

**Fatally Flawed:
The Child Protection Crisis in Australia**

Jeremy Sammut with Toby O'Brien

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Introduction

Not long before I started front-line child protection work, Dr Julian Tudor Hart first described his inverse care law. This states that ‘the availability of good medical care tends to vary inversely with the need for it in the population served.’¹ Coincidentally, although unknown to me at the time, Tudor Hart was not that far away from where I was working in the United Kingdom.

It took me some years to develop my own version of his law, the inverse child care law. I have long believed that those children in greatest need, children who are abused and neglected, too often receive the least accountable, least responsive services. Many children receive no service at all. Over the years, I developed a range of subsidiary inverse care laws. For example, those who work in child protection have one of the most difficult jobs imaginable but are rarely given the support they require.

Over that long period of time, from child protection work in the United Kingdom and Australia to research at Monash University, my opinion has not changed. Child abuse and neglect involve complex social, medical and legal challenges. Our responses to the problems, what we call child protection, need to be carefully considered and fully informed. Sadly, because the victims are children and have few advocates, this is rarely the case.

Child abuse and child neglect affect us all. The consequences for some children are nothing short of devastating: developmental delay, low self-esteem, learning and behavioural problems, aggression, juvenile delinquency, and a range of psychological and psychiatric problems in later life. Some of those who have been abused will go on to perpetrate abuse themselves, others will be further victimised.² The financial costs are also catastrophic. Our research with Access Economics and the Australian Childhood Foundation last year suggested that the actual cost of child abuse and neglect incurred by the Australian community in 2007 was at least \$10.7 billion.³

So much damage, so much expense. Yet the inverse child care law still holds sway, as this policy monograph demonstrates. Children who are abused and neglected often receive the least accountable, least responsive services. This paper concentrates on child protection in New South Wales but the discussion applies to child protection in Australia more broadly.

Some of the issues are beyond debate. The number of reports of child abuse and neglect, as this paper stresses, has increased enormously. According to the Australian Institute of Health and Welfare (AIHW), there were more than 317,000 ‘notifications’ or reports of abuse and neglect in 2007–08. In turn, there were more than 55,000 ‘substantiations,’ involving more than 32,000 children who were found to be abused or neglected, or likely to be.⁴

Similarly, the number of children on court orders continues to rise: 16,449 in 1998 and 34,279 in 2008. The rise in the number of children in out-of-home care has been similar: 14,470 in 1998 and 31,166 in 2008. Most of these are in foster care or kinship care. Almost 10,000 of these children have been in care for five years or more, an extraordinary figure.⁵ Many of these have had multiple placements.

As this paper suggests, some appear to believe that the threshold for reporting needs to be lifted to reduce the number of reports accepted (notifications) and an alternative reporting pathway be created so that less serious cases are referred to family support and early intervention services. The claim is that demand for child protection will thus be reduced.

This is where the first major problem in this proposal occurs. The reported figures quoted above are the best available but unreliable. Every report every year contains disclaimers:

With the many differences in the way each state or territory handles and reports child protection issues, one must interpret relevant statistical information with caution.⁶

There are also significant gaps in the current national data on child protection.⁷

The data are patently inadequate and raise many questions. For example, the rate of total notifications investigated ranged from 7.2 per 1,000 children in Western Australia to 118.2 per 1,000 children in Tasmania.⁸ In Victoria and South Australia, for example, when the child is in the care of the state, cases of alleged abuse are not included in the data, not counted.⁹

In another qualification that goes to the very heart of this paper, the AIHW acknowledges that:

... it is not possible to calculate the exact proportion of children who were the subject of more than one notification or substantiation in any given year.¹⁰

Thus there is little or no data to suggest over-reporting. It is estimated by international experts that the true incidence of child abuse may be two to three times what is officially recorded.¹¹ Evidence shows that the majority of cases of substantiated maltreatment are the result of reports by professionals who are obliged by law to report, and that the reporting practice of these professionals is generally effective.¹² Indeed, the Council of Australian Government's report *Protecting Children is Everyone's Business* acknowledges that child sexual abuse in particular is 'often undetected or not reported.'¹³ The problem, as Sammut suggests, may in reality be under-responding to reported cases:

In NSW, 2,100 dysfunctional, repeatedly reported families *account* for a quarter of the more than 300,000 reports made each year, and 7,500 of those dysfunctional families account for nearly half of all reports.¹⁴ [emphasis added]

These figures are significant in many ways, but especially in terms of policy. Decisions about child protection policy require accurate and prompt data recovery. To claim that the increase in reporting is caused by unnecessary reports is disingenuous at best, deceptive at worst.

If these NSW figures are replicated around the country, as I suspect they may be, then the true picture is very different: reporters, most of them professionals, are repeatedly reporting children that they believe to be abused or at risk, and protective services are not responding appropriately. Anecdotal evidence from other states supports this.

Anecdotal evidence also suggests that many professionals have stopped reporting because they are frustrated by an apparent lack of action and the lack of information they receive after reporting.

There is other evidence too. The Access Economics report, referred to above, suggests that the real evidence of child abuse and neglect is higher than the official figures indicate. This is borne out by the Productivity Commission report released this month:

Care should be taken in interpreting the substantiation data. No data exist on actual levels of child abuse or neglect. The number and rate of substantiations are collected by departments ... and may under-estimate the true extent of abuse or neglect occurring within the community, because not all cases are reported.¹⁵

The Australian Research Alliance for Children and Youth (ARACY) recently commissioned Allen Consulting to produce:

... a report based on international experience of best practice in organisational change strategies and processes for protecting children, while reducing demand on tertiary child protection services.¹⁶ [emphasis added]

The key question that arises from this brief quote from the report is what takes priority, 'organisational change strategies,' 'processes for protecting children,' or the euphemistic 'reducing demand on tertiary child protection services.' The report appears to accept that over-reporting, not under-responding, is a central problem.

The executive summary of the report, goes on to say that:

ARACY anticipates that by advancing preventive strategies, the report will ultimately assist in reducing the incidence of child abuse and neglect in Australia ...¹⁷

It is clear that we need to do far more to prevent child abuse in all its forms. In some ways, in recent years we have perhaps done less. We have pressured mothers to leave hospitals earlier with

their newborn babies, and we have not done enough to ensure that the most vulnerable mothers and babies are visited at home. The ARACY report, however, admits that it:

... does not attempt to answer the question ‘how do we prevent child abuse?’ in terms of evidence-based interventions or policy direction.¹⁸

After admitting that, the report goes on to suggest that the ‘pyramid’ needs inverting, and that child protection requires ‘shifting’ to ‘a prevention approach.’¹⁹ This shift, it is presumed, will reduce demand.

A recent US review of the empirical evidence on whether early childhood primary prevention programs can reduce rates of child abuse and neglect found ‘limited evidence’ that they worked.²⁰ The evidential base for child sexual abuse may be weaker still, given the ‘onus of responsibility’ placed on children in prevention efforts.²¹ It is even possible that increased primary prevention services will increase child protection reports, at least in the shorter term.

The ARACY report describes child abuse as a ‘wicked problem’ with two dimensions: complexity and diversity. The report stresses that ‘complexity’ requires ‘analytical thinking and policy change’ while the ‘diversity’ element requires ‘collaborative approaches and systems change.’²²

Collaborative approaches appear at first to be incorporated in the methodology, part of which included, according to the report, consulting ‘key strategic thinkers in the child protection ... field.’²³ It is clear that some of us who might consider ourselves in this category were never consulted.

There are other problems apparent even in the executive summary of the report. Child abuse is an ‘umbrella term’ and covers a multitude of actions and inactions, cruelties and carelessness.²⁴ The report states that the term ‘wicked’ problem has been chosen ‘not in the sense of evil, but as an issue highly resistant to resolution.’²⁵

Some child abuse, however, can only be described as ‘wicked’ in its accepted sense. Again, the report appears to limit options.²⁶

The report identifies five subsystems involved in the protection of children:

- Children’s services—including health, education, care, disability
- Family support
- Statutory child protection including out-of-home care
- Specialist services for parental risk factors including drug and alcohol, mental health and family violence
- Police and justice²⁷

Such boundaries are acknowledged to be an ‘arbitrary construction ... drawn to facilitate a manageable analysis,’ as are significant omissions; for example, intellectual disability and homelessness. Most of the people consulted, the report states, presented views about the first three subsystems.²⁸ Broader consultation might have changed this given that parental substance abuse, for example, is a major factor in children’s entry into care.²⁹ Broader consultation might also have given a more prominent role to police, given that many instances of abuse involve criminal acts.

As research at Monash University has noted, the responses to so-called ‘domestic violence’ have been very different to those involving abuse of children. While it is difficult to find words such as ‘prosecution’ in recent reports on child abuse and child protection, the role of the criminal justice system in intimate partner violence has been far more central.³⁰ Any reform of child protection services should include the police.

These debates are ultimately about where and how resources are allocated. The welfare paradigm, now called the public health approach, suggests that more support services need to be provided for families. This is the truth but not the whole truth. Child protection is far more complex than that.³¹ Sexual abuse requires different approaches, and child abuse and neglect cannot be thought of as homogeneous.

According to the *World Report on Violence and Health*, a public health approach to violence is ‘based on the rigorous requirements of the scientific method.’ The first step involves:

Uncovering as much basic knowledge as possible about all the aspects of violence—through systematically collecting data on the magnitude, scope, characteristics and consequences ...³²

Others concur:

It is critical to provide accurate and consistent data on child abuse.³³

It is ironic that just as child abuse requires secrecy, Australian child protection services appear to require it too.³⁴

There are other ironies. Queensland's Department of Child Safety, the child protection department described in the federal government's National Framework as 'more accountable'³⁵ has been re-absorbed into the Department of Communities, and has lost its separate status.

The federal government is to be congratulated on acknowledging that child abuse and neglect require national leadership, a national research agenda, and a national approach to prevention. All these will require meaningful national data. Achieving this might also be a 'wicked' problem, to adopt the dominant jargon.

In the meantime, there are thousands of children and young people in care or repeatedly reported to child protection who urgently require attention. Many could be considered for adoption before their childhoods vanish completely in a fog of repeated placements and failed reunifications. The cost savings would be both personal and financial. The ideology says no.³⁶

If the inverse child care law is ever to be inverted, the federal government will require transparent data and accountable services.

As this paper demonstrates, we spend so much and know too little.

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Fatally Flawed: The Child Protection Crisis in Australia

By Jeremy Sammut with Toby O'Brien¹

Executive Summary

Despite record government spending on child welfare services in this country, the child protection system is in crisis—most markedly in New South Wales. Australian child protection authorities* are failing to fulfil their core responsibility of protecting and rescuing vulnerable children. Reports of suspected child abuse and neglect are not being fully investigated, and the ‘Ebonys’ of Australia are falling through the cracks in increasing numbers.

The reason that even the most serious cases of child maltreatment fall through the cracks is said to be the increasing numbers of ‘less serious’ reports of suspected neglect and abuse. These ‘less serious’ reports are supposed to have overloaded the telephone reporting Helplines and overwhelmed child protection authorities who have to assess the reports.

The consensus among policy advisers and makers seems to be in favour of raising the threshold for mandatory reporting to ensure only higher risk reports are referred to child protection authorities. A dual or alternative reporting pathway is also recommended to stream ‘less serious’ from more serious reports. Under these arrangements, the disadvantaged and dysfunctional families that are the subject of so-called ‘lower risk’ reports would be referred to early intervention and family support services.

This flawed take on how best to structure child protection services forms the foundation of the Rudd government’s recently released National Child Protection Framework and the NSW government’s response to the report of the Wood Special Commission of Inquiry into child protection services. This strategy has gained policy traction because it seems calculated to remove bottlenecks in the reporting system and ensure that child protection authorities are better able to protect the most vulnerable and at-risk children in the community. The supporters of a prevention-focused approach to child welfare also claim—based on evidence that is weak to the point of being non-existent—that boosting family support services will reduce demand for child protection services by preventing family situations spiraling into crises and serious abuse and neglect.

This paper takes issue with the accepted account and the accompanying policy recommendations on the following grounds:

- Though there has been an enormous increase in reports following the introduction of mandatory reporting, this growth is not concentrated in the ‘less serious’ category as claimed. In fact, the proportion of reports (around two-thirds) requiring further assessment has not changed much in NSW over the last decade.
- Rather than function inefficiently, mandatory reporting has mass screened disadvantaged families and worked spectacularly well. As intended, early concerns about child welfare have been picked up, and the most vulnerable and at-risk children have consistently been identified and re-identified.
- Heightened surveillance means that growth in reports has captured the increased level of parental dysfunction in Australia’s expanding underclass of welfare-dependent families, which are over-represented in child protection activity. These families face multiple chronic, difficult, and often inter-generational problems, including domestic violence, drug abuse, and mental illness.
- Not all ‘less serious’ reports are less serious. The family support focused response downplays the real risk of child maltreatment involved in many ‘less serious’ and ‘lower risk’ reports involving dysfunctional families.

