

**Do Not Damage and Disturb:
On Child Protection Failures and the
Pressure on Out of Home Care
in Australia**

Jeremy Sammut

Related CIS publications

Policy Monograph

PM97 Jeremy Sammut, *Fatally Flawed: The Child Protection Crisis in Australia* (2009).

Occasional Paper

OP117 Jeremy Sammut, *The Power and the Responsibility: Child Protection in the Post-Welfare State Era* (2010).

National Library of Australia Cataloguing-in-Publication Data:

Sammut, Jeremy, 1971-

Do not damage and disturb : on child protection failures and the pressure on out-of-home care in Australia / Jeremy Sammut .

ISBN: 9781864322064 (pbk.)

CIS policy monographs ; 122.

Child welfare--Australia--Administration.

Children--Services for--Australia.

Other Authors/Contributors:

Centre for Independent Studies (Australia)

Dewey Number: 362.70994

Do Not Damage and Disturb: On Child Protection Failures and the Pressure on Out of Home Care in Australia

Jeremy Sammut

CIS Policy Monograph 122



2011

ACKNOWLEDGEMENT

Thank you to Professor Chris Goddard and Professor Peter Saunders for providing helpful comments on an earlier version. Thank you also to Paul O'Brien, a Forgotten Australian, for reading a draft and offering valuable insights. Thanks to Matthew Stockton for research assistance.

All errors are the responsibility of the author.

Contents

Key Points.....	vii
Executive Summary.....	viii
Introduction: OOHC under pressure.....	1
Cost and complexity	2
More family support?	5
Too late and temporary	6
Instability	8
System abuse	10
Dirty secret	11
Professionalisation	12
Re-institutionalisation.....	13
Political economy.....	14
Monuments to harm	14
Adoption	15
Reform	18
Conclusion.....	20
Endnotes	21

‘A wicked doer giveth heed to false lips.’

Proverbs: 17:4

Key Points

- In 2009, the federal Parliament rightly apologised to the Forgotten Australians who had been physically, sexually and emotionally abused in state and charitable children's 'residential care' institutions (orphanages) from the 1920s until the 1970s.
- Yet in the last decade, Australian governments have been quietly re-'institutionalising' the Out of Home Care (OOHC) system because children are once again being abused by those who are meant to protect them.
- Between 2000 and 2010, the number of children who are unable to live safely with their parents, and are subsequently placed in 'residential care'* by state and territory child protection authorities, has increased by 56%. Decades of declining numbers of children in residential care have been reversed. The 'residential' OOHC population fell to 939 children in 2004–05 and then doubled to more than 1,800 in 2009–10.
- In all jurisdictions that report OOHC expenditure by placement type, the real recurrent expenditure (adjusted for inflation) on residential care, and the real cost of residential care per child, has substantially increased in the past decade, as has the proportion of OOHC expenditure spent on residential care. (See Table 5 for details.)
- The greater use of residential care reflects the increasing numbers of 'foster' children and young people who have 'high and complex needs'—serious emotional, psychological and behavioural problems. The systemic cause of the shift back to residential care is the under-acknowledged impact of child protection failures. Too many vulnerable Australian children are irreparably damaged by parental abuse and neglect due to the misguided bias towards family preservation at nearly all costs and child removal only as a 'last resort,' which dominates child protection policy and practice in all states and territories.
- The trauma experienced in dysfunctional family homes is compounded by the consequent harmful instability experienced in care (multiple foster placement breakdowns caused by behavioural and other problems). By the time 'high needs kids' reach adolescence they are severely disturbed and distressed, and exhibit uncontrollable, threatening, violent and self-destructive behaviour. They can no longer live safely with their biological parents or in normal foster homes; very high cost residential care is the only suitable option. Increasing the size and cost of the residential population is a default measure of the poor performance of child protection services.
- Thousands of vulnerable children and young people are the victims of 'system abuse' in Australia. In the 1980s and 1990s, the vast majority of residential care institutions were closed down because of the detrimental impact of institutional care on children. But 30 years later, governments are re-opening the institutions to cater for all the children damaged and disturbed in the name of family preservation.
- National apologies for past practices ring hollow when children continue to be abused by a failed system. The sad irony is that current child protection policy and practice is harming a new generation of forgotten children to whom a national apology will one day be owed.

* Residential 'out of home' care is 'non-home based' care provided in 'group homes' where multiple non-related children are cared for by paid staff. Foster and kinship 'out of home' care is 'home-based' care provided by volunteer foster and kin carers who agree to take a child into their family home and act as substitute parents.

Executive Summary

With record numbers of Australian children unable to live safely with their parents, Australia's increasingly costly Out of Home Care (OOHC) system is in crisis.

Between 2000 and 2010, the number of children aged 0–17 requiring overnight government-subsidised alternative home-based 'foster care' and 'kinship care' or non-home based 'residential care' almost doubled to nearly 36,000. Growth has far exceeded population increase, with the rate of children in 'out of home' care rising from 3.9 to 7 children per thousand population from 2000 to 2010.

Total real recurrent national OOHC expenditure (adjusted for inflation) topped \$1.7 billion in 2009–10, an increase of more than 180% since 2000–01. Spending on OOHC also consumes a higher proportion (65%) of total national expenditure on child welfare services than a decade ago. Real OOHC spending per child has increased over the last decade by approximately one-third in Victoria and NSW; by more than half in Queensland and Western Australia; and by more than double in Tasmania and South Australia.

All state and territory OOHC systems are facing similar demand and cost pressures, partly because of the volume of children needing protection and the longer times children are spending in care. However, most 'foster' children also have high or complex needs because of serious emotional, psychological and behavioural problems. Rapid growth in total expenditure and real costs has been driven by the policy response to the growing complexity of the OOHC population. This has involved expanded provision of additional specialist support services for 'high needs kids' in home-based and non-home based settings ('treatment' or 'therapeutic' focused foster and residential care programs) and greater use of expensive residential care placements.

Despite increasing government spending on so-called 'cheaper' early intervention and family support services—which are meant to prevent child abuse and neglect, assist children and families in the parental home, and reduce the number of children in care—the pressure on the OOHC system has continued to increase. The assumption that greater spending on alternatives to 'out of home' care will reduce OOHC admissions and costs is misconceived.

This monograph urges policymakers to understand the critical relationship between the systemic problems in Australian child protection services and the expanding size, scale and cost of the OOHC system. *The family preservation-based approach to child protection is subjecting thousands of damaged, disturbed, and distressed Australian children and young people to 'system abuse.'*

The emphasis on keeping vulnerable children with their dysfunctional parents at nearly all costs means that nowadays, most children tend to have long histories of serious child protection concerns and extensive contact with support services before they are taken into care as a 'last resort.' For many children, the effort made to prevent maltreatment and entries into care is doing more harm than good and statutory intervention[†] is coming too late. Children in 'out of home' care have higher and more complex needs than in the past because they have been harmed, sometimes irreparably, by prolonged exposure to significant parental abuse and chronic neglect.

The family preservation approach is also the reason children are lingering longer in 'temporary' care while waiting for family circumstances to improve sufficiently and reunions can be attempted. When children finally are returned to the family home, unrealistic reunions break down and re-damaged children re-enter care after entrenched and hard-to-resolve parental problems (substance abuse, mental health, and domestic violence) re-emerge.

[†] Statutory intervention refers to the process by which child protection caseworkers investigate risk of harm reports, assess child well-being, and determine whether court-approved removal is necessary to satisfy the requirements of child welfare laws.

Foster placements involving children with high needs are also likely to break down due to these children's trauma-related problems. The longer that children linger on the removal-reunion treadmill, the greater is the harm done due to a 'snowballing' effect. For example, unstable living arrangements severely disrupt children's schooling and seriously compromise educational opportunities.

The instability experienced by children who bounce in and out of care, in and out of multiple placements, and in and out of failed family reunions is an independent and additional cause of harm that exacerbates 'challenging' behavioural and other problems. These damaged children become severely disturbed teens for whom the only suitable placement option is very high cost residential facilities.

Because there is significant unmet need for 'treatment' foster and residential care services, OOHC spending could soar in coming years as governments are called upon to fund additional capacity from limited and overstretched state and territory budgets. Child protection should therefore concern not only child welfare ministers and their shadows but also premiers, treasurers and finance ministers.

Policymakers should realise that a child welfare system that has to employ an army of professionals—psychiatrists, psychologists, therapists, counsellors, mentors, social workers, and case workers—to try to fix the children that the system itself has helped damage is a failed system. As residential facilities are re-opened, we should lament building monuments to child protection failures. Only when these facilities are closed down again, and when we no longer have to pay taxpayer-funded professionals to try to fix damaged children, will we know we have got child protection right.

The way to get it right is to fundamentally rethink how to provide safe homes to all children.

The effective and affordable way to protect children from dysfunctional parents who are demonstrably incapable of properly caring for their children is early statutory intervention and permanent removal by means of adoption by suitable families. Only 61 Australian children were adopted by non-relatives and 53 by foster carers in 2009–10, despite almost 23,000 children being in care continuously for more than two years—64% of the total OOHC population—on 30 June 2010. Many of these children, whether in kinship, foster or residential care, are likely to remain there indefinitely. Many could have and should have been adopted years ago but for the official taboo placed on adoption by child welfare agencies.

Without fundamental child protection reform and more adoptions of children from care, the most vulnerable Australian children will continue to be harmed. Governments will be forced to spend increasing sums on more expensive, 'professionalised' OOHC placements to cater for all the children damaged and disturbed by family preservation.

Introduction

OOHC under pressure

Despite increasing government spending on programs meant to prevent child abuse and entries into care, record numbers of children are currently in Out of Home Care (OOHC[‡]) in Australia, and this is the most expensive part of the child welfare system. Limited and overstretched state and territory budgets are struggling to fund the OOHC placements required to provide sufficient alternative accommodation for every child and young person who is unable to live safely with their parents. There is also a national shortage of families willing to act as foster carers, which imposes real constraints on child protection services. These problems make it logistically impossible and financially unaffordable for governments to assume guardianship of all the children in need of protection.

All state and territory OOHC systems are under strain and face similar demand and cost pressures, ‘including increasing numbers of children needing care, greater demand from children with high or complex needs, a consequent rise in the real cost of services, and a shortage of foster carers.’¹ The number of children aged 0–17 requiring overnight government-subsidised alternative home-based ‘foster care’ and ‘kinship care’ or non-home based ‘residential care’ more than doubled from 17,000 children in June 2001 to nearly

All state and territory OOHC systems are under strain and face similar demand and cost pressures.

36,000 in June 2010. Of these children 11,468 were Indigenous, with Indigenous children over-represented in care at 10 times the rate of non-Indigenous children.² Indigenous children also disproportionately account for the growth in children in care. Since 2000, the number of Indigenous children placed in care has increased by 182% compared to 71% for non-Indigenous children.³

The increase in the total OOHC population has far exceeded population growth, with the rate of children in care rising from 3.9 to 7 children per thousand population from 2001 to 2010. Interrelated factors account for this. Increasing numbers of children are in need of care due to increased prevalence of parental social problems such as welfare dependence and substance abuse. Awareness and reporting of child maltreatment over the last 20 years has also increased, primarily due to the introduction of mandatory reporting requirements for police, teachers, health and other professionals. Growth in the OOHC population has not been uniform across all jurisdictions, but all states and territories have recorded substantial increases. (Table 1)

Table 1: Children in OOHC (2000–10)

State or territory	2000–01	2009–10	Change	Per 1,000 pop. 2000–01	Per 1,000 pop. 2009–10
NSW	7,786	16,175	108%	4.9	9.9
Victoria	3,882	5,469	41%	3.4	4.4
South Australia	1,175	2,188	86%	3.3	6.1
Queensland	3,011	7,350	144%	3.3	6.8
Western Australia	1,436	2,737	91%	3.0	5.1
Tasmania	572	893	56%	4.8	7.5
Northern Territory	164	551	236%	2.7	8.8
ACT	215	532	147%	2.8	6.7
Australia	18,241	35,895	97%	3.9	7.0

Source: Productivity Commission, *Report on Government Services 2011*.⁴

[‡] OOHC is defined as overnight care for children and young people aged under 18 where state and territory governments make a payment to either partially offset or fully meet the cost of care.

