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**Adjunct Professor Muriel Bamblett's Report  
for the Royal Commission into Institutional  
Responses to Child Sexual Abuse: Public  
hearing in Darwin**

**September 2014**

**More Information:**

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**Report of Professor Muriel Bamblett, for the Royal Commission into Institutional Responses into Child Sexual Abuse, Darwin public hearing, September 2014**

1. I have prepared this report at the instruction of Mr Tony Giugni, Solicitor Assisting, Office of the Solicitor to the Commission, Royal Commission into Institutional Responses to Child Sexual Abuse.
2. I have received statements from Simone Jackson, Executive Director, Out of Home Care Division, Northern Territory Department of Children and Families and Dr Howard Bath, Northern Territory, Children's Commissioner and refer to both statements in my report.
3. This report has been completed with the assistance of senior staff from the Victorian Aboriginal Child Care Agency (VACCA); Carly Black, Manager, Social Policy and Research and Nigel D'Souza, Director, Policy, Planning and Major Strategic Projects.

**A. Experience**

4. I am a Yorta Yorta and Dja Dja Wurrung woman and I have always been concerned about and advocated for the rights of my people.
5. I have been employed as the Chief Executive Officer of the Victorian Aboriginal Child Care Agency (VACCA) since 1999. VACCA is the lead Aboriginal child and family welfare organisation in Victoria, protecting and promoting the rights of Aboriginal children, young people, families and the community. We provide child protection, out of home care programs and early intervention and family support services to strengthen Aboriginal culture and encourage best parenting practices, and advise government in relation to child abuse and neglect in the Aboriginal community.
6. From 1997-99 I was the Chairperson of VACCA and from 1998-2008 was the Chairperson of the Secretariat of National Aboriginal and Islander Child Care.
7. I am active on many boards concerning children, families and the Indigenous community, including Victorian Taskforce 1000 Steering Committee; Victorian Therapeutic Residential Care Central Governance Group; Victorian Government Community Sector Reform Council; the Foundation to Prevent Violence Against

Women and Children; a Member of the Victorian Children's Council; the Australian Institute of Family Studies Advisory Council; the Aboriginal Justice Forum; a Ministerial appointed representative on the Australian Families and Children Council; and a Board Member of the Aboriginal Community Elders Service.

8. I have been the recipient of a number of awards, including the Centenary of Federation medal; the Women's Electoral Lobby Inaugural Vida Goldstein Award; 2003 Robin Clark Memorial Award for Inspirational Leadership in the Field of Child and Family Welfare; and was awarded an AM (Membership in the General Division) in the 2004 Australia Day Honours for services to the community, particularly through leadership in the provision of services for Aboriginal and Torres Strait Islander children and families. In 2008 I was a participant at the Prime Minister's 2020 Summit and in 2009 La Trobe University appointed me as an Adjunct Professor in the School of Social Work and Social Policy within the Faculty of Health Sciences. I was inducted into the Victorian Honour Roll of Women in 2011 and was a finalist for a Human Rights Medal with the Australian Human Rights Commission. I have worked at Telstra and the Department of Social Security. My curriculum vitae is included as Appendix 1 and provides further details.
9. In 2010 I was the co-chair of an inquiry into the child protection system for the Northern Territory, in conjunction with Dr. Howard Bath and Dr. Rob Roseby, which produced the *Growing them Strong, Together: Promoting the safety and wellbeing of the Northern Territory's children*, Report of the Board of Inquiry into the Child Protection System in the Northern Territory (Northern Territory, 2010). This report was tabled in October 2010 and made 147 broad-ranging recommendations.
10. As part of this inquiry I undertook extensive visits throughout the Northern Territory, over a period of almost a year. This experience gave me invaluable insight into the complexities and challenges facing Aboriginal people, families and communities especially in remote and very remote areas. It is now four years since this report was produced.

## **B. Matters addressed in this report**

11. I welcome this opportunity to provide input to the Royal Commission into Institutional Responses to Child Abuse at the Darwin public hearing.

12. The Royal Commission seeks my opinion on the following matters:

- a. The prevention of child sexual abuse within institutions that provide out-of-home care, in particular in relation to Indigenous children, having regard to:
  - i. The screening and selection of persons caring for children, including kinship carers;
  - ii. The screening of persons who are not the authorised carers of children, but who reside with children in out-of-home care;
  - iii. The implementation of the Aboriginal Child Placement Principle; and
  - iv. The implementation of policy in rural and remote communities.
- b. Responding to complaints, concerns raised and incidents of child sexual abuse within institutions that provide out-of-home care, in particular in relation to Indigenous children.
- c. The appropriate level of monitoring, reporting, regulation and oversight over institutions and persons providing out-of-home care to children, in particular in relation to Indigenous children.

## **C. Response to specific matters**

13. I set out my response to each of these specific matters asked of me below.

### **a. The prevention of child sexual abuse within institutions that provide out-of-home care, in particular in relation to Indigenous children.**

14. Culture is essential to Aboriginal children's wellbeing. Culture is also essential to ensuing Aboriginal children's safety. Aboriginal children living with their families and within their communities should be the ultimate goal.

