

The Power and the Responsibility: Child Protection in the Post-Welfare State Era

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The Power and the Responsibility: Child Protection in the Post-Welfare State Era

It is in the case of children, that misapplied notions of liberty are a real obstacle to the fulfilment by the State of its duties.

—John Stuart Mill¹

In March 2009, the Family Court of Australia interrupted a divorce proceeding to order the Tasmanian government to assume guardianship of two children found at risk of ‘emotional, physical, and sexual abuse.’ Despite Justice Robert Benjamin having determined that neither of the children’s parents was a suitable carer, counsel for the Tasmanian Department of Human Services argued that the family court had exceeded its jurisdictions and the department was therefore unwilling to accept any obligation to intervene under the *Children, Young Persons, and their Families Act 1997*. A perplexed Judge Benjamin commented:

In essence the State Government argues that it has the power to protect children but not the responsibility ... Thus, the State says, in cases such as this that a child is to be left without someone exercising parental responsibility so be it.²

His Honour’s ruling that it ‘cannot be law in Australia in the 21st century’ for children to be left in ‘impossible situations’ at the discretion of state welfare authorities is under appeal by the Tasmanian government to the full bench of the family court.

The case is significant because it is symptomatic of the crisis in the child protection system throughout Australia. Even though it is against child welfare laws in all jurisdictions, leaving children in impossible situations is a commonplace occurrence. State and territory

governments have the statutory power to remove vulnerable children in danger of abuse and neglect from the custody of their dysfunctional parents, but they are failing to fulfil their statutory responsibilities due to the systemic problems plaguing unresponsive child protection services in all jurisdictions.³

Child protection is a confronting and controversial subject. For some on the Right of the political spectrum, who strongly identify with liberal traditions of social and political thought, child protection is a difficult issue—or perhaps one they are reluctant or prefer not to engage with for reasons that are primarily philosophical. Liberals place a premium on limited state intrusion into the lives of individuals. They also defend the sanctity of the private world of the family and are wary of the potential abuse of power by capricious welfare authorities in violation of the rights of parents.⁴ Despite these reservations, child protection reform that upholds the independent rights of children needs to be on the policy agenda of liberals because liberals live in a world that, in many respects, liberals did not make. Liberals did not champion the right to unconditional welfare which has entrenched poverty in many disadvantaged communities. Nor did liberals press to extend the role of the state into more and more aspects of civic life at the expense of voluntary effort and civil society. But liberals, and all other taxpayers, have to live with and pay for the destructive personal, social and political consequences of the rise of the welfare state, which include the terrible impact on the lives of increasing numbers of children.⁵

The clientel of child protection services predominantly consists of members of the underclass. The underclass is that proportion of the non-Indigenous and Indigenous population who are long-term welfare dependent, and have a range of welfare-dependence induced and exacerbated behavioural issues, such as domestic violence and substance abuse. The complex problems these families experience include the inability to adequately parent children and serious concerns for child wellbeing.⁶ The social services catering for underclass families are

mainly provided by social workers and other counsellors employed in government departments, which are plagued by the waste and other problems typically found in heavily-unionised, politically-cosseted bureaucracies. In too many child welfare cases—and here lies the heart of the child protection crisis—the presumed right of dysfunctional parents to keep possession of children is elevated above the rights and best interests of children. Traditional child protection work—the statutory investigation of child welfare reports by caseworkers trained to assess whether a child is in need of court-approved removal from the family home and alternative care arrangements—has been marginalised due to the culture of non-intervention in family situations that has developed in the state welfare bureaucracies in charge of child protection services.⁷ While encouraging parents to change their behaviour and meet children's needs has always been a part of modern child protection work, the pendulum has swung too far towards trying to fix broken families and giving parents almost 'limitless opportunities' to change in recent decades.⁸ Welfare departments provide family-centred rather than child-centred services to allow biological parents to retain custody of children, even where children are identified as being in imminent danger of harm.⁹

Liberals cannot afford not to take an interest in child protection because the entire community pays a high price for the policy and practice failures that deny vulnerable children the emotional security, the educational opportunities, and the proper parenting all children need. These failures create the next generation of abusive and neglectful parents. For liberals concerned about the size of government and maximising the freedom of all citizens, breaking the intergenerational cycle of neglect and abuse is essential to contain the growth of the state and extra-state entities that 'bottom feed' on the misery and waste of potential caused by welfare dependence.¹⁰

The paradox, and the dilemma for liberals, is that greater intervention is needed in the lives of dependent members of the community to save future generations from lifelong dependence. Child protection therefore raises contentious issues concerning personal liberty and social responsibilities, which are closely related to other welfare reform topics such as Welfare to Work and Welfare Quarantining.¹¹ The broader cultural issue is whether liberals have the will to defend core community

standards, or whether the morally and ideologically questionable perspectives of the Left will continue to dictate social values in as important an area as child protection.¹²

The preoccupation with preserving parental custody is typical of the woolly minded thinking about rights typically found on the contemporary Left. The idea that welfare-dependent heroin addicts have a 'right' to keep their children in housing commission squalor reveals a particular kind of moral and ideological confusion.¹³ When the welfare of children is at stake, it is not 'too harsh' or illiberal to hold parents accountable for bad behaviour in circumstances that obviously contravene John Stuart Mill's famous principle that liberty should only be interfered with to 'prevent harm to others.' Liberals need not hesitate out of misplaced doctrinal concerns to make such judgments about the rights of parents as against the rights of children. Mill was one of the nineteenth century progenitors of the progressive liberal idea that a child had the right to enjoy his or her full liberties and opportunities as a future citizen. In *On Liberty*, Mill argued that parents who failed to fulfil their 'sacred duties' towards their children were guilty of 'a moral crime both against the unfortunate offspring and against society ... if the parent does not fulfil this obligation, the State ought to see it fulfilled.'¹⁴

However, the moral and social judgments that child protection depends on are beyond the comprehension of all who subscribe to the kind of leftist cultural politics promoted in some sections of academia. In an article published in June 2009 in the *Australian Journal of Politics and History*, Kate Murphy, Marian Quartly, and Denise Cuthbert accused those who frown on drug-addled parenting of supporting the 'conservative family policy of the Howard era.'¹⁵ This exercise in minimisation of a serious social problem¹⁶ would be bad enough if it only reflected the dated ideology pervading the welfare sector, which is that removing children punishes poor parents who are helpless victims of structural socio-economic injustice.¹⁷ The authors' views also reflect the post-modern values that have seeped into mainstream thinking in the field, which casts child protection as a moral panic deployed to authorise the social surveillance and cultural oppression of the powerless and excluded.¹⁸ The far-fetched notion given credence by

Murphy, Quartly and Cuthbert is that child welfare laws hold parents to 'socially constructed' behavioural standards to buttress the hegemony of traditional 'bourgeoisie' family values. Treating parental intravenous drug use in a relativist manner—as if drug-addled parenting is somehow a legitimate, alternative lifestyle choice—is wrong and dangerous because it denies the reality of child abuse and neglect.¹⁹

