

QUEENSLAND CHILD PROTECTION
COMMISSION OF INQUIRY
STATEMENT OF WITNESS

Date: 14.1.2013

Exhibit number: 137

I, **JULIE ANNE BRAY** c/- 183 North Quay, Brisbane solemnly and sincerely affirm and declare.

Background


1. I am a self-employed Social Work consultant. I write policy reports and submissions in the area of Aboriginal and Torres Strait Islander child protection as requested by Aboriginal and Torres Strait Islander services. I have worked as a consultant for around 2 ½ years.
2. I am also a part time tutor in Social Work at the University of Queensland St Lucia.
3. I hold a Bachelor of Social Work (1976) from the University of Queensland.

Experience in Child Protection

4. I have worked as a social worker for over 35 years and in the field of statutory child protection in Queensland for almost 30 years from 1977 as a Child Care Officer in the residential care area, Court Officer and Family Services Officer in the Children's Court, and as policy officer in the Protective Services Branch of the Department of Families, Youth and Community Care.
5. I also worked in the Department of Communities in more generalist welfare policy areas such as reform of supported accommodation and statewide volunteering policy.
6. In 2006, I worked as a Senior Policy Officer in the child protection section of the Queensland Aboriginal and Islander Health Council and in the same role with the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSCIPP) once it became a separately incorporated body in 2008. I left my position at QATSCIPP in November 2009 to work in my present role as a consultant.
7. I have drawn upon my experiences in the statutory child protection system and the area of Aboriginal and Torres Strait Islander child protection policy in preparing this statement.

Matters I wish to inform the Queensland Child Protection Commission of Inquiry ('QCPCI')

8. During the course of my career, I have been in a position to observe a range of approaches to child protection and in particular to the delivery of child protection services to Aboriginal and Torres Strait Islander children and their families.

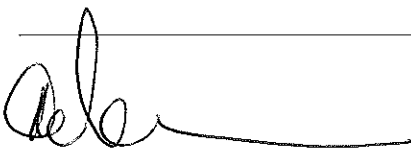


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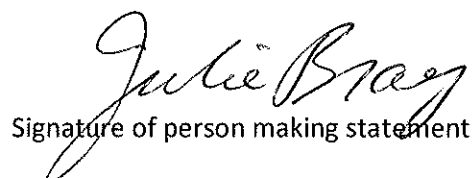


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9. I have observed a marked and accelerating deterioration in outcomes for Aboriginal and Torres Strait Islander children within the child protection system, particularly in the past seven years.
10. For many years, overrepresentation of Aboriginal and Torres Strait Islander children within the Child Protection system hovered between 22 and 25% - an unacceptable level given that Aboriginal and Torres Strait Islander children currently only make up around 6% of the Queensland child population. Around 2006, this rate began to rise markedly. It is currently 38% and if this continues at the current rate, it will reach 50% by 2015.
11. Similarly, the rate of adherence to the Aboriginal and Torres Strait Islander Child Placement Principle has also plummeted. In 2003, just prior to the CMC Inquiry, the Department reported that there were 216 Aboriginal and Torres Strait Islander children placed outside the Child Placement Principle i.e. not living with family or community. Again, that is an unacceptable level for those children and their families. No child should have to grow up without knowing their family, culture and community. However, the most recent available departmental data, which is for June 2012, shows that there are now 1,407 Aboriginal and Torres Strait Islander children not placed with their family or community.
12. While the rate of overrepresentation can be linked to a range of issues many of them connected to wider disadvantage and largely beyond the control of a child protection authority such as poverty or homelessness, none of these changed markedly at or around the time the deterioration was observed. The major cause of this deterioration is open to interpretation. However, it should be noted that the only observable major change in the system was a change in the departmental approach to child protection following the CMC Inquiry. The level of adherence to the Child Protection Principle is a more focussed measure of the quality of the child protection intervention. The fact that both indicators have deteriorated so markedly must raise serious questions about the current approach.
13. It is my opinion that the need to improve outcomes for Aboriginal and Torres Strait Islander children and their families is the single greatest challenge facing the Queensland child protection system. Unless major improvements occur in this part of the sector, attempts at improvements elsewhere will be unlikely to succeed. Conversely if the delivery of child protection services to Aboriginal and Torres Strait Islander children and their families is improved, the relief in pressure on the entire system will allow major improvement across the board.
14. In my opinion the best way to get improvement in the delivery of child protection services to Aboriginal and Torres Strait Islander children and their families is to place the major control of these services in the hands of Aboriginal and Torres Strait Islander people themselves. This approach has been proved to be successful over many decades and in many jurisdictions, in Queensland, interstate and overseas. It has also been demonstrated in other sectors such as health care. Successful



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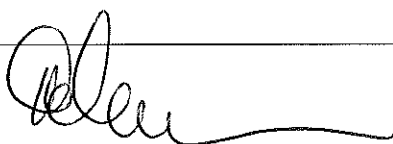
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interstate models cited by the Department as the way forward have at their foundation, Aboriginal and Torres Strait Islander community controlled services.

15. It is my contention that the deterioration in outcomes for Aboriginal and Torres Strait Islander children and families is a direct result of departmental intervention and forced changes to a successful community driven Aboriginal and Torres Strait Islander service model and that the way forward is to invest in this sector and rebuild this holistic Aboriginal and Torres Strait Islander service system.

Aboriginal and Islander Child Care Agencies

16. During the mid 1970s, Aboriginal and Islander Child Care Agencies ('AICCA's') developed across Australia as grassroots, community driven agencies responding to the concerns of the community that vulnerable children and families needed support and that too many children were being taken from their families. The AICCA's, although initially either unfunded or very poorly funded, on the whole did a very good job keeping Aboriginal and Torres Strait Islander children safely within their communities and, where possible, out of the child protection system. They also supported children and families where statutory intervention was essential to ensure the safety of the child.
17. The AICCA's worked alongside Aboriginal and Torres Strait Islander families to provide a wide range of services including general family support and practical help, intensive family support for families and children in contact with the statutory system (including support in the court process), placement services including recruitment and support of kinship and other carers and support in the notification process. It was a holistic service model which provided what the family needed at each stage while also ensuring the child's wellbeing.
18. If a family was having problems, the AICCA workers would become involved with the family and offer help tailored to the needs of that family at that time. This was often at the request of the family. This approach required flexibility as the problems families face are not confined to discreet government funding areas. For example, a family may require housing, employment advice, medical attention or practical help – and the facilitation of these services - while not child protection per se could have major positive impact on the well being of the children in that household.
19. As community based Aboriginal and Torres Strait Islander agencies, the AICCA's were trusted by people who did not feel the same shame or mistrust they would feel in dealing with non-indigenous agencies. In instances where the workers felt the child was at serious risk, they would work with the family and the department to ensure the best outcome. This included, at times, removal of the child but would then include considerable support to help the family stay involved in the child's life and to secure placement with the extended family. They also worked with children in out-of-home care and those in the juvenile justice system.



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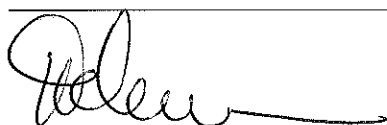
20. AICCA services also collaborated with legal service providers such as ATSILS and other Aboriginal and Torres Strait Islander agencies.
21. The Aboriginal and Torres Strait Islander non-governmental sector was very poorly funded from the outset. Services such as the AICCAs were largely dependent on good will and volunteerism of the workers.
22. While there would be many Aboriginal and Torres Strait Islander people who could give firsthand accounts of their experience with AICCAs, unfortunately there were no research projects or academic papers which have clearly documented the benefits of the Queensland AICCA model and which could give the type of evidence governments require on which to base future planning. However, I can cite two documents from the 1990s which give clear evidence of the benefits of that model and the value placed on it by practitioners and governments of the day.
23. The AICCA's were heavily consulted in relation to the development of the current child protection legislation. This can be seen in the Explanatory Notes to the *Child Protection Bill 1998*:

“Clause 6 sets out additional provisions which apply throughout the Bill in relation to Aboriginal and Torres Strait Islander children and families. If the child is an Aboriginal or Torres Strait Islander child, decisions of an officer or court under this Bill should only be made after consultation with a "recognised Aboriginal or Torres Strait Islander agency". This term is defined in the Schedule 4 as the agency which reaches agreement with DFYCC that they are the appropriate agency for a particular community. The term "recognised Aboriginal or Torres Strait Islander agency" includes an organisation or an individual.


This clause recognises the special needs of indigenous children and their families and communities to receive services which meet the cultural and identity needs of indigenous children, and to avoid dislocation of children from their communities. It recognises the unique needs of Aboriginal and Torres Strait Islander families stemming from their history as indigenous Australians, as evidenced by the over-representation of indigenous children in care. The principles of the Aboriginal and Torres Strait Islander Child Placement Principle are embedded in this provision, which has application throughout the Bill.

This provision has been drafted in consultation with representatives of relevant indigenous organisations, including the State Aboriginal and Islander Child Care Agency (State AICCA), who support its intent.”

24. It is my belief that the Aboriginal and Torres Strait Islander provisions in the Act are a direct acknowledgement of the benefits of the AICCA system. In my opinion, this legislation aspired to take the voluntary involvement of AICCAs by the Department to a statutory requirement because of the benefits that could plainly be seen in this type of intervention.



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25. In my role as a Senior Policy Officer in the Protective Services Branch of the then Department of Families and Youth and Community Care, I co-managed a research project in 1995 which studied all Aboriginal and Torres Strait Islander children on protective orders. A copy of the ensuing research report entitled '**Indigenous Children on Protective Orders in Qld 1995**' is attached to my statement marked 'Attachment 1'. This document was freely accessible to the public at the time of publication. The primary objective of the research was to identify reasons for the over-representation of Aboriginal and Torres Strait Islander children on protective orders and to assist in the development of strategies to improve child protection practice. This document was intended to inform policy and practice development of the Department at the time.
26. The report '*Indigenous Children on Protective Orders in Queensland, 1995*' ('the report') documented that In 1995 Aboriginal and Torres Strait Islander children consisted of around 25% of all children on protection orders.
27. The report identified major factors linked to over-representation as:

The unavailability of support services to families particularly in the areas of Aboriginal and Torres Strait Islander health, education, housing, family support and child care services.

The primary reason for 88% of Indigenous children being in care was neglect.

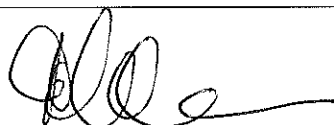
Most families received inadequate legal representation and thus could not make full use of the court process when orders were made in court.

Almost one-half of children had limited contact with their families thus restricting work towards family reunion

Departmental intervention did not adequately involve families in the case planning process for a number of reasons including resource issues, unavailability of culturally appropriate services, limited involvement of AICCA or other community agency.

28. The report recommended:

- 1. Development of protocols and mechanisms for effective investigation of child protection notifications, case consultation, planning and intervention with AICCA and other key community agencies and members.*
- 2. Reduction of the numbers of children coming on to protective orders by:*



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*More effectively involving Aboriginal and Torres Strait Islander families and communities in the development and implementation of case plans for children at risk of coming into orders; and
Supporting communities to develop preventative child protection responses.*

3. *Addressing the needs of children on protective orders by:*

*More effectively involving Aboriginal and Torres Strait Islander families and communities in the development and implementation of case plans for children on orders; and
developing case plans to address the key issues identified in the review:
strong family networks;
stable culturally appropriate alternative care placement;
the development of children's cultural identities;
the completion of the 'Essential Cultural Information' form to enhance culturally sensitive decision making and to ensure that children and young people on orders will be able to access information about their family and cultural heritage.*

4. *Development of service delivery options that more effectively meet the needs of Aboriginal and Torres Strait Islander children and families.*

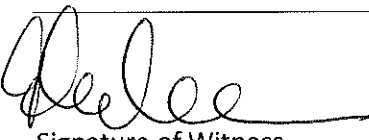
5. *Departmental staff to be equipped to respond more effectively to the needs of Aboriginal and Torres Strait Islander clients through:*

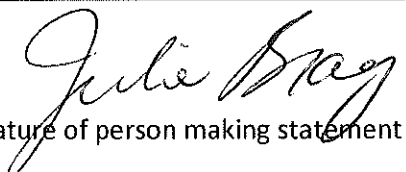
*Training programs to provide workers with the wide variety of skills required to effectively work with Aboriginal and Torres Strait Islander children and families; and
Implementation of the Department's Aboriginal and Torres Strait Islander Employment and Career Development Strategy, and increased employment of departmental staff from Aboriginal and Torres Strait Islander backgrounds.*

6. *Identification of service gaps and advocacy within government regarding the extent to which improved government and community services are essential to build child protection outcomes for Aboriginal and Torres Strait Islander communities.*

7. *Mechanisms to evaluate the effectiveness of these strategies.*

29. In my opinion, this research report provides clear evidence of the importance of the availability to Aboriginal and Torres Strait Islander families of holistic Aboriginal services which can provide early intervention, family support and help during child protection


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interventions. It also draws a clear link between involvement of AICCA type services and reduction of overrepresentation. It may be of use to replicate this research to gain a wider understanding of what is happening currently.

