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SNAICC submission

Northern Territory, NT Board of Inquiry into the sexual
abuse of Aboriginal children

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Definitions and terminology

This paper utilises the same definitions of child abuse, child neglect and child maltreatment prepared by the AIHW, Angus & Hall 1996; Broadbent & Bentley 1997 and utilised by Tomison in a paper for the NSW Child Protection Council (Tomison 1997). The definition of out of home care is taken from the AIHW Child Welfare Series, Child Protection Australia, (Australian Institute of Health and Welfare (AIHW) 2000).

Child Abuse is defined to include sexual abuse, physical abuse or emotional abuse, each separately defined as follows;

Sexual abuse: any act which exposes a child to, or involves a child in, sexual processes beyond his or her understanding or contrary to accepted community standards.

Physical abuse: any non-accidental physical injury inflicted upon a child by a person having the care of a child.

Emotional abuse: any act by a person having the care of a child which results in the child suffering any kind of significant emotional deprivation or trauma.

Child Neglect is defined as any serious omissions or commissions by a person having the care of a child which, within the bounds of cultural tradition, constitute a failure to provide conditions that are essential for the healthy physical and emotional development of a child.

Child Maltreatment is defined as child abuse and/or neglect and the terms child maltreatment and child abuse and neglect are used interchangeably.

Out-of-Home Care is defined consistent with the definition of out-of-home care provided by the Australian Institute of Health and Welfare through their annual publication on child protection data covering all states and territories (Australian Institute of Health and Welfare (AIHW) 1998). The definition is as follows:

Out-of-home care includes out-of-home overnight care for children and young people under the age of 18 where the state or territory makes a financial payment. This includes placements with relatives, other than parents, but does not include placements in disability services, psychiatric services, juvenile justice facilities, overnight child care services or supported accommodation. It may include various forms of home-based care such as foster care or kinship care where some payment is made for the care of the child, facility based care in family group homes or other arrangements (Australian Institute of Health and Welfare (AIHW) 1998).

Introduction

The Secretariat of National Aboriginal and Islander Child Care, SNAICC, is the national peak body in Australia representing the interests of Aboriginal and Torres Strait Islander children and families. SNAICC welcomes the opportunity to provide this written submission to the Northern Territory Government's Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse.

SNAICC had the opportunity to meet with the Board in December 2006 and through those discussions identified a number of existing SNAICC papers which are of particular relevance to the terms of reference for the inquiry. Those documents, listed below, have been provided to the board of inquiry for their consideration and a summary of each included in this submission. Full copies of the papers are available from SNAICC.

- Pocock, J. *State of Denial: The Neglect and Abuse of Indigenous Children in the Northern Territory*. SNAICC, Secretariat of National Aboriginal and Islander Child Care Inc. Melbourne. 2003
- *Achieving Stable and Culturally Strong Out of Home Care for Aboriginal and Torres Strait Islander Children*. SNAICC, Secretariat of National Aboriginal and Islander Child Care Inc. Melbourne. 2005.
- *Development of a National Action Plan for Aboriginal and Torres Strait Islander communities to prevent and respond to child abuse and neglect: briefing for State and Territory Governments*. SNAICC, Secretariat of National Aboriginal and Islander Child Care Inc. Melbourne. 2006.
- Libesman, T and Bell, T. *Aboriginal and Torres Strait Islander Child Protection Outcomes Report – International Literature Review*. SNAICC, Secretariat of National Aboriginal and Islander Child Care Inc. 2005 (unpublished report due for publication in 2007).

SNAICC has developed this submission largely by drawing upon the above SNAICC papers and reports. Published in recent years and relevant to the terms of reference for the inquiry these papers provide a significant source of advice for the inquiry.

The submission includes:

- Synopsis of the four papers listed above
- Response to the terms of reference
- Summary recommendations
- Conclusion

Summary of SNAICC papers relating to child abuse and neglect

State of Denial: The Neglect and Abuse of Indigenous Children in the Northern Territory.

State of Denial Overview

State of Denial examined the operation of the Northern Territory child protection system in order to gain an understanding of the Northern Territory's reported lower level of substantiated child abuse and neglect compared to other states and territories.

The evidence from the research showed that the Northern Territory had the highest levels of unrecorded child abuse and neglect in Australia and that the Northern Territory child protection system was failing in its statutory obligations to protect Indigenous children and provide for their welfare.

An analysis of AIHW Child Protection reports showed that the recorded rates of substantiated child abuse and neglect, rates of children on care and protection orders and the rates children in out-of-home care were significantly and consistently lower in the Northern Territory than for all other states and territories combined.

Significantly it highlighted that whilst the number of Aboriginal children in the Northern Territory child protection system was disproportionately low the prevalence of factors that cause child abuse and neglect are disproportionately high. It provided evidence of a chronic shortage of foster care placements for the relatively small number Aboriginal children in the child protection system requiring out-of-home care. This situation has become more chronic as the numbers of Aboriginal children requiring out-of-home care has escalated since *State of Denial* was published.

The report concluded that in the Northern Territory the child protection system had over a period of time withdrawn from service provision, particularly in remote areas, abandoning the most impoverished children and families in Australia. This withdrawal was driven not by a desire to abandon children but a lack of capacity to respond.

Relevant findings from *State of Denial*

Many of the key findings from the research remain pertinent to this current inquiry including the following;

- the socio-economic factors which give rise to child abuse and neglect are higher in the Northern Territory than in any other State or Territory
- the number of child protection notifications, substantiations and placements of Indigenous children in out-of-home care, (measured per 1,000 children), in the Northern Territory remain the lowest for all States and Territories
- non-reporting of child abuse and neglect is significantly higher in the Northern Territory than in any other State or Territory
- to not report child abuse and neglect is a common practice of Aboriginal communities and non government agencies as reporting child abuse and neglect either results in no discernible response or an intervention from Police or child protection which, from the community perspective, may makes matters worse

- confidence amongst non-government agencies in the Northern Territory child protection system was so low at the time of the research that the system was seen as almost completely ineffective
- specific forms of child maltreatment included in the Northern Territory child protection legislative definition of maltreatment, such as malnutrition leading to physical impairment, occurred at much higher rates within the Aboriginal communities than the child protection data recognised
- the Northern Territory child protection system was not meeting its statutory obligations to protect children or provide for their welfare with chronic levels of poverty, homelessness and preventable diseases amongst children often viewed as 'normal' for Aboriginal children and therefore not requiring a child welfare response
- the narrow investigative approach of the Northern Territory child protection system tends to blame Aboriginal parents and families for factors which are beyond their control – such as poverty and homelessness
- non-government agencies that work directly with Aboriginal and Torres Strait Islander children and families consistently experience major difficulties in getting child protection authorities to respond to or even register notified cases of child abuse or neglect
- there is a lack of clarity on the role of the Northern Territory police within the child protection system
- mandatory reporting of child abuse and neglect in the Northern Territory appears to have failed as the general community and more particularly Aboriginal communities have not been provided with useful, systematic and ongoing education and training about the requirements to report child abuse and neglect
- the alternative care and foster care systems in the Northern Territory are woefully inadequate creating scenarios where Aboriginal children are left in situations where they are likely to be maltreated as child protection authorities have no alternative care options for at risk children
- past practices of forcibly removing Aboriginal children and forcibly relocating Aboriginal communities continue to impact significantly on Aboriginal people and dramatically undermine the effectiveness of the Northern Territory child welfare system
- resources directed by governments, Commonwealth and Territory, and by churches and their associated organisations, towards the break up of Aboriginal families and forced removal of children in previous generations massively exceed the resources now dedicated to supporting Aboriginal families with children
- Aboriginal and Torres Strait Islander communities in the Northern Territory have no significant or secure role, purpose, resources or power within the child protection system – a system which continues to operate as an external source of control rather than as a collaborative partnership for advancing the welfare of children within a framework of rights and respect.

SNAICC recognises that the Northern Territory government is seeking to identify and implement reforms to the child protection system. The allocation of additional resources for departmental functions and the commencement of direct dialogue between the Government, SNAICC, and other parties are a positive indication of willingness to reform child protection.

SNAICC is less confident however that the government has absorbed either the scale of the abuse and neglect problems present within communities or the scale of the reforms required to resolve them.

Aboriginal families and communities in the Northern Territory over a period of more than a hundred years had their role, capacity and responsibility for caring for their own children systematically eroded. The scale of intervention into the lives and functioning of Aboriginal families from the time of the 1909 Northern Territory Aboriginals Act through to the 1983 Community Welfare Act was enormous. All Aboriginal children were deemed wards of the state through the 1953 Welfare Act. The orthodoxy of the day was to break up all Aboriginal families, as they were deemed by virtue of their racial heritage incapable of looking after their children. (Briskman 2001) (Cummings 1990; Austin 1993).

This orthodoxy was reflected in labour market policy, education policy, housing policy, law and order policy, health policy and child welfare policy. If ever there was a truly 'whole of government' response to Aboriginal children it was during the first half of the twentieth century (Swain 2001). Every apparatus of government was directed towards the break up and relocation of Aboriginal families and communities.

Unquestionably since the 1970's policy has changed to recognise, at least in words, the human rights of Aboriginal people and work towards re-building the capacity of communities and families (Butler 1993). However the scale of the efforts made by current governments to re-build family capacity to care for children are dwarfed by the scale of interventions made in previous generations to strip away capacity (Cunneen and Libesman 2000).

SNAICC takes no pleasure in stating that just as the breakdown of Aboriginal child rearing, family and kinship systems took generations so will the process of re-building them.

State of Denial recommendations

State of Denial included thirteen recommendations that remain as relevant in 2007 as in 2003 when the report was published (Pocock 2003).

SNAICC acknowledges that since that time there has been an opening up of dialogue between non-government agencies, Aboriginal communities and the Northern Territory Government in relation to child welfare and protection. To that extent it might be said that the Northern Territory Government is no longer in a 'state of denial' about the problems of child abuse within the Northern Territory. The dialogue however is at an early stage and it remains vulnerable. Aboriginal communities have no certainty that government interest in this area will not quickly dissipate once this current inquiry provides its report. The child welfare field in Australia has a history of sporadic and highly reactive attempts at policy reform producing few sustained outcomes.

Since the publication of *State of Denial* the Northern Territory Government has sought to improve the operation of the current child protection system including through the allocation of additional resources for child protection functions. As has been the case in other States and Territories additional Departmental resources and increased community awareness of child abuse are often accompanied by an increase in notifications, substantiations and child removals. This has clearly been the case in the Northern Territory since 2003.

The dilemma this creates for governments is sustaining significant increases in resources for child protection, identifying sufficient alternative care placements for children and responding to the secondary outcomes from child removals. These can include significant stress within families precipitating additional family conflict and/or violence, permanent harm to a child's cultural identity, disruption to a child's connections to family, community and participation in

schooling, a decline in child's mental health and a break down in trust between families and government agencies. None of this is reason to ignore a child's right to safety. Child removal should trigger follow up support and interventions to prevent further family crisis. Ultimately the more intact, functional and healthy a family is the better the life prospects are for their children.

The recommendations included in *State of Denial* were as follows:

RECOMMENDATION ONE: Indigenous Child Welfare Summit

That the Northern Territory Chief Minister convene a Territory wide Indigenous child welfare summit in partnership with SNAICC, Aboriginal and Torres Strait Islander children's services and ATSIC to discuss and agree on key principles and strategies for the reform of child protection and welfare services in the Northern Territory.

