



Western Australian Department for Community Development

Submission to

**SENATE COMMUNITY AFFAIRS REFERENCES COMMITTEE
INQUIRY INTO CHILDREN IN INSTITUTIONAL CARE**

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Every effort has been made to ensure accuracy, objectivity and comprehensiveness in the completion of this submission. However, due to previous retention and disposal policies, records held by the Department for Community Development are limited, incomplete or in some cases non-existent. With the passing of time it is difficult to speak with absolute authority on all of the issues relating to children in institutional care in Western Australia.

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INTRODUCTION

The new Department for Community Development was created in 2002 following the report of the Machinery of Government Taskforce. The Taskforce recommended that the Department place greater emphasis on developing the capacity of individuals, families and communities to 'shape their own lives positively'. This was to be facilitated by effective collaboration within government, building networks and developing partnerships with the community and business sectors.

This policy shift is the Government's response to complex social issues that are emerging not only in this State, but also throughout Australia and the developed world. Changing patterns of employment and unemployment, and demographic changes such as the ageing of the population, are putting people under increasing pressure. There is a growing recognition of the need to be innovative, to find new ways to facilitate a long term community-wide approach to problems that affect the whole community. Such an approach will lead to more sustainable solutions than traditional welfare responses.

The new Department's Purpose reflects its expanded role and the Government's social policy position.

To enhance the social wellbeing of all Western Australians by working together to:

- strengthen communities so that individuals and families are able to meet their needs, achieve self reliance and contribute to their own solutions
- promote a just and equitable community enriched by diversity and increased social participation
- support families and communities to provide for the care and safety of their members

The Department for Community Development, in partnership with funded not-for-profit organisations, provides a range of services which include support to children, young people and families, assisting community members in crisis, protecting children and young people from harm and caring for children and young people who are unable to live at home. In addition the four policy arms of the Department advise Government regarding the needs and issues of the sections of the community for which they are responsible and undertake community development and engagement initiatives with these sectors to enhance their social participation. They are: the Office for Women's Policy, the Office for Seniors Interests and Volunteering, the Office for Children and Young People's Policy, and the Family and Domestic Violence Unit.

New Strategic Directions

Four key strategic directions have been identified to achieve better outcomes for children, young people, individuals, families and communities.

- Promoting effective partnerships and improved coordination across government and with communities, the not-for-profit sector and business.
- Building capacity in communities to ensure the sustainable wellbeing of community members.
- Increasing the focus on prevention and early intervention to promote the social, physical and cognitive development of young children.
- Improving services that ensure the safety, wellbeing and developmental needs of children and young people who have been harmed or cannot live at home and that support families and individuals in crisis or at risk of crisis.

The strategic framework brings together the strategies and directions of four Departmental operational frameworks:

- The Early Years Framework
- The Care for Children and Young People Strategic Framework
- The Child Protection Strategic Framework
- The Community Capacity Building Framework

These operational frameworks provide for a continuum of services and initiatives ranging from a focus on children in the early years and the development of the capacity of communities to support families, through early intervention services for families in need, to 'safety net' services to assist families prevent or deal with crisis and for children and young people who have been harmed or are unable to live with their families.

The Department has lead responsibility for the whole of government Early Years Strategy, focusing on early childhood initiatives that are developed in partnership with other government agencies and communities. Inclusion, respect and understanding of Indigenous cultures are fundamental prerequisites in an early years framework.

In addition, the Office for Children and Young People's Policy is developing a children and youth strategy in partnership with non government agencies and in consultation with children and young people and the Western Australian community. This strategy will provide a vision and action plan for engaging with children and young people in this State and will recognise the value of children in our society in all their diversity.

Attachment 1 is the Department for Community Development customer profile. Attachment 2 provides the Department's human resources and financial overview.

New Legislation

The current *Child Welfare Act 1947* is in the final stages of review. It is anticipated the new Bill will be introduced in the 2003 Spring Session of Parliament. It will deliver the most significant changes to Western Australian child welfare legislation in over half a century. It will in particular provide a more flexible range of care orders, ensure more effective planning for children in out-of-home care, support transitional services for children leaving out-of-home care and enable children to have a say in decisions that affect them. The objectives of the proposed legislation are to:

- acknowledge the primary role of parents and families in the care and development of children
- encourage and support parents and families in carrying out that role
- provide for the protection and care of children in circumstances when parents fail or are unable to provide that protection and care
- protect children from exploitation in employment
- provide a basis for minimum standards to facilitate quality children's services
- provide an effective system for licensing those services.

Key principles within the proposed legislation include:

- the best interests of the child being paramount
- the preferred way of ensuring a child's wellbeing and positive development is to support and where necessary to provide services to the child, the child's family and community, in cooperation with them, in the care of the child
- the full participation of the child, their parents, family and where appropriate their community will be assisted and supported in making the decisions likely to have a significant impact on a child's life.

The Aboriginal and Torres Strait Islander child placement principle will be enshrined in the new legislation. The legislation also provides for the development of similar guidelines for the placement of children from culturally and linguistically diverse backgrounds.

The new legislation proposes the development of a Charter of Rights for children in out-of-home care that will establish a benchmark for standards in out-of-home care.

History of Out-of-Home Care in Western Australia

This section provides a brief overview of the Department's role and activities in out-of-home care during the twentieth century, commencing with a short account of historical antecedents, an outline of major policy events and implications, and a description of the main modes of care.

In 1979, the Department's Annual Report commenced a brief history of its activities since European settlement with the following statement: 'A basic theme for government officials and legislators has been that the care of children should be left in the hands of ordinary citizens and religious bodies, with the minimum of government interference. The government has provided subsidies of various kinds, and has gradually been called on to increase its regulatory activity as the State has developed. The fear that too much government meddling would lead to a regimentation against the best interests of the children has kept the activities of the public servants concerned, in the background, a position they still prefer to maintain.'

The history of out-of-home care in Western Australia is therefore largely one of a state sponsored system with more facilities run by the private than the public sector.

Prior to the adoption of its own Constitution and, later, the Australian Constitution, Western Australia was governed by the laws of the United Kingdom, with local Ordinances which provided for the care and treatment of children – including destitute, needy and abandoned children as well as juvenile offenders and those children deemed to be in some sort of 'moral danger'. By 1874, the *Industrial Schools Act* had been proclaimed, enabling juveniles found guilty of offences to be legally incarcerated in institutions other than gaols. Institutions for homeless or pauper children, including Indigenous children, were also appearing by this time.

From 1882-1891 a Boys Reformatory was situated at Rottnest Island and many of the principal out-of-home care agencies, some of whom continue to provide services to children and young people in this State, had their roots in this period. Notorious cases of 'baby farming' (where single mothers paid often unscrupulous, negligent and cruel operators to 'care' for their babies while they returned to work) drew the public's attention to the need for a regulated system for the care of children whose parents could not look after them at home.

In 1894, the Government Receiving Depot for 'destitute children' was established. The role of what later became known as the Walcott Centre or Government Reception Home was to provide either short-term care prior to returning home or a staging post where a child awaited a more permanent placement in another institution. Country children having medical treatment in the city were also admitted. At least until the 1960's, it was customary for all children coming through the state system to be placed in the Reception Home for some period, even if only overnight. Due to that practice, many of the children's names and their dates of admission and discharge have been retained.

In 1896, following on from the 'baby farming' scandals, the *Adoption of Children Act* was passed, requiring foster parents to satisfy a Supreme Court Judge that they were a fit and proper person to have the care of a child. In the context of adoption, until the final Order was granted the child's placement was legally seen as a foster placement.

In 1897, Mr James Longmore was appointed Superintendent of Charities and Inspector of Charitable Institutions and 'modern' British approaches to out-of-home care were introduced into Western Australia.

In 1898, the *Health Act* incorporated a provision whereby those who received payment for providing care to children under the age of two years had to be registered under the Act and Mr Longmore reported in 1900 his firm belief that children's needs would be better served through a system of 'boarding out' with families than institutionalisation. His note of caution, though, was that the inspection of children in what we now understand as foster care would be critical to the success of such an approach.

In 1906 the Children's Protection Society was established in response to a growing concern about the standard of care in fee paying out-of-home care situations and in 1907 another baby farming case, where the 'caregiver' was convicted of manslaughter, provided the impetus for the *Child Welfare Act* (1907) which saw the establishment of the State Children Department and broadened the state's interest in the welfare and protection of children.

In a direct response to outlawing baby farming, the payment to foster mothers by parents was taken over and regulated by the Department, which controlled both the amount of payment a foster parent could receive and set down conditions for care. No payments were to be made directly to the foster parent. The Department received the maintenance payment from the natural parent and passed it on. The Department had the power to inspect institutions and Boarding Out Committees, who reported directly to the Secretary of the State Children Department, were established to oversee fostering throughout the State.

In 1908, the Children's Court of Western Australia heard its first case and thus, by the early 1900's the major instrumentalities that oversaw and regulated the behaviour of children and their out-of-home placements had been established.

Regulation, Inspection and Placement: The 1920's to 1950's

From the earliest days of European settlement, the State's role in out-of-home care - apart from its operation of the Government Reception Home - has been one of placement, inspection, licensing and regulation rather than primary caregiving.

During the period from the 1920's to the Second World War, children who had to live apart from their families were placed either with foster parents or in institutions. By 1920, the licensing of 'foster mothers' (ie those private individuals or institutions that received money for caring for young children) had extended to cover children aged up to six years. Foster mothers were distinguished from 'foster parents' (or State Parents) who had custody of children who were State Wards or of other children in receipt of state-subsidised care.

Essentially, the Department was involved in two levels of external funding – direct payment by the Department for the care of children who were State Wards or under the protection of the Department in some way and for whom care was provided by an individual or charitable body; and indirect payment for the care and maintenance of privately placed children aged 0-6 years with licensed foster mothers – such payments being reimbursed by natural families. By 1922, however, direct payments from natural

families to licensed foster mothers were once more permitted – though many of these children subsequently had to be subsidised by the Department as natural parents defaulted on their maintenance payments (Annual Reports were concerned to demonstrate the Department's assiduousness in recovering this money from parents, but it was difficult and a family's inability or reluctance to pay for the maintenance of their child often resulted in the child being made a Ward of the State).

As noted in 1941, in relation to the private placement of children aged less than 6 years, 'the Department accepts no financial responsibility, but is the medium for putting relatives, who for one reason or another cannot themselves care for a child or children, but can pay for them privately, into touch with suitable women licensed as Foster-Mothers.' The Department's 'Lady Inspectors' (trained nurses) and Boarding Out Committees reported on conditions in foster households and institutions. By 1937, the number of children in institutions had exceeded those in foster care.

In the first half of the twentieth century, institutions mainly comprised the Government Reception Home, Industrial Schools and 'Orphanages'. The role of charitable (usually religious) bodies in the care of children in institutions was paramount. The 'main players' in 1922 (The Anglican, Methodist and Catholic Churches and Religious Orders, and the Salvation Army) continued to provide institutional care up to and beyond World War II on campuses separated from the community. The Departmental subsidy for children was only extended beyond 16 years of age in exceptional circumstances, so most children were found employment or 'put out to service' by that time.