15. Unfortunately, nationally the number of children in out of home care nationally is growing. Within Victoria infants, children and young people are being placed at an ever increasing rate (AIHW, 2013). Aboriginal children are being placed in out of home care at an increased rate in comparison to non-Aboriginal children (AIHW). In Victoria more Aboriginal children are being removed from their parents than during the Stolen Generations. Currently Aboriginal children in Victoria are being placed in out-of-home care at a greater rate than in any other time in history (Koorie Kids: Growing Strong in their Culture, 2013; Commission for Children and Young People, 2014).
16. The latest data from AIHW reveal that nationally, the rate of children in out-of-home care was 7.7 per 1,000 children, with Victoria having the lowest rate (5.1 per 1,000) and Northern Territory having the highest (11.2 per 1,000). Northern Territory has the lowest rate of Aboriginal children in care across the country and this is in the context of having a substantiation rate for Aboriginal children that is above the national average (AIHW, 2013). In her statement Simone Jackson provides up to date figures for this year indicating the percentage of children in out of home care in the Northern Territory has increased by 25% over the last year and that approximately 85% of these children are Aboriginal.
17. The reasons for the over-representation of Aboriginal children in the child protection system are complex and include the legacy of past government policies of the forced removal of Aboriginal children from their families, intergenerational cycles of poverty, and cultural differences in child-rearing practices (HREOC, 1997; Scott & Nair, 2013). Other factors such as disadvantaged socioeconomic status, violence, drug and alcohol abuse, and inadequate housing may be associated with greater risk of child abuse and neglect (Scott & Nair).
18. Therefore policies and practices and the accompanying required resourcing that reduce the rate of children in the care and protection systems are critical. Well-resourced, evidence-informed and culturally-informed prevention and early intervention services are essential. All services need to work in collaboration and this is particularly relevant in the context of remoteness that is the reality for many

Aboriginal communities in Northern Territory. This includes, housing, employment, disability, mental health, drug and alcohol and family violence services.

19. The trajectories of children placed in care are often poor and even more so for Aboriginal care leavers and too often includes non-attendance at school, unemployment, homelessness and involvement with juvenile and adult justice systems. The futures of Aboriginal children who are in child protection or have a past child protection history is also poor and often leads to the juvenile and adult justice system (Mendes & Baidawi, 2012; Jackson, Waters, Meehan, Hunter & Corlett, 2013).
20. When children do need to be removed from their parents, kinship care within the child's community needs to be privileged and prioritised. Capacity building is required to increase the availability of kinship care. The Northern Territory has the least children in kinship care compared to other states and territories. Kinship care can be complex and yet is the least resourced care option. Often it is grandmothers that are providing this care and are doing so without the supports, training and resources required. These grandmothers are often living in financial hardship and may have several children in their care. Having more of the children in out of home care in kinship care and providing more resources and supports, including access to therapeutic workers for carers, needs to be a priority.
21. Where children are removed, culturally appropriate, and intensive family support services working towards reunification need to be provided. Not only are Aboriginal children disproportionately represented in the national out of home care figures, they are also more likely to enter care a younger age and to be in care for longer than non-Aboriginal children in out of home care (Osborn & Delfabbro, 2006). Working towards reunification should start immediately and be achieved in a timely manner.
22. The Victorian Aboriginal Stronger Families Program is a model that provides both family support to prevent placement and early reunification where children are placed in out of home care for the first time (DHS, 2012).
23. Placement options and types are often limited in the Northern Territory. During my visits to communities I became aware of examples of social workers and nurses in

the hospitals, taking children home with them as there was no alternative placement option. These workers tended not to stay in the Northern Territory long term, and took the children in their care with them when they returned interstate. These children are being removed from their families, communities, country and culture. It also means that there are many examples of the Northern Territory's child protection clients that are not living in the Northern Territory.

24. There are situations when the Northern Territory Department of Children and Families makes an assessment that a child needs to be removed from their home and in looking for a placement within the child's community decides that, taking into account living conditions and housing, that no appropriate placement can be found. In these instances the child is usually placed in foster care with non-Aboriginal carers outside of the child's community, usually in Darwin or Alice Springs. This means these children are removed from their family network, their community and their culture. It also raises issues about the children remaining in the community, children living in the homes that were not deemed acceptable to place a child in but no action is taken in relation to the children already living in these homes. It is clear that there is a higher threshold for what constitutes risk when considering removing children from their families than there is for screening and selecting placements. This scenario was evident to me in remote communities in the Northern Territory and also reflects the practice observation of Secretariat of National Aboriginal and Islander Child Care (SNAICC).
25. Children are our most vulnerable in society and even more so are children in out of home care. The rights set out in the United Nations (UN) Convention on the Rights of the Child, The UN Declaration on the Rights of Indigenous People and the Victorian Charter for children in out of home care need to be at the forefront of policy and practice. The Northern Territory was the only Australian state or territory not to have a charter of rights for children in out of home care. Both Simone Jackson and Dr Howard Bath's statements make reference to the milestone that as of this year the Charter of Rights for Children and Young People In Care was introduced in the Northern Territory. This is a step towards developing a child-focused care and protection system in the Northern Territory.