RECOMMENDATION TWO: Indigenous Child and Family Welfare Council

That the Northern Territory Government agree in principle to establish a Northern Territory Indigenous Child and Family Welfare Council under the NT Community Welfare act of 1983, and finalise this proposal after detailed consultations with Indigenous communities and agencies.

RECOMMENDATION THREE: Review the role of the Northern Territory Police in child protection

That the Northern Territory Government commission an independent review of the role of the Northern Territory Police in child welfare matters including in conducting investigations into alleged child abuse and neglect, the application of mandatory reporting requirements and in recognising and reporting child abuse and neglect.

RECOMMENDATION FOUR: Review of Mandatory Reporting

That the Northern Territory Government commission an independent review of mandatory reporting requirements including:

- the extent to which mandatory reporting requirements are understood and adhered to by professionals and others working with children and by the broader community
- the need for professional development and training for specific professions which involve contact with children
- the need for specific classes of persons or professions to be separately mandated within the legislation and for the child protection investigation system to gather appropriate information from and seek the advice of such persons when investigating child abuse and neglect

RECOMMENDATION FIVE: Compliance with the Aboriginal Child Placement Principle

That the Northern Territory Government conduct an independent audit of compliance with the 'Aboriginal Child Placement Principle' including the current capacity of Indigenous foster care and other out-of-home care services to meet demand for the placement of Aboriginal and Torres Strait Islander children.

RECOMMENDATION SIX: Community education and awareness

- 6a. That the Northern Territory Government establish long term community education and awareness programs which are conceived and implemented in partnership with Indigenous communities
- 6b. That the Northern Territory Government establish an ongoing program of professional development focussed on issues of child abuse and child neglect for government and non government staff who have contact with Indigenous children
- 6c. That such professional development programs be designed and implemented in the consultation with Indigenous communities and services, take account of the historical practices of child removal and take a holistic community based approach to child welfare and protection.

RECOMMENDATION SEVEN: Developing a needs based approach to child welfare

That the Northern Territory Government support the long term development of broad, community based and universally accessible family support and child welfare services which recognise parenting as a societal obligation and focus on the holistic needs of children.

RECOMMENDATION EIGHT: Focus on child neglect

That the Northern Territory Government consult and negotiate with Indigenous agencies and communities around the need and appropriateness of developing separate child welfare interventions and support systems for child neglect as distinct from child abuse.

RECOMMENDATION NINE: Expand Indigenous family support services

That the Northern Territory Government develop and fund a network of Indigenous family support services and programs which are universally accessible and focussed on primary prevention of family conflict, breakdown, family violence, child abuse and child neglect.

RECOMMENDATION TEN: Child welfare reform funding package

10a. That the Northern Territory Government develop a child welfare reform funding package in consultation with Indigenous agencies and communities of not less than \$20 million per annum with elements directed towards:

- community education, training and professional development
- establishment of additional Indigenous community based child and family welfare services
- resourcing Indigenous community based child protection teams, as provided for under the 1983 Community Welfare Act, to work from within communities on the prevention of child abuse
- supporting the long term development of Indigenous community based child and family welfare services
- establishing effective foster care programs for all Indigenous communities in the Northern Territory, and
- providing additional support for the recruitment, training, financial assistance, support and supervision of foster carers with the care of Indigenous children

10b. That the majority of the child welfare reform funding package be directed towards development and support of community based Indigenous child and family welfare services and programs.

10c. That the Northern Territory Government seek Commonwealth assistance with the establishment of a funding package for child welfare reform given the direct responsibility of the Commonwealth Government for past practices of child removal and their ongoing role to support the welfare of all children and families, particularly in the areas of family support and early intervention.

RECOMMENDATION ELEVEN: Indigenous child welfare policy statement

That the Northern Territory Government develop a Indigenous child welfare policy statement in partnership with Indigenous communities which:

- recognises the ongoing impact of past practices of child removal in the Northern Territory
- outlines support for ecological, holistic and community based approaches to child welfare,
- clearly states the objectives of child welfare policy including prevention of family breakdown, family violence, child abuse and child neglect and child removal, and
- supports the establishment of national standards legislation for Indigenous child welfare as recommended by the *Bringing Them Home* report.

RECOMMENDATION TWELVE: Long term planning

That the Northern Territory Government establish planning mechanisms to ensure that all portfolio areas of government take account of the high proportion of children and young people within the Indigenous population, including by allocating additional funding to cater for the increasing number of Indigenous children and young people.

RECOMMENDATION THIRTEEN: National Reforms

That the Northern Territory Government use its membership of the Council of Australian Governments, the Community Services Ministerial Council and other inter governmental forums to seek national support for:

- a national policy framework for Indigenous child welfare under pinned by support for ecological, holistic and community based approaches to child welfare with the objective of preventing child abuse and neglect and child removal
- the establishment of national standards legislation for Indigenous child welfare as recommended by the *Bringing Them Home* report

Achieving Stable and Culturally Strong Out of Home Care for Aboriginal and Torres Strait Islander Children (*Stable and Strong*)

Overview of *Stable and Strong*

Published in 2005 this paper focuses on reforming out-of-home care to promote stability for Aboriginal and Torres Strait Islander children within a framework of strong connections to their Indigenous community and culture. It recognises the challenges that state and territory welfare authorities face in establishing out-of-home care placements which adhere to the Aboriginal Child Placement Principle providing Aboriginal children with a combination of safety, well being, a nurturing environment and connection to their Indigenous family, culture and community.

SNAICC argues that for an out-of-home care placement to be safe for an Indigenous child it must not disconnect them from their cultural identity. The paper re-casts the role of foster and kinship carers to be one whereby they act *with* a child's Indigenous birth family to raise a child not *for* the birth family. Making this shift in the role of alternative care providers could significantly diminish the anxiety families and communities feel in relation to the alternative care system. Rather than interventions precipitating the removal of children from communities interventions should precipitate coordinated care plans where birth families continue to have a role in raising their children.

The paper presents an approach to *out-of-home care* for Aboriginal and Torres Strait Islander children in Australia. *Out-of-home care* is defined as alternative accommodation and care for children who need to be removed from their homes due to child protection concerns.

The papers focuses on foster care but also covers the whole *out-of-home care* 'journey', which includes:

- time when pressures are building within a family that may lead to abuse or neglect,
- time during which child protection concerns have been notified to the statutory authorities and removal is being considered, and
- time spent in foster care, kinship care or other out of home care.

The paper argues that the individual circumstances of the child and his or her family should govern the duration of time spent in *out-of-home care* placements, not pre-imposed time frames or strict permanency planning rules. The paper's underlying premise is that, for cultural and spiritual reasons, maintaining contact or involvement with family or returning to family will always be in the Aboriginal or Torres Strait Islander child's best interests if safety issues can be addressed.

Therefore, as well as focusing on the needs of the Aboriginal or Torres Strait Islander child in foster care, the paper also focuses on the need to strengthen and support the child's family of origin after the child has been removed so that the child can maintain connection to their family and hopefully be reunited with them.

In summary, the SNAICC approach to achieving stable and culturally strong *out-of-home care* for Aboriginal and Torres Strait Islander children includes the following elements:

1. Moving towards total Aboriginal and Torres Strait Islander control of child and family welfare services for Aboriginal and Torres Strait Islander people including child protection services and *out-of-home care* service delivery and case management.
2. Properly implementing the Aboriginal Child Placement Principle and more effectively recruiting, training and supporting Aboriginal and Torres Strait Islander foster carers and kinship carers.
3. Developing national *out-of-home care* standards for Aboriginal and Torres Strait Islander children that reflect cultural and spiritual needs.
4. Enabling Aboriginal and Torres Strait Islander children in *out-of-home care* to maintain and build family connections.
5. Developing healing and family support services for Aboriginal and Torres Strait Islander families to prevent child abuse and bring removed children home.

In relation to this current inquiry SNAICC would in particular highlight the importance of the fourth and fifth elements.

The fourth element of the SNAICC approach is explicit recognition of the importance to Aboriginal and Torres Strait Islander children of ongoing connection with family. Aboriginal and Torres Strait Islander parents should be encouraged and supported to feel ongoing responsibility for their children and work towards building a healthy, stable and supportive relationship with them. Ultimately this may extend to reunification.

Intensive support must be provided to families to help them address the problems that led to their children being removed. A lesson of history is that children removed in one generation from their parents are far more likely when they become parents to have their own children removed. Enabling Aboriginal and Torres Strait Islander children in *out-of-home care* to maintain and build family connections has dual benefits. It enables children to maintain their Indigenous culture and it reinforces the responsibility of families to provide life long care for their children - not depend on the state to care for children. Children maintaining a connection to their families and communities is a key factor in building their own parenting capacity for the next generation.

Therapeutic healing and family support services will have an important role to play in the development of an effective response to issues of child abuse within Aboriginal communities.

SNAICC believes in the process of restorative justice whereby we seek to heal and support all those impacted by child abuse including the children, their family and friends and the perpetrators. Developing therapeutic responses for children who have been victims of abuse or have witnessed abuse, and therapeutic programs for perpetrators are critical elements in breaking the inter-generational cycle of child abuse.

Development of a National Action Plan for Aboriginal and Torres Strait Islander communities to prevent and respond to child abuse and neglect: briefing for State and Territory Governments.

Overview of National Plan

In May 2006 SNAICC prepared a briefing paper for the advice of all State and Territory governments in the lead up to the national summit on Indigenous family violence and child abuse convened by the Federal Minister for Families, Communities and Indigenous Affairs. The paper outlined SNAICC's recommended approach to child abuse prevention and intervention including priorities for expanding the range community of programs and services required to implement that approach.

It summarised SNAICC's views in relation to preventing and responding to the abuse and neglect of Aboriginal and Torres Strait Islander children as follows.

- ***Respond holistically to child abuse and neglect***
Child abuse and neglect need to be dealt with through supports and interventions which span the continuum of family support, primary prevention, early intervention and statutory intervention. As in the broader child protection field there is a growing recognition that insufficient emphasis has been placed on prevention and early intervention. Developing supports for Aboriginal and Torres Strait Islander families which span this continuum is particularly important if long term change is to be achieved in the face of the volume, severity and complexity of presenting abuse and neglect cases and issues within remote and other communities.
- ***Focus on child well being and development***
Evidence of the value to families, children and the broader community of investing in early childhood should not be ignored yet it is arguable that despite this evidence and wide spread community concern for the well being of Indigenous children governments are failing to provide Indigenous children with equitable access to early childhood development programs. Aboriginal and Torres Strait Islander children are under represented in all forms of early childhood services including preschools, kindergartens, childcare services and programs, playgroups and family support programs.
- ***Expand community based Aboriginal and Torres Strait Islander Child and Family Welfare Agencies***
Whilst the late 1970's and early 1980's saw some community based Aboriginal and Torres Strait Islander child and family welfare agencies (known in many locations as Aboriginal and Islander Child Care Agencies AICCA's) established these organisations require additional capacity. In most states and territories however there has been a failure by governments to adequately support existing AICCA's or fund new AICCA's to meet community needs (Briskman 2001), (Cadd and D'Souza 1999).