* This paper concentrates on the child protection system in NSW, which is widely acknowledged to be in crisis. The story told here, and the lessons drawn for child protection reform, may be of equal relevance to child protection regimes and policymakers in other states, which share broadly similar systems and face the same problems and critical policy challenges.

- The reality is that many so-called 'less serious' reports concern families who find it difficult to engage with support services and involve children at risk of experiencing the cumulative harm and permanent development problems caused by chronic and ongoing parental neglect and abuse.
- 'Less serious' and 'lower risk' reports therefore require a full child protection response: a home visit and 'sighting' of the child and a complete assessment of the family circumstances, child protection history, and the risk of neglect and abuse.

Blaming the child protection crisis on growth in 'less serious' reports is an exercise in minimisation and denial that ignores the real problem. *In NSW, 2,100 dysfunctional, repeatedly reported families account for a quarter of the more than 300,000 reports made each year, and 7,500 of those dysfunctional families account for nearly half of all reports.*

A high proportion of reports and re-reports are mandatory reports made by doctors, nurses, teachers, and police. These professionals frequently re-report the same dysfunctional families because in too many cases, child protection authorities fail to take the expected statutory action despite report after report of serious child health and welfare concerns. These children are exposed to increased risk of severe harm because of the lack of intervention or intervention that comes too late.

The real cause of the child protection crisis is the large number of 'hard core' obviously dysfunctional parents who retain custody of their children because of the lack of an appropriate child protection response in thousands of higher risk, and potentially catastrophic, frequently re-reported cases of abuse and neglect.

The staggering NSW statistics reflect the controversial and questionable family preservation-centred institutional and ideological shifts in child protection. Traditional child protection work has been crowded out by other forms of social work with dysfunctional parents. The challenge for policymakers is to reverse these shifts and protect children by establishing stand-alone child protection departments committed to fully investigating risk of harm notifications, staffed and led by child protection specialists, and overseen by a minister solely responsible for protecting vulnerable children.

Inverting the Pyramid

The contemporary challenge facing all child protection systems in Australia, and in particular NSW as the largest, is sufficiently resourcing flexible prevention and early intervention services so as to reduce the numbers of children and young people who require the state to step in to keep them safe ... A range of complex and often chronic factors characterise many of the families coming into contact with the child protection system such as low income, unemployment, substance abuse, limited social supports, imprisonment, domestic violence, and mental health issues. Many of these factors are interrelated. The elimination or reduction of each of these factors would significantly lower the number children and young people reported as being at risk of harm.

—*The Hon. James Wood AO QC*²

Shrinking the size of the tertiary prevention activities relative to primary and secondary prevention could be perceived by some players in the statutory child protection system as a loss. However, this does not reflect the views of stakeholders consulted for this project who were wholly supportive of this goal. That said, child protection agencies generally see a role for their agency in providing secondary prevention services. This role shift would not necessarily result in a net loss for the organisation. This is opposed to the view of some family support NGO stakeholders and commentators that child protection agencies are not an appropriate organisation for providing support to vulnerable families.

—*Allen Consulting Group*³

Only as a last resort should the Government get involved in children's lives.

—*Linda Burney, NSW Minister for Community Services*⁴

Introduction—child protection failures and myths

Despite record government spending on child welfare services, national child abuse rates in Australia have soared in the last decade.⁵ There is no way of predicting abuse and neglect with 100% accuracy because of the difficult-to-assess risks involved in child protection. Mistakes—failing to intervene and intervening unnecessarily—will inevitably occur. Nevertheless, state and territory child protection authorities—who are responsible for investigating reports of suspected child maltreatment and initiating statutory interventions (court-approved removal of children from the custody of parents and the provision of alternative foster care)—are in crisis and under intense media scrutiny and political pressure because they repeatedly get it wrong in the most appalling circumstances.

In 2007, the extent of the crisis was highlighted by the high profile cases in which children died despite their clearly dysfunctional families being ‘known’ to the NSW Department of Community Services (DoCS). (In NSW, children ‘known’ to child protection authorities have been the subject of a report of suspected risk of harm during the three years prior to their death.) One particular case—the starvation death of a seven-year-old girl at her parents’ home in the mid-North Coast town of Hawks Nest—prompted widespread consternation. If Ebony could fall through the cracks despite her family’s long history with DoCS and a string of warning signs and opportunities for caseworkers to intervene, then clearly the community could no longer rely on the system to rescue vulnerable children from serious parental abuse and neglect.^{6†}

If Ebony could fall through the cracks ... then clearly the community could no longer rely on the system to rescue vulnerable children from serious parental abuse and neglect.

The most telling criticisms of the cracks in the NSW child protection system have been made by the NSW Ombudsman. The ombudsman has severely criticised DoCS for failing to effectively follow up reports of children at risk of harm, including high risk cases, that are closed prematurely without comprehensive assessment or evidence warranting no further action. The ombudsman, in the course of his annual review of the deaths of children ‘known’ to DoCS, has repeatedly found that:

- The urgency ratings assigned to cases do not match the seriousness of the reported risks.
- Assessment records are created simply to close a case without gathering or assessing any information.
- When further assessments were conducted, the information collected was ‘too limited to a make well-informed decisions’ or ‘did not appear to inform decisions to close a case.’⁷

DoCS’ child protection practice has also been criticised for failing to appropriately address chronic and ongoing child safety and welfare concerns in families with extended histories of reported risk of harm. Caseworkers have also failed to ‘sight’ children the subject of reports of serious abuse—to conduct, that is, a home visit and see the children to ascertain their health and wellbeing.⁸

Overwhelmed and under-funded?

An alarmingly small number of reports—a mere 13%—that warrant further assessment, are followed up by DoCS with a detailed investigation including a home visit. Over 50% of reports that are assessed as requiring further assessment either receive no attention or receive attention that falls well short of a home visit.⁹ The official explanation for the superficial assessment and premature closing of so many cases without adequate investigation is ‘competing priorities.’

† Media reports quickly confirmed the following details about Ebony’s case: her family had extensive history of involvement with DoCS; a younger sibling had been removed by the department; despite girl never attending school, no action was taken by the Education Department; neighbours repeatedly contacted authorities to report their concerns for her welfare; documented concerns for her welfare were not acted upon by DoCS; despite her parents repeatedly refusing to allow caseworkers to enter the family home, no action was taken to gain entry to check on her welfare.

Child protection agencies routinely blame their failure to fulfil their core statutory responsibility on lack of funding. The myth of under-funding, and the associated notion that higher spending improves performance, dogs all discussion of child protection issues and obscures the real issues. State governments—looking for an easy out and cure all—tend to accept this claim uncritically and throw more money at the existing system in the vain hope of making the problem go away.

Lack of money is not the problem. Spending on child welfare (child protection and out-of-home care) services has increased considerably in recent years. Total recurrent national expenditure has almost quadrupled in real terms from \$500 million in 1997–98 to more than \$2 billion in 2007–08, and expenditure has increased significantly in every state in this period. The growth in

spending reflects the rising incidence of child abuse and neglect in the community. While the increasing numbers of children in out-of-home care account for the majority of spending on child welfare, specific spending on child protection work accounts for approximately a third of the total national expenditure on child welfare services.¹⁰

There are chronic shortages of frontline caseworkers in NSW and around Australia (because of recruitment, training and retention issues). Without adequate examination and explanation, the 2008 report of the Wood Special Commission of Inquiry (the Wood Commission) into child protection services in NSW blamed the hit-and-miss approach of DoCS to child protection on ‘insufficient resources.’¹¹ In NSW, recurrent expenditure by DoCS on child welfare has risen, in real terms, from \$241 million in 1997–98 to \$816 million in 2007–08. Total real

expenditure on child protection has increased from \$195 million in 2003–04 to \$282 million in 2007–08. Out of DoCS’ \$1.3 billion budget for 2008–09, \$395 million—less than one-third of total funding—has been identified for child protection.¹² Informed commentators maintain that much of the extra funding has been wasted on expanding the size and cost of the DoCS bureaucracy: In 2008, more bureaucrats were employed at DoCS head office than there were departmental child protection workers across the entire state.¹³

The myth of under-funding, and the associated notion that higher spending improves performance, dogs all discussion of child protection issues and obscures the real issues.

Anatomy of the crisis

The deepening crisis has prompted numerous official inquiries into child protection services. Most of these inquiries have concentrated on the bureaucratic minutia of child protection—whether caseworkers follow correct administrative procedures or whether risk-assessment protocols need amending and procedures fine-tuning.

The main result of conducting these inquiries has been more bureaucracy. Caseworkers have been forced to spend increasing amounts of time at their desks, filling out forms, and complying with complex paperwork rather than in the field protecting children. These inquiries have failed to analyse the full range of systemic institutional and ideological problems—the fatal flaws—in the child protection system that seriously impede the work of child rescue and contribute to tragic outcomes.

What has emerged to fill this vacuum is a plausible, partial, perhaps more palatable, but ultimately misleading account that fails to identify, let alone address, the root causes of the crisis. Combined with an accompanying set of family support focused policy prescriptions (see page 7), this selective account has become very influential and widely accepted in policymaking circles.

The accepted account

According to influential academic commentators,¹⁴ the principal reason the child protection system is in crisis, and child protection authorities are unable to respond effectively to high risk reports, is because of the unintended consequences of mandatory reporting and centralised telephone reporting systems such as the DoCS ‘Helpline.’ Inefficient mandatory reporting requirements—the legal obligation for doctors, nurses, police, and teachers to report children they suspect to be at risk of harm—are blamed for overloading and overwhelming child protection authorities with rising numbers of allegedly inappropriate ‘less serious’ reports of suspected child maltreatment. The resultant ‘administrative burden,’ so the argument goes, has distracted child protection

authorities from their core responsibility of investigating the higher risk reports concerning families ‘in crisis.’ ‘Over reporting,’ it is claimed, is the reason even the most serious cases of severe child maltreatment fall through the cracks.

Problematically, however, the accepted account acknowledges that many ‘less serious’ reports (as suggested by the fact that concerns for child welfare are reported) involve disadvantaged and dysfunctional families with complex problems. In the standard child protection literature, ‘less serious’ reports are classified on the basis that families are ‘in need’ as opposed to ‘in crisis.’ The purported difference with ‘less serious’ or ‘lower risk’ reports is that families ‘in crisis’ are defined as reports in which the risk of serious and imminent harm to children is high, and a ‘forensic’ child protection investigation is required with a view to statutory intervention to halt or avert severe maltreatment. A report concerning a family ‘in need’ is defined as a report involving a lower risk of imminent harm. Families ‘in need,’ it is claimed, neither warrant nor are receiving a full child protection response because the reported concerns are unlikely to reach the threshold for statutory child removal, and because child protection authorities are highly unlikely to provide a follow-up investigation because of heavy competing demands. Instead of a full child protection response, the appropriate response is said to be to refer these families to preventive/early intervention programs and other health and welfare services to help parents overcome the problems that limit their capacity to properly parent children so that families can stay together.

The first key reform therefore proposed to solve the alleged problem of ‘over-reporting’ is to raise the mandatory reporting threshold from suspected risk of harm to ‘risk of significant harm’ so that child protection authorities only receive reports for further assessment and investigation in the most serious cases where the risk of harm is more likely to trigger the threshold for statutory intervention.¹⁵ The second key reform to take the pressure off the Helpline is the creation of a dual or alternative reporting and referral pathway, which supposedly streams so-called genuine child protection cases from so-called ‘less serious’ and ‘lower risk’ family support cases. Families the subject of ‘less serious’ and ‘lower risk’ reports would be referred to family support services, the provision of which, as has occurred in Victoria, should be entirely outsourced to non-government organisations such as Barnardos and Mission Australia.

The claim is that reserving the centralised Helpline for the higher risk reports and freeing up child protection authorities to concentrate on statutory interventions will reduce the chances of high-risk cases falling through the cracks. The supporters of a preventive and family support focused approach to child protection also claim that boosting family support services for dysfunctional families ‘in need’ the subject of ‘less serious’ and ‘lower risk’ reports will ultimately reduce demand for child protection services by preventing the family situation spiraling into crisis and severe child maltreatment.¹⁶

However, the accepted account of the crisis and accompanying policy recommendations are an exercise in minimisation and denial. The real systemic institutional and ideological causes of the child protection crisis are ignored. This biased account reflects the misguided developments that have revolutionised child protection policy and practice over the past 40 years.

The accepted account of the crisis are an exercise in minimisation and denial.

Scope

By the 1970s, all Australian states and territories had enacted legislation that empowered child protection authorities to investigate reports of child maltreatment and remove children from abusive and neglectful parents. Child protection—which, traditionally, was a private endeavour undertaken by charitable societies—was transformed from a community responsibility into a sub-department of the state and the job of the government agencies and the university-trained social workers who staff them.¹⁷ The original child welfare Acts were specifically designed to rescue children from severe physical abuse and extreme neglect. Changing standards of appropriate care, broadened conceptions of child welfare, and, most importantly, wider social changes associated with two generations of failed social policies and the destructive behavioural consequences of the rising tide of free flowing welfare in recent decades, have significantly influenced the way governments and child protection agencies approach child welfare.

