

### Still Damaging and Disturbing: Australian Child Protection Data and the Need for National Adoption Targets

Jeremy Sammut

EXECUTIVE SUMMARY

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In December 2013, the Abbott government announced plans to make it easier for Australian parents to adopt children both locally and from overseas. Acknowledging the official ‘taboo’ on adoption in Australia, Prime Minister Tony Abbott ordered an inter-departmental committee to recommend ways to take adoption out of the ‘too-hard basket.’

The committee will report to the May 2014 meeting of the Council of Australian Governments (COAG). One way the committee can help break the taboo and increase the number of adoptions is by debunking the fallacies that underpin the policy debate concerning the so-called causes and solutions for the demand problems and cost pressures in Australia’s child protection system.

The chief barrier to more local adoptions is that state and territory child protection authorities almost never take legal action to free children for adoption, even for children who languish in Australia’s ever-expanding out-of-home care (OOHC) system with little prospect of safely returning home.

The orthodox policy advice routinely given to state and territory governments is that too many children are ‘in care’ because child protection services need to be re-structured away from statutory intervention<sup>†</sup> and child removal towards providing ‘less-expensive’ prevention and early intervention social services to reduce entries into OOHC.

It is a myth that the child protection system focuses too heavily on statutory intervention, and that children are too quickly removed into care without supporting families.

New financial data from the Australian Institute of Health and Welfare (AIHW) show that in 2012–13:

- Family support/preservation services accounted for at least 17.1% of the \$3.8 billion national expenditure on all child protection services, compared to statutory (29.6%) and OOHC (53.3%) services.<sup>‡</sup>

<sup>†</sup> Statutory intervention refers to the process by which child protection caseworkers investigate risk of harm reports, assess child wellbeing, and determine whether court-approved removal is necessary to satisfy the requirements of child welfare laws.

<sup>‡</sup> This understates actual spending on ‘family preservation’ because the leading edge of contemporary statutory practice involves working with families to keep children with parents, and many services officially classified as ‘out-of-home’ care also focus on reuniting children and parents.

**Dr Jeremy Sammut** is a Research Fellow at The Centre for Independent Studies, and the author of a number of reports on child protection in Australia.

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- Real (adjusted for inflation) national expenditure on ‘intensive family preservation services’ (designed to prevent imminent child removals) grew by 316% between 2000–01 and 2012–13 (from \$73 million to more than \$300 million).
- This was almost one-third higher in relative terms than the still substantial increase in spending on out-of-home care (228.3%), and nearly twice as fast as the still substantial growth in statutory service expenditure (166.3%).

This report updates (using the latest official child protection statistics) the key findings of my 2011 report *Do Not Damage and Disturb: On Child Protection Failures and the Pressure on Out of Home Care in Australia*, which examined the factors that accounted for the substantial growth in the size, scale and cost of the OOHC system.

Child protection data for 2012–13 show that Australia’s OOHC system remains under siege due to rapidly increasing spending on OOHC, increasing numbers of children in OOHC, and the greater complexity of the OOHC population. Since 2000–01, the total real national expenditure on OOHC has more than tripled; the total OOHC population has more than doubled; and the total number of children in very expensive ‘residential’<sup>§</sup> care placements has almost doubled. High levels of ‘re-reporting’ and ‘re-substantiation’ of cases of child abuse and neglect, plus high levels of ‘instability’ (unstable placements) for children while in care, mean that increasing numbers of children are being damaged by the very child protection system that is meant to protect them (Box 1).

The bottom line is that increasing numbers of children are still ending up in OOHC despite the additional funding Australian governments are pouring into family support/preservation. The 2012 *Report of Protecting Victoria’s Vulnerable Children Inquiry* (the Cummins report) found no evidence that the larger sums spent by Victoria on ‘prevention’ had protected children and stopped child maltreatment. Despite ‘increased investment’ (spending on intensive family preservation services increased by almost 900% since 2000–01), this strategy failed because ‘high levels of re-reporting and re-substantiations over the lifetime of Victorian children’ showed no ‘marked change in Victoria in the incidence and impact of child abuse or neglect or overall outcomes for vulnerable children taken into out-of-home care.’

Nevertheless, the orthodox policy advice remains influential. The Newman government is implementing the major recommendation of the 2013 Queensland Child Protection Commission of Inquiry (the Carmody report), which recommended increased spending on prevention and early intervention services to re-structure a child protection regime that allegedly ‘focuses too heavily on coercive instead of support strategies.’ This is despite the inquiry’s (confusing and contradictory) final report establishing that the Queensland child protection system was heavily focused on family preservation—and was the reason for children lingering longer in care and blowing out the size of the OOHC population.

Australian child protection policy continues to resemble Einstein’s definition of madness—doing the same thing and expecting a different result. The inter-departmental committee needs to be aware that flawed family preservation policies and practices are the root cause of the systemic problems in the child protection system, lest it be misled by red herrings about the need for higher spending on family support services. Instead, it should recommend the Abbott government direct the states and territories to take more timely statutory action to permanently remove children from unsafe homes and provide them with safe and stable homes by adoption by suitable families.

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

The Abbott government should provide national leadership and take adoption out of the too-hard basket by setting national child protection performance targets, including boosting the number of local adoptions from care to the equivalent of more adoption-friendly countries within the next 10 years.

National adoption targets would encourage other states and territories to emulate the prospective pro-adoption regime recently legislated by the NSW government, which is designed to significantly increase the number of adoptions from care by mandating strict time limits within which realistic decisions are made about the feasibility of restoration. Once it is determined that a child cannot safely go home, application will be made in the Supreme Court for an order to free that child for adoption by his or her new family.

If Australian children in care were adopted at the same rate as in the United States, there would be around 5,000 adoptions each year nationally instead of the current figure of around 200. The inter-departmental committee should also draw the Abbott government's attention to the way the US adoption rate has been lifted by the Clinton administration's *Adoption and Safe Families Act 1997*, which rewards states that increase the number of adoptions from care with additional federal funding for social services. Similar incentive-based funding arrangements (as an enhanced means of distributing existing federal funding for family and community services to states and territories) should be considered in Australia.

