\_\_\_\_. His paternal protection and emotional commitment to me was extremely modest but at least my contact with him was positive, to the extent that I had any contact with him at all
- ninthly, I am essentially an only child, despite have \_\_\_\_\_ biological and 2 foster siblings. I have been disenfranchised from my biological siblings, as a direct result of the Department's interaction with the \_\_\_\_\_ family generally.

The lies that the Department pedalled about the non-existence of my parents and my siblings is particularly upsetting, especially when I discovered that a handful \_\_\_\_\_ of my biological siblings were growing up around the corner from me in \_\_\_\_\_ when I was living in \_\_\_\_\_ in my youth

- tenthly, the trauma inflicted upon me had a serious negative impact upon my emotional development and my education. I went from being an engaged, successful student, to performing poorly. I have spent the majority of my adult life attempting to 'catch up', and
- lastly, I strongly object to having been racially abused in the

I give great credit to my wife for helping me come to terms with my identity, which was robbed from me when I was \_\_\_\_\_ and not re-established until I got married, when I was \_\_\_\_\_ and it is the physical harm I was put into and the emotional loss I have suffered in the intervening years about which I particularly complain.

Finally, I wish to give evidence to the Standing Committee. You may contact me through Alex Martin or Jack Clarke at Martin Legal.

Yours sincerely,

This material has been collated and submitted by Martin Legal, at the request of and upon the express instructions of

Yours faithfully,  
**MARTIN LEGAL**

**Alex Martin**