26. Upholding Indigenous people's rights is key to healing Aboriginal children and families who have experienced neglect, separation and cultural disconnection. Human rights that support self-determination are fundamental to a holistic approach to children's safety. For Aboriginal children in out of-home care, their basic human right of developing a strong Aboriginal identity, of having a right to learn and practise their culture remains compromised. This is in the context of knowing culture is a protective factor.
27. The Bringing Them Home Report (HREOC, 1997) and this current Royal Commission both highlight that if children are invisible they are unsafe. Children in care's rights need to be asserted and amplified in all areas of life that relate to them. The recent introduction of a Charter of Rights for Children and Young People in Care in the Northern Territory is important. Of greater importance is how it is implemented and embedded into practice. To this end I was encouraged to read in Dr Howard Bath's statement that his office conducts and attends engagement activities with children in care to provide them with an opportunity to hear about their rights and about how to make complaints about services provided to them. These conversations are important and give young people a voice and empowerment and combat a culture of silence. Children's rights also need to be promoted and discussed by those in the children's lives outside of the Commissioner's role; case workers and carers need to be having these conversations.
28. To ensure safety and prevent abuse, vigilance is key and it can only happen in an environment where there is constant discussion about respect for the rights of children. Development of a guide such as the Queensland Government's Department of Communities, Child Safety and Disability Services (2013) *Practice Resource: Participation of children and young people in decision making* is useful. This practice resource outlines ways to promote participation of children in out-of-home care in planning and decision making processes and includes sections on: engagement; promoting participation, involvement in decision making processes; engaging Aboriginal children to participate in decision making; conducting meetings with children and complaints. Training to and implementation of such a practice resource is also required.

29. The Northern Territory needs an increased focus on children. From a broad, public health perspective the Northern Territory is not child focused and this was evident in my visits to communities. Examples of this include absence of children's crossings outside schools, and playgrounds with water-filled holes an obvious potential hazard for the toddlers and small children frequenting the area.

30. As Dr Howard Bath, Dr Rob Roseby and myself advocated in the Report of the Board of Inquiry into the Child Protection System in the Northern Territory (BOI) 2010, *Growing them strong, together*, ensuring the safety and wellbeing of children is our shared responsibility. Our foremost finding of the BOI was that child protection in the Northern Territory needs organisational reform focusing on re-orientation towards a more collaborative approach and increased staff resourcing for child protection and out of home care services.

If change is to occur, we need to invest as much, if not more, into preventing the need for vulnerable children to be placed into care as we do to investigating and monitoring families and placing their children elsewhere, Northern Territory Government, 2010.

31. Simone Jackson includes in her statement that the Northern Territory government agreed to implement the 147 recommendations made in the BOI. However in 2012 the incoming government in the Northern Territory disbanded the oversight body for implementation of the recommendations (Office of the Children's Commissioner, 2013). This indicates a lack of commitment to implementing these recommendations.

32. The Northern Territory has the lowest resourced service system in the country and yet an extremely high number of vulnerable children (Bath, 2014). To quote from Dr Bath speaking earlier this year in relation to the Northern Territory government's response to the BOI that there is extreme difficulty in paying for services recommended:

You can't resile from the fact that it is expensive business to actually provide those supports to families. But if we don't do it the cost is going to be horrendous, Bath, 2014.

**i. The screening and selection of persons caring for children, including kinship carers**

33. Thorough screening and selection of adults caring for our children are required as part of safeguarding children.
34. It is critical that rigorous systems are in place to ensure adequate pre-screening of staff, carers and volunteers and that this is regularly reviewed. At an inter-agency level both the Working with Children Check (WWC) and the carer register are key. Victoria's WWC system, introduced in 2006, has had a significant impact on the service sector and minimized opportunities for people who have harmed children in the past to be employed or volunteer in child related occupations. Having a criminal record should not automatically disqualify a person from gaining a clearance; some discretion is required. Aboriginal young people are over represented in the youth justice and criminal justice systems and often the circumstances they face as young people and young adults have resulted in them engaging in criminal activities and that by adulthood they no longer engage in these behaviours. To this end, the Northern Territory's Ochre Card Process is a good example of building in this discretion. The carer register is also critical in tracking of carers where concerns have been substantiated to prevent them moving from agency to agency.
35. In his statement Dr Howard Bath reports on the Northern Territory's issue of unregistered carers and reports there has been a marked decrease and that currently two percent of placements are with unregistered carers. This reduction is important and continuing work in this area is required to ensure all of Northern Territory's children in out of home care are placed with registered carers who have passed screening and selection processes.
36. Again referencing Dr Bath's statement, the reduction in unregistered carers does not in itself demonstrate the efficacy of the Department of Children and Families' screening processes. In fact even the best screening and selection will never be enough.
37. A broader focus than screening and selection is necessary. The provision of professional development and training to ensure all staff are well versed in child development; child sexual development; indicators of sexual abuse and targeting

and grooming behaviours of perpetrators. To both care for and protect children who have been sexually abused requires skilled staff who are aware of the triggers and level of vigilance that is required and skilled in developing responses to eliminate or reduce children putting themselves at risk. This requires both program guidelines (with implementation and monitoring continually reviewed) and regular staff training.