As Leah Bromfeld and Prue Holzer have argued, evolving social, political and academic trends have led to the expansion of the scope of child welfare legislation. Child protection authorities have broadened their mandate and attempted to protect children from a wider, less specific range of acts and behaviours that damage child development. Especially influential in these legislative and practice developments has been the recognition of the cumulative harm done to children by chronic parental neglect and abuse in welfare-dependent communities. The corresponding systemic change has been the creation of centralised child reporting systems and mandatory reporting regimes to ensure the early and prompt identification of dysfunctional families and child maltreatment.

Institutional and ideological shifts

The establishment of child protection authorities in the 1970s also led to a series of institutional and ideological shifts in the field of child protection. The institutional shifts have marginalised the traditional role of child protection work inside child protection agencies like NSW DoCS. The assessment and forensic investigation of reports and statutory intervention to rescue children from abusive and neglectful parents have been crowded out by other forms of social work and community services, especially drug counseling, that focus on working with parents and preserving and reuniting families.

The corresponding ideological shift has seen the core principle of child protection—that the state has a duty to intervene to remove and protect vulnerable children in the child’s best interests—replaced with a new and radical approach to protecting children. This new prevention-focused credo promotes the idea that the best way to protect vulnerable children, including children at serious and imminent risk of harm, is to keep families intact and provide family support and other services to meet parents’ needs and address risk factors such as parental mental health issues and drug abuse.

The corresponding ideological shift has seen the core principle of child protection ... replaced with a new and radical approach to protecting children.

Combined with a new emphasis on respecting the parental rights of dysfunctional parents, these cultural changes have had a major impact on child protection policy and practice. Child removal has been relegated to a last and reluctant resort, and the permanent removal and adoption of vulnerable children is now unacceptable. One measure of these changes is the tiny number of children adopted from Australian birth parents. Only 70 local adoptions occurred in Australia in 2007–08 (compared to 270 overseas adoptions).¹⁸ The tragic outcome is that many disadvantaged children have their development permanently damaged and their educational and life opportunities curtailed. The standard cycle sees increasing numbers of children churned through the system. These children experience multiple and poor

quality out-of-home care placements that frequently break down, interspersed with repeated failed attempts at family reunion. In many cases, this cycle will almost certainly perpetuate the inter-generational cycle of parental dysfunction, abuse and poverty. Child protection authorities, who are increasingly confused about their core responsibility and have re-conceptualised their role as essentially preventive, have turned a blind eye to this cycle and its terrible consequences.

Intuitively incorrect

The accepted account has gained a great deal of policy traction because it seems intuitively correct. Pitched to policymakers as a way for child protection agencies to focus on higher risk cases and preventing child deaths, the proposed reforms seem calculated to remove the bottlenecks in the reporting system that cause fatal delays.

In reality, the primary goal of these reforms—as we shall see in relation to key changes in NSW following the recommendations of the Wood Commission—is to substitute what is considered a ‘narrow,’ traditional view of child protection with a ‘broader’ preventive approach for the families involved. These reforms have been formulated to further marginalise traditional child protection work and increase the degree to which child protection authorities are the service provider of last resort. The real policy agenda of those who advocate these changes is to establish a structure in

which reports classed ‘less serious’ are dealt with by the dual pathway and diverted to alternative family support services. The plan is also to ensure that even so-called ‘lower risk’ reports of ‘risk of significant harm,’ *which meet the raised threshold for further investigation and possible statutory intervention*, are referred to family support services as the primary child protection response.

These reforms are therefore not the comprehensive solution for the child protection crisis they are made out to be. Rather than a plan to rescue more vulnerable children sooner and better protect the ‘Ebony’s of Australia, they are actually a plan to leave more children with dysfunctional parents for longer, at great risk of long-term harm, on the highly questionable basis (as we shall see) that family support services will keep them safe.

Policy prescription

Victorian model

The 2008 Special Commission of Inquiry into child protection services in NSW headed by Justice James Wood recommended a comprehensive series of changes to child protection arrangements.

Wood’s recommendations and the consequent changes made by NSW to the child protection system are modeled on or are at least partially inspired by reforms introduced in Victoria. In 2003, the Victorian Family Service Innovation Projects (FSIPs) led the way in developing a dual reporting pathway. Victoria is the first state in Australia to completely outsource family counseling services to non-government organisations (NGOs). Under the Child FIRST (Family Information Referral and Support Teams) strategic framework, child protection reports can be made to regional intake centres that are principally staffed by NGOs. These reports are assessed at the community level in the centres using a ‘common assessment framework’—a bureaucratic tool used to filter or prioritise reports. Dysfunctional families ‘in need’ are referred to family support services provided by community-based NGOs and to other health and welfare services. Child protection caseworkers are also placed in the centres to assist with assessing reports and referring higher risk cases for further investigation.¹⁹

For many stakeholders, Victoria has become something of a promised land of child protection reform because, as the misleadingly named Child FIRST strategy reveals, delivering family support services has been made the policy priority and the primary child protection response at the expense of traditional child protection work. The restructuring of the system, which appears to have been driven by the political influence wielded by the large non-government community sector in Victoria, is credited with improving outcomes for children and families in Victoria compared to NSW—even though the evidence demonstrating the effectiveness of the Victorian system in keeping vulnerable children safe is patchy and inconclusive. (See Box 1)

The evidence demonstrating the effectiveness of the Victorian system in keeping vulnerable children safe is patchy and inconclusive.

Box 1: Is Victoria the promised land of child protection?

- **More efficient child protection system:** Early evidence shows that reforms based on the Victorian model can make the child protection system more efficient and effective, and may reduce child abuse. In 2007, Professor Shane Thomas headed an independent evaluation of the Victorian reforms. The evaluation found that creating dual pathways freed up the reporting system and that outsourced family support services had significantly reduced activity in the Victorian child protection system with zero growth in reports occurring over the previous five years.²⁰
- **Early intervention services:** Since 2003 the number of reports to Victorian child protection authorities stabilised, though reports increased in 2007–08.²¹ However, substantiations have been trending down since 2006 and, as the Australian Institute of Health and Welfare (AIHW) concludes, this may indicate the success of enhanced access to early intervention services for vulnerable families and children.²² More effective preventive services may also have contributed to containing growth in the number of children in state care.²³
- **Child protection in Victoria:** Though it is still early days, the results appear impressive compared to NSW. National indicators show that Victoria is now the best performing state in the country. Child protection spending and rates of child abuse and neglect have continued to increase in every state and territory except for Victoria. Spending on child protection in Victoria has also stabilised. Crucially, child protection is said to be more effective. The number of children known to authorities who have died has almost halved from 44 in 2001–02 to 24 in 2007.²⁴ However, this is open to interpretation given the different definition of a 'known' child in Victoria (see page 9). Anecdotal reports suggest that the multiple reporting pathways have created barriers that prevent reports reaching the Victorian child protection agency, so some deaths that should be investigated are not included in the Victorian Child Death Review. The most important point is that the system has not been independently evaluated. Victoria as well as states that take their inspiration from the Victorian model are all flying blind and hoping for the best.
- **How NSW compares with Victoria:** Nevertheless, Victoria's apparent improved performance in containing child protection expenditure and the number of reports can be demonstrated by a superficial comparison with NSW. Expenditure on child protection and the number of reports in NSW have grown steeply over the past decade compared to the more modest growth in Victoria, where reports have also plateaued. However, some important reservations apply.
- **The first reservation:** Child protection data do not distinguish the re-reports. Although the decline in substantiations in Victoria is a promising sign, both Professor Thomas' evaluation and AIHW statistics are silent on this crucial issue because of the inability to measure the impact of the reforms on the number of re-reports. That this knowledge gap persists is surprising, since the justification for the Victorian reforms was that insufficient support was being provided for the many families and children subject to re-reports and re-substantiations and that a diversionary response would prevent families from progressing into the child protection system.²⁵
- **The second reservation:** It is hard to gauge the extent to which early intervention and family support services for 'less serious' families have had longer term preventive effect on the 'hard core' dysfunctional families who make up the majority of reports and re-reports. Given the concern that the dual reporting pathway and the separation of so-called 'less serious' reports from reports of 'risk of significant harm' may leave children without an appropriate child protection response, the second reservation is whether the provision of family support as the primary child protection response exposes children to the greater risk of cumulative harm and, ultimately, serious neglect and abuse.
- **The third reservation:** The pro-prevention bias in most of the commentary on child protection reform sees Victoria's success attributed to the effectiveness of better prevention. Yet the reason Victoria is seen as something of a promised land of child protection in wider policy circles is that allowing NGOs to deliver family support and the Department of

Human Services (the Victorian equivalent of DoCS) to concentrate on child protection work makes intuitive sense. As a result of the reforms that appear to revert to traditional policies, child protection authorities seem better positioned to detect serious risks to children and ensure that child protection interventions are properly targeted and occur before it is too late—as demonstrated by growth in care and protection orders in Victoria.²⁶

- The fourth reservation: Hence, Victoria seems a step closer to a more effective system—and the best part of this system, the outsourcing of family support to the community sector, is worth emulating. The fourth reservation, however, is something that is not sufficiently factored into Victoria’s apparent success—while NSW has 50% more children in care, it also has five times the number of Indigenous children. As the Wood commission established, Indigenous communities remain over-represented in the child protection system.²⁷
- **The fifth reservation:** Furthermore, the situation for child protection in Victoria is in some respects worse than in NSW. The fifth reservation is that we don’t know as much about the story in Victoria because, unlike in NSW, there is no independent ombudsman responsible for reviewing the deaths of ‘known’ children reported to DoCS (or the sibling of a reported child) in the previous three years. Victoria does have a Victorian Child Death Review Committee. But the committee’s annual report is not as detailed or comprehensive, and it does not provide the same systemic analysis and critical oversight or the same monitoring of responses to identified problems, principally because the committee only reviews the deaths of ‘known’ children who were the subject of a report in the three months prior to their death. This, it is vital to note, primarily explains Victoria’s apparently lower child death statistics.
- **The sixth reservation:** Non-government organisations that have been contracted to deliver family support are highly dependent upon government funding. NGOs are therefore reluctant to criticise DHS and draw attention to faults in child protection practices for fear of having their funding pulled—essentially silencing the very organisations that should be an independent voice for children. Victoria also suffers from the same institutional and ideological struggles that plague child protection in all jurisdictions. Traditional child protection work has been marginalised by other social work disciplines, especially drug counseling. NGOs also have a vested interest in preventive approaches to child protection, which Victoria has led the way in developing. It is the only state with substantial numbers of children in care plans and supervisory orders, and families receiving intensive preservation services. When combined with the limitations on ‘reviewable’ child deaths, the Victorian system is characterised by lack of transparency and independent scrutiny of the impact of the new approach to child protection on children at risk of harm and the effectiveness of child protection.

Wood and NSW government response

On the basis that ‘too many reports are being made to DoCS that do not warrant the exercise of its considerable statutory powers,’ Wood recommended that mandatory reporting requirements be raised to include only children considered at ‘risk of significant harm’ and who require the attention of DoCS. To further reduce the pressure on DoCS, Wood proposed that new units be created in key government departments to help mandatory reporters assess whether reports should be made to DoCS and ensure that only serious cases involving ‘risk of significant harm’ are referred to the Helpline. Wood also recommended that new NGO-run Regional Intake and Referral Services should be established to link families who are the subject of less serious reports to family support and other community services, or that they should be referred to DoCS’ early intervention Brighter Futures program (see Appendix).

The government also refused to commit to the complete outsourcing of family support ... for political reasons.

Wood also recommended that DoCS’ burgeoning empire over the field of child and family welfare be dismantled and its role limited to its core responsibility of providing timely and effective assessment and investigation of ‘higher risk’ reports concerning children most in need of statutory intervention. Within three years, DoCS should cease its ‘in house’ role in the Brighter Futures program, and all family support services should be completely outsourced to non-government community-based providers to whom families in need can be directly referred from either the regional intake services or the DoCS Helpline.²⁸

In early March 2009, the NSW government released its response to the Wood report. The government heralded its commitment to implementing or partially implementing 106 of the commission’s 111 recommendations. As part of a five-year \$230million Action Plan, the government raised the threshold for mandatory reports to ‘risk of significant harm’ and agreed to create a new reporting and referral pathway system in part along the lines recommended by the commission to ensure that statutory intervention ‘only occurs for those children who really need such protection.’²⁹

Six new Child Wellbeing Units staffed by child protection specialists are to be established for six government agencies: Area Health Services and the Children’s Hospital at Westmead; NSW Police; and the departments of Education and Training; Housing; Ageing, Disability and Home Care; and Juvenile Justice. These units are intended to help mandatory reports establish (using a common assessment tool) whether a report meets the ‘risk of significant harm’ threshold and should be referred to the Helpline for further assessment and investigation—or whether the report is less serious and should be referred for assistance from family support and other services. If the risk of harm is imminent, reporters in these departments can make reports directly to DoCS. Mandatory reporters outside of these departments and other members of the community will continue to make all reports to the centralised Helpline. The Regional Intake and Referral Services will be initially trialed only in three regions. The government also refused to commit to the complete outsourcing of family support to the community sector and, in effect, has decided for political reasons (see Appendix) that DoCS will retain its dual focus on child protection and family support services.