Historically, liberalism and the promotion of child welfare were strongly connected until the links were broken by the ascendancy of the Left and the coterminous growth of the welfare state in the twentieth century. Because of the Left's dominance of so many areas of social policy, liberalism's long, if interrupted, history of enlightened social activism on behalf of vulnerable members of the community is often overlooked. The international child protection movement, which developed in Britain and spread to the United States and Australia in the late nineteenth century, was—like the movement to emancipate women—a liberal project inspired by the enlightened ideas found in the writings of Mill.²⁰ Active citizens joined together to form philanthropic societies devoted to advancing the care and protection of children from bad and inadequate parents.²¹ The state empowered these voluntary associations of citizens by setting out the legal framework for their activities—the original child welfare laws—which permitted child protection societies to actively seek out and rescue children from unsafe homes. But the state did not crowd out voluntary effort to protect children in those places where civil society was strongest: the Society for the Prevention of Cruelty to Children in Victoria remained in charge of statutory child protection until the 1980s.²² Since the 1970s, however, the near-to-total governmentalisation of welfare services in Australia has crowded out the liberal tradition of social activism in defence of the rights of children. Too much has been left to be done, badly and at great cost to children and society, by the state and its agents. The 'new class' of bureaucrats and Left-leaning social workers and other professionals employed in government departments have won the war to exclude philanthropic citizens and organisations from involvement in child welfare and have retained, by and large, the exclusive right to identify and treat abused and neglected children in their preferred family-centred fashion.

When Australians discuss the failures of big government, it is not unusual to mention Keith Hancock. In his classic book *Australia*, Hancock noted the Australians' propensity to place all their eggs in the political basket and be surprised by the stench when the eggs go rotten.²³ His double point, in my view, was to highlight what poor citizens Australians turned out to be when the nation's public affairs were measured against liberal ideals of citizenship. A political stench certainly hangs over the rotten state of the child protection system and over the academics, bureaucrats, 'helping' professions, charitable organisations, and politicians who shape the system to suit their own interests. The question is whether Australians, in the time dishonoured fashion, will put a peg on their noses and expect governments to clean up the mess. The flawed child protection initiatives undertaken in NSW and Victoria in recent years, and the interest-group driven politics behind the 'reforms' that have exacerbated serious policy and practice defects, suggest we will trust governments—which live in the misguided fear of being accused of stealing another forgotten generation of children—to organise responsive child protection services at our and at children's peril. On reflection, the factors that impede reform suggest the political process is unlikely to deliver genuine and lasting reform without undertaking a radical reorganisation of the child protection system based on liberal principles of citizenship and civil society. Real and sustainable change will only occur when ordinary citizens take back the power and responsibility for child protection, and liberals have a direct say in the proper governance of the system.

Amid all the scandals that have engulfed the NSW child protection system, it is ironic that the one undoubted strength—the mandatory reporting of child abuse and neglect—is singled out as its greatest weakness by leading academic commentators.²⁴ Police, education and health professionals in all states and territories are legally obliged to report their concerns when they suspect children are at-risk of harm. Australian child protection services receive more than 300,000 notifications of alleged child maltreatment each year.²⁵

In NSW, the number of reports tripled in the decade following the introduction of mandatory reporting in 1999. Approximately three-quarters of all reports are made by mandatory reporters. Critics argue that mandatory reporting has failed to better protect children because instead of promptly identifying the most serious cases of abuse and neglect, as was intended, it has led to the enormous growth in the number of reports due to 'over reporting' of 'less serious' cases. Swamped child protection services, critics say, are unable to respond to the most serious reports of child maltreatment because they are distracted by the administrative task of sifting reports.²⁶

This very influential account of the causes of the child protection crisis is backed by NSW Department of Child Services (DoCS)²⁷ and endorsed by non-government child and family welfare organisations.²⁸ It also formed the basis of the recommendations of the 2008 Wood Special Commission of Inquiry into NSW Child Protection Services.²⁹ These recommendations were implemented by the NSW government as part of its Keep Them Safe program.³⁰ Since the beginning of 2010, the mandatory reporting threshold was raised, DoCS is only required to investigate reports assessed to involve a 'risk of significant harm,' and special units have been set up in six government agencies to assist mandatory reporters determine whether their concerns for child safety meet the 'significant' threshold. NSW government has committed \$750 million over five years to fund the roll-out of the new system. Forty percent (\$300 million) of the extra funding will be directed to non-government charitable organisations to provide additional family support services and deal with reports assessed as 'less serious' or 'not significant.'³¹

The root problem with Keep Them Safe is that it is not supported by evidence; instead, it is based on myths that serve the agendas of key stakeholders in the child protection policy debate. NSW has experienced no significant change in the proportion of reports (around two-thirds) requiring further investigation.³² Moreover, many so-called 'less serious' reports require statutory investigation because they concern dysfunctional parents with entrenched and hard-to-resolve problems, who find it hard to stay voluntarily engaged with support services, and whose children are in danger of experiencing cumulative harm and permanent developmental problems due to chronic parental

neglect and abuse.³³ However, the biggest flaw with *Keep Them Safe* is that it does not address the most serious problem—too many reported children are not receiving a face-to-face response from DoCS.

Far from the failure it is made out to be, mandatory reporting has worked incredibly well. The expanding underclass has been mass screened; the heightened surveillance of dysfunctional families has driven the growth in the number of reports; and the most at-risk children have been identified and re-identified, mostly by mandatory reporters.³⁴ The real problem with the system, both in NSW and across Australia, is the quantity and quality of basic child protection work and the lack of response to ‘known’ children frequently reported to child protection authorities. A hard core of approximately 7,500 dysfunctional families account for nearly half of all NSW reports. The same families are re-reported multiple times, the vast majority by mandatory reporters. In 2008–09, 60% of reports received by DoCS were re-reports, an average of 1,600 re-reports each week.³⁵ But despite report after report of serious concerns for their health and wellbeing, many of these children are not even ‘seen’ by a DoCS caseworker and are therefore left in dangerous situations. As the Wood Commission established, only 13% of reports in NSW assessed as requiring further investigation actually receive a response that includes a home visit by a DoCS child protection caseworker.³⁶

Academic-activists, with past practices and controversies in mind, argue that these failings—the yawning gaps in the statutory system—are small mercies because keeping dysfunctional families united is better than separating children from their biological parents.³⁷ I do not deny the pain that separation from birth parents can cause even if parents are incapable of meeting their children’s basic needs. Nor do I suggest lightly breaking the bond between parent and child, which is fundamental to who we are. But what needs to be realised is what is obvious (and not so obvious) from the many scandals involving child protection services: there are worse things. What’s worse is children being abused, neglected and killed while the massed ranks of the welfare state hesitate at the front door of the family home.