This failure is in part due to the lack of discussion, negotiations and agreement between Aboriginal and Torres Strait Islander communities, SNAICC and state, territory and Commonwealth governments on their respective roles and responsibilities in the area of child welfare and protection. In essence there is no agreement on what AICCA's should be

focussed on and no recognition from government that AICCA's and similar community based child and family welfare organisations are essential services which should be established, supported to develop and funded within all Aboriginal and Torres Strait Islander communities.

There are at present just over 30 such agencies operating in Australia, about the same number as two decades ago, and most of these are relatively small agencies with just a few staff and a restricted role focussed on placing Aboriginal and Torres Strait Islander children who have already been removed from home by state welfare authorities.

Aboriginal and Islander Child Care Agencies need to be expanded in scope and number to provide community based services and programs focused on child abuse prevention, early intervention, family support and when required specialist advice and support for children that must be placed in out of home care.

- ***Expand and broaden Indigenous Children's Services***

By the 1980s early childhood education for Aboriginal children was becoming a national issue. The National Aboriginal Education Committee noted in 1985 that the early childhood education of Aboriginal and Islander children should strengthen their identity and the curriculum and methodology should be flexible and take account of the home life of the child (NAEC 1985). Assertions such as these and the movement for self determination and community management led to the development of Indigenous models of children's services including the Multi-functional Aboriginal Children's Services (MACS), a 1987 initiative funded by the Commonwealth Department of Family and Community. The MACS model provided the scope for an Aboriginal managed service with Aboriginal staff to provide a range of programs for Aboriginal children according to community needs including long day care, occasional care, play groups, after school care, vacation care, transport and support and information for parents.

From the start restriction of funding, licensing requirements and staff availability meant that there was often a large gap between the ideal of the MACS model and what could actually be achieved. This remains the situation today. Much work remains to be done before MACS and similar models of multi-functional Aboriginal and Torres Strait Islander child care services can achieve their potential and before all Aboriginal communities have a MACS or similar service to meet their early childhood and family support needs.

All Aboriginal and Torres Strait Islander families should have access to a MACS or similar model of children's service to meet their child care, child development and family support needs, particularly during their children's early years. SNAICC is looking to the development of the Australian Government's National Indigenous Child Care Plan later this year to indicate how the gaps in children's service provision in Aboriginal and Torres Strait Islander communities will be filled.

The ongoing development of Indigenous children's services that provide culturally appropriate programs that build on families strengths and capacities is a major goal for SNAICC and much of our work is centred on supporting and resourcing these services to deliver programs and services focussed on child abuse prevention, early intervention, family support and early childhood development.

- ***Strengths based practice, family centred programs and Indigenous culture as a source of resilience***

SNAICC believes that it is critical to work with communities, families and children in a manner which builds upon and extends their existing strengths. Even within the recently highlighted cases of remote communities gripped by the high incidence of violence and abuse there are families and programs which are achieving significant outcomes for children. The orientation of services and programs must be to support families to build on their strengths and enhance the capacity of families to care for their children. Services and programs must avoid undermining the role of families as the main source of nurturing and guidance for children. Aboriginal and Torres Strait Islander cultures and child rearing practices should also be utilised as a key resource for building children's resilience, self esteem, sense of identity and self-confidence.

- ***Focus on underlying socio-economic issues that lead to child neglect***

Whilst the recent focus on child abuse has brought national attention to the plight of many Indigenous children there is a risk that the underlying socio economic causes of child neglect will continue to escape public attention and government action. Child neglect is the most significant and common reason for Aboriginal and Torres Strait Islander children to be removed from their families and placed in care (SNAICC 1996). As is the case for all groups of children, family poverty, inadequate housing, poor community infrastructure, high levels of unemployment and limited or no access to support services are the major causes of child neglect. The negative impact of these issues lies largely beyond the control of individual families and communities and requires action and investment from governments to be resolved or ameliorated.

- ***Focus on Indigenous children's right to culture***

SNAICC has throughout its history undertaken research and spoken out to raise community awareness about the issues that are of central concern to our members: child abuse and neglect, child poverty, family violence, child protection and out of home care and early childhood development. SNAICC has also maintained a broad agenda and spoken out on a range of national issues including national land rights legislation, native title, child poverty, the need for a National Apology and compensation for the Stolen Generations and the application of United Nation's human rights conventions within Australia such as the Convention on the Rights of the Child.

One of SNAICC's core values is that Aboriginal and Torres Strait Islander children should have unique rights within Australia as the Indigenous people of this land. The birthright that each Aboriginal and Torres Strait Islander child is privileged to inherit is a unique cultural and spiritual heritage that stretches back over 40,000 years. The Aboriginal or Torres Strait Islander child can only inherit their culture and allow their spirituality to emerge through the experience of culture, connection to family, community and place and experiencing the spiritual awareness that evolves from these experiences and connections. All the key portfolio areas of government such as health, education, community services, employment, income support and law and justice share the responsibility with SNAICC of making sure that, whatever their family circumstances, no Aboriginal or Torres Strait Islander child is denied this birthright.

- ***Sustain a planned and coordinated response across and between governments at the national level***

Issues such as children's well being and development cut across all portfolios of government and involve significant policy and programs areas where States, Territories and the Commonwealth have overlapping responsibilities. It is well established that there

is high population growth within the Aboriginal and Torres Strait Islander population and a higher proportion of children in the population. Despite this there is little or no planning at the state, territory or national levels to take account of the increasing number of children within communities and the increasing demand for access to essential services.

The participation of Aboriginal and Torres Strait Islander children in preschool services and programs and childcare is already and will continue to fall. Access to health, housing and other basic services is already falling and it will continue to fall simply due to the age structure of the Indigenous population. Equally the number of Aboriginal and Torres Strait Islander children that have to be removed from their families for their own protection will continue to escalate – unless we escalate our efforts in relation to prevention, early intervention and family support. This will require a nationally planned response with formal funding agreements between levels of government to significantly lift investment in early childhood and other essential services.

Aboriginal and Torres Strait Islander Child Protection Outcomes Report – International Literature Review.

Overview of the International evidence

The international evidence illustrates that for Indigenous children living as minority populations in their colonised lands the development of Indigenous community based systems of child abuse and neglect prevention and intervention provide the most sustainable and effective outcomes. Australia is well behind the efforts of Aboriginal communities and state authorities in Canada, the United States and New Zealand in this regard.

Evidence from the international literature supports approaches to Indigenous child welfare and protection which promote self determination, family and community level decision making, independent monitoring of child protection and out-of-home care standards, holistic service responses focusing at the family and community level - not the individual child level, strengths based approaches which build on and extend family capacity and responsibility for children's well being and healing programs based on local Indigenous cultural practices.

SNAICC believes it is the responsibility of families to care for and protect their children with support and assistance from those outside the family including other community members, government agencies and non-government service providers. No centralized government owned, operated and controlled child welfare and protection systems has ever or will ever be able to sufficiently protect children.

Interventions, which enhance family responsibility and capacity to care for their children, (as opposed to interventions which remove children and parental responsibility), are more sustainable. Parents and families need to be supported, empowered and held accountable for the welfare of their children. However family accountability for the well being of children is a subset of community accountability for the well being of families and government accountability for the well being of communities. All are intrinsically linked.

The summary of themes below is an extract drawn directly from a draft report, Libesman, T and Bell, T *Aboriginal and Torres Strait Islander Child Protection Outcomes Report*, SNAICC, Secretariat of National Aboriginal and Islander Child Care Inc, 2005. The report (due for publication in May 2007) was prepared by SNAICC for the advice of the Victorian Government Department of Human Services.

The report examined child welfare and protection legislative, policy and program frameworks in each of Australia's eight jurisdictions, Canada, the United States and New Zealand. SNAICC and the Victorian Department of Human Services have made the draft report available to Aboriginal and Torres Strait Islander Services Working Group, ATSIWG, to inform the development of advice for Community Services Ministers Advisory Council, CSMAC on national reform priorities in Indigenous child protection.

International Literature Review – Summary of Themes

The report highlights common approaches and theoretical frameworks, which are driving reforms in Indigenous child welfare.

Indigenous community control

Around the world, child welfare systems and agencies are struggling to protect their reputations and carry out their responsibilities in an environment of ever-increasing reports of abuse and neglect. There is a growing consensus among professionals and the public that there is a need for fundamental change in how child protection services should be conceptualised and delivered, for mainstream as well as Indigenous populations. In particular there is a strong movement overseas to replace centralised Western models of child protection through the empowerment of Indigenous communities to develop effective local programs, services and strategies in response to the development, welfare and protection needs of their children.

In the United States the “Executive Session on Child Protection” concluded that a more collaborative, community-based approach to child protection was required.¹ The Session proposed that rather than child protection service agencies bearing sole responsibility for protecting children, other agencies, parents and the public should jointly share responsibility in “community partnerships for child protection”. States including Missouri, Michigan and Florida, are developing new laws, policy and practice in response to these ideas.

The Session envisaged the development of comprehensive neighbourhood-based supports and services, which draw on family networks and other informal resources. These networks are closer to and more trusted by families in need than traditional services. The Session saw the development of formal community boards responsible for child protection as a viable alternative.

Given the parallel histories of dispossession and wholesale removal of children from Indigenous peoples in a number of colonised countries, the issue of community control is particularly important for Indigenous people.

Empowerment and phased capacity building of community based services

In 1993, an Ontario Aboriginal committee produced an Aboriginal family healing strategy, developed through a community consultation process involving 7000 Aboriginal people throughout the Province. The Strategy saw the empowerment of Aboriginal people as being a central component in the healing of individuals, families, communities, and Aboriginal Nations.² The strategy required Aboriginal community control and funding for design and implementation. This process depended on a provincial government commitment to devolving authority to Aboriginal communities.

This phased handover of authority proposed in the Ontario Strategy involved the establishment of a joint management committee, with provincial government and Aboriginal community members. In the first phase, programming continued under provincial Ministry mandates while beginning to share control over family healing programs. In the medium to long term, full control will be devolved to the Aboriginal community.

¹ Farrow, F & the Executive Session on Child Protection, *Child Protection: Building Community Partnerships*, John F Kennedy School of Government, Harvard University, Cambridge, Massachusetts, 1998

² Aboriginal Family Healing Joint Steering Committee 1993 at p. iii

The phasing aspect of the scheme was designed to accommodate differing levels of community readiness. This aspect of the scheme may be particularly relevant to Australian Indigenous child welfare, as the levels of social, physical, economic and political resources and infrastructure are likely to vary considerably between communities. A relative resource deficit is not necessarily a good reason to postpone a phased handover of responsibility for children's wellbeing to Aboriginal communities. An advantage offered by the phased handover concept is that it allows for some real change and development in delivery of Indigenous child and family services without, or prior to, legislative change.