Recommendations of successive major Inquiries about AICCAs

30. Other historic evidence of the support for the AICCA service model includes the recommendations of major Inquiries from the last twenty years. These have strongly recommended the support and development of community controlled Aboriginal and Torres Strait Islander agencies such as AICCAs as a key component of service delivery for Aboriginal and Torres Strait Islander children and their families. Some of these include the Royal Commission into Aboriginal Deaths in Custody (1987 – 1991), HREOC Bringing Them Home Report (1997) and the CMC Inquiry into Abuse in Foster Care (2004).
31. Recommendations of the Royal Commission into Aboriginal Deaths in Custody (1991):

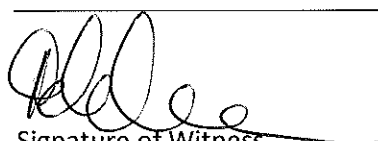
54. That in States or Territories which have not already so provided there should be legislative recognition of: a. The Aboriginal Child Placement Principle; and b. The essential role of Aboriginal Child Care Agencies. (2:83)

62. That governments and Aboriginal organisations recognise that the problems affecting Aboriginal juveniles are so widespread and have such potentially disastrous repercussions for the future that there is an urgent need for governments and Aboriginal organisations to negotiate together to devise strategies designed to reduce the rate at which Aboriginal juveniles are involved in the welfare and criminal justice systems and, in particular, to reduce the rate at which Aboriginal juveniles are separated from their families and communities, whether by being declared to be in need of care, detained, imprisoned or otherwise. (2:252)

(Recommendations 188, 192, 198, 235, 236, 237 and 238 also relate to self-determination and the development of AICCAs and similar organisation).

33. Recommendations from the Bringing Them Home report which impact on current functioning of the Aboriginal and Torres Strait Islander Child Protection Services

44. That the Council of Australian Governments negotiate with the Aboriginal and Torres Strait Islander Commission, the Aboriginal and Torres Strait Islander Social Justice Commissioner, the Secretariat of National Aboriginal and Islander Child Care and the National Aboriginal and Islander Legal Service Secretariat national legislation binding on all levels of government and on Indigenous communities, regions or representative organisations which take legal jurisdiction for Indigenous children establishing minimum standards of treatment for all Indigenous children (national standards legislation).


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45a. That the national standards legislation include the standards recommended below for Indigenous children under State or Territory jurisdiction or shared jurisdiction.

45b. That the negotiations for national standards legislation develop a framework for the accreditation of Indigenous organisations for the purpose of performing functions prescribed by the standards.

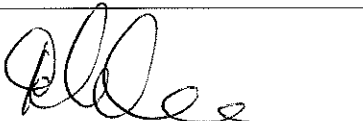
46a. That the national standards legislation provide that the initial presumption is that the best interest of the child is to remain within his or her Indigenous family, community and culture."


Findings and Recommendations from the Crime and Misconduct Commission report, Protecting children: an inquiry into abuse of children in foster care, (CMC report) which impact on current functioning of the Aboriginal and Torres Strait Islander Child Protection Services

36. The CMC report clearly maps out the role of AICCAs in the body of the report:

"The Commission is convinced that the AICCAs, or equivalent community-based bodies, will need to play a pivotal role in the reformed system of child protection in Queensland. Essential to the success of a new approach to protecting children is for that approach to be accepted by the affected communities. For this to occur, service delivery must be genuinely sensitive to the complexities of the communities in the light of a long- standing (and entirely understandable) distrust of government agencies with extraordinarily intrusive powers.

The Commission believes that AICCA-type organisations currently provide the only logical mechanism for delivering key aspects of child protection services for Indigenous children. There are no other mechanisms available at present that satisfy the two vital criteria of sensitivity to cultural factors and acceptability to the communities concerned. Complicating this view, however, is the evidence that the Department of Families is currently dissatisfied with the capacity of some AICCAs to operate transparently and in accordance with their service delivery agreements. The Commission is not in a position to reach conclusions on these issues and does not believe AICCAs should be in any way exempted from standard accountability requirements pertaining to the expenditure of public monies. However, the Commission is persuaded that AICCAs have the potential to be crucial to the success of child protection for Indigenous children, and, therefore, if these organisations need help in complying with accountability requirements, such help should be provided.
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“This is an important issue that will need careful consideration. The implementation of the recommendations made in the earlier chapters of this report will result in the new DCS having no role in the provision of primary or more mainstream prevention services. In that case it may be that AICCA’s would be better served if their funding came from two primary sources (apart from any Commonwealth funds received). Funding for direct child protection services could be provided through the DCS, and funding for prevention services could come from the reconfigured Families department (or whatever agency is responsible for the provision of primary prevention services). Primary prevention programs/services (as well as education programs) in Indigenous communities should be a function of AICCA’s, or equivalent community-based bodies – but funding and monitoring this function would not be the responsibility of the new Department of Child Safety. “

RECOMMENDATIONS

8.1 That the government recognise the ongoing need for independent community-based Indigenous organisations, and that these organisations be provided with the necessary support and resources to provide culturally appropriate child protection services to the Indigenous community. This support should include training and professional development, as well as assistance complying with service agreements and accountability requirements.

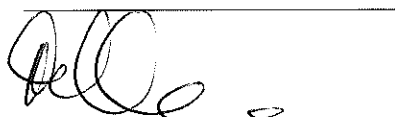
8.2 That, where AICCA’s have been de-funded, they be replaced by appropriate independent Indigenous organisations that have the support of their local community and that, wherever possible, these organisations employ staff with backgrounds in child protection.

Reason (8.1 and 8.2): The new child protection system envisages a continuing role for independent Indigenous organisations, operating in an effective and culturally appropriate manner within local communities.

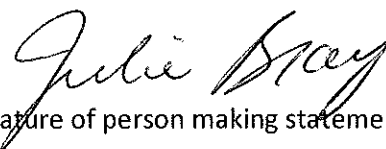
8.3 That, in acknowledgment of the extent to which cultural factors draw AICCA’s into the delivery of prevention services, the nature of both the service agreements and the funding of individual AICCA’s be carefully reviewed. p233

37. The Blueprint for Implementing the CMC report recommendations

In order to implement the CMC report recommendations a “Blueprint” set out more specifically what needed to occur:



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Chapter 7 of the Blueprint for Implementing the CMC report recommendations ('Blueprint') pertains to 'Aboriginal and Torres Strait Islander Issues' and makes reference to AICCA services. The Blueprint recommended that 'AICCA services and funding models include the following five distinct but integrated programs in the service mix:

Family Restoration and Support, Primary Prevention, Parenting Support and Early Intervention

This program would primarily respond to Indigenous children in local areas who are at risk of entering the child protection system. A community development model would be used to work with and educate high risk families and their children at risk of entering the child protection system.

Intensive Family Support

This program would encompass family support and therapeutic services for families and children that are currently clients of the Department of Child Safety. Clients would also include families and children that may have had contact with "child protection" requiring support with family restoration.

Placement Services

This program would cover the range of alternative care placement services including foster care, relative care, residential care and respite care.

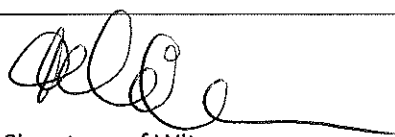
Carer Support

Under this program AICCA's would retain a focus on providing ongoing support and assistance to carers including assisting carers manage their relationship with the Department of Child Safety. AICCA's would continue to be the lead agencies responsible for the recruitment, training and initial assessment of Indigenous carers with the Department of Child Safety to retain final approval of carers based on recommendations from the AICCA.

Child Advocacy/Statutory Advice Program

This program would encompass the key statutory functions expected of a recognised agency including the provision of advice and facilitating input from Indigenous families and communities into child protection decisions from the point of notification. Attending notifications, advising on placement options and participating in case planning meetings would fall under this program. Statutory functions also include preparation of advice on the best interests of the child when orders are sought and participation in SCAN teams.

Importantly the funding model needs to take account of the requirement to operate on-call 24 hours a day seven days per week in order to attend notifications with Department of Child Safety officials'.



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The erosion of AICCA Services

38. As a result of the CMC Inquiry and Blueprint, the new Department of Child Safety became a tertiary child protection agency focussing on child removals. Despite significant recommendations and instructions by a range of Inquiries and specific instructions from the CMC and Blueprint, departmental staff set about an overt policy of undoing the existing AICCA services on the basis that early intervention services were not included in their funding. Apart from the misguided logic behind this decision, I consider this was done in an unnecessarily harsh and paternalistic manner. For example, I observed departmental officers insist that the term AICCA be no longer used at meetings even by agencies whose registered business name contained that term. There was very little consultation, respect or other appropriate ways of dealing with community agencies.

39. The Department also introduced a narrowly prescribed role for statutory Recognised Entities ('RE') which restricted their ability to supporting families involved in investigations and removals. For example, I was told of instances where Recognised Entities were restricted to accompanying Child Safety Officers, at short notice, to the removal of a child (without any involvement in the actual decision to remove) and having to explain the process to the family after removal and to have no further contact with that family except at the request of the department. This is clearly not the intended role of the Recognised Entity as envisaged in legislation (which is to be involved in decision making at all points in the child protection process). It demonstrates a lack of understanding of the benefits and purposes of those agencies and a very poor use of resources. It also placed those Aboriginal and Torres Strait Islander agencies and staff in a very difficult position within their own communities.

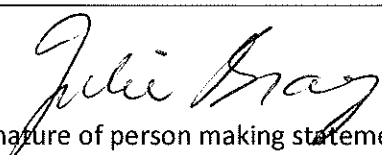
40. The RE role is now stipulated and controlled through the funding agreements for Recognised Entities. I believe there is a conflict of interest in having Recognised Entities funded by the agency to whom they should be providing full and frank advice and equitable involvement in decision making.

41. For example, I was involved in an attempt by the peak body to work with the Department of the Attorney General to clarify and improve the role of REs in child protection court processes. The Department of Child Safety ceased their involvement very early in the process. I believe the reasoning for this was to the effect that " We are not funding them to disagree with us in court". An area for consideration that could improve the RE role would be to have its funding come from a separate and independent body to the department involved in child protection.

42. In my view, the Department went against the CMC recommendations, the Child Protection legislation and the recommendations of a range of other Inquiries when restricting the role of the existing AICCA services and withdrawing funding for early intervention services. This was further exacerbated by the withdrawal of Federal



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funding for AICCA's at the same time. With this change, an essential "safety net" component was removed from the Queensland Child Protection system which I believe can be directly linked to the deterioration in outcomes for Aboriginal and Torres Strait Islander children and families that have been observed since that time.

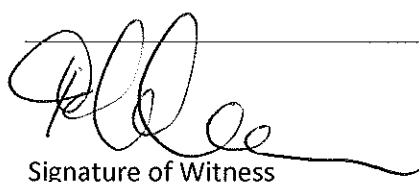
43. I found it frustrating that the Department carried out these changes in the name of the CMC Inquiry recommendations, giving no real opportunity for Aboriginal and Torres Strait Islander agencies and interested parties to raise their concerns or discuss the changes. The public presentation of this action as reported in the follow-up CMC report - *Reforming Child Protection in Queensland - A review of the implementation of recommendations contained in the CMC's Protecting children report* in June 2007 stated that the recommendations were implemented which further masked the destruction of this valuable service.

Other factors which impacted Aboriginal Services post CMC

44. The capacity of Aboriginal and Torres Strait Islander agencies are often called into question by the department and this is used as a reason for not providing further funding until certain benchmarks are reached. However the measures that are used are often unfair or unreasonable or applied in a much harsher way than it would be for non-indigenous services.

45. One example of this is in the alternative care area. An agency's ability to recruit carers is seen as one measure of success. However for Aboriginal and Torres Strait Islander people, the best form of care is kinship care. Foster care, even with other Aboriginal and Torres Strait Islander people is seen as stranger care, and is not a preferred option. It does not make sense to recruit kinship carers in the same way foster carers are recruited eg so there is a pool of carers waiting for placement. The best way to recruit kinship carers is through quality child protection intervention early and throughout a family's contact with the system. This is the type of work AICCA's once did and which is now severely restricted by the department. It is unfair and counter productive that the lack of carers and inability to recruit carers is framed as a weakness in the Aboriginal and Torres Strait Islander community rather than in the failure of government to use the appropriate approach.

46. Another significant issue that is not widely discussed is that the statutory role of REs has never been fully costed and funded. This is a problem that has existed since the Child Protection Act was enacted. The cost of providing strong professional involvement in decision making for such a large proportion of the child protection population needs to be assessed. It is most likely a great deal more than has ever been considered an appropriate allocation. Without this, the service have been set up to fail and the agencies involved have risked being scapegoated for any unmet needs. I would strongly recommend that an analysis of the true costs of this service be undertaken to ensure agencies do not continue to be set up to fail or that the important role of REs are in any way curtailed.



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47. While the Blueprint does set out a costing model, in my opinion, it underestimates the true costs of meeting the level of service required by legislation.

48. Even at this proposed level, funding for RE agencies has not increased since the CMC recommendations although the number of Aboriginal and Torres Strait Islander children in care have tripled.

49. Also the level of funding recommended by the Blueprint for Aboriginal and Torres Strait Islander services and publicly announced in yearly budget statements, was never reached. The agencies never received the full amount that was announced and allocated. I do not believe there has been satisfactory explanation of what has happened to the shortfall which I estimated is between \$20 to 30 Million.

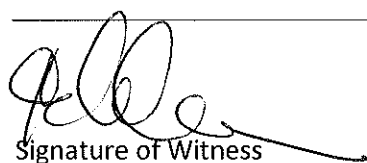
50. Added to this, after years for lobbying for investment in early intervention by the peak body and the Aboriginal and Torres Strait Islander agencies, the department agreed to change the approach and fund Aboriginal and Torres Strait Islander family support (around 2009 – 2010). Of all the possible ways this could have been achieved, the department chose to end contracts for all Aboriginal and Torres Strait Islander run agencies and require them to all reapply for their funding. Of much greater concern was the fact that the decision was taken to half the already inadequate RE budget and divert these funds to family support. Agencies were then required to submit proposals as to how they could do the same job with half the money.