This is no exaggeration. Professor Chris Goddard, Director of Child Abuse Prevention Research Australia, and Joe Tucci, Chief Executive of the Australian Childhood Foundation, have

pointed out that in the contemporary welfare state, dysfunctional parents ‘can have drug and alcohol workers, domestic violence workers, mental health workers, homelessness workers, family support workers’—every conceivable service except a skilled child protection worker to monitor the family situation in the best interests of children.³⁸ The official report into the starvation of ‘Ebony’ revealed that her family had a long history of involvement with Education, Housing and Community Services departments and that DoCS failed to act to save her despite multiple opportunities to intervene.³⁹ In another notorious case, DoCS received 34 reports about the family of Dean Shillingsworth—the little boy who was strangled by his mother and then stuffed in a suitcase and dumped in a lake in south-west Sydney. None led to a comprehensive investigation. An un-named taxpayer-funded charity—contracted by NSW government to deliver ‘early intervention’ family support services—lied about the level of contact with Dean’s family and tried to ensure the mother kept custody of her son even though she told the charity’s social worker she ‘couldn’t stand him’ and wanted him gone.⁴⁰

Child protection is a national problem. The lack of response to reports and other problems in NSW afflict child protection services in all other states and territories. For example, the 2007 Bath Report found that full assessments were only completed in 20% of audited cases in the Northern Territory.⁴¹ The reason we know more about the scale of the problems in NSW is because DoCS has admitted that a large portion of reports of child abuse are actually re-reports. The most basic and revealing performance data are not available,⁴² but there is strong anecdotal evidence that like in NSW, mandatory reporters in other states and territories are forced to report children again and again and again due to the lack of response to their initial report.⁴³

The explanation for this parlous state of affairs is systemic. Child protection services fail to fulfil their statutory obligations as a result of the institutional and ideological changes over the last

40 years, which have led to major shifts in policy. By the 1980s, child protection in all Australian states was carried out by university-trained professionals employed in the centralised state government agencies set up to receive and respond to reports.⁴⁴ These agencies were, and remain, sub-departments of complex welfare departments, such as DoCS and its Victorian counterpart, the Department of Human Services (DHS). The orthodox theory and practice in these departments is that the best way to keep vulnerable children safe is to construct a vast social service system to assist dysfunctional parents. The social workers, psychologists and drug counsellors who deliver these services, whether they work for the government or for charitable organisations, have little interest in traditional child protection work but have a vested interest in keeping children with their parents to justify the provision of taxpayer-funded support services.⁴⁵

These structural changes coincided with a revolutionary philosophical reorientation. Non-interventionist and virulent anti-adoption attitudes now hold sway in welfare departments. The family preservation-based approach to child safety is not evidence-based and has failed to reduce abuse and demand statutory protection.⁴⁶ The studies that show this approach is misconceived and based on false optimism also reflect a terrible truth: dysfunctional people stay damaged ... and damage their children. But the prevailing departmental ideology rules out the logical path to a better future for these children despite the role that family preservation plays in perpetuating abuse, neglect and intergenerational disadvantage.⁴⁷ As the 2005 House of Representatives inquiry into adoption concluded, the evidence shows that at-risk children who are removed early, speedily and permanently have better outcomes compared to children who are cycled through multiple temporary foster placements and failed family reunions, as currently occurs in thousands of cases.⁴⁸ The detrimental impact of episodic foster care is cited as further proof that family preservation is preferable.⁴⁹ This is a false reading of the situation. It is not surprising that children become disturbed when shuffled in and out of the family and foster homes, and are denied the stability and attachment every child needs to thrive.⁵⁰ In fact, good quality foster care, involving a permanent placement and a one-on-one relationship with trusted carers, repairs disturbed children.⁵¹

Yet the debate about child protection policy mainly occurs on another plane removed from the realities on the ground and the unsatisfactory outcomes for children. The debate over the Stolen Generations, and whether Australian governments removed thousands of Indigenous children for racist reasons or safety concerns, is probably the most heated public controversy in Australia. But even its arch protagonists, Robert Manne and Keith Windschuttle, agree on one point (if not its interpretation). They agree that welfare authorities wanted to remove even more children but were unable due to the limited amount of public funding that parsimonious politicians allocated for alternative foster and institutional care for wards of the state.⁵² I acknowledge the many personal and family tragedies that resulted from the removal of Indigenous children. We should never forget or repeat the trauma experienced by the members of Stolen and the Forgotten Generations who were mentally, physically and emotionally damaged by institutionalisation and for which the nation is truly sorry.⁵³ Well-meaning governments therefore prefer temporary removal to permanent removal for fear of standing accused of stealing and forgetting another generation. Yet the contemporary practice is damaging more and more children, and has prompted the suggestion that future Australian governments may have to apologise all over again, only this time for failing to remove at-risk children.⁵⁴

Rising numbers of Indigenous and non-Indigenous children are in foster care (out-of-home care) for welfare reasons. In the three years to 2008, the number of care and protection orders increased by 37% to total 35,000 children and teenagers nationwide.⁵⁵ (And yet in 2008–09, only 104 of these ‘known’ children were adopted.⁵⁶) The increase is due to more children entering and then re-entering the foster system due to the vicious cycle of multiple temporary removals. This is over-extending the foster care system (there is national shortage of foster carers) and creating an additional barrier to child safety. Out-of-home care is the most expensive part of the system and accounts for two-thirds of total national spending on child and family welfare. The taboo path of adoption by suitable families would transfer the cost of raising children off government budgets.⁵⁷ The escalating cost of foster care creates a financial disincentive for governments to refocus on traditional child protection work for fear of discovering even

more children to place on the removal-reunion treadmill. Hence, there is a disturbing financial logic to what isn't being done to protect children, a logic that was behind what Jay Weatherill, former SA Minister for Families and Communities, told the *Weekend Australian* in 2008:

If we were to take the view that every time there was a serious deficit in parenting capacity we removed the children from the care of parents, I'd have 18,000 kids in my care, not 1800.⁵⁸

The state of Victoria does child protection no better, and possibly worse, than other states; yet the Victorian reforms introduced earlier this decade are lauded as the model for the rest of the nation to follow.⁵⁹ The new arrangements introduced in NSW under the Keep Them Safe program were inspired by the dual-reporting system introduced in Victoria in 2005, the state that is widely, but undeservedly, acclaimed as having the 'best system' in the nation.⁶⁰ In Victoria, community service organisations run by non-government organisations (NGOs) have been established to receive and assess reports. Only reports that meet the 'significant' risk threshold are referred to the Victorian Department of Human Services for further investigation by child protection caseworkers. Reports assessed as not meeting the threshold are dealt with by referring parents to family support services. In Victoria, provision of these services has been entirely outsourced to the charitable sector.