A report based on a review of 15 Health Canada-funded Family Violence Prevention projects planned and implemented by Aboriginal people had this to say about Indigenous control of child welfare services:

"As ownership of family-related services has increasingly passed to Aboriginal control, it has become evident that simply staffing those services with Aboriginal people is only part of the answer. The services themselves need to be designed by Aboriginal people to make them work as a reflection of the host community and the belief system found there".³

Decentralisation and community-based services

The view that Indigenous child and family service provision must get in touch with grass roots issues and circumstances by operating at the local level has been expressed repeatedly.⁴

"The community requirement today is to design services from the bottom-up or from the community's perspective, which is grounded in a more complete understanding of its social reality. The challenge is to move from mandates which emphasise efficient delivery of services to mandates that focus on effective service outcomes".⁵

A separate issue related to service decentralisation concerns the setting in which service delivery occurs. A number of studies suggest that services should not only be locally-based, but, where possible, offered at the client's home. Several researchers found that the institutional or office environment is alienating to Native Americans;⁶ it is likely that this also applies to many other Indigenous people, particularly given the common legacy of traumatic past child welfare interventions. Besides their alienating atmosphere, there are several other reasons why institutional settings may not be ideal for delivery of Indigenous social services.

An assessment of six placement prevention and reunification projects in Native American communities found that the two most successful projects were home-based. By making the first contact in the client's home, the client's value in the relationship is established. The home visits also help to overcome the perceived reluctance of Native Americans and Alaskan natives to seek help outside the extended family⁷

Understanding local community history and identity

For effective collaboration between government departments and Indigenous communities it is necessary for departments, and individuals who work within them, to have a meaningful understanding of the history and experiences which impact on the communities to be serviced. A key issue identified for consideration when working with Indigenous communities, is an understanding of communal identity and a related whole-of-community rather than individually-focused responses to child protection.

³ Hart, R, *Beginning a Long Journey: a Review of Projects Funded by the Family Violence Prevention Division, Health Canada, Regarding Violence in Aboriginal Families Ottawa: Health Canada, 1997* at p. 12

⁴ Awasis Agency 1997; Weechi-it-te-win Family Services 1995; First Nations Task Force 1993; Ronnau et al. 1990

⁵ Awasis Agency 1997 at p.106

⁶ Norton, I.M, and Manson, S.M, *Domestic Violence Intervention in an Urban Indian Health Center*, Community Mental Health Journal, 33(4), August, p.331-337, 1997 ; Tafoya 1990; Ronnau et al. 1990

⁷ Smollar, J, & French, R, *A Study of Six Native American Placement Prevention and Reunification Projects*, Prepared by CSR Incorporated and Three Feathers Associates, 1990

Partnerships and collaboration

Good partnerships and meaningful collaboration between government and Indigenous organisations are vital to the development of effective child welfare strategies which empower Indigenous communities. Collaboration is vital for “both understanding the specific limitations and ineffectiveness of existing services and programs, and for identifying the changes necessary to create culturally appropriate solutions”.⁸

In describing a number of Native American child and family services entities considered exemplary, one report identifies collaboration as the key feature to their success. Several of these organisations had complex partnerships between various combinations of state agencies, tribal organisations, and non-governments organisations.⁹

Cross Cultural Partnerships and Culturally Competent Work

In 1991, the United States National Indian Child Welfare Association produced a paper providing strategies for the development of effective cross-cultural partnerships for child abuse prevention. They found two vital factors in successful strategies to be inclusiveness and empowerment. Involvement of and consultation with community members should take place throughout the project cycle, from design through to evaluation. Natural community support networks should be used and developed, while natural helpers and natural prevention networks should be engaged. Programs should be designed so that they are sustainably incorporated into the local Indigenous culture.

Factors contributing to culturally competent work.

There are a number of key issues which have been identified as relevant to culturally competent work with Indigenous people. Weaver¹⁰ discusses a number of topics important for practitioners to be aware of when working with Native Americans. These are issues which appear to also have relevance in the Australian context:

- History – Weaver¹¹ states that interventions addressing trauma are often best approached through a group method, as a) much trauma has been perpetrated on people as a group, and b) Native American identity is focussed on groups. Community healing projects are becoming more common. Validation of historical grief is important in assessment and healing.
- Citizenship – The lack of recognition of (a) Indian nations by the state, and (b) individual Native Americans by nations, leads to problems with identity and self-esteem.
- Cultural identity – A thorough cultural assessment is essential. For example, how much does a client identify with Native American culture, or with a blend of Indian culture, or a blend of Indian and non-Indian culture?
- Sovereignty – Practitioners need to be aware of ICWA and rights of Native American agencies and communities to provide care and intervention.

⁸ Aboriginal Family Healing Joint Steering Committee, *For Generations to Come: The Time is Now - A Strategy for Aboriginal Family Healing* Unpublished Final Report (Ontario), 1993: ii

⁹ American Humane Association - National Resource Centre on Child Abuse and Neglect, *Tribal-State Relationships in Child Welfare: Ensuring High Quality Services to American Indian Children and Their Families* Englewood, CO.: American Humane Association, 1997

¹⁰ Weaver, H, N, *Indigenous people in a multicultural society: Unique issues for human services*, Social Work, vol 43, no.3, 1998 pp.203-211

¹¹ Weaver, H, N, 1998

It is important that child and family service providers are able to integrate knowledge and reflection with practical skills.¹²

Client/agency relationships - The legacy of historical removals

An understanding of the impacts of trauma resulting from a history of forced and unjustified removals of children and culturally inappropriate service provision is necessary to develop effective social services policy analysis and child welfare programs within Indigenous communities.¹³

Strategies such as culturally appropriate placement may not resolve underlying problems. Much evidence suggests that parents who themselves spent lengthy periods in adoptive placement or residential schools as children often have parenting or substance abuse problems which lead to the removal of their children, establishing an intergenerational pattern of trauma and removal.¹⁴ Factors which contribute to a lack of parenting skills include: the absence of positive parental role models; destroyed transmission of parenting knowledge and behaviours; absence of experience of family life; and sexual abuse.¹⁵

Development of Culturally Appropriate and Locally Relevant Standards

Culturally inappropriate standards used for determining a child's need for substitute care have been a major contributor to disproportionate rates of removal in Indigenous populations.¹⁶ In many places, culturally inappropriate alternate care standards lead to the placement of Indigenous children with non-Indigenous carers.¹⁷ In the United States, Native American child welfare programs have successfully developed culturally sensitive placement standards, but have had to battle with states for acceptance. Tribally-controlled kinship care placements with aunts and uncles or grandparents are often seen by the non-Native child welfare system as foster care settings, with tribal agencies struggling to assert the legitimacy of these placements.¹⁸

Standards need to build on local family and community strengths, reinforce culture as a component of well being and take account of the resources available at the level of the local community or an individual family.

Staffing and training issues

A factor inhibiting increased Indigenous control of child and family services, which appears likely to apply in most countries and areas including Australia, is an inadequate supply of Indigenous workers (Durst 1998; Armitage 1993).

¹² Weaver, H, N, 1998

¹³ McKenzie, , *Connecting Policy and Practice in First Nations Child and Family Services: A Manitoba Case Study*, 1997 in: Pulkingham, J and Ternowetsky, G., eds., *Child and Family Policies, Struggles, Strategies and Options*, Halifax; Fernwood, 1987

¹⁴ Morrisette 1994; Mannes, M, *Seeking the Balance between Child Protection and Family Preservation in Indian Child Welfare*, *Child Welfare* 72(2), 1993

¹⁵ Morrisette 1994; Horejsi, C, Bonnie Heavy Runner, C & Pablo, J, *Reactions of Native American parents to child protection agencies: Cultural and community factors*, *Child Welfare*, vol. 71, no.4, 1992, pp.329-343

¹⁶ First Nation's Child and Family Task Force, *Children first, our responsibility: report of the First Nation's Child and Family Task Force*, Manitoba, November 1993, Winnipeg: The Task Force, 1993; Mannes, M, *Seeking the Balance between Child Protection and Family Preservation in Indian Child Welfare*, *Child Welfare*, 72(2), 1993; Community Panel, *Family and Children's Services Legislation Review in British Columbia*, Aboriginal Committee, *Liberating our children, Liberating our nations: report of the Aboriginal Committee, Community Panel, Family and Children's Services Legislation, Review in British Columbia*, Victoria, B.C, The Committee 1992

¹⁷ First Nations Task Force 1993; Community Panel 1992

¹⁸ Mannes 1993

As well as the lack of Indigenous workers, a lack of supervision and administrative support is another impediment to the development of First Nation agencies.¹⁹ Other reasons for the short supply of Indigenous child and family services workers include difficulties in educating Indigenous social workers, especially those from isolated areas, and problems with retention of qualified First Nations staff, with few ongoing career development opportunities existing for staff at First Nations agencies.²⁰ A review of Native American child protection teams found that permanency should be a critical factor in the choice of team members – high membership turnover brings problems with training, confidentiality and cohesion.²¹

The under-representation of Indigenous staff in Indigenous child and family services needs to be addressed as a priority. A British Columbia consultation found that it has led to culturally inappropriate service delivery, and the devaluing of traditional Aboriginal healing practices.²²

Development of “whole of community” approaches

The conventional individually focused models applied by child and family service agencies and treatment services are often culturally inappropriate for use with Indigenous client groups due to differences in the nature of personal and communal identity. Individually focused treatment models often disregard the complexities of extended family networks in First Nations communities.²³

Many authors and community consultations find that a “whole-of-community” approach to child protection and other social service and treatment interventions is more appropriate and likely to lead to success.²⁴ For example, the Awasis Agency, a regionalised peak body for the Indigenous controlled child and family services of 18 northern Manitoba Aboriginal communities, integrates child protection with other services, observing that this inclusive approach mirrors the Aboriginal concept of self in that region.²⁵

It is important not to make generalisations about Indigenous identity and selfhood. The great diversity within Indigenous groups always calls for practitioners to obtain specific knowledge about the community, nation or client group. This information is best obtained from the client. Indigenous social services and cultural agencies are further sources of information.²⁶

Accountability of community based agencies

A number of accountability-related issues arise in the international literature on Indigenous child welfare. Political or personal interference with, and influence over, Indigenous-controlled child and family services is a very serious issue, which compromises the probity and effectiveness of some Indigenous agencies, and leaves Indigenous women and children the greatest losers. Other issues associated with devolved authority include: the problem of determining specific responsibilities where divided authority

¹⁹ Durst, D, *The Wellness of Canadian First Nations Children: Seeking Solutions Through Self-Government*, unpublished draft research paper, 1998

²⁰ First Nations Task Force 1993; Armitage, A, *Family and Child Welfare in First Nation Communities in Wharf*, Brian, ed., *Rethinking Child Welfare in Canada* Toronto: McClelland & Stewart pp. 131-171, 1993

²¹ Carr, J, and Peters, M, *Assessment of Multi-Disciplinary Child Protective Teams in Five Western Washington Communities: Chehalis, Nisqually, Shoalwater Bay, Skokomish, Squaxin Island Thesis (M.P.A.)*, The Evergreen State College, Washington, 1997

²² Community Panel 1992

²³ Connors, E, *Healing in First Nations: The Spirit of Family in The Ecological Perspective in Family –Centered Therapy*, New York: Edwin Mellen Press, pp.51-65, 1993

²⁴ Manitoba Justice Inquiry 1991; Durst 1998, First Nations Child and Family Task Force 1993

²⁵ Awasis Agency 1997. For a bibliography of Aboriginal and Indigenous Social Work Issues see, Sinclair, R., *Indigenous Research Applications in Social Work: Annotated Bibliography and Comments*, 2002, <http://www.aboriginalsocialwork.ca/research.pdf>

²⁶ Weaver 1998, Weaver, H. N., *Indigenous People and The Social Work Profession: Defining Culturally Competent Services* *Social Work*, 44(3):217-225, 1999

creates multiple accountability; the capacity of local services to provide assured child protection; and confidentiality.