51. In this process, workers across an entire sector were placed under the stress of job instability for many months. Agencies did not feel they could speak against this as they risked not getting funding and in fact, several agencies which had been operating for decades, were not refunded. This was an extremely destabilising action carried out in a harsh and paternalistic manner. In my experience, I have never seen a mainstream non-indigenous sector treated in this way.

52. Departmental statements that government is currently providing \$10M for Aboriginal and Torres Strait Islander family support does not give the entire picture nor does it indicate the difficulty created in getting to this point.

53. It is my opinion that the stress and hardship that the boards, management and staff of Aboriginal and Torres Strait Islander services have endured for the last decade as a result of departmental actions should be acknowledged and they should be commended for having continued to help their communities in the face of these barriers and harsh and often illogical conditions. The resilience and commitment they have demonstrated would be a positive foundation on which to rebuild this sector.

54. Conversely the lack of capacity in the Child Safety department to work with the Aboriginal and Torres Strait Islander sector in an effective, professional or culturally sensitive manner has been clearly demonstrated and this raises grave doubts about their ability to implement future recommendations effectively. In my opinion, the



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overseeing arrangements for future implementation needs serious consideration to ensure that recommendations are implemented fully and in the spirit intended.

The Aboriginal and Torres Strait Islander Child Placement Principle

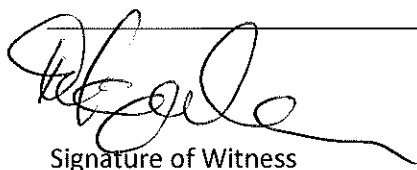
55. The Child Placement Principle ('CPP') is an overarching principle which was created by the grassroots Aboriginal and Torres Strait Islander community sector in the 1970s to keep Aboriginal and Torres Strait Islander children within their families. It is now incorporated in legislation across Australia. Although, it is often seen as a hierarchy of placement options as described in Section 83 of the Child Protection, it is a much broader concept. The Explanatory Notes of the current child protection legislation supports this: "The principles of the Aboriginal and Torres Strait Islander Child Placement Principle are embedded in this provision, which has application throughout the Bill."

56. A true commitment to implementing the CPP should involve family support to avoid the need for intervention, best efforts to avoid the need for out of home placements and where such is not possible, to keeping the child within the extended family to retain their connections. It should involve funding for early intervention services and services to work with families in the investigation process and beyond. The Child Protection legislation actually stipulates that this occur eg Chief Executive Functions S7 (a)(b)(c) and specifically (f).

57. An outcome of restriction of the initial AICCA role is the pressure now placed on departmental workers to place children in a crisis situation when they are first removed from their families. This currently results in a large number of Aboriginal and Torres Strait Islander children being placed in the more accessible non-indigenous foster care. The pressure of other crises means that these short term placements are rarely reviewed and a placement can extend for many months or years. Attachment theory, (which is rarely applied in child protection intervention in relation to a child's primary attachments with family) is then used as a reason to prevent children being returned to family in the long term. In my opinion, the current system actively encourages inappropriate placements in that the easiest option is foster care. It also places a number of barriers to appropriate placements. A change to this could see a major improvement in placement practice.

58. For example, Aboriginal and Torres Strait Islander agencies should be funded to actively seek appropriate kinship placements early in the process. In addition, the system should ensure that placement in non-indigenous foster care should not be the easiest option. Any inappropriate placement should be subject to ongoing and strenuous review. Aboriginal and Torres Strait Islander residential care in each region could also assist and give time for the correct placement to be located.

59. The deterioration in adherence to the Child Placement Principle is of grave concern. I have found it hard to understand how a government agency can fail to comply with its own legislation without any redress. That the Commission for



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Children and Young People and Child Guardian ('CCYPCG') which has legislative responsibility to monitor the Department's compliance with s83 of the Child Protection Act has produced two reports in seven years is of concern. The fact that so few reports were produced when the numbers of children not placed in adherence to the CPP rose by over 400% (since the CMC Inquiry) raises some doubts about the adequacy and independence of the current monitoring arrangements.

60. The Queensland Aboriginal and Torres Strait Islander Child Protection Peak ('QATSICPP') has produced several reports on this complex matter. Their latest report 'Losing Ground' and can be found on the QATSICPP website at http://www.qatsicpp.com.au/?attachment_id=1119.

Summary

61. In my opinion the most important single action that should be taken to address overrepresentation and improve adherence to the Child Protection system is that a holistic Aboriginal and Torres Strait Islander service system, similar to the original AICCA model, needs to be reintroduced and rebuilt. This can be built on the foundation of existing services. This should commence immediately and aim to have fully functioning services in every part of the state within a relatively short period e.g. 2-3 years.

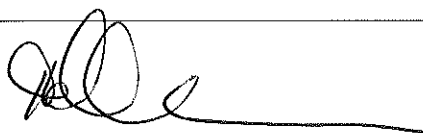
62. I believe that Queensland should also aspire to self-determination for Aboriginal and Torres Strait Islander people in child protection and include a carefully planned hand over of responsibility to the Aboriginal and Torres Strait Islander community over a set period such as ten years.

63. The implementation of specific recommendations dealing with Aboriginal and Torres Strait Islander children and their families and communities from this Inquiry should be overseen by an independent body or person such as an Aboriginal and Torres Strait Islander Children's Commissioner.

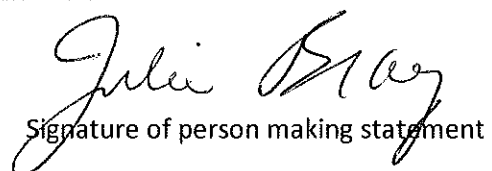
64. I hold grave fears for the Aboriginal and Torres Strait Islander children placed outside the CPP. The loss of identity and disconnection from their culture raises a range of mental health issues and places these children at huge disadvantage in adult life. This has been clearly documented by Royal Commission into Aboriginal Deaths in Custody and the Bringing Them Home Report. Urgent action should be taken to reconnect each of these children with their family and community and, where suitable, return them to their extended family. This work should commence immediately and continue alongside any major reforms.

SWORN/AFFIRMED by Julie Anne Bray on 17 December 2012 at Brisbane

in the presence of *NIRMALA JENNIFER EKANAYAKE*



Signature of Witness



Signature of person making statement

Working with Communities
to Create a Caring Society

ATTACHMENT 1
JULIE BRAY

RESEARCH REPORT
Indigenous Children on
Protective Orders in
Queensland, 1995

DEPARTMENT OF
FAMILIES, YOUTH AND COMMUNITY CARE



Department of Families, Youth and Community Care
Queensland
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PREFACE

This research project was undertaken by the Department of Families, Youth and Community Care to assist in improving the quality of its child protection services to Aboriginal and Torres Strait Islander children and families and to inform strategies to effectively reduce the over-representation of Indigenous children on protective orders.

The ideas, insights and challenges provided by members of a number of Aboriginal and Torres Strait Islander communities across Queensland, in discussion of the results, have been incorporated within this report. Particular thanks are due to Aboriginal and Islander Child Care Agency representatives who participated in these discussions.

Central to the research was the involvement of Indigenous departmental staff who formed a reference group to guide the project and provide expert advice to the project workers. The members of the reference group were:

Rachel Atkinson	North Queensland Region
Tolliver Fisher	Brisbane South Region
Michael Jackomos	Juvenile Justice Branch
Linda McBride	Protective Services Branch
Ardy Muckan	Central Queensland Region
Oriel Nesbit	Brisbane North Region
Tammy Rohlf	South-West Queensland Region
Sharon Smith	Protective Services Branch
John Maris	South-West Queensland Region
Jennifer Page	North Queensland

The project workers who carried out the research tasks were:

Sandra Boughton	Central Queensland Region
Suzanne Bull	North Queensland Region
Angela Burgess	North Queensland Region
Max Dickman	Brisbane South Region
Salina Hale	North Queensland Region
Kathryn Johnson	Brisbane North Region
Marley Pascoe	Central Queensland Region
Trish Sheahan	South-West Queensland
Sue Smith	Brisbane South Region
Danika Wilde	North Queensland Region
Ann Wilson	South-West Queensland Region

The project managers were Sandy Wilson and Julie Bray (Protective Services Branch).

The Statistical Services Branch, particularly Rick Lennon, Sue Bell and Robert Spencer, contributed comments and expertise.

Nigel Wallis (Protective Services Branch) provided administrative assistance.

EXECUTIVE SUMMARY

In response to community and government concern regarding the over-representation of Indigenous children on orders, an in-depth study of all Aboriginal and Torres Strait Islander children on protective orders in Queensland was undertaken between March and July 1995.

The research focused on a range of areas including:

- the needs of families prior to protective orders being made and whether adequate services were available to meet these needs;
- the Children's Court, including the key child protection concerns considered when a protective order was made, court processes and legal representation;
- an assessment of children's current needs and circumstances;
- an examination of the effectiveness of departmental intervention with Indigenous children and families.

Availability of services prior to protective orders being made

The research showed that a range of health, housing and education needs contributed to Indigenous children coming onto protective orders. In the majority of cases, the lack of available services within the community to support Aboriginal and Torres Strait Islander families significantly contributed to the making of protective orders.

For most Indigenous children, it was identified that additional service provision might have prevented a protective order being required. In fact, for only 23% of these children it was assessed that this was not the case. The unavailability of services was the primary reason given for families not accessing support and assistance.

The Children's Court

The most common child protection concern mentioned in applications for care and protection was neglect (88% of all cases). This must be viewed within the broader context of the social disadvantage experienced by Indigenous Australians. Programs to address poverty, poor health and housing and the causes of disadvantage will inevitably reduce the numbers of Indigenous children entering care for neglect reasons.

Many families (22%) did not have legal representation at the time the protective order was made. In only 16% of cases had orders been made through a hearing or pre-hearing conference process which could enable families to fully participate in the legal proceedings.

The examination of court processes highlighted the need for Indigenous families to access effective legal representation and to be adequately supported through the legal process.

Current needs of Indigenous children

Indigenous children presented with a range of issues and needs requiring intervention. Many of these needs directly impacted on their capacity to be returned to families and their possible release from orders. Forty-two per cent of children exhibited one or more emotional or behavioural problems, 24% had a special need or disability and 13% had a physical or health need.

Issues requiring particular attention related to placement, family and cultural identity. Most children (75%), were currently residing in culturally appropriate placements. Fifty per cent of children were residing with parents or extended family. However 45% of children had less than monthly contact with their parents. The most common reason for lack of family contact was distance.

Departmental intervention

An examination of departmental intervention identified areas for change to increase the effectiveness of child protection service delivery to Indigenous children and families, such as:

- . the need for increased training for all staff working with Indigenous clients;
- . the employment of increased numbers of Indigenous staff;
- . the more effective inclusion of families, an Aboriginal and Islander Child Care Agency (AICCA), other community organisation, or elders in decision-making;
- . the need for cultural information to be more effectively recorded on case files.

Conclusion

This research project demonstrates the need for substantial change. Effective ongoing improvement clearly demands collaboration between Aboriginal and Torres Strait Islander agencies and communities and the Department of Families, Youth and Community Care. This will ensure the needs of Indigenous children on protective orders and their families are more effectively met and that the over-representation of Aboriginal and Torres Strait Islander children on protective orders continues to decline over time.

Future directions

The research gathered detailed and valuable information regarding the nature of the interaction between Aboriginal and Torres Strait Islander families and the statutory child welfare system. It provides clear directions for improvements to child protection practice with Indigenous families. Further, it provides the basis for a collaborative process between the Department and Indigenous agencies and communities to address issues of concern.

1. RESEARCH BACKGROUND AND METHODOLOGY

1.1 Background of the research project

The over-representation of Indigenous children on protective orders has been of major concern to both the Department and Aboriginal and Torres Strait Islander communities for many years. For example, at 30 June 1995, Aboriginal children represented 24% of all children on protective orders in Queensland, while only 2% of the total Queensland child population. The comparative figures for Torres Strait Islander children were just over one per cent of the children on protective orders and less than one per cent of the total Queensland child population. (Population at 1991 Census of Population and Housing).

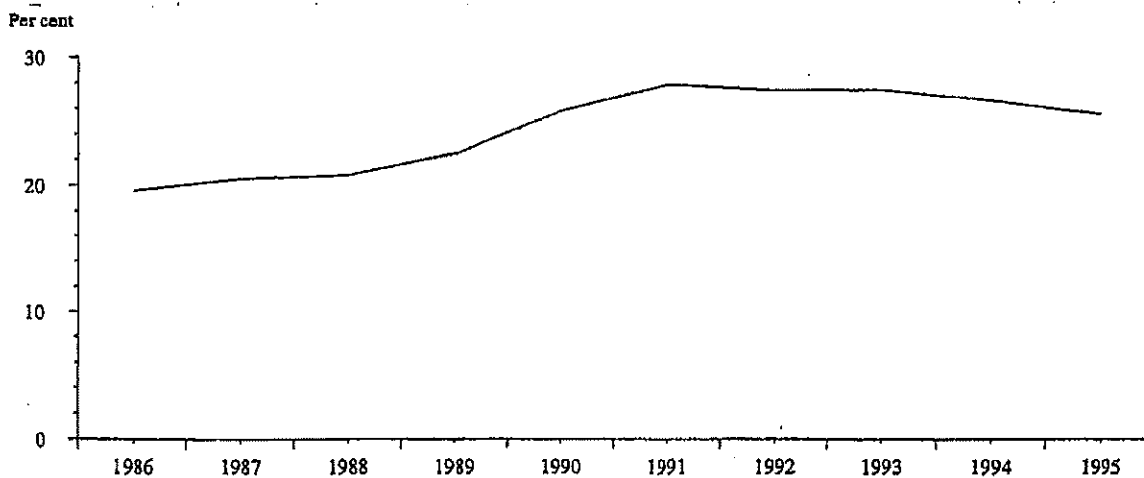
Table 1: INDIGENOUS CHILDREN ON PROTECTIVE ORDERS, NUMBER AND PROPORTION OF ALL CHILDREN, QUEENSLAND, AT 30 JUNE 1986 TO 1995

Particulars	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
Number	752	725	725	757	817	844	798	805	774	750
Proportion of all children (%)	19.6	20.5	20.8	22.5	25.8	27.9	27.4	27.4	26.6	25.6

Source: Department of Families, Youth and Community Care, Client Information System.