Apart from Parkerville, which had cottage homes from its inception, children were accommodated in dormitories. There were a number of farm properties, but these were generally available only to boys over 10 years of age and served to teach farm skills as well as provide a relief from city life (and all its temptations). In the sex-segregated Industrial Schools (reformatories), young people were generally put to work on the premises. The Salvation Army also took in children with intellectual and/or learning disabilities and provided special education on-site.

During this period, the Department continued with one residential facility – the Government Receiving Home. By the 1930's, the Receiving Home was able to grant bail so that children could be released from the Home to 'suitable' guardianship. This facility was run along dormitory lines, with girls and boys separated and young children attending an on-site kindergarten, staffed with a volunteer kindergarten teacher, from 1934. Older children attended nearby schools. The District Medical Officer prior to transfer checked all children. By 1939, the Home could accommodate up to 64 children at any one time.

Although the Department was not staffed by 'professional' officers (ie those trained to tertiary level in child welfare) until 1964 onwards, there was an increasing interest in how to best meet the needs of children in out-of-home care. The usefulness of a group of officers together discussing a child's future placement and other needs was recognised by 1925, though it took until the 1970's before children themselves, and their natural families, were included in 'case conferences.'

During the post-war years, housing was scarce in the State and this impacted on the ability of interested persons to foster a child. The institutionalisation of children from large families into Homes that would take mixed sexes was seen as a positive response

that would, in the words of the Annual Report of 1947, allow 'the children to grow up together and know each other.' However, keeping sibling groups together was not always achieved. In 1953, Mr RH Hicks, Director of Child Welfare in South Australia, was empowered to 'investigate and report upon Child Welfare matters in Western Australia.' He subsequently made recommendations regarding the structure of the Department; improvements in field work; the family placement of wards; improvement of the Child Welfare Reception Home; and the establishment of a new boys' reformatory.

By 1957, more efforts were being put into recruiting foster parents but the Annual Report of that year noted the difficulties encountered in placing older children or those with 'behavioural problems.' The policy of the Department at that time was threefold – '(a) to attempt rehabilitation and so to avoid removal of deprived children, (b) to separate children from natural parents only where rehabilitation methods have failed and to board them out with suitable foster-parents, (c) to make further attempts to rehabilitate parents after removal of deprived children in an effort ultimately to return the children to the natural parents.'

As a consequence of the Hicks Report, institutionalisation was to be regarded as a 'last resort' and as the Department's recruitment efforts had elicited a strong response from the community, it ended the 1950's with a list of foster parents and licensed foster mothers to enable more children to be placed within families. By the close of the 1950's, the re-named 'Child Welfare Reception Home', with over 1,100 admissions in 1959, remained the only state owned out-of-home care facility.

Moving to Direct Care: 1960's to 2000

During this period, the Department became involved in providing direct out-of-home care to young people in Western Australia – not just placing them with voluntary sector agencies. In addition, and contributing to this trend, a number of important Inquiries influenced changing emphases in out-of-home care in Western Australia. The 1960's commenced with the implementation of recommendations arising from the Hicks Report, and the first Emergency Foster Care Scheme was initiated in 1967.

The continuing community concern about the fate of children in out-of-home care led to the 1976 Committee of Inquiry into Residential Child Care, which, inter alia, recommended that children should not be kept in institutions separate from their communities, and contributed to the consolidation of the Group Home Scheme that had commenced in 1971; and emphasised the importance of assessing a child's needs prior to placement, monitoring progress of both the child and the family of origin, and planning for discharge.

Multiple placements being experienced by some children continued to concern an increasingly 'professionalised' child welfare sector and, in 1981, a comprehensive examination of the issues was finalised by the Department in the 'Children in Limbo' Project. The most significant and long-lasting effect of 'Children in Limbo' was the introduction of 'permanency planning' principles into Departmental and subsidised agency practices. While permanent placements were easier to plan for than achieve, it did provide a structured assumption that children should not be allowed to 'drift' through the welfare system.

'Children in Limbo' both demonstrated and coincided with an increasing awareness that the traditional placement practices for Indigenous children were both culturally inappropriate and did not meet the children's actual needs and was one of the catalysts in the Department supporting the establishment of the Aboriginal Child Care Agency in 1980 and the development of specific guidelines for the placement of Indigenous children in 1983. The Departmental policy of reviewing placements regularly was extended in 1982 to those children who were privately fostered.

While the Department contributed to national inquiries such as the 1982 Senate Inquiry into Children and Youth under Institutional Care, the recommendations did not have a major impact on Departmental practices. In 1982, however, Professor Eric Edwards' inquiry into The Treatment of Juvenile Offenders resulted in significant changes to the structure and practices of those Departmental institutions that were aligned to the Department's role in the juvenile justice system. Professor Edwards' recommendation that offenders and non-offenders should be separated, and that detention should be a last resort, underwrote Departmental policy until the role was statutorily removed from them in 1993.

'Children in Limbo' had identified placement breakdown as a significant factor resulting in children drifting through the welfare system, and in 1984 the issue of child homelessness ('street kids') drew public attention to the issue of young people who were apparently not having their care needs met at home or otherwise. The Commonwealth/State Supported Accommodation Assistance Program formally commenced in 1985, with youth as one of the target groups, following a review of all Commonwealth and State programs assisting homeless people or women escaping domestic violence

In 1988, a multi-agency research project, led by the Department, resulted in the establishment of what became known as the 'Hard to Serve Youth' Project to address the issues arising from teenagers who did not fit neatly into a model of care that was essentially 'family-based'. The importance of 'one-to-one' intensive involvement with these young people was highlighted in this project and established them as a group that would require considerable Departmental attention for the remainder of the century.

Thus, even this brief overview of the latter years of the twentieth century shows that there was a range of drivers that underwrote the Department's out-of-home care policies and practices in the period 1960 – 1993. Some of the more significant of these included:

- The Department's role in dealing with juvenile offenders, which saw it become engaged in building and running detention centres and allied hostels and which subsequently led to a range of 'early intervention' projects such as the McCall Centre residential program to try and address some of the known factors that led children into the juvenile justice system as they grew older.
- The assumption, in 1972, of the full responsibility for Education and Employment Hostels, previously run by the Native Welfare Department.
- A belief that children should remain with families of origin wherever possible – which eventually led to Kinship Care programs; the support of agencies such as the Aboriginal Child Care Agency; and Emergency Foster Care schemes that sought to provide short-term respite when families were in danger of breaking down.
- A belief that, where the child could not live with natural family and where fostering was not possible, the child should still experience a 'family model' of care, which led

to the development of 'Group Homes' to replicate family conditions.

- The increasing difficulty in placing children in permanent, appropriate out-of-home care which was highlighted in both the Children in Limbo Enquiry in 1979 and the Hard to Serve Youth inquiries in 1988, which led to a range of initiatives including the Barooga Project which was run by Parkerville Children's Home.
- A surge in the State's population, regional growth and unemployment rates in the 1970's which placed Departmental and private agency resources under increasing strain and led to the establishment of the Child Placement Service in late 1973 as a strategy to optimise the demand for residential placements with available beds throughout the sector.
- The recognition that foster carers needed help and support in discharging their role led to the establishment of the Foster Parents' (later Foster Care) Association in 1979.
- The identification of child physical, sexual and (later) emotional abuse as identifiable and serious community problems, which led to amendments to the *Act* in 1969 enabling the Department to intervene where it identified 'maltreated children' and the concomitant development of Child Protection as a specialised field of Departmental endeavour from that time.
- The social identification of 'teenagers' as a unique population group with specific issues and needs that distinguished them from younger children in care, which led to the development of programs and facilities which focused on a transition to independent living.
- The community development and participation movements of the 1970's which led to the relocation of out-of-home child care facilities from campus-based institutions to community-based houses and to a policy of consulting with children and their parents about placement and treatment plans.
- Consistent with the above, the belief that the Department should play a preventive role in maintaining social structures such as families, which led to a decreasing emphasis on committal proceedings and, thus, a reduction in the number of State Wards from the mid-1970's.
- The initiation of formal discussions between the Child Placement Committee and the private agencies who provided out-of-home child care in 1975 and a finding by the 1976 Committee of Inquiry into Residential Child Care that the state should continue to nurture and develop its longstanding relationship with the voluntary sector and seek to influence, in partnership with private sector agencies, how out-of-home care was managed and operated, led to the establishment of the (Ministerial) Consultative Committee on Residential Child Care (CCRCC) in 1977. This, and successor committees, subsequently influenced the direction and evaluation of out-of-home care practices in the State from this point forward and were instrumental in developing strategies such as Career Path (tracking children and monitoring their progress while they remained in the child welfare system) and Out of Home and Alternative Care Standards.

Main Modes of Direct Out-of-Home Care

In the Annual Report of June 1973, the Department for Community Welfare classified its own institutions into three categories of care: Temporary Care and Assessment Institutions (Bridgewater Child Care and Assessment Centre, Mt Lawley Reception Home, Longmore Remand and Assessment Centre); Treatment Institutions (McCall Centre, Hillston, Riverbank, Nyandi); and Hostels, which were further categorised into

Treatment and Training Hostels (Stuart House, Watson Lodge, Frances St Hostel, and Tudor Lodge) and Education and Employment Hostels (originally established by the Native Welfare Department and scattered throughout metropolitan and country WA).

By 1983, the Annual Report indicated that two main types of institutional care were evident in the State: those institutions 'providing care, accommodation, support or treatment to children with welfare needs and those responsible for the secure detention and training of serious juvenile offenders.'

In its 1989 Annual Report, the Department outlined the out-of-home care services available in Western Australia, including services offered by the private sector: 'The range of care categories includes Respite, Emergency, Short-term, Long-term and Permanent, incorporating adoption and guardianship. The Department provides Substitute Care services directly to the community via Community Support Hostels, Country Hostels, Metropolitan Student Hostels, Group Homes and Departmental Foster Care. In some situations the Department may provide a subsidy for privately arranged foster placements. Additionally the non-government sector is funded to provide Residential Care and Foster Care programmes.'

Until 1993, the Department also had responsibility for children in Juvenile Justice Institutions.

At the Close of the Century

By the end of the twentieth century, the Department no longer had the responsibility for looking after children in secure detention; it continued to own and run Group Homes; coordinate the placement of children in Departmental foster and kinship care; oversee the placement of children in non government foster and kinship care; and develop a policy and legislative framework for the protection and nurturing of children in state sponsored and non government out-of-home care.

In 2000, the Department funded out-of-home care services provided by Anglicare, Mercy Community Services, the Salvation Army and Parkerville Children's Home – all of which had been operating in one form or another since the early years of the century. Yorganop (the successor to the Aboriginal Child Care Agency), Manguri and Wanslea were also in continued receipt of funding, as was the Foster Care Association. Each of these agencies had a considerable record of service to the Western Australian community. Other agencies dating from the early years of the century, Mofflyn and Ngal-a (the successor to the Alexandra Home) no longer offered out-of-home care but were funded for preventive programs.