Residential ‘out of home’ care is ‘non-home based’ care in ‘group homes’ where multiple non-related children are cared for by paid staff. Foster and kinship ‘out of home’ care is ‘home-based’ care provided by volunteer foster and kin carers who agree to take a child into their family home and act as substitute parents. The vast majority of children in the OOHC system live either in home-based foster care placements (46%) or in relative or kinship care placements (46%); only 5% live in non-home based residential care facilities.⁵ (Table 2) The majority of Indigenous children (71%) are in kinship care (including Indigenous residential care). This is consistent with the Aboriginal Child Placement Principle, which aims to ensure that child welfare agencies, where possible, place Indigenous children with extended family members, the child’s Indigenous community, or with other Indigenous people to maintain cultural traditions and preserve cultural identity.⁶ Without the large-scale use of kinship placements, it would have been impossible to meet the increased demand for care and the OOHC system would have collapsed. The foster system could not have coped with all the new children entering care after the closure in the 1980s and 1990s of nearly all large-scale state and charitable-run children’s residential care institutions (orphanages), which housed 40% of the children in care in the mid-1980s.

Table 2: Children in OOHC by placement type

State or territory	NSW	VIC	SA	QLD	WA	TAS	NT	ACT	Australia
Residential 2000–01	341	470	43	81	145	72	9	16	1,177
Residential 2009–10	378	454	216	567	144	20	6	47	1,832
Change	11%	-3%	402%	600%	-0.6%	-72%	-33%	194%	56%
Foster 2000–01	2,787	2,196	975	2,211	791	220	109	140	9,429
Foster 2009–10	6,720	2,234	1,013	4,393	1,267	454	251	219	16,551
Change	141%	2%	4%	99%	60%	106%	130%	56%	76%
Kinship 2000–01	4,279	1,046	147	719	437	219	38	55	6,940
Kinship 2009–10	9,001	2,185	847	2,390	1,235	286	126	266	16,336
Change	110%	109%	476%	232%	183%	31%	232%	384%	135%

Source: Productivity Commission, *Report on Government Services 2011*.⁷

Cost and complexity

Different placement types attract different amounts of government subsidies, which vary in value across jurisdictions and the level of care provided. Volunteer foster and kinship carers receive the same base fortnightly allowance to partially offset the cost of raising children. Full recompense is not made consistent with the philanthropic origins of the foster system, which developed as a charitable form of community service. Kin and foster carers may also receive additional payments, known as ‘loadings,’ based on the assessed needs of children with personal problems and other difficult behaviours. However, the overall cost of kinship care is lower than for foster care because kin carers tend to receive less screening, training and minimal follow-up supervision and support.⁸

Non-home based residential care—‘group homes’ where multiple non-related children are cared for by paid staff—costs the most per child; it absorbs a disproportionate amount of

**Total real spending
(adjusted for inflation) on
OOHC has significantly
increased in all jurisdictions
in the past decade.**

total OOHC funding because the full cost of caring for children, especially staff wages, are borne by government. But these categories are blurring and there are growing concerns about the quality of foster care placements. The declining value of subsidises, higher costs, and difficulties in recruiting and retaining carers has led to the rise (with implicit official sanction of the ‘look the other way’ kind) of the ‘baby farm’ type of foster home, in which four or more children are kept in filthy and crowded boarding house-style accommodation. These foster ‘homes’ are more accurately described as informal residential institutions. Those who run them are frequently welfare dependent themselves, and the prime motive for taking foster children is the extra cash they receive, not the welfare of children.⁹ State and territory governments are responsible for the funding and regulation of OOHC, but in many jurisdictions the management of home-based placements and the provision of residential services are outsourced to non-government organisations (NGOs) in the charitable or not-for-profit sector.

Despite the historic decrease in the use of expensive residential care and much greater use of lower cost kinship care, total real spending (adjusted for inflation) on OOHC has significantly increased in all jurisdictions in the past decade. Total national expenditure topped \$1.7 billion in 2009–10, an increase of over 180% since 2000–01. OOHC also consumed a higher proportion (65%) of total national spending on child welfare services (\$2.5 billion) than a decade ago. (Table 3)

Table 3: Real (adjusted for inflation) recurrent OOHC expenditure (2000–10)

State or territory	2000–01 (per thousand)	% child welfare spending	2009–10 (per thousand)	% child welfare spending	Expenditure growth
NSW	\$228,267	59%	\$641,519	64%	181%
Victoria	\$163,770	62%	\$292,229	65%	78%
South Australia	\$28,589	52%	\$115,844	75%	305%
Queensland	\$83,989	51%	\$333,719	59%	297%
Western Australia	\$59,469	81%	\$173,284	74%	191%
Tasmania	\$9,823	73%	\$32,788	62%	234%
Northern Territory	–	–	\$40,210	68%	–
ACT	\$11,469	63%	\$20,990	66%	83%
Australia	\$585,377	59%	\$1,650,000	65%	182%

Source: Productivity Commission, *Report on Government Services 2011*.¹⁰

According to the Productivity Commission, real (adjusted for inflation) recurrent OOHC expenditure per child increased in 2009–10 in all jurisdictions except ACT and Tasmania.¹¹ Over the last decade, except in ACT, real spending per child has increased in all jurisdictions¹² by approximately one-third in Victoria and NSW; more than half in Queensland and Western Australia; and more than double in Tasmania and South Australia. (Table 4)

Table 4: Real (adjusted for inflation) recurrent OOHC expenditure per child (2000–10)

State or territory	2000–01	2009–10	Change
NSW	\$29,318	\$39,661	35%
Victoria	\$42,187	\$53,434	27%
South Australia	\$24,331	\$52,963	118%
Queensland	\$27,894	\$45,504	63%
Western Australia	\$41,413	\$63,312	53%
Tasmania	\$17,173	\$36,706	114%
Northern Territory	–	\$72,976	–
ACT	\$53,346	\$39,455	-26%

Source: Productivity Commission, *Report on Government*.¹³

Some states and territories (NSW, Queensland, Tasmania, and the Northern Territory) do not report OOHC expenditure by placement type. (Table 5) In the jurisdictions that do report, the rise in spending and real costs since 2000 has been higher, and usually much higher, for residential care compared to smaller but still substantial rises for non-residential care. Real recurrent expenditure on residential care per child also increased significantly and by much more than on non-residential care, though the cost of non-residential services also rose substantially by two-thirds in South Australia and by over one-third in Western Australia. Due to the changing cost structures, the proportion of OOHC expenditure spent on residential care increased in Victoria and rose markedly in South Australia and ACT. In Western Australia, the increase was small (1%), but more than a third of OOHC funding is being spent on residential care. Average real expenditure per child for residential placements also substantially increased in all jurisdictions. (Table 6)

Table 5: Percentage increase real (adjusted for inflation) recurrent OOHC expenditure by placement type and residential care as proportion (2000–10)

State or territory*	Residential	Non-residential	Residential per child	Non-residential per child	% OOHC expenditure (residential) 2000–01	% OOHC expenditure (residential) 2009–10
Victoria	105%	58%	112%	8%	43%	49%
South Australia	1,035%	173%	126%	66%	15%	43%
Western Australia	198%	187%	200%	38%	35%	36%
ACT	329%	26%	46%	-50%	19%	44%

Source: Productivity Commission, *Report on Government Services 2011*.¹⁴

* NSW, Queensland, Tasmania and the Northern Territory do not report OOHC expenditure by placement type.

Table 6: Average real (adjusted for inflation) expenditure per child for residential and non-residential placements

State or territory	Residential 2000–01	Residential 2009–10	Non-residential 2000–01	Non-residential 2009–10
Victoria	\$148,812	\$316,196	\$27,508	\$29,789
South Australia	\$102,092	\$230,718	\$21,377	\$35,434
Western Australia	\$144,261	\$433,208	\$31,994	\$43,220
ACT	\$135,881	\$198,277	\$47,668	\$24,064

Source: Productivity Commission, *Report on Government Services 2011*.¹⁵

The growth in spending on OOHC has been partly driven by the large increase in the volume of children coming into care and the longer times they are spending in care (see p 6). But as the significant increases in the real cost of OOHC services per child suggests, rapid expenditure growth has been driven by increased spending on special need loadings and by the policy response to the growing complexity of the OOHC population. The policy response has been to expand the provision of additional (largely NGO-provided) specialist support service packages for children with high or complex needs in both home-based and non-home based settings (so-called ‘treatment’ or ‘therapeutic’ focused foster and residential care programs)[§] combined with a shift back to greater use of higher cost residential placements for highly disturbed children and young people.¹⁶

More family support?

Growth in the size, scale and cost of the system is the reason why policymakers support what are perceived to be lower cost alternatives to OOHC. ‘Early intervention’ and family support programs designed to prevent entries into care are therefore attracting increasing public funding. Yet the evidence that these services reduce statutory intervention is scant to non-existent, with the lack of success linked to the intensity of the extremely difficult-to-overcome parental dysfunction present in the families of those children most likely to need to enter care.¹⁷ The latest evidence¹⁸ confirms the earliest evaluations of family support programs,¹⁹ which also found that early intervention services fail to substantially reduce child abuse and entries into care.

Rapid expenditure growth has been driven by the policy response to the growing complexity of the OOHC population.

Nevertheless, the O’Farrell government in NSW is the latest state government to commit to expanding the role of family support services. In theory, part of the savings achieved by reducing OOHC admissions will be redeployed to fund unproven but less-expensive home-based counselling and support for families with vulnerable children in imminent danger of removal.²⁰

Similar policies, including ‘more services’ to facilitate family reunions, have been implemented in other states and territories. Victoria has led the way in pioneering the development of ‘intensive’ family preservation services and has outsourced the provision to NGOs.²¹ National expenditure on intensive family preservation services has increased by 317% since 2000–01 and reached nearly 11% (\$277 million) of all other spending on child welfare services in 2009–10, or 16% of OOHC expenditure.²² Despite the ‘investment’ in ‘cheaper’ services designed to support children and families in the parental home and reduce the pressure

[§] The range of multidisciplinary specialist counselling and other services involved in foster and residential accommodation can include assertive training, self-esteem building, anger management, social skills training, grief management, behaviour management, and mentoring support, plus clinical, psychological and other mental health services.

on OOHC, the number of children in care and the cost of care have continued to grow. The common sense assumption is that admissions and costs would have fallen by focusing on the prevention of maltreatment and entries into care. But the assumption is wrong for the reasons explained in this monograph.

The strategic direction taken by state and territory governments is misconceived. Irrespective of the near-universal support among policymakers, child welfare agencies, academic researchers, and NGO interest groups, placement prevention programs that prolong the time vulnerable children spend in the custody of dysfunctional parents are flawed in terms of child safety and a false economy in terms of public expenditure *because the family preservation-based approach to child protection (which is already standard policy and practice in all jurisdictions) is in fact the primary cause of the pressure on the OOHC system.*

Too late and temporary

The reason so many children are in OOHC needs careful explanation.