Aboriginal and Torres Strait Islander children as a proportion of all children in care steadily increased to a peak in 1991, and has declined, but very slowly, since then.

Figure 1: INDIGENOUS CHILDREN AS A PROPORTION OF ALL CHILDREN ON PROTECTIVE ORDERS, QUEENSLAND, AT 30 JUNE 1986 TO 1995



In March 1994, the Protective Services and Juvenile Justice Divisional Management T a state-wide review of Aboriginal and Torres Strait Islander children on protective or'

The Royal Commission into Aboriginal Deaths in Custody (1991) made a number of recom... regarding the administration of the child welfare system, aimed at reducing the rate at which Indigenous children are separated from their families and communities, including separations caused by entry into the statutory child welfare system. This review assists the Department to determine the extent to which those recommendations are addressed and provides benchmark data for future assessments of progress in this endeavour. It also assists the Division to implement a strategic goal of reducing the proportion of Indigenous children on protective orders.

The Royal Commission into Aboriginal Deaths in Custody also made recommendations regarding the need for consultation and collaboration with Aboriginal and Torres Strait Islander community controlled organisations in design and implementation of government services and programs. These recommendations are incorporated in the formulation of strategies to address the issues of concern identified by the research.

1.2 Objectives

The primary objectives of the research project were:

- (1) to describe and analyse current practice in relation to Indigenous children on protective orders;
- (2) to identify reasons for the over-representation of Indigenous children on protective orders and develop strategies to address these;
- (3) to provide benchmarks to assist with the development of child protection service delivery models which are responsive to the needs of Aboriginal communities and Torres Strait Islander communities;
- (4) to compile information in relation to the health, education, accommodation and other needs of Indigenous children on protective orders to provide to other relevant departments.

1.3 Methodology

1.3.1 Framework

While the reasons for the over-representation of Aboriginal and Torres Strait Islander children in care can be speculated upon, without clear data it is impossible to make definitive statements about the practice changes needed to address these concerns. The extent to which socio-economic factors contribute to this over-representation also needs to be analysed.

This research project focused on the following areas:

1. The needs of families prior to protective orders being made and whether adequate services were available to meet these needs.

Four key areas are examined -

- . health
 - . housing
 - . education
 - . AICCA services.
2. The Children's Court, including the key child protection concerns considered when a protective order is made, court processes and legal representation.
3. An assessment of children's needs in relation to -
- . status of order
 - . placement
 - . family contact
 - . cultural identity
 - . physical development
 - . special needs
 - . psychological functioning
 - . education, training and employment.
4. An examination of the effectiveness of departmental intervention with Indigenous children and families in the areas of -
- . child protection notifications
 - . case management
 - . the employment of Indigenous staff
 - . the involvement of Aboriginal and Islander Child Care Agencies or equivalent services in decision-making
 - . recording cultural information.

1.3.2 Target group

The project focussed on all identified Indigenous children who were either on protective orders, including protective supervision and care and protection orders, or who were remanded while the application for care and protection was decided by the courts. All of the 776 Aboriginal and Torres Strait Islander children on protective orders in February 1995 were subjects of this research.

Consistent with the total Aboriginal and Torres Strait Islander child population in Queensland, the majority of Indigenous children who were on protective orders lived in the North Queensland region. The following charts show the proportions of both populations by region. South West region has a much higher level of over-representation than all other regions. It has only 15.4% of the State Aboriginal and Torres Strait Islander child population but has more than one quarter of all children who were on protective orders.

Figure 2: PROPORTION OF INDIGENOUS CHILDREN ON PROTECTIVE ORDERS BY DEPARTMENTAL REGION, FEBRUARY 1995

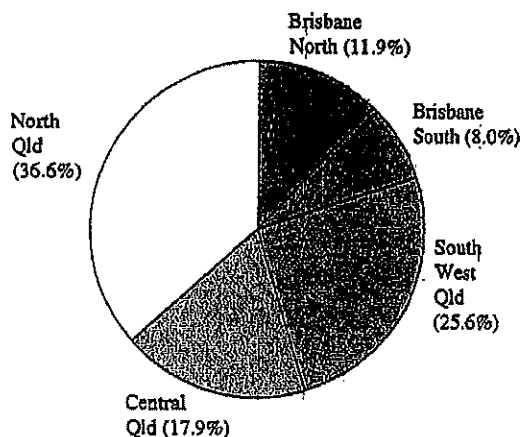
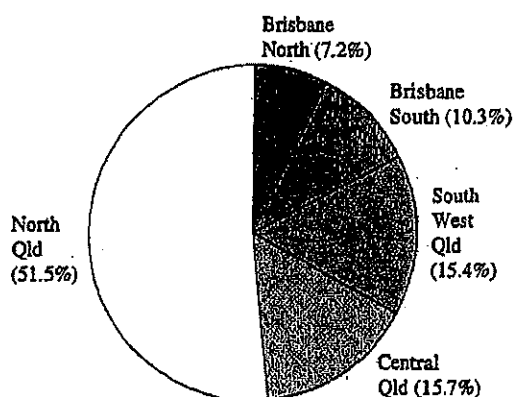


Figure 3: PROPORTION OF INDIGENOUS CHILDREN AGED 0 - 17 YEARS BY DEPARTMENTAL REGION, 1991 CENSUS (a)



(a) 1991 Census of Population and Housing

Table 2 provides a summary of the demographic information for the subject group. It identifies that the vast majority of children were of Aboriginal background. There were similar percentages of males and females and 44% of the children were aged 12 years or older.

Table 2: INDIGENOUS CHILDREN ON PROTECTIVE ORDERS: GENDER AND AGE GROUP BY ABORIGINALITY, QUEENSLAND, FEBRUARY 1995

Gender and age group	Aboriginal	Torres Strait Islander	Both Aboriginal and Torres Strait Islander	Aboriginal or Torres Strait Islander (unsure which)	All Aboriginal and Torres Strait Islander Children	
	No.	No.	No.	No.	No.	%
Gender						
• Male	367	25	12	1	405	52.2
• Female	340	17	10	4	371	47.8
Age group						
• 0 to 4 years	97	7	4	-	108	13.9
• 5 to 11 years	294	18	11	2	325	41.9
• 12 to 14 years	165	11	3	1	180	23.2
• 15 to 17 years	151	6	4	2	163	21.0
Total children No.	707	42	22	5	776	..
	%	91.1	5.4	2.8	0.6	..
						100.0

1.3.3 Research design

Experienced case workers conducted the research at each of the Department's five regional centres. They were trained to conduct interviews using written standardised measurements which were based on the key issues identified for this research and required both objective information such as gender, age, type of order and subjective assessments in relation to the needs of families prior to orders being made, the nature of court processes, children's current needs and the effectiveness of departmental intervention. The questionnaires were designed with the assistance and advice of the Aboriginal and Torres Strait Islander reference group to ensure they were both culturally sensitive and consistent with the overall objectives of the research.

Data were gathered from client files and interviews with Family Services Officers. No interviews were conducted with those children involved. Due to the extensive nature of this research it was clear that not all questions would be able to be answered for all children. The questionnaire accommodated this by including "unknown" as a possible answer for questions. The level of "unknown" information is instructive in an examination of departmental intervention.

Data generated from this research will be published in this format only. Additional information may be available on request by contacting the Protective Services Branch of the Department of Families, Youth and Community Care.

All information in this document relates to children, but for ease of reading the word "families" is sometimes utilised and refers to the family of the subject child.

For many questions in the survey more than one answer was possible. Where this is applicable, totals have not been shown

1.3.4 The reference group

The reference group was formed to provide an advisory function for the conduct of the research and the development of strategies formulated as a result of the findings. Consultation was undertaken through regular meetings, teleconferences and discussion with individual reference group members.

The reference group consisted of an Aboriginal or Torres Strait Islander staff member from each region as well as a representative from both the Protective Services Branch and the Juvenile Justice Branch.

Reference group members were involved in preparation of the questionnaire, analysis of data and the preparation of the final report.

They also played a key role in the development of regional plans to address the issues arising from this research.

2. AVAILABILITY OF SERVICES TO MEET THE NEEDS OF FAMILIES PRIOR TO A PROTECTIVE ORDER BEING MADE

2.1 Introduction

All families require support in the difficult task of parenting children. Extended family and community networks provide vital support for many parents. Where access to government and community services such as health, housing, children's services and education is hindered, families become vulnerable to stress and instability and the risk of abuse and neglect increases.

The ability to access services is thus an important consideration in an examination of the reasons for Indigenous children's over-representation in the child protection system. The extent to which families were able to access services prior to an order being made was examined. Detailed information about access to four types of services was obtained:

- . health
- . housing
- . education
- . Aboriginal and Islander Child Care Agency.

An examination of each area focussed on the issues that contributed to children coming onto protective orders and the service needs of families. On the basis of case details the project workers made an assessment of whether additional services may have prevented the child coming onto an order.

2.2 Health services

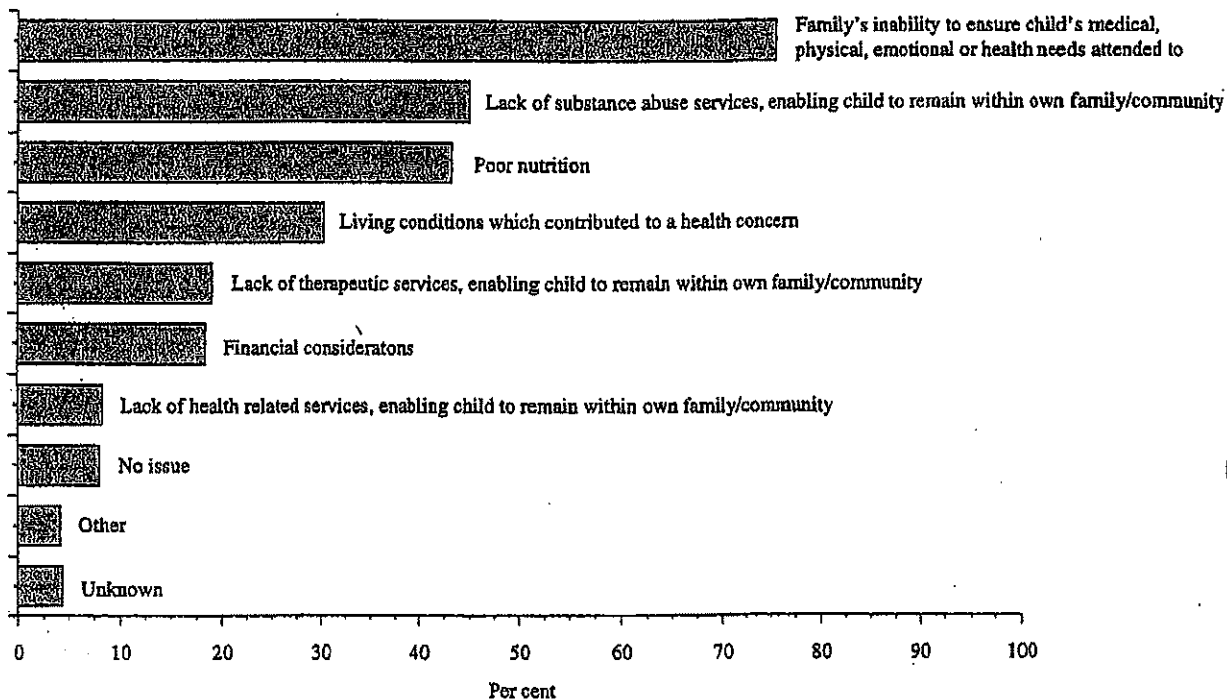
The Australian Institute of Health and Welfare, in their third biennial report **Australia's Health 1992** stated *Australian Aborigines and Torres Strait Islanders remain the least healthy identifiable sub-population in Australia. It went on to say that for all regions for which data are available, death rates are at least two-and-a-half times those of the total Australian population.*

Health issues arise for Indigenous families from the wider context of disadvantage which they experience. Availability of services, economic and social structural factors such as unemployment, lack of adequate housing and transport, and discrimination combine to minimise access to services. This was evident in results which showed that children and families in remote areas presented with a higher proportion of health related issues.

The family's ability and willingness to access health services is crucial. The reference group noted the pressing need for services staffed by Indigenous people who will be culturally sensitive to the needs of the clients. In addition, the group identified the need for culturally appropriate education programs run by Aboriginal or Torres Strait Islander people.

The following chart indicates that families had a range of unmet health needs that were assessed as contributing to children coming into care. The research indicated that in only 8% of cases, there was no health issue which contributed to the children coming into care.

Figure 4: HEALTH RELATED ISSUES THAT CONTRIBUTED TO INDIGENOUS CHILDREN COMING ONTO PROTECTIVE ORDERS



For 76% of families, their inability to ensure that children's health needs were attended to contributed to their child coming into care. For a large percentage (43% of children) inadequate nutrition was a major factor. It was assessed that the unavailability of health services also contributed to children coming onto protective orders. These included: substance abuse services (45%), therapeutic services (19%) and general health services (8%).

Results indicated that while many families accessed health related services, some needed services were not available. Particular shortfalls were found in the areas of general health and psychiatric or psychological services. Over 60% of families were accessing health related services prior to the order, however, in 16% of all cases it was considered that an additional health service or resource may have prevented the child coming into care. Similarly, 20% of families were accessing psychological or psychiatric services prior to the order but in almost one third of all cases it was considered that an additional psychological or psychiatric service or resource may have prevented the child coming into care.