The Department retained the operation of its Group Homes and other out-of-home-care facilities and foster and kinship care. Its role at the close of the century was two-fold: one of funding, evaluation, oversight and policy development in a community-based context for funded services; and secondly the provision of foster and kinship care to a significant proportion of children and young people in out-of-home care.

Attachment 3 lists the Department's current out-of-home care services including funded services, and the table outlines the style of care provided in each type of out-of-home care facility that was directly provided by the Department.

A Definition of 'Institutional Care'

'Institutions' includes all government and non government residential care facilities providing out-of-home care to State wards and children and young people whose placements were approved and subsidised by the Department, and foster care, since 1920. This definition excludes private placements, adoptions, Aboriginal missions, Children's Services (eg child care centres, outside school hours care), and residential facilities under the auspices of the Department of Education, Disabilities Services Commission and the Department of Justice.

The target group includes all State wards and children and young people placed in out-of-home care with the approval and/or subsidy of the Department for Community Development since 1920.

The types of 'Institutional Care' cover children and young people placed by the Department in group homes, congregate care, hostels, juvenile corrective facilities prior to 1973, residential institutions, scatter cottages and cottage care, campus care, foster care, and youth accommodation services funded under the Commonwealth/State Supported Accommodation Assistance Program.

The term 'out-of-home care' will be used in this submission to mean institutional care, residential care, substitute care, alternative care, supported care, respite care, placement, out-of-home preventative and alternative care, foster care, relative and kinship care.

A Definition of 'Abuse'

Child maltreatment is deemed to have occurred when a child has been subjected to, or is at risk of, sexual, emotional or physical actions or inactions, the severity and/or persistence of which has resulted or is likely to result in significant harm or injury to the child; or where a child has been exposed or subjected to exploitative or inappropriate sexual acts. The description of child maltreatment includes situations where a child is denied available food, shelter, medical attention or supervision to the extent that the child has suffered or is at risk of significant harm or injury.¹

¹ Department for Community Development Case Practice Manual

TERMS OF REFERENCE

1(a) in relation to any government or non-government institutions, and fostering practices, established or licensed under relevant legislation to provide care and/or education for children:

(i) whether any unsafe, improper or unlawful care or treatment of children occurred in these institutions or places

The historical records of the Department for Community Development contain little information on unsafe, improper or unlawful care or treatment of children in out-of-home care. Previous Retention and Disposal policies have meant that the records held by the Department are limited, incomplete or non-existent. (Attachment 4)

Attachment 5 refers to the number of children in out-of-home care, historical and contemporary, in Western Australia and nationally. The Department for Community Development can provide historical data to this Term of Reference due to extensive out-of-home care research by:

- The Department's Information Support Services, which has an important function in retrieving, preserving and providing information and support to people who were in out-of-home care.
- The 'Managing the Past: Children in Residential Facilities' Committee coordinated by the Department, which brings together government and non-government agencies that historically and contemporarily provide/d out-of-home care.

A random search was made of extant administrative and client files for the period 1920 to 1993. This search was limited by time restraints. It showed that of 180 administrative files read, 5 files indicated abuse had occurred. From 154 client files read, abuse was indicated in 11 cases. From the information available it appears the Department took actions in line with contemporary practice guidelines of the time.

In 1993 the Department introduced a new Statewide database for recording client services, including out-of-home care information. Prior to this, statistics were kept manually and any information on abuse in care that may exist cannot be easily collated. By 1993 Duty of Care procedures were integrated into case practice, which further enabled tracking of allegations of abuse in care.

Attachment 6 provides Administrative and Director General's Instructions that outline relevant policy and procedures.

An examination of cases involving allegations of abuse in out-of-home care was begun in 2001 involving data reconciliation, file reading and trialing data collection measures for proper recording, reporting and quality assurance. A detailed audit of individual files from 1993 onwards is being conducted through the Duty of Care Project. The aims of this project are to:

- review the Department's legal responsibilities with regard to children who have been subjected to maltreatment or who have been harmed whilst in out-of-home care
- develop an information management system

- review policy and practice to ensure the legal rights of children in Departmental care are managed with probity.

The Department has reported in various forms since 1995-96 a 'safety in care' type indicator. The indicator is currently known as 'General appropriateness of care: rate of substantiated maltreatment of children in care by carers' (and workers in residential settings). This is expressed as a percentage of children in care harmed.

The Department's Annual Report data (by financial years) on 'rate of substantiated maltreatment of children in care by carers' is:

Year	Number	Percentage of total number
1995-1996	20 children from 2244	0.89
1996-1997	11 children from 2284	0.48
1997-1998	8 children from 2293	0.34
1998-1999	8 children from 2236	0.34
1999-2000	3 children from 2349	0.13
2000-2001	14 children from 2482	0.52
2001-2002	13 children from 2537	0.32

The Department has continually improved its mechanisms for ensuring children in out-of-home care are safe and for identifying abuse. The identification of abuse occurs through a number of different 'care for children' performance indicators in its Annual Report as well as Output Based Management measures. They are wide and varied, looking at different areas such as number of placements, Indigenous Child Placement Principles, and the rate of children in care. In addition to the indicators, the Department also provides information about the numbers of children in care, the types of placements, numbers of children entering and leaving care.

The Department is aware of concerns in the public domain that relate to allegations of abuse in out-of-home care. Advocacy groups such as WINGS (Watchmen In God's Service), ASCA (Advocates for Survivors of Child Abuse), HALO (Help All Little Ones) the Juvenile Justice Association, and FSVP (Family Support for Victims of Paedophiles) have contacted the Department on behalf of people who have alleged abuse. The Department in all cases has attempted to address the concerns of these groups and where appropriate has referred allegations to the Western Australian Police Service.

Currently allegations about abuse in out-of-home care are being addressed through the Duty of Care Project (see page 12). Attachment 7 relates to a recent media article and correspondence from the Department to Mrs Mary Pritchett of WINGS.

(ii) **whether any serious breach of relevant statutory obligation occurred at any time when children were in care or under protection**

The Department for Community Development is established and operates under the *Community Services Act 1972*. Administration of the *Act* and control of the Department is vested in the Minister for Community Development. The Department is responsible for administering the following acts:

- *Adoption Act 1994*
- *Child Welfare Act 1947*
- *Community Services Act 1972*
- *Welfare and Assistance Act 1962*

Since the *Industrial Schools Act 1874*, the Child Welfare Department and predecessors have held responsibility for the inspection and approval of premises providing accommodation for needy children. (Attachment 8) The *State Children's Act 1907* and the subsequent *Child Welfare Act 1927* set out Departmental responsibilities for the care and protection of children in this State, and insisted that existing institutions providing out-of-home care for children be inspected and regulated. Attachment 9 refers to these functions and duties.

Extant records indicate that the Child Welfare Department maintained regular inspections of the institutions, and there are examples of comprehensive inspections. (Attachment 10) These historical documents contain no evidence of breaches of statutory obligations. The Community Services Industry History (1829 - 1993) provides additional detail on the role of the Department. (Attachment 11)

In 1989 representatives from two groups of people (one group consisting of former child migrants) who alleged they were abused as children in out-of-home care, contacted the Department to seek information, support, professional counselling and recognition of their circumstances. The Department offered ongoing counselling support and information provision. A paper entitled *Protocol to Investigate Child Abuse in Foster Care* was distributed to Departmental staff along with recommendations for procedures for prevention and investigation of abuse in care.

The following inquiries have taken place in Western Australia.

'Report to the Minister for Community Services of the Inquiry into the decision making in the Out of Home placement of two children and the current procedures for such placement of children in Western Australia' Maria Harries and Kate O'Brien (1992). This was an independent inquiry instituted by the Hon Minister for Community Services, following the death of a four year old girl in private foster care, and the subsequent conviction for her sexual assault and murder by a sixteen year old boy who was fostered by the same foster family as the girl.

The Harries Inquiry found that past policies and procedures for practice in out-of-home care had been fragmented and poorly coordinated across Government and non government agencies. It commended the first comprehensive review of substitute care in Western Australia, the Substitute Care Review conducted in 1990, that identified the need for an integrated approach across Government and private sectors and for

strategies to optimise excellence in practice. The Inquiry highlighted the importance of ongoing implementation of the Review recommendations.

The Duty of Care Inquiry, Case Review Board, 1993, was initiated by the then Director General to examine the case decisions in relation to two children placed under control of the Department and who remained at risk in foster care. While the Board did not consider that the case reflected significant gaps or inadequacies in Departmental policy and procedures, it did reflect a breakdown in case management practice.

The Department responded to recommendations relating to case practice and procedural and administrative issues after each inquiry. The Department also attempted to address staffing and workload issues through re-structures and by reallocating Central Office staff to service delivery. The workload issues arising from these inquiries continue to be addressed.

In 1998 the Office of the Auditor General conducted a performance examination of ***'Accommodation and support services provided to young people unable to live at home'***. No breaches of statutory obligations were found by this examination.

Key findings included:

- The provision of services to this group is complex and difficult.
- The majority of cases are managed well.
- There are some problem areas which include:
 - an inability to find suitable placements
 - failure to provide planned for services
 - frequent changes of case manager
 - failure to plan adequately for leaving care
 - insufficient face to face contact with young people in care
 - variations in expenditure on support services between zones
 - failure by other Government Departments to provide any form of realistic service.

Many of the findings of the report had already been identified and acted upon. A further review conducted in 2001 highlighted four areas that the Department would need to strengthen:

- Develop and implement strategies to improve the stability of appropriate placements for young people in care (Placements).
- Develop and implement strategies to improve the stability of assignment of caseworker to young people in care (Case Management).
- Ensure the implementation of the Looking after Children system is adequately evaluated, with particular focus on whether the experience of young people in care and planning for leaving care has improved (Support Services).
- Ensure the timely implementation of the Interagency Policy for Working with Young People in Care (Leaving Care).

The Department is anticipating reporting to a further review on the progress of these strategies.

(iii) an estimate of the scale of any unsafe, improper or unlawful care or treatment of children in such institutions or places

The Department's safety indicator shows that since 1995 less than one percent of children in out-of-home care have been abused while in out-of-home care.

The Department has maintained a policy of continuous improvement in this area by responding to evaluations, reviewing policies and developing strategies to meet the challenging needs of families and children as well as trends in out-of-home care. These responses are identified throughout this document.

(b) the extent and impact of the long term social and economic consequences of child abuse and neglect on individuals, families and the Australian society as a whole, and the adequacy of existing remedies and support mechanisms

In the last few decades, child welfare efforts have centred on the improvement of child protection services and promoting the prevention of child abuse as a community concern. More recently, attention has been focussed on strengthening the capacity of families to nurture and protect their children as the best means of meeting their children's developmental needs.

Jurisdictions across Australia have experienced large increases in the number of notifications of child abuse and the number of children and young people in care. The number of children and young people in care in Western Australia has increased by 43 per cent over the past five years and the number of notifications of child abuse has increased by 24 per cent over the same period. Indigenous children and young people represent the greater proportion of this increase.