Nationally, 12,000 children were admitted to care in 2009–10, a decline of 4% since 2004–05. The trend varies across jurisdictions. Admissions fell in Victoria, Queensland, South Australia, and ACT while other states and territories experienced small to moderate rises—5% in Western Australia; 14% in Tasmania; 26% in NSW; and 28% in the Northern Territory.²³ The driver of overall growth in the OOHC population in all jurisdictions is not entries into care *per se*, but rather that children are remaining in care for longer periods of time after entering the system. In Victoria, for example, the average of length of time in care doubled from 300 days to almost 600 days between 2001 and 2008. Hence, Victoria has experienced smaller but still strong growth in the number of children in care despite falling annual admissions.²⁴ This pattern can be seen nationwide: the fewer children discharged—9,300 in 2009–10—do not offset the number entering (and re-entering) care.²⁵

The deeper causes of the OOHC crisis are multifaceted and need to be examined in the context of the shifts in child protection policy and practice in the last 40 years.

Growth in the OOHC population is partly due to the system absorbing the effects of decades of problems in the broader welfare system. The increased prevalence of child abuse and neglect in Australia is a result of the expanding size of an underclass of parents with intersecting (often intergenerational) problems—welfare dependence, substance abuse, mental illness, domestic violence, sole and teenage parenting—which impair the capacity to properly care for children.²⁶ These factors also influence the increasing length of time children are spending in care.²⁷ But the primary cause of the OOHC crisis—as the Senate Community Affairs Committee found in 2005—is the rising proportion of ‘high needs’ or ‘complex’ children in care with challenging behavioural, emotional and other psychological problems, including depression, hyperactivity, ADHD, anxiety, post-traumatic stress disorder, sexual deviance, conduct disorder, aggression, delinquency, and poor peer and social functioning.²⁸

The root cause of the pressure on the OOHC system is the under-acknowledged impact of child protection failures. Counter-intuitively, the growth in the number of children in care, the extended length of time in care, and the multiple occasions of care that many children experience do not mean more is being done to protect children. The growth in the size and complexity of the OOHC population is an unintended consequence of child protection policy and practice designed to achieve the opposite of child removal—family preservation. At the heart of the OOHC crisis is a paradox: more children with increasingly high needs are entering care than in the past *because* of the emphasis placed on supposedly ‘preventing’ abuse, neglect and entries into care.

Since the 1970s, the approach to child protection adopted by Australian child welfare agencies has been predicated on the idea that family preservation should be the primary goal.

The family preservation-based approach to child protection is the primary cause of the pressure on the OOHC system.

According to the Australian Institute of Health and Welfare (AIHW):

The current emphasis in policy and practice is to keep children with their families wherever possible. Where children, for various reasons, need to be placed in out of home care, the practice is to attempt to reunite children with their families.²⁹

Families facing difficulties in parenting children receive a range of support services, and every troubled parent is given virtually limitless opportunities to address their problems. When families can no longer remain intact due to unresolved child safety issues, temporary child removal is preferred, and the re-unification of child with parents is attempted as quickly as possible. It follows that permanent removal, along with the use of adoption from out of care to provide foster children with stable and safe homes, has become taboo.

Too many children are being left in dangerous situations due to the misguided bias towards keeping abusive and neglectful families together.

The overly optimistic emphasis on family preservation means child removal occurs only as a ‘last resort’ after attempts to work with families to address their issues and change bad parental behaviours (particularly alcohol and drug problems) have been exhausted. Children end up being reported to child protection services multiple times because these parental problems are often entrenched and extremely difficult to change despite intensive support and counselling services. Even when parents are demonstrably incapable of properly caring for their children, child protection services fail to take appropriate action to protect

vulnerable children with well-founded and ongoing safety concerns. The proportion of reported children who are the subject of a substantiated finding of abuse or neglect and then to a re-substantiation within 12 months is 10% in Western Australia; 14% in Victoria; approximately one-fourth in Queensland and the Northern Territory; one-third in NSW, South Australia, and Tasmania; and more than half in ACT. The rate of re-substantiation and the numbers of re-substantiated children has increased or held steady in most states and territories in the last decade. (Table 7) Too many children are being left in dangerous situations due to the misguided bias towards keeping abusive and neglectful families together, which has swung the pendulum too far in favour of protecting the ‘rights’ of dysfunctional biological parents at the expense of the best interests of children.³⁰

Table 7: Percent of children subject to a substantiation the subject of a re-substantiation within 12 months

State or territory	NSW	VIC	SA	QLD	WA	TAS	NT	ACT
No. of children 2000–01	1,064	1,123	687	2,251	130	13	28	43
Proportion of children	16%	15.6%	41.2%	35.2%	11.5%	12.9%	8.4%	21.2%
No. of children 2008–09*	4,574	950	574	2,323	196	339	220	318
Proportion of children	32.3%	14.2%	30%	23.9%	10.3%	29.5%	24.3%	52%

Source: Productivity Commission, *Report on Government Services 2011*.³¹ * Latest year available.

The ramifications of the ‘underlying priority’³² to preserve and reunite families are far-reaching and impact heavily on the OOHHC system. Before eventually coming into care, most children tend to have long child protection histories—in NSW, the average number of days between a child’s first report and first entry into care is more than 1,200 (three and

a half years).³³ Statutory intervention comes too late for these children. Trying and failing, time and again, to rehabilitate extremely dysfunctional families does more harm than good. Due to delayed intervention, many children entering care have high and complex needs because they have been damaged, sometimes irreparably, by prolonged exposure to significant parental abuse and chronic neglect of physical, emotional and psychological needs.

The emphasis on family preservation is also responsible for the longer times spent in care and the consequent increase in the size and cost of the OOHC system. Children unable to return home due to serious and hard-to-resolve parental problems are staying longer, sometimes indefinitely, in ‘temporary’ care waiting for their parents to be ‘rehabilitated’ and family circumstances to stabilise sufficiently to attempt reunions.³⁴

In the interim, foster placements involving children with high needs are also more likely to break down due to these children’s trauma-related challenging behaviours. When children are finally returned home, often at the first and premature sign of parental improvement, living arrangements become highly unstable due to the propensity for unrealistic reunions to break down.³⁵ When parental problems re-emerge, re-damaged children re-enter care.³⁶ The difficulties of caring for high needs children, together with the heartbreak when children are returned to dysfunctional parents, are major contributors to the shortage of foster carers. Frustration and burnout lead existing carers to drop out, while reports of negative fostering experiences discourage potential carers from volunteering.³⁷

The longer that children linger on the removal-reunion treadmill, the greater is the harm done due to a ‘snowballing’ effect. Unstable living arrangements due to placement breakdowns and failed reunions severely disrupt schooling and seriously compromise educational opportunities. Frequent school changes and non-attendance mean children fall behind. These educational deficits are compounded as children grow older and struggle to cope in higher grades, increasing the likelihood of dropping out permanently.

Many children entering care have high and complex needs because they have been damaged, sometimes irreparably, by prolonged exposure to significant parental abuse.

Instability

Good parents would appreciate how bad current policy and practice is for the welfare of children caught up in the OOHC system. Children need security and consistency to thrive—established routines and loving attention from trusted carers. There is, however, a large and uncontested international literature on the importance of permanency—of stable and secure living arrangements with at least one devoted carer—for a child’s psychological development.³⁸ ‘Attachment deprivation,’ a syndrome associated with parental inattention to their children’s basic needs and with periodic moves from one placement to another, impairs children’s cognitive, behavioural and emotional development, including the capacity to bond, trust and form close relationships throughout life.³⁹ Research has consistently found that uncertainty and disruption, particularly at younger ages, are major contributors to poor behavioural, developmental, educational and social outcomes in childhood and later in life.⁴⁰ Stability is a strong predictor of better outcomes.⁴¹ Not surprisingly, foster children subjected to numerous placement moves also lament this and cite a trusting relationship with carers as vital to their well-being.⁴²

The emergence of an extensive literature on the importance of permanency (routinely cited in academic research and reports on child protection and OOHC⁴³) was closely linked with the identification in the 1980s of the problem of ‘drift’ in care—children experiencing multiple ‘temporary’ placements over many years. This led to the introduction of ‘Permanency Planning’ legislation in the United States. Similar legislation, which formally recognises how vital stability is to child welfare, has been enacted in other countries, including in some Australian jurisdictions. The permanency planning provisions of the NSW *Children and Young Persons (Care and Protection) Act 2001* requires Department of Community Services (DoCS) to draw up a long-term plan to provide a child or young person with a stable

placement that offers long-term security. ‘Stability planning’ is also a statutory requirement of the Victorian *Children, Youth and Families Act*. However, these requirements are honoured more in the breach than in observance.⁴⁴

Permanency planning legislation is designed to set time limits on temporary care placements and mandate timely decisions about permanent living arrangements, ideally within six months, especially for younger children. In the United States, the aim is to expedite normal living arrangements for children in a stable family setting (as opposed to institutional or unstable foster care) by either formal adoption from out of care by suitable families or by *de facto* adoption by foster carers granted permanent care orders (guardianship) until the child is 18. In Australia, permanency laws have proven ineffective while adoption, formal or *de facto*, remains officially taboo.⁴⁵ Here, the importance of achieving stability and restoring children to a family setting has been interpreted differently by the social workers and other professionals in charge of child protection:

The presumption [is] that separation [from biological parents] should be temporary wherever possible and every effort must be made to reunite children with their families of origin. In contrast to the United States, then, the emphasis in Australian child welfare policy is on family reunification ahead of placement permanency.⁴⁶

Yet Australian child welfare agencies are reluctant to own up to the results of putting preservation before permanency. The publication of high quality OOHc data—such as the average number of placements per child each year⁴⁷—would reveal the level of ‘churn’

The importance of achieving stability and restoring children to a family setting has been interpreted differently by the social workers and other professionals in charge of child protection.

in the system and exactly how many children bounce in and out of care, in and out of multiple placements, and in and out of failed family reunions. It would also reveal the number of children languishing in care and lacking permanent homes who, if allowed, might be made available for adoption. The only official time series data currently available to the public are the number of placements during the time spent in care for each child who exited care each year. (Table 8) The nationwide percentage of children exiting after 12 months or longer in care with three or more placements has almost doubled from 26.8% in 2001–02

(the first year for which data are available) to 51.2% in 2009–10. The worst performing states with the highest increase in instability are NSW, Victoria, Queensland and Western Australia. The Northern Territory and ACT recorded smaller but still substantial increases in instability. Tasmania currently has the second highest rate of instability for care leavers in the nation.