**Box 1: Key findings—Australian child protection data, 2000–01, 2009–10, and 2012–13**

- Total real recurrent national OOHHC expenditure increased from \$630 million in 2000–01 to more than \$1.7 billion in 2009–10; in the three years since 2009–10, total real national OOHHC expenditure has continued to increase by 16% (or more than \$200 million), and topped \$2 billion in 2012–13.
- The number of children and young people aged 0–17 who were unable to live safely with their parents and required government-funded 'foster,' 'kinship' or 'residential' care placements has more than doubled since 2000–01 to 40,624 in 2012–13; since 2009–10, the OOHHC population nationwide has increased by 13%.
- The rate of children in care per 1,000 population rose from 3.9 children per 1,000 population in 2000–01 to 7 in 2009–10 and 7.7 in 2012–13.
- Recent inquiries have established that between one-quarter and more than one-half of all child safety reports received each year by state and territory child protection authorities are additional reports ('re-reports') of unresolved child welfare concerns.
- Nationally, the number of children subjected to proven finding of abuse or neglect and then a repeat finding ('re-substantiation') within one year increased by 60%, from 5,339 children in 2000–01 to 8,589 in 2011–12 (latest year for which data are available).
- In 2012–13, the nationwide percentage of children who exited out-of-home care after 12 months or more in care with three or more placements was 51.4%, almost double the percentage (26.8%) experiencing unstable living arrangements while in care in 2000–01.
- High levels of 're-reporting,' 're-substantiation' and 'instability' in care are responsible for the growing cost and complexity of the OOHHC system. Since 2004–05, the 'residential care' OOHHC population has more than doubled to 2,193 children in 2012–13, including an almost 20% increase since 2009–10, and this segment of the care system is consuming an ever-increasing proportion of total OOHHC expenditure. This reflects the increasing numbers of damaged and disturbed young people with 'high needs'—serious psychological, behavioural and developmental problems due to prolonged exposure to parental maltreatment and highly unstable foster care—who can only live in very expensive residential placements because of their abuse, neglect and instability-related uncontrollable, threatening, violent and self-destructive behaviour.
- In 2009–10, there were only 190 local adoptions in Australia, despite more than 36,000 children being in care, and despite almost 23,000 of these children having been in care for more than two years. In 2012–13, there were only 210 local adoptions, despite more than 40,000 children being in care, and despite almost 28,000 of these children having been in care for more than two years.

## Box 2: A primer on Australia's child protection crisis

- A paradox lies at the heart of Australia's child protection system crisis: the rising number of children in care, the growing length of time spent in care, the multiple occasions of care many children experience, and the increasingly 'high needs' of the care population are unintended consequences of the family preservation-based child protection policies and practices that, in theory, are meant to prevent child abuse and avoid the removal of children into care.
- Since the 1970s, the official policy of child protection authorities has been predicated on the idea that wherever possible, children suffering abuse and neglect should be kept with their even highly dysfunctional families, and parents given virtually limitless opportunities to address their problems; when 'temporary' removal into care cannot be avoided, extended efforts should be made to reunite children with their families. By supplanting the traditional approach to child protection (the timely rescue of abuse and neglected children via removal into state care), the over-emphasis on family preservation has enfeebled community response to child maltreatment.<sup>4</sup>
- Family preservation means that state and territory child protection services remove children from unsafe homes only as a 'last resort,' and only after extensive social service interventions to assist parents address the social and personal problems impeding proper parenting.<sup>5</sup> Well-intentioned social services are designed to help struggling parents adequately care for children. But these services, which aim to build personal capacity and family resilience, struggle to overcome entrenched behavioural problems in the underclass of families with the most serious problems (drug and alcohol abuse, family violence, mental illness).<sup>6</sup>
- The overarching flaw with family preservation is 'under-responding' to child maltreatment.<sup>7</sup> Child removal is relegated to a last and reluctant resort, even when abusive and neglectful parents are demonstrably unfit. The same families end up being reported multiple times, mostly by mandatory reporters (health, education, police and other professionals obliged by law to report suspected abuse and neglect), who make numerous re-reports trying to prompt action to address unresolved safety and welfare concerns.<sup>8</sup>
- The over-emphasis on family preservation means statutory intervention often occurs, if at all, too late. Action is taken only after a child has been damaged by prolonged exposure to neglect and abuse, often with lifelong consequences (including crime, prostitution, drug and alcohol abuse, homelessness, mental illness, gaol, unemployment, and welfare dependence),<sup>9</sup> which impose heavy costs across the whole of government.<sup>10</sup> Many children are further damaged by unstable living arrangements when care placements break down because of 'hard to handle' children's personal and behavioural problems, and when they are repeatedly taken into and out of foster care after reunifications break down because of recurring parental problems and child maltreatment. The difficulties associated with caring for high needs children, and the heartbreak of seeing children returned to bad homes, contribute to high dropout rates among foster carers and difficulties in recruiting new carers.<sup>11</sup>
- Too little, too late is being done to remove children, and once they are removed, out-of-home care is too unstable. An alternative strategy for breaking the vicious cycle of abuse, neglect and instability, and providing children with safe and stable homes, is for child protection services to intervene decisively in the families in which parental capacity is severely impaired. More timely statutory action is needed to permanently remove children from unsafe homes by taking legal action to terminate parental rights and free children for adoption by suitable (properly screened and vetted) families. This policy prescription is controversial due to the perceived association with historic wrongs and the harm done to parents and children in the past. Adoption, whether by consent or by court order, is officially 'taboo' in child protection circles because permanently removing children even from bad parents is considered akin to the discredited forced adoption practices involving unwed mothers in the 1950s and 1960s, and the forced removal of the Stolen Generations of Indigenous children. Given the harm past practices had done to parents, children and families, the conventional wisdom is that children are almost always better off with their natural parents so all efforts should be made to keep and restore children to the family home.<sup>12</sup>
- This misguided thinking has swung the pendulum too far towards family preservation and preserving parental rights at the expense of intervention in the best interests of children. This explains why legal action is almost never taken by child protection authorities to free children for adoption, even for children who languish in foster care with little prospect of ever safely being returned home. Thus in 2012–13, there were only 210 local adoptions in Australia,<sup>13</sup> despite more than 40,000 children being in government-funded care placements, and despite almost 28,000 of these children having been in government-funded care placements continuously for more than two years.<sup>14</sup>

## Introduction: A 'systemic' crisis

This report updates (using the latest official child protection statistics) the findings of my 2011 report *Do Not Damage and Disturb: On Child Protection Failures and the Pressure on Out of Home Care in Australia*, which examined the factors responsible for the substantial growth in the size, scale and cost of Australia's out-of-home care (OOHC) system.