Gray-Withers also contends that gender-based power imbalance undermines child protection: "*In many communities, the male-dominated Native leadership has hidden and perpetuated problems of child abuse ... A process of empowerment for women and their communities will need to occur to allow for true community development and the acceptance of responsibility for current problems*"²⁷ Women tend to favour regional control of child welfare, in the hope that Chiefs would have less influence over child welfare outcomes in the absence of local control.²⁸

The establishment of regional agencies is one possible response to some of the accountability issues facing Indigenous child and family services. West Region Child and Family Services (WRCFS) is a good example of a regionalised service. WRCFS has a regional abuse unit which initially investigates notifications, and assists local workers who then take responsibility for follow-up services and case management. McKenzie states: "This model is quite effective in assuring required expertise in investigations, while protecting local community staff from some of the conflicts that can occur around initial abuse referrals in small communities."²⁹

Traditional healing, cultural revival and culture as a practice tool

Much of the literature on Indigenous child welfare from Canada and the United States describes or advocates the use of traditional healing methods in child welfare cases. A number of authors and reports emphasise that for many Indigenous peoples, mental, emotional, spiritual and physical health are integrated, interdependent and inseparable.³⁰ However, the "spirit dimension" is badly neglected in conventional social work practice. A report by the Awasis Agency of Manitoba states that "innovative approaches to dealing with families are seldom examined . . . First Nations practice requires the adoption of an integrative approach, addressing cognitive, emotional, physical and spiritual development"³¹ McKenzie³² notes that holistic healing is important: "because it transcends the notion of helping in the narrow therapeutic sense. Instead, it emphasises the resilience of First Nation people, and their ability to utilize self-help and cultural traditions as a framework both for addressing problems and supporting future social development at the community level."

Traditional Native Americans often use Western medicine for physical conditions, and prefer treatment by traditional healers for emotional and spiritual healing. Barlow and Walkup. Horejsi et al.³³ contend that: "*The most effective parent training programs are those that blend principles derived from modern child development with the spirituality, customs, traditions and other cultural ways of their tribe.*" A successful First Nations psychotherapist has developed a model for treating First Nations sexual abuse victims, where clients are assessed prior to treatment to determine their degree of acculturation. After assessment, treatment is based on either Western psychotherapeutic practice, traditional First Nations practices, or a combination of the two. First Nations elders and psychotherapists cooperate in designing healing strategies.³⁴

²⁷ Gray-Withers 1997 at p. 89

²⁸ Gray-Withers 1997; Durst, D, McDonald, J, and Rich, C, *Aboriginal Government of Child Welfare Services: Hobson's Choice?*, 1995 in Hudson, J, and Galaway, B, (eds), *Child Welfare in Canada, Research and Policy Implications*, Toronto: Thompson Education Publishing

• ²⁹ McKenzie, B, *Connecting Policy and Practice in First Nations Child and Family Services: A Manitoba Case Study*, 1997 in: Pulkingham, J and Ternowetsky, G., eds., *Child and Family Policies, Struggles, Strategies and Options* Halifax: Fernwood, 1997 at p. 106

³⁰ Voss et al. 1999; Barlow, A, Walkup, J,T, *Developing Mental Health Services for Native American Children*, *Child and Adolescent Psychiatric Clinics of North America* July; Vol 7(3) at pp.555-577, 1998; Awasis Agency 1997; Connors 1993

³¹ Awasis Agency 1997 at p.25

³² McKenzie 1997 at p.108

³³ Barlow and Walkup 1998. Horejsi et al. 1992 at p. 335

³⁴ Connors 1993

Strengths versus deficits

Conventional social work practice generally operates using a “deficit reduction” model of intervention, which attempts to respond to perceived weaknesses in the individual.³⁵

The “strengths perspective”³⁶ in social work embraces concepts of empowerment, collaboration, healing from within and suspension of disbelief.³⁷ Native American and Canadian professionals report that the strengths perspective is more compatible with their communities than prevailing social work pedagogy and practice, which is generally Eurocentric.³⁸ Indigenous child and family services will be enhanced by harnessing cultural strengths.³⁹

Healing through education and decolonisation

Indigenous groups involved with child welfare agree that child abuse and neglect in their communities result to a large extent from the effects of colonisation. A Canadian service puts it this way:

*“We understand the child welfare system as a system which has evolved in the dominant culture, to deal with the problems of industrial society. Within the Native community, the child welfare system is a system that deals with the symptoms of larger social problems – racism, poverty, underdevelopment, unemployment, etc. [We regard] child welfare problems as the result of the colonial nature of relations between the aboriginal people and the Euro-Canadian majority”.*⁴⁰

Few child welfare service models developed for or by Indigenous people respond directly to the colonial causes of problems. Helping the client to get in touch with Indigenous identities is an important part of the process. The following models consider the above issue:

*“Ma Mawi Wi Chi Itata is an urban Indian social agency established in Winnipeg in 1984: Ma Mawi integrates mainstream social work practices with Indigenous traditions in its work. The emphasis is on positive relations with other agencies, advocacy, exchange and collaboration. Ma Mawi is the largest urban Native agency in Canada. They describe their practice as a process of decolonisation . . . We see this as a conscious process through which we regain control over our lives and resources”*⁴¹

Other findings included that: (a) educating people about historical trauma leads to increased awareness of its impact, and symptoms; (b) the process of sharing experiences with others of similar background leads to a cathartic sense of relief; and (c) the healing and mourning process initiated, resulted in an increased commitment to ongoing healing work at an individual and community level.

Very high proportions of respondents were favourable about the traditional healing workshops, in terms of grief resolution, and feeling better about themselves. Parenting was improved.

Participants are taught about the initial and ongoing breakdown of traditional systems, values, beliefs and practices around caring for children, and traditional family structures, which occurred as a result of white settlement. Participants gain a detailed understanding of various specific factors of influence, including: the effects of mixed marriages on family structures; introduction of Christianity; the decline of the Maori language; and the government’s policy of assimilation, particularly through European schooling.

³⁵ Voss et al. 1999; Awasis Agency 1997

³⁶ Saleebey 1992

³⁷ Voss et al. 1999

³⁸ Voss et al. 1999, Awasis Agency 1997

³⁹ Tong and Cross 1991; Ronnau et al. 1990

⁴⁰ Ma Mawi Wi Chi Itata 1985, cited in Armitage 1993 at p.159

⁴¹ Ma Mawi Wi Chi Itata 1985

Community awareness raising and education

Some child abuse and neglect intervention projects attempt to bring about change through strategies involving community-wide awareness raising, as distinct from individual interventions with abuse cases. Cross and LaPlante argue that the greatest constraint to child abuse and neglect interventions in Native American communities is denial, and that grassroots community involvement is the best antidote.⁴² They point out that prevention can be grounded in traditional values and principles. Although acknowledging the substantial breakdown of tradition in some communities, what remains can be drawn upon. Cross and LaPlante contend that grassroots efforts work well because "no one knows the community better than the community itself".⁴³

Sexual abuse: Traditional healing and offender treatment

Rates of child abuse and neglect are almost universally higher in Indigenous compared with general populations. The unique histories of trauma and injustice suffered by Indigenous people under colonial regimes are clearly associated with the disproportionately high rates of sexual abuse in communities today. These specific circumstances demand consideration in health and welfare responses.

Many Canadian First Nations communities have recently adopted alternative strategies for dealing with sexual abuse. The Hollow Water program, the Community Holistic Circle Healing Project (CHCH), is used with sexual abuse cases in Manitoba Indigenous communities. CHCH heals by providing support, guidance and counselling to all those affected by sexual abuse, including the victim, the perpetrator, and respective families (see Family Group Conferencing).

By dealing with the needs of all involved, CHCH is seen as healing the community, not addressing an individual problem. The method is seen as a long term solution, as the whole process is estimated to take five years. CHCH empowers communities by allowing members to generate their own response to individual situations, in a manner which gives consideration to the specifics of each case.

The Hollow Water program is widely viewed as a successful example of an Indigenous-controlled sexual abuse treatment program.⁴⁴ A cost-benefit analysis of the Hollow Water program found that for every \$2 which the Provincial and Federal Government spent on the program the community receives well over \$6.21 to \$15.90 worth of services. Further, the program has a very low recidivism rate with only two clients re-offending over a ten-year period. (The cost benefit analysis did not take into account the costs saved from perpetrators not re-offending.) Other benefits from the program included improved holistic health for children, more people completing their education, better parenting skill, an increase in sense of safety, a return to traditional ceremony and a decrease in overall violence.⁴⁵

Self Determination

The United States, Canada, New Zealand and Australia have all acknowledged the importance of Indigenous communities' control over their children and families. Despite this governments have generally retained the power or have failed to dedicate the necessary resources necessary to effect this recognition.⁴⁶

⁴² Cross, T, & LaPlante, J, *Grassroots Prevention of Child Abuse and Neglect in Indian Communities: A Guide for the Community Organiser*, National Indian Child Welfare Association, Portland, Oregon

⁴³ Cross and LaPlante 1995 at p. 27

⁴⁴ Connors and Oates 1997; Awasis Agency 1997; Lajeunesse 1993

⁴⁵ Native Counselling Services of Alberta, *A Cost-benefit Analysis of Hollow Water's Community Holistic Circle Healing Process*, Ottawa, Ontario, Solicitor General of Canada, 2001

⁴⁶ For a brief outline of self-government programs in Canada, see Hurley, M, C, and Wherrett, J, *In Brief, Aboriginal Self-Government*, Parliamentary Research Branch, Library of Parliament, 27 September 1999, Revised 1 August 2000

The United States Indian Child Welfare Act represents the highest level of transfer of decision making authority to Indigenous peoples. And in New Zealand the Maori people have been included in the primary decision making process, the family group conference, which is mandated by the *Children, Young Persons, and Their Families Act 1989*. In Canada a move towards enacting legislation based on self-determination by Indigenous people has occurred over the last few years and new legislation, treaties and negotiations are not uncommon, so that First Nations communities are achieving far greater control over their children and families.⁴⁷ Whilst not completely based on international understandings of Self-determination, the new structure in Manitoba offers a good example of a transfer of jurisdiction of child welfare.

In Australia generally and particularly within the child welfare area, there appears to be a lot of misinformation and misunderstanding as to what Indigenous what self-determination means in practice.⁴⁸ For example, it is not enough to recruit Indigenous field officers and policy advisers, fund Indigenous organisations or implement the Aboriginal Child Placement Principle within child protection legislation.⁴⁹ These are important elements and in fact crucial to ensuring that Indigenous people have equality of services, however there are international understandings of what Indigenous self-determination means and it is important that governments and departments within Australia become aware of these international standards and understandings acknowledging that Indigenous peoples, like other Australians, should be accorded citizenship entitlements.

The implementation of self determination principles in a contemporary framework would require the transfer of aspects of control and resources from central government agencies to local Indigenous communities.