Narrowing the net and marginalising child protection

The Wood Commission has imbibed and regurgitated the logic, and all the institutional and ideological biases, of the accepted account. The commission not only agreed that the structure of the child protection system needed to change by narrowing the mandatory reporting net. It also advised the government to create an alternative pathway to outsource ‘less serious’ reports and deal with families ‘in need.’ The crucial and largely unmentioned on aspect of the Wood Commission concerns its recommendations on the different pathways through which reports of ‘risk of significant’ harm should be dealt with by DoCS as the ‘provider of last resort’³⁰ based ‘on the likelihood of needing statutory intervention.’³¹ The process of marginalising child protection work and its crowding out by other forms of social work can be observed on the very pages on which the commissioner’s recommendations are set down.

Wood recommended that [emphasis added]:

Reports made to DoCS, which are assessed as being a report that a child or young person is *at risk of significant harm should be investigated by DoCS if the matter is urgent or the risk is high or the child is young* [under five years]. Otherwise, if eligible, the family should be referred to Brighter Futures. If not eligible, the family should be referred to a Regional Intake and Referral Service which should be able to link families with the most appropriate local service to meet their needs.³²

In other words (and far beyond establishing a separate referral pathway for less serious reports), the commission recommended that even so-called ‘lower risk’ reports of ‘significant harm’ should be outsourced to family support and other services. The commission’s policy guide suggests that a traditional child protection response will be reserved only for ‘crisis’ situations where the risk of potentially severe physical abuse and extreme neglect is high and imminent (based on a paperwork assessment using ‘structured Decision Making tools’). The commission cites DoCS estimates that these kinds of cases constitute between 10% and 20% of reports. Based on these estimates, the new arrangements would largely leave intact the present system which provides an investigation including a home visit in just 13% of reports.³³

The commission further recommended that the remaining risk of significant harm reports deemed ‘less than high’ be referred without investigation to Regional Intake and Referral Services. These services should be funded to enable families to remain intact and deliver a broad array of services, from home visiting programs to parent education programs, to drug and alcohol services to family preservation services. What the commission envisages is a vast community service apparatus designed to case manage the ‘complex’ needs of dysfunctional parents and thereby allow them to retain custody of vulnerable children.

The endorsement of the preventive and family preservation focused approach to child protection is explicit in the commission’s recommendations.

The endorsement of the preventive and family preservation focused approach to child protection is explicit in the commission’s recommendations concerning ‘frequently reported families.’ DoCS—along with other key government agencies and non-government service providers and specialists in substance abuse, mental health, and domestic violence—is advised to respond to the needs of the frequently reported families by providing:

An integrated case management response to these families ... together with [a] mechanism for identifying new families and for enabling existing families to exit with suitable supports in place.³⁴

‘Less serious’ reports are not the problem ...

The problems with the accepted account, and the accompanying policy recommendations that have prompted major changes to both the Victorian and NSW child protection systems, start with the notion of ‘less serious’ reports and the role of mandatory reporting in allegedly overwhelming child protection authorities.

There has been a huge growth in reports across Australia since mandatory reporting and the centralised Helpline were introduced in the late 1990s and 2000 respectively. In 1999–2000, there were 107,134 reports (as defined by the Australian Institute of Health and Welfare) to state and territory child protection authorities across Australia. Almost a decade later, the number of reports tripled to 317,526.³⁵ A four-fold increase in reports (as defined by DoCS) saw a record number of 300,000 reports made in 2008.³⁶

Supporters of a preventive approach to child protection say the system was never intended or designed to deal with neither so large a number of allegedly ‘over reported’ families that are ‘in need’ rather than in ‘crisis’ nor with the kind or scale of personal, social and family dysfunction seen today.

Attention is therefore drawn to the approximately one-third of reports classified as ‘less serious.’³⁷ The Wood Commission agreed that around 30% of reports were ‘less serious’ and unlikely to warrant statutory intervention. A detailed breakdown (prepared by DoCS for the commission) reveals that just 13% of reports were either trivial or not genuine ‘risk of harm’ reports as defined in the relevant NSW child protection legislation. The commission arrived at the 30% ‘less serious’ figure by adding the 17% of reports that were closed after an initial assessment or were referred elsewhere for family support and other assistance.³⁸ Overall, the commission found that of the remaining ‘risk of harm’ reports assessed as requiring further assessment, 21% received no further assessment; 33% received some attention but falling short of a home visit; and only 13% of reports resulted in a home visit. The remaining reports concerned children who were already being assessed by DoCS.³⁹

NSW has experienced little change in the proportion of reports needing further assessment.

Yet the claims made about the growth of less serious reports and their impact on demand for child protection services do not tally with the fact that NSW has experienced little change in the proportion of reports needing further assessment. Growth in reports has been driven by increases in the numbers of both ‘less’ and ‘more serious’ reports—that is, by growth in the number of children that are assessed as requiring a child protection response. Significantly, despite the introduction of mandatory reporting, the number of

reports assessed at the Helpline in NSW as requiring further assessment by a DoCS caseworker has remained relatively constant over the last decade at around two-thirds of total reports.⁴⁰ The growth in reports reflects an actual increase in the number of reports about children who require a child protection response.⁴¹

... and are not less serious

To minimise and ignore the main issue—the lack of a child protection response in over 50% of reports—the accepted account blames the crisis on reports defined as ‘less serious.’ Not only is this untrue but it downplays the real risk of child maltreatment and harm involved in these dysfunctional families.

There are, of course, different degrees of risk to children across the reporting continuum. Some reports are trivial (e.g. a parent disciplining a child having a tantrum in the supermarket) and require no further action. Genuinely less serious problems can be resolved with targeted support services that build on parents’ established capacities. However, attempts to classify reports as ‘less’ and ‘more serious’ and as ‘higher’ and ‘lower risk’ (based on paperwork assessments) are inherently artificial. Classifying reports in this manner attempts to triage or rank cases in order of priority. But classifying a report of risk of harm as ‘less serious’ does not mean that families don’t have serious problems or that real concerns don’t exist for the welfare of children.

How problematic such classifications are was demonstrated by complaints made to the Wood Commission. Non-government organisations, which are contracted by DoCS to provide family support services to families allegedly ‘in need’ under the Brighter Futures program, complained to the commission about the so-called ‘less serious’ cases referred by DoCS for family support. Once these organisations started working with these families, they found that many cases ended up involving a higher level of risk and needed more urgent attention. Family support providers found themselves required to carry out child protection work in what turned out to be genuine child protection cases.⁴²

The bottom line is that while there are different degrees of risk to children across the reporting continuum, the reality is that many so-called ‘less serious’ reports concern dysfunctional families. These parents find it difficult to engage with support services and have serious, ongoing, and hard to change behavioural problems. Most importantly, many of these reports concern children in dysfunctional families that are at risk of experiencing cumulative harm and permanent developmental problems caused by chronic parental neglect and abuse.

The accepted account minimises the dangers of chronic neglect and abuse in order to assert that a traditional child protection response is not necessary and to justify a family support focused response. As the recommendations of Wood Commission demonstrate, the pro-prevention policy

agenda goes far beyond plans for a dual reporting pathway for so-called ‘less serious’ reports. The ultimate goal is to provide alternative support services even for ‘lower risk’ reports of ‘significant harm.’ This has major policy implications.

Policy implications

The first policy implication is that it is inappropriate and undesirable to distinguish ‘more serious’ from so-called ‘less serious’ and ‘lower risk’ reports for the purposes of creating a dual reporting and service pathway. Though the idea of restructuring the reporting system to remove bottlenecks and allow child protection authorities to concentrate on investigating ‘higher risk’ reports is attractive to policymakers, many so-called ‘less serious’ and especially ‘lower risk’ cases require proper assessment and investigation.

The second implication is that despite what agenda-setting commentators claim, a full child protection response is appropriate—not just a superficial, standardised paperwork risk assessment that ignores the complex matters involved in face-to-face child protection practice. In these cases, caseworkers should conduct a home visit and ‘sight’ the child; fully assess the family history and the risk of neglect, abuse and harm; and monitor and compile evidence essential to judge whether statutory intervention to remove children is required.

Despite what agenda-setting commentators claim, a full child protection response is appropriate.

The third implication is that child protection authorities should also retain overall control of all child protection matters and act as the ‘lead agency’ or ‘case manager’ in coordinating the response to all child protection matters. If referral to family support and other support services is appropriate for families ‘in need,’ this should be at the discretion of child protection specialists and be based on the full assessment of the ‘risk of harm’ to children.

Policymakers should therefore withdraw well-intentioned but misguided support for the accepted account and accompanying policy recommendations. The policy changes in NSW—raising the mandatory reporting threshold to ‘risk of significant harm’ and creating a dual reporting and service pathway to deal with ‘less serious’ and ‘lower risk’ reports—should be rejected. Policymakers have been unwisely convinced that these changes are necessary to free up the clogged reporting system without realising how it will deny a face-to-face child protection response to many vulnerable children.

The real crisis

Growth in dysfunction, growth in reports

The real story behind the growth in reports is that rather than mandatory reporting becoming ‘inefficient,’ mandatory reporting has worked spectacularly well.

The original thinking behind mandatory reporting regimes was to maximise reports and protect as many children as possible by picking up early concerns and reducing the chances that some children would fall through the cracks. Together with heightened community awareness, mandatory reporting has turned centralised reporting systems into a mechanism that mass screens socially disadvantaged families.⁴³ Rather than drive child abuse underground as critics of mandatory reporting predicted, the increase in the number of reports—the so-called problem of ‘over reporting’—is the result of the heightened surveillance of Australia’s expanding underclass of welfare-dependent dysfunctional families.

As a result of the growth in welfare dependence, one in five Australians is now dependent on welfare for an income and one in eight children lives in jobless households, the vast majority of which are dependent on welfare payments.⁴⁴ The majority of reports to child protection agencies now concern parental and family dysfunction rather than intentional physical abuse and neglect.⁴⁵ Child protection agencies are left with the unenviable task of containing the damage wrought by welfare dependence among an underclass of dysfunctional families. Welfare-dependent families tend to experience multiple, chronic, and often intergenerational problems, including domestic violence, mental illness, drug and alcohol abuse, and the burdens of single parenting.

These families are heavily over-represented in child protection activity because of the chronic failure of parents to meet their children's physical, emotional and developmental needs.⁴⁶

Approximately half the families involved in child protection matters involve parents with substance abuse problems.⁴⁷ Since 2002, the NSW Ombudsman has reviewed the deaths of almost 600 children who were 'known' to DoCS. In the vast majority of these cases, a long history of neglect and family involvement with DoCS was coupled with underlying problems. In 2006, parental substance abuse was identified as a factor in 63 of the families of the 123 child deaths reviewed by the ombudsman.⁴⁸

Not surprisingly, the 'hard core' clientele of the child protection system is made up of repeatedly reported dysfunctional families and parents with entrenched, destructive, and difficult-to-resolve behavioural problems. A large proportion of reports involve children who are already 'known' to child protection authorities, and perhaps as many as 60% of all reports are re-reports.⁴⁹ In NSW, the number of children reported for the first time as a percentage of total reports continues to decline. The Wood Commission revealed that:

- 59% of reports involved children 'known' to DoCS in 2007–08 compared to 45% in 2002.
- More than half the total number of reports involved the top 20% of frequently reported children in 2006–07.⁵⁰
- The 'percentage of children and young persons who were the subject of a substantiated report in the previous year and were the subject of a further substantiation within the following 12 months (which is a default measure of the number of children the child protection system fails) has almost doubled since 2001–02 and increased by about 20% between 2005–06 and 2006–07.'⁵¹
- In 2006–07, 24% of substantiated reports were in this category compared to 13% in 2001–02.⁵²

What has been captured by the reporting system is the increased level of parental dysfunction in disadvantaged communities. The wave of personal, social and family dysfunction that washed over the child protection system, and which has increased the incidence of child maltreatment in the community, is the fundamental and under-acknowledged cause of the growth in reports and the child protection crisis. Contrary to the prevailing orthodoxy that has relegated child protection to the last resort, the state needs to get involved in the lives of an increasing number of at-risk children.