The specific need for a greater number of culturally appropriate substance abuse services, as highlighted by the Royal Commission into Aboriginal Deaths in Custody, is underlined by the research. In 74% of cases, substance abuse by a family member was a significant reason for the current protective order being made.

The critical need for families to receive a more adequate health service is most tragically demonstrated by the high levels of parent mortality. Sixteen per cent of Aboriginal or Torres Strait Islander children in care have at least one parent deceased (comprising 6% - mother, 9% - father, 1% - both parents). As

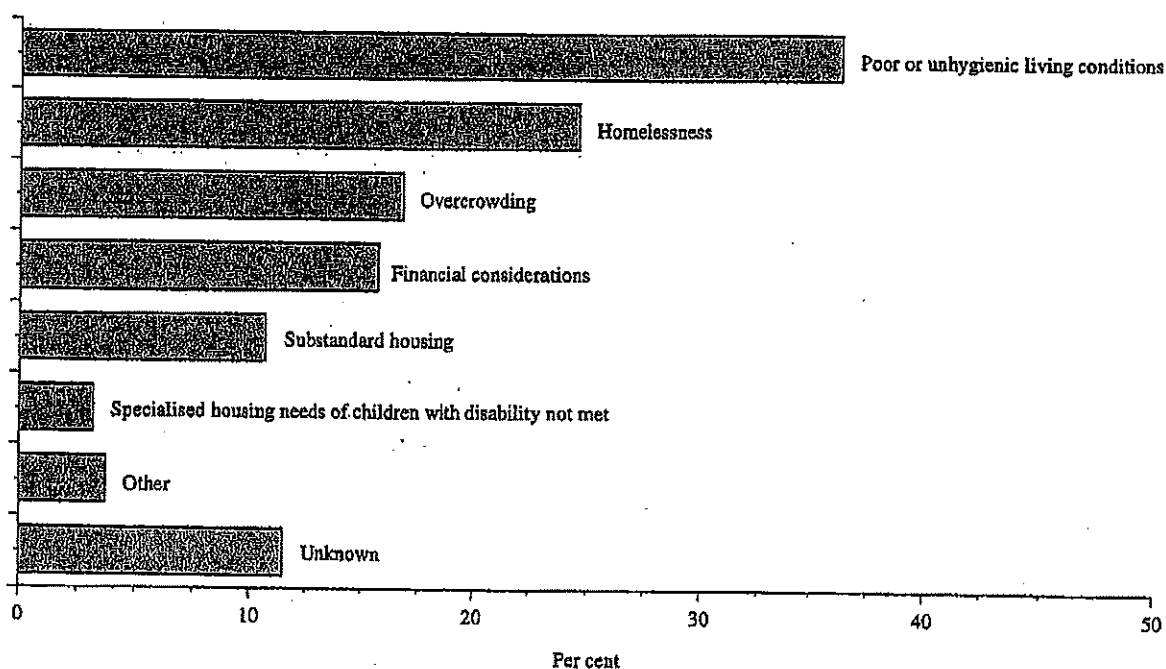
noted in the Australian Institute of Health and Welfare publication **Fertility and mortality of Aborigines living in the Queensland Aboriginal communities 1972-1990**, a comparison of age-specific death rates with those of the total Australian population in 1986 reveals the consistently higher death rates experienced by both Aboriginal males and females at all age groups, but especially between the ages of 25 and 44 years.

Project workers also noted, although this was not measured, the high level of bereavement in the extended families of the children surveyed.

2.3 Housing services

Figure 5 shows that living conditions, homelessness and overcrowding contributed to children coming onto protective orders. For 29% of families, there were no housing issues which contributed to the children coming onto protective orders, however for over one-third of the cases, poor or unhygienic living conditions were a contributing factor. In another 25%, homelessness was an issue.

Figure 5: HOUSING RELATED ISSUES THAT CONTRIBUTED TO INDIGENOUS CHILDREN COMING ONTO PROTECTIVE ORDERS



Shortfalls in service provision were identified. While almost one third of the families utilised housing services such as public housing, it was considered that an additional housing service or resource could have mitigated factors causing the child coming into care for 22% of all cases.

2.4 Education services

Table 3 indicates that education related issues also contributed to children coming onto protective

orders, although this was not a contributing factor in 70% of cases. The major issues were the inability to ensure educational needs were followed up and the child's truancy from school.

Table 3: EDUCATION RELATED ISSUES THAT CONTRIBUTED TO INDIGENOUS CHILDREN COMING ONTO PROTECTIVE ORDERS

Particulars	Number	Proportion of total (%)
Family's inability to ensure a child's educational needs were met	145	18.7
Truancy	80	10.3
Lack of local education services which would enable the child to remain in own family or community	5	0.6
Other	-	-
Unknown	66	8.5

While 15% of families were accessing specialised education services prior to the order, in 17% of cases it was considered that an education service or resource may have prevented the child coming into care.

The 1994 National Aboriginal and Torres Strait Islander Survey shows that 27% of all Australian Indigenous young people aged 15 to 24 years had left school before year 10. In addition, the 1991 Population Census indicates that 17% of Indigenous children under 15 years of age had left school. The reference group noted that school curriculum programs are often not appropriate to the needs of Indigenous children, leading to a negative schooling experience. In addition, they believed that in some communities children refuse school very early and there is little effort made to maintain these children in the school community. This is clearly supported by research results which indicated that of the 112 of children who had left school (15% of the total), one-half had not completed beyond grade seven.

In many remote communities the lack of local high schools is another deterrent to completing education as children must live away from home in provincial towns.

2.5 Aboriginal and Islander Child Care Agency (AICCA)

Aboriginal and Islander Child Care Agencies have been established in major centres in Queensland to assist and resource families and young people at times of difficulty. Working with families at risk of entering the child protection system is a particular focus of Aboriginal and Islander Child Care Agencies.

The families of almost one-half of the children were receiving assistance from an Aboriginal and Islander Child Care Agency or its equivalent agency prior to the order. There was a significant shortfall in such a service for over one-quarter (27%) of the families. For these families it was considered that linking with an Aboriginal or Torres Strait Islander agency could have prevented the child coming into care.

2.6 Barriers to accessing services

The main reasons for the 70% of children not accessing needed services are detailed Table 4.

Table 4: BARRIERS TO SERVICE ACCESS BY INDIGENOUS CHILDREN ON PROTECTIVE ORDERS

Particulars	Number	Proportion of total (%)
Local service available but client not able or unwilling to access	309	39.8
No local service available	221	28.5
Local service available but culturally inappropriate	131	16.9
Transport issues	62	8.0
Local service available but client unaware of its availability	32	4.1
Other ^(a)	40	5.2
Unknown	119	15.3

^(a) Including 28 where a local service was available but had a waiting list and 5 where a local service was available but too expensive.

For 45% of cases there was no suitable service - either no local service available or the available service was not culturally appropriate.

In the majority of cases where access was an issue, the parent's unwillingness or inability to access an available service was a key issue. The explanation for families being unwilling to access services is more complex than the parent's lack of motivation. Other factors include: families lack of involvement in planning and negotiating services; the inability of agencies to adequately engage families; the lack of Indigenous staff in services; and the level of cultural sensitivity displayed by the service.

Other access issues such as transport, clients being unaware of the service, waiting lists and service costs are also identified.

2.7 Summary

The research demonstrated that a range of issues contributed to children coming onto protective orders. The availability of services within the community to support families was seen as significant. For only 32% of children it was determined that no additional services could have prevented them from ongoing involvement in the child protection system.

However for most children, it was identified that additional service provision might have, in part, prevented this. The unavailability of services was the key reason given for families not accessing services.

3. THE CHILDREN'S COURT

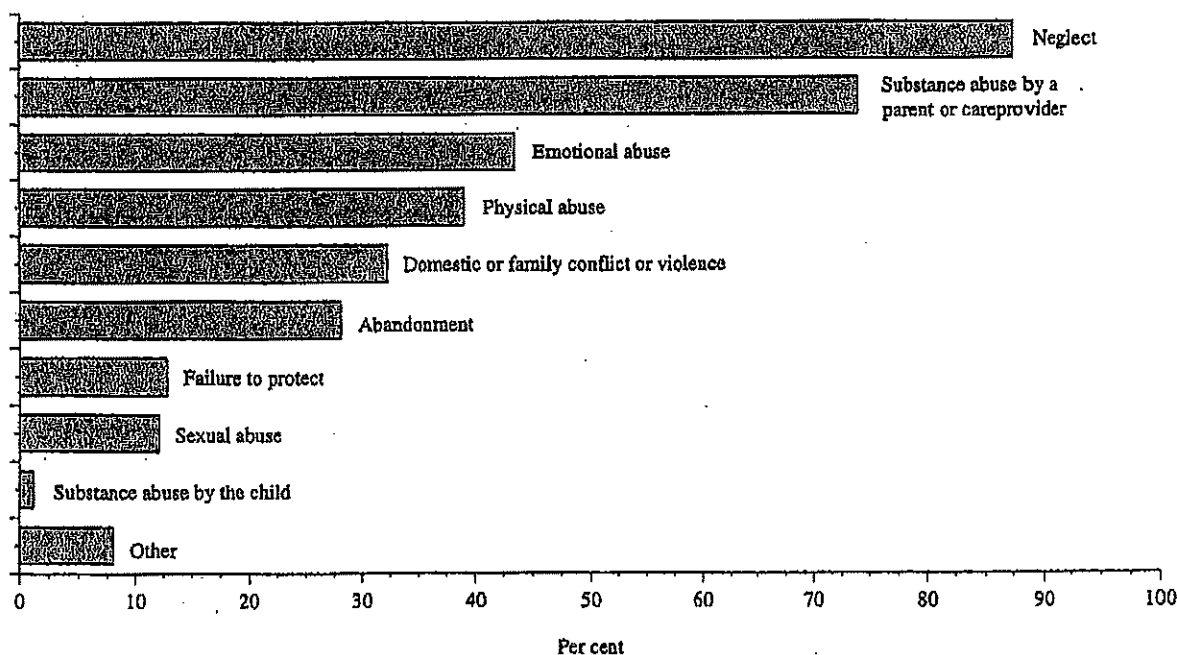
3.1 Introduction

Children become subject to protective orders through a legal, court-based process. Departmental officers or police officers may make an application to the Children's Court when there is evidence that a child is in need of care and protection. This application is heard before a Children's Court magistrate who, after taking into consideration the available evidence, may make an order. The research examined the child protection concerns contained in the applications for orders and the court processes that lead to the protective order being made. Legal representation was of particular concern.

3.2 Child protection concerns in applications for current order

Factors detailed in court affidavits and statements seeking the orders are displayed in figure 6. The most significant child protection concerns identified were neglect, present in 88% of cases, and the impact of parent's substance abuse (causing abuse and/or neglect) in 74% of cases. As there may be more than one concern addressed, additional factors such as emotional abuse (43%), physical abuse (39%) and domestic or family conflict or violence (32%) were also significant.

Figure 6: CHILD PROTECTION CONCERNS IN APPLICATIONS FOR CURRENT PROTECTIVE ORDER FOR INDIGENOUS CHILDREN



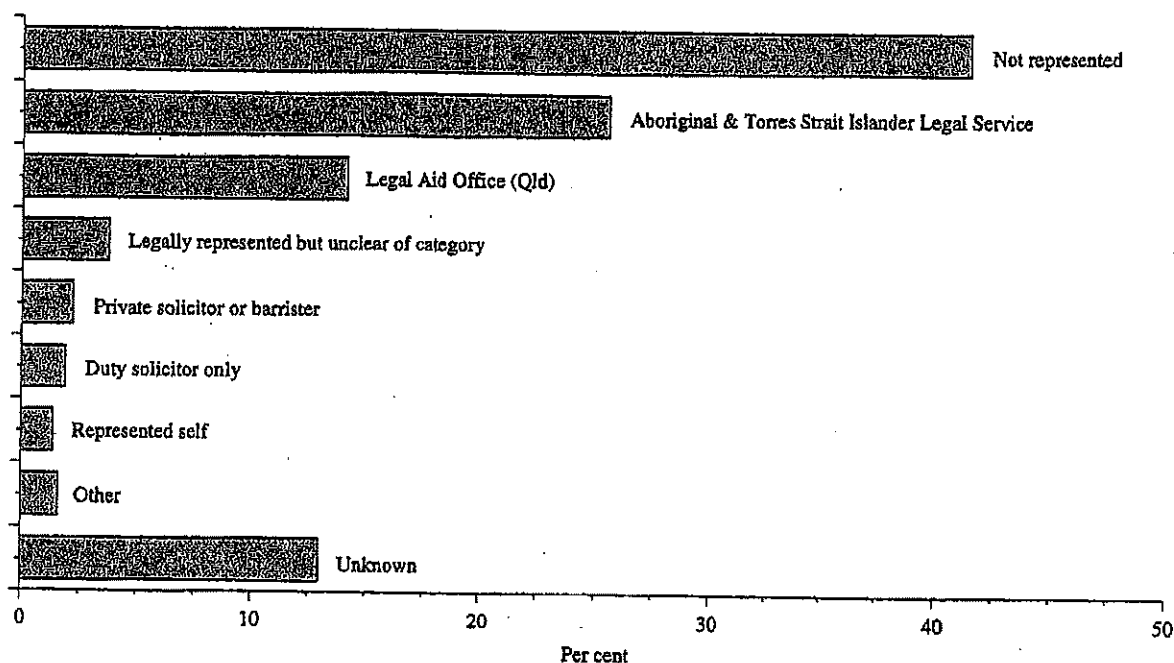
Reference group members raised concern that neglect is a judgement made by mostly non-Indigenous departmental staff about Aboriginal and Torres Strait Islander people, and that the high levels of neglect identified are a symptom of Aboriginal and Torres Strait Islander disadvantage. The number of cases which were substantiated in 1994-95 and which involved neglect as the most serious type of maltreatment was 53% for Indigenous children and 38% for non-Indigenous children.