Table 8: Percent of children on care and protection order and exiting ‘out of home’ care during the year after 12 months or more in care by number of placements (2001–10)

State or territory	NSW	VIC	SA	QLD	WA	TAS	NT	ACT	Australia
Total children 2001–02	582	405	96	356	104	–	15	30	1,588
3 or more placements	17.9%	25.4%	63.5%	28.9%	36.5%	–	40%	36.6%	26.8%
Total children 2009–10	912	726	188	909	375	93	59	45	3,307
3 or more placements	45.6%	50.6%	68.1%	52.4%	50.1%	64.5%	55.9%	53.3%	51.2%

Source: Productivity Commission, *Report on Government Services 2011*.⁴⁸

It is generally conceded that instability in care is linked to the numbers of children with high needs and ‘pose insurmountable problems for generalist foster carers.’ Unstable placements are therefore ‘not unusual for foster children.’⁴⁹ However, the information available on placement disruption remains patchy, historical and sometimes anecdotal. But it is well informed: according to the President of the NSW Foster Care Association, Denise Crisp, ‘most children who are sent home come back to care more damaged ... [and] might have 20 foster placements because of their behaviour as a result of what they have suffered.’⁵⁰ The evidence confirms that large numbers of children in care experience a disturbing level of instability. (See Box 1)

Box 1: Foster ‘churn’

- A longitudinal study in South Australia by Paul H. Delfabbro, James G. Barber, and Lesley Cooper (2000) found that one-fifth of the surveyed children had been placed once or twice in foster care; one-fifth between three and five placements; one-fifth between six and nine times; and almost one-fourth had 10 or more placements.⁵¹
- A Victoria Department of Human Services report (2003) found that just 7% of children in care had just one placement; 65% had four or more placements.⁵²
- A Queensland Crime and Misconduct Commission inquiry (2004) found that before leaving care, 37% of children had experienced four or more placements.⁵³
- A NSW DoCS option paper (2006) revealed that in 2004–05, only one-third of foster children had one placement in their current period in care and 16% had four or more placements.⁵⁴
- The Wood report (2008) on child protection in NSW found that in 2006–07, 30% of children entering care had a previous OOHC episode, suggesting that ‘the decision concerning restoration may not have been comprehensive.’ The report also found that in each year between 2005 and 2008, more than half of all children in OOHC had two or more placements, with the likelihood of multiple episodes and placements increasing with age and time spent in care.⁵⁵
- In Victoria, the *Looking After Children Outcomes Data Project Final Report* (2010) found that the average number of placements for children was 4.6, but suggested that this was likely to be an underestimate: many children ‘could not quantify the number of carers because the number was too high to record accurately. For example, some of the responses to this open-ended item were “Too many”, “Lots” and “More than 20”.’⁵⁶
- According to the Bath report (2010), ‘In the Northern Territory, a child could be the subject of five or six daily care and control or short term parental responsibility orders covering ten to twelve years and during which no planning can be commenced for long term placement outside the family.’⁵⁷

System abuse

Many studies have confirmed that children in care do exceptionally badly compared to peers who grow up in the family home. Educational outcomes are worse,⁵⁸ and the incidence of emotional, psychological, behavioural and other health problems is much higher. More than half the Australian children in foster and kinship care have a significant clinical mental illness, a much higher rate than in the general population.⁵⁹ While this is understandable to an extent (maybe even expected, given the trauma these children experience in the family home⁶⁰), bad experiences in care compound parental abuse and neglect. Children who suffer harm due to disruption are identified as those having had two or more placement breakdowns in the previous two years due to behaviour.⁶¹ The extended periods of instability these children are subjected to are an independent and additional agent of harm that exacerbates behavioural and other problems. Studies show the higher the ‘unconscionable’ number of detrimental placement breakdowns, the higher is the level of disturbance observed.⁶²

Activists who claim that poor outcomes for children in care prove that family preservation is best use flawed reasoning.⁶³ The problems many children encounter in care are due to the problems brought into care due to child protection failures. Using family preservation and child removal as a last resort, combined with a shortage of foster carers, has led to increased selectivity in OOHC placements.⁶⁴ Only children with the most serious needs and severe problems are placed in care nowadays; these children have already been damaged by parental abuse and neglect.⁶⁵ (The higher threshold for abuse and neglect also means that many children who once would have been—and should be—removed for health and welfare reasons into care continue to languish in the family home.)

The harm done to children occurs along a continuum. Studies show that approximately 80% of children in long-term care are able to establish stable and secure placements. Hard working, patient and dedicated carers help these children make up some lost ground, and achieve small but significant improvements in social and psychological outcomes, which is also to say that their futures remain compromised by their childhoods. The remaining 20% of severely damaged children are the ‘highest needs kids,’ who experience additional harm due to frequent placement breakdowns caused by parental abuse and neglect-related

The extended periods of instability these children are subjected to are an independent and additional agent of harm that exacerbates behavioural and other problems.

challenging behaviours.⁶⁶ Crucially, high needs children do *not* end up in care due to lack of access to early intervention and family support services (as the orthodox policy focus on ‘investing’ in ‘diversionary’ programs insists) but despite being ‘most likely’ to access a ‘wide variety of services and interventions’ before entering care, which failed to resolve family problems and necessitated removal into care.⁶⁷

Incontrovertibly, many damaged, disturbed and distressed children in OOHC are victims of ‘system abuse.’⁶⁸ The first 2006 national comparative study of high needs kids found that the children and young people most likely to experience additional harm due to unstable living arrangements share a common history. They have a long record of dealings with child protection authorities regarding serious welfare concerns;⁶⁹ have been removed as a last resort at older ages;⁷⁰ have been harmed by chronic abuse and neglect by highly dysfunctional families;⁷¹ and have had multiple placements because of complex problems⁷² and multiple episodes of care following failed family reunions.⁷³ As Alexandra Osborn and Paul H. Delfabbro concluded:

Almost all the children had been subjected to traumatic, abusive, and highly unstable family backgrounds ... [and] it is almost certainly true that many of the children displaying significant emotional and behavioural difficulties when they are older had already suffered significant, possible irreparable, physical and psychological harm during their early years.⁷⁴

Dirty secret

That this is the experience of increasing numbers of children in care is accepted in child welfare circles up to a point. As a major 2005 National Child Protection Clearinghouse report on the problems facing OOHC in Australia by Leah Bromfield and others observed:

Child welfare services are recognising the importance of family support and early intervention. Out of home care is viewed as a last resort and the purpose is always for children to be reunited with their birth parents if possible. This shift in the ‘hard end’ of child welfare practice has meant that children who enter out of home care are likely to have chronic child maltreatment and family disruption prior to entering care, and therefore have more complex needs than children entering such care in the past.⁷⁵

A second report by Ciara Smyth and Tony Eardley, published three years later by the University of New South Wales Social Policy Research Centre, also noted:

It is children who are beyond the scope of early intervention programs, or for whom early intervention has failed, who are the most likely to enter care. Provision for high needs children is limited and in most cases the only placement option is with foster or kinship carers. However, many carers struggle to meet the demands of caring for these children, leading to an increase in placement breakdowns and carers leaving the system.⁷⁶

Yet the policy literature on the OOHC crisis is silent on this crucial issue. Most academics who study the OOHC crisis support the ‘ideology’⁷⁷ that says family preservation is best, and dismiss any suggestion that this approach is bad for vulnerable children.⁷⁸ They therefore refuse to frankly discuss the causal links between the problems in the statutory child protection system and the problems in the OOHC system.

Hence the dirty secret of Australian child protection—the high number of damaged children in care due to family preservation-based policy and practice—is only obliquely acknowledged. That the complexity of children’s needs reflects ‘the failure of early intervention programs to ameliorate abuse and neglect in highly dysfunctional families’⁷⁹ is acknowledged, as in the examples above, only in passing. No comment or criticism is made of the wisdom, utility and morality of the shift in the ‘hard end’ that exposes children to the twin and related evils of harm at home and instability in care.

Incontrovertibly, many damaged, disturbed, and distressed children in OOHC are victims of ‘system abuse.’

Professionalisation

Instead of addressing systemic causes, attention has shifted to ameliorating and managing the symptoms.

Academic and policy literature on OOHC predominantly focuses on the shortage of ‘alternative placement options’ and the lack of ‘specialist therapeutic services’ in foster and residential care settings.⁸⁰ The rising number of high needs children is cited as evidence of the inappropriateness of using volunteer foster families to care for them. The instability experienced by ‘difficult’ children in family-based care is blamed on an over-reliance on foster care and the excessive closure of residential facilities more suited to housing such children.⁸¹ A consensus has hereby emerged ‘among practitioners, policy makers and researchers that there is a need to expand the range of OOHC options to cater for a heterogeneous OOHC population with differing needs.’⁸²

Unpacked, the advice tendered to government since the late 1990s has been that traditional foster care is outdated. The principal concern of the OOHC system is no longer to simply provide children with normal family environments; substitute parents; and accommodation, food, health care and schooling. Given the numbers of ‘highly deprived’ children in care, it is unrealistic and counter-productive to expect volunteer foster carers with limited training and support to manage ‘extreme behaviours’ that result in frequent placement breakdowns. Instead, we need to develop new specialised models of ‘out of home’ care such as ‘treatment’ foster and residential care. Skilled staff with qualifications in relevant disciplines should be employed as full-time carers or provide specialist training and support for foster carers and extra counselling and assistance.⁸³

The best argument for a modest expansion of a mix of placements is that there will always be children unsuited to traditional foster care who in the past did not get the support they needed. Child protection failures will occasionally occur even in the best, most accountable systems. Some children will have experienced abuse, neglect and trauma, and they will require ‘intensive’ care incorporating a ‘therapeutic component’ and multidisciplinary, wrap-around support services.⁸⁴

But the arguments for the professionalisation of the OOHC system are shallow and perverse. The leading Australian advocate of this approach is Marilyn McHugh of the Social Policy Research Centre at UNSW. McHugh's analysis of the issues goes no deeper than to call for the recruitment, training and support of carers and pay them a professional salary for taking high needs children into their homes.⁸⁵ Long-winded official inquiries mimic academic papers and assorted research reports, and exclusively focus on the 'lack of appropriate care options.' The 2005 Senate Community Affairs Reference Committee report *Protecting Vulnerable Children* noted 'disturbing trends'—child removal as last resort, failed reunifications, and placement instability—indicating the failure of the OOHC system to cope with increasing numbers of complex children. Yet the committee's policy recommendations were confined to calling for greater 'diversity' in placements options such as 'therapeutic foster care' and 'residential care staffed by highly-trained professionals.'⁸⁶ What isn't acknowledged is that a child welfare system that has to employ professionals to try to fix the children the system itself has helped damage is a failed system.

Re-institutionalisation

The large number of high needs *children* in care is only half the problem. Two broad groups make up the OOHC population. The first is damaged children usually aged 10 and under who have suffered parental abuse and neglect. The second is disturbed teenagers (invariably on long-term care orders) who have suffered highly disruptive childhoods. The two groups represent the same children at different stages of life.⁸⁷

As noted by the Victorian Child Death Review Committee, the coming issue for all jurisdictions is responding to the needs of 'hard to help' adolescents whose traumatic childhood experiences at home and in care are played out through challenging behaviours at older ages.⁸⁸

For this severely disturbed group of young people, it is no longer safe to live in the family home; nor is it possible for them to live safely with normal foster families due to uncontrollable, threatening, violent, and self-destructive behaviours, which necessitates round the clock supervision.⁸⁹

This is a horrifying testimony to the extent of child protection failures in this country. Once again, ideology and distorted priorities dominate the debate. Discussion of 'troubled teens' is restricted to the need for a wider range of placements using two strategies: a major reappraisal of 'policies that prioritise home-based care in the hierarchy of placement options'⁹⁰ and the 'increasing recognition' of the 'integral' role of residential care in the OOHC system.⁹¹

Hence, residential care is now described as a 'realistic option for children and young people who exhibit major behavioural and emotional problems.'⁹² The alarming significance of this development in OOHC policy cannot be exaggerated. When large-scale residential care facilities were closed in the 1980s and 1990s, the case for de-institutionalisation of children was unarguable. The detrimental impact, including physical and sexual abuse, of institutional care on children has been documented since the 1950s. Yet 30 years later, governments are urged to be 'non-prescriptive' and to 're-institutionalise' the care system to cater for all the children damaged and disturbed by child protection failures. This truth, of course, cannot be told by those who recommend the expansion of the residential care sector, who instead hide behind the language of support, therapy and responding to the diverse needs of 'unfosterable' children.

The truth is far more confronting. Nationally, the proportion of the OOHC population in residential care is relatively small (5% in 2009–10) and has fallen (from 7% in 2000–01) as the numbers in foster and kinship placements have swelled. *But the actual number of children in residential care throughout Australia has increased by 56%.* Decades of falling numbers of children in residential care have been reversed, with the residential population bottoming out in 2004–05 at 939 children and then more than doubling to 1,800 by 2009–10.⁹³

The dirty secret of Australian child protection—the high number of damaged children in care due to family preservation-based policy and practice—is only obliquely acknowledged.