⁴⁷ HREOC 1997; Cunneen & Libesman, 2000

⁴⁸ Putting the picture together, Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal communities, citing Litwin 1997

⁴⁹ See Tomison at pp.63-64 citing Litwin 1997

SNAICC Response to the Inquiry Terms of Reference

Inquiry Terms of Reference

1. Examine the extent, nature and contributing factors to sexual abuse of Aboriginal children, with a particular focus on unreported incidences of such abuse.
2. Identify barriers and issues associated with the provision of effective responses to and protection against sexual abuse for Aboriginal children.
3. Consider practices, procedures and resources of NT Government agencies with direct responsibilities in this area (Family & Children's Services and Police), and also consider how all tiers of government and non-government agencies might contribute to a more effective protection and response network.
4. Consider how the NT Government can help support communities to effectively prevent and tackle child sexual abuse.

Limiting the focus to child sexual abuse

SNAICC is cognisant of the Northern Territory Government's decision to focus the inquiry specifically on the sexual abuse of Aboriginal children. Sexual abuse is but one form of significant harm that Aboriginal children in the Northern Territory are far more likely to experience than other Australian children. Neglect and child maltreatment are also more prevalent. Factors that contribute to a high incidence of child sexual abuse contribute also to higher levels of child neglect, physical abuse and emotional abuse.

These factors include the prevailing poor socio-economic status of families and communities, loss of child rearing practices and traditions, high levels of unresolved trauma within communities, substance misuse, inadequate housing, high levels of unemployment, a deterioration in the economic and social opportunities for men to be productive within their families and historical factors including the high incidence of family disruption and break up of communities in previous generations (Tomison 1995; Tomison 1995; Tomison 1996).

Whilst a focus on sexual abuse has some simplistic appeal it needs to be recognised that significant improvements will not be made unless underlying factors of poverty, neglect and the deterioration in the role of men within communities are resolved.

SNAICC considers that in formulating advice for the Northern Territory government the Board of Inquiry should provide recommendations that go beyond issues of child sexual abuse. Recommendations should aim to drive a generational change in the approach to the prevention of all forms of child maltreatment, including sexual abuse, and intervention where maltreatment has occurred or is alleged.

Summary response to terms of reference

Term of Reference 1.

Examine the extent, nature and contributing factors to sexual abuse of Aboriginal children, with a particular focus on unreported incidences of such abuse.

State of Denial provides a useful overview of the contributing factors to sexual and other forms of child maltreatment in the Northern Territory. It established that these factors are more prevalent in the Northern Territory than in any other state or territory. Despite this the reported incidences of all forms of child abuse and neglect in the Northern Territory remain the lowest in the country.

As noted by the Australian Institute of Health and Welfare, (AIHW),

- poverty,
- poor socio-economic status,
- differences in child rearing practices, and
- inter-generational effects of previous separations,

are all considered significant factors in the national over representation of Aboriginal and Torres Strait Islander children in substantiated cases of child abuse and neglect and in placement in out-of-home care (Australian Institute of Health and Welfare (AIHW) 2005) .

In discussing family type and the over representation of children from sole parent families in substantiations, (both Aboriginal and Torres Strait Islander and non Indigenous), the AIHW note that the likely reasons for this are that these families are more likely to;

- have low incomes and be financially stressed
- live in poor quality housing, and
- suffer from social isolation (Australian Institute of Health and Welfare (AIHW) 2000)

Like sole parent families, Aboriginal and Torres Strait Islander families across Australia are far more likely than other families to experience poverty, financial stress and live in poor quality housing.

In relation to differences in child rearing practices, (that is child rearing practices differing from those of the dominant culture), and the inter-generational effects of previous separations, these two factors are common to Aboriginal and Torres Strait Islander communities throughout Australia. As such they are less likely than other factors, such as the incidence of poverty and the prevailing socio-economic circumstances, to provide an explanation for the lower rates of recorded abuse and neglect in the Northern Territory.

The report of the Human Rights and Equal Opportunity Commission, (HREOC), *Inquiry into the separation of Aboriginal and Torres Strait Islander children from their families, Bringing Them Home*, illustrates that the effects of previous separations are at least as prevalent in the Northern Territory as any other part of Australia (Human Rights and Equal Opportunity Commission 1997).

As was documented through *Bringing Them Home* the forced removal of children took place in all states and territories.

Indigenous children have been forcibly removed from their families and communities since the very first days of the European occupation of Australia. In that time, not one Indigenous family has escaped the effects. Most families have been affected in one or more generations by the removal of one or more children (Human Rights and Equal Opportunity Commission 1997).

In reviewing the research and literature relating to child neglect Adam Tomison, National Child Protection Clearinghouse, notes that,

Child neglect is commonly associated with low income, larger, multi problem families, families receiving government benefits, poor housing and living conditions and low educational and employment levels

In 1995 the Secretariat of National Aboriginal and Islander Child Care, SNAICC, was commissioned by the Commonwealth to prepare a national plan for the prevention of child abuse and neglect. SNAICC carried out a series of consultations with Aboriginal communities in rural, remote and urban areas following the preparation and distribution of a national discussion paper.

Consultations identified issues which were seen by Aboriginal communities as contributing factors or as directly related to child abuse and neglect. These included: -

- Breakdown of traditional Aboriginal society and loss of child rearing practices
- Deprivation of culture and loss of identity arising from previous generations of child removal from families and forced relocation of communities
- Inadequate housing and housing facilities
- Alcohol and other substance abuse

More specifically the plan states,

The relationship between poverty and the high incidence of child abuse and neglect was frequently noted in consultations. Aboriginal children are more likely to experience an absence of a decent standard of diet, clothing, housing and health care than is acceptable to the majority of Australians. Aboriginal people experience high levels of unemployment, reduced participation rates in education and recreation pursuits. Many parents are single, unemployed, living in crowded conditions and have little access to formal childcare (SNAICC 1996).

It adds that,

Dispossession, racism, a sense of hopelessness and powerlessness and poverty are all factors leading to stresses in families that lead to child abuse and neglect.

The key factors which are commonly associated with child abuse and neglect have been well identified. They include:

- poverty and unemployment
- family stress, family violence and family breakdown
- homelessness and inadequate housing
- substance and alcohol abuse
- poor health
- low educational attainment
- sole parent families or families with multiple problems and complex needs

- families suffering from loss of culture and the effects of dispossession and child removal in previous generations

In the Northern Territory context SNAICC considers the last of these elements to be of particular significance. Whilst socio-economic factors are quite readily identified and measured the levels of family stress and mental health disorders associated with loss of culture and the impact of dispossession are less easily identified in quantitative terms.

Professor Sven Silburn from The Western Australian Aboriginal Child Health Survey has however provide some useful analysis of the inter-generation impact of child removals.

The survey results show that Aboriginal children cared for by primary carers who were forcibly separated from their families are 2.34 times more likely to be at risk of clinically significant emotional or behavioural difficulties and had levels of alcohol and drug use twice of that children whose carers were not forcibly separated (Silburn 2006).

Aboriginal primary carers who were forcibly removed from their natural family by a mission, the government or welfare are 1.5 times more likely to have had contact with mental health services in WA (Silburn 2006).

This underpins the importance of healing programs and therapeutic responses to deal with the high levels of trauma and grief still permeating through Aboriginal communities.

Terms of Reference 2 & 3

Identify barriers and issues associated with the provision of effective responses to and protection against sexual abuse for Aboriginal children.

Consider practices, procedures and resources of NT Government agencies with direct responsibilities in this area (Family & Children's Services and Police), and also consider how all tiers of government and non-government agencies might contribute to a more effective protection and response network.

In the research report, *State of Denial*, SNAICC explored issues relating to the above terms of reference and was able to establish that the Northern Territory child protection system was, compared to other States and Territories, significantly less effective in identifying and responding to incidences of child abuse and neglect.

SNAICC is aware that the Board of Inquiry is gathering material and information to assist in its deliberations from a wide range of government and non-government sources. It may be the case that the very poor level of confidence in the Department of Health and Community Services amongst non-government workers expressed during interviews for *State of Denial* has significantly improved. SNAICC is aware of initiatives between the Department and community sector workers in Alice Springs to clarify roles and responsibilities and improve practice in relation to information sharing and responding to notifications.

Clearly thought the Inquiry has been prompted by ongoing concerns about the unwillingness of people to report child abuse. This suggests in spite of these commendable efforts to encourage reporting and information sharing there is still a long way to go to improve confidence in and the operation of the Department's child protection functions.

Barriers identified in *State of Denial* to the provision of effective child protection responses included:

- to not report child abuse and neglect is a common practice of Aboriginal communities and non government agencies as reporting child abuse and neglect either results in no discernible response or an intervention from Police or child protection which, from the community perspective, may makes matters worse
- confidence amongst non-government agencies in the Northern Territory child protection system was so low at the time of the research that the system was seen as almost completely ineffective
- the narrow investigative approach of the Northern Territory child protection system tends to blame Aboriginal parents and families for factors which are beyond their control – such as poverty and homelessness
- non-government agencies that work directly with Aboriginal and Torres Strait Islander children and families consistently experience major difficulties in getting child protection authorities to respond to or even register notified cases of child abuse or neglect
- there is a lack of clarity on the role of the Northern Territory police within the child protection system
- mandatory reporting of child abuse and neglect in the Northern Territory appears to have failed as the general community and more particularly Aboriginal communities have not been provided with useful, systematic and ongoing education and training about the requirements to report child abuse and neglect

- the alternative care and foster care systems in the Northern Territory are woefully inadequate creating scenarios where Aboriginal children are left in situations where they are likely to be maltreated as child protection authorities have no alternative care options for at risk children
- past practices of forcibly removing Aboriginal children and forcibly relocating Aboriginal communities continue to impact significantly on Aboriginal people and dramatically undermine the effectiveness of the Northern Territory child welfare system
- Aboriginal and Torres Strait Islander communities in the Northern Territory have no significant or secure role, purpose, resources or power within the child protection system
- The current system operates as an external source of control rather than as a collaborative partnership for advancing the welfare of children within a framework of rights and respect (Pocock 2003).

Comments from non-government workers interviewed for *State of Denial* included, comments on the lack of community confidence in the Department's system, those individuals reporting abuse fearing reprisals, a lack of trust in the current welfare system with mistrust based on the role of welfare authorities in the stolen generations, not knowing how or what to report, potential conflict with family members should people report issues of abuse and fears that children will be removed from and lost to communities.

Workers also commented on the lack of confidence amongst non-government agencies in reporting child abuse. That lack of confidence was reported as stemming from a lack of certainty and transparency around how welfare authorities would respond, if at all. High turn over of child protection staff, inconsistencies in responding to allegations of abuse and unwillingness to liaise openly with non-government organisations and share decision making around the best interests of individual children were all cited as contributing to a low level of trust in the system.

Some of the typical responses recorded for *State of Denial* were as follows;

Geoff Miller: (Central Australia AICCA)

A lot of the non reporting too is because lots of people still have that thing about welfare - the old welfare system- and that's why they won't be involved with it and so they won't report it because they don't want to be dragged through it.

Peter Tait: (Central Australia Aboriginal Congress)

But if in the case of abuse rather than neglect my limited experience is that most people don't want to talk about it and don't want to deal with it and therefore it probably isn't being dealt with in house at all. People just don't want to know about it.