In theory, these arrangements are supposed to match children with the most appropriate services. The charities take care of 'low-risk' cases and DHS is freed up to respond to high-risk reports to give urgently required attention to children most in danger. The one benefit of the Victorian 'Child FIRST' (Family Information Referral and Support Teams) reforms is that the excuse used to explain away child protection failures is no longer valid. Dealing with less serious reports can no longer be blamed for distracting the department from responding to reports concerning those children in greatest need. This

can be said with confidence because a damning ‘own motion’ report by the Victorian Ombudsman, which was released in November 2009, found that streaming reports and pouring resources into family support services have failed to improve the statutory response to the ‘most serious’ cases.⁶¹ The Ombudsman found that only one-quarter of child safety notifications to the department receive an investigation because selective screening is used to eliminate reports, and that many cases are closed prematurely despite warranting further investigation. Of the reports singled out for investigation, 20% of the children were not allocated a caseworker and no investigation was conducted.⁶² Review of the quality of the department’s work uncovered other shortcomings with ‘core practices for ensuring the safety and wellbeing of children.’⁶³ These included lack of timely follow up, inadequate investigations, and failures to sight children.⁶⁴ In a number of the cases the Ombudsman reviewed, the department had not intervened and the best interests of children were not met.⁶⁵ Children were left in situations in which the risk of harm was unacceptable,⁶⁶ leading, in some cases, to assault, serious injury and death.⁶⁷

The significance of the Ombudsman’s report cannot be overstated; the findings mean that the Victorian model is a dead-end, not a shining light, in terms of improving child protection policy. The serious defects identified in the Victorian system are virtually identical to those detailed in report after report by the NSW Ombudsman.⁶⁸ An additional problem, in both NSW and Victoria, is that many reports assessed as ‘less serious’ (based on ‘paper work’ risk-assessments) and allocated to family support services turn out to be genuine child protection cases concerning children in crisis situations.⁶⁹ The charities then find themselves in the same position as other reporters. Re-reporting children fails to prompt the required response from child protection services constrained by staff shortages, high caseloads, inexperienced workforces, and limited foster care budgets.⁷⁰ In some instances, the re-reports may even be closed without further investigation due to ‘competing priorities,’ which is bureaucratic code for lack of frontline child protection resources.⁷¹

The independent scrutiny of the NSW Ombudsmen’s office in its bi-annual *Child Death Review* has greatly improved the transparency of the NSW system compared with other jurisdictions. The real problem—the huge gaps in core statutory practices—has been identified

again and again, just as the Victorian Ombudsmen has now done. But rational analysis of the problems in the system has not led to rational policy solutions—more and better investigation of reports. Traditional child protection work remains crowded out because policy outcomes are subverted by the appalling interest group-driven politics in the welfare industry.

The politics of child protection proves the old saying that yesterday's solution is tomorrow's problem. Since the mid-1980s, the recommended policy response to government social service failures has been to outsource the delivery of these services to NGOs. The theory was that outsourcing would infuse taxpayer-funded programs with the volunteer ethic of the charitable sector. In practice, the culture of the bureaucracy has infected the charitable sector, which has become top-heavy, distracted from its mission, and dependent upon government financial support.⁷² According to the free-market economist Henry Ergas, the attempt to revitalise civil society has empowered 'self-appointed, but taxpayer-funded, guardians of the public interest, whose only difference from other rentiers is that they are more vocal and intransigent.'⁷³ This is especially true concerning child welfare; the experiment with outsourcing has created new political complications that impede the effective protection of children.

Policy-makers are intensively lobbied about child protection policy by peak organisations representing the charitable sector, principally concerning the distribution of public funding as opposed to how best to meet the needs of children. To achieve leverage over policymaking, lobbyists repeat a lot of untruths about the problems in the system and make a lot of promises about the benefits of a Victorian-style family support-focused system that fly in the face of the evidence. Governments and oppositions are urged to support the family preservation-based approach on the condition that the delivery of family support services is outsourced. State governments pursue this path and fund the charitable sector at the expense of re-focusing the system on delivering responsive, traditional child protection services. The role lobbying plays in shaping government policy explains unsatisfactory outcomes like *Keep Them Safe*, which was enthusiastically welcomed by the NGO sector in NSW for making non-statutory child protection services a 'shared responsibility.'⁷⁴

Cynics will say that, of course, a so-called ‘right wing’ think tanker would blame the problems on academic ideologues, unionised bureaucracies, and public choice. This charge has been advanced previously when similar criticisms have been levelled at stakeholders in the sector.⁷⁵ Unfortunately, the evidence speaks for itself. The Victorian charitable sector feigns to defend the best interests of disadvantaged children. But there is proof these ‘charitable’ organisations sabotaged the policy review process independently initiated by the Ombudsman—in response to the numerous complaints his office had received about the performance of the child protection system—in order to protect millions of dollars in government funding.

Box: ‘The message had been heard’

> From: Lynette Buoy
[[/email/compose.html?to=\[REDACTED\]](#)]
> Sent: Tuesday, 24 November 2009 11:47 AM
> To: undisclosed-recipients
> Subject: Ombudsman’s Report CEO’s Update
—Tuesday, 24 November

To All Member CEOs

Over the last few weeks the Centre has been involved in a range of activity relating to the pending Ombudsman’s Report (anticipated date of release Thursday Nov 26) ...

Over the past two weeks, supported by the Board and member CEO’s external to the Board, the Centre has had the opportunity to discuss the pending Ombudsman’s Report with the Premiers Senior Policy advisor, Minister Neville, Mary Wooldridge, DHS and Editor-in -Chief of The Age. I am also aware of discussions held with the Editor-in-Chief of the Herald-Sun and we are still aiming to talk with some radio media. Further to this the Centre along with a number of key sector representatives also participated in a Round Table Forum to be published in The Age this week.

Primarily our key message has been focussed on prevention, early intervention, the need for more family services and not expanding mandatory reporting.

A strategy that was also developed was to place a paid advertisement in both The Age & Herald-Sun—an invitation to participate was circulated over a week ago and resulted in about 25 organisations ‘signing up.’ The advertisement was to appear early this week however after further consideration this is no longer going to take place. The advertisement was aimed at demonstrating to government the views of a large number of CSO’s—designed as a letter to the Premier. At the end of last week through the strategic sharing of the planned advertisement a number of conversations continued. Consideration of the letter as an appropriate strategy continued until late last week when in brief it was determined by those individual CSO’s who had initiated the letter and the Centre Board that continuation with the strategy was ‘redundant for now’—the message had been heard by Government and the Centre will now continue to work on the heightened level of interest to pursue our key points.

Next month the Board is anticipating that Gill Callister [the Director of DHS] will be attending the December Board meeting and a request to meet with the Premier and Treasurer has been issued. As you may recall last year the Centre was successful in meeting with the Treasurer which greatly supported our then Budget Campaign. The timing is right for us to repeat this.

An early morning briefing on the day the report is released with the Centre is anticipated and we will issue media comments accordingly to positively influence the debate on behalf of members ...