The 2002 *Gordon Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities* (the Gordon Inquiry) drew attention to the endemic levels of family violence and child sexual abuse in Indigenous communities. The Government has responded by strengthening the following four areas: responses to child abuse and family violence; responses to vulnerable children and adults at risk; safety of communities; and governance, confidence, economic capacity and sustainability of communities.

It is likely that the increased awareness of child abuse in Indigenous communities will lead to a greater demand for government services and support from communities. The Inquiry also highlighted the need for services to be responsive to the needs of local communities and Indigenous cultures in order to maximise the effectiveness of services.

The rates of substantiated cases of child abuse and of children and young people in care in Western Australia per 1000 children in the population are considerably lower than other jurisdictions but the increase in demand has placed ongoing pressure on service providers.

Parental alcohol and drug abuse is a major driver in the increase in demand for all services. Research undertaken by the Department indicates that approximately 70 percent of care and protection applications result from parental drug and alcohol abuse in combination with other factors such as family violence and mental illness. This pattern is consistent with national and international trends.

A range of social factors influences the growth in demand for services. Children are entering care at a younger age and staying in care for longer periods mainly as a result of increased family violence, mental health problems and drug and alcohol use by parents. This increase in the length of time which children spend in care is largely responsible for the increase in the number of children in care. Levels of family and domestic violence are high and mental health issues are prominent among Departmental consumer groups.

The Department has performed well in preventing children entering care and continues to have the lowest rate of children in out-of-home care per 1,000 children in the population of all States. In the past twelve months there has been a significant reduction in the number of children entering care. This has occurred at a time when the Department has increased the number of preventive support services to parents. However the number of children leaving out-of-home care has also fallen for reasons discussed above, leading to a continued increase in the number of child placement weeks.

Children and young people who have experienced abuse or who cannot live at home have particular needs to ensure that the trauma of abuse is reduced and that their physical, educational and health needs are met. This is particularly the case for children in care. Many children enter care with low levels of education, health problems and a paucity of supportive social networks. The Department has a responsibility to address these needs in partnership with other departments and not-for-profit organisations.

The Effects of Child Abuse and Neglect

The links between childhood abuse and the use of health, mental health care, justice and other welfare services cannot be underestimated. Questioning of 50-60 percent of psychiatric inpatients and 40-60 percent of outpatients suggests childhood histories of physical or sexual abuse or both.²

Promoting a focus on children in the early years and investing in support for families and communities in the early years including intervention and prevention, is a priority for Government and the Department for Community Development in Western Australia. The early years are a period of unique opportunity and it is important that every child has the right to make a strong start. However along with the opportunities for growth that enrich the early years there is a vulnerability to harm and a need for adults to act protectively towards children.

Development in early childhood cannot be viewed in isolation from the quality and nature of the parenting a child receives, or the nature of the community in which the child lives. A child's early life experiences form the basis to later wellbeing as a young person, an adult and possibly, a future parent. This begins before a child is born and continues throughout the early childhood years. Experiences in early childhood, particularly in the first three years, contribute to brain development.

There are characteristics related to children, families and communities that can assist or hinder a child's development in the early years and set the base for competence and coping skills for the later stages of life. These include:

- child factors such as good social skills, including sociability and self control and good cognitive functioning
- family factors include the development of a positive parent and child relationship, family harmony, more than two years gap between siblings and supportive family relationships

² Herman, Russell & Trocki 1986; Briere 1989, 1992, 1997

- social and community factors including access to support services and links to the community.

The following factors can influence a child's wellbeing and predispose a child to poor life outcomes:

- socioeconomic factors
- level of stress and support experienced by the family
- level and intensity of a child's early learning experiences
- parental mental health
- family functioning
- parenting style.

There is evidence that cumulative risk may be the most powerful predictor of later problems. That is, the total number of risk factors a child is exposed to, rather than a specific risk factor, may be most important. These risk factors are influenced by social, economic and cultural structures in our community. Strategies that both reduce risk factors and enhance protective factors have a greater chance of improving child wellbeing.

Developmental approaches to prevention focus on the phases or transition points in a person's life as the points when intervention can be most effective including the early years of a child's life, preparation for and adjustment to primary school, high school and adolescence, leaving school and getting a job, establishing adult relationships and becoming a parent.

Children who are unable to live with their parent/s and live with foster carers or relatives, may be more vulnerable as they are exposed to multiple risk factors. Inability to live at home can impact on the child's ability to attach to parents or carers, and family or kinship groups. Enhancing the stability of a child's relationships is a protective factor that supports a child's development.

Early years supports and services which strengthen the ability of families and communities to promote children's wellbeing can break inter-generational cycles of abuse and neglect, and reduce the use of more intrusive Government intervention services later in a child's life. Interventions to achieve significant and positive outcomes for children and their families include:

- improving social, behavioural, emotional and physical development by supporting parents to promote healthy development before and after birth, ensuring positive early parent-child relationships, enabling families to function and early identification and support of children with emotional and behavioural difficulties
- improving cognitive development and the ability to learn by encouraging interactive, stimulating and enjoyable play, developing language skills, ensuring child problem-solving ability, improving child social competence and enabling good peer and school relationships, enhancing close home-school connections and early identification and support of children with poor academic progress
- strengthening families and communities by enhancing communication, understanding and respect within families, schools and communities.

Both universal and targeted programs are needed. Universal programs will have the greatest overall impact because they will prevent a larger number of children from developing problem behaviours. Targeted early intervention programs are needed for families at high risk because of social disadvantage, violence and child abuse and for children showing early signs of persistent behaviour problems, poor language development or poor school performance.

Cost

The economic cost of the long term impact of child abuse and neglect is difficult to estimate because the statistics reflect only those cases that have been identified through reporting mechanisms. Very little analysis has been done to estimate the total cost of preventing child abuse and neglect or the long term social costs of not preventing it. In the United States it has been suggested that although prevention and remediation can be costly, it can more than pay for itself in the long run.

A 2001 study was the first comprehensive report on the direct (immediate intervention) and indirect (long term) costs of child abuse in the United States.³ The report estimated that a conservative US\$94 billion was spent annually in responses to child abuse. It further estimated that of the total costs:

- Approximately 26 percent were spent on direct effects of child abuse; the child welfare system; hospitalisation/treatment; chronic health problems; mental health care; justice interventions and judicial proceedings.
- Approximately 75 percent was spent annually on treating all the long term, indirect effects of child abuse, including special education, mental and physical health care, juvenile justice, lost productivity, and adult criminality. The most costly long term effects, according to this analysis, were those associated with responding to adults who, because of childhood abuse, were involved in criminal activity.

The United Kingdom National Commission of Inquiry into the Prevention of Child Abuse (1996) estimated that the cost of child protection services and additional mental health and correctional services associated with child abuse and neglect was over £1 billion per year in England and Wales.

The South Australian report published in 1998 by the Office for Families and Children and the Australian Institute of Family Studies conservatively estimated that the combined economic and fiscal expenditure incurred as a consequence of child abuse and neglect in South Australia during 1995/96 was \$354 million.⁴

Costs can be viewed in two ways: the immediate costs involved in responding to child abuse and neglect through child welfare systems, the criminal justice system, education and health; and the long term costs, harder to identify and occurring across a range of public and non government services. There is a view that these costs are emerging as unfunded future liabilities of major proportions that will have a significant impact on future generations unless adequate attention is paid to early intervention and prevention to break the cycle of abuse.

³ Fromm, S. Prevent Child Abuse America

⁴ Calvert, G, 1993, 'Preventing Child Abuse and Neglect; The National Strategy'

The financial cost of child abuse and neglect can be daunting. In Australia in 1992-93 the total expenditure on services relating to the notification and substantiation of child abuse and neglect provided by the then Department for Community Services was estimated to be approximately A\$90 million (*ibid*).

The Report on Government Services 2003 states that the recurrent expenditure on child protection and out-of-home care services was at least \$796.6 million across Australia in 2001-02 – a real increase of 11.2 percent from the 2000-01 expenditure. Nationally, out-of-home care services accounted for the majority (60.2 percent) of this expenditure.

Estimates of the financial savings of preventive services in the early years are that every dollar spent on prevention saves seven dollars by reducing the need for more intensive services and the cost of future offending, unemployment and poor parenting.

Adequacy of Existing Remedies and Support Mechanisms

Support to families to care well for children and the protection of children who are at risk or have been harmed is a whole of community and a whole of Government responsibility. Child protection is a sub-set of child and family welfare social policy. It is a complex, rapidly evolving and very public social policy area.

In response to the report of the Gordon Inquiry the Government articulated its strategic framework which identified four key outcomes of an effective child protection system:

- sustainable communities which meet the longer term needs of future generations of children
- safe communities
- support for vulnerable children and adults at risk
- responses to incidents of child abuse and family violence.

The direction set by the Government is similar to conclusions arrived at in the United Kingdom by Lord Laming (2003) in *The Victoria Climbié Inquiry*⁵. Laming considered appropriate means of improving child protection in the United Kingdom and noted that:

- it is not possible to separate the protection of children from wider support to families and often the best protection for a child is achieved by the timely intervention of family support services
- effective support for children and families cannot be achieved by a single agency acting alone. It is a multi-disciplinary task that depends upon a number of agencies working well together.
- organisational structure is likely to be an impediment to effective working. What is critical is the effectiveness of the management of the leadership. The variety and range of referrals, together with the degree of risk and urgency, needs strong leadership, effective decision making, reliable record-keeping, and regular review of performance.

The comprehensive child protection system in Western Australia is far more than the receipt and investigation of allegations of maltreatment.

⁵ Lord Laming, 2003, *The Victoria Climbié Inquiry*, HMSO, Government, UK

Of greatest significance is that there is a range of services that support families and communities to care well for children and contribute to their physical, social, moral and intellectual development.

Statutory child protection services' principle role is to protect children who have been significantly harmed or remain at risk in spite of non-statutory interventions. An efficient and effective system needs appropriate mechanisms for the reporting and receipt of child maltreatment allegations, a range of responses to concerns about inappropriate or inadequate parenting, and services that provide for the needs of children who have been abused.

Most concerns expressed to the Department for Community Development about the wellbeing of children do not warrant a statutory response. For 2,138 finalised child maltreatment allegation investigations conducted by the Department for Community Development in 2001-2002, harm to the child was substantiated in 49.6 percent of cases.⁶

A child is apprehended as in need of protection and care in approximately 16 percent of investigated cases. These are the children who can not be made safe within their families. In addition to services that protect children from harm and care for children who cannot live at home the Department provides and funds a range of services to support families and individuals in crisis. These significantly reduce the impact of crises on families and children and include financial support, accommodation and support to women and children escaping domestic violence and transitional housing for homeless families.

The Department also provides a continuum of services that aim to minimise the need for children to enter out-of-home care, ranging from parenting skills services, intensive family support and services which reunite children in out-of-home care with their families.