The key finding of this report is that all state and territory governments are confronting ongoing demand and cost pressures, including acute shortages of care placements, making it impossible for child protection services to assume guardianship of all children in need of protection. Professor Chris Goddard of Monash University's Child Abuse Prevention Research Australia conservatively estimates that at least double the number of Australian children should enter care but do not due to financial and logistical pressures on the OOHC system.<sup>1</sup>

The growing number of children in care and the ever-rising OOHC expenditure can be attributed to (1) the sheer volume of children needing protection due to the level of parental dysfunction in the underclass of problem families in the community; (2) the longer times children are spending in care and the fewer children exiting than entering care each year while attempts are made to reunite them with their families;<sup>2</sup> and (3) the increased complexity of the care population. Nearly all children in out-of-home care have 'high and complex' needs because of emotional, psychological and behavioural problems, and require additional specialist support services (psychological counselling, speech therapy, anger management, etc.) and/or expensive residential care placements, which increase the average cost of care per child.<sup>3</sup>

The need for state and territory governments to provide more costly specialist services and residential care is a systemic problem stemming from the fundamental flaws plaguing Australia's failing child protection system. Abused and neglected children are being irreparably damaged by parental maltreatment, and languishing in unstable and expensive OOHC placements due to the misguided bias towards family preservation at nearly all costs and removal being a 'last resort' (See Box 2).

The most alarming aspect of the child protection crisis is the way the systemic failings of the family preservation approach have forced state and territory governments to 're-residentialise' the OOHC system to cater for the 'high needs' of many children and young people.

Large-scale residential children's homes and orphanages were closed down during the de-institutionalisation era in the 1970s and 1980s. Contemporary residential care involves smaller-scale 'group homes' housing between four and six children, cared for by full-time paid staff. Foster and kinship out-of-home care, by contrast, is 'home-based' care provided by volunteer foster and kin carers who agree to take a child into their family home and act as substitute parents. The reason for the revival of residential care is that increasing numbers of children have been severely damaged, disturbed and distressed by family preservation practices. By the time these damaged 'high needs' children reach adolescence, they can no longer live safely with their parents or in normal foster or kinship homes because of their uncontrollable, threatening, violent and self-destructive behaviour. Residential care (including 'secure facilities' for the most anti-social children) is the only suitable option for 'unfosterable' children.<sup>15</sup>

This report confirms that re-residentialisation of the increasingly unaffordable OOHC system is continuing. Growing financial and demand pressures, and the increasing number of damaged and disturbed children in care, highlights the need for greater use of adoption as a means of removing children, earlier and permanently, from abusive families and providing safe and stable homes. By analysing new child protection financial data recently released by the Australian Institute of Health and Wealth (AIHW), this report also shows that increasing numbers of children are being damaged and ending up in care despite high levels of spending on family support/preservation services.

**State and territory governments are confronting ongoing demand and cost pressures, including acute shortages of care placements.**

Since 2009–10, the total number of children in care across Australia, and the total number in care as a proportion of the population, has continued to increase.

**Table 1: Children in OOHC, 2000–13**

State or territory	2000–01	2009–10	2012–13	Change 2010–13	Change 2000–13
NSW	7,786	16,175	17,422	7.7%	123.7%
VIC	3,882	5,469	6,399	17%	64.8%
SA	1,175	2,188	2,657	21.4%	126.1%
QLD	3,011	7,350	8,136	10.6%	170.2%
WA	1,436	2,737	3,636	32.8%	153.2%
TAS	572	893	1,067	19.4%	86.5%
NT	164	551	748	35.7%	356%
ACT	215	532	559	5%	160%
<b>Australia</b>	<b>18,241</b>	<b>35,895</b>	<b>40,624</b>	<b>13.1%</b>	<b>122.7%</b>

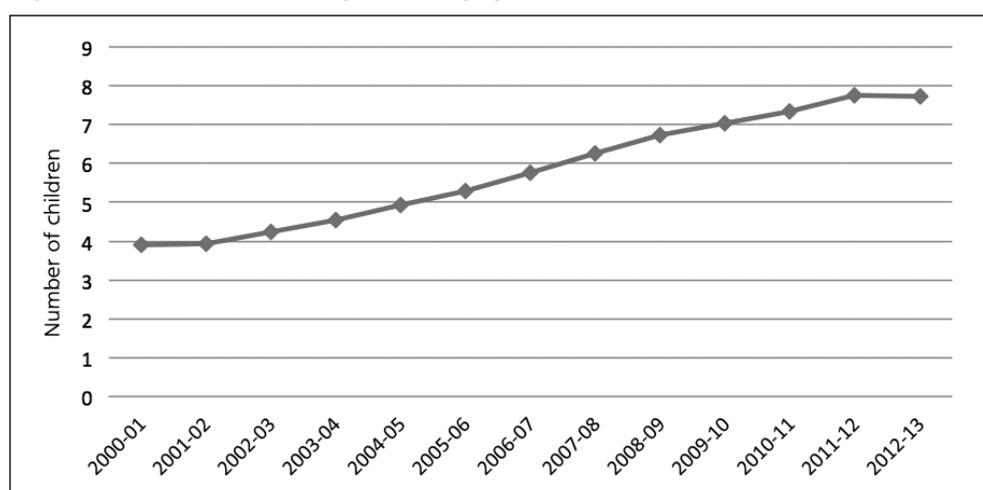
Source: Productivity Commission, *Report on Government Services 2014*, Table 15A.18.

### Children in OOHC, 2000–13

Since 2009–10, the total number of children in care across Australia, and the total number in care as a proportion of the population, has continued to increase.

On 30 June 2013, 40,624 children and young people aged 0–17 were in care, an increase of 13% over three years (Table 1). More than one-quarter of those in care in 2012–13 were Indigenous (13,914).<sup>16</sup> Since 2000–01, the OOHC population has more than doubled, with all states and territories recording strong but varying increases, ranging from 65% in Victoria to 356% in the Northern Territory. The increase in the total OOHC population has continued to far exceed population growth, with the national per capita number of children in care rising from 7 in 2009–10 to 7.7 in 2012–13, compared to 3.9 children in 2000–01 (Figure 1). The national OOHC population has increased by over 122% since 2000–01.

**Figure 1: Children in OOHC per 1,000 population, 2000–01 to 2012–13**



Source: Productivity Commission, *Report on Government Services 2014*, Table 15A.18.

Growth in the number of children in care has continued in all states and territories. Since 2009–10, the ACT (5%), NSW (7.7%) and Queensland (10.6%) have recorded increases below the national average of 13.1%. The OOHC population has grown faster than the national average in Victoria (17%), Tasmania (19.4%) and South Australia (21.4%). The Northern Territory has recorded the strongest growth (35.7%), closely followed by Western Australia (32.8%).