38. Comprehensive information sessions also need to be provided to prospective carers prior to placement about sexual abuse, signs that a child may have been abused and how to deal with disclosures. Carers need regular training regarding abuse, neglect and trauma responses of children. This training needs to be culturally relevant and informed for carers of Aboriginal children.
39. Dr Howard Bath notes in his statement that the BOI found the standard of care being provided to Aboriginal children in kinship care was lower than the standard of care provided for other children in out of home care. This is due to inadequacy of housing, but relevant here it was also due to registration, supervision and monitoring of carers and placements. Given kinship care is the most culturally appropriate out of home care option for Aboriginal children, selection and screening of kinship carers and placements needs to be sufficient to ensure appropriate standards of care.
40. In addition to professional development and training for workers and carers a community approach is also required. Culturally-designed sex education, awareness raising and protective behaviours programs, that cover good touching and bad touching, are required for young people, families and communities. Aboriginal children can be particularly vulnerable to perpetrators of sexual abuse. In part this is because there can be a silence about sex and sex education for children within Aboriginal communities. A public health approach needs to be implemented similar to the current awareness raising around family violence. Community awareness and a collective voice about child sexual abuse is needed.
41. It is important to prevent abuse before it happens and where abuse has occurred that people are informed of the signs of abuse to stop abuse that is happening. The Child Wise and VACCA publication, *Yarning Up About Child Sexual Abuse: A Guide for*

Aboriginal and Torres Strait Islander Parents and Carers, sets out to help Aboriginal parents and carers of Aboriginal children prevent abuse and take steps to stop abuse that is happening. It includes sections on possible signs of sexual abuse, information about perpetrators, how to yarn with children about safety, normal sexual development in children, problem sexual behaviours and responding to children speaking up that they have been sexually abused. Importantly it talks about shame as children who have been sexually abused can experience shame, making it hard for children to talk about the abuse and parents and carers can feel shame that the abuse happened. The resource shares the idea of a 'shame mat'; leaving shame on the mat at the door and having the courage and strength to talk about these important things.

**ii. The screening of persons who are not the authorised carers of children, but who reside with children in out-of-home care**

42. Screening is required not just of carers but also of those residing in carers' households. It is known that partners and children of carers and others living with or visiting carers have sexually abused children in care. Therefore safeguards need to be in place to ensure children's safety. This needs to be a system that is not overly administratively burdensome while also ensuring there is appropriate checks and monitoring. There needs to be a balance.

43. The development of a national register of foster carers (and others who are in the carers' homes) has been identified as a way of setting some minimum information that can be shared across jurisdictions. For this to succeed it would require the register to be simple to use, training provided in its use; the parameters of what data is to be collected to be well understood; local systems to be compatible with a national system and a shared view of the circumstances leading to carers being on and being removed from the register.

44. Given the particular issue of unregistered carers in the Northern Territory that Dr Bath refers to in his statement, there will also be those other than carers living in carer households that are unscreened. Similar to the efforts made to reduce the

percentage of unregistered carers efforts are needed to monitor and reduce children being placed in households where not all residents have received a check and clearance.

45. Screening is more difficult in rural communities and there is often overcrowding and transience so identifying who needs to be screened in itself can be a challenge. Developing a culture of community awareness raising and vigilance is therefore particularly important in rural and remote communities.
46. Simone Jackson's statement outlines that the assessment process has now been extended for kinship carers to include those who will be having contact with the child. Simone Jackson goes on to report that this extension has led to significant delays in kinship carers (who are often residing in remote communities adding constraints of resources and isolation) being approved compared to timelines for approving foster carers in urban areas. Firstly the extension of screening adults residing in kinship care should also be in place for foster care placements. Secondly this current difference in the system and resultant delays for kinship care should not be used as a justification for placing more children in foster care, simply because it is seen as an easier placement option. Kinship care needs to be prioritised for Aboriginal children.
47. As with screening and selection of carers, no system of screening persons residing in placement households is ever going to be enough to keep children safe. What is also required is creating an environment that gives children a voice, ensuring there are processes for children to be heard, empowered and a visible and active part of community. Secrecy and closed systems allow for perpetrators to take advantage of vulnerable children and for this abuse to go unreported, unacknowledged and for there to be no healing opportunities for children who have suffered sexual abuse in care.

### **iii. The implementation of the Aboriginal Child Placement Principle**

48. Adherence to the Aboriginal Child Placement Principle (ACPP) has been endorsed by SNAICC and adopted nationwide. All Aboriginal children who are clients of child

protection services and in out of home care are governed by ACPP to ensure that their Aboriginal identity is preserved. Its implementation is of the utmost importance.

49. Unfortunately, across Australia 31% of Aboriginal children in care are not placed with Aboriginal carers. Approximately 40% of Aboriginal children in care in Victoria are not placed with Aboriginal carers (AIHW, 2013). As Dr Howard Bath includes in his statement, the Northern Territory has the highest placement rate of Aboriginal children placed with non-Aboriginal carers, with 69% of Aboriginal children placed with non-Aboriginal carers.
50. SANICC (2013) report that there is poor understanding of and inadequate commitment to the Principle which undermines its broad intent. What is needed goes beyond a consideration of a hierarchy of placement options and must include the cultural support and connection needs of Aboriginal children in out of home care. It should involve recognition of child, family and community in decision-making. This is in acknowledgment that Aboriginal people are in the best position to make decisions about their children.
51. Children that are strong in culture and celebrate their identity and culture have a strong voice and are empowered. Community that is strong in culture values their children, and recognises the importance of the whole community in raising children and keeping families together. A service system that values Aboriginal culture and is culturally competent is one which can lead to a better future for our children.
52. The Principle needs to transition with the children. It should not be something that is considered at one point in time only. Incorporating culture needs to be developmentally appropriate and looks very different for a toddler compared to a primary school aged child compared to an adolescent.
53. Kinship care within the child's community needs to be extended as this allows children to be kept close to family and within community and country in keeping with the Principle. Efforts towards recruiting kinship carers are needed, and need to be culturally-tailored.
54. When not placed with Aboriginal carers, Cultural Support Plans (CSPs) are critical. Unfortunately the completion of these is poor. An audit completed last year revealed

that from a sample of nearly 200 Aboriginal children in out of home care in Victoria and subject to cultural support planning legislative requirements, CSPs were completed for only 8% of children (ref). And even when they are completed they can be incomplete, poorly implemented and not reviewed. In Northern Territory CSPs are not part of legislation instead covered only by policy.