The total residential population has held steady in Victoria and Western Australia, and increased by 11% in NSW, 402% in South Australia, 600% in Queensland, and 194% in ACT. (Table 3) Because residential care is the only suitable option for disturbed children and young people, the increasing size and cost of the residential OOHC population is a default measure of the poor performance of child protection services.

Today's residential care facilities tend to be smaller-scale NGO-operated group homes with no more than six residents. However, these facilities have a strong psychiatric care focus and include 'secure facilities.'⁹⁴ These are the modern-day asylums used to lock up disturbed teenagers whose behaviour poses a threat to themselves and to others.

Political economy

In all states and territories, the recruitment of an 'appropriately skilled and qualified carer workforce' and the provision of 'more therapeutic residential facilities' is a policy priority.⁹⁵ The paradigm shift from unskilled, volunteer, home-based care has been accepted, and the roll-out of programs that expand the range and capacity of treatment-focused OOHC options has proceeded at different paces in different jurisdictions.⁹⁶ In 2009, for instance, the Victorian government approved a four-year \$135 million 'Directions' reform package to recruit professionals to staff treatment foster services and redesign residential care facilities for an enhanced therapeutic focus.⁹⁷

The Foster Carer's Association of Victoria maintains that the general rate of pay for foster carers (based on the cost of raising a 'normal' child) is largely redundant due to the high concentration of children with high needs in the OOHC population.⁹⁸ The latest research shows significant unmet need for treatment foster and residential care.⁹⁹ This suggests OOHC spending could rise, even soar, in coming years. This is likely to eventuate as politics tends to abhor such a vacuum, especially when commentators and lobby groups are urging policymakers to fill it.¹⁰⁰ State and territory governments are sure to come under intense political pressure to provide additional funding and meet the particularly high cost of expanding the residential care sector.

NSW's position as one of the national leaders in the growth of the size, scale and cost of the OOHC system is a straw in the wind. In 2002, the Carr government provided an additional \$617 million over six years to meet the anticipated demand and increase in the number, type and quality of OOHC placements.¹⁰¹ This included the creation of 'intensive' foster care placements provided by NGOs and new residential placements by for-profit private companies and not-for-profit NGOs.¹⁰² The number of high needs children increased from 240 in 2002 (2.6% of the OOHC population) to 522 in 2007 (4% of the OOHC population). The average annual cost in 2007 was more than \$100,000 per placement, and the total cost accounted for a staggering 23% of the OOHC budget.¹⁰³

Residential demand and cost trends have important financial implications for state and territory budgets.¹⁰⁴ Sound and affordable child protection should therefore concern not only child welfare ministers and their shadows but also premiers, treasurers and finance ministers.

Sound and affordable child protection should concern not only child welfare ministers and their shadows but also premiers, treasurers and finance ministers.

Monuments to harm

The unpalatable reality, however, is that the overburdened OOHC system is ill-equipped to deal with its short- to medium-term challenges. Hence, there is a distressing logic to the view that the complexity of the children in care necessitates greater professionalisation and residentialisation—and an inexorable rise in OOHC costs.

In the absence of alternative placements, general foster (and kinship) carers are struggling to give 'difficult' children stable homes and receiving limited assistance. Many of the staff in residential care lack training and qualifications, and departmental oversight is generally poor due to heavy workloads.¹⁰⁵ Children receive limited support and supervision in these facilities,

and are at risk of assault and abuse by staff and other highly volatile residents. Change therefore seems desirable, even unavoidable.¹⁰⁶ The brutal, inescapable truth is that damaged children already trapped in the system need long-term residential care in the coming years because disturbed teens have nowhere else to go.

But this does not mean policymakers should be resigned to constructing a more elaborate OOH system. In this, above all, genuine prevention is superior to cure. Good quality, full-time, one-on-one foster care may allow some children to recover from childhood maltreatment. However, the evidence that treatment foster care is effective for damaged children is equivocal and tainted by the ‘methodological limitations of many of the studies,’ particularly with respect to long-term outcomes.¹⁰⁷ There has been no rigorous evaluation of outcomes for children in the intensive foster and therapeutic residential care models developed by states and territories.¹⁰⁸ But the ethics of ‘greater research’ are dubious: it is morally abhorrent to use abused and neglected children as guinea pigs when sound child protection policy and practice can prevent child harm and trauma.

Even advocates of treatment-oriented residential care admit the long-term prognosis is poor and may only achieve ‘modest changes to behaviour because of the level of harm experienced.’¹⁰⁹ By the time damaged children reach adolescence, the problems are so entrenched

As residential facilities are re-opened, we should lament that we are building monuments to child protection failures.

and developmental deficits so great that the prospects for recovery are bleak.¹¹⁰ When disturbed teens finally exit care, they experience high rates of social disadvantage, including unemployment, mental illness, substance abuse, crime, and incarceration. (Transitional support services for those entering independent living as adults are patchy—another gap in the system with significant cost implications.¹¹¹) The lifetime, whole-of-government costs incurred across social welfare, housing, health and justice as a result of child protection failures consume large quantities of public resources.

More than half the juveniles incarcerated in NSW were abused as children, and (only) a quarter have a history of foster or kinship care.¹¹² Numerous international and Australian studies show how childhood abuse, including failed early intervention by child welfare authorities and failed family re-unions, is a powerful predictor of adult homelessness.¹¹³ Child abuse and neglect is an intergenerational problem: it creates the next generation of abusive parents and maltreated children. As the Senate Community Affairs Committee rightly warned, ‘the social and economic costs of not addressing these issues will only escalate in the future.’¹¹⁴

To allow this cycle of failure, harm and escalating cost to continue would bear out Einstein’s definition of insanity: ‘doing the same thing over and over again and expecting different results.’ As residential facilities are re-opened, we should lament that we are building monuments to child protection failures. Only when these facilities are closed down again, and when we no longer have to pay teams of professionals—an army of taxpayer-funded psychiatrists, psychologists, therapists, counsellors, mentors, social workers, and case workers—to try to fix the children damaged by their parents and then further damaged by the system, will we know we have got child protection right.

The way to get it right is to fundamentally rethink how to provide safe homes for children by removing the taboo on the adoption of children from out of care by suitable families.

Adoption

Children adopted from care at earlier ages do better on short- and long-term personal and social indicators than children who are returned to their parents or remain in foster or residential care. Children adopted at earlier ages also do better compared to those adopted at older ages as these adoptions are more likely to break down due to children’s abuse and neglect-related behavioural and other problems. Still, the vast majority of older age adoptions are successful. The evidence compiled by Patricia Morgan from multiple US and UK studies shows that adoption is the tried and tested way to provide alternative homes for children and help reverse the setbacks experienced early in life; the claim that ‘children are always better off with natural parents’ is wrong.¹¹⁵

That early statutory intervention and permanent removal is in the children's best interest was the major conclusion of the 2005 House of Representatives inquiry into adoption in Australia, which found that 'adoption is currently being under-used in Australia and effort should be given to increasing the number of children who are adopted out of care.'¹¹⁶ Just 61 Australian children were adopted by non-relatives and 53 by foster carers in 2009–10, a total of 114 adoptions compared to more than 8,500 adoptions in the early 1970s.¹¹⁷

The massive fall in adoptions is rightly attributed to social changes: widespread availability and use of contraception, increased abortions, and the introduction of government benefits for single mothers. Prior to the 1970s, most adoptions involved the babies of unwed teenage mothers. But the decline in adoptions is not just a supply-side phenomenon, given the extraordinary number potential candidates for adoption currently in care. On 30 June 2010, 22,796 children had been in care continuously for more than two years—64% of the total OOHC population.¹¹⁸ Many of these children, especially in light of the harm they are exposed to in and out of care, could and should have been adopted years earlier but for official anti-adoption attitudes. Child welfare agencies are unwilling to make children available for adoption no matter how inadequate their parents unless parents consent to giving up their parental 'rights.'

Scholars ideologically opposed to adoption maintain that:

Domestic adoption in Australia appears to have lost appeal for parents in search of children partly because the children available for adoption tend to be older or have other special needs. Australians have, on the whole, been less willing to adopt children with special needs, including older children, than their counterparts in the United States and Britain.¹¹⁹

This is not an accurate account of Australian attitudes to adoption.

Pre-1970s, those who could not have their own children but wished to be parents preferred to adopt babies. This was realistic because there was a reliable supply of infants born to unwed teenage mothers. Many older children in care never found adoptive homes and languished in care their entire childhoods. But this was primarily due to policy. For most of the twentieth century, older children in care were classified as 'unadoptable' because of their 'history.' A rough start in life was believed to have irreversibly damaged them, and their 'special needs' meant that adoption by a normal family would fail. The resultant practice of not making children in care available for adoption mirrored the official belief that parents preferred 'untainted' babies. This became self-fulfilling when agencies made no effort to recruit adoptive parents and turned away those who expressed an interest in adopting older children. As a result, most 'hard to place' children were institutionalised before the 1950s. This began to change when the negative effects of institutionalisation on children's intellects and personalities started to be recognised, which led to greater use of foster care for children with no prospect of returning home but still considered unsuitable for adoption. The few older children adopted from care were usually adopted (as is the case today) by long-term foster parents. Attitudes and policy changed (briefly) in the mid-1970s driven by research from the United States showing children could be successfully adopted irrespective of age. Despite some rapid and early successes with older-age adoption, this discovery never fully translated into practice and was soon forgotten with the wholesale shift towards family preservation.¹²⁰ Australian child welfare agencies made fewer children in care available for adoption to the point that they ceased reporting the number of children waiting for adoption in the 1990s.¹²¹

Many of these vulnerable children, could and should have been adopted years earlier but for official anti-adoption attitudes.

The personal desire of the childless to raise children is still strong, as is the parallel social motive of wanting to give good homes to disadvantaged children. But social change has evaporated the supply of babies. As circumstances have changed, the attitudes and expectations

of prospective adoptive parents regarding older children have shifted as well. Hence, the adoption of older children from overseas has become commonplace. Only one-third of overseas adoptions involved children aged less than 1 in 2009–10, and some of these children would have higher needs due to sub-optimal early years.¹²² By contrast, adoption from care hasn't succeeded in Australia because family preservation-focused child welfare agencies refuse to legally terminate the parental responsibilities of bad or inadequate parents who could contest adoptions.¹²³ Profound child protection policy and practice reform is essential, and can, in turn, further encourage attitudinal change regarding adoption of older children by restoring foster care to what it can and should be for many children—a natural pathway to adoption.

The mischievous idea that Australians are less willing to adopt older children than parents in the United Kingdom and the United States deliberately ignores the role ideology and policy play in obstructing adoption from out of care. The official taboo on adoption seems much fiercer in Australia than in comparable countries. Similar anti-adoption attitudes prevail in the United Kingdom as in Australia. Yet in England, 3,200 children were adopted from out of care in 2009–10. Of these children, 70% were aged 1 to 4, 25% were aged 5 to 9, and just 2% were under the age of 1. In 70% of the cases, children were placed for adoption in their 'best interests' because of abuse or neglect; in 12% because of family dysfunction; and in 9% because the birth family was in 'acute stress.' The number of children in care per capita in England and Australia is very similar. If Australian children in care were adopted at the same rate as in England, there would have been approximately 1,700 adoptions from care in Australia in 2009–10.¹²⁴

On average in the last decade, more than 50,000 United States children have been adopted every year from out of care by foster carers and others wanting to become adoptive parents.¹²⁵ Of the children adopted from care in 2010, only 2% were aged less than 1 and 61% were aged 4 and over. Approximately 50% of the adoptions from care were by foster parents, 35% by relatives, and 15% by non-relatives.¹²⁶ The number of children in care per capita in the United States and Australia is very similar. If Australian children in care were adopted at the same rate as in the United States, there would have been approximately 4,800 adoptions from care in Australia in 2009–10.