Astri Baker: (ASYASS)

But a lot of young people don't remember anyone coming to see them or talk to them, don't remember anyone coming to talk to the family, no one from the family has mentioned anything to them about anyone from welfare coming to see them or getting in touch. Nothing has changed at all.

Sandra Kitching: (Karu)

A lot of it stems from I think - the whole discouragement to say anything to welfare - from breaking up families and Stolen gens. And a lot of our people as soon as they hear about welfare - they run.

Sarah: (ASYASS)

There are two different sets of reasons why people don't notify, reasons for the general public and different reasons why workers in agencies don't notify. With workers in agencies they tend not to notify because of past experiences when they have notified and that nothing happened when they did notify. With the general public I think people feel overwhelmed and become apathetic.

In relation to the role of Police in the child protection system views expressed included that the focus on Police on gathering evidence for possible criminal prosecutions often usurped any support process from the Department for families and children.

As SNAICC reported at the time;

“ The role of the Northern Territory Police in reporting and investigating child abuse and neglect seems far from satisfactory. Rather than the dual responsibility they share with child protection staff, leading to increased vigilance in protecting children at risk, it appears to create an investigation system in which the support needs of children are often overlooked. Pre-occupation with collecting evidence and bringing charges whilst noble enough in principle, seems to lead to non cooperation between families and the child protection system. As a result, where abuse and neglect are occurring, the involvement of Police makes it more likely that families will cover up the issues rather than deal with them with support from Territory Health Services. In relation to reporting child abuse and neglect Northern Territory Police, particularly in rural and isolated communities, appear to be failing to report issues of abuse and neglect. “ (Pocock 2003).

Other comments from agency workers interviewed included the following;

Franny Coughlan: (Congress)

Our experience is that we will always report to FACS. If FACS think there is a criminal issue then they have to involve the Police and our experience has sometimes been that the next thing a family has the Police on their door with no FACS support or involvement; and FACS argue that they don't want to contaminate the evidence - which I question - and then so the Police might investigate in their way and if they assess that their is insufficient evidence to pursue charges then they walk away and the whole thing is abandoned. The whole of issue of whether there is a child at risk falls into a black hole - that has been our experience.

Term of Reference 4.

Consider how the NT Government can help support communities to effectively prevent and tackle child sexual abuse

There is a tension in the final term of reference between developing proposals and advice for government on reforming the current child protection and developing recommendations for the development of a new community based child protection system.

SNAICC believes the current system needs to be replaced, over time, through a high-level reform process managed by an independent authority that is separate from the Department of Health and Community Services. There is no evidence from Australia or overseas that centralised government run child protection systems can deal effectively with issues of child abuse within Indigenous families and communities.

The central strategy of the NT Government in supporting communities to effectively prevent and tackle child sexual abuse should be to shift power, resources and accountability for child welfare and protection from the centralised government department (the formal child protection system) to family and community based systems within a framework of child protection standards and children's rights.

As noted earlier the Northern Territory is not alone in seeking to develop responses to issues of child abuse within Indigenous communities. Elsewhere in Australia and in countries including the United States, Canada and New Zealand communities and governments face very similar, and seemingly, over whelming challenges. Common to all these jurisdictions is the fact that no centralized government controlled and managed child protection systems has been able to effectively prevent or respond to child abuse, particularly in remote communities.

Child abuse prevention and intervention should occur at the family and community level with help and support from government. In the Northern Territory, and elsewhere, the challenge is to develop short, medium and long-term reforms which systematically return to Aboriginal communities the capacity, resources and responsibility for the care and protection of children.

In previous generations it was not just Aboriginal children that were removed from their families and communities. Communities lost parenting responsibility, independent economic resources and political (decision making) resources (Cummings 1990; Butler 1993; Human Rights and Equal Opportunity Commission 1997) . The return of parenting responsibility to Aboriginal families in the post assimilation period has not been accompanied by the return of economic resources or decision making. A process for this to occur needs to be developed.

Recommendations

Sustaining a policy dialogue and reform program

One of the most important threshold challenges is to develop a long term, sustainable and high level policy dialogue about issues of child abuse within Indigenous communities, between Indigenous communities and between Indigenous communities and governments.

Government and public focus on child abuse typically occurs in response to particular media stories that create a spark of community interest and a spike in government attention. The establishment of this inquiry is an all too familiar example of this coming as it did in response to issues of child abuse and violence raised predominantly through the ABC Lateline program in May and June 2006. Whilst this form of intense media focus creates immediate reform opportunities sadly the momentum for change dissipates almost as quickly as the media interest in the story.

The policy development work that has to occur in this area cannot be significantly carried out through a single inquiry process. Each Aboriginal community in the Northern Territory has its own history, pre and post-colonial, levels of functionality, cultural norms and practices, family and kinships systems, strengths and leaders. All need to be engaged long term in working with government and within their own family and kinship groups to better protect children from sexual and other forms of abuse.

Ultimately government has to show confidence and faith in Aboriginal communities to take ownership of these issues and support them to protect and nurture their children. This has been the expressed desire of Aboriginal communities since the earliest days of colonization.

Establish a statutory authority for Aboriginal Children's Welfare and Protection

In *State of Denial* SNAICC recommended the convening of an Indigenous Child Welfare Summit and the establishment of an Indigenous Child and Family Welfare Council.

SNAICC is adamant that the single most important reform required in child protection in the Northern Territory is the development of a long term reform process. This inquiry will not discover or create a single set of solutions that will resolve issues of child sexual abuse in Aboriginal communities. The most important contribution it could make would be to convince the Northern Territory government to establish a permanent forum with a high level of authority and independence to drive child protection reforms.

At this point SNAICC favours the model of a statutory authority reporting directly to parliament rather than the model of an Indigenous Child and Family Welfare Council as we proposed in 2003. Our view is that a more permanent, robust and independent authority, with a governing board comprised predominantly of Aboriginal people, is required to drive and coordinate the development of new Aboriginal child protection system for the Northern Territory.

This model has been developed in Manitoba Canada through the establishment of regional child and family service statutory authorities responsible for mandating service providers, and coordinating Indigenous child welfare service reforms.

Under the *Manitoba Child and Family Services Act 2002* four regional authorities have been established responsible for child and family welfare service provision (Province of Manitoba 2002).

Each is responsible for the provision of services to “promote the safety, security and well-being of children and families, and protect children in need of protection”. This includes mandating agencies to deliver services against agreed standards and principles for defined population groups and in defined areas. Each authority is responsible for developing and resourcing culturally appropriate standards for services, practices and procedures across the continuum of child protection and welfare services.

Utilising this type of model in the Northern Territory could see a single Aboriginal Child and Family Services Authority established with a board appointed by parliament. The authority should have the dual role of issuing mandates to service providers (government and non-government) to develop and deliver child protection and welfare services commensurate with their capacity, and secondly coordinating the long term establishment and/or development of Aboriginal community based child and family services to facilitate the transfer of mandates from the government to non-government sectors.

Currently the 1983 Community Welfare Act does include provisions, (section 70), for the Minister to delegate to Aboriginal community councils and Incorporated Associations any functions prescribed under the act. In this way the current Northern Territory legislation is the most progressive in Australia. Sadly these provisions have not been used.

SNAICC believes that this is because the development of Aboriginal organisational capacity, as enabled through section 68 of the act, has not been pursued. Under this section the Minister is empowered to “*provide such support and assistance to Aboriginal communities and organisations as he thinks fit in order to develop their efforts in respect of the welfare of Aboriginal families and children, including the promotion of the training and employment of Aboriginal welfare workers*” (Government 1983)

Whilst it might be argued that successive Ministers have developed the capacity (and size) of their Department there is little evidence of anything being done to assist and support Aboriginal communities and organizations. SNAICC has not been able to find any plans, funding initiatives or capacity building initiatives which link back to section 68 of the current act. We consider this to be one of the most significant failures of successive NT governments since the act was passed 24 years ago.

SNAICC’s proposal is to have these powers and functions of community capacity building and phased delegation of child protection functions re-cast and implemented through an independent statutory authority.

The four separate regional First Nations Child and Family Services Authorities operating in Manitoba provide leading examples of the long term approach required in the Northern Territory. A strong viable agency with independence from the Department has to be charged with the responsibility of rebuilding community capacity to manage child welfare and protection functions.

The Northern Territory authority should report to parliament, have the power to monitor and report on the performance of the Department of Health and Community Services, be responsible for establishing and monitoring standards (to apply to government and non-government service providers) for child protection services and out-of-home care and fund programs to capacity build community level prevention and intervention services including development of workforce capability in the child and family welfare field.

It should have an independent board, the majority of which should be Aboriginal people, consistent with the model of empowering Aboriginal communities to take charge of the welfare and protection of their children.

Recommendation One: Statutory Aboriginal Child and Family Services Authority

That the Northern Territory Government establish an independent statutory Aboriginal Child and Family Services Authority through legislation modeled on the *Manitoba Child and Family Services Act 2002*

That this authority have functions including:

- through community consultation the development of culturally appropriate standards for services, practices and procedures across the continuum of child protection and welfare services
- issuing mandates to government and non-government organizations to provide child protection and welfare services for particular Aboriginal communities
- monitoring of compliance with the Aboriginal Child Placement Principle
- funding and coordinating capacity building of the Aboriginal non-government services sector to facilitate the transfer of all mandates to Aboriginal community organizations within ten years of the authority being established
- reporting to the Northern Territory parliament on
 - new measures required to secure the protection and well being of Aboriginal and Torres Strait Islander children in the Northern Territory
 - ongoing child protection reforms
 - annual performance of mandated child protection services (government and non-government)

Establishment of a Framework of Principles for Aboriginal Child Protection and Welfare

In *State of Denial* SNAICC recommended that the NT Government develop and agree a framework of principles for Aboriginal Child Protection and Welfare. SNAICC proposed that a set of principles be developed through an Indigenous Child Welfare Summit (recommendation one) and that an Indigenous child welfare policy statement be developed (recommendation eleven) (Pocock 2003).

Public support for another summit may at this time be relatively weak given the propensity of governments to convene summits on issues relating to abuse and family violence in recent years. Regardless SNAICC believes that it is imperative at this time to establish some common ground and objectives between government and Aboriginal communities in relation to how issues relating to child protection and welfare should be managed.

Developing a framework of principles through a process facilitated by government and engaging Aboriginal communities would initiate the forward looking dialogue which will be necessary to support ongoing reform. It would recognize and acknowledge that for the first time in the Northern Territory government would negotiate the principles to underpin child protection and welfare with Aboriginal communities rather than imposing systems on communities.

Unless such a document is developed the isolated and ephemeral attempts from within the current Department to develop some common understanding with Aboriginal services and communities around child protection will remain exactly that - isolated and ephemeral.

SNAICC through discussions with the ATSI SWG forum and our 2006 Annual General Meeting has developed a draft set of principles for the advice and consideration of all states and territories. Principles such as self-determination should be seen as the cornerstone of any framework of principles developed within the child welfare field. We have included those as an attachment to this submission and recommend that they be used as the starting point for the development of a set of principles for the Northern Territory.

One option would be to have the proposed statutory authority to develop the framework of principles. Once developed the principles should be enshrined in legislation.