As is to be expected given the rising number of children in care, total real spending on OOHC has also continued to increase in all states and territories since 2009–10, led by the Northern Territory (76.1%) and the ACT (34.5%), with NSW recording the smallest but still substantial increase of over 10% (Table 2A). Total real national OOHC expenditure has increased by 16% and rose by over \$200 million from just under \$1.8 billion to over \$2 billion in 2012–13. Since 2000–01, real national expenditure on OOHC has more than tripled, growing by 228.3%.

**Table 2A: Real (adjusted for inflation) recurrent OOHC expenditure, 2000–13**

State or territory	2000–01	2009–10	2012–13	Expenditure growth 2010–13	Expenditure growth 2000–13
NSW	\$245,844	\$692,785	\$766,849	10.6%	211.9%
VIC	\$176,380	\$315,582	\$372,513	18%	111%
SA	\$30,790	\$125,145	\$156,362	24.9%	407%
QLD	\$90,456	\$360,388	\$412,028	14.3%	355.5%
WA	\$64,048	\$187,132	\$213,344	14%	233.1%
TAS	\$10,579	\$35,398	\$41,967	18.5%	296.7%
NT	–	\$43,423	\$76,483	76.1%	–
ACT	\$12,352	\$22,667	\$30,499	34.5%	146.9%
<b>Australia</b>	<b>\$630,452</b>	<b>\$1,782,520</b>	<b>\$2,070,045</b>	<b>16.1%</b>	<b>228.3%</b>

Source: Productivity Commission, *Report on Government Services 2014*, Table 15A.1.

Growth in the cost of out-of-home care has far exceeded the still substantial growth in the real cost of statutory services (166.3% since 2000–01), which topped \$1.1 billion in 2012–13. Only in Western Australia and Tasmania has relative growth in spending on statutory services outpaced spending on out-of-home care since 2000–01 (Table 2B). However, national expenditure growth in both segments has been far exceeded by relative growth in spending on ‘intensive family support services.’ The provision of these services is usually outsourced by state and territory community service departments to non-government organisations (NGOs). These services are designed to keep families intact by providing extra assistance when children are in imminent danger of being removed, and are meant to be a less-costly alternative to out-of-home care and prevent the need for statutory intervention and child removal.

**Total real spending on OOHC has also continued to increase in all states and territories since 2009–10.**

**Table 2B: Real (adjusted for inflation) recurrent statutory expenditure, 2000–12**

State or territory	2000–01	2009–10	2012–13	Expenditure growth (2010–13)	Expenditure growth (2000–13)
NSW	\$174,598	\$387,126	\$363,680	-6%	108.5%
VIC	\$111,600	\$166,165	\$198,500	19.4%	77.8%
SA	\$29,071	\$41,057	\$51,867	26.3%	78.4%
QLD	\$89,941	\$249,451	\$307,900	23.4%	342.4%
WA	\$15,070	\$66,262	\$128,239	93.5%	750.9%
TAS	\$3,920	\$21,605	\$21,103	-2.3%	451.1%
NT	–	\$20,411	\$64,294	214.9%	–
ACT	\$7,474	\$11,685	\$11,929	2%	59.6%
<b>Australia</b>	<b>\$430,806</b>	<b>\$963,763</b>	<b>\$1,147,512</b>	<b>19%</b>	<b>166.3%</b>

Source: Productivity Commission, *Report on Government Services 2014*, Table 15A.1.

**Between 2000–01 and 2012–13, national expenditure on intensive family support services grew by 316% (from \$73 million to more than \$300 million).**

Between 2000–01 and 2012–13, national expenditure on intensive family support services grew by 316% (from \$73 million to more than \$300 million), or at almost one-third higher than the still substantial growth in spending on out-of-home care, and nearly twice as fast as the still substantial growth in statutory service expenditure.

Efforts to keep children with their families have intensified despite the ‘lack of good quality research about the effectiveness of family preservation services.’<sup>17</sup> In all states and territories except South Australia and Queensland, real expenditure on intensive family preservation services has grown faster than spending on either statutory or OOHC services in relative terms. However, all states and territories have recorded substantial real increases in spending in this segment of the child protection system of more than 200%; in some cases, the increases recorded since 2000–01 have been extraordinary (e.g. 1,653% in Tasmania, 896% in Victoria, and 945% in Western Australia) (Table 2C).

**Table 2C: Real (adjusted for inflation) recurrent intensive family support expenditure, 2000–13**

State or territory	2000–01	2009–10	2012–13	Expenditure growth (2010–13)	Expenditure growth (2000–13)
NSW	\$47,365	\$153,233	\$148,377	-3.1%	213.2%
VIC	\$6,709	\$62,019	\$66,805	7.7%	895.7%
SA	\$2,342	\$9,300	\$10,995	18.2%	369.4%
QLD	\$13,262	\$65,934	\$40,390	-38.7%	204.6%
WA	\$2,763	\$7,342	\$28,876	293.2%	945%
TAS	\$412	\$4,508	\$7,222	60.2%	1652.9%
NT	–	\$538	\$549	2%	–
ACT	\$145	\$1,646	\$961	-41.6%	562.7%
<b>Australia</b>	<b>\$73,001</b>	<b>\$304,521</b>	<b>\$304,135</b>	<b>-0.12%</b>	<b>316.6%</b>

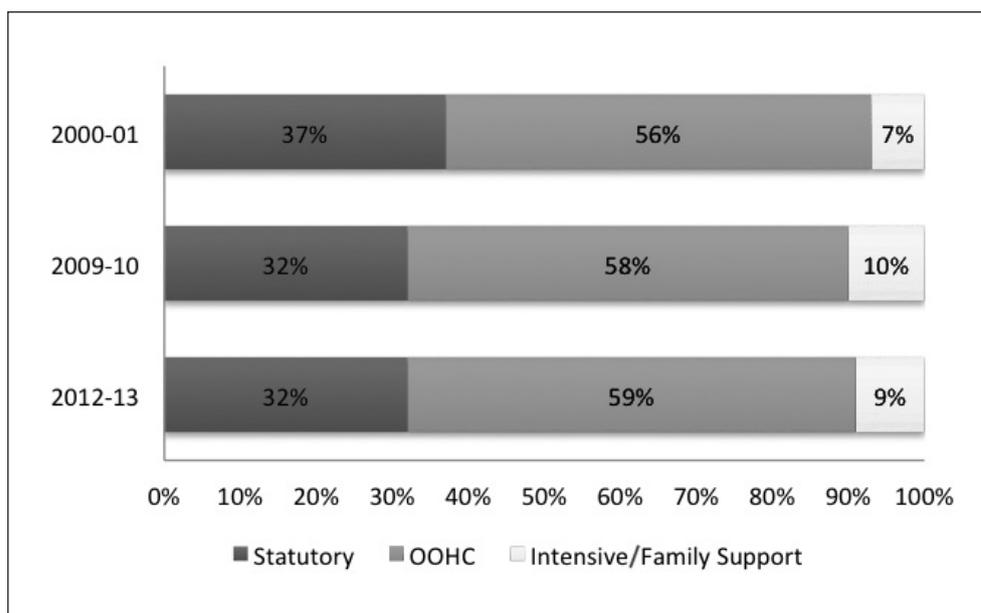
Source: Productivity Commission, *Report on Government Services 2014*, Table 15A.1.