In the lead up to the release of the Victorian Ombudsman’s report, the Victorian Centre for Excellence in Child and Family Welfare sent an email (see Box) to all member organisations which was passed on to the author. The centre, formerly the Child Welfare Association of Victoria, is the peak lobby group for 93 community service organisations in the child, youth and family services sector of Victoria such as Anglicare and the Brotherhood of St Laurence. Visitors to its website might be conned into thinking it is an independent think tank or university research unit. It is anything but. The email details the centre’s efforts to ‘positively influence the debate on behalf of members.’ The lobbying

undertaken spanned the Brumby government, the opposition, senior policy advisors, the Victorian Department of Human Services, and the media. A key paragraph in the email is the one that states, ‘our key message has been focussed on prevention, early intervention, the need for more family services and not expanding mandatory reporting.’ In policy terms, the message delivered to the government was that the failed dual reporting system must not be tampered with by expanding the scope of traditional child protection work. The email also details the Centre’s media strategy, the first arm of which was to bring together friendly experts in a forum to warn of the potential dangers of creating new stolen and forgotten generations, which garnered uncritical coverage.⁷⁶ But the most telling section is the explanation for why the second arm of the media strategy—a newspaper advertisement in the form of a letter to the Premier signed by 25 member organisations—was ‘redundant for now.’ The ‘strategic sharing of the planned advertisement’ had paid off. The ad was pulled, the email explains, because ‘the message had been heard by Government.’ The Brumby government pre-emptively caved in to the lobbyist’s political blackmail to avoid criticism and embarrassing headlines.⁷⁷

Note that the subject of protecting the most vulnerable children from harm—on whose behalf we might expect charities to be advocating—did not feature in the centre’s missive. Its leaders were too busy launching a raid on the public purse, ensuring that charities retained current funding (Child FIRST cost Victorian taxpayers \$125 million in 2008–09), and parlaying the influence achieved over the government into bigger budget allocations. The email suggests the Victorian Department of Human Services is working closely (maybe hand in glove?) with the NGOs. So much for proper governance. The contribution to the policy debate by the public official who is supposed to represent children, the Victorian Child Safety Commissioner, was to repeat the big lie and blame all the problems on ‘less serious’ reports swamping the department.⁷⁸ So much for robust accountability. When the email was forwarded to the Opposition, the response was silence. So much for parliamentary scrutiny. In response to the Ombudsman’s report, the Brumby government issued a barrage of media releases about the extra millions of taxpayers’ dollars it planned to throw at the flawed system.⁷⁹ So much for evidence-based policy.⁸⁰

What this disgraceful episode illustrates is the way the politics of child protection contrives to frustrate sound reforms, works against the balanced provision of child and family welfare services, determines policy, and distorts funding priorities.⁸¹ But the ‘fog’ created by the politics does not obscure what really needs to be done to improve the situation for neglected and abused children. We need stand-alone child protection agencies that are:

- Staffed and led by child protection specialists.
- Rigorously assess and forensically investigate ‘risk of harm’ notifications to assess whether statutory action to remove children is required.
- Operate as the lead agency in co-ordinating, supervising and monitoring the response to child protection matters by developing child-focused service plans.
- ‘Buy in’ targeted support services, if appropriate, to help parents clean up their act, based on best practice decisions concerning the family situation and the needs of children.
- Held accountable by independent statutory officers and by public reporting of transparent data.
- Insulated, as best as can be, against the politics.

Yet the \$2.2 billion question remains how to get the kind of child protection agencies we need. This is the total amount spent in 2008–09 on child and family welfare services in Australia.⁸² Spending across the sector has increased four-fold since the late-1990s. The annual budget of NSW DoCS is more than \$1.3 billion, and the money is hardly well spent. In 2008, more bureaucrats were employed at DoCS head office than there were departmental child protection workers across the entire state.⁸³

There are many reasons to be pessimistic about governments implementing the change that is required. The welfare bureaucracies are resistant to change and, as always, can block reforms proposed by their political masters that are contrary to their own interests. Real improvements were noted in disadvantaged communities⁸⁴ following the establishment of the stand-alone Child Safety Department

in Queensland by the Beattie government, as was recommended by an extensive 2004 report by the Crime and Misconduct Commission.⁸⁵ For too brief a period, Queensland was the true national leader in child protection policy. Yet once child protection was out of sight and out of mind, the unchanged bureaucracy countermanded the reforms. In mid-2009, the Bligh government quietly announced that the Child Safety Department would be placed back under the control of the Department of Communities.⁸⁶

A further reason for pessimism, and to doubt that governments will deliver genuine reform, is the extent to which policy formation is driven by noisy stakeholders, influence-peddlers, and rent-seekers across all areas of government. This mode of policy formation prevails irrespective of the political colour of the ministry in charge because of the nature of the modern, media-driven political process. Many Ministers and Shadow Ministers confuse 'inclusive' policymaking with thinking it is their job to satisfy the vested interests in their portfolio. A further problem is that oppositions are always looking for ways to embarrass the government in complex and difficult policy areas. They are prone to defer to the NGOs and uncritically recycle what they are told about the need for more government funding for family support. Much opposition commentary and policy therefore resemble a press release from the peak lobby groups.⁸⁷ Politicians who support a family preservation-based approach also avoid having to address the difficult systemic problems that surround frontline child protection work. They also keep happy the loudest and best organised voices in the debate and minimise negative media coverage.⁸⁸ For example, the NSW Opposition has already promised the peak lobby group, the NSW Association of Children's Welfare Agencies, that it will 'reduce the number of children in out-of-home care in our first term' and boost funding to the charitable sector to meet the increased family support caseload.⁸⁹

Because the politics are the major obstacle to effective child protection, the only solution is to circumvent them by reconfiguring the system. Citizens dissatisfied with the status quo should demand the right to reclaim the system from the politicians and bureaucrats unwilling or incapable of ensuring that child protection is done properly.

State governments should deal with child protection failures as extreme cases of failed bureaucratic service provision and the ‘capture’ of public policy by vested interests.[†] The bureaucracies should be closed down as the failed institutions they are, and their statutory responsibilities should be assumed by reconstituted child protection societies.

Each society would be established by statute, be membership-based, and have its own elected, independent board. The board would hire the management team and frontline caseworkers. The budget of each society should be determined by parliament and be supplemented by subscriptions and other fundraising activity. The board would have full financial and operational control over the budget subject to standard corporate probity requirements. The society’s statutory charter would be to fulfil the key roles of a stand-alone child protection agency outlined earlier. State governments would regulate—through a state-wide inspectorate agency—but not run the societies.

The most important advantage of a de-bureaucratized, citizen-controlled system would be that the political dynamics would be revolutionised. At the moment, few individuals or groups are actively engaged in lobbying government in the best interests of the children in greatest need. Child protection societies would permanently unite public-spirited citizens willing and able to advocate on their behalf. They would also fill one of the biggest gaps in the current system—the knowledge gap. Public interest in child protection is only occasionally sparked when another disaster or damning report hits the headlines. Governments respond to community outrage with the standard spin about doing more to support families. Then it is back to business as usual. This is the pattern because the outrage is as ignorant as it is impotent for want of practical experience. The governmentalisation of child protection has not only centralised power over the system but also centralised control of knowledge. Ordinary citizens unfamiliar with

[†] This will require state politicians to act untrue to type. They will have to respect the evidence, stare down the lobbyists, and no longer be content to preside over a continuing disaster and spin their way out of periodic crises. Above all, they will have to put the interests of children first.

the system find it difficult to challenge what they are told is the way it should and should not be run. A dearth of informed debate is the result, and myths such as lack of funding, over reporting, and the need for more family services fill the vacuum. This would change if ordinary citizens were intimately involved in the running of child protection societies. Disinterested and well-versed citizens armed with valuable and ever-increasing corporate knowledge would govern the work of child welfare authorities. The iron pentagon between academia, bureaucracy, social workers, the charitable sector, and politicians, which precludes genuine community responsibility for keeping children safe, would be demolished. Child protection would be definitively shifted into the post-welfare state era.