What is also captured by the growth in reports is the large number of 'hard core' dysfunctional parents who retain custody of their children despite being continually re-reported. This is partly a reflection of the systemic failings in the assessment and investigatory processes. But the overarching factors are the institutional and ideological shifts that give priority to prevention and family preservation over traditional child rescue.⁵³

Keeping them unsafe

The real nature of the child protection crisis has been confirmed by an unexpected source. In a seemingly absentminded act of transparency,[‡] the NSW government's response to the Wood Commission, *Keep Them Safe*, revealed that DoCS estimates that around 2,100 families account for a quarter of reports made each year, and that 7,500 families account for nearly half.⁵⁴

[‡]The figures were also quoted by the commission to recommend the roll-out of new programs delivering intensive case management and support services for these families. In relation to these families, *Keep Them Safe* states: 'the service system's knowledge about these families is not strong, and there is not a deep understanding about why existing services are not meeting the needs of some or all of these families.' It is hard to imagine another area of government or business where an agency would admit, or rather feign, such comprehensive ignorance about its core clientele. This kind of risk blindness, which appears to be all about creating a reason for inaction (to the point that DoCS is unable to generate real-time consolidated child protection histories in these cases, see endnote 57), is the most egregious example of DoCS' hit-and-miss child protection policy and practice.

These statistics—the staggeringly high percentage of reports that concern a relatively small ‘hard core’ of repeatedly reported dysfunctional families—confirm, once and for all, that the real problem is not the number of ‘low risk’ reports child protection authorities receive.

It is reasonable to presume a high proportion of re-reports are being made by mandatory reporters, since mandatory reporters account for around three-fourths of all reports in NSW.⁵⁵ Doctors, nurses, teachers, and police are frequent reporters because their professional duties put them in regular contact with the most disadvantaged communities. The reason these professionals are frequent re-reporters is that they are forced to keep reporting the same dysfunctional families 10 and 20 times in an attempt to prompt action. Despite having reported serious child health and welfare concerns, mandatory reporters not only ‘hear nothing’ from child protection authorities but in far too many cases, ‘nothing happens.’ Many children are not even seen, and child protection authorities fail to take the expected statutory action to protect vulnerable children, who are thereby exposed to an increased risk of severe and potentially catastrophic harm due to lack of intervention or intervention that comes too late.⁵⁶

The NSW figures show that thanks to mandatory and centralised reporting, the most vulnerable and at-risk children in the community are being consistently identified and re-identified. The real cause of the crisis is the lack of an appropriate child protection response in ‘higher risk,’ frequently re-reported cases by agencies such as DoCS that do not focus on their traditional ‘forensic’ role and statutory responsibilities and are more interested in keeping dysfunctional families intact and providing support services.⁵⁷ §

The re-conceptualisation of child protection

The real causes and nature of the child protection crisis have crucial policy implications concerning the highly questionable preventive approach to protecting vulnerable children.

The institutional and ideological shifts that have reoriented child protection work away from child rescue and towards family support have led to major changes in philosophy, policy and practice. The most important cultural change has been the decision to grant equal priority to defending parental rights to retain custody of children alongside the right of children to be protected from harm. Opting to intensively case manage the family situation, even when children are at ‘imminent risk of removal’ and ‘high risk of harm,’ has become an important and growing feature of child protection policy. These changes have occurred despite child welfare legislation insisting that the ‘best interest of the child’ must be paramount and override the interests of parents.⁵⁸ The new prevention-focused credo has reinterpreted the legislative obligations of child protection authorities, with considerable presumption, to mean that supporting dysfunctional parents is in the best interests of their children.

Contemporary social policy trends, and the determination of social work academics and practitioners not to judge and stigmatise disadvantaged people as ‘bad’ parents, have also inspired the re-conceptualisation of child protection work. Traditionally, parents who abused and neglected their children were categorised as ‘bad’—as in morally corrupt—for beating or depriving children. The new classes of disadvantaged, abusive and neglectful parents who have emerged in recent decades are not necessarily ‘bad’ in the traditional moral sense, but they are certainly unfit parents who chronically fail to meet their children’s vital needs. The enthusiasm for preventive approaches

§ The NSW statistics make nonsense of the ‘widespread consensus’ among child protection academics and stakeholders that a ‘public health’ approach is the best way to prevent child abuse and neglect. In its opening pages, the Wood Report faithfully regurgitated this line:

child protection systems should comprise integrated universal, secondary, and tertiary services, with universal services comprising the greater proportion. They should be delivered by a mixture of the non-government sector and state agencies, with DoCS being a provider of last resort.

The questions for the proponents of the consensus view are: why focus on universal services, and why should statutory intervention be rendered a last resort, when the current mandatory reporting system keeps identifying the most at-risk and, therefore, frequently reported children in the community? Why ‘invert the pyramid’ when the present arrangements are effective at sifting functional from dysfunctional families and funnelling dysfunctional families directly into the line of sight of distracted and ineffective child protection authorities?

to child protection has allowed the social work community to avoid having to make hard but important judgments about the behaviour and capacities of dysfunctional parents with respect to whether child removal is in the best interests of the child. At the same time, the emphasis on early intervention and family preservation has distracted attention from the major cause of the rise in abuse and neglect—the destructive behavioural consequences of welfare dependence. A misplaced egalitarianism, common in many social policy fields, is behind the push to make preventive approaches the primary response to child protection reports. The belief that parental ability has been unfairly distributed across socio-economic groups explains the urge to ‘redistribute’ parental ability via government-funded family support programs.

Fixing dysfunctional families: a Sisyphean labour

Because abuse and neglect can be anticipated to a certain extent based on the socio-economic and behavioural characteristics of parents, it is too easily assumed that maltreatment can therefore be prevented.⁵⁹ On this basis it is claimed that reports and re-reports, and substantiations and re-substantiations have been increasing, and increasing numbers of children have been ending up in foster care due to a lack of access to preventive services to address the problems families experience before the situation escalates into abuse and neglect. Along with the rush to attribute rising levels of abuse and neglect to lack of prevention, the corresponding assumption is that more spending on early intervention and ‘investment’ in support services for at-risk families will keep children from entering the child protection system, reduce rates of serious child maltreatment, and avoid the need for statutory intervention.

The idea that rather than rescue children from dysfunctional parents, the aim of child protection should be working with families to prevent abuse ... is not supported by a solid evidence-base.

This is an attractive theory. But there is good reason to be sceptical about these claims and assumptions. The idea that rather than rescue children from dysfunctional parents, the aim of child protection should be working with families to prevent abuse and neglect is an unproven approach and is not supported by a solid evidence-base. (See Box 2) A critical analysis of the controversial and highly questionable preventive approach to protecting vulnerable children shows that the re-conceptualisation of child protection policy and practice rests on very shaky foundations. The evidence that family preservation combined with support programs can transform ‘hard core’ dysfunctional parents into capable parents is weak to the point of being non-existent.

A realistic account of the factors that limit the success of prevention programs—on which the existing literature is mostly silent⁶⁰—is as follows.

These programs are designed to work with families at greatest risk of severe neglect, abuse, and child removal. They aim to address the range of behavioural factors that limit some people’s ability to parent, normalise the challenges associated with parenting, and ensure the proper development of children. To succeed, these programs have to undo entrenched patterns of dysfunctional behaviour among that ‘hard core’ of parents whose children are frequently reported and re-reported. These programs overlook the realities of personal dysfunction and the consequent limits of individual capacity.

Box 2: Can prevention work?

- **How effective are family support services:** Readers of the literature on child protection reform are reassured that ‘meta-analyses regarding the results of early intervention typically point to the effectiveness and utility of such programs in addressing identified risks and vulnerabilities.’⁶¹ Deliberately opaque, such statements nevertheless encourage the belief that family support services are effective, and that enhancing access to more of these services for more children and families, is the key to keeping families intact and better protecting children.
- **No systematic research:** A far from reassuring story emerges upon examining the literature on prevention. To start with, the introduction of the three main types of prevention programs—parent education, home visiting, and family preservation programs—is proceeding without systematic research to support their effectiveness.⁶² The few studies that have been conducted have produced mixed findings with regard to effectiveness, with significant variations across interventions, especially concerning the effect on the ‘hard core’ dysfunctional families in which child abuse and neglect are concentrated. On top of a range of methodological issues (including the failure of the majority of studies to use rigorous evaluation methods such as randomised control groups), the problems with the evidence-base include:⁶³
 - Parent education programs are designed to ‘build capacity’ in families by imparting parenting skills and information to participants. At best, select studies have found that ‘strength-based’ programs can increase parental knowledge and modify bad parental behaviour but demonstrate no clear effect on parenting skills.
 - Parenting programs have succeeded with well-educated parents. Few programs have been available for severely dysfunctional parents at ‘high risk’ of seriously maltreating children.
 - There is some evidence that home visiting programs may be effective when targeted towards at-risk families, and have positive impact on the risk factors associated with child maltreatment.
 - However, most studies of both parenting and home visiting programs have measured the process and impact of the intervention on the skills and knowledge of participating parents. Very few have directly measured the key outcomes. Most have not directly examined child health or child protection data to establish if there has been a reduction in child maltreatment.
 - Typically, and inexplicably, even the acclaimed Australian Triple P (Positive Parenting Program), which has been the subject of a so-called rigorous evaluation, ‘did not include an outcome measure’—such as the number of reports of child maltreatment before and after the program—and thus ‘it is not clear whether the impact of the program ... would translate to a reduction in the prevalence of child maltreatment.’
 - Similarly, the evaluation of the Australian Community Child Health Nurse home visiting program for newborns ‘did not assess the program’s impact on the incidence of neglect ... researchers are unable to determine whether these programs achieved more favourable outcomes for children by reducing the occurrence of child maltreatment.’⁶⁴
- **Qualifications to studies:** Select studies have directly measured and demonstrated some positive result in reducing child maltreatment. However, important qualifications apply. Many of the studies have had small sample sizes and experienced high attrition rates. The studies do not reveal whether short-term benefits were maintained over the longer term, and the results are unreliable because the parents most likely to drop out would be those in greatest need and with the greatest risk of inflicting child neglect and abuse. In other words, the ‘preventive effect’ may have occurred with only the ‘low hanging fruit’ or the most easily resolved cases rather than with the target ‘hard core’ of dysfunctional families.⁶⁵
- **Limitations of preventive programs:** Another reservation is that, in general, preventive programs have been shown to have a ‘modest and short-term’ impact.⁶⁶ Support services

may place at-risk families in a holding pattern by temporarily delaying but not ultimately preventing abuse or neglect. When support is removed, the recurrence of abuse and neglect by dysfunctional parents may be next to inevitable as entrenched behavioural problems re-emerge.⁶⁷

- **No proof:** Speculation as to the cause of the ‘modest and short-term’ impact of prevention programs has tended to accentuate the positive. It is suggested that the evidence is yet to show what works, because more sustained and more intensive interventions than first anticipated are needed to change the established and complex patterns of behaviour that contribute to child maltreatment. This view is underpinned by a ‘culture of optimism’—an unwarranted belief that dysfunctional people can be transformed into capable parents (see page 16). The more pessimistic but pragmatic approach is to target preventive programs, which may have the greatest prospect for success by altering dysfunctional behaviour before it becomes entrenched.⁶⁸
- **Ensure effective intervention:** This should start with the roll-out of home visits by community nurses to every family with new born babies. The primary objective would be to improve the identification and monitoring of at-risk families with a view to the rapid provision of early intervention and support services, and, if necessary, early statutory intervention. This should be followed by sustained home visiting for vulnerable families for at least two years, given that the most serious abuse occurs in the early years of a child’s life. Pre-natal and early childhood programs should also be designed for first-time teenage mothers, which would focus on developing parenting skills, continuing formal education, discouraging further pregnancies, and deterring ‘career’ single parenthood. The provision of high quality early childhood child care for vulnerable children has also been shown to compensate for dysfunctional parenting and to enhance child development.⁶⁹

Transforming dysfunctional people into competent parents is extremely difficult because very often, these people have not had appropriate parental role models, may have been permanently damaged by suffering abuse and neglect as a child, and are often dependent on drugs. Most have lost or never had the discipline or responsibility of regular work, and do not live ordered, well-structured, or incentivised lives. As a result, members of the underclass are bereft of basic life skills and are unable to cope with the normal demands of rearing children. So disturbed

‘Early intervention’ is likely to prove too late to help many damaged and dysfunctional parents.

has been their own development, and so troubled, irresponsible, and chaotic are their own lives, that ‘early intervention’ (by the time a child has attracted official notice by way of a report) is likely to prove too late to help many damaged and dysfunctional parents whose confidence, capabilities and resilience have been sapped by the destructive behavioural consequences of welfare dependence and associated problems.⁷⁰

Prevention programs, especially those that are ‘strength-based,’ are highly unlikely to transform damaged people into competent parents and make dysfunctional families functional.⁷¹ Of deep concern, therefore, are the plans in motion throughout Australia to expand intensive family preservation programs targeting dysfunctional families deemed at imminent risk of child removal. These experimental programs—also pioneered by Victoria—are the latest manifestation of the institutional and ideological re-conceptualisations that have taken place within child protection agencies. It is disturbing, to put it mildly, that these programs are being rolled out—for children at higher risk of harm and for children who have been abused so families can be ‘safely’ reunited⁷²—despite the great potential for severe and permanent harm to children, and despite ‘the lack of good quality research about the effectiveness of family preservation services.’⁷³

First steps to better child protection

Consistent with the institutional and ideological shifts, child protection authorities have expanded their services to include the provision of family support. A prevention-focused approach to child and family welfare forms the basis of the major policy response to the growth in reports in all jurisdictions. To try to manage (rather than meet) the increased demand for their services, child protection agencies have entered the business of providing family support services with the aim of reducing reports and rates of abuse and neglect.⁷⁴ To greater and lesser extents in different states, the non-government sector has been enrolled to deliver taxpayer-funded support services for dysfunctional families.