Key factors in the provision of adequate remedies and support mechanisms include:

- Strategies that build the overall capacity of communities to care well for children and support families in their role.
- Measures that alleviate poverty and enable families to access resources that enable them to provide for their children's physical, intellectual and material needs.
- Community networks of support and government and non-government services that provide prevention, early intervention and intensive family support responses and services to families struggling in their role.
- Government and non-government respite foster care.
- Statutory investigations and apprehensions of children at risk or who have been harmed or neglected.
- Family preservation services to strengthen families to provide safe care where children are at significant risk of harm or neglect.
- Foster care or residential care when children cannot remain safely with their families.
- Reunification services to restore children to their families when it is appropriate and safe to do so.

⁶ DCD Annual Report 2001/2002

(c) the nature and cause of major changes to professional practices employed in the administration and delivery of care compared with past practice

The history of out-of-home care relates many of the historical developments and changes to professional practices. Attachment 11 also provides relevant information to this section. This Term of Reference can best be described according to the reviews and evaluations that have taken place in out-of-home care.

The first major evaluation of welfare practices in Western Australia was the **Hicks Report** of 1953, a critique of the Child Welfare Department and institutions which described out-of-home care practices as 'primitive and backward'. This evaluation was conducted in the era of the 'baby boom', which followed the Second World War and Australia's post-war immigration policies that caused large numbers of children to enter permanent care, making the task of planning and reviewing the needs of these children difficult. Hicks made recommendations regarding the structure of the Department; improvements in field work; the family placement of wards; improvement of the Child Welfare Reception Home; and the establishment of a new boys' reformatory.

Child welfare inspectors made half yearly visits to institutions and extant files contain both positive and negative reports about accommodation, amenities, and the treatment of bedwetters and absconders. Concern was expressed about the large numbers of children becoming institutionalised. (Attachment 12)

A review committee was established for children in institutions, but within a year of introducing the Review Committee system, it was found that only a portion of the total children in care could be reviewed. Institutions were therefore required to submit written half yearly reports on children in their care.

In 1953/4 new procedures were introduced in the Child Welfare Department which incorporated an ongoing case history recording system and compulsory quarterly reporting of children in care. Despite these improvements however, planning was of an erratic standard and focused on the child's immediate future in his/her placement rather than the child. As noted in an evaluation on the case conference system (Attachment 13) and other documents, welfare officers were under-resourced, over loaded with cases, poorly trained and generally ill-equipped to undertake the sole responsibility for planning the future lives of children.

The years between 1959 to 1965 saw the evolution of the case conference system that required comprehensive, long term, diagnostic and treatment planning based on consultation and teamwork. The purpose of the case conference was to plan for the life of the child by bringing together information and opinions needed to this end, within the agreed philosophy and procedures of the Department. The object of later case conferences (that is, supplementary case conferences, case discussions and case reviews) was to review the initial plan where the critical facts or significant opinions had so altered that a new plan was essential for the child's future.

The nature and quality of child welfare practice in the decades between 1940 and 1970 must be seen against the level and expertise of Departmental officers and the resources of the Department in those years.

In 1959 the Department's field staff comprised:

- 2 psychologists
- 5 welfare officers
- 5 district officers
- 13 probation officers

The Annual report of that year noted: *'It is important that caseloads be kept to a workable size and constant review must be made to ensure that officers are able to cope with their allotted tasks. An effective caseload is considered to be 80 cases as a maximum. The caseload per officer is far in excess of this a general rule'*.⁷

The Department's first professional Social Worker was appointed in 1964, and this facilitated further improvements in the standard of investigating, reporting and planning.

The revised **Community Welfare Act (1972)** stressed the importance of the family as well as the safety of the child and provided the Department with the foundations of a family based child care policy. In practice the division between statutory and non-statutory care was a fine one as the majority of children in the care of private institutions were subsidised by the Department, as were many institutional staff salaries.

By 1974 the **Child Placement Service** was established to rationalise and develop effective child placement policies, coordinate departmental placement resources, identify needs, and develop services and research projects. This new unit worked to:

- reduce the number of children who must be placed away from their own family
- increase the range and quality of services to children and families involved in out-of-home care
- increase the rate of successful resolution of out-of-home care placements, particularly reunion of the child with its own family.

In 1976 the Department's **Submission to the Committee of Inquiry into Residential Care** stated: *'During the last two decades throughout the world child care has been in a state of rapid change and development. In residential care many of the old methods and values have been held up for inspection and found wanting'*.

The report described the difficulties experienced by government and non government organisations to provide optimum services to children in care, and identified the lack of essential factors that were needed to promote change:

- coordination to enable planning for change
- flexible attitudes and knowledge on the part of the administrators of out-of-home child care organisations
- adequate funding to achieve higher standards
- child care facilities which can be re-organised to meet changing standards.

⁷ Department for Child Welfare Annual Report 1959:19

The resultant 'confusion and inaction' within this context was seen to have created a 'limbo' situation.⁸ Despite this, the report considered private institutions as an essential adjunct to the Department's role in caring for children. They complemented Departmental services with preventative, early intervention and family reunification programs.

The Department introduced a range of supports and services to break this limbo but major financial deficits and funding difficulties in both the government and non government sectors severely limited the capacity of out-of-home care organisations to respond. Attachment 14 describes the Child Care Standards of that time, as well as a description of the importance of supervision of out-of-home care facilities.

Although a supportive short term model of out-of-home care had been endorsed, in theory in the relevant *Acts* and various Child Placement Service documents, long term out-of-home care placements continued to dominate in practice.

In 1977 a statistical review of foster care in Western Australia found that as in the USA and U.K., the majority of placements (68.4 percent) had lasted for two years or longer. Most of the long placements were foster placements, but many children were spending years in out-of-home care. Aboriginal children dominated the long-term placements.⁹

A **Consultative Committee on Residential Child Care** was established to review out-of-home care activities, which was effective in improving standards and non government–statutory cooperation.

Children in Limbo (1981) was an investigation into the circumstances and needs of children in long term care in Western Australia. It was initiated because of the following factors:

- the continued dominance of long term out-of-home care placements, many of which had evolved on an ad hoc basis
- an increased awareness of welfare drift problems, particularly in relation to Aboriginal, adolescent and long term foster children
- a discrepancy between short term supportive out-of-home care policy and long term out-of-home care practice
- increasing dissatisfaction with existing structures
- concern regarding the separation of adoption and other child welfare practices
- the lack of an appropriate child welfare information collection, storage and retrieval system.

The study confirmed that in Western Australia a significant welfare drift problem existed and that it was the consequence of an entrenched, unplanned, indefinite long term out-of-home care system that was geared towards keeping children in care, and was characterised by:

- an absence of comprehensive, clearly defined policies and procedures regarding both restoration of the child to its family or its permanent placement elsewhere

⁸ DCW Submission to the Committee of Enquiry into Residential Care, 1976

⁹ McCotter, D. (1981) *Children in Limbo*

- an absence of the intensive goal-oriented, time limited family support services that are necessary if family rehabilitation goals are to be resolved
- a long term substitute foster care system that was maintained by both officers and foster parents
- an inadequate review system
- an adult centred adoptions service that was isolated from the needs of children in long term care
- cross-racial placements for Aboriginal children and the difficulties associated with these placements.

In response to this study the Department developed a Permanency Planning policy and in the latter half of 1983 renamed the Child Placement Service the **Family and Substitute Care Unit**, to emphasise a major change of direction away from purely placement issues to an emphasis on prevention of family breakdown, and on reuniting children with their natural families.

The early 1980's saw the development of practice guidelines for the implementation of the **Aboriginal Child Placement Policy** that recognised the diversity of Aboriginal culture. There was an acknowledgment of the need for Aboriginal people and communities to be empowered to take the lead in providing good standards of care for Aboriginal children in out-of-home care. Yorganop was established to provide placement services for Aboriginal children in the metropolitan area and an Aboriginal Foster Care Manual was developed in consultation with Aboriginal communities.

The gradual separation of the welfare and justice systems began in the early 1980's. Prior to this time children and adolescents in Western Australia who had committed offences were looked after in the same welfare system as non offenders in need of care and protection.

In the era of 1970's to early 1980's Western Australia had by far the highest juvenile incarceration rate per capita of all States in Australia. A disproportionate number of Aboriginal young people were placed in corrective institutions, with significantly higher recidivism rates than non-Aboriginals. In many instances they were geographically, socially and culturally isolated in institutions that were hundreds of miles from their families.

The Edwards Report (1982) *'The Treatment of Juvenile Offenders'* resulted in substantial changes to the Department's juvenile corrective institutions. These institutions which had in the 1960-70's been regarded as 'cutting edge' models for the detention, treatment and care of juvenile offenders, were requiring review. These were Hillston, Riverbank, Longmore and Nyandi. There were concerns about punitive discipline, accommodation facilities, the proper use of behavioural management techniques, and the suitability and mix of young people in detention.

Edwards recommended a change from a system based on a rehabilitative ideal and a 'child saving' philosophy, to one more dependent on justice and the courts.

He proposed two fundamental changes:

- There should be a clear separation in the system between children who are offenders and those who are not.
- The courts should determine at least in the first instance, whether a child who has committed an offence, should be in custody.

In 1983/84 the Department's Temporary Care and Assessment Centres (Bridgewater, established 1971, and Mount Lawley Reception Home, established 1894) were phased out with the new emphasis on the retention of children within families and communities.

The **Welfare and Community Services Review** (1984) noted that the out-of-home care scene in WA '...is an untidy set of programmes at present with very little in common and little sense of direction'. It went on to say 'an overview is needed with respect to the relative roles of Government and non-government sectors, the type of provision needed and the size of each. Without an integrated overview the substitute care sector may continue to muddle along'.

During the mid to late 1980's the Department was regionalised and specialist out-of-home care professionals were appointed in District offices to provide a localised service to children in care and their families and to carers. Attachment 15 is the 1986 'Substitute Care Policy'.

By 1988 many of Edwards's recommendations had been instigated in the juvenile justice system, with legislative changes enabling a welfare and justice separation. The Department developed a wide range of diversionary and preventative programs from both the justice and detention systems. There continued to be a gross over representation of Aboriginal young people in juvenile justice institutions nationally. The Department continued operating the Children's Panel, an effective diversionary strategy for keeping young first offenders out of the juvenile corrective institution system.

The **Case Review Board** was established in 1988 to provide an independent forum to which parents, children and other significant individuals and agencies could appeal against Department for Community Development Case Conference decisions. It is responsible to and appointed by the Director General of the Department for Community Development and is specific to children who are wards or children who are placed in out-of-home care by the Department.

The **Substitute Care Review 1990** was the first comprehensive review of out-of-home care in Western Australia. Its aim was to provide the blueprint for a macro-level framework to facilitate the coordination, evaluation and improvement of service provision and to provide direction and clarification for future planning and program development.

At the time of the review:

- the numbers of children in out-of-home care were estimated to have decreased by more than 40 percent over the previous five years
- the number of Aboriginal children especially wards had reduced at a greater rate than for non-Aboriginal children
- Aboriginal children however were still over-represented, comprising approximately 46 percent of children in out-of-home care

- teenagers were over-represented comprising 49 percent of children in out-of-home care compared to 30 percent of children under 18 years in the general population
- factors other than abuse, mainly inadequate parental care and neglect were the major reasons for placement of 67 percent of non-Aboriginal children and 93 percent of Aboriginal children.
- abuse was the main reason for placement for 19 percent of all children in out-of-home care.