3.3 Court processes and legal representation

The court process in a child protection matter is complex. Parents need effective legal representation to ensure that their opinion is heard, their legal rights are upheld, and evidence to support their viewpoint is placed before the court.

As can be seen from the following chart, a significant proportion of families (42%) did not have legal representation. Just over one-quarter of all the families were represented by Aboriginal and Torres Strait Islander legal services. It should be noted, however, that Indigenous children who have come into care in the last five years are more likely to be represented by services such as Aboriginal and Torres Strait Islander legal services and the Legal Aid Office, than those who came into care over ten years ago, most probably due to increased availability of legal aid for such matters.

Figure 7: LEGAL REPRESENTATION OF INDIGENOUS FAMILIES DURING COURT PROCESS FOR CURRENT PROTECTIVE ORDER



The following table shows that legal representation is likely to have had a considerable impact on court outcome. If the level of legal representation was higher, it may be that the number of orders made after hearings (12%) would have increased and the number made by consent (56%) decreased. Of significant concern are the 12% of orders made at the child's first appearance at court, providing no remand period for the family to work toward addressing issues that might prevent the child coming onto an order.

The 13% of orders made without family consent or hearing are likely to relate to parents not attending court to advise the court directly, or via a legal representative, of their views about the court matter. The reasons for parents not attending court were not gathered, but may relate to discomfort with, fear of, or lack of knowledge about, the court process. Clearly parents need to be adequately informed and supported through the court process.

The reference group noted that court and legal processes are particularly difficult for Indigenous clients for many reasons including historical factors, language barriers and other cultural differences. A mediation process as opposed to the current adversarial process may be more suited to Indigenous families, as it would enable the inclusion of significant extended family in the process. This process would empower families rather than alienate them. It was observed that family involvement in recent years has increased when compared to practise over five or ten years ago.

Table 5: OUTCOME OF COURT HEARING AT WHICH CURRENT PROTECTIVE ORDER MADE

Particulars	Number	Proportion of total (%)
Order made by consent at court	432	55.7
Order made without consent or hearing	98	12.6
Order made at first court appearance	91	11.7
Order made after hearing but without pre-hearing conference	87	11.2
Order made with hearing and pre-hearing conference	6	0.8
Order made after pre-hearing conference	34	4.4
Voluntary admission to care and protection (non-court based order)	33	4.3
Other	13	1.7
Unknown	33	4.3

3.4 Summary

The most common child protection concern present in successful applications for care and protection was neglect (88% of all cases). This must be viewed within the wider general context of the lower standards of living experienced by many Indigenous Australians. Programs and services to address the effects of disadvantage will inevitably have a positive impact on the numbers of Indigenous children entering care for neglect reasons. It is also important to note that social and cultural values may inform the judgement of what constitutes neglect by departmental officers.

Many families did not have legal representation at the time the protective order was made (42% of all cases). In only 16% of cases had orders been made through a hearing or pre-hearing conference process which could enable families to more fully participate, and to exercise their legal rights in the court arena.

This examination of court processes highlights the need for Indigenous families to access effective legal representation and to be adequately supported through the legal process both to address the issue of over-representation and to engage and empower those families where an order is clearly necessary to provide protection for a child.

4. CURRENT NEEDS OF INDIGENOUS CHILDREN

4.1 Introduction

In any examination of why Indigenous children are over-represented in care, it is important to investigate current needs for each child and to identify:

- a) individual factors which may have increased a child's likelihood of coming into care;
- b) factors which may be preventing a child's return home or release from care; and
- c) current issues which need to be addressed while a child remains in care, to ensure their well-being and best interests.

Factors which were considered were:

- . identified needs
- . placement
- . family network
- . cultural identity
- . physical development
- . special needs
- . psychological functioning
- . education, training and employment.

4.2 Identified needs

Children's identified needs in relation to their protective order were assessed. Table 5 details the needs that were identified.

Table 6: IDENTIFIED NEEDS IN RELATION TO PROTECTIVE ORDER

Particulars	Number	Proportion of total (%)
Work with child or family to increase their understanding of the protective order	253	32.6
Assessment is required regarding release from care	193	24.9
Assessment is required about changing an order from Care and Protection to Protective Supervision	22	2.8
Assessment is required about changing an order from Protective Supervision to Care and Protection	5	0.6
Other	64	8.2
No need identified	341	43.9

Almost one-third of children and families required intervention to increase their understanding of their protective order. This intervention assists parents to acknowledge concerns and the changes required for children to be returned to their care. Where protective issues have remained unresolved, assisting children and families to understand the protective order will enhance their capacity to accept and support decisions made to secure children's long term care in placements other than with parents, thus increasing the future stability of the placement.

Project workers identified that one-quarter of all cases had the potential to be released from orders and that an assessment should be undertaken to determine if this was the case.

4.3 Placement

Children who cannot live at home because of the risk of harm must be provided with safe alternative care which will meet their needs. The two types of alternative care provided in Queensland are licensed residential care and shared family care, in which approved careproviders provide care in their own homes.

Policy guiding alternative care placement decisions for Indigenous children is outlined in the Child Placement Principle. This principle requires that when children cannot remain with their parents because of protective concerns, they should be placed within the extended family network. If such a placement is unavailable, children should be placed with careproviders of the same cultural background as the child. Alternatives should only be considered after these options have been exhausted. Central to the principle is the importance of children maintaining strong links with their family, culture and community.

Table 7: CURRENT PLACEMENT OF INDIGENOUS CHILDREN ON PROTECTIVE ORDERS

Particulars	Number	Proportion of total (%)
Extended family ^(a)	252	32.5
Shared family care (Indigenous careprovider)	164	21.1
Shared family care (non-Indigenous careprovider)	133	17.1
Parent/s	133	17.1
Living independently	20	2.6
Residential care	19	2.5
In custody	16	2.1
Boarding school	10	1.3
Other ^(b)	9	1.2
Unknown	20	2.6
Total	776	100.0

^(a) Including 201 or 25.9% classified as approved person or foster parent.

^(b) Including SAAP accommodation, youth shelters, hospitals and homeless.

Results identify that 71% of children in the study were placed in placements either with family members, or with careproviders of the same cultural background. Twenty per cent were in culturally inappropriate placements, either with non-Indigenous careproviders or in residential care. Children who have been in care for over ten years are much less likely to be in culturally appropriate placements than those who have come into care in the last five years.

Fifty per cent of the children were living with family members, including 17% with parents. A further 38% were placed with non-relative careproviders or approved persons (departmentally approved to care for the particular child placed with them). Small numbers of children were in other forms of accommodation. Of significant concern were the 20 children whose whereabouts were unknown.

Examinations were made as to why 20% of the children were living in culturally inappropriate placements. For 43% of these cases the reason identified on the file was that there was no careprovider available who had the same cultural background as the child, however there was no identification of what steps were taken to locate an available Indigenous careprovider. Also of significance (22%) were cases where the file indicated either the parents or the young person did not wish the placement to be made with a culturally appropriate careprovider. There was no examination of the reasons behind this request.

As indicated later (Table 19), AICCA or another Aboriginal/Torres Strait Islander organisation was not involved in the current placement decision for 40% of cases. It is evident that involvement of an appropriate organisation would have enhanced the Department's capability to place children with careproviders of the same cultural background and for the children's and family's wishes regarding placements to be more fully explored.

Table 8: REASONS FOR CULTURALLY INAPPROPRIATE PLACEMENT OF INDIGENOUS CHILDREN

Particulars	Children in culturally inappropriate placements		Proportion of all children (%)
	Number	Proportion (%)	
No careprovider of the same cultural background able to be recruited	75	42.9	9.7
Family did not wish child placed with careprovider of same cultural background	24	13.7	3.1
Child did not wish to be placed with careprovider of same cultural background	14	8.0	1.8
Other	36	20.6	4.6
Unknown	41	23.4	5.3

In addition to culturally appropriate placements, children need to have stable placements for the length of time required to facilitate their protective needs being met. Clearly this was not the past experience of many children where 42% had experienced five or more placements since being placed on a

protective order and 6% had experienced five or more placement moves in the previous 12 months. At the time of the review, this had improved.

The majority (71%) of children could remain in their current placement indefinitely. A further 6% were able to stay for more than 12 months but not indefinitely. Only 5% of children could not stay in their placements for longer than 12 months.

Figure 8: DURATION OF CURRENT PLACEMENT

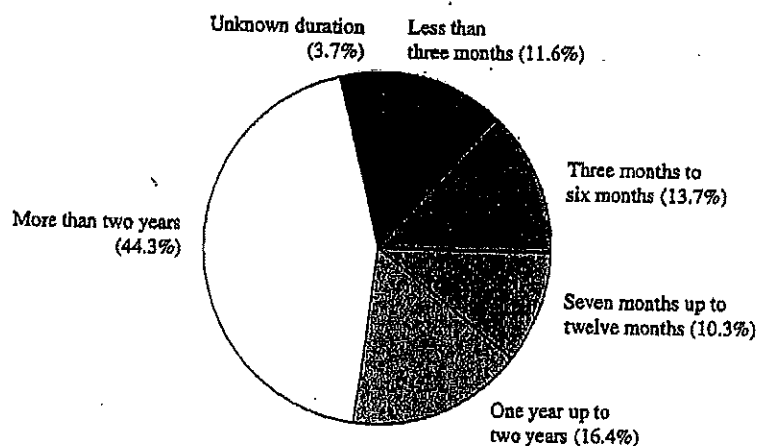


Table 9 details the placement needs that were identified. High levels of need were found in the areas of placement and family support to enhance the stability of current placements.

Where children have been in care for longer than two years, a plan should be devised that includes a decision about a long-term placement. This was required in slightly more than one-third of cases.

Table 9: IDENTIFIED NEEDS IN RELATION TO PLACEMENT STATUS

Particulars	Number	Proportion of total (%)
Support current placement	311	40.1
Assessment of continuity of care decision	271	34.9
Support family/carers	247	31.8
Assess suitability of current placement	166	21.4
Cultural support to placement	167	21.5
Assist towards independent living	72	9.3
Find suitable placement	44	5.7
Other	67	8.6
No need identified	123	15.9

4.4 Family contact

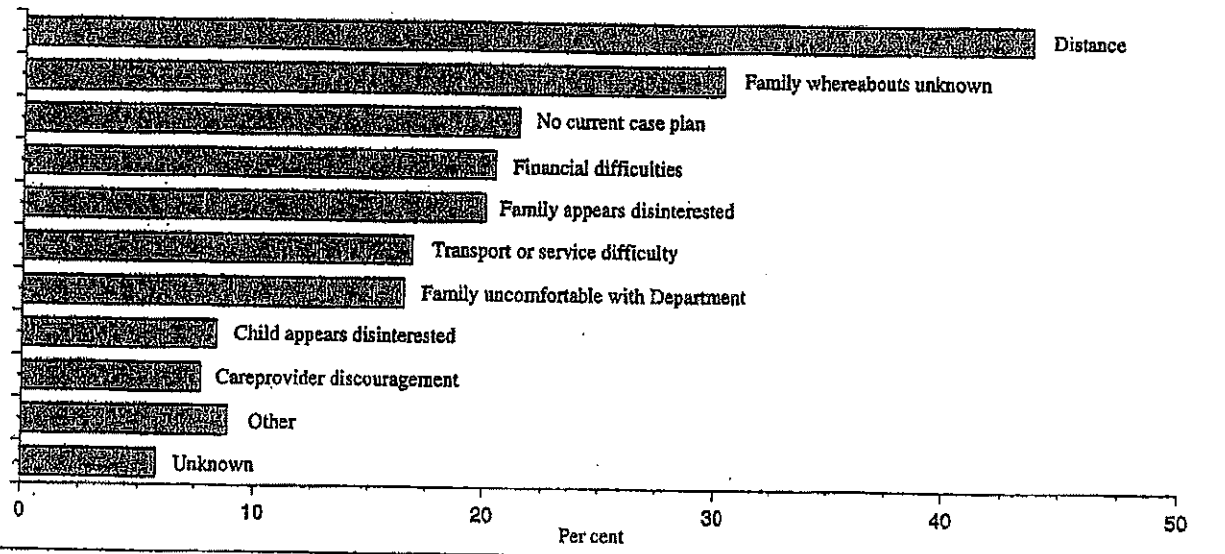
Ideally all children should live with their parents or if this is not possible with extended family. If children must be placed away from parents or extended family, it is essential that positive family relationships are developed and maintained. This will require regular family contact. As indicated in the following table, for many of the children in the study the level of family contact did not appear adequate.

Table 10: LEVEL OF FAMILY CONTACT IN THE PREVIOUS TWELVE MONTHS

Particulars	Contact with parents		Contact with extended family	
	Number	Proportion of total (%)	Number	Proportion of total (%)
No contact	150	19.3	100	12.9
Once a year	54	7.0	37	4.8
Several times a year	150	19.3	77	9.9
Monthly	76	9.8	56	7.2
Weekly	74	9.5	44	5.7
Daily	18	2.3	9	1.2
Unknown	110	14.2	92	11.9
Not applicable - living with them	144	18.6	361	46.5
Total	776	100.0	776	100.0

In the previous year, 46% of children had less than monthly contact with their parents and 28% had less than monthly contact with extended family. This included 19% of children who had no contact with parents and 13% of children who had no contact with extended family.