Profound child protection policy and practice reform is essential to restore foster care to what it can and should be for many children—a natural pathway to adoption.

Given that foster carers have always tended to adopt older children, the US experience suggests that attracting the right people to be foster carers for the right reasons helps boost adoption rates. If fostering an infant becomes a recognised pathway to adoption, more people seeking to adopt will volunteer. A start in this direction could be made by reforming carer payments. Replacing cash benefits with vouchers tied exclusively to children's health and educational needs would clear out those whose prime motivation for fostering is the money. A child-centred payment system would also remove the financial disincentives for adoption by foster parents, as vouchers can continue to be issued as long as adopted children are assessed as being 'in need.'¹²⁷

A logical and less roundabout approach is to preserve the differences between fostering and adopting while embracing a pro-adoption strategy. Foster care would mostly remain a method of providing temporary care for children who can return home and for those who can't. To provide permanent homes for the latter, a pool of prospective adoptive parents can be recruited primarily by implementing reforms that make local adoption from care a realistic and desirable prospect. Recruited parents will have to be committed to helping children overcome their difficulties. Fortunately, the right people will be self-selecting as such as a commitment is implied in their decision to adopt from care.

However, it is also important to be realistic about the circumstances in which adoption is most likely to occur and what is best for children. A severely troubled 12-year-old in care who has been let down by the system is more likely to end up in institutional care than

be adopted. The greater the parental abuse and neglect endured, and the more unstable the care history, the more severe will children's problems be and the greater the chance of adoptions breaking down. Earlier removal when children are younger and less damaged, combined with realistic decisions about the likelihood of successful family reunions, will reduce harmful delays, help recruit and reassure adoptive parents, and increase the chances of children finding good and stable adoptive homes.

Reform

There is compelling economic as well as child safety reasons why greater use of adoption from care must be on the agenda of state and territory governments. Adoption shifts the cost of raising children off government budgets. This is the only affordable way to provide stable homes for all the children in Australia who cannot live safely with biological parents. However, the necessary policy change to make adoption the rule rather than the rarest exception needs a concerted political effort. At present, few prospective adoptive parents even enquire about local adoption because the chances of success are so low. (Instead, they pursue expensive and drawn out overseas adoptions.) Policymakers can facilitate the adoption of more local children (see Box 2) from out of care by taking action along the following lines:

For adoption to become an integral part of Australian child protection, governments will have to cultivate cultural change within child welfare agencies.

- **Enactment**—of permanency planning laws by all states and territory parliaments
- **Enforcement**—of 'best practice' mandatory, time-limited decisions about realistic prospects for reunification and the creation of permanency plans after 12 months of continuous time in care (six months for very young children); the 'default' outcome for those judged unable to return home safely should be legal action to free the child for adoption
- **Extension**—of temporary care allowances to adoptive parents, plus needs-based assessed ongoing financial support for families adopting sibling groups and children with high needs
- **Guarantee**—of access to pre- and post-adoption support services (including respite care) to reduce breakdowns and assist with integrating children into their new functional families
- **Understanding**—that while adoption won't be cost free, it won't waste money on failed policies but deploy funding in the children's best interests and will be cheaper than long-term care costs, especially in much more expensive residential facilities
- **Education**—of the judiciary about parental incapacity, child development, and risks to children, particularly in 'cumulative harm' cases (child development deficits caused by chronic neglect of children's physical, emotional and psychological needs)
- **Awareness**—that forced adoptions will be closed¹²⁸ (adopted children would receive information about their birth parents and their child protection history only on reaching maturity); and that a well-adjusted child has a better chance of re-establishing a meaningful relationship with dysfunctional biological parents as an adult
- **Publication**—by child welfare agencies of annual data on the number of children in care, how long they have been in care, *and the number of children available for adoption.*

These are all necessary initiatives. But for adoption to become an integral part of Australian child protection, governments will have to cultivate cultural change within child welfare agencies. These agencies view the reluctance to remove children except as a last resort as a vast improvement on past practices that are believed to have punished the

poor and marginalised.¹²⁹ It is extremely rare for anyone in a position of authority to challenge this view and argue that too much time and money is being wasted in trying to fix families that can't be fixed.¹³⁰ †† Policymakers will need to say this loudly and publicly, and keep on repeating the message, if the fervent belief in family preservation is to be superseded by the principle of early adoption in the children's best interests.

A much stricter statutory child protection regime is obviously crucial, and politicians will have to mandate a new direction. Dysfunctional parents should have an opportunity to access support services to address their problems when they first come under child protection scrutiny. But in the best interests of children, the first chance ought to be the last chance to get their acts together in full knowledge of the looming consequences of non-compliance—the permanent removal of children and severance of parental rights. Requiring caseworkers to insist on timely and substantial commitment to behavioural change, and ensuring that attempts to rehabilitate the family and reunite children with parents are not endlessly prolonged, is neither 'harsh' nor 'unreasonable.' But it is unreasonable to prioritise the needs of bad or inadequate parents over the needs of their children. It is unreasonable to ignore how the crucial early years of childhood are compromised by last resort removal and unstable living arrangements. It is unreasonable to underestimate the extent of parental problems and the risks they pose to children. Half to three-quarters of parents involved with child protection services are estimated as having substance abuse problems. Given that substance abuse profoundly impairs parenting ability, and given that substance abusers are highly prone to relapse, there are good grounds for earlier and decisive statutory intervention to stop child maltreatment by parents using illicit drugs and abusing alcohol.¹³¹

National apologies for past practices ring hollow when children continue to be abused today by a failed system.

The need for sustained political leadership to achieve meaningful child protection reform is illustrated by the faltering path pursued by governments in Britain, where adoption has also fallen out of favour. The Blair government's *Adoption Act* of 2000 failed to increase the number of children adopted from care as intended due to the resistance from social workers. A new report released by the Cameron Coalition government in July 2011 stressed that responsible ministers must insist that the interests of children must come before the 'rights' of parents and must tell child protection authorities that adoption at earlier ages is in children's best interests.¹³²

In Australia, a major impediment to change is the heated politics that surrounds child welfare issues. Adoption has been stigmatised because of its association in the public mind with the Stolen Generations of Indigenous children who lost contact with kin and culture when taken away from their parent's custody, and with the experiences of the Forgotten Australians who were physically, sexually and emotionally abused in institutional care from the 1920s until the 1970s.¹³³ In the wake of the national apologies extended to these groups by the federal Parliament in 2008 and 2009 respectively, politicians are fearful of being falsely accused of creating another generation of stolen and forgotten children. Due to the sensitivities, policymakers prefer to profess support for preserving (rather than separating) families.¹³⁴ To intimidate politicians, advocates of family preservation are promoting the absurd idea that reviving adoption is tantamount to a return to the bad old days of taking children for racist reasons and ripping babies from the breasts of unwed teenage mothers. Adoption, for the reasons explained here, is actually the way to stop the systemic abuse of children.¹³⁵ National apologies for past practices ring hollow when children continue to be abused today by a failed system. The sad irony is that current child protection policy and practice is damaging and disturbing a new generation of forgotten children and young people to whom a national apology will one day be owed.

†† A notable recent exception and advocate of adoption is Queensland MP Alex Douglas. See Des Houghton, 'Families destroyed by violent tide,' *Courier Mail* (13 September 2010).

Box 2: Kinship Conundrum

- Adoption is not a one size fits all policy. It is not suitable for some older children who need long-term care, which can be best provided by granting permanent guardianship to foster carers. Kinship care may be appropriate for some children but should not be viewed as the most appropriate alternative for all children, let alone as the panacea for the OOHC crisis.
- Kinship care is currently the preferred default option for children because it is the 'least intrusive' and traumatic intervention. As logic suggests, placing a child with relatives can be the quickest path to 'normalising' their circumstances and maintaining family connections. It is also seen as a better way of promoting stability, ensuring fewer placement moves, and providing long-term care for children who cannot go home.
- Yet there are concerns that the shortage of foster carers, cost considerations, and workload pressures have encouraged overuse of kinship care as a 'cheap and easy' option at the expense of quality and safety, without proper assessments, monitoring and support.
- Concerns about Indigenous kinship care include fears that compliance with the Aboriginal Placement Principal (see p 2) is leading to children being placed in inappropriate and dangerous situations as the suitability of carers is being overlooked.¹³⁶ Children can be removed from the frypan of family dysfunction only to end up—based on the colour of their skin—in the fire of extended family and community dysfunction.¹³⁷ Indigenous children can end up receiving 'a lesser standard of care than non-Aboriginal children' in placements that fail to meet basic standards.¹³⁸
- Furthermore, the high needs children who make up the bulk of the OOHC population will be just as hard to handle for kinship as foster care, and will be at risk of experiencing placement disruption.¹³⁹ Hence, of real concern is the paucity of research on the outcomes for Australian children in kinship care.¹⁴⁰
- Kinship care is generally acknowledged to be 'grandparent' (or 'aunty') care in many instances. Low income, single older women, most of whom are not in the paid workforce and rely on government benefits, do most of the kinship caring. Many are stressed and struggle with their responsibilities.¹⁴¹
- What is 'known' and 'not known' about kinship care suggests that this option should be used on a strictly case-by-case basis. Many kinship carers provide excellent care for children. But there are reasons to believe households headed by grandparents and aunts are an inferior option in many cases. Some children, irrespective of race, would be better off in traditional foster care. Those in need of long-term care would be suitable candidates for adoption by non-relatives.

Conclusion

This monograph has shown that without fundamental reform of child protection policy and practice, children will continue to be harmed in the name of family preservation. Unless the emphasis on family preservation is reversed in the children's best interests, and greater use is made of adoption to give children safe and stable homes, governments will be forced to spend increasing sums on OOHC to cater to the high needs of increasing numbers of damaged, disturbed and distressed children and young people.

The ideology that says children should only be removed as a last resort is flawed and wilfully blind to the harm being done to the most vulnerable Australian children. Hence, the silence in the conventional policy discourse regarding the critical relationship between systemic child protection failures and the expanding size, scale and cost of the OOHC system is telling. The conventional discourse is preoccupied with ameliorating symptoms by ensuring high needs children can access 'appropriate' placement options with 'appropriately trained staff.' New models of care to make up for years of system abuse!

An unhappy truth lies beneath the inadequate policy advice given to Australian governments: the child welfare system does not operate in the children's best interests but in the interests of the professionals who staff it and the organisations they work for.¹⁴² Those who should be advocating on behalf of vulnerable children (including some of Australia's major children's charities) are mute. They will be actively hostile towards the message of this monograph¹⁴³ because their funding streams and employment opportunities depend heavily on the continuation of the current family preservation approach—an approach that is better at harming than protecting children, and which is best at sending a multitude of 'clients'—dysfunctional parents and traumatised children—the way of psychiatrists, psychologists, therapists, counsellors, mentors, social workers, and case workers.

An enlightened truth, and the bedrock of sound child protection, is that childhood is fleeting. This time of life must be optimised for children's sake, and for society's good, because bad early experiences have deleterious, life-long consequences. Because today's child is tomorrow's citizen, modern nations place a premium on the care, education and socialisation of children. That adults have a duty to nurture and not damage, disturb and distress children is a universal aspiration shared by all civilised peoples. That Australians allow this social norm to be transgressed in our rich and prosperous country is what's so shocking about the harm done under the rubric of child protection. The wrongs hereby perpetrated are of biblical proportions; doubly wicked are those who protest otherwise but must know, in their hearts, minds and consciences, that what they say is false.