The review resulted in a new policy and program framework with out-of-home care seen as part of a network of services to families. It acknowledged the importance of the child's bonds to their family of origin and the need for services that build on the competence of parents and promote family reunification. The program was renamed out-of-home and alternative care.

The new out-of-home and alternative care model acknowledged:

- the significance of removing a child from his/her family of origin and the accompanying issues of attachment and separation
- and strengthened decision making processes such as case conferences and case reviews.

Following the review the Department disbanded Private Foster subsidy, implemented the payment of Foster Subsidy to relative carers where the Department has a case management role, as well as an Emergency Child Support Subsidy to provide short-term financial support to relatives caring for children.

The review also resulted in a new integrated structure for planning and coordination of services across the Department and non-government sector. The **Out of Home, Preventative and Alternative Care Committee** was established to replace the Residential Child Care Committee. The OHPAC Committee reported to the Director General.

During the early 1990's the **Out-of-Home Care Assessment Manual** was developed to provide consistency and quality in the assessment of carers.

The Ministerial Inquiry (Harries, O'Brien, 1992) arising out of the death of a child in foster care highlighted continuing contradictions between policy and practice and the potential for mistakes in decision making, matching and assessment that result in an inappropriate placement that puts the child's safety or developmental opportunities at risk. The Inquiry emphasised the need to urgently re-examine work practices and the suitability of available resources.

Initiatives that were implemented included a **Case Management Practice Manual**, the introduction of Foundation Case Practice Training for all service delivery staff, and the clarification of specialist supervisory and administrative roles including the introduction of Senior Casework Supervisors to provide professional development and supervision.

In 1993 the Ministry of Justice was established in Western Australia which saw the separation of justice and care for children. Hillston, Riverbank, Longmore, Nyandi with their associated justice programs and services were transferred to the Ministry of

Justice. The Hillston property was later transferred back to the Department to become the Kath French Centre (see page 30).

The ***Roundabout of Care*** study was conducted in 1994 in response to increasing difficulty in finding appropriate placements, particularly for older children, multiple sibling groups and children who had experienced many placements. It was found this group is more likely to experience multiple placements, infrequent contact with family and exhibit difficult behaviour as they grow older. The key findings from the research suggested there should be a stronger focus on the quality of placements and support once the decision to place a child or young person has been made.

Planning and development of an assessment and planning service for at risk young people and their families commenced. Guidelines for 'duty of care' and the law of negligence were developed in 1995. (Attachment 16)

The ***Review of Out of Home, Preventative and Alternative Care Services*** (OHPAC Review) was finalised in 1996. This was commissioned to:

- review all out-of-home care services
- identify a range of care options to meet the needs of children in Western Australia
- keep within current budget allocation.

The issues at the time included the difficulty in finding appropriate placements, a lack of local services, the difficulty in recruiting carers and the lack of a strategic framework. Significant data included:

- 25 percent of children in care were placed with relatives
- the number of wards had fluctuated over the previous five years with a trend to increasing numbers since 1992
- the proportion of wards under 13 years had risen from 57 percent of total wards in 1991 to 73 percent in 1995

Initiatives following the OHPAC Review included:

- in consultation with the Out of Home, Preventative and Alternative Care Committee, the development of principles and standards for care for children, including criminal records screening checks for carers and staff, for the Department and funded non-government services
- the pilot Foster Carer Recruitment Service to centralise recruitment, assessment and training of foster carers in the metropolitan area
- Keeping Families Together non government services aimed at preventing children and young people coming into care and reunifying children in care with their families, in recognition of the importance of family of origin and maintenance of family contact to the child's wellbeing and identity
- the implementation of a metropolitan Leaving Care service provided through the Commonwealth/State Supported Accommodation Assistance Program
- the development of Intensive Family Casework and Treatment teams

In 1997 the Department entered into formal three year service agreements with the non-government agencies providing placement, reunification and family preservation services

to children, young people and their families. The service agreements specified the outcomes to be achieved, principles of service delivery and quality care and minimum service standards for the assessment, approval, registration, review and support of carers, including criminal records screening checks for carers and staff.

The Kath French Assessment and Planning Centre commenced operating in 1999 (formally opened in 2000) to provide assessment and intervention services to young people and their families.

The ***Country Hostels File Reading for Children in Country Supported Care 1999*** identified the placement service requirements of children in country hostel care. It highlighted the inherent difficulties of delivering quality case practice and management in rural and remote locations. The report assisted in developing the Country Supported Care Programme that integrated quality assurance processes.

The **Foster Carer Recruitment Service (FCRS)** was reviewed by the Department in 2001. It was established as a three year pilot in September 1997 as a result of a recommendation of the OHPAC Review. The purpose of the FCRS pilot was to provide a centralised service for the recruitment, assessment and preparatory training for general foster carers in the metropolitan area. The review found that the FCRS:

- has demonstrated its ability to increase carer numbers despite a perceived decreased interest in volunteering for foster care in the community. This is thought to have occurred because of the recruitment processes developed by FCRS.
- offers quality and consistency at all points from intake to assessment and training
- provides carers with an understanding of the importance of ongoing training
- plays a central role in matching carers and children
- has developed an excellent relationship with the Foster Care Association of WA and non-government agencies and facilitates the provision of high quality care
- offers potential carers a stable and expert service.

Following the review the Department's Executive endorsed the continuation of the Foster Carer Recruitment Service.

The ***Investigation of Relative Care Practice and Outcomes Internationally and Within WA*** was conducted in 2001 in response to the trend of increasing numbers of children in relative care. The proportion of children placed with relatives in Western Australia was approximately 27 percent. Of these children, 68 percent were wards and 54 percent were Aboriginal. The review explored key issues associated with supporting the placement of children with relative carers and made suggestions on how the practice of relative care could be enhanced and improved. The findings indicated the need for a re-evaluation of relative care policy and practice in Western Australia. The Department is currently developing policy in this area in response to the report.

The current emphasis in policy and practice is to maintain the child within the family if at all possible, and to place a child in out-of-home care only if this will improve the outcome for the child. If it is necessary to remove the child from their home, then placement with the wider family or community is sought where possible, particularly in the case of Indigenous children and young people. Continued emphasis is being placed on improving case planning and case management processes to facilitate the safe return

home of children in out-of-home care and to maximise case workers' contact time with children and families.

An example of this is the Department's statewide implementation of the **Looking After Children** system, which extends and strengthens the Case Practice Manual in relation to out-of-home care. (Attachment 17) The Looking After Children system:

- ensures quality information is collected and maintained to inform decisions relating to the need for placement, enable safe and appropriate initial care, and guide the development of effective care plans
- guides case practice and quality assurance processes
- ensures the voice of children is heard.

The **Aboriginal and Torres Strait Islander Child Placement Principle** to ensure that Indigenous children and young people are culturally and appropriately placed within their immediate or extended families, local Aboriginal community or the wider Aboriginal community continues to guide out-of-home care placement practice. The Aboriginal Placement project was established to find placements for Aboriginal children via family/ kinship links. This has led to a number of Aboriginal children moving from residential/ cottage care to kinship placements.

Departmental reports and other studies have highlighted trends in Western Australia that are consistent with national and international trends:

- the number of children in care is increasing
- children are coming into care at an earlier age
- children are staying in care longer
- children are entering residential care at a younger age
- an inadequate range of placement options
- recruitment and retention of foster carers is becoming increasingly challenging
- the increasing complexity of family dysfunction resulting in out-of-home placements.

The Department's newly created **Placement Services** has resulted from a renewed emphasis on the needs of children and young people in out-of-home and in particular, residential care. Placement Services brings under one umbrella a number of services and positions with responsibilities associated with the placement and out-of-home care of children and young people. It will promote quality care practices, service delivery responses, facilities and coordination across the sector and ensure services maintain continuous improvement in response to relevant trends and issues.

Young People

Goddard¹⁰ reports that 'residential care' is now almost exclusively a service for adolescents, many of whom have suffered serious and relentless abuse and neglect and have learned aggression and violence. They often 'vote with their feet' and present staff with extremely challenging behaviour.

The Burdekin Report on Homelessness (1989) acknowledged that: '*...there is no established set of rules governing the relationship between children and stranger-caregivers (and no clear understanding as to) whether stranger-caregivers have the right to control and administer discipline to children in their care.*'

The report found a significant proportion of young people experiencing homelessness had a history of out-of-home care.

A number of Departmental studies and reports have consistently identified problems with multiple placements and scarcity of placements for young people with high needs. This group is characterised by challenging behavioural problems, substance abuse, school failure, special needs linked to past traumas of abuse and neglect, poor relationships/attachments, aggressive and/or violent behaviour, social alienation, self-harm, and have generally been the recipients of a large number of interventions/services. Many were victims of maltreatment and neglect in their early childhood. This group of young people have many complex needs and are difficult to manage in any setting.

The ***Review of the Department's Service Response to Difficult to Manage Children and Young People*** (2000) identified that there is a small but significant number of young people entering the Department's out-of-home care services who challenge the effectiveness of current service responses. For the reasons listed above this group was not suitable for fostering. The review recommended:

- increased resources to provide additional services, including accommodation intensive intervention programs in placements
- linkages with other government agencies to secure more coordinated approaches to service delivery
- preventative strategies to prevent placement.

The ***Accommodation Hostels Report 2001*** noted a worldwide general consensus that the needs of young people requiring out-of-home care are more complex than a decade ago. Departmental hostels are used to provide one or more of the following services: assessment of young person's needs; structured and well researched behaviour management programs; or last resort when other care services have proved inappropriate or not available.

Under the **Commonwealth/State Supported Accommodation Assistance Program** (SAAP), the Department for Community Development provides funding for crisis and transitional supported accommodation services for people who are homeless or at risk of homelessness.

¹⁰ Institutional Abuse of Children, Children Australia, Vol 17, no. 2, 1992

There are 26 SAAP funded youth services for young people aged 15 to 25 years (or under 15 years of age in exceptional circumstances) who are homeless or at risk of homelessness. These services assist young people to achieve the maximum possible degree of self reliance and independence.

Young people are provided with a case work service to assist in restoring or maintaining family relationships that should enable them to return home or, where appropriate, move to more stable long term accommodation, and reduce the likelihood of future homelessness.

Guidelines for case management responsibilities for unaccompanied young people address common issues that arise for SAAP services in their work. Protocols in place between SAAP and the Department to ensure quality service provision.

Leaving Care Services provide resources to a young person moving toward independence, support to cope with past issues arising out of the reasons for their entry to care and assistance with finalising any outstanding legal matters such as Criminal Injury Compensation. Leaving Care services may also have the aim of fostering family reintegration and contact. The type and extent of services are included in the final Case Conference Plan and may be provided for a period of up to 12 months, following the young person's exit from care.

The Commonwealth/State Supported Accommodation Assistance Program funds one leaving care service for young people aged 16 to 25 years who have left or are leaving care and supported accommodation in the metropolitan area. Additional funding has been allocated for three new Leaving Care services across the State, which are currently being finalised.

