

# **Submission to Royal Commission on Institutional Responses to Child Sexual Abuse**

**Subject: Public hearing into nature, cause and impact of child sexual abuse in institutions, 27 March 2017**

## **About the Alliance for Forgotten Australians**

The Alliance for Forgotten Australians (AFA) is the national peak body which promotes the interests of the estimated 500,000 people who experienced institutional or other out-of-home care as children and young people.

AFA has a membership from across Australia, operates as an incorporated body and has recently appointed an executive officer.

AFA's objectives are to see a national redress scheme implemented across Australia, open to all who experienced institutional "care", the creation of an accessible and freely available health and aged care system and the continued operation of the current state and territory based support services.

It is no accident that our members have adopted the title 'Forgotten'. Our members are ageing and time is running out to provide any justice for them. AFA is acutely aware of the anger and despair that will be felt by Forgotten Australians if the Commission's recommendations, particularly in relation to redress, are not properly introduced and implemented.

## **Purpose of the submission**

AFA sees this public hearing as the possibly the last opportunity to highlight the needs of this historically neglected group of survivors from our child welfare system that operated in the twentieth century.

**This submission takes the opportunity to highlight, once again, the nature, cause and impact of growing up in institutional care, of which sexual abuse played a significant and destructive part.** Attention will be paid in particular to the impact of institutional abuse; there are learnings that need to be applied to current out of home care practices.

## **Preamble**

The work of the Royal Commission into Institutional Responses to Child Sexual Abuse has provided an important opportunity (perhaps the last) for Forgotten Australians to finally receive justice.

When the Royal Commission was announced in 2013 AFA advocated for broad terms of reference that would include all forms of criminal abuse of children committed by institutions.

Despite the narrower than preferred final terms of reference AFA has welcomed the attention the Royal Commission has paid to the range of abuse types experienced by children brought up in institutional or orphanage care in the twentieth century.

This focus has met one of the fundamental needs of Forgotten Australians – to be seen and understood. Previous inquiries have ultimately focussed on recommendations for the future, and paid inadequate attention to correcting the impact of historical abuse; time and time again the needs of the Forgotten Australians have been ignored, disbelieved or left out.

AFA notes that 43% of private sessions have been from survivors of out of home care; the largest proportion within this group (22%) have come from faith based non for profit residential homes.

AFA acknowledges that the matrix developed by the Royal Commission (2015) for assessing monetary payments allows for “additional factors” to be considered. These ‘additional factors’, which include the nature of the institutional care (open or closed) and the status of the child’s guardianship (ward), recognise the adverse circumstances faced by children brought up in these circumstances, to which other abuse types were often added to.

AFA has made a number of submissions to the Royal Commission. In each of these submissions AFA has argued that the all-encompassing nature of the institutional care world and the insidious and adverse impact of daily institutional life on the social and emotional development of a child is almost beyond comprehension.

## The nature of institutional care

The nature and dangers of institutional care have been described over many years. The Senate Report, **Forgotten Australians** (2004) is perhaps the best known. Most recently the long term outcome for Forgotten Australians study (UNSW 2016) has confirmed the conclusions of the Senate Report.

Frighteningly however the danger of institutional care for children was identified as far back as the early 1950s. Bowlby's (1951) early work on childhood deprivation highlighted the damage that could be inflicted on children who were reared in non - stimulating environments where they were denied the opportunity of developing a relationship with a primary caregiver. Children continued to be institutionalized.

The perils of this environment for children continue to be noted throughout the later decades of the twentieth century.

Gil (1982) describes the environment as follows:

*Institutional maltreatment refers to acts and policies of omission and commission that inhibit or insufficiently promote the development of children or that deprive or fail to provide them with the material, emotional and symbolic stimulation needed for their normal development.* Gil continues:

*The institutional setting itself is in most cases pathogenic and should be classified as a type of child maltreatment, particularly in the form of structural neglect.*

By structural neglect Gil is suggesting:

- A minimum of physical resources
- Unfavourable staffing patterns
- Socially and emotionally inadequate care-giver child interactions

Rutter (1990) argues that structural neglect should be located at the extreme end of the cumulative risk continuum and as such may be considered a special case of child maltreatment.