Endnotes

- 1 Ciara Smyth and Tony Eardley, *Out of Home Care for Children in Australia: A Review of Literature and Policy* (Social Policy Research Centre, University of New South Wales: Sydney, 2008), ix.
- 2 AIHW (Australian Institute of Health and Welfare), *Child Protection Australia 2009-10* (Canberra: 21 January 2011), 54–55.
- 3 *Report on Government Services*, Chapter 15: Protection and Support Services, Table 15A.17: Children in out-of-home care by Indigenous status and placement type (Canberra: Productivity Commission, 28 January 2011), 87–101.
- 4 As above, Table 15A.16: Children in out-of-home care: number and rate per 1000 children aged 0–17 years by Indigenous status, 82–86.
- 5 AIHW, *Child Protection Australia 2009-10*, as above, viii.
- 6 As above, 56.
- 7 *Report on Government Services*, Chapter 15: Protection and Support Services, Table 15A.17, as above, 87–101.
- 8 Marilyn McHugh and Kylie Valentine, *Financial and Non-Financial Support to Formal and Informal Out of Home Carers*, Final Report for FaHCSIA (Department of Families, Housing, Community Services and Indigenous Affairs) (Sydney: Social Policy Research Centre, University of New South Wales, 2010), vii.
- 9 Caroline Overington, 'Kids lose out in foster care cash,' *The Australian* (8 November 2008).
- 10 *Report on Government Services*, Chapter 15: Protection and Support Services, Table 15A.1: State and Territory Government real recurrent expenditure on child protection and out-of-home care services, as above, 12–16.
- 11 *Report on Government Services 2011*, Figure 15.14: Out-of-home care efficiency indicators (2009–10 dollars).
- 12 In the Northern Territory, since 2002–03, the first year for which figures are available, real spending has increased by 107%.
- 13 *Report on Government Services*, Chapter 15: Protection and Support Services, Table 15A.3: State and Territory Government real recurrent expenditure on out-of-home care services, as above, 19–21.
- 14 As above.
- 15 As above.

-
- 16 Alexandra Osborn and Leah Bromfield, *Residential and Specialised Models of Care*, Research Brief No. 9 (Melbourne: National Child Protection Clearinghouse, 2007), 3.
 - 17 Jeremy Sammut, *Fatally Flawed: The Child Protection Crisis in Australia*, Policy Monograph 97 (Sydney: The Centre for Independent Studies, 2009).
 - 18 Arthur Reynolds, Lindsay Matheson, and James Topitzes, 'Do early Childhood Interventions Prevent Child Maltreatment? A Review of Research,' *Child Maltreatment* 14:2 (2009), 200.
 - 19 Amy M. Heneghan, Sarah M. Horwitz, and John M. Leventhal, 'Evaluating Intensive Family Preservation Programs: A Methodological Review,' *Pediatrics* 97:4 (1 April 1996), 535–542.
 - 20 Gemma Jones, 'NSW Coalition plan for kids in care to return to their families,' *The Daily Telegraph* (3 March 2011).
 - 21 In Victoria, 'policy is focused on directing resources towards intensive family support services to reduce the number of children placed in *out of home care*.' *Own Motion Investigation into Child Protection—Out of Home Care* (Melbourne: Ombudsman Victoria, 2010), 26.
 - 22 *Report on Government Services*, Chapter 15: Protection and Support Services, 15.5: Profile of juvenile justice services, as above.
 - 23 AIHW, *Child Protection Australia 2009-10*, as above, 46.
 - 24 *Own Motion Investigation into Child Protection—Out of Home Care*, as above, 66.
 - 25 AIHW, *Child Protection Australia 2009-10*, as above, 47 and Table 4.3.
 - 26 DHS (Department of Human Services), *Public Parenting: A Review of Home-based Care in Victoria* (Melbourne: 2003).
 - 27 AIHW, *Child Protection Australia 2009-10*, as above, 53.
 - 28 Senate Community Affairs Committee, *Protecting Vulnerable Children: A National Challenge* (Canberra: Commonwealth of Australia, 17 March 2005).
 - 29 AIHW, *Child Protection Australia 2008-09*, Child Welfare Series No. 47 (Canberra: 2009), 36.
 - 30 Jeremy Sammut, *Fatally Flawed*, as above.
 - 31 *Report on Government Services*, Chapter 15: Protection and Support Services, Table 15A.10: Children who were the subject of a substantiation during the year and who were also the subject of a subsequent substantiation within 3 and/or 12 months, 2008-09, as above, 17–18.
 - 32 Ciara Smyth and Tony Eardley, *Out of Home Care for Children in Australia*, as above, v.
 - 33 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 New South Wales, 2008), 601.
 - 34 *Own Motion Investigation into Child Protection—Out of Home Care*, as above, 67: 'In relation to the increasing average length of stay for children placed in *out of home care*, data provided by the department on the complex parental characteristics of children in care indicates that family violence and substance abuse remain highly prevalent. These factors are often combined with low income, mental health concerns and physical or intellectual disabilities. It is clear that the greater the complexity of factors necessitating a child's removal from their family home, the longer it may take to stabilise that family so that the child can return.'
 - 35 The Victorian Department of Human Services found that only 20–30% of reunions were successful after a five-year period due to the return of children to unsuitable family situations. Cited in Senate Community Affairs Committee, *Protecting Vulnerable Children* (see endnote 27), 103.
 - 36 Paul Delfabbro, et al., *Certainty for Children in Care: A Study into the Placement History and Social Background of Infants Placed into South Australian Out of Home Care 2000-2005*, Research Report (Department for Families and Communities, Government of South Australia, July 2007), 6.
 - 37 Ciara Smyth and Tony Eardley, *Out of Home Care for Children in Australia*, as above, 1. The shortage of carers has also been attributed to the influence of social changes, particularly the entry of more women into paid employment.
 - 38 Vera Fahlberg, *Attachment and Separation* (London: British Agencies for Adoption & Fostering (BAAF, 1982); Jack P. Shonkoff and Deborah A. Phillips (eds.), *From Neurons to Neighbourhoods: The Science of Early Childhood Development* (Washington, DC: National Academy Press, 2000).
 - 39 Y. Gauthier, G. Fortin, and G. Jeliu, 'Clinical Application Of Attachment Theory in Permanency Planning for Children in Foster Care: The Importance of Continuity of Care,' *Infant Mental Health Journal* 25:4 (2004), 379–396.

- 40 *Own Motion Investigation into Child Protection—Out of Home Care*, as above, 101.
- 41 *An Outline of National Standards for Out of Home Care* (Canberra: Commonwealth of Australia, 2010), 3.
- 42 Instability ‘was one of the stand-out concerns expressed in meetings with young people in care whose asked why it was that they were moved from placement to placements so often.’ NT Government, *Growing them Strong, Together: Promoting the Safety and Wellbeing of the Northern Territory’s Children*, Report of the Board of Inquiry into the Child Protection System in the Northern Territory (the Bath report) (Darwin: 2010), ‘Summary,’ 35.
- 43 The Wood report (see endnote 32), 614.
- 44 The Victorian Department of Human Services consistently fails to comply with its statutory obligation to permanency plan, and consistently focuses on family reunification instead. *Own Motion Investigation into Child Protection—Out of Home Care*, as above, 101.
- 45 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), 127–128.
- 46 James G. Barber and Paul H. Delfabbro, ‘Placement Stability and the Psychological Well-Being of Children in Foster Care,’ *Research on Social Work Practice* 13:4 (July 2003), 416.
- 47 Joe Tucci and Chris Goddard, ‘Kept in dark on child protection,’ *The Age* (3 November 2010).
- 48 *Report on Government Services*, Chapter 15: Protection and Support Services, Table 15A.24: Children on a care and protection order and exiting out-of-home care during the year by number of placements, by the length of time in out-of-home care, as above, 148–153.
- 49 Marilyn McHugh and Kylie Valentine, *Financial and Non-Financial Support*, as above, 5.
- 50 ‘Kin vs foster care dilemma,’ *The Daily Telegraph* (15 October 2009).
- 51 Paul H. Delfabbro, James G. Barber, and Lesley Cooper, ‘Placement Disruption and Dislocation in South Australian Substitute Care,’ *Children Australia* 25:2 (2000), 16–20.
- 52 Cited in Senate Community Affairs Committee, *Protecting Vulnerable Children* (see endnote 27), 99.
- 53 *Protecting Children: An Inquiry into Abuse of Children in Foster Care* (Brisbane: Queensland Crime and Misconduct Commission, 2004).
- 54 *Statutory Child Protection in NSW: Issues and Options for Reform* (Sydney: NSW DoCS, 2006).
- 55 The Wood report (see endnote 32), 600–602, 608, 638.
- 56 Sarah Wise and Samuel Egger, *Looking After Children Outcomes Data Project Final Report* (Melbourne: Victorian Department of Human Services: 2009), 97.
- 57 The Bath report, as above, ‘Summary,’ 45.
- 58 Of young people in foster care in Queensland in 2010, 28.1% had been held back a year, and 42.2% had been or were currently suspended. Commission for Children and Young People and Child Guardian, *Views of Children and Young People in Foster Care, Queensland* (Brisbane: CCYPCG, 2010), 22.
- 59 Michael J. Taren-Sweeney and Philip Hazell, ‘Mental Health of Children in Foster and Kinship Care in NSW, Australia,’ *Journal of Paediatrics and Child Health* 42 (2006), 89–97; Michael G. Sawyer, Josephine A. Carbone, Amelia K. Searle, and Philip Robinson, ‘The Mental Health and Wellbeing of Children and Adolescents in Home-based Foster Care,’ *Medical Journal of Australia* 186:4 (2007), 181–184.
- 60 Sarah Wise, et al., *Care-system Impacts on Academic Outcomes* (Melbourne: Anglicare Victoria and Wesley Mission Victoria, 2010).
- 61 James G. Barber and Paul H. Delfabbro, *Children in Foster Care* (London: Taylor and Francis, 2004).
- 62 Rae R. Newton, Alan J. Litrownik, and John A. Landsverk, ‘Children and Youth in Foster Care: Disentangling the Relationship between Problem Behaviours and Number of Placements,’ *Child Abuse and Neglect* 24:10 (2000), 1363–1374.
- 63 Karen Healey, ‘Critical Questions about the Quest for Clarity in Child Protection Regimes,’ *Communities, Children and Families Australia* 4:1 (October 2009), 52–58.
- 64 Paul H. Delfabbro and James G. Barber, ‘The Micro-economics of Foster Care in South Australia,’ *Children Australia* 27:2 (2002), 29.
- 65 Alexandra Osborn and Paul H. Delfabbro, *National Comparative Study of Children and Young People*