This is a major Government initiative in response to the State Homelessness Taskforce.

(d) whether there is a need for a formal acknowledgment by the Australian governments of the human anguish arising from any abuse and neglect suffered by children while in care

In 1993 the Christian Brothers nationally acknowledged that abuse took place in their institutions and made a public apology to those people who had been in their care. The National body of the Sisters of Mercy followed with a formal acknowledgment and apology for the abuse that had occurred in their institutions.

Subsequent to the findings of the *Commission of Inquiry into Abuse of Children in Queensland Institutions* (1998) the Queensland Government and Churches issued an acknowledgment of and apology for, past abuse and neglect.

The Western Australian Legislative Assembly passed a motion in 1998 apologising to former child migrants on behalf of all Western Australians for past migration policies and the subsequent maltreatment many experienced.

Following the *National Enquiry into the separation of Aboriginal and Torres Strait Islander Children from their families* (1996) the Western Australian Government apologised to Aboriginal and Torres Strait Islander people for the past policies under which Indigenous children were removed from their families and 'expressed deep regret at the hurts and distress this has caused'.¹¹

¹¹ Hansard, 27 May 1997 p 3332

(e) in cases where unsafe, improper or unlawful care or treatment of children has occurred, what measures of reparation are required

Measures of reparation encompass more than compensation through legal processes. 'Reparation' should be adjudged according to circumstances, needs, and the standards of the day. The Western Australian Government's role has been to work with and support non-government agencies to ensure quality information retrieval, storage and provision, as well as the provision of support and re-unification services to people who were in out-of-home care. Departmental officers are available to provide advice, referral and counselling.

Legal Reparation

The child's means to reparation is either by way of a Criminal Injuries Compensation claim or legal action against the State for damages.

Compared with other States, Western Australia's *Criminal Injuries Compensation Act 1985* and the resulting application process is straightforward. The current *Act* is under review and due for amendment in line with the Government's election commitments to victims of crime.

The Department for Community Development is in the process of adopting new directions in the area of Criminal Injuries Compensation (CIC) on behalf of departmental wards, to provide a best practice service to wards with potential claims for CIC due to injuries sustained prior to coming into care. The changes will ensure the identification of potential claims and the provision of information to wards so that they are made aware of their rights under the Act.

It is possible that a ward or former ward may take legal action for negligence, 'misfeasance in public office' or 'breach of fiduciary duty'.

The 1993 High Court Case of *Bennett* indicated that the duty of the Department is to ensure that a child obtains independent legal advice. This duty to a child may extend well into his/hers adulthood. The independent legal adviser will consider whether apart from a possible criminal injuries compensation, the child has a separate claim for damages or another claim against the State of Western Australia or the Minister for the Department. This may be in relation to the original course of action, or if more than six years have elapsed since the incident, for failure to provide independent legal advice. The child would claim unspecified damages.

The common law damages claim is for unspecified damages by a writ issued in the District Court. Any amount received by way of a CIC award/payout is taken into consideration and may/would reduce any common law claim of damages awarded. A personal injuries claim for damages can be taken by a person against the offender up to six years after a child turns eighteen years of age.

In relation to an action for damages against the Government, notice must be given within one year and claims must be issued within six years pursuant to either the *Crown Suits Act* or under the *Limitations Act 1935* depending on the identity of the proposed defendant. If the claim is statute barred then the person may have a Bennett claim for failure of the Department to exercise its duty to obtain independent legal advice.

The Western Australian Crown Solicitor's Office acts for the Department in any court proceedings seeking damages or reparation from the State of Western Australia or the Minister.

(f) whether statutory or administrative limitations or barriers adversely affect those who wish to pursue claims against perpetrators of abuse previously involved in the care of children

Please refer to Term of Reference 1(e).

Western Australia has a statutory limitation period of six years for civil cases. Under present legislation that period in which a person can claim against the State is not suspended until the child attains the age of eighteen years.

Currently there are proposals to change the *Limitation Act 1935*, including moves to equalise statutory limitation periods in relation to action against individuals and public authorities. The Department has endorsed the proposed amendments to the *Limitation Act*.

- (g) the need for public, social and legal policy to be reviewed to ensure an effective and responsive framework to deal with child abuse matters in relation to:**
- (i) any systemic factors contributing to the occurrences of abuse and/or neglect**

The relationship between poverty, economic and other forms of stress and child abuse has been well documented. In the past, this relationship has not been well reflected in national and State social policy despite efforts to create a focus in this area.

Research¹² into the aetiology of child abuse and neglect has determined the following factors that contribute to child maltreatment:

- at an individual level, they can include a history of child abuse (parent), parental substance abuse, and the psychological or physical illness of either the parent or child, and teenage pregnancy
- on a family level, marital conflict, family and domestic violence, poverty, stress, and isolation
- at the community level, inadequate health care, unsafe neighbourhoods, inadequate community services, and isolation
- on the societal level, economic/social inequality, cultural acceptance of violence, gender inequality and the view of children as possessions.

The prevalence of substance abuse in child protection work has been documented in Departmental and international research. This research highlights the complex interactions between substance abuse, issues of family violence and child abuse, and on the safety factors in family reunification work. There is a worldwide trend of high child placement rates in out-of-home care due to parental substance use, mental health problems and family violence.¹³

The 1985 Senate Standing Committee on Social Welfare reported that the basic reasons underlying the placement of children in out-of-home care and the circumstances of children at risk had changed little over the years.

Families of children in out-of-home care were still predominantly the poorest, the most disadvantaged, and the most vulnerable. The Committee stated that the success of government initiatives was necessarily dependent on the extent to which governments also addressed wider socio-economic problems.

In 2002 Harries reported that the Western Australian Government's new framework reflects an understanding that effective support and protection of children and young people depends on a number of agencies working together: they cannot be achieved by a single agency working alone.

¹² James, M. (2000) 'Child Abuse and Neglect-Redefining the Issues', Aust Institute of Criminology no. 146

¹³ Farate, E. (2001), Prevalence of Substance Abuse in Child Protection Applications, DCD WA

Jurisdictions in which there are high levels of networking and established mechanisms for communication and accountability between government health, welfare, education and police services and non government service providers are the most effective in protecting children.¹⁴

The NSW Bureau of Crime Statistics and Neglect argues that the long term goal of macroeconomic and macrosocial policy should be to reduce the economic and social conditions, referred to above, that foster child maltreatment.¹⁵

The Machinery of Government Taskforce, The Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities (The Gordon Inquiry), The State Homelessness Taskforce, the Western Australian Drug and Alcohol Strategy, and the Pathways to Resilience (Children of Parents with a Mental Illness Project) Report all called for a greater emphasis on 'joined-up' government to ensure that departments work in collaboration. Policies should dovetail, program development should be integrated, departments should coordinate service delivery and duplication should be reduced.

At the highest level the Government has set the scene for partnerships with its 'Statement of Commitment to a New and Just Relationship between the State Government of Western Australia and Aboriginal Western Australians'. The agreement sets out the principles and processes for the Government and the ATSIC State Council to develop regional agreements.

Evaluation of the Strong Families program demonstrates that improved coordination of Government services and collaborative approaches with families lead to improved outcomes for families.¹⁶

¹⁴ Harries, M & Clare, M. (2002) Mandatory Reporting of Child Abuse: Evidence and Options

¹⁵ NSW Bureau of Crime Statistics and Neglect (1997) Social and Economic Stress, Child Neglect and Juvenile Delinquency

¹⁶ Lacey, K. (2002) Beyond the Front Counter: an evaluation of the Strong Families Initiative, DCD WA

(ii) any failure to detect or prevent these occurrences in government and non-government institutions and fostering practices

Child protection systems in other States and Territories in Australia have experienced increasing and overwhelming demand for investigations of allegations of child maltreatment in recent years. One reason for the increase in demand has been an unintended outcome of legislative and administrative initiatives such as mandatory reporting.

While the numbers of children and young people provided with services at different stages in the child protection process (notification, investigation, substantiation, application for orders) vary between States and Territories in Australia, generally the trends and the issues in the data have been similar.

Western Australia has not experienced the same significant increases in allegations of child maltreatment requiring statutory investigations as in other states because its intake processes and services are more targeted.

In 1996-97 the Department through its New Directions in Child Protection and Family Support initiative introduced a differential response model for the intake of allegations of child maltreatment. This system enabled Departmental Officers to discriminate at the point of intake as to whether the referral necessitated a statutory child protection investigative assessment or a family support intervention.

The benefit was that fewer families were subjected to inappropriate, resource intensive and intrusive statutory investigations. Most other states and territories have since introduced differential response models.

The Harries Report (2002) appraised the various methods of reporting suspected child maltreatment and their outcomes in terms of improving child protection for children in WA. The report concluded that '..... every effort should be made to capitalise on the strengths of the Western Australian history and network of services.'

The Child Protection Guide to Case Practice and the Case Practice Manual (Attachment 18) outlines the systems operating within the Department to prevent and detect the occurrence of child abuse and/or neglect. These provide for:

- identification, classification and definitions of harm to help make complaints of abuse or neglect more specific
- intake/investigation decisions to determine the pathway of differential response that will be taken
- assessment decisions aimed at developing an understanding of the nature, cause and progression of the problem (ie child maltreatment) and what can be changed to minimise or resolve future risk of harm to the child
- service provision decisions about non statutory and statutory options, and the goals and objectives of protective intervention.

Attachment 19 provides flow charts on the Department's current responsibilities, procedures and processes. These include:

- processes for allegation of abuse or serious injury or critical incidents involving a ward, or a non ward who is in out-of-home care
- processes for allegation of abuse or serious injury involving ex-wards who are adults
- responsibilities and procedures following the notification of a child death by the State Coroner
- responsibilities and procedures following the death, serious injury, allegation of abuse, or a critical incident in respect of all wards (regardless of care arrangements) or a non ward who is in out-of-home care.

Where there has been incidences of abuse, neglect, serious injury, critical incident or death of a child in care there are a number of administrative procedures in place to ensure:

- natural parents are advised where appropriate
- a plan is developed that meets the needs of the child and/ or
- all relevant sections of the Department are advised as required
- the identification of the person that is assessed to have caused significant harm to the child/ren

When the harm that has occurred to the child has been inflicted by either a Departmental employee or a foster carer (or their family members) there are procedures to ensure that the child interests and needs are paramount. Discipline procedures are followed in accordance with the Public Sector Standards in Human Resource Management and staff have access to independent support. Foster carers access the Foster Care Association, the Placement Officer and/ or Departmental psychologist for support.

Reciprocal child protection policies and guidelines are in place with the Western Australian Police Service, the Departments of Education, Health and Justice, the Disabilities Services Commission and SAAP youth services. In 2002 the Minister for Community Development established the Interagency Child Protection Framework Committee to develop an interagency framework to ensure coordination and collaboration across government and non government agencies dealing with child protection issues.