Another commentator (Maclean 2003) suggests that *there is no area in which, as a group, institutionally reared children remain unscathed.*

Academic literature, 100s of personal accounts (written and oral) and countless inquiries, over a 50 year period, are relentlessly in consensus about the damage institutional care inflicted(s) on children.

## **The causes of institutional abuse in care.**

Again this is a well tilled field. The Royal Commission has created the environment where governments and care giving agencies have been impelled to examine their own practices. In brief we know that the care system had significant failures because of:

- Disregard for the rights of children
- Failure to listen to children
- Failure to engage parents with their child once a child entered “care”
- Historic child welfare legislation that in many cases blamed the child for their circumstances that brought them in to ‘care”
- Poor or non-existent governance of governments and institutions
- Poor or non-existent regulatory frameworks
- Where frameworks existed poor or non-existent implementation practices
- Inadequate funding
- The “closed” nature of the “care” arrangements and isolation from the rest of the community
- Completely inadequate staffing numbers
- Overwhelming workloads
- Inadequate safeguards and recruitment practices
- Inadequate training and supervision
- Failure of state and territory governments to exercise proper duty of care and to attend to their guardianship responsibilities as “in loco parentis”
- Concealment by institutions of wrong doing and refusal to report criminal offences to the police.

With these many failings it is little wonder that all forms of abuse were rife; sexual abuse being amongst the abuse types.

## **The impact of institutional care**

12 years ago the Senate Report (2004) had this to say about the lifelong impact of out of home care:

*The outcomes for those who have left care have, in the main, often been significantly negative and destructive.....It is imperative to recognise and acknowledge the magnitude of contemporary social problems which are the long term effects stemming from the past experiences of fear, intimidation, humiliation and abuse endured by the care leaver as a child (p.145).*

The Senate Report describes, with quotes from submissions and evidence, stories of lost lives, stoic endurance and the endless quest for love, relationships and belonging that had been denied as a child. It describes the trials and tribulations of adulthood where the effects of family separation, neglect, poor education, brutality leave, often what is an intractable scar.

***Little more needs to be said; except that little has changed for the Forgotten Australians.*** Many have died. We that are left are getting older, frailer and in many cases closer to aged care.

### ***Are we doing better today?***

At the time of the National Apology (2010) 35,000 children were in care. There are now 43,000 and the number is climbing.

***What have we learnt?*** Why do we think out of home care is the solution today to family problems? This was the policy that saw 500,000 children removed from their families and placed in institutional care in the twentieth century. Children in out of home care today, as then, are largely from our marginal and impoverished families (poverty of both material and spiritual opportunity takes its toll). Many have had their own experiences of trauma, institutional and out of home care.

Dorothy Scott (2010) has this to say:

*It is astounding that there is no evidence to support bringing children into care on such a scale. To the contrary, there is recent international evidence that children's post-removal experiences in out of home care systems, especially those with a high level of placement instability such as in Australia, have serious adverse effects on children....This is a system with the capacity to inflict very serious harm on many children.*

### ***What are the costs of not doing better?***

The Senate Report suggested that the costs are *profound*.

*There is a significant cost to the individual and a massive long term-term social and economic cost for society which may be compounded when badly harmed adults in turn create another generation of harmed children.at every level of society (p.166).*

The Senate Report provides an overview of some of the research on the cost of child abuse. Two studies (p.169) are persuasive:

- Michigan's Children's Trust estimated that offering early intervention to every child in the state was approximately one-twentieth of the costs associated with abuse.
- An American study conducted in 2001 concluded US\$94 billion was spent annually in response to child abuse. 75% of this was spent on treating all the long term indirect effects including special education, mental and physical health care, juvenile justice, lost productivity and adult criminality.