A defeatist objection readily comes to mind. Even if responsibility for child protection is devolved to civil society, won't the membership and boards of child protection societies end up being dominated by the same ideologues, lobbyists and their fellow travellers? This is an unavoidable risk that those interested in reclaiming child protection from the Left have to take. Given the political stench that hangs over child protection, this is a risk that liberals should welcome. For the point of devolving responsibility for child protection to ordinary citizens is to give liberals the chance to recover their heritage of enlightened social activism in keeping with Mills' idea of the rights of the children. Child protection policy is currently made behind closed doors by insiders blinded by ideology, self-interest, and political calculation. Policy is made regardless of the evidence in an echo chamber where the dissenting voices of outsiders are more or less excluded. This would change if liberals with clean hands and unclouded minds participated as citizens in the governance of the system, conscious of all the challenges and frustrations this will involve in a plural society.

Restoring liberal involvement in child protection may not be an appealing prospect for most liberals, based on practical rather than philosophical considerations. This most probably amounts to asking people to spend time in meetings arguing with Leftists who think the drug-addled have a right to raise children 'with appropriately funded support services.' But reluctance to get involved, while understandable, is not an option because there are worse things. What's worse is letting

the ‘powers that be’ get away with it unquestioned, unchallenged and unaccountable. Open debate and democratic confrontation is urgently needed about subjects like adoption. All it takes is some inquiry, advice from the well-informed, respect for facts and logic, and a realistic view of society and human nature to refute the conventional nonsense about how best to protect children.⁹⁰ But all good liberals need to join the fight. And we need to conduct the battle in civil forums where we can win.

Endnotes

- ¹ John Stuart Mill, *On Liberty* (Cambridge: Cambridge University Press, 1989), 105.
- ² *Ray and Males* [2009] FamCA 219.
- ³ Jeremy Sammut, *Fatally Flawed: The Child Protection Crisis in Australia*, CIS Policy Monograph No. 97 (Sydney: The Centre for Independent Studies, 2009).
- ⁴ This issue has been highlighted by recent controversies in Britain. Rosemary Bennett, ‘Judge in charge of family courts criticises “arrogant social workers”,’ *The Times* (13 April 2010).
- ⁵ The enormous cost of child abuse each year has been estimated from \$10 billion to as high as \$30 billion. Penny Taylor, Peter Moore, Lynne Pezzullo, Joe Tucci, Chris Goddard, and Lillian De Bortoli, *The Cost of Child Abuse in Australia* (Melbourne: Access Economics, Australian Childhood Foundation, and Child Abuse Prevention Research Australia, 2008).
- ⁶ Rather than poverty—the lack of higher welfare benefits—causing child abuse and neglect, as per the orthodox ‘welfarist’ formation, the presence *not* absence of welfare is increasingly acknowledged as the root cause of the personal and social pathologies that lead to child harm. This is the great insight of the collective works of Noel Pearson, *Up from the Mission: Selected Writings* (Melbourne: Black Ink, 2009). And, indeed, to the nation’s shame, one need look no further than to welfare-dependent Indigenous settlements in remote Australia to observe the collapse of behavioural standards and social norms, particularly concerning the care of children. See also Helen Hughes, *Lands of Shame* (Sydney: The Centre for Independent Studies, 2007).
- ⁷ On the shift towards non-interventionism and the anti-adoption attitudes pervading the Australian welfare departments, see House of Representatives Standing Committee on Human and Family Services, *Overseas Adoption in Australia: Report of the Inquiry into Adoption of Children from Overseas* (November 2005).

- ⁸ Chris Goddard and Joe Tucci, *Responding to Child Abuse and Neglect in Australia. A Joint Submission to the Australian Government Responding to Australia's Children: Safe and Well—A National Framework for Protecting Australia's Children* (Melbourne: Child Abuse Prevention Research Australia, Monash University, 2008), 8.
- ⁹ See the details of the national roll-out of 'intensive preservation services' designed to keep families united where children are found to be in immediate danger of harm. Australian Institute of Health and Welfare, *Child Protection Australia 2008–09*, 'Chapter 5: Intensive Family Support Services,' Child Welfare Series No. 47 (Canberra: AIHW, 2009).
- ¹⁰ Noel Pearson, 'Fattest hand is first in the till,' *The Australian* (23 January 2010).
- ¹¹ For a discussion of these issues, see Peter Saunders, 'Introduction,' in Peter Saunders (ed), *Declaring Dependence, Declaring Independence: Three Essays on the Future of the Welfare State*, CIS Occasional Paper No. 111 (Sydney: The Centre for Independent Studies, 2008).
- ¹² John Hirst, 'Howard suited to his times,' *The Australian* (29 October 2009).
- ¹³ See, for instance, Research to Practice Note issued in NSW. The presumption is that families will be preserved via interventions 'aimed at reducing the impact of substance misuse on the child.' Programs listed under the heading 'Interventions to assist children' are actually programs to:
- assist parents who are dealing with substance abuse ... Home visiting and parent education programs may be of benefit to strengthen parenting and child outcomes, although the effectiveness of these programs is not yet clear ... The most effective response for children with substance misusing parents is likely to be to be based in prevention and early intervention initiatives, assisting parents to deal with their alcohol and drug problems and helping them to strengthen their parenting capacity, while providing social and practical supports to the whole family.
- Human Services Community Services, *Working with Parental Substance Misuse*, Research to Practice Note (Sydney: Government of NSW, February 2010).
- ¹⁴ John Stuart Mill, as above, 105.
- ¹⁵ Kate Murphy, Marian Quartly, and Denise Cuthbert, "'In the best interests of the child": Mapping the (re) emergence of pro-adoption politics in contemporary Australia,' *Australian Journal of Politics and History* 44:2 (2009), 201–218.
- ¹⁶ Between 50% and 80% percent of parents involved with child protection services are estimated as having substance abuse problems.
- ¹⁷ For the 'welfare paradigm' and critique, see John Frederick and Chris Goddard, 'Exploring the relationship between poverty, childhood adversity and child abuse from the perspective of adulthood,' *Child Abuse Review* 16:5 (2007), 323–341.
- ¹⁸ Jacques Donzelot, *The Policing of Families* (New York: Pantheon, 1979).
- ¹⁹ In practice terms, the hands-off attitudes mean welfare departments are content to preside over family chaos rather than police it out of existence: for example,

see the short life and avoidable death of Elizjah Lyden-Baker caused by the non-intervention of South Australian child protection authorities in application of the family preservation ideology. Gavin Lower, 'Newborn left with drug addict mum,' *Adelaide Advertiser* (10 February 2008).