The proportion of spending across Australia consumed by OOHC compared to statutory and intensive family preservation services has remained above 50% and relatively stable, increasing by just under 3% from 2000–01 to 59% in 2012–13, with a slight increase recorded since 2009–10. Over the same period, the proportion of spending on statutory services has fallen to 32% in 2012–13 from 37% in 2000–01. The proportion of child welfare spending consumed by intensive family preservation services has increased from 7% to 9% (Figure 2).

### Despite increased investment

Since 2011, the AIHW has been collecting expenditure data (excluding South Australia) for ‘family support services,’ which are designed to provide early intervention and prevent family problems escalating to the point that child removal is required. Nationally, in 2012–13, more than \$360 million was spent by the states and territories on family support services. When this is combined with the \$304 million spent nationally on ‘intensive family support services,’ it significantly alters the proportions of spending across the system.

**Figure 2: Proportion of spending on statutory, OOHC and intensive family support, 2000–13**



**Source:** Productivity Commission, *Report on Government Services 2014*, Table 15A.1.

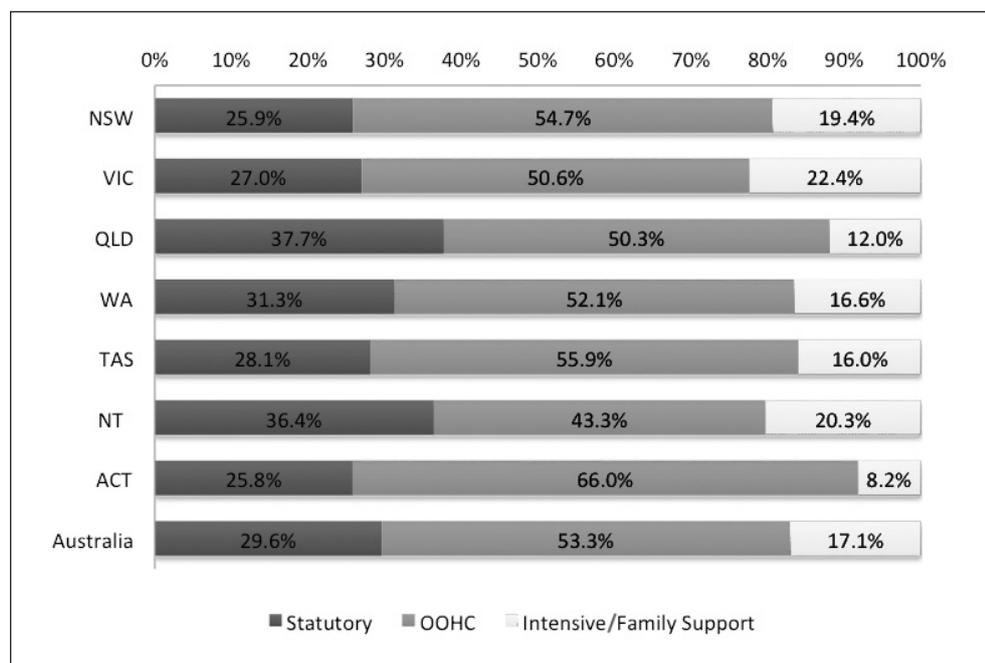
‘Family preservation’ consumed at least 17.1% of all national expenditure on all child protection services, compared to statutory (29.6%) and OOHC (53.3%) services (Figure 3). In 2012–13, Victoria spent the highest proportion of all spending on child protection on family preservation-focused services (22.4%), closely followed by NSW (19.4%), and the Northern Territory (20.3%). The ACT spent the smallest proportion (8.2%) along with Queensland (12%), with the Western Australian and Tasmanian spending coming in just below the national average.

It needs to be noted that these figures understate actual spending on services that provide support for struggling families because the leading edge of contemporary statutory child protection practice involves working with families and case-managing problem parents to achieve family preservation. The same applies to services classified as ‘out-of-home’ care and focusing on reuniting children and parents.

The policy significance of the distribution of spending across the child protection system needs to be emphasised. The high and growing spending on family support/preservation services is consistent with the orthodox policy advice given to governments by the overwhelming majority of social work academics and NGOs that deliver taxpayer-funded family support services.<sup>18</sup> Governments are routinely advised to re-structure the child protection system away from statutory intervention and OOHC services towards ‘less-expensive’ social services for families to prevent abuse and reduce the need for entries into OOHC. The 2009 National Child Protection Framework, for example, recommends realigning child protection systems towards social services for families focused on ‘prevention and early intervention.’ This recommendation appears to be an innovative strategy. In reality, family support services and family preservation-based practice have been the foundation of child protection policy since the 1970s.<sup>19</sup>

**‘Family preservation’ consumed at least 17.1% of all national expenditure on all child protection services, compared to statutory (29.6%) and OOHC (53.3%) services.**

**Figure 3: Proportion of spending on statutory, OOHC and combined intensive family preservation and family support, 2012–13**



**Source:** Productivity Commission, *Report on Government Services 2014*, Table 15A.1.

**There is no evidence that the Victorian 'investment' in 'prevention' protects children.**

Victoria is widely seen as a role model for other jurisdictions because it has led the way over the last decade in re-structuring the state's child protection services. Since 2000–01, this amounted to the Victorian government spending on intensive family preservation services increase by almost 900%, and the proportion of spending compared to statutory and out-of-home care increase from 2% to 10.4% in 2012–13 (Table 2C). Over this period, the number of children in care rose by 65%, real OOHC expenditure more than doubled, and real OOHC expenditure per child increased by over 28% (tables 1, 2A and 4).