In NSW, DoCS has become a high cost and inefficient provider of poor quality family support services under the Brighter Futures program (See Appendix). By commandeering half of the funding and capacity in Brighter Futures for its own ‘in house’ programs, DoCS has created service shortages and waiting lists in areas of high demand. New cracks have been created in the system through which children and families fall. As a result of widening its remit over the entire field of child and family welfare, DoCS has been further distracted from its core responsibilities, and has ended up doing neither child protection nor family support well. The philanthropic and charitable community-based organisations that traditionally have provided assistance to families have been deliberately crowded out.

Complete outsourcing of family support to non-government organisations—subject to strict performance-based and competitive contracting arrangements, and the development of an outcomes-based funding model⁷⁵—is the logical and efficient way to restructure the child protection system (See Appendix). This also represents the first step towards cultural change and ending the crowding out of child protection work. This reform is essential to reverse the institutional and ideological shifts that have seen the field of child protection ‘colonised’ and ‘captured’ by other forms of social work with parents.

The marginalisation of child protection work inside child protection agencies like DoCS is attributable to the fact that child protection services in Australia are sub-departments of much larger departments of community services. Without a stand-alone child protection department to defend their interests, child protection workers have lost out to the interests of other, more influential groups of social workers who have little interest in traditional child rescue. These social workers have a professional interest in keeping children with their parents so that taxpayer-funded support services can be provided. The result is that frontline caseworkers not only face intimidation and the threat and reality of violence when thrown into contact with the most behaviourally aberrant people in society. They are also forced to carry out their thankless and high-risk jobs while working for bureaucracies that have devalued their role and which are more interested in resourcing so-called alternatives services.

Outsourcing family support services to the community sector, and thereby clarifying the core responsibilities of child protection agencies and limiting their remit to the assessment and investigation of reports and statutory interventions, represents the first step in the process of addressing the systemic institutional and ideological flaws that impede effective child protection. This is the first step towards the real promised land of best child protection practice recommended by the leading Australian and international experts in *child protection* (as distinct from other forms of social work). What Australia’s vulnerable children require is a stand-alone child protection department in each jurisdiction that:

What Australia’s vulnerable children require is a stand-alone child protection department in each jurisdiction.

- is staffed and led by child protection specialists and overseen by a minister solely responsible for protecting vulnerable children.
- retains overall control regarding all child protection matters and operates as the ‘lead agency’ or ‘case manager’ in coordinating the response to all child protection matters.

- ‘buys in’ targeted support services, if appropriate, according to the needs of children rather than based on the needs of parents and the requirements of social work professionals seeking access to ‘clients.’
- rigorously assesses and forensically investigates risk of harm notifications, and is committed to the face-to-face collection of evidence relevant to a family’s child protection history and whether statutory action to remove children is required.

Creating stand-alone child protection departments is especially critical to protect reported children who are under school age and do not attend school (like Ebony) or are chronically truant. Who else is going to protect these children if not child protection authorities? That the full investigation of all reports concerning children who do not attend school is not standard practice in all jurisdictions is a telling commentary on the perilous state of child protection in Australia.

To expect risk of harm notifications to be fully investigated is not pie in the sky. Following a series of child protection scandals and public outcry in Queensland, and as recommended by an extensive 2004 Crime and Misconduct Commission report into the systemic failures of the child protection system, a new department was created to focus exclusively on core child protection functions.⁷⁶ All child protection notifications to the Queensland Child Safety Department are now investigated as a matter of policy and to ensure public confidence in the system.⁷⁷ The new and better approach adopted in Queensland shows what political will and corporate determination can achieve when child protection becomes the No. 1 priority, and puts excuses about growth in ‘less serious’ reports and lack of funding into proper perspective.^{78 **}

Conclusion: how best to keep them safe

Of the children and young persons who were the subject of a finding of substantiated neglect or risk of neglect in 2005/06, around three quarters did not subsequently enter care. Even fewer entered care where the risk issues involved psychological harm, physical harm, sexual harm and risk of harm. The question as to what happened to these children and young persons is important and largely remains unanswered.

—*The Hon. James Wood AO QC*⁷⁹

Bottom feeding

Rather than ‘invert the pyramid,’ as child protection academics suggest, and devote more resources to programs with limited potential for preventing child abuse and neglect, the policy priority should be to cease ignoring the obvious—the thousands of the most vulnerable, re-reported children who account for the majority of reports and who are continually placed in the line of sight of distracted and ineffective agencies like DoCS.

The policy priority should be to cease ignoring the obvious—the thousands of the most vulnerable, re-reported children who account for the majority of reports.

A child protection system that was focused on and committed to traditional child protection work would mean, in NSW for example, that many of the 7,500 families who make up 50% of reports would not retain custody of children. The demands on the child protection system would decrease significantly, and there would be no justification for using taxpayer’s money to provide drug counseling and other family support services to dysfunctional parents in the name of ‘protecting’ children from harm. There would, therefore, be less need for the services that both child protection agencies and non-government organisations provide for children and families.

** Regrettably, the Queensland government has recently decided to restructure the public service and bring the Child Safety Department back under the control of the Department of Communities. Creating ‘super departments’ always promises (but rarely realises) administrative savings but, in this instance, at what price for vulnerable children?

These conflicts of interest reinforce the need to establish stand-alone child protection departments and ensure these services operate at arm's length from the NGOs that supply family support services. NGOs have a vested interest in family preservation-centred approaches to 'protecting' children, as evidenced by the community sector's strong support for reforms based on the Victorian model. Child protection authorities must be held accountable by independent oversight agencies such as the NSW Ombudsman and the Children Commissioner to ensure they properly fulfil their vital statutory responsibilities. The appropriate role for the Commonwealth is to continue to develop nationally consistent and transparent reporting and accountability standards so that we could find out, for example, the percentage of reports that are re-reports involving 'hard core' dysfunctional families in all states.

What must be understood is that child protection is an area ripe with opportunities for 'bottom feeding' activity. We must not get into a situation (or rather we must get out of the existing situation) where the (maybe unconscious) desire of child protection agencies and NGOs to see the services they offer continue to be needed and to receive taxpayer support is put before the task of breaking the inter-generational cycle of disadvantage and the best interests of vulnerable children who need to be permanently removed from dysfunctional parents.

Tackling taboos

The policy choice that confronts the community is a stark one. And it raises unpalatable issues that policymakers and many others are reluctant to openly confront.⁸⁰ The standard argument used to reject the traditional approach to child protection is that removing vulnerable children from dysfunctional abusive and neglectful parents 'victimises the poor.' The overriding issue is the need to end the vicious cycle perpetuated by allowing dysfunctional parents to keep custody of children. Too many children are currently on the treadmill of reports, re-reports, and then finally removal; poor quality and multiple out-of-home care placements that are increasingly likely to breakdown; failed reunion; and re-reports, re-removal, and so on. This cycle is damaging children by denying them the stability and emotional security, the educational opportunities, and the proper parenting that all children need. The legitimate and under-acknowledged concern is that the so-called preventive approach to child protection is perpetuating the intergenerational cycle of parental disadvantage and dysfunction that damages children and creates the next generation of welfare dependents, drug abusers, criminals, and abusive and neglectful parents.⁸¹

The overriding issue is the need to end the vicious cycle perpetuated by allowing dysfunctional parents to keep custody of children.

Another argument used against the traditional child protection approach is that bad quality out-of-home care is just as harmful to children as parental abuse and neglect. This is correct. But rather than a reason to fix the problems that currently beset the foster system, this is cited as a reason to pursue family preservation focused strategies.⁸² The reality is that family preservation orthodoxies are seriously damaging children. Research indicates that children entering care at older compared to younger ages are far more likely to have significant behavioural, emotional, health, social, and educational problems due to the traumas experienced because of poor parenting and multiple placements. Eloquent testimony on this crucial point has been provided by the NSW Ombudsman's January 2009 review of children aged 10 to 14 in out-of-home care in NSW [emphasis added]:

For many of the children with extensive care and protection histories, *the child protection case work goal in their earlier years was to support the family to retain the care of the child.* This was attempted through a range of casework intervention strategies, including the provision of family support and restoration following periods of care. However, some of the children we reviewed who were reported early in their lives, initially received limited assessment and/or support.

Significantly, of the nine children identified as having high needs at the time of our review, eight had extensive care and protection histories. The ninth child—who had severe developmental delay and autism—did not have an extensive

care and protection history but on the basis of assessment on his entry into care, should have.

For these eight children, *the evidence from our reviews demonstrates that the focus on family preservation and reunification has meant that they have experienced high levels of adversity and disadvantage.* Now in middle childhood and receiving extensive support, it is difficult to see how some will move through adolescence without further significant problems. In this regard, it is relevant to note that those children we reviewed who were initially reported to DoCS at age one or younger, were more likely to have additional needs—such as developmental delay, mental health issues or educational issues—in middle childhood than the group as a whole.⁸³

The unspoken truth of the crisis is that the life chances for many children would be vastly improved by a system committed to skilled and effective child protection practice.

The unspoken truth of the crisis, which must be honestly faced, is that the life chances for many children would be vastly improved by a child protection system that was committed to skilled and effective child protection practice and rescuing at-risk children from dysfunctional parents. The most important and appropriate approach to reports of abuse and neglect and parental and family dysfunction is to provide a full child protection response at the first opportunity. Early child removal (especially as the most serious abuse is perpetrated on young children under school age) and the provision of stable and permanent placements preferably by means of adoption by suitable families are the best ways to promote child

development and protect vulnerable children from neglectful and abusive parents incapable of providing the physical, emotional and developmental support that all children have the right to receive.

Protect from harm or perpetuate dysfunction

At present, child protection policy is headed in the opposite direction. The philosophy articulated in the Rudd government's recently released National Child Protection Framework is entirely based on the accepted account and the family support-centred approach to keeping at-risk children safe. The national framework blithely assumes that any report not substantiated (recall that just 13% of NSW reports receive a home visit) is 'less serious,' and means 'a child protection response was *not required*.' A greater focus on providing early intervention and preventive service at the right time is recommended because 'child protection services cannot provide a response to all vulnerable children and their families.'⁸⁴

At the state level, preventive programs for dysfunctional families are being rolled out despite the gaps in the evidence-base, despite the lack of evidence that these programs reduce the incidence of child maltreatment, and despite the evidence that sending families to programs like Brighter Futures is an inappropriate way of responding to so-called 'less serious' and 'lower risk' reports. Commenting on the extremely serious problem of 'higher risk' families being inappropriately referred for family support, the NSW Ombudsman said that there were:

a number of cases in which families have been referred to Brighter Futures but were rejected from entering the program on the basis that the presenting risks were too serious. However, when these cases were referred back to child protection, they were closed by the department on the basis of competing priorities.⁸⁵

Intensive family preservation services are also being rolled out to fill the service gap for cases involving risks too low for statutory intervention and too high for family support. If it were clear that NGO-provision of these services was a 'last, last chance' for dysfunctional families, with child protection authorities poised to finally remove children unless parents clean up their act, then perhaps the parental rights-based strategies and effective child protection work could be better reconciled. But there is every reason to think child protection authorities are treating family preservation services as long-term alternatives or substitutes for traditional child protection work.

The concern is that another loop will be added to the existing cycle of failed interventions and create another barrier to removing children, because the enthusiasm for this latest innovation is another march down the long road of rendering removal an even more distant ‘last resort.’ It is therefore vital, at the very minimum, that proper evaluations are conducted that demonstrate outcomes for children.

These concerns reinforce the central point of this paper: the need for child protection agencies to concentrate first and foremost on their core responsibilities, and for child protection work to be restored as the primary response to all risk of harm notifications and the chief method by which governments seek to keep children safe. This requires more than re-jigging service structures and splitting-off family support services into the community sector.

NSW DoCS and equivalent agencies in other states must also reassess the dominant ideological prism through which they now view their role, and concede that the reconceptualising of child protection work as essentially preventive, which has rendered child removal a last and reluctant resort, is misguided.

A misplaced determination to keep families intact, based on the flawed premise of prevention and a refusal to judge ‘bad’ parents because they are disadvantaged, should not inhibit child protection agencies from exercising their full powers to rescue vulnerable children from dysfunctional parents. Given the reasons to believe that prevention won’t work with hardcore dysfunctional parents, and given that the roll-out of intensive family preservation services could result in serious and long-term harm to children, the current approach to protecting vulnerable children must be urgently reconsidered. Otherwise, the family support focused policy and practices that have become the new orthodoxy inside child protection agencies may ultimately turn out to be the most fatal flaws of all in the child protection system.