55. There needs to be more than adherence to ACPP. A culturally-informed policy is required and to this end VACCA developed a cultural safety framework including recommendations for government departments, the human services sector and Aboriginal organisations and communities. The culmination of this work was a major policy and research report called *This is Forever Business: A framework for maintain and Restoring Cultural Safety in Aboriginal Victoria* and published in 2010.
56. Family group decision making has been trialled in all states and territories except the Northern Territory. In Victoria, Aboriginal family decision making (AFDM) is used as a means of resolving issues in relation to child protection. Attending the family group conferencing includes the child, a representative of the child, parents, extended family and other supports the family wants, as well as the child protection workers. AFDM has had positive results including developing partnerships between families and professionals and increased awareness of child-centred and family-focused practice. It has also been shown to increase involvement of family in planning (DHS, 2012).
57. The Victorian Lakidjeka Child Specialist Advice Support Service (ACSASS), provided by VACCA and an equivalent service provided by the Mildura Aboriginal Cooperative together provide a useful state-wide model; the service provides culturally appropriate ongoing advice and case consultation to Victorian Department of Human Services Child Protection in relation to all significant decisions; such as whether there is a strong need for Aboriginal children to be removed from their families, and relocated to a place of safety. These decisions are made with the advice and knowledge of Aboriginal people and DHS Child Protection are informed on how best to meet Aboriginal children in out of home care's need and keep them safe, including culturally safe. Other states and territories look to the program for best practice in including Aboriginal people in joint decision making processes. As

highlighted in the *Report of the Protecting Victoria's Vulnerable Children Inquiry* this service is under-resourced limiting its effectiveness (Cummins, Scott and Scales, 2012).

58. There are around 1030 Aboriginal children in care in Victoria and VACCA is contractually responsible for fewer than 200 of these children. The majority of Aboriginal children in care in Victoria are the responsibility of mainstream community service agencies. Most of those children are living with non-Aboriginal carers (Bamblett, 2014).
59. In Victoria, planning and decision making for Aboriginal children on protection orders resides with the Department of Human Services, Child Protection Service. Child protection staff's relationships with and assessments of Aboriginal children and families is often limited and can contribute to Aboriginal children remaining away from their families and communities. While there is some commitment to consult with Aboriginal organizations, it is Child Protection's approach to Aboriginal children and families that prevails. The impact of this is most evident in the data; Aboriginal children who are removed from their parents care are returned home at a rate that is significantly lower than non-Aboriginal children.
60. Victoria's *Children, Youth and Families Act 2005* includes a range of provisions for Aboriginal children, with the goal of *empower(ing) Aboriginal families and communities to make decisions about how best to strengthen their families, protect their children and promote their healthy development* and includes section 18 which enables the Secretary of the Department of Human Services to transfer powers and functions for Aboriginal children on protection orders to the Aboriginal Principal Officer (CEO) of an Aboriginal organisation. Section 18 has not yet been implemented, despite having been in legislation for nearly ten years as legislative amendment is required. The legislation, fully realized, will allow Aboriginal organisations to make plans and decisions for Aboriginal children on protection orders in a way that culturally informed and appropriate. Delegation of statutory child protection functions to Aboriginal agencies is seen as clear and effective approach to the over representation of Aboriginal children within child protection system.

61. The *State of Denial* report concluded that:

Aboriginal and Torres Strait Islander communities in the Northern Territory have no significant or secure role, purpose, resources or power within the child protection system – a system which continues to operate as an external source of control rather than as a collaborative partnership for advancing the welfare of children within a framework of rights and respect, Pocock, 2003.

Unfortunately, it appears this finding from over ten years ago still stands true in the Northern Territory today.

#### **iv. The implementation of policy in rural and remote communities**

62. Working within rural and remote communities adds additional challenges. In their statements both Simone Jackson and Dr Howard Bath clearly outline the range of challenges that the remoteness of some of Northern Territory's communities creates. These include chronic difficulties in recruitment and retention of staff and carers, a dispersed population spread over large distances and with weather extremes contributing to increased costs, reduced service provision and supervision, and communication challenges. Simon Jackson also writes of the additional challenges of the Northern Territory's large Aboriginal population and with the limited infrastructure and services this impacts on agencies being able to accommodate staff and deliver services.

63. These challenges are coupled with the disproportionate disadvantage in remote Northern Territory. There is a huge demand for services that provide for the physical, mental, emotional and spiritual wellbeing of children and their families in the context of their family and community and also their history of grief, loss and trauma. The services need to be based on the understanding of the role and importance of Aboriginal culture including the influence and strength of family and community in people's lives. For communities to heal, a process of strengthening customs and practices and relationships between family and kin is required. If services are not experienced as culturally safe they will not be accessed by Aboriginal communities.

Aboriginal children and their families need to have access to culturally appropriate services, regardless of where they reside.