Figure 9: IMPEDIMENTS TO FAMILY CONTACT



The fact that 32% of children did not live in the same community as either their parents or extended family would clearly limit contact. A major impediment to family contact was distance between the children and their family members. Another significant factor (30%) was the unknown whereabouts of the family.

Children's contact with siblings is another important aspect of family contact. The majority (83%) of children in the study had siblings and 62% had three or more siblings.

An examination of children's current contact with siblings revealed that 16% of children lived with all of their siblings and 34% lived with some siblings. A further 10% had regular contact with siblings. For some children, the level of contact with siblings was clearly inadequate: 11% of children had only spasmodic contact with siblings while 18% had limited or no sibling contact. In 6% of cases the level of sibling contact was unknown.

The study explored why some children were unable to return to their family network. The most significant factor (32%) was that some work had been undertaken to resolve the child protection issues but that this intervention had been unsuccessful and the child would have been at risk if returned home. A number of factors highlight the need for further departmental intervention. These include: to engage and support parents to increase their capacity to have their children; to develop family links for children who have become alienated from family networks; and to locate families.

Table 11 identifies that two-thirds of the cases had a need that required intervention in the area of family networks. Thirty-seven per cent were assessed as needing counselling to re-establish family relationships. This is closely linked to the many cases where it was necessary to locate parents, siblings or other significant family.

In 17% of cases it was identified that children might have the potential to return home and that an assessment should be undertaken to ascertain if this was the case. Just over eight per cent of children required intervention to secure their return to family.

Table 11: IDENTIFIED NEEDS IN RELATION TO FAMILY NETWORKS

Particulars	Number	Proportion of total (%)
Counselling to re-establish family relationships	289	37.2
Locate parents/family	288	37.1
Locate siblings	214	27.6
Assessment of child's potential to return home	134	17.3
Intervention to assist child's return to family	66	8.5
Other	81	10.4
No need identified	260	33.5

4.5 Cultural identity

Past policies and laws which had the effect of removing Aboriginal children from their parents and family and placing them in non-Aboriginal foster homes, institutions or dormitories had an overwhelming impact on thousands of Aboriginal people. They were alienated from their heritage, suffered emotional and psychological deprivation, and were denied the security of growing up in their own culture.

It is essential to identity formation that all children have the opportunity to gain knowledge of their cultural history, to develop ongoing links with their culture and community and to develop understanding of their cultural identity. For Indigenous children in care this is particularly important because of this historical context.

Only 55% of children in the study had significant links with their community of origin and 35% had significant links with their tribal or clan group. For 33% of children details about links with tribal or clan groups were unknown.

The most common reason for children not having significant links with either their community of origin or tribal or clan groups was that it was not addressed in the case plan, that is, not identified as an issue to which the Department needed to attend.

Table 12: REASON FOR INDIGENOUS CHILDREN'S LACK OF LINKS WITH COMMUNITY/FAMILY/CLAN

Particulars	Number	Proportion of total (%)	Proportion of children who had no links (%)
Not addressed in case plan	248	32.0	99.6
Distance	122	15.7	45.4
Child had not been given the opportunity to learn	97	12.5	39.0
Parents do not identify with community or family/clan	64	8.3	25.7
Careprovider discouragement	21	2.7	8.4
Child did not want to know	31	4.0	12.4
Other	47	6.1	18.9
Unknown	21	2.7	8.4

The project workers assessed that in 44% of cases reviewed, the young person accepted their cultural identity. In 27% of cases the level of acknowledgment and understanding of their culture and Aboriginality was unknown. Eighteen per cent of children were considered too young to be able to assess their acceptance of their cultural identity. The remaining 11% demonstrated varying degrees of ambivalence, rejection or confusion about their cultural identity.

Thirty-eight per cent of children were recorded as being estranged from or in conflict with their family networks.

The reference group noted that a child's links with their family of origin, clan and kinship ties are paramount and must be preserved at all costs. For children in care and particularly those about to exit care, all measures should be taken to involve agencies such as Link Up (a community-based service that helps link Indigenous adults with family members who they have not been able to locate) to ensure information about family, clan and kinship ties is gathered. Where children do not want this information, this should be retained on file until such time the young person is ready. Considerable care must be taken in the recording of information.

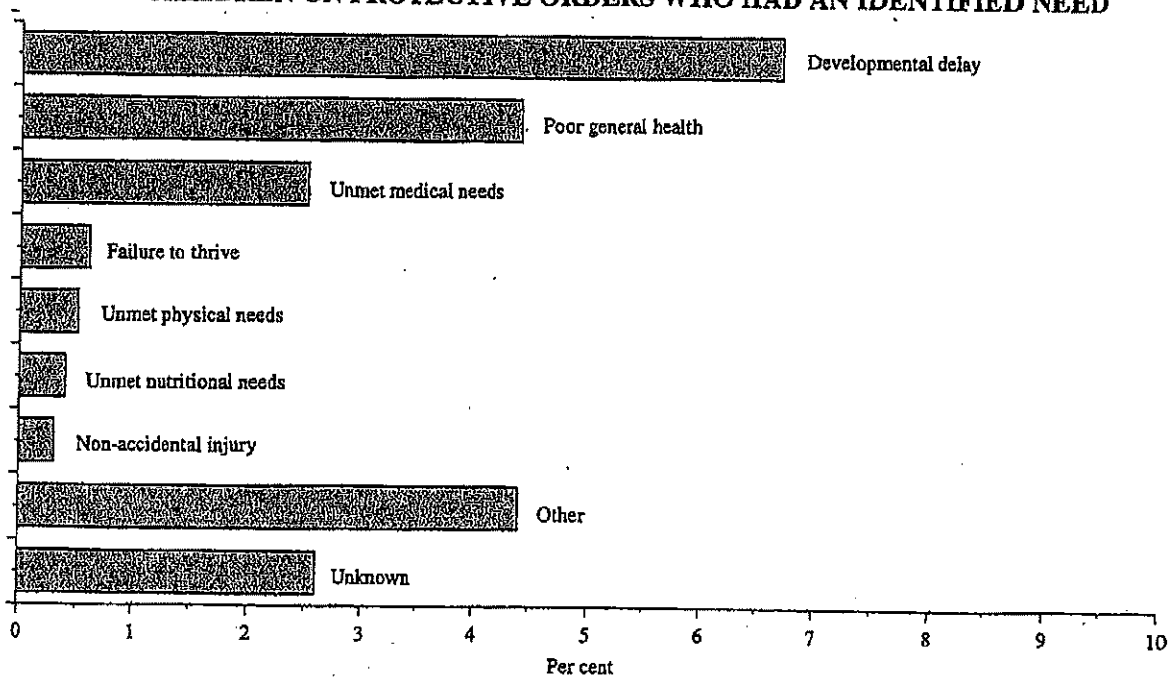
Just over 80% of children had a specific need in the area of cultural identity related to identifying and recording tribal or community origins. In 47% of cases there was an identified need to re-establish the child's tribal or community contact. In 17% of the cases there were no cultural identity concerns.

4.6 Physical development

In over two-thirds of cases there were no identified physical development or health needs and in 17% of cases these needs were unknown. However a number of cases, 104 or 13% of the total, exhibited some type of physical development or health need.

Where a need was identified, the most common related to developmental delay and poor general health. This was evident where 52 children (7% of the total or 51% of those with an identified need) displayed some type of developmental delay and 34 children (4% of the total or 33% of those with a need) presented with poor general health. In a small number of cases (3% of the total or 18% of those with a need), the child's medical needs were not being met.

Figure 10: PHYSICAL DEVELOPMENT AND HEALTH NEEDS OF THOSE INDIGENOUS CHILDREN ON PROTECTIVE ORDERS WHO HAD AN IDENTIFIED NEED



In 63% of cases, the health needs of the children were completely met and in 8% these needs were partly met. For 22% of the cases, the degree to which health needs were met was unknown.

A small number of children (13% of the total) were identified as having specific needs in the area of physical development, primarily in relation to assessment of needs and the provision of treatment.

Table 13: IDENTIFIED NEEDS IN RELATION TO PHYSICAL DEVELOPMENT AND HEALTH

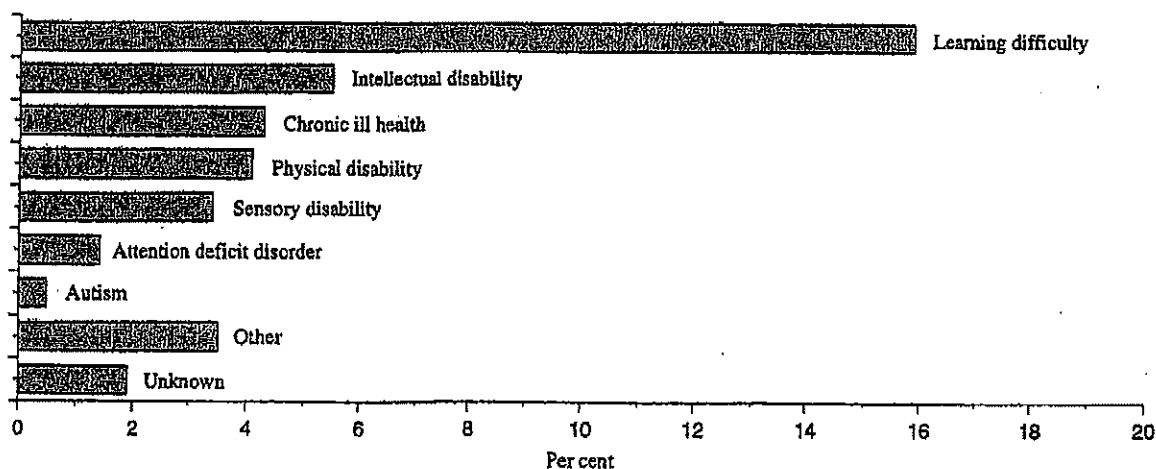
Particulars	Number	Proportion of total (%)	Proportion of children with a physical development need (%)
Assessment of an identified health need	90	11.6	86.5
Treatment for identified health needs	29	3.7	27.9
Other	5	0.6	4.8
No need identified	670	86.3	..

4.7 Special needs

In addition to the needs of all children, some children have "special needs" that require ongoing assessment and service input. Almost one-quarter of the cases demonstrated a special need, of which the most common was a learning difficulty.

The study identified that 16% of the total or almost two-thirds of those children with an identified special need, had a learning difficulty. Forty-three children, 6% of the total or 23% of those with an identified need, had an intellectual disability and 32 children, 4% of the total or 17% of those with a special need, had a physical disability. In addition, 33 children, 4% of the total or 18% of those with an identified special need, suffered from chronic ill health.

Figure 11: SPECIAL NEEDS OF THOSE INDIGENOUS CHILDREN ON PROTECTIVE ORDERS WHO HAD AN IDENTIFIED NEED



For the 185 children who had a special need, their needs were completely met in 37% of the cases, partly met in another 33% and in 4% not met at all. For the remaining 26%, the degree to which their special needs were met was unknown.

Where specific needs were identified for these children, 48% related to assessment of that need and 21% to treatment of the special need.

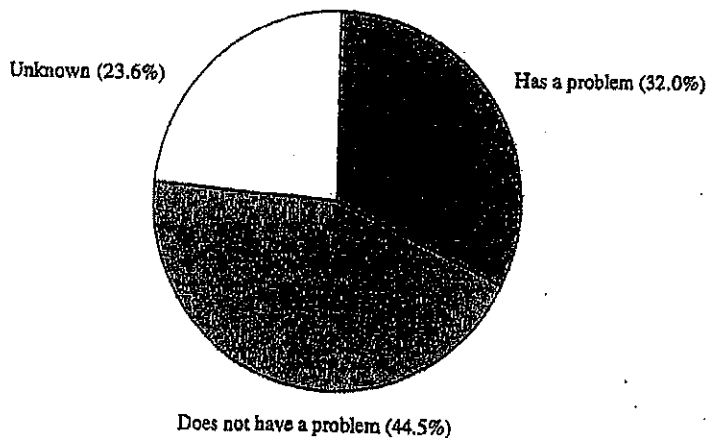
Table 14: IDENTIFIED NEEDS IN RELATION TO THE SPECIAL NEEDS OF THE CHILDREN

Particulars	Number	Proportion of total (%)	Proportion of those children with a special need (%)
Assessment of an identified special need	88	11.3	47.6
Treatment for identified special need	38	4.9	20.5
Other	8	1.0	4.3
Need not identified	51	6.6	27.6
No need identified	475	61.2	..
Unknown whether child has special needs	116	14.9	..

4.8 Psychological functioning

Clients of the child protection system may have experienced major disruption and trauma such as abuse, alternative care placements, changes in case workers and careproviders. These experiences can impair psychological functioning and lead children to exhibit emotional or behavioural problems that need to be assessed and responded to.

Figure 12: LEVEL OF BEHAVIOURAL OR EMOTIONAL PROBLEMS OF INDIGENOUS CHILDREN ON PROTECTIVE ORDERS



The previous chart shows that of those Indigenous children on protective orders when the study was conducted, almost one-third exhibited one or more emotional or behavioural problems.

The study also identified that of the 60% of cases where the information was known, the child's decision making or behaviour was significantly impaired by past difficult experiences in almost one-third of the cases. For a further 37%, their decision making or behaviour was partly impaired by these experiences.