- with High Support Needs in Australian Out of Home Care*, Final Report (University of Adelaide: 2006), 14–17.
- 66 Paul H. Delfabbro, Alexandra Osborn, and James G. Barber, ‘Beyond the Continuum: New Perspectives on the Future of Out of Home Care in Australia,’ *Children Australia* 30:2 (2005), 12.
- 67 A long history of involvement with child protection agencies and service interventions was found by Alexandra Osborn and Paul H. Delfabbro, *National Comparative Study*, as above, 86–87, 96.
- 68 Robyn Layton QC, *Our Best Investment: A State Plan to Protect and Advance the Interests of Children* (Adelaide: SA Department for Families and Communities: 2003), 11.3–11.4.
- 69 Alexandra Osborn and Paul H. Delfabbro, *National Comparative Study*, as above, 36.
- 70 As above, 32, 92.
- 71 As above, 83.
- 72 As above, 32, 92.
- 73 As above, 34.
- 74 As above, 92, 94. While the authors established the ‘links between the child’s current behavioural and emotional functioning and their previous family and placement history,’ their policy advice was limited to recommending more ‘therapeutic interventions,’ as opposed to remedying the root cause child protection failures. Unfortunately, this is a typical example of the denial that mars the literature—see following section.
- 75 Leah Bromfield, Daryl Higgins, Alexandra Osborn, Stacey Panozzo, and Nicholas Richardson, *Out-of-Home Care in Australia: Messages from Research* (Melbourne: Australian Institute of Family Studies, Commonwealth of Australia, 2005), 3.
- 76 Ciara Smyth and Tony Eardley, *Out of Home Care for Children in Australia*, as above, v.
- 77 Chris Goddard and Joe Tucci, ‘Secretive system doesn’t bear scrutiny,’ *The Australian* (18 November 2008).
- 78 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.
- 79 Marilyn McHugh and Kylie Valentine, *Financial and Non-Financial Support*, as above, 5.
- 80 Alexandra Osborn and Paul H. Delfabbro, *National Comparative Study*, as above, 15–18.
- 81 Frank Ainsworth and Patricia Hansen, ‘A Dream Come True—No More Residential Care. A Corrective Note,’ *International Journal of Social Welfare* 14 (2005), 195–199.
- 82 Ciara Smyth and Tony Eardley, *Out of Home Care for Children in Australia*, as above, 18.
- 83 Marilyn McHugh, Justin McNab, Ciara Smyth, Jenny Chalmers, Peter Siminski, and Peter Saunders, *The Availability of Foster Carers* (Sydney: Social Policy Research Centre, University of New South Wales, 2004).
- 84 Ciara Smyth and Tony Eardley, *Out of Home Care for Children in Australia*, as above, vii.
- 85 Marilyn McHugh, ‘Should Australian Foster Carers Be Entitled to Receive a Fee/Salary Wage for Caring?’ Paper presented at the ACWA08—Strong, Safe and Sustainable: Responding to Children, Young Persons and Families in a Civil Society conference (Sydney: August 2008).
- 86 Senate Community Affairs Committee, *Protecting Vulnerable Children* (see endnote 27), 108–109.
- 87 Paul H. Delfabbro, James G. Barber, and Lesley Cooper, ‘Children Entering Out-of-home Care in South Australia: Baseline Analyses for a 3-year Longitudinal Study,’ *Children and Youth Services Review* 24:12 (2002), 917–932.
- 88 Victorian Child Death Review Committee, *Annual Report* (2010), xiv, 51.
- 89 Freda Briggs and Donna Broadhurst, ‘The Abuse of Foster Carers in Australia,’ *Journal of Home Economics Institute of Australia* 12:1 (2005), 25–35.
- 90 Ciara Smyth and Tony Eardley, *Out of Home Care for Children in Australia*, as above, 4.
- 91 Leah Bromfield, et al., *Out of Home Care in Australia*, as above, 8.
- 92 As above, 47.
- 93 *Report on Government Services*, Chapter 15: Protection and Support Services, Table 15A.17: Children in out-of-home care by Indigenous status and placement type, as above.

- 94 In Victoria, for example, there are two, one-male, one-female, 10-bed secure facilities. Selma Milovanovic, 'Girl living in care raped by five men,' *The Sydney Morning Herald* (14 December 2009).
- 95 COAG (Council of Australian Governments), *Protecting Children is Everyone's Business* (Canberra: Commonwealth of Australia, 2009), 25, 43.
- 96 For some detail on developments in different jurisdictions, see Ciara Smyth and Tony Eardley, *Out of Home Care for Children in Australia*, as above, 25-48; and *Report on Government Services 2011*, as above, 90-97.
- 97 Department of Human Services, *Directions for Out of Home Care* (DHS: Melbourne, 2009). The Queensland government has also contracted NGOs to provide therapeutic foster and residential care services across the state. Department of Communities, *Child Safety Services Grant Funding Information Paper 2009-10, Placement Services, Residential Care* (Brisbane: Government of Queensland, 2009).
- 98 *Own Motion Investigation into Child Protection—Out of Home Care*, as above, 115.
- 99 Only half of children in care are estimated to be receiving treatment for all problems. Sarah Wise and Samuel Egger, *Looking After Children Outcomes Data*, as above, 17. See also Marilyn McHugh and Kylie Valentine, *Financial and Non-Financial Support*, as above, 110-112.
- 100 CAFWAA (Child and Family Welfare Association of Australia), *A Call to Action for Australia's Children* (Sydney: CAFWAA, 2007), 37-38.
- 101 The Wood report, as above, 597.
- 102 Leah Bromfield, et al., *Out of Home Care in Australia*, as above, vi.
- 103 The Wood report, as above, 607, 641. NSW was heavily reliant on expensive fee-for-service residential placements, the development of which was a 'market-response' to the shortage of places by for-profit and not-for-profit organisations, and which were often used in emergencies as crisis accommodation for the most extreme disturbed children and young people.
- 104 For example, at current rates of growth OOHC costs could total \$790 million in 2013-14 in NSW. Boston Consulting Group, *NSW Government Out of Home Care Review* (2009), 10.
- 105 Ciara Smyth and Tony Eardley, *Out of Home Care for Children in Australia*, as above, vi.
- 106 *Own Motion Investigation into Child Protection—Out of Home Care*, as above, 85-86.
- 107 Ciara Smyth and Tony Eardley, *Out of Home Care for Children in Australia*, as above, 14.
- 108 Alexandra Osborn and Leah Bromfield, *Residential and Specialised Models of Care* (see endnote 15), 5, 11.
- 109 Frank Ainsworth and Patricia Hansen, 'A Dream Come True,' as above, 198.
- 110 NSW Ombudsman, *Review of a group of children aged 10 to 14 in out of home care and under the parental responsibility of the Minister for Community Services* (Sydney: NSW Ombudsman, 2009), 5-6.
- 111 Joseph J. McDowall, *CREATE Report Card 2009. Transitioning From Care: Tracking Progress* (Sydney: CREATE Foundation, 2009).
- 112 Devon Indig, et al, *2009 NSW Young People in Custody Health Survey: Full Report* (Sydney: Justice Health and Juvenile Justice, NSW Health, 2011).
- 113 Catherine Robinson, *Rough Living: Surviving Violence and Homelessness*, UTS Shopfront Monograph Series No. 6 (Sydney: Public Interest Advocacy Centre and UTS Shopfront, 2010), 1, 8, 32.
- 114 Senate Community Affairs Committee, *Protecting Vulnerable Children* (see endnote 27), 22.
- 115 Patricia Morgan, *Adoption and the Care of Children: The British and American Experience* (London: IEA Health and Welfare Unit, 1998).
- 116 House of Representatives Standing Committee on Human and Family Services, *Overseas Adoption in Australia* (Canberra: Commonwealth of Australia, 131).
- 117 AIHW, *Child Protection Australia 2009-10*, Child Welfare Series No. 50, as above, 12, 29.
- 118 As above, Table 4.6.
- 119 Ceridwen H. Spark and Denise M. Cuthbert, 'Society moves to make its own solutions': Re-thinking the relationship between intercountry and domestic adoption in Australia, in Ceridwen H. Spark and Denise M. Cuthbert (eds.), *Other People's Children: Adoption in Australia* (Melbourne: Australian Scholarly Publishing, 2009), 59.

- 120 Audrey Marshall and Margaret McDonald, *The Many-sided Triangle: Adoption in Australia* (Melbourne: Melbourne University Press, 2001), 171–182.
- 121 AIHW (Australian Institute of Health and Welfare), *Adoptions Australia 1990–91*, Child Welfare Series No. 1 (Canberra: AIHW, 1993).
- 122 AIHW (Australian Institute of Health and Welfare), *Adoptions Australia 2009–10*, Child Welfare Series No. 50 (2010), 22.
- 123 Audrey Marshall and Margaret McDonald, *The Many-sided Triangle*, as above, 254.
- 124 Thank you to my colleague Alexander Philipatos for his assistance on this point.
- 125 US Department of Health and Human Services, ‘Adoptions of Children with Public Child Welfare Agency Involvement by State FY 2002- FY 2009.’
- 126 US Department of Health and Human Services, ‘The AFCARS Report: Preliminary FY 2010 Estimates as of June 2011.’
- 127 I am indebted to Paul O’Brien for this suggestion.
- 128 I am torn on the question of ‘open’ adoptions whereby adoptive children have knowledge of and contact with birth parents. I have concluded, given the parental circumstances that will necessitate the severing of parental rights, that the potential for ongoing contact with ‘hostile’ birth parents is likely to discourage people from adopting children in care, and is liable to introduce a different form of instability into the lives of children. Where parents place children for adoption voluntarily and voluntarily relinquish parental rights (consideration might be to on-going contact) based on the circumstances on a case by case basis.
- 129 See the unnamed NSW DOCS caseworker quoted in Kate Sikora, ‘On the road with DoCS Crisis Response Team,’ *The Daily Telegraph* (10 June 2011).
- 130 “‘Stop trying to fix families that we can’t fix’: Barnados heads “heretic” call for bad parents to lose their children,’ *Daily Mail* (8 September 2009).
- 131 House of Representatives Standing Committee on Family and Human Services, *The Winnable War on Drugs: The Impact of Illicit Drug Use on Families* (Canberra: Commonwealth of Australia, 2007), Chapter 3: ‘Protecting Children’.
- 132 Steve Doughty, ‘Choose adoption instead of having an abortion, teen mothers told,’ *Daily Mail* (6 July 2011).
- 133 Senate Community Affairs References Committee, *Forgotten Australians: A report on Australians who experienced institutional or out of home care as children* (Canberra: Commonwealth of Australia: 2004).
- 134 Alexandra Smith, ‘Foster care risks a new “stolen” generation,’ *The Sydney Morning Herald* (14 July 2011).
- 135 See the balanced assessment of the need to avoid past mistakes and make greater use of adoption from care by Audrey Marshall and Margaret McDonald, *The Many-sided Triangle*, as above, 15.
- 136 *Own Motion Investigation into Child Protection—Out of Home Care*, as above, 79.
- 137 See Sue Gordon quoted in Natasha Robinson, ‘Fears of racism puts Aboriginal kids at risk,’ *The Australian* (10 February 2010).
- 138 The Bath report, as above, 133.
- 139 Emer G. Dunne and Lisa J. Kettler, ‘Social and emotional issues of children in kinship foster care and stressors on kinship carers: A review of the Australian and international literature,’ *Children Australia* 31:2 (2006), 23–24.
- 140 Ciara Smyth and Tony Eardley, *Out of Home Care for Children in Australia*, as above, iv.
- 141 As above, vi-vii.
- 142 On the negative role of NGOs see Jeremy Sammut, *The Power and the Responsibility: Child Protection in the Post-Welfare State Era*, Occasional Paper 117 (Sydney: The Centre for Independent Studies, 2010).
- 143 Karen Bevan, ‘Child protection is complex: Engage with care,’ *The Drum* (22 July 2011).

About the Author

Dr Jeremy Sammut is a Research Fellow at The Centre for Independent Studies. He has a PhD in Australian political and social history from Monash University. He is the author of *Fatally Flawed: The Child Protection Crisis in Australia* (2009) and *The Power and the Responsibility: Child Protection in the Post-Welfare State Era* (2010).



CIS Policy Monograph • PM122 • ISSN: 0158 1260 • ISBN: 978 1 86432 206 4 • AU\$9.95
Published November 2011 by The Centre for Independent Studies Limited. Views expressed are those of the authors and do not necessarily reflect the views of the Centre's staff, advisors, directors or officers.
© The Centre for Independent Studies, 2011
This publication is available from the Centre for Independent Studies.
PO Box 92, St Leonards, NSW 1590 Australia • **p:** +61 2 9438 4377 **f:** +61 2 9439 7310 **e:** cis@cis.org.au