64. An example of a culturally safe multi-pronged service approach from Victoria is VACCA's Orana Gunyah, (meaning welcome, place of shelter); a statewide Aboriginal women and children's crisis accommodation and support service based in the regional centre of Morwell and servicing regional and rural communities as well as urban areas (Victoria does not have remote communities). VACCA provides a culturally appropriate service response to women and children escaping or experiencing family violence. The service is a holistic approach based on the principle of focusing on Aboriginality as a critical protective factor. The program includes a children's worker and an outreach worker.
65. Within the Northern Territory context housing issues are a real concern. Overcrowding is widespread. There may be 10, 15 or more people living in the one house. As part of the Northern Territory Intervention containers were bought in for people to live in to address the housing shortage and these were fitted out with a mattress at best. The conditions inside the containers are one of extreme heat. 'Solutions' such as these amounts to inhumane treatment of Aboriginal people. A further housing issue is the large amount of transience. In addition to housing, poverty, family violence and isolation are also issues that are heightened in rural and particularly remote communities.
66. From my visits to Northern Territory communities I was struck by the number of children with disabilities placed in care. I also became aware of parents where they had been ordered by the court to undertake treatment, such as attend drug and alcohol treatment, and yet the required services were not provided in their communities and so it was not feasible that parents could achieve what was asked of them. Rather than providing parents with the supports they need, this is simply setting parents up to fail and keeping children in out of home longer and on orders that are continually being extended. Courts should be taking into account available services when setting conditions so that parents, and their children, are not penalised because of where they live. These observations highlight the need for a

range of services and the very real impacts of these services not being available for all communities.

67. Given the constraints inherent in delivering the same level and reach of services to remote communities, where specialist services are not available in remote communities the establishment of a set of practice principles can be introduced to reduce the impact of the discrepancy of services. Such principles can include skilling up of para-professionals or workers within the universal services to carry additional portfolios, for example providing training and support to staff of generalist services to identify abuse. Implementing a visiting or rotating system for specialist services to visit remote communities is another such measure that can provide an interim solution while developing a model that allows for services for all.
68. In remote areas the need for the service system broadly to work collaboratively becomes even more critical.
69. Another model that is particularly relevant in rural and remote communities is developing and supporting community champions who take on the role of advocating, raising awareness and averting abuse. These community members need to be respected within their communities and would need support and training.
70. Community night patrols are another useful approach used successfully in the Northern Territory. They have been valued by Aboriginal communities. Furthermore they can deliver positive impacts including improved community safety and supported referrals.
71. The implementation of these practice principles to reduce the gap in service provision in rural and remote communities does not negate the need for increased funding and resourcing of a range of services from universal services, such as housing, to specialist services such as sexual abuse services so that access to required services does not depend on where the child and family resides.
72. Additional challenges of implementing policy within rural and remote communities are also included in the sections proceeding and following this section.

**b. Responding to complaints, concerns raised and incidents of child sexual abuse within institutions that provide out-of-home care, in particular in relation to Indigenous children.**

73. Government and non-government organisations providing out of home care for children in the child protection system need clearly articulated policies around responding to complaints, concerns and incidents of child sexual abuse. These policies should include that the response needs to start immediately by assessing the safety of the child and take action to ensure they are safe. A report should be completed outlining the nature of the incident and the actions taken to protect the child immediately and in the future should be completed. The child or young person's parent or guardian would be informed as would relevant professionals and planning to mitigate against future harm.
74. Reporting of complaints and incidents needs to be prompt as successful prosecutions of sex offences can depend on evidence collection including the child's account of the incident. Delayed reporting can make prosecution more difficult.
75. Implementation and training of polices is required. These policies also need to exist in the context of organisations that are monitored and reviewed (see next section).
76. To be successful in keeping children safe any policies around complaints handling and reporting requires that complaints and reports are made. This requires organizations to have a culture of openness and transparency. This can be particularly relevant for rural and remote communities but can also be an issue for any community or organisation that is closed, remote or not.
77. Providing culturally sensitive services that are child sensitive and comprehensively informed about sexual abuse and give strong messages to the child about their right to be heard, to be safe and that it's not their fault are important.
78. The right of Aboriginal children to be raised in their own culture, and the importance and value of family, extended family, kinship networks, culture and community in raising Aboriginal children must be at the forefront of policy and practice. Aboriginal

children are safest when cared for in their own culture by family or broader community and have a strong understanding of their cultural identity. A child strong in culture is more likely to have a voice.

79. Children and young people will not necessarily speak out to a visitor, especially an Aboriginal child. Too often children disclose sexual abuse to several different people before action is taken, so systems need to be in place that provide multiple opportunities for children to speak out, and for staff to notice any grooming behaviours by adults or behaviour changes in the child.
80. Embedding a culture where children feel empowered to tell a trusted adult if they are not feeling safe is vital. This can and should be achieved in a variety of ways. Talking to children in a way that makes them feel safe and regular feedback mechanisms from children are examples. VACCAs residential care units have weekly yarning meetings with the children to ensure their voices are heard. Providing opportunities for the children to tell their stories in a way that is best for them taking into account culture and developmental stage, for example through play and art is important.
81. Importantly creating an environment where children feel proud of their Aboriginality and that what they have to say matters contribute to providing a safe, child safe and culturally safe, out of home care service for our children. To have a strong voice, children need to be connected to culture and feel safe in their environment.
82. This can be a particular issue for young people placed in residential care; they are often unable or unwilling to develop an emotional connection to their placement or their carers which of itself increase their vulnerability to sexual exploitation. This is understandable given their trauma history, multiple placement changes and the rostered staffing model. Having limited emotional connection to the placement makes it very difficult for the staff to effectively support these young people and keep them safe.