Despite these substantial increases, Victoria has recorded the lowest growth in the size and cost of OOHC. This is attributable (among other factors) to Victoria not having as large an Indigenous population in rural and remote areas with as complex family and social problems as in other states and territories. In 2012–13, more than twice as many children were in care per capita in NSW (10.5 per 1,000 children) than in Victoria (5 per 1,000 children) and rates for Indigenous children (85.5 per 1,000 children compared to 59 per 1,000 children) and non-Indigenous children (7 per 1,000 children compared to 4.3 per 1,000 children) were substantially higher in NSW than Victoria. Importantly, the higher per capita figures in NSW compared to Victoria cannot be attributed (on the figures available for 2011–12) to gross differences in spending, since both states spend above 50% of all child protection expenditure on out-of-home care, around a quarter on statutory services, and around one-fifth on intensive family preservation and family support services (remembering that this understates the real amount of resources devoted to family preservation).

Moreover, there is no evidence that the Victorian ‘investment’ in ‘prevention’ protects children; there is no publicly available annual nationally comparable data showing that the number of re-reports in Victoria is substantially lower than in other states and territories, as should be the case if higher spending on family support/preservation is helping families and stopping child maltreatment.<sup>20</sup> A 17% increase in the number of children in care since 2009–10 (above the national average) suggests investment has not reaped the long-term cost benefits promised, especially as statutory and OOHC costs have both increased by 19.4% and 18%, respectively.

The 2012 *Report of Protecting Victoria’s Vulnerable Children Inquiry*, headed by former Supreme Court Judge Philip Cummins, identified the same systemic problems that exist in other states and territories: children are not being removed into care when they should be. Other recent inquiries into state and territory child protection systems have established that between one-quarter and more than one-half of all child safety reports received each year are re-reports.<sup>21</sup> Analysis prepared for the Victorian inquiry showed that in 2010–11, 64% of child safety reports were re-reports, and this percentage had remained largely the same since 2004–05. The ‘high levels of re-reporting and re-substantiations over the lifetime of Victorian children’ led the inquiry to conclude that ‘despite increased investment,’ there had been no ‘marked change in Victoria in the incidence and impact of child abuse or neglect or overall outcomes for vulnerable children taken into out-of-home care.’<sup>22</sup>

Re-substantiations data over the period suggest higher spending on family support/preservation services may have had the perverse effect of extending the time children experience abuse and neglect in the family home. A large proportion of children are the subject of a substantiated finding of abuse or neglect and then to a re-substantiation within 3 months and/or 12 months. The percentage of children subject to a re-substantiation in 2011–12 (latest year available) is 50.3% in the ACT, 28.8% in Queensland, 26.7% in South Australia, 24.8% in the Northern Territory, 24.5% in NSW, 23.2% in Tasmania, 15.5% in Western Australia, and 11.8% in Victoria. Nationally, the number of children subjected to a re-substantiation within 3 months and/or 12 months increased by 60% from 5,339 children in 2000–01 to 8,589 in 2011–12 (latest year available).<sup>23</sup> Harmful instability suffered by children while in care has also increased. In 2012–13, the nationwide percentage of children who exited out-of-home care after 12 months or more in care with three or more placements was 51.4%. This is almost double the percentage (26.8%) in 2001–02 (the first year for which data are available).<sup>24</sup>

The bottom line is that increasing numbers of children are being taken into care despite high and growing spending on family support/preservation. Australia’s child protection system continues to resemble Einstein’s definition of madness—doing the same thing and expecting a different result. As the continued growth in Australia’s OOHC population attests, family support services do not reduce child abuse and entry into care as is assumed will occur due to the intensity of parental problems in the families most likely to abuse children and require removal.<sup>25</sup> As the increasing cost of care and complexity of the OOHC population also attest, the most damaged children in care are those who have received the highest amount of family support and other social services.<sup>26</sup>

**Higher spending on family preservation is exacerbating child abuse and neglect.**

The bottom line is that increasing numbers of children are being taken into care.

Table 3: Children in OOHC by placement type, 2000–13

State or territory	NSW	VIC	SA	QLD	WA	TAS	NT	ACT	Australia
<b>Residential 2000–01</b>	341	470	43	81	145	72	9	16	1,177
<b>Residential 2009–10</b>	378	454	216	567	144	20	6	47	1,832
<b>Residential 2012–13</b>	480	479	330	618	150	25	73	38	2,193
<b>Change 2000–13</b>	40.7%	1.9%	667.4%	662.9%	3.4%	-65.2	1116.6	137.5%	86.3%
<b>Change 2010–13</b>	26.9%	5.5%	52.7%	8.9%	4.1%	20%	711.1	-19.1	19.7%
<b>Foster 2009–10</b>	6,720	2,234	1,013	4,393	1,267	454	251	219	16,551
<b>Foster 2009–10</b>	6,720	2,234	1,013	4,393	1,267	454	251	219	16,551
<b>Foster 2012–13</b>	7,091	2,025	1,102	4,492	1,497	445	406	208	17,236
<b>Change 2000–13</b>	154.4%	-7.7%	2.7%	103.1%	89.2%	102.2%	272.4	48.5%	82.7%
<b>Change 2010–13</b>	5.5%	-9.3%	-1%	2.2%	18.1%	-1.9%	61.7%	-5%	4.1%
<b>Kinship 2000–01</b>	4,279	1,046	147	719	437	219	38	55	6,940
<b>Kinship 2009–10</b>	9,001	2,185	847	2,390	1,235	286	126	266	16,336
<b>Kinship 2012–13</b>	9,730	3,190	1,190	3,026	1,617	303	40	291	19,387
<b>Change 2000–13</b>	127.3%	204.9%	709.5%	320.8%	270%	38.3%	5.2%	429%	179.3%
<b>Change 2010–13</b>	8%	45.9%	40.4%	26.6%	30.9%	5.9%	-68.2%	9.3%	18.6%

Source: Productivity Commission, *Report on Government Services 2014*, Table 15A.19.

The increasing size, cost and complexity of the OOHC system reflects ‘the failure of early intervention programs to ameliorate abuse and neglect in highly dysfunctional families.’<sup>27</sup> Australian governments spend over 50% of all child protection expenditure on increasingly expensive out-of-home care placements despite spending at least one-fifth of child protection expenditure on family preservation-based support services. The longer time children are left in abusive homes and unstable care, the greater is the damage done; it could therefore be argued that more damaged children are ending up in care not despite but *because* higher spending on family preservation is exacerbating child abuse and neglect. Larger sums are being spent on family support/preservation without yielding the promised reductions in demand for

statutory and OOHC services because Australian child protection authorities refuse to face up to the hard truth behind the failure of so-called ‘preventive’ social services to assist the dysfunctional families most likely to abuse and neglect children: damaged parents, with entrenched personal and social problems, stay damaged, and these dysfunctional families damage their children.<sup>28</sup>

### Re-residentialisation

The finding that children are being damaged by the very child protection system meant to protect them is supported by the continued the trend of increased use of residential care identified in *Do Not Damage and Disturb*.