- ²⁰ George Behlmer, *Child Abuse and Moral Reform in England, 18970–1908* (Palo Alto: Stanford University Press, 1982).
- ²¹ In Australia, denominational and charitable organisations played a large role in child protection through the provision of residential care for destitute children. Dealing with child abuse and neglect has always proved beyond the scope of private charity alone, and the orphanages and asylums run by churches and other organisations were of a 'semi-public' character and supported by government subsidies. Cliff Picton and Peter Boss, *Child Welfare in Australia: An Introduction* (Sydney: Harcourt Brace Jovanovich, 1981), 21.
- ²² The pattern was uneven across the Australian states. Child protection societies established by citizen-activists brought child welfare to public attention and agitated for the passage of child welfare laws. But only in Victoria did the paid inspectors employed by the Society for the Prevention of Cruelty to Children (SPCC) carry out the work of investigating reports of abuse and neglect, issuing warnings to parents, monitoring the family situation, and, if necessary, exercising their statutory authority to bring children before the court. The SPCC continued to fulfil this role without any government financial support until the mid-1970s. In other states, government departments took complete responsibility for the statutory system, and the role of child protection societies was limited to an advisory capacity. In NSW, this took the form of membership of the State Children Relief Board along with government officials from the Children's Relief Department (the predecessor of Department of Community Services.) The differing histories are instructive for this paper. The child protection society waned and withered in NSW for want of real responsibilities, and even the advisory role was abolished eventually as only the bureaucrats had any real knowledge and experience about the system. Its Victorian counterpart regenerated itself in the execution of its statutory role until overwhelmed by the political storms that led to the creation of a centralised government department to receive and respond to reports. For this history, see Dorothy Scott and Shurlee Swain, *Confronting Cruelty: Historical Perspectives on Child Protection in Australia* (Melbourne: Melbourne University Press, 2002).
- ²³ Keith Hancock, *Australia* (London: Benn, 1930).
- ²⁴ Adele Horin, 'Time to have the little children suffer no more,' *The Sydney Morning Herald* (7 March 2009); Caroline Overington, 'Foster care in response to child abuse harmful,' *The Australian* (17 November 2008).
- ²⁵ AIHW, *Child Protection Australia 2008–09*, as above (endnote 9), 11.
- ²⁶ Judy Cashmore, Dorothy Scott, and Gillian Calvert, Submission to the Special

- Commission of Inquiry into Child Protection Services in NSW, also titled ‘Think Child, Think Family, Think Community: From a Child Protection System to a System for Protecting Children,’ NSW Commission for Children and Young People (March 2008).
- ²⁷ Minister for Community Services, Linda Burney said, ‘DoCS was getting 300,000 calls a year in terms of child protection reports and quite frankly we were drowning’ in ‘Shake-up for NSW child protection system,’ *ABC AM* (3 March 2009), www.abc.net.au/am/content/2008/s2505670.htm.
- ²⁸ Andrew McCallum, ‘Child Protection and Wood: Will We Rise to the Challenge?’ *Developing Practice* 23 (Autumn/Winter 2009), 4–6.
- ²⁹ The Hon. James Wood AO QC, Report of the Special Commission of Inquiry into Child Protection Services in NSW (the Wood Report) (Sydney: Government of NSW, 2008).
- ³⁰ Government of NSW, *Keep Them Safe: A Shared Approach to Child Protection* (Sydney: Department of Premier and Cabinet, 2009).
- ³¹ NSW Ombudsman, *The Death of Ebony: The Need for an Effective Interagency Response to Children At-risk*, (Sydney: NSW Ombudsman, 2009), 51.
- ³² NSW Ombudsman, *Special Commission of Inquiry into Child Protection in NSW: Submission of NSW Ombudsman. Part 4 Mandatory Reporting* (Sydney: NSW Ombudsman, 2008), 2. The Wood Report also points out the proportion of reports requiring further assessment has increased slightly since 2001 to 70% in 2007–08. The Wood Report, as above, 137.
- ³³ The majority of reports to child protection agencies now concern parental and family dysfunction rather than intentional physical abuse and neglect. Allen Consulting Group and Australian Research Alliance for Children and Youth, *Inverting the Pyramid: Enhancing Systems for Protecting Children* (Melbourne: Allen Consulting Group, 2009), 3.
- ³⁴ See Jeremy Sammut, *Fatally Flawed*, as above, 13–14.
- ³⁵ Albert Zhou, *Estimate of NSW Children Involved in the Child Welfare System*, Department of Community Services (Sydney: June 2010), 2–3.
- ³⁶ The Wood Report, as above, ii–iii.
- ³⁷ Kate Gaffney, ‘Apology to wards of the state reflects our collective regret,’ *The Age* (29 October 2009).
- ³⁸ Chris Goddard and Joe Tucci, ‘Sins of omission,’ *The Australian* (15 July 2008).
- ³⁹ NSW Ombudsman, *The Death of Ebony*, as above.
- ⁴⁰ NSW Ombudsman, *The Death of Dean Shillingsworth: Critical Challenges in the Context of Reforms to the Child Protection System* (Sydney: NSW Ombudsman, 2009).
- ⁴¹ Natasha Robinson, ‘Minister steadfast over Territory’s child protection report,’ *The Australian* (7 February 2010).

- ⁴² AIHW, *Child Protection Australia 2008–09*, as above, 18.
- ⁴³ See Judge John Fogarty quoted to this effect concerning the situation in Victoria in Carol Nader, 'Children overload,' *The Age* (12 August 2009).
- ⁴⁴ See Leah Bromfield and Prue Holzer, *A National Approach for Child Protection: Project Report*, National Child Protection Clearinghouse, Australian Institute of Family Studies (2008), 12–14.
- ⁴⁵ This also explains the strong support in the welfare sector for a 'public health' approach to child protection oriented primarily around universal support services for families. Allen Consulting Group and Australian Research Alliance for Children and Youth, *Inverting the Pyramid*, as above.
- ⁴⁶ Jeremy Sammut, *Fatally Flawed*, as above, 16.
- ⁴⁷ Chris Goddard and Joe Tucci, 'Secretive system doesn't bear scrutiny,' *The Australian* (18 November 2008).
- ⁴⁸ House of Representatives, *Overseas Adoption*, as above (endnote 7), ix, 126.
- ⁴⁹ Karen Healey, 'Critical Questions about the Quest for Clarity in Child Protection Regimes,' *Communities, Children and Families Australia* 4:1 (October 2009), 52–58.
- ⁵⁰ In the last decade, increasing numbers of children have been placed in kinship care as an alternative to residential care. Forty-five percent of the total number children in Out-of-Home-Care are now placed with relatives. AIHW, *Child Protection Australia 2008–09*, as above, 42. 'Culturally appropriate' placements can be particularly damaging for indigenous children shuffled between the dysfunctional family home and the home of equally dysfunctional relatives.
- ⁵¹ For an example of own successful therapeutic program based on high-quality foster care, see *Successworks. Evaluation of the TRACK Program* (Victoria: Department of Human Services, 2005).
- ⁵² Keith Windschuttle, *The Fabrication of Aboriginal History, Volume Three, The Stolen Generations* (Sydney: Macleay Press, 2009); Robert Manne, 'Aboriginal Child Removal and the Question of Genocide' in A. Dirk Moses (ed), *Genocide and Settler Society: Frontier Violence and Stolen Indigenous Children in Australian History* (New York: Berghahn Books, 2004).
- ⁵³ Australian Senate, *Forgotten Australians: A Report on Australians who experienced institutional or out-of-home care as children* (Canberra: Government of Australia, 2004).
- ⁵⁴ Jeremy Sammut, 'Some kids really need to be rescued,' *The Australian* (18 November 2009); Chris Goddard and Joe Tucci, 'In Victoria, another forgotten generation in the making,' *The Australian* (7 December 2009).
- ⁵⁵ Mark Metherell and Adele Horin, 'Sorry state of abused children,' *The Sydney Morning Herald* (18 November 2009).
- ⁵⁶ AIHW, *Adoptions Australia 2008–09*, Child Welfare Series No. 48. Cat. No. CWS 36 (Canberra: 2010), 25.