Some form of connection is necessary for all of us. The potential is high for young people in residential care to be exploited by sex offenders who appear to be more trustworthy and dependable than the system has been, VACCA, 2014.

83. Residential care providers struggle to maintain consistent and skilled staff. The use of casual or agency staff can mean children are less likely to know their carer and the carer is then less able to take preventative measures when concerns are escalating due to not having the rapport and relationship with the young person. In his statement, Dr Howard Bath also raises the concern around reliance of agency staff in residential care due to the lower level of screening, training and supervision. This therefore introduces a risk for the organization and need to ensure there is rigorous screening, training and supervision for all care providers as part of keeping children safe.
84. What is needed is a range of culturally relevant services that are responsive to the diverse needs of the communities and based upon holistic, strengths-based and trauma-informed models of practice and care (Bamblett, 2014).
85. Embedding children in culture is what works. Children are safest immersed in community and culture. Culture is a protective factor, provides resilience and contributes to healing (Chandler & Lalonde, 1998; Colquhoun & Dockeray, 2012). It is for these reasons VACCA places importance on embedding cultural practice within our services as well as running cultural activities for children in our care. At VACCA culture is not an add-on but embedded in all program development and service provision.
86. VACCA has a therapeutic healing team that provides an integrated culturally appropriate and trauma informed approach to working with Aboriginal children and families across VACCA including in out of home care. Our work with traumatised children, young people and families, is set within a therapeutic framework. This framework includes: understanding the underlying causes of a child's behaviours; helping the child understand what happened is not their fault; undertaking a comprehensive assessment of the child's needs through the lens of culture; tailoring responses according to the child's individual needs; implementing actions that promote healing, safety, stability and wellbeing including a positive self-belief; providing consistency and predictability in the child's daily routine and keeping the child informed about all aspects of their case plan; rebuilding and strengthening the

child's relationship with their family, community and culture and involving the child in cultural healing practices, including art, story-telling, dance and song.

**c. The appropriate level of monitoring, reporting, regulation and oversight over institutions and persons providing out-of-home care to children, in particular in relation to Indigenous children.**

87. A balance is required in relation to the extent of monitoring, reporting, regulation and oversight of out of home care providers. Creating oversight mechanisms that are overly administratively burdensome and where the child focus is lost do not in fact ensure children are safer. On the other hand a system is needed that ensures there are checks and balances in conjunction with openness and transparency to develop child safe organisations throughout the service sector.
88. Funding and resourcing organisations so that they can develop and maintain child safe practices is needed. The concept of organisational grooming is important. Similar to perpetrators grooming children and young people, perpetrators will also groom organisations earning the trust of staff as a means to gaining access to young people and exploiting organisations' weaknesses. Organisations therefore need to be vigilant to this. Australian Childhood Foundation's 'Safeguarding Children' accreditation and Child Wise's 'Child Safer Organisations' certification are two examples of three year programs that organisations can undertake to seek external accreditation as a child safe organisation  
<http://www.safeguardingchildren.com.au/the-program/the-accreditation-cycle.aspx>; <http://www.childwise.net/page/11/child-protection-consulting>).
89. For Aboriginal children organisations will not be child safe without also being culturally safe. Culturally safe organisations and placements need to be provided to ensure organisations and placements are child safe.
90. The most effective way to monitor good practice is by ensuring regular and professional supervision where roles are clear and expectations are regularly discussed. Good practice is also supported by providing a solid infrastructure of supports, reporting lines and clarity about who is doing what tasks.

91. Sexual abuse can occur in both a highly audited and under audited setting, given offenders are usually very skilled at the grooming process and in maintaining secrecy.
92. There are systemic issues that go beyond individual agencies that contribute to children in care experiencing sexual abuse or exploitation that need to be addressed to ensure the safety of these vulnerable children. Systemic issues include: limited or lack of assessment, placement demands and limited matching or disregard for the importance of matching.
93. Quality of care processes allows for a level of accountability and, ideally, enables swift collaborative investigation and decision making regarding staff who may be harming children. However this process relies on disclosures by children or staff to be successful and therefore at times is not able to protect children. Victoria's Department of Human Services Quality of Care, with its focus on writing incident reports and its procedural nature, can deflect managers from a focus on the child to compliance with recording requirements.
94. In relation to accountability and governance there are lessons to be learnt from the government funded missions in operation in Victoria and in the Northern Territory. When government stopped the funding the churches simply left. The churches role both within Victoria and Northern Territory needs to be highlighted. There are several examples of church-run missions and then the churches simply left, walked away, with no governance in place. Different missions in the Northern Territory were run by different churches, but the outcome was the same. The government stopped funding the missions and churches left without any accountability of governance.
95. Children and young people in residential care frequently have backgrounds of significant abuse and neglect, and are traumatised by their experiences. This can leave them extremely vulnerable to adults who seek to exploit them. Many paedophiles are aware of these vulnerabilities and will deliberately target young people in the care system.
96. Aboriginal children are particularly vulnerable due to the impact of past policies and practices which leave many families unable to offer the protection their children need and results in the over representation of Aboriginal children in care.