**Table 4: Real (adjusted for inflation) recurrent OOHC expenditure per child, 2000–13**

State or territory	2000–01	2009–10	2012–13	Change 2000–13	Change 2010–13
<b>NSW</b>	\$31,575	\$42,830	\$44,016	39.4%	2.7%
<b>VIC</b>	\$45,435	\$57,703	\$58,214	28.1%	0.8%
<b>SA</b>	\$26,204	\$57,195	\$58,849	124.5%	2.8%
<b>QLD</b>	\$30,041	\$40,032	\$50,642	68.5%	26.5%
<b>WA</b>	\$44,601	\$68,371	\$58,675	31.5%	-22.6%
<b>TAS</b>	\$18,495	\$39,639	\$39,331	112.6%	-0.7%
<b>NT</b>	–	\$78,808	\$102,250	–	29.7%
<b>ACT</b>	\$57,453	\$42,607	\$54,559	-5%	28%

**Source:** Productivity Commission, *Report on Government Services 2014*, Table 15A.3.

The vast majority of children continue to live in either home-based foster care placements (42.4%) or kinship care placements (47.7%) (Table 3). Since 2000–01, the residential care population has increased by over 86% (led by the Northern Territory, South Australia, Queensland, the ACT and NSW), with more than 2,100 children in residential care in 2012–13 compared to just below 1,200 in 2000–01. Since 2011, the national residential care population has increased by almost one-fifth (with strong growth in NSW, South Australia, Tasmania and the Northern Territory) and at almost three times the rate of the foster care population (4.1%). As a result of de-institutionalisation, the residential care population hit a record low of under 1,000 in 2004–05. Since then, the residential care population has more than doubled.

Over the last decade, except for a small decline in the ACT (-5%), real OOHC spending per child has increased in all states and territories, ranging from increases of over 100% in South Australia and Tasmania, 68.5% in Queensland, around 40% in NSW, and just above and below 30% in Western Australia and Victoria, respectively (Table 4). Not all states and territories report OOHC expenditure by placement type. In the states and territories that do, the rise in real costs has grown far faster for residential care compared to (still substantial) increases in the real cost of non-residential care (Table 5).

**Larger sums are being spent on family support/preservation without yielding the promised reductions in demand for statutory and OOHC services.**

**Table 5: Percentage increase real (adjusted for inflation) recurrent OOH expenditure by placement type and residential care as proportion, 2000–13**

State or territory	Residential	Non-residential	OOHC expenditure (residential) 2000–01	OOHC expenditure (residential) 2009–10	OOHC expenditure (residential) 2012–13
<b>VIC</b>	142.8%	87.6%	43%	49%	49%
<b>SA</b>	1483.4%	212.7%	15%	43%	47.8%
<b>WA</b>	367.9%	155.5%	35%	36%	50.2%
<b>ACT</b>	333.6%	103.2%	19%	23%	33.2%
<b>TAS</b>	–	–	–	22.6%	23%

**Source:** Productivity Commission, *Report on Government Services 2014*, Table 15A.3.

The trend of residential care consuming an increasing proportion of total OOH expenditure has continued since 2009–10, with the proportion increasing in South Australia, Western Australia and the ACT. This reflects an increasing average real expenditure per child on residential care at a much faster rate than average real expenditure per child on non-residential care (Table 6A and 6B). Since 2009–10, the average cost of non-residential care has declined in Victoria, South Australia and Western Australia. The cost of residential care has increased disproportionately, reflecting the complex needs of the residential population requiring specialist, high-cost services, despite more children entering non-residential care.

**Table 6A: Average real (adjusted for inflation) expenditure per child for residential placements, 2000–13**

State or territory	Residential 2000–01	Residential 2009–10	Residential 2012–13	Change 2000–13	Change 2010–13
<b>VIC</b>	\$160,270	\$341,464	\$381,881	138.2%	11.8%
<b>SA</b>	\$109,953	\$249,155	\$226,866	106.3%	-8.9%
<b>WA</b>	\$155,369	\$467,827	\$714,906	360.1%	52.8%
<b>ACT</b>	\$146,344	\$214,121	\$267,131	82.5%	24.7%
<b>TAS</b>	–	\$401,426	\$386,960	–	-3.7%

**Table 6B: Average real (adjusted for inflation) expenditure per child for non-residential placements, 2000–13**

State or territory	Non-residential 2000–01	Non-residential 2009–10	Non-residential 2012–13	Change 2000–13	Change 2010–13
<b>VIC</b>	\$29,626	\$32,169	\$32,161	8.5%	-0.02%
<b>SA</b>	\$23,023	\$38,265	\$35,463	54%	-7.3%
<b>WA</b>	\$34,457	\$46,673	\$32,399	-5.9%	-30.5%
<b>ACT</b>	\$51,338	\$25,986	\$39,055	-23.9%	50.2%
<b>TAS</b>	–	\$32,466	\$24,394		-24.8%

**Source:** Productivity Commission, *Report on Government Services 2014*, Table 15A.3.

**The cost of residential care has increased disproportionately, reflecting the complex needs of the residential population requiring specialist, high-cost services,**

## Implications for the Abbott government

The latest data show that Australia's child protection system remains under siege due to rising numbers of children in OOHC, rapidly increasing spending on OOHC, and the greater complexity of the OOHC population—and that children are being harmed by the child protection system itself.

Appearing before the Royal Commission into Institutional Responses to Child Sexual Abuse, a senior bureaucrat from the NSW Department of Families and Community Services said she was aware of recent cases where young people in residential care had sexually abused each other.<sup>29</sup> This was followed by reports from Victoria that at least 30 or 40 children living in residential care were being trafficked between towns and interstate by paedophile rings.<sup>30</sup> Damaged children in residential care are a threat to each other and vulnerable to exploitation by predators. While its primary focus is to tell the truth about past practices in churches, schools and other organisations that ignored or covered up child abuse in previous decades, the royal commission needs to closely scrutinise the child protection system to fulfil its task of ensuring history does not repeat and children are better protected from abuse in the future.<sup>31</sup>

Despite the deteriorating situation in the OOHC system, there has been little effective policy response in most states and territories. Lack of action—best illustrated by the gross disparity between the high number of children in care and the low number of local adoptions—has led to child protection gaining overdue national attention. In December 2013, the Abbott government announced plans to make it easier for Australian parents to adopt children both locally and from overseas. Acknowledging the official 'taboo' on adoption in child protection circles, Prime Minister Tony Abbott ordered an inter-departmental committee headed by the Department of Premier and Cabinet to recommend ways to take adoption out of the 'too-hard basket' and streamline the adoption process. The committee will report to the May 2014 meeting of the Council of Australian Governments.<sup>32</sup>