- ⁵⁷ It is disturbing, to say the least, that ‘culturally appropriate’ kinship care is used as a ‘cheap’ cost-cutting alternative to foster care with callous disregard for the fact that children are simply being transferred from one dysfunctional situation and into another. M. Liddell, T. Donegan, Chris Goddard, and Joe Tucci, *The state of child protection: Australian child welfare and child protection developments 2005* (Melbourne: National Research Centre for the Prevention of Child Abuse, Australian Childhood Foundation 2006).
- ⁵⁸ Pia Akerman, ‘An infant dead, a system at fault,’ *The Australian* (19 April 2008), author’s emphasis.
- ⁵⁹ Jeremy Sammut, ‘The fog of child protection politics’ *Policy* 26:2 (Winter 2010), 41–44.
- ⁶⁰ Council of Australian Governments, *Protecting Children is Everyone’s Business: National Framework for Protecting Australia’s Children, 2009–2020* (Canberra: Government of Australia, 2009), 43.
- ⁶¹ Ombudsman Victoria, *Own motion investigation into the Department of Human Services Child Protection Program* (Melbourne: Ombudsman Victoria, 2009).
- ⁶² As above, 10–11, 24–25.
- ⁶³ As above, 13
- ⁶⁴ As above, 9.
- ⁶⁵ As above, 8
- ⁶⁶ As above, 10.
- ⁶⁷ As above, 14.
- ⁶⁸ See for example, NSW Ombudsman, *Report of Reviewable Deaths in 2006 Volume 2: Child Deaths* (Sydney: NSW Ombudsman, 2007), iv–v.
- ⁶⁹ Carmel Egan and Peter Munro, ‘Children left to fend for themselves,’ *The Age* (7 June 2009).
- ⁷⁰ On these ‘system capacity issues’ in Victoria, see Victorian Child Death Review Committee, *Annual report of inquiries into the deaths of children known to Child Protection 2010* (Melbourne: Office of the Child Safety Commission, July 2010), xv.
- ⁷¹ NSW Ombudsman, *Special Commission of Inquiry into Child Protection in NSW: Submission of NSW Ombudsman, Part 6*, as above (endnote 32), 14.
- ⁷² For a balanced review and discussion of the issues, see Peter Saunders and Martin Stewart-Weeks (eds), *Supping with the Devil*, CIS Policy Forum No. 16 (Sydney: The Centre for Independent Studies, 2009).
- ⁷³ Henry Ergas, ‘Maggie showed Keating the way,’ *The Australian* (12 January 2010).
- ⁷⁴ Nick Ralston, ‘DoCS child protection role to be reduced,’ *The Sydney Morning Herald* (3 March 2009).
- ⁷⁵ Cathy Humphreys, Maria Harries, Karen Healy, Bob Lonnie, Philip Mendes,

- Marilyn McHugh, and Rosemary Sheehan, 'Shifting the child protection juggernaut to earlier intervention,' *Children Australia* 34:3 (2009), 5–8.
- ⁷⁶ Carol Nader, 'Urgent call to help families in crisis,' *The Age* (26 November 2009).
- ⁷⁷ To put this in context, the lobbyists were unwilling to let history repeat. When the Kennett government introduced mandatory reporting in 1993 (in response to massive child protection failures), the extra statutory workload was funded by reallocating resources from the family support to the tertiary sector; the NGOs were terrified of losing their boondoggles and were not willing to give them up without fighting tooth and nail this time around. For the earlier episode, see Philip Mendes, 'The historical and political context of mandatory reporting and its impact on child protection practice in Victoria,' *Australian Social Work* (1996), 49, 25–32.
- ⁷⁸ Carol Nader, 'Children's overload,' *The Age* (12 August 2009).
- ⁷⁹ Chris Goddard, 'The State of Victoria's Child Protection,' *Children Australia* 35:1 (2010), 4–5
- ⁸⁰ The government claims the extra funding has brought 400 new case-workers into the system. Yet 1600 cases remain allocated. Richard Willingham, 'Seven Victorian child deaths "preventable",' *The Age* (30 July 2010).
- ⁸¹ In 2008–09, Child FIRST cost \$125 million and dealt with 7,249 new referrals and managed 24,357 clients. Statutory Child Protection Services received 42,839 reports for a total cost of \$140.6 million. A further \$53 million was spent by the Department of Human Services to provide family preservation services to 2,632 clients. Victorian Department of Human Services, *Annual Report 2008–09* (Melbourne: Government of Victoria, 2009), 23, 143–44. Given the gaps in the statutory service, high expenditure on relatively few 'less serious' reports is difficult to justify, especially when only a quarter of 'significant harm' reports were investigated in 2008–09. AIHW, *Child Protection Australia 2008–09*, as above, 11, 13.
- ⁸² Productivity Commission, *Report on Government Services 2010 Volume 2* (2010), 15.12.
- ⁸³ Toby O'Brien, 'Vulnerable children at mercy of the bureaucracy,' *The Australian* (26 November 2008).
- ⁸⁴ Noel Pearson, 'Politics aside, an end to tears is our priority,' *The Weekend Australian* (23 June 2007).
- ⁸⁵ Janet Phillips, Child abuse and protection in Australia, Background Note (Canberra: Parliamentary Library, 2009), www.aph.gov.au/library/pubs/bn/2008-09/ChildAbuse.htm.
- ⁸⁶ Karen Healey, 'Critical Questions,' as above (endnote 49).
- ⁸⁷ See for example, the statements of Jack Dempsey, Queensland Opposition Child Safety spokesman, quoted in 'Indigenous children over-represented in

child protection system,' *ABC News* (21 January 2010), www.abc.net.au/news/stories/2010/01/21/2797483.htm.

⁸⁸ For a longer discussion of these issues, see Jeremy Sammut, 'The fog of child protection politics,' as above.

⁸⁹ *Background Briefing, Babies at-risk? ABC Radio National* (14 March 2010), www.abc.net.au/rn/backgroundbriefing/stories/2010/2840855.htm.

⁹⁰ Based on the author's own experience.



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