The most recent Australian study of the costs of not attending to earlier intervention and family support programs is contained in the **Report of Protecting Victoria's Vulnerable Children Inquiry, 2012**.

The report suggested that the total lifetime costs for first time child abuse and neglect that occurred in Victoria in 2009-19 is between \$1.6 and \$1.9 billion (p.48).

The costs of never providing, in any systematic and accessible manner, health, counselling and support services to Forgotten Australians means that they and their community are continuing to pay the price for their adverse childhood experiences.

### ***How do we do better?***

Scott (2010) alerts us to the constraints on the capacity of the State to be a good parent. She warns that the state cannot perform the functions of the family – *to provide the enduring bonds of attachment which nurture the ability to love and be loved. There are inherent limits on the State's capacity to protect children without causing harm.*

There must be another way.

In 1976 Len Tierney, Melbourne academic and social worker, completed his PhD thesis. It was a study undertaken, over two decades, of what were then termed “multi-problem families”. Tierney preferred to call them excluded families, the name of his thesis.

He recognises that family “failure” occurs but that it has its origins in the long term effects of poverty (material and spiritual) and personal deprivation in childhood. The so called “failure” of families is exacerbated by the tendency for most organizations to exclude families, on grounds of preference, intractability, perceived unwillingness to participate, from ongoing access to services.

Tierney has some suggestions about practice improvements (family capacity building, 24 hour assistance, long term case work) and policy changes. However, his most insightful comment, and this from 40 years ago, pinpoints the current child protection dilemma, which is that *our social policy and legal system provide for the welfare of “deprived” children at the expense of the child’s future and without regard to the welfare of the family (p.330)*

Tierney makes the same point as Scott. He argues that the primary role of the family, socialization and developmental, cannot be adequately undertaken, **over time**, by either helping agencies or the State.

Tierney’s insights appear to have made little impact on our child welfare and child protection practice and systems. Child protection still focuses on child rescue, placement changes are frequent and many families (admittedly some hard to engage) receive little support other than external and negative sanctions.

Through the work of Tony Vinson (quoted in **Report of the Protecting Victoria’s Vulnerable Children Inquiry** p.44) we know where there are significant concentrations of poverty and social dysfunction. These areas correlate precisely with the highest areas of child protection reports. We are yet to affirmatively target these areas with inclusive and long term family and early intervention programs. Our current practice is simply to appoint more child protection workers. And the cycle continues.

It is self-evident that the purpose of all child protection systems is to protect children. How this is attempted depends in large part on the orientation that is adopted by the government and the agencies. It has been noted in a number of inquiries into Australia’s child protection system (eg. Protecting Victoria’s

Vulnerable Children) that the most preferred orientation, in Australia, is “child protection”. This is contrasted with a “family services’ orientation. A distinguishing characteristic of the ‘child protection” orientation is that coercive intervention and removal of children from his or her family by the government is present at an early stage of investigation and working with families.

Attempts to re-orientate the system to formally and actively locate statutory services within a child welfare framework have proved largely unsuccessful.

### **Conclusion**

Elimination of all forms of abuse (including sexual abuse) in out of home care clearly depends on attention being paid to the deficiencies of the out of home care system that are listed on page 4. However as a society we are still struggling to understand that statutory intervention can cause harm to children as well as protect children. Every effort must be made to prevent children coming into care!

Families matter. As one Forgotten Australian said in a recent Open Place publication: *I hope for no more broken/separated families. I hope that families are kept together. Families understand each other and mostly support and love each other in all areas of life. All kinds of options can be discussed. Families are the most important thing in life.* This Forgotten Australian, now in her 80s, has spent the last 60 years of her life putting her family back together.

For those of us who have felt at first hand the damage institutional out of home care has caused, we can only say:

**The past is not dead; it is not even past.**

Caroline Carroll

Chairperson

Alliance for Forgotten Australians

10 March 2017

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