In response to the Gordon Inquiry the Government established two committees: one to provide additional quality assurance mechanisms in particular Departmental cases where a child has died; and the other to examine trends for all child deaths with a view to implementing preventive strategies.

- The Child Death Review Committee is providing advice to the Minister for Community Development and Director General of DCD in relation to particular cases where children or young people known to the Department have died.
- The Advisory Council on the Prevention of Deaths of Children and Young People, a statewide committee with the capacity to undertake examination of trends in child deaths, classes of deaths and specific issues.

Funded Non Government Services

In March 2001 the Department commenced the Renegotiation Project to review service agreements with the non-government sector for funding out-of-home care. This was part of the Department's continuous improvement strategy to ensure quality services for children and young people and their families by evaluating, planning and specifying services in partnership with the non-government sector.

There are eleven metropolitan child placement services in the not-for-profit sector providing places for children between the ages of zero and 17 years. Both foster care and group care is provided.

Funding is based on a clear description of the service required, the amount of funding available, the location of the service, target group to be accessed and the outputs and outcomes to be achieved.

Regular service reviews are conducted to provide a formal opportunity for discussion between the Department and service providers. Further, agreements are managed locally allowing the establishment and maintenance of cooperative working relationships between service providers and the Department.

As part of the funding process an assessment is made of service priority needs and the suitability of the existing service provider to continue to provide the identified service. This is informed by progress reports, data collection reports and service reviews. The assessment is based on the service provider:

- continuing to meet the identified need
- meeting the agreed service specifications, contractual requirements and set standards of delivery
- operating efficiently and effectively and
- actively engaging with the Department in continuously improving their services to provide the best possible service for the Department's customers.

(iii) any necessary changes required in current practices, policies and reporting mechanisms.

Research emphasises the need for governments to attach greater importance to the development of primary preventive programs aimed at overcoming or minimising the precipitating causes of family breakdown and subsequent abuse, neglect and/or relinquishment of children to out-of-home care. The objective of this approach is to promote the wellbeing of the family through the development of local networks of supportive and preventive services with maximum community participation and control.

Thus, an orientation towards the family and the family within the community context is viewed as the most appropriate perspective for child welfare policy planning and service delivery, with whole of government strategies incorporating collaboration with the non government sector.

Trends influencing the current development of care for children policy, programs and practices include:

- the new Department for Community Development and the adoption of the principles of inclusiveness, engagement, collaboration and capacity building
- new legislation that will provide a contemporary and more holistic mandate for the Department
- acknowledgment of the voice of children and young people
- research on early child development and the importance of attachment for children's health and wellbeing
- increase in relative care, in particular grandparents as carers
- increasing complexity of the needs of children, young people and families
- recognition of the importance of family and community
- acknowledgment of the importance of culture, language and spiritual background
- increasing numbers of children with severe disabilities
- young people who have been in care are more highly represented in the criminal justice system, homelessness, unemployment, mental health services, substance abuse
- increasing numbers of babies and young children in care
- children are staying in care for longer
- over-representation of Aboriginal children and young people in care

Along with other strategies already identified in previous sections, the following developments have also occurred or are occurring.

The **Children and Young People in Care Advisory Committee** was established in July 2002 to provide an independent reporting mechanism on issues relating to children and young people who are in, at risk of entering, or leaving care. This Committee replaces preceding out-of-home and alternative care committees that since the 1970's have promoted collaboration with the non government sector and continuous improvement in the provision of out-of-home care.

The Committee membership is representative and inclusive of key stakeholders in out of home care including non-government service providers, the CREATE Foundation representing young people in care or who have been in care, the Foster Care

Association of WA, WACOSS, Aboriginal organisations, Culturally and Linguistically Diverse organisations, academia and the Department's Executive.

The **Care for Children and Young People Strategic Framework** is provided at Attachment 20.

A **Relative Care** policy is currently being developed. The proportion of children placed by the Department with relatives is increasing and the children and carers have particular needs, in addition to those experienced in foster placements with non-relative carers. The Department's policy on relative care will clarify the role of the Department and identify strategies to improve service coordination across government and between levels of government.

The Department is also developing a policy on **Long Term Concurrent Planning** to promote stability for children and young people continuing in out-of-home care. While return to family remains the preferred choice the Department recognises that some children and young people will never return home due to unresolved safety concerns at home. Repeated attempts at family preservation has meant some children and young people experiencing frequent placement changes and broken relationships as they move between parents and carers.

The Department works closely with CREATE on the development of policy and programs, to ensure they meet the needs of young people. The CREATE Foundation was contracted by the Department to hold consultations with young people in care and preparation of a report to contribute to the development of the new legislation. The Department's Consumer Advocacy service has consulted and worked with CREATE on making its service more accessible and relevant to young people in care.

An election commitment of funding over four years to the Foster Care Association of Western Australia has enabled the organisation to develop a strategic plan and to expand its services to foster carers in the country and in non-government agencies.

The Government is developing an **employment screening legislative framework** for Western Australia to ensure that children are not placed at risk of harm through the appointment of persons unsuitable for working with children and young people. This already occurs for foster carers. The Department has had criminal record staff checks in place for many years and is currently proposing extending the use of departmental client records to screen employees.

The Department has for many years provided a **Consumer Advocacy Service** to consumers and ex-consumers. A specialised consumer advocacy service for children delivered by the Department and also through the non government sector is being proposed, consistent with the new legislation. This would further strengthen mechanisms for children to be heard in relation to decisions that affect their lives, to access grievance and appeal mechanisms, and to ensure out-of-home care is evaluated according to the needs of children and young people.

The **Ministerial Advisory Council on Child Protection** with representatives from Government and non-government agencies and community and academic groups provides high level policy advice to Government and initiates and guides across system initiatives such as the 'Shaken Baby' community information campaign.

Through the **Interagency Child Protection Co-ordination Committee**, an agreed Interagency Child Protection Framework is being developed that will establish high level commitment and understandings about the responsibilities and roles shared across Government and community. This is occurring done in partnership with government, non-government service providers, Aboriginal communities and Culturally and Linguistically Diverse Communities.

The **Strong Families** approach is being expanded as a result of a funding boost in the 2003/04 budget. The Gordon Inquiry found Strong Families to be a flexible model for achieving collaboration and coordination between agencies for complex cases requiring across-agency management, appointment of a lead agency and a multi-disciplinary approach.

The Government is implementing an **Early Years Strategy** based on a strong commitment to working collaboratively across government and with the community to ensure children receive the best possible support. (Attachment 21) The strategy is centred on four key areas including:

- improving the wellbeing of all children aged between zero to 8 years through prevention and early intervention programs
- enhancing the capacity of communities to care for children
- providing support within communities for children
- developing mechanisms to ensure that the voices of children are heard and respected.

The strategy is based on a process that brings together community members and community and government agencies to build on existing strengths and capacities within that community. It includes a strong Indigenous focus with a strengths perspective and is informed by early years research.

In 2001/02 more than \$10 million was committed over five years for the **Family Strength Election Commitment**. Family Strength services already implemented include the Best Beginnings home-visiting service that provides support to parents who seek help to raise young children in their first two years. A major aim of this service is to build the capacity of parents and prevent the need for more intensive intervention. (Attachment 22)

Aboriginal Early Years Support Services provide Aboriginal parents of young children with short term assistance. The remaining \$3.2 million will be allocated over the next three years towards programs that contribute to children's early development between 0-4 years and strengthening parenting skills as part of the Government's new Early Years Strategy.

Organisational Change

The Department for Community Development is currently undergoing significant change to refocus upon strategies that build the capacity of communities and families to provide safe care to children while ensuring high quality and effective responses to children in need of protection.

A priority for action will be a 'whole of government and community' approach and community engagement. Of key importance is the Government's commitment to ensuring that Government Departments work together in collaboration with non government agencies to meet the needs of children and young people.

A bi-annual report card on the state of children and young people in Western Australia is also being developed.

In December 1999, Executive approved the development of a preferred practice tool for case practice risk management and strengths assessment. The resultant Risk Analysis and Risk Management (RARM) provides practitioners with an operational framework for conceptualising issues in their daily practice. In addition to this conceptual framework, RARM provides a structure for making decisions transparent in case practice. Additionally, the decision making which is laid out using the RARM framework provides useful information for legal evidence.

A Workload Management Analysis has been completed on case management and efficiency and effectiveness measures and issues relating to the complexity of cases. This will assist the organisation to determine workload and resource allocation and management for quality practice.

In April 2002 the Director General of the Department for Community Development initiated a review to ensure that the Department's policy and procedures for the recording and releasing of information on persons assessed to have maltreated and caused harm to a child were justifiable, contemporary and relevant. A new framework for accountable and quality records has been implemented. (Attachment 23)

Response to Refugee Minors

In discussions with the Commonwealth Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) the Department continues to advocate for the well being of children held in immigration detention and to highlight the impact of Commonwealth policies regarding 'on-shore' asylum seekers on children, families, community volunteer groups and its own staff.

It is the Western Australian Government's view that the provision of services by the Department to child asylum seekers should be based on memoranda of understanding (MOUs) negotiated with DIMIA. The Department is now finalising an MOU with DIMIA regarding respective child protection roles and responsibilities involving children held in immigration detention. Negotiations with the Commonwealth are continuing in relation to reimbursement to the Department for support to unaccompanied minors living in the community.

ATTACHMENTS

- ATTACHMENT 1: Department for Community Development Customer Profile 2001/2002
- ATTACHMENT 2: Department for Community Development Human Resources and Financial Overview 2001/2002
- ATTACHMENT 3: Current out-of-home care services in Western Australia and historical modes of out-of-home care
- ATTACHMENT 4: History of Record Maintenance
- ATTACHMENT 5: Number of Children in Out-of-Home Care, Western Australia and national
- ATTACHMENT 6: Administrative and Director General Instructions
- ATTACHMENT 7: Newspaper Article, Departmental Correspondence July 2003
- ATTACHMENT 8: Department of Community Development Chronology
- ATTACHMENT 9: Extract from Annual Report of Child Welfare Department 1951
- ATTACHMENT 10: Child Welfare Department Inspection Reports 1944, 1957, 1953
- ATTACHMENT 11: Western Australia History of Community Services Industry
- ATTACHMENT 12: Extract DCW Annual Report 1957
- ATTACHMENT 13: Child Welfare Department Report on 'Child Care Planning' 1956
- ATTACHMENT 14: Child Care Standards, 1976
- ATTACHMENT 15: Substitute Care Policy 1986
- ATTACHMENT 16: Family and Children's Services Law of Negligence Duty of Care 1995
- ATTACHMENT 17: Department for Community Development Looking After Children
- ATTACHMENT 18: Current Case Practice Manual Chapter Four, Child Concern Reports and Child Maltreatment
- ATTACHMENT 19: Flow Charts of Responsibilities, Procedures and Processes following the notification of child death, serious injury, allegation of abuse and neglect
- ATTACHMENT 20: Care for Children and Young People Strategic Framework 2002/2005

ATTACHMENT 21: Early Years Framework 2003/2006

ATTACHMENT 22: Family Strength

ATTACHMENT 23: A New Framework for Accountable and Quality Records

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