97. Young people in care are more likely to have high risk behaviours such as absconding and frequenting public places such as train stations. Sex offenders often seek out these places as they know adults will be unlikely to intervene or observe their activities. In order to prosper, children need stability and connection to culture and therefore need to know where and with whom they are going to live.
98. Kinship care is the most culturally appropriate placement option for Aboriginal children. However, when children are placed in foster care this needs to be therapeutic foster care. Similarly when children are placed in residential care this needs to be therapeutic residential care. There are now evaluations of both these models provided within the Victoria context that clearly demonstrate that children and young people do better in therapeutic care than they do in standard foster care and standard residential care (Frederico, 2013; VERSO, 2012).
99. In Victoria it is not just about community the sector. Child protection system has failed Aboriginal children, families and communities. The government system is failing our children. Case plans, reunification plans, timely decisions and adherence to the Aboriginal Child Placement Principle are all required and yet all too often do not happen. There have been systemic failures and the overburdened system cannot address the need. There is inadequate funding; the level of need means implementation of policies not achievable. This also applies to Northern Territory.
100. Maintaining Aboriginal children's connection to their family and community and supporting Aboriginal children's identity frequently does not occur when they are in care. Of 367 Aboriginal children in the Victorian Department of Human Services stability project: 65% had not been the subject of an Aboriginal Family Led Decision Making meeting, 58% had not been subject to a reunification attempt, 84% did not have a Cultural Support Plan, 40% had no recorded Stability Plan and 15% had no current case plan.
101. The mandatory reporting system in Northern Territory results in an overwhelmed system, a system that constantly gets blocked. The number of notifications received means that the percentage of notifications that are then investigated and substantiated is lower than in other jurisdictions.
102. In *The State of Denial Report* it finds:

Resources directed by governments, Commonwealth and Territory, and by churches and their associated organisations, towards the break up of Aboriginal families and forced removal of children in previous generations massively exceed the resources now dedicated to supporting Aboriginal families with children (Pocock, 2003).

Simone Jackson spoke of recent injection of funds however it is likely that this statement still stands true today.

103. Greater Aboriginal involvement and control of service delivery is required; Aboriginal self-determination and empowerment need to guide not only policy but practice. Decisions about Aboriginal children's care and protection needs to involve Aboriginal people. A multi-layered approach of strengthening families, strengthening the sector and strengthening government needs to occur.
104. My experience of conducting visits in the Northern Territory and consulting and speaking widely with community and workers was that was real difficulties and uncertainties created by both Territory and federal government involvement in the Northern Territory service sector. This could be resolved by the creation of a bilateral agreement.
105. The Children's commissioner should have 'own-motion' investigative powers and this is not the case for the Northern Territory's Children's Commissioner.
106. All jurisdictions need to have independent oversight. As Simone Jackson outlined in her statement, government manages and provides most of the home-based out of home care services and either runs or outsources residential care in the Northern Territory. It is important that regulation of these services is conducted by a body separate from the service provider. In other words Department of Children and Families should not both be providing the services and regulating the provision of these services. An independent regulator overcomes any potential reluctance to critically and objectively examine practices and therefore can uncover problematic systems issues. Furthermore external oversight, including auditing, can reduce case drift and measure compliance where otherwise compliance may just be assumed.

## D. Conclusion

107. As articulated throughout this report, prevention of child sexual abuse in out of home care, responding to incidents of child sexual abuse in out of home care and monitoring of institutions and individuals providing out of home care requires a broad approach.
108. More is required than limiting our focus to child sexual abuse. The issues of why children are coming into the child protection and out-of-home care systems needs to be addressed. There is no single answer. Issues of poverty, housing, drug and alcohol, unemployment, family violence and isolation all impact on Aboriginal families to a great extent than the general population.
109. Children are coming into care in increasing numbers. The over representation of Aboriginal children within child protection is deeply concerning. Equally concerning is how these children fare once they do come into the care and protection systems. Unless there is investment in prevention, early intervention, family support and service system collaboration and partnership there will continue to be an increasing number of children who need the protection of the state, and an increasing cost to government to provide this protection.
110. Robust screening and selection of carers, including others residing in placements, training for staff and carers and community awareness raising around child sexual abuse, well communicated complaints processes and ongoing, independent monitoring of organisations providing care and protection are all required mechanisms to keep children safe in care.
111. Culture is a crucial consideration for organisations to be child safe for Aboriginal children. A child's right to culture and identity and a child's right to be safe are not mutually exclusive. Organisations, staff and carers must be committed to child safety including cultural safety.
112. Culture must always be at the forefront when working with Aboriginal children, families and communities. When Aboriginal children are in care, this needs to be in accordance with the broad intent of Aboriginal Child Placement Principle.

When Aboriginal children are in care with non-Aboriginal carers cultural support planning needs to be completed, thoughtfully reviewed and implemented.

113. More needs to be done by government and the non-government sector working with Aboriginal communities to ensure genuine engagement, empowerment and self-determination. In particular empowering local remote communities is crucial to reducing the impact of the gap in service provision compared with urban communities.

114. In summary, no single approach is the solution to keeping our children safe. There needs to be a multi-tiered response: (1) prevention and access to universal/Aboriginal support services; (2) early intervention; (3) appropriate and comprehensive support for children in care including connection to their culture and community and prioritising of kinship care and (4) support for timely, successful reunification. All four levels must be supported through the provision of Aboriginal services by Aboriginal people. All four levels need to address the increased complexity and challenges in service delivery in remote communities.



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