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Appendix—Brighter Futures

Policy response

In NSW, a \$1.2 billion improvement package introduced in 2002 featured a heavy investment (\$260 million) in the DoCS-administered Brighter Futures family support program, which provides eligible families with two years of case management and access to home visiting services, parenting programs, and child care services.⁸⁶ Under Brighter Futures, which began in 2003–04, family support services are partly provided by DoCS' early intervention teams, and partly provided on a contracted-out basis by community organisations funded and monitored by DoCS.⁸⁷

Policy failure—new ways to fall through the cracks

Rather than focus exclusively on its core child protection responsibilities, DoCS, consistent with the institutional and ideological shifts in child protection, has expanded its role to include the inefficient 'in house' provision of high-cost and low-quality family support services. The preliminary evaluation of Brighter Futures revealed that non-government organisations managed to provide services to approximately 60% of families 'in need' included in the program while receiving the same level of funding (50% of the total program funding) as DoCS in-house services.⁸⁸

The department's role in the Brighter Futures program has been heavily criticised for attempting to dominate the entire field of child and family welfare and for crowding out the philanthropic and charitable community-based organisations which traditionally have provided assistance to families. This was a deliberate policy in NSW under Brighter Futures. To protect its far less efficient in-house early intervention services, DoCS structured the contracts with community providers in a way which severely restricted their role. DoCS commandeered half the referrals and half of the funding in order to guarantee 50% of the total program capacity for its own in-house services.⁸⁹

The capacity constraints in the community sector have forced families in areas of high demand to go on to waiting lists. Crowding out of the community sector has thus contributed to the under-inclusion of families in family support services. Many reported families have received no assistance and have had their cases closed prematurely. Arbitrary qualification criteria are also used to ration services. Families with children over the age of nine are not eligible for assistance under Brighter Futures.⁹⁰ The unmet need this creates increases the chances of re-reporting and further overloading the system. It also means that many children end up receiving attention once they are at 'higher risk' or are experiencing 'more serious' abuse, and when the family problems are more intractable and permanent damage to the child is likely to have occurred. Rather than ensure fewer children fall through the cracks, service shortages in the Brighter Future program have created new ways for families and children to fall through the new cracks in the system.

Continued growth in reports and rising child abuse rates indicate that spending millions on DoCS-administered early intervention programs has not significantly improved the performance of the child protection system and is failing on all fronts to meet the needs of children and families. The deteriorating situation suggests that the state-centred approach to family support adopted in NSW—the idea that child protection authorities should control the entire field of child and family welfare—has exacerbated the crisis. On the one hand, child protection authorities have been further distracted from their core responsibility for child rescue. On the other hand, this has also crowded out the more efficient community-based organisations capable of providing family support services. A fair conclusion is that as a result of trying to provide both child protection and family support, DoCS has ended up doing neither child protection nor family support well.

NSW government 'Action Plan'

There was nothing new about the Wood Commission's recommendation that DoCS cease its role in the provision of family support and that these services be outsourced to the community sector. Similar recommendations have been made before but have not been properly implemented. The Legislative Council's Standing Committee on Social Issues recommended in 2002 that family support services be entirely outsourced. The 2002 'improvement package' was a half-baked attempt to put the recommendations into practice and strengthen the role of non-government organisations.

Restructuring the delivery of family support services is difficult to accomplish because DoCS, aided and abetted by the NSW Public Service Association (which has also blocked attempts to strengthen child protection and improve frontline casework by ordering members not to participate in quality review audits⁹¹) has a successful track record of obstructing, sabotaging and subverting well-intentioned reforms.

The well-founded fear that the most important recommendation of the Wood Commission would fall victim to political, bureaucratic, and union self-interest has now been realised. As part of the Action Plan announced in response to the commission, the NSW government promised to expand early intervention services and enhance the role of the non-government sector in delivering services. This commitment to a 'shared approach' to keeping children safe amounts to transferring 'growth places to the non-government sector in the short term' while engaging in a lengthy consultation process to establish 'where NGOs are best placed to undertake contracted roles.' The government justified its partial support for the commission's recommendation that family support services be entirely contracted out on the grounds that it is waiting for the evaluation of the Brighter Futures to be completed in 2010.

However, in response to the release of the Wood Report, the Minister for Community Services was ominously quick to suggest that outsourcing of family counseling would have to be a slow process because of an alleged lack of capacity in the community sector. This is often cited by DoCS, the PSA, and the NSW government as an argument against outsourcing. Yet it is DoCS that has created this artificial service gap by structuring the Brighter Futures program in a way that commandeers half the funding and referrals and crowds out NGOs. The commission also blamed the high vacancy rate in some areas on the community sector side of Brighter Futures on DoCS' slowness to refer eligible families to community providers.⁹²

As expected, the government has hidden behind the old dodge of lack of capacity to shirk the issue and justify DoCS continuing the existing involvement in Brighter Futures. Under intense pressure from its political allies, the government, by refusing to commit to full outsourcing family support services, has put the vested interests of DoCS and its unionised employees before the best interests of vulnerable children and families. Under the Action Plan, DoCS will retain its dual focus on child protection and the inefficient provision of in-house family support services despite the need for DoCS to concentrate on its core responsibility of assessing and investigating reports and undertaking statutory interventions.

The critical task for policymakers is to learn from past failures and put in place the administrative and legislative requirements that will keep DoCS accountable and drive real structural change in the way family support services are delivered. The fact is that DoCS' role as the centralised administrator of Brighter Futures enabled the department to frustrate the 2002 reforms. Given the insidious and intensely hostile culture inside DoCS towards the provision of services by NGOs (non-public sector unionised), control over the terms and conditions on which family support services are to be contracted out should not be left in the hands of the department.

Endnotes

- 1 Prior to departing the CIS in January 2009, Toby O'Brien contributed a preliminary draft of this paper, which has been extensively rewritten, amended and extended by the lead author. Final responsibility for the arguments presented is the lead author's. Thanks to Professor Chris Goddard for commenting on earlier versions of this paper and providing many insights that have immensely improved the final version. My colleagues Jennifer Buckingham, Jessica Brown, Sara Hudson, and Leonie Phillips all read and provided helpful comments on this paper. Thanks to Mangai Pitchai for editorial assistance. All remaining errors are the lead author's responsibility.
- 2 The Hon. James Wood AO QC, *Report of the Special Commission of Inquiry into Child Protection Services in NSW* (the Wood Report) (Sydney: State of NSW, 2008), i–ii.
- 3 Allen Consulting Group and Australian Research Alliance for Children and Youth, *Inverting the Pyramid: Enhancing Systems for Protecting Children* (Melbourne: Allen Consulting Group, 2009), 48.
- 4 Quoted in Caroline Overington, 'Early intervention key to child welfare overhaul,' *The Australian* (4 March 2009).
- 5 Nationally, the number of substantiated notifications have increased by more than 30% from 46,154 in 2004–05 to 60,230 in 2006–07 before a fall to 55,120 in 2007–08. This represents a doubling from 24,732 in 1999–2000. The number of children on care and protection orders rose by more than 100% from 16,449 at 30 June 1998 to 34,279 at 30 June 2008. The rates of children on care and protection orders in Australia increased from 3.5 per 1,000 at 30 June 1998 to 6.9 per 1,000 at 30 June 2008. Australian Institute of Health and Welfare, *Child Protection Australia 2007–08*, Child Welfare Series No. 45 Cat. No. CWS 33 (Canberra: AIHW, 2009), viii.
- 6 David King, 'Starved girl death of "torture",' *The Australian* (18 November 2007); Adele Horin, Dan Proudman, Les Kennedy, and Alex Tibbitts, 'Starved girl's sister was taken from her family,' *The Sydney Morning Herald* (8 November 2007); Simon Kirby and Ben Cubby, 'Girl prisoner's "torturous death",' *The Sydney Morning Herald* (22 November 2007); and Lisa Davies and David King, 'Starved girl died "slow, torturous death",' *The Australian* (21 November 2007).
- 7 NSW Ombudsman, *Report of Reviewable Deaths in 2006: Volume 2: Child Deaths* (Sydney: NSW Ombudsman, 2007), iv–v.
- 8 NSW Ombudsman, *Special Commission of Inquiry into Child Protection in NSW: Submission of NSW Ombudsman, Part 6: Assessment and Early Intervention and Prevention* (Sydney: NSW Ombudsman, 2008), 6.
- 9 The Wood Report, as above, ii–iii.
- 10 Productivity Commission, *Report on Government Services 2009* (Canberra: Productivity Commission, 2009), Table 15A.1.
- 11 The Wood Report, as above, iii.
- 12 As above, 14.
- 13 Toby O'Brien, 'Vulnerable children at mercy of the bureaucracy,' *The Australian* (26 November 2008). Not for the first time, one can only be staggered by the hopeless state of affairs in public administration in NSW. Public hospitals confront similar problems due to the cost and scale of the bureaucracy outweighing doctors, nurses and beds. (See Wolfgang Kasper, *Radical Surgery: The Only Cure for NSW Hospitals*, Policy Monograph No. 91, Papers in Health and Ageing 7 (Sydney: CIS, 2008)) In all government agencies, resources are allocated inefficiently and employees have the incentive and opportunity to secure bureaucratic billets that do not involve frontline service delivery. Given what is at stake in child protection—the wasted lives and futures of the most vulnerable children—there is even more reason for disgust at the waste of taxpayers' money to fill positions peripheral to DoCS' vital responsibilities.
- 14 What follows is based on the joint submission to the Wood Commission prepared by Judy Cashmore, Professor Dorothy Scott, and Commissioner Gillian Calvert, *Submission to the Special Commission of Inquiry into Child Protection Services in NSW*, also titled 'Think Child, Think Family, Think Community: From a Child Protection System to a System for Protecting Children,' NSW Commission for Children and Young People (March 2008).
- 15 The point stressed here is that the vast majority of reports do not result in a proven finding of neglect or abuse, and only one in five reports across Australia is substantiated, and even fewer involve abuse and neglect of sufficient severity to warrant statutory intervention and child removal. Daryl Higgins and Ilan Katz, 'Enhancing service systems for protecting children: Promoting child wellbeing and child protection reform in Australia,' AIFS *Family Matters* 80 (2008), 47–48. See also Judy Cashmore, et al. as above, 20. Of the 300,000 child maltreatment notifications received nationally in 2007–08, only 55,120 allegations were subsequently proven. Australian Institute of Health and Welfare, *Child Protection Australia 2007–08*, as above, 25. Overlooked are the flaws in

- investigation process and the fact that gatekeeping occurs in the initial assessment process to artificially lower substantiations. Leah Bromfield and Prue Holzer, *A National Approach for Child Protection: Project Report: A report to the Community and Disability Services Minister's Advisory Council*, National Child Protection Clearinghouse, Australian Institute of Family Studies (2008), 56, note 26.
- 16 Leah Bromfield and Prue Holzer, as above, 54. Under the 'public health model,' which has heavily influenced the direction of child protection reform in Australia, family support services are classed as 'secondary interventions' that involve 'early screening to detect children who are most at risk of, followed by a combination of interventions (e.g. home visiting, parent education, skills training) to address the risk factors for child maltreatment.'
 - 17 Leah Bromfield and Prue Holzer, as above, 12–14.
 - 18 Significantly, 100% of local adoptions occurred with the consent of either the birth mother or birth parents. AIHW, *Adoptions Australia 2007–08*, Child Welfare Series No. 46. Cat. No. CWS 34 (Canberra: AIHW, 2009), 20.
 - 19 Victorian Department of Human Services, *A Strategic Framework for Family Services* (Melbourne: State of Victoria, 2007), 21–22.
 - 20 Shane Thomas, *The Victorian Family Support Innovation Projects: Final Evaluation Overview Report* (Melbourne: Department of Human Services, Victoria and Monash University, 2007), 10.
 - 21 In 2002–03 there were 37,365 reports. In the year ending 2007, there were 38,675 reports. In 2007–08, reports increased to 41,607. AIHW, *Child Protection Australia 2007–08*, as above, 23.
 - 22 AIHW, *Child Protection Australia 2007–08*, as above, 22–25.
 - 23 In June 2003, there were 4,046 children in state care in Victoria. As at June 2008, there were 5,056 children in state care. AIHW, *Child Protection Australia 2007–08*, as above, Table 4.3, 57.
 - 24 The Victorian Child Death Review Committee, *Annual Report of Inquiries into Child Deaths: Protection and Care 2002* (Melbourne: State of Victoria, 2002); The Victorian Child Death Review Committee, *Annual report of inquiries into the deaths of children known to Child Protection 2007* (Melbourne: State of Victoria, 2007).
 - 25 Victorian Department of Human Services, *An Integrated Strategy for Child Protection and Placement Services* (Melbourne: Community Care Division, Victoria Department of Human Services, 2002).
 - 26 The number of care and protection orders has also continued to increase in Victoria each year, and have almost doubled from 4,215 in 1998 to 5,038 in 2003 to 7,876 in 2008. AIHW, *Child Protection Australia 2007–08*, as above, Table 3.5, 45.
 - 27 The Wood Report, as above, iv.
 - 28 As above, vi–viii.
 - 29 NSW government, *Keep Them Safe: A Shared Approach to Child Wellbeing* (Sydney: Department of Premier and Cabinet, 2009), 10.
 - 30 The Wood Report, as above, v.
 - 31 As above, 369.
 - 32 As above, vii, emphasis added.
 - 33 The Minister for Community Services, Linda Burney, has now confirmed that DoCS will only respond to reports where a child has been seriously injured or is deemed to be at high risk of harm, and that less serious reports will be dealt with by the child wellbeing units. 'DOCS report network expanded,' *The Daily Telegraph* (17 June 2009).
 - 34 The Wood Report, as above, viii.
 - 35 AIHW, *Child Protection Australia 2007–08*, as above, 23.
 - 36 NSW government, *Keep Them Safe*, as above, 1. This data differs substantially from the data in the AIHW's *Child Protection* reports, which give 195,599 as the number of notifications in NSW in 2007–08. (This may be because the DPMC report is for the calendar year ending December 2008, while the AIHW data is for the financial year ending June 2008. According to the AIHW in 1999–2000, there were 30,398 reports of suspected child abuse and neglect to the DoCS helpline. AIHW, *Child Protection Australia 2007–08*, as above, 23.
 - 37 Judy Cashmore, et al., *Think Child*, 20, assert that 40% of reports in NSW are 'less serious.' See endnote 14.
 - 38 The Wood Report, as above, 183.
 - 39 As above, ii–iii.
 - 40 NSW Ombudsman, *Special Commission of Inquiry into Child Protection in NSW: Submission of NSW Ombudsman. Part 4 Mandatory Reporting* (Sydney: NSW Ombudsman, 2008), 2. The Wood report also points out the proportion of reports requiring further assessment has increased slightly since 2001 to 70% in 2007–08. The Wood Report, as above, 137.