Table 15: BEHAVIOURAL AND EMOTIONAL PROBLEMS EXHIBITED BY INDIGENOUS CHILDREN ON PROTECTIVE ORDERS

Particulars	Number exhibiting problem	Proportion of total (%)	Proportion of those children with a behavioural or emotional problem (%)
Aggression, temper tantrums	115	14.8	46.4
Sexually inappropriate behaviour	57	7.4	23.0
Violence to others	58	7.5	23.4
Dependence/misuse of drugs or alcohol	57	7.4	23.0
Running away	58	7.5	23.4
Sudden mood changes	51	6.6	20.6
Social isolation	45	5.8	18.1
Anxiety	46	5.9	18.5
Depression	40	5.2	16.1
Withdrawn or apathetic	34	4.4	13.7
Sleep disturbances	26	3.4	10.5
Cruelty to other children or pets	26	3.4	10.5
Harming self	26	3.4	10.5
Suicide attempts	24	3.1	9.7
Eating problems	22	2.8	8.9
Other ^(a)	74	7.6	29.8

^(a) Including unusual fears (10) and psychosomatic illnesses (5).

In 36% of all cases emotional and behavioural problems were assessed as being adequately responded to, and in another 36% partly responded to. For 2% of the cases, the child's emotional or behavioural needs were not responded to at all.

For 133 children, 17% of the total, it was considered that a psychological assessment was required. Of those with a need for psychological assessment in relation to an identified emotional or behavioural indicator, almost one-half required urgent attention. In addition, for those children where treatment was required, 38% needed treatment to be provided urgently.

Table 16: IDENTIFIED NEEDS IN RELATION TO PSYCHOLOGICAL FUNCTIONING

Particulars	Number	Proportion of total (%)	Proportion of those with a psychological problem (%)
Treatment for an emotional or behavioural indicator required	141	18.2	56.9
Obtain a psychological assessment in relation to an identified emotional or behavioural indicator	134	17.3	54.0
Other	41	5.3	16.5
No need identified	498	64.2	..

4.9 Education, training and employment

All children should have access to opportunities for education, training and employment appropriate to their age. However, some children and young people experience difficulties in these settings (15% of the children had some type of behavioural or emotional problem at school). Emotional issues, behavioural problems and lack of family support can reduce children's capacity to learn, with serious consequences for their future development, particularly in terms of future employability. In addition, poor performance at school can lead to decreased self esteem and increased family stress.

Thus it is essential for school difficulties to be assessed and addressed as they arise. Parents and careproviders may need assistance to access necessary services. Young people may need assistance to return to school to access training and employment opportunities.

In 19% of cases the current level of schooling was unknown, however where the children or young people either were or should have been attending school, education or training (57% of the total), the majority (70%) were doing so with little problem. Twenty-two per cent were experiencing significant difficulties but were receiving assistance and 5% were experiencing difficulties and were not receiving assistance. Four per cent of the children were attending preschool.

Fourteen per cent of all children had completed their schooling. The highest level of education of these 112 children is of concern as only one young person was attending tertiary education, 10% had completed less than year 7 and 40% had completed year 7. Clearly these figures raise the need for schools to more effectively respond to the needs of Aboriginal and Torres Strait Islander children and for support services to maintain these children within the school environment.

The study identified the specific needs for children in relation to school, training or employment. These needs are primarily for assessment of the issues (10% of the total) and service provision (11% of the total).

4.10 Summary

Children presented with a range of needs requiring intervention. Many of these needs directly impact on children's capacity to be returned to families and their possible release from orders. Thirty two per cent of children exhibited one or more emotional or behavioural problems while 24% had a special need or disability and 13% had a physical or health need.

Particularly high levels of need were found in the areas of placement, family and cultural identity. Where the child's placement details were known, the study indicated that most children (71%) were currently residing in culturally appropriate placements. Fifty per cent of children were residing with parents or extended family.

However, 46% of children had less than monthly contact with their parents. The most common reason for lack of family contact was distance. Over 80% of children were assessed as having a need to extend their knowledge or understanding of their cultural identity.

5 DEPARTMENTAL INTERVENTION

5.1 Introduction

This research examined the effectiveness of the Department of Families, Youth and Community Care's intervention with Aboriginal and Torres Strait Islander children on protective orders, and their families. Several areas were explored:

- child protection notifications
- case management
- employment of Indigenous staff
- involvement of AICCA or equivalent service in decision making
- recording of cultural information.

5.2 Child protection notifications

The involvement of the Department in families' lives often begins with a child protection notification alleging that a child has been the subject of abuse or neglect, or is at risk of abuse or neglect.

Of the children in this study, 658 or 85% of the total, had been subject to 2,113 child protection notifications. Twenty per cent had been the subject of a child protection notification since coming onto their order.

Figure 13: NUMBER OF CHILD PROTECTION NOTIFICATIONS RECEIVED IN RELATION TO INDIGENOUS CHILDREN ON PROTECTIVE ORDERS

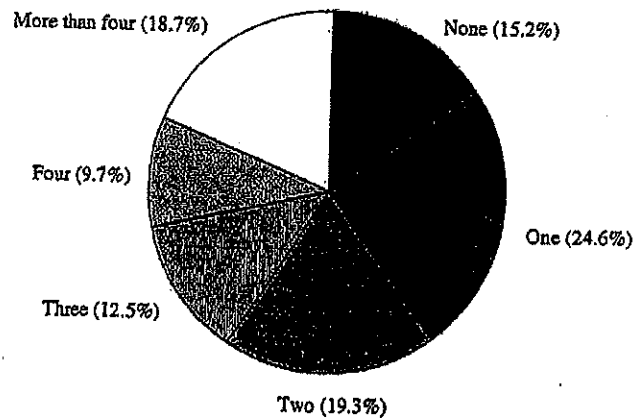


Table 17 indicates that of the 658 children who had been the subject of a notification, abuse or neglect was substantiated for 89%; with 23% having three or more substantiated notifications. In addition, 37% of these children had been the subject of notifications that were suspected to be true but evidence was unable to confirm this conclusively and 38% were the subject of unfounded notifications.

Table 17: OUTCOME OF CHILD PROTECTION NOTIFICATIONS

Outcome of notification		Number of notifications involved					
		None	One	Two	Three	Four	More than four
Substantiated	No.	75	291	139	75	47	31
	%	11.4	44.2	21.1	11.4	7.1	4.7
Suspected	No.	414	165	40	17	17	5
	%	62.9	25.1	6.1	2.6	2.6	0.8
Unfounded	No.	407	170	46	19	9	7
	%	61.9	25.8	7.0	2.9	1.4	1.1

5.3 Case management

The Department's child protection framework outlines a system for case management which is a tool for assessment, planning, implementation and review of casework.

In over half the cases there was no evidence that case management practice standards were met.

Table 18: STATUS OF CASE MANAGEMENT PRACTICE STANDARDS

Status	Assessment of Protective Needs (%)	Initial Planning Meeting (%)	Ongoing Planning Meeting (%)	Placement Meeting (%)
Meets standards ^(a)	13.4	23.1	20.2	11.0
Almost meets standards ^(b)	36.5	27.1	15.0	17.9
Does not meet standards ^(c)	49.6	49.5	64.2	55.2
Not applicable/ unable to be measured	0.5	0.4	0.7	16.0
Total	100.0	100.0	100.0	100.0

^(a) Is current, meeting(s) held or mostly held within prescribed time frame or not yet due.

^(b) Exists but is not current or meeting(s) held but not within prescribed time frame.

^(c) None exists or meeting(s) overdue.

The case management system is a set of practice standards which is applied to the process for managing a case when the initial assessment of a child's protective needs indicates continued departmental intervention is necessary to ensure the child's safety. This includes: an assessment of protective needs that details the child's current protective needs and a plan for meeting these; initial and ongoing

planning meetings held with parents to develop case plans; and placement meetings held with careproviders to plan for how children's needs can be met within the placement.

The consequence of not meeting practice standards for children is that critical needs remain unidentified and consequently not addressed. For example, in 21% of cases the lack of a current case plan was given as an impediment to family contact and in 32% of cases the lack of a case plan was noted as an impediment to the child having significant links with tribal or clan groups.

Critical to the meeting of case management practice standards is the role of the Family Services Officer, who has the responsibility for making assessments of protective needs and preparing for and organising planning and placement meetings. Where cases are not allocated to a Family Services Officer or allocations change, Family Services Officer contact with clients will be reduced and thus the potential to meet case management standards is decreased. These issues clearly have an impact for the children in this study.

Family Services Officer contact with children, families and careproviders was not adequate to meet case management standards. Thirty-five per cent of children, 46% of parents/guardians and 30% of careproviders had no more than two face to face contacts with a Family Services Officer in the previous 12 months.

While results indicate that majority (81%) of cases were allocated to a Family Services Officer at the time of the research, over one-third (37%) had been unallocated at some stage during the previous two years. Of those cases which were unallocated at the time of the research, 44% (or 8% of total cases) had been unallocated for over 12 months.

Many children (43%) had more than one Family Services Officer during the previous twelve months, including 13% who had three or more Family Services Officers during the previous twelve months.

The reference group commented that more resources are required to ensure that no cases are unallocated. Case re-allocation or handover needs to take place immediately and be done with cultural sensitivity.

5.4 Indigenous staff

The presence of Indigenous staff within child protection agencies will assist in ensuring that services to Aboriginal and Torres Strait Islander clients are delivered in a culturally sensitive manner. However, results show that only 14% of parents, guardians or family have had contact with departmental staff of their own cultural background. In a further 21% of cases the level of contact was unknown.

The reference group emphasised the critical importance of the Department's Employment and Career Development Strategy, to increase the overall number of Aboriginal and Islander staff employed at all levels in the Department. To maximise use of existing Indigenous staff, there needs to be an awareness of available Aboriginal or Torres Strait Islander staff and their position. Where there is no Indigenous worker in an area office, the client should be able to contact and consult with an Indigenous worker from another region or area office.

5.5 Involvement of AICCA or equivalent service in decision-making

The Royal Commission into Aboriginal Deaths in Custody recognised the importance of family and community links in addressing the underlying cause of deaths in custody. It was recommended that government welfare policy and practice should recognise and be committed to ensuring that families and community groups, including Aboriginal Child Care Agencies, be the primary source of advice about the interests and welfare of young Aboriginal people. The need for consultation with agencies and groups outside of the immediate family reflects the need for families to be fully supported and advocated for in their dealings with government agencies.

This research examined the key area of placement decisions in relation to decision making in the child protection area. Table 19 indicates that in 83% of cases an Aboriginal or Torres Strait Islander person or agency was involved in decisions regarding the current placement, usually immediate or extended family or an Aboriginal and Islander Child Care Agency. Further analysis of this involvement revealed that in 58% of cases an Aboriginal and Islander Child Care Agency or an Aboriginal or Torres Strait Islander agency or elder was consulted and agreed that the placement was suitable. Closer examination of this data showed that practise has improved over time. Children who have come into care in the last five years are twice as likely to have Aboriginal and Islander Child Care Agency involvement in placement decisions as children who have been in care for over ten years.

Table 19: KEY PEOPLE INVOLVED IN DECISION-MAKING REGARDING CURRENT PLACEMENT

Particulars	Number	Proportion of total (%)
Immediate family	462	59.5
Aboriginal and Island Child Care Agency	394	50.8
Extended family	307	39.6
Local community	120	15.5
Aboriginal/Torres Strait organisation	75	9.7
Elders	41	5.3
Not applicable - child in detention	16	2.1
Other	41	5.3
Unknown	73	9.4

Because the Aboriginal and Islander Child Care Agency or the equivalent service is crucial to case planning and intervention with Aboriginal or Torres Strait Islander families, links between the Aboriginal and Islander Child Care Agency and the Department need to be strengthened. The reference group suggested that training is one way this can be accomplished. The Aboriginal and Islander Child Care Agency staff should receive regular information about departmental policy and procedures. Departmental staff also need to be trained in Aboriginal and Islander Child Care Agency policy and procedures to enable effective cultural intervention. Joint training in relation to respective roles and responsibilities and staff interchanges could also be effective.

The reasons for an Aboriginal or Torres Strait Islander agency not being involved were also examined as part of the study. For almost one-half of the cases where an AICCA was not involved, the reason was unknown. Other reasons identified included the fact that there was no local AICCA or that the local AICCA, organisation or elders were not asked.

Table 20: REASONS FOR NON-INVOLVEMENT OF FAMILY/ABORIGINAL OR TORRES STRAIT ISLANDER AGENCY IN PLACEMENT DECISION

Particulars	Cases where Family/Aboriginal or Torres Strait Islander agency not involved		Proportion of total cases (%)
	Number	Proportion (%)	
No local AICCA	49	12.8	6.3
AICCA was not asked	37	9.7	4.8
Abl&TSI organisations/elders were not asked	24	6.3	3.1
Whereabouts of parents unknown	29	4.3	3.7
Not applicable - child in detention	16	4.2	2.1
Other	56	14.7	7.2
Unknown	171	44.8	22.0
Total	382	100.0	49.2

5.6 The recording of cultural information

In order to make effective case decisions and involve families in ongoing intervention it is essential that departmental staff have knowledge of children's family, tribal and community origins. However, results showed that in most cases (78%) the information recorded on file pertaining to community and family of origin was minimal (42%) to nonexistent (35%). In only 2% of cases was there considered to be considerable information while in 20% of cases the level of information was graded as moderate.

A strategy to address the level of inadequate cultural information available about children which was proposed by the reference group is an Essential Cultural Information form. It is planned that this form be completed for each Aboriginal and Torres Strait Islander child on a protective order. The form should identify tribal, community and family information that is essential for effective case consultation and planning. The completion of the cultural information form will also ensure that children and young people on orders will be able to easily access information about their family and cultural heritage.

5.7 Summary

An examination of departmental intervention identified areas for change to increase the effectiveness of service delivery to Indigenous children and families. These included:

- the need for increased training for all staff working with Indigenous clients;

- . the employment of increased numbers of Indigenous staff;
- . the need to maintain practice standards in particular to more effectively include families, AICCA or elders in decision making;
- . the need for cultural information to be more effectively recorded on case files.