The Commonwealth has no direct authority over local adoption policy, which, together with child protection, is a state and territory responsibility. One way the committee can help break the taboo on adoption is by debunking the fallacies that underpin much of the current policy debate. For example, the committee should scrutinise the Newman government's decision to implement the recommendation of the 2013 Queensland Child Protection Commission of Inquiry headed by Tim Carmody QC to emulate the Victorian system by increasing spending on prevention and early intervention services to re-structure a child protection regime that allegedly 'focuses too heavily on coercive instead of support strategies.' This was despite the evidence contained in the commission's final report showing that the Queensland child protection system was, in truth, heavily focused on family preservation and the primary cause of the growing size and cost of the OOHC system.<sup>33</sup>

Since 2000–01, Queensland has recorded the second-highest growth in the total number of children in care (170.2%), and the second-highest increase in the number of children in residential care (662.9%). Carmody's recommendation in favour of higher spending on family support services attributed the growth in OOHC to failing to properly support problem families *before* children are removed into care. But digging deeper into the detail of the Inquiry's final report reveals the real story behind the increasing numbers of children in care and of damaged children in residential care. Rather than being too quick to remove children from families, Queensland child protection authorities have been practising the family preservation policies and practices that is the norm in all Australian jurisdictions, and too much effort was being made to restore children to bad families.<sup>34</sup>

**The committee can help break the taboo on adoption by debunking the fallacies that underpin much of the current policy debate.**

**The Abbott government demand greater transparency and accountability in the performance of state and territory child protection services.**

The Carmody report not only established that of the children who exited care ‘most were reunified with parents’ but also detailed concerns about ‘the high number of children and young people subject to multiple short-term [care and protection] orders because this could indicate that many children are “drifting” in care without achieving either reunification with the family or long-term out-of-home care.’ This led the inquiry to suggest that rather than ‘unrealistically’ pursue reunification at all costs and churn children through multiple entries into care, multiple foster placements, and multiple failed reunifications, alternatives to family preservation need to be pursued, given how crucial stability and permanency are to child welfare and development. Hence, the Carmody report recommended (recommendation 7.4) that child protection caseworkers should be directed to ‘routinely consider and pursue adoption,’ especially for younger children, when the family circumstances indicate the chances of successful reunification are slim.<sup>35</sup>

This endorsement of the need for greater use of adoption appears to have been lost in the Queensland government’s response to the Carmody report. This may well be due to the confusing and contradictory approach of the commissioner: The ‘new framework,’ which the Newman government is developing, continues with the flawed family preservation approach the final report recognises is responsible for children languishing in care and the blowout in the OOHC population. The inter-departmental committee needs to be aware of this policy confusion, lest it also is misled by red herrings about the need for higher spending on prevention and early intervention. The reality (as this report shows) is that Australian governments already spend large sums on family support/preservation-focused services, and the overemphasis on keeping problem families intact is the root cause of the problems in the child protection system.

### **National adoption target**

As well as rejecting the ‘early intervention and prevention’ strategic direction recommended in the National Child Protection Framework, the inter-departmental committee should cut through the policy confusion by recommending the Abbott government demand greater transparency and accountability in the performance of state and territory child protection services. National leadership is required to direct the states and territories to make greater use of adoption.

The Abbott government can take adoption out of the ‘too-hard basket’ by establishing national child protection performance targets, which should include achieving the following objectives within the next 10 years:

- halving the number of re-reports<sup>36</sup> and re-substantiations of child abuse and neglect
- cutting the rate of children in OOHC to the 2000–01 level of 4 per 1,000 population
- boosting the number of local adoptions from care to the equivalent of more adoption-friendly countries.

In the United States, more than 50,000 children are adopted from care each year. If Australian children in care were adopted at the same rate as in the United States, there would be around 5,000 adoptions each year, nationally.

That there were 210 ‘local’ adoptions in Australia in 2012–13 is pitifully low, especially given the rising numbers of children in care. But the situation is actually bleaker than this. There were only 54 adoptions where the child was not previously ‘known’ to the adoptive parents, and in all these cases the birth mother and/or birth father consented to the adoption. Adoption is so rare partly because child protection authorities will not pursue this option without parental consent and will not apply to the courts to dispense with parental consent. Of the remaining

154 'known' adoptions, 78 were 'step-parent' adoptions, 5 were 'relative' and 'other' adoptions, and 81 were 'carer' adoptions—out of a care population of more than 40,000. Moreover, 78 of 81 carer adoptions were in NSW alone. The under-performance or non-performance on adoption from care by other states and territories speaks for itself.<sup>37</sup>

The committee should also draw the Abbott government's attention to the higher US adoption rate as a result of the Clinton administration's *Adoption and Safe Families Act 1997*, which rewards states that increase the number of adoptions from care with additional federal funding.<sup>38</sup> Similar incentive-based funding arrangements in Australia (as an enhanced means of distributing existing federal funding for community services to states and territories) should be considered by the Abbott government, remembering that in bureaucratic systems (which is what state and territory child protection authorities are), objectives that are measured and rewarded are those most likely to get done. It is important as well to point out that social workers remain traumatised by the profession's involvement in past adoption practices, including forced adoption and the Stolen Generation; hence the adoption 'taboo.' Adoption targets and incentive-based funding would circumvent the anti-adoption cultural resistance and facilitate much-needed cultural change in child protection authorities by providing clear political direction. Responsibility for reviving the use of adoption would be rightly and definitely assumed by the politicians, both federal and state, who are ultimately in charge of the system.

A national adoption target would encourage other states and territories to follow the example of NSW. Under the determined leadership of the Minister for Families and Community Services, Pru Goward, the NSW government is undertaking a reform process designed to significantly increase the number of adoptions from care. This chiefly involves implementing important changes to child protection policy and practice to ensure that adoption is a viable and well-utilised pathway to secure a permanent family for children with little prospect of being able to live safely with their natural parents. This principally entails enforcing new rules regarding timely, realistic decision-making about permanency for children in care. Under the NSW government's recently legislated regime, it will be mandatory to decide (within 6 months of entering care for children under two years of age and within 12 months of entering care for children aged two years and older) whether restoration to the parents is feasible. Once it is determined that a child cannot safely go home, application will then be made in the Supreme Court for an order to legally free them for adoption by their new family.<sup>39</sup>

**A national adoption target would encourage other states and territories to follow the example of NSW.**

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