- 41 Australian Institute of Health and Welfare, *Child Protection Australia 2006-07*, Child Welfare Series No. 43. Cat. No. CWS 31 (Canberra: AIHW, 2008), 10.
- 42 See the Wood Report, as above, 245.
- 43 Judy Cashmore, et al., *Think Child*, 21.
- 44 See Jessica Brown, *Breaking the Cycle of Family Joblessness in Australia*, Policy Monograph No. 95 (Sydney: CIS, 2009).
- 45 Allen Consulting Group, *Inverting the Pyramid*, as above, 3.
- 46 'Families with low incomes or that are reliant on pensions and benefits, those that experience alcohol and substance abuse, or a psychiatric disability, and those that have a family history of domestic violence are over-represented in the families that came into contact with the protection and support services system.' Families that share these common social and demographic factors are 'over represented in the families that came into contact with the protection and support services system.' Productivity Commission, *Report on Government Services 2009*, as above, 15.4. It is impossible to say for sure the percentage of families involved in the child protection system that are welfare dependent: child protection agencies, fearing the poor will be stigmatised, refuse to release data detailing the social characteristics of clients. The consensus is that 'disadvantaged' or 'low income' clients feature prominently and are overrepresented in child protection work.
- 47 Judy Cashmore, et al., *Think Child*, 25.
- 48 NSW Ombudsman, *Report of Reviewable Deaths in 2006, Vol. 2 Child Deaths*, as above, ii.
- 49 Leah Bromfeld and Prue Holzer, *A National Approach for Child Protection*, as above, 6–7. National data in the Productivity Commission's *Report on Government Services 2009* indicates that between 10 and 30% of substantiations (depending on the jurisdiction) had been the subject of a notification in the previous 12 months.
- 50 The Wood Report, as above, 120–121.
- 51 As above, 170.
- 52 As above, 1025. Mystifyingly, the Wood report notes that 'that DoCS no longer considers this measure useful as it depends at least in part on the number of cases allocated to caseworkers and thus, ultimately on resources.'
- 53 The Wood report's analysis of reporting trends found that, in 2006–07, '62.1 of children who were the subject of a report referred ... for further assessment had a child protection history compared with 50.8 per cent in 1999/00.' The Wood Report, as above, 144.
- 54 NSW government, *Keep Them Safe*, as above, 14. See NSW Ombudsman, *Special Commission of Inquiry into Child Protection in NSW: Submission of NSW Ombudsman*, as above, Part 6, 11. This data was originally reported in a presentation by then DoCS Deputy Director, Dr Gul Izmir, at the Australasian Conference on Child Abuse and Neglect. See *Breaking Down the Barriers between Prevention, Early Intervention and Child Protection* (31 October 2007 to 2 November 2007), www.ccm.com.au/acan/content/papers/Wed_Rm5-RanahanSTARTBarnardosFarinolaJackson.pdf. Needless to say, the policy implications of these figures have been obscured in the rush to blame 'less serious' reports for the growth in reports.
- 55 The Wood Report, as above, 127.
- 56 This is supported by the analysis in the Wood Report, which reveals that short-term re-reporting has also significantly increased in recent years. While the total number of reports increased by 40% between 2004–05 and 2007–08, the number of re-reports by the same reporter within seven days increased by 77% and the number of re-reports by any reporter has increased by 62%. The Wood Report, as above, 130–131.
- 57 Symptomatic of DoCS' failings in this area, and typical of its hit-and-miss approach to child protection practice and lack of institutional will to perform its core functions, is the lack of an information system that enables frontline staff to access real time, consolidated child protection histories for frequently reported hard core families. As the ombudsman has detailed, 'there is nothing in place to ensure that there is a systematic collection and analysis of the information obtained from child protection reports to identify these families ... who generate approximately half the reports received. Under the KiDS system, for a user to apprise themselves of a family's child protection history, they may need to spend hours navigating their way through numerous data fields.' NSW Ombudsman, *Special Commission of Inquiry into Child Protection in NSW: Submission of NSW Ombudsman*, as above, Part 6, 11–12.
- 58 Leah Bromfeld and Prue Holzer, *A National Approach for Child Protection*, as above, 18. Though the *Victorian Children, Youth, and Families Act* has recast the best interests of the child test along these lines, 'in the context of its family as the client for Family Services,' Victorian Department of Human Services, *A Strategic Framework for Family Services*, as above, 21–22.

- 59 I am obliged to Jennifer Buckingham for drawing my attention to this neat formulation of the issues. Supporters of prevention-focused child protection suggest the families in which children suffer serious abuse and neglect share the same profile as families in which children do not suffer abuse and neglect. Since it is impossible to tell these families apart before the fact, they therefore argue that the best way to proceed is to minimise the risk and the numbers of harmed children by providing as many families as possible with support services. This is a strange approach to risk in these circumstances. If two families are headed by drug-dependent parents with a history of domestic violence and share the same risk profile for serious abuse and neglect, then the precautionary principle would dictate that children should be removed from both families to ensure they are properly protected.
- 60 Prue Holzer, Jenny Higgins, Leah Bromfield, and Daryl Higgins, *The effectiveness of parent education and home visiting child maltreatment prevention programs*, Child Abuse Prevention Issues No. 24 (Melbourne: Australian Institute of Family Studies, 2006), 11–12. However, the realities of the situation are alluded to where it is admitted that ‘strength-based’ approaches to promoting positive parenting are likely to be ineffective in working with the families most at risk due to the absence of existing strengths and skills to build on in among these parents.
- 61 Leah Bromfield and Prue Holzer, *A National Approach for Child Protection*, as above, 62.
- 62 Nick Richardson, Daryl Higgins, and Leah Bromfield, ‘Making the “Right” Choices about Child Protection Programs and Services,’ Healthy Solutions for Children: Making the Right Choice, 10th National Conference of the Association for the Welfare of Child Health (Sydney, April 2005), www.aifs.gov.au/institute/pubs/papers/2005/richardson.pdf.
- 63 For this light on the evidence, see National Child Protection Clearing House, *Child Abuse Prevention: What Works?* (AIFS: Australian Government, PowerPoint Presentation, 2006), www.aifs.gov.au/nch/pubs/presentations/bromfield8.ppt.
- 64 Prue Holzer, et al., *The effectiveness of parent education*, as above, 8, 10, 14–15.
- 65 As above, 18, 20.
- 66 Nick Richardson, et al., ‘Making the “Right” Choices,’ as above.
- 67 On these matters, the longer term impact of the Victorian reforms and the evaluation Brighter Futures in 2010, so long as the evaluations measure the outcomes for child abuse and neglect using child protection data, will provide valuable guides.
- 68 As the Wood Report appears to point out in the discussion at 205–209.
- 69 See Jennifer Buckingham, *Child Care: Who Benefits?* Issue Analysis No. 89 (Sydney: CIS, 2007).
- 70 For an account of ‘behavioural poverty,’ see Lucy Sullivan, *Behavioural Poverty*, Policy Monograph No. 45 (Sydney: CIS, 2000).
- 71 This can be illustrated by the great paradox at the heart of the preventive approach to child protection. It is almost impossible to remedy the developmental harm done to children by chronic parental abuse and neglect and by poor quality out-of-home care arrangements. But should the same damaged child become a dysfunctional parent, we are told that children should remain in their custody and that support services should be provided to help them develop proper parenting skills. Judy Cashmore, et al., *Think Child*, as above, 44.
- 72 Judy Cashmore, et al., *Think Child*, as above, 7.
- 73 The Wood Report, as above, 212.
- 74 Leah Bromfield and Prue Holzer, *A National Approach for Child Protection*, as above, 19.
- 75 Victorian government, *A Strategic framework for Family Services*, 31. The community sector receives millions of taxpayers’ dollars a year to support families and children. In Victoria, only a few service providers ‘are using outcomes measurement tools of any nature in a formal and comprehensive way.’ (Shane Thomas, *The Victorian Family Support Innovation Projects*, as above, 27) As the Wood report observed concerning the situation in NSW, there is no data about client and community needs currently available to measure the effectiveness of early intervention, or to hold service providers accountable. (The Wood Report, as above, 1009). It is therefore essential, as Wood recommends, that governments develop performance-based and competitive contracting arrangements, and develop an outcomes-based funding model (in conjunction with strict reporting requirements for NGOs and an appropriate trial period). These measurement tools should especially focus on re-reporting and re-substantiations in order to demonstrate the impact of working with hardcore families. Programs must target and measure the outcome for those most at risk. Properly monitoring the impact on child protection activity will help establish what does and does not work to benefit the lives of children, and systematically build a clearer evidence base to justify continuing or discontinuing public funding of the community sector.
- 76 Crime and Misconduct Commission Queensland, *Protecting Children: An Inquiry into Abuse of Children in Foster Care* (Brisbane: Crime and Misconduct Commission, 2004).

- 77 Janet Phillips, *Child abuse and protection in Australia, Background Note* (Canberra: Parliamentary Library, 2009), www.aph.gov.au/library/pubs/bn/2008-09/ChildAbuse.htm.
- 78 The CMC's 2007 review of the implementation of its recommendations found no evidence of ongoing systemic failure to respond to reports children in need of protection. Crime and Misconduct Commission, *Reforming child protection in Queensland: A review of the implementation of recommendations contained in CMC's 'Protecting children' report* (Brisbane: Crime and Misconduct Commission, 2007), as above, vii.
- 79 The Wood Report, as above, 376.
- 80 The most important of these issues in relation to child removal is the issue of the Stolen Generations, given the large numbers of welfare dependent and dysfunctional Indigenous families involved in child protection matters.
- 81 How deep is the cycle in some communities in Australia was identified in Caroline Overington, 'Family's fifth generation in care of state,' *The Australian* (20 February 2009).
- 82 Judy Cashmore, et al., *Think Child*, as above, 13.
- 83 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, emphasis added, www.ombo.nsw.gov.au/publication/PDF/Other%20Reports/Review%20of%20a%20group%20of%20children%20aged%2010%20to%2014%20in%20out-of-home%20care%20and%20under%20the%20parental%20responsibility%20of%20the%20Minister%20for%20community%20Services.pdf.
- 84 Council of Australian Governments, *Protecting Children is Everyone's Business: National Framework for Protecting Australia's Children, 2009–2020* (Canberra: Australian Government, 2009), 7–8, emphasis in original.
- 85 NSW Ombudsman, *Special Commission of Inquiry into Child Protection in NSW: Submission of NSW Ombudsman*, as above, Part 6, 14.
- 86 The Wood Report, as above, 231.
- 87 NSW Department of Community Services, *Brighter Futures Program Guidelines* (October 2007), www.community.nsw.gov.au/docswr/_assets/main/documents/brighter_futures_guidelines.pdf.
- 88 Social Policy Research Centre, *Brighter Futures Early Intervention Program: Interim Report 1* (Sydney: Social Policy Research Centre, 2008), 1. 'Lead agencies' case managed 61% of families when Brighter Futures was reviewed in 2008. The Wood report indicates this figure has fallen slightly to 56.6% by the middle of 2008. The Wood Report, as above, 240–1.
- 89 The Wood Report, as above, 234.
- 90 Hence, Commissioner Wood strongly recommended extending Brighter Futures to children in older age groups. The Wood Report, as above, xix.
- 91 As above, 91–93.
- 92 As above, 242.

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