Recommendation Two: Framework of Principles

That the Northern Territory government;

- initiate a process to develop and agree a framework of principles for Aboriginal child welfare and protection with and for Aboriginal communities in the Northern Territory
- recognise self determination as the founding principle for the development of the framework, and
- enshrine the principles in legislation when complete

Development of cross-sectoral child protection investigation and response system

One of the clear findings of *State of Denial* was the very limited extent to which the current child protection process, particularly in relation to notifications and investigations, utilizes information and input from non-government service providers.

The development of Aboriginal and Islander Child Care Agencies, AICCAs, across Australia from the late 1970's created some improved coordination and input into decision making in child protection matters from communities and families. Whilst operating with a clear focus on the best interests of children AICCA agencies have, when supported and utilized by governments, been able to provide detailed advice on the best interests of children that have been the subject of notifications. This can include sharing information on a child's birth family and kin, their support networks and significant adults in their lives, short and long term placement options and priorities for family support to promote family stability and minimization of future risk to children.

This type of advocacy and input provided by AICCA services is expected of the agencies without the role being well defined, costed and funded. This is despite the fact that this type of information is critical as child welfare departments seek to make decisions to keep children safe and support their healthy development.

There are currently 35 AICCA services operating across Australia. Structurally they are a mix of stand-alone specialist child and family welfare services and auspiced services operating under the legal structure of Aboriginal health services or some other community based organization.

Both of the Northern Territory's AICCA services, Central Australia Aboriginal and Islander Child Care Agency, (CA AICCA), and the Karu Aboriginal Child Care Agency (Karu), have had their funding for alternative care services withdrawn in recent years. In the case of the CA AICCA this precipitated the closure of the agency and the reallocation of its Federal funding.

Both of these agencies and the Department of Health and Community Services saw their role as emanating from section 69 of the 1983 Community Welfare Act that refers to consultation with Aboriginal welfare organisations.

Karu continues to see their role as providing advocacy and support for families and children that have come to the attention of the Department through child protection notifications. Neither Karu nor CA AICCA were ever been funded by the Commonwealth or the Territory government to provide child protection advice to the department, advise on placement options for children or assist in implementing the Aboriginal Child Placement Principle. In short they were never funded to fulfill the fundamental role anticipated of them by community members and the Department of Health and Community Services.

In these circumstances it is not surprising that both agencies faced extreme difficulty in meeting government and community expectations and not surprising that they failed to do so.

This lack of identified funding for the advice role of these Aboriginal welfare agencies contradicts the spirit of the provisions of section 69 of the 1983 Community Welfare Act. In particular the requirement that the Minister consult with 'Aboriginal welfare organisations' where the proposed placement of an Aboriginal child is to be with someone other than their

extended family or with other Aboriginal people who have a correct relationship with the child according to Aboriginal customary law.

SNAICC believes an urgent priority for the Northern Territory is to fund a Territory wide network of Aboriginal child and family welfare services to provide detailed input and advice on child protection matters. It is imperative that this function is seen as distinct from the provision of alternative care and other types of family support services. Equally the 'mandate' of each agency, geographic and cultural, must be clearly defined, as in fact section 69 (c) (ii) envisages.

SNAICC is aware that the community sector is less well developed in the Northern Territory than in other states and territories. We are mindful that in many areas it will be a case of contracting existing Aboriginal organizations, preferably those with existing specialist knowledge in the area of child welfare, to provide this input into decision making.

The Lakidjeka Aboriginal Child Specialist Advice and Support Service

Within Victoria this type of specialist advice and support service was established in late 2002 on a statewide basis through a partnership between the Victorian Aboriginal Child Care Agency, VACCA, and the Victorian Government. With funding of approximately \$2.2M per annum the Lakidjeka Aboriginal Child Specialist Advice and Support Service, ACSASS, program has established teams of Aboriginal workers across the state to provide specialist advice and support on the protective needs of children who have been notified to the Department.

The program gives effect to the legislative provisions which provide for a 'designated Aboriginal agency' to provide specialist advice on the best interests of children. It delivers on the formal protocol between the State government and VACCA representing the Aboriginal community that until 2002 had never been funded. The non-funding of the Victorian protocol, (until 2002), is analogous to the non-funding of Karu and CA AICCA to provide advice and input into child protection decisions. Whilst community and Government may have expected these agencies to provide such advice they were in fact never funded to do so.

Central to the Victorian model is that Lakidjeka ACSASS receives immediate notice of any child protection notifications involving, or thought to involve, Aboriginal children through a central intake service. Lakidjeka ACSASS caseworkers attend investigations and work in partnership along side Department child protection workers. Their role is to assess the family's capacity to address the protective concerns, coordinate assistance to the family in this regard and provide advice on the best options to remove risk from children – not children from risk. This typically involves working with the family and Department and entering into voluntary care arrangements to ensure a child's safety. Lakidjeka ACSASS case workers then maintain a level of casework with families to assist them to meet their obligations to keep children safe.

According to the VACCA 2006 Annual Report in 2005-2006 the Lakidjeka ACSASS program received 2,030 notifications of which 930 were further actioned and formally investigated by Departmental child protection officers with input from Lakidjeka ACSASS workers. Of these 930 cases Lakidjeka developed voluntary care agreements with 70% of these cases preventing them from penetrating further into the child protection system (VACCA 2006).

The VACCA 2006 Annual Report notes that, “ *The primary role of Lakidjeka’s work is to assist children and young people stay in their family or work with families to ensure they are accessing services to get their children returned to them. Lakidjeka staff do this through linking them into their family supports or to formal support services. The primary aim is to ensure that the children are safe and protected.* (VACCA 2006, page 26)”

The significance of this is that it provides some hope that the high rates of child removal and consequent pressure on out-of-home care system can begin to be eased. The program also engages families directly in the long term care of their own children and encourages family responsibility for children’s well being rather than shifting children from their families into the care of the state.

SNAICC believes that the Northern Territory could and should develop a territory wide program modeled on the Lakidjeka ACSASS program.

Recommendation Three: Establish a Joint Child Protection Specialist Advice and Support Program

3a. That the Northern Territory government fund the establishment and operation of a Joint Child Protection Specialist Advice and Support Program, modeled on the Victoria Lakidjeka ACSASS program, to operate across the Northern Territory.

3b. That in establishing the Joint Child Protection Specialist Advice and Support Program the Northern Territory Government consult with Aboriginal communities and existing Aboriginal community based services with knowledge and experience in child welfare and protection

3c. That the Northern Territory Government allocate not less than \$3m per annum for the establishment of the program.

Community based education, healing and parenting programs

There were a number of recommendations included in *State of Denial* that sought to address the need for long term community education and awareness in relation to prevention of child abuse and neglect. Specifically recommendations six, nine and ten.

SNAICC believes that those recommendations and long term community education and awareness in relation to prevention of child abuse and neglect remain important priorities. We and would add to them however the need to develop community based services and programs focused on the following additional areas:

- community healing and support programs
- cultural revival and parenting programs

By community based SNAICC means more than programs being delivered by a non-government agency to or within a particular community. The challenge as we see it is to develop programs which are based in the culture of a community and are delivered and managed by a community with appropriate support and assistance. The cultural base of programs is critical as it asserts that Aboriginal cultures have something positive to offer and that this should have primacy in constructing responses to these issues. It reinforces the message that communities can do something to prevent abuse, heal the abuse and reform the perpetrators and that their Indigenous culture is a key tool at their disposal.

Cultural healing and support programs

Our view is that the ongoing impact of trauma and grief within many Aboriginal families remains not only a significant drain on the health and well being of individual Aboriginal people but on the stability and functioning of family networks and communities. The evidence SNAICC cited earlier from the WA Child Health Survey provides a clear indication of the disproportionate burden of mental health problems carried by Aboriginal people who were separated from their own families when they were children.

This evidence supports the need to assist families to deal with unresolved trauma through systematic programs and support.

SNAICC favours healing programs that are based on traditional Aboriginal approaches to healing rather than programs based entirely on western medical models. An advantage of Aboriginal healing programs is that they draw on traditional practices reinforcing the principle that Aboriginal communities themselves can and must take up the challenge of protecting children and caring for the victims of abuse, neglect and violence.

Support programs should extend to include therapeutic responses to victims of abuse and violence and in particular target children at risk of repeating the abuse they have suffered or witnessed in their relationships with other children and young people.

Cultural Revival and Parenting Programs

Equally there is a need to develop and fund community based cultural revival and parenting programs which assert the proper place of children in Aboriginal culture. All families need some access to parenting programs that draw from the best of traditional Aboriginal child rearing practices and western knowledge and traditions. Families are raising children in

circumstances within which children face much higher levels of risk than was the case in traditional communities. Parenting programs, formal and informal, must respond to the contemporary challenges faced by Aboriginal families in raising their children. In doing so they should assert the importance of culture to reinforce the message that Aboriginal families do have the capacity to parent their children.

A danger of formal parenting programs based purely western cultural models of child rearing is that they can reinforce a message that Aboriginal families and communities have no valid knowledge in relation to parenting. This only serves to diminish the confidence and capacity of families.

In summary then SNAICC recommends a long term community based engagement, education and awareness program with three distinct elements focused on:

- child abuse and neglect, education and awareness and prevention
- community healing and support programs
- cultural revival and parenting programs

Program administration

In relation to how such a program might be coordinated or administered across the Northern Territory SNAICC recommends that consideration be given to alternatives to administration by and from the Department of Health and Community Services.

A more effective model could be for the government to fund an existing non-government body or consortium on a long term basis to develop and deliver community based programs covering the three elements listed above. Another option would be to establish a trust fund administered by a board with high level Aboriginal representation with a significant injection of capital from government. The trust could have the specific purpose of establishing the community based programs on all three elements.

SNAICC believes that the development of the programs will require a high level of input from communities and from across a broad range of knowledge areas and disciplines including early childhood development; trauma, grief and loss, child abuse prevention; social capital and capacity building; mental health and public education, communication and awareness. Government may not be the best place from which to develop community based programs of this complexity.

Recommendation Four: Community based education, healing and parenting programs

4a. That the Northern Territory Government fund long-term **community based education, healing and parenting programs** which are conceived and implemented in partnership with Aboriginal communities.

4b. That these programs focus on the following three elements:

- child abuse and neglect, education and awareness and prevention
- community healing and support programs
- cultural revival and parenting programs

4c. That consideration be given to these programs being developed and administered through an existing non-government agency, consortium or Aboriginal trust or foundation established for this purpose.

Implementation of recommendations from *State of Denial*

There are a number of recommendations from *State of Denial* that SNAICC believes simply need to be re-stated and implemented in the form they were originally published in 2003. Specifically recommendations seven to thirteen.

Recommendation Five: Implement recommendations from *State of Denial*

That the Northern Territory government proceed with implementation of recommendations seven to thirteen from *State of Denial: The Neglect and Abuse of Indigenous children in the Northern Territory*.

RECOMMENDATION SEVEN: Developing a needs based approach to child welfare

That the Northern Territory Government support the long term development of broad, community based and universally accessible family support and child welfare services which recognise parenting as a societal obligation and focus on the holistic needs of children.

RECOMMENDATION EIGHT: Focus on child neglect

That the Northern Territory Government consult and negotiate with Indigenous agencies and communities around the need and appropriateness of developing separate child welfare interventions and support systems for child neglect as distinct from child abuse.

RECOMMENDATION NINE: Expand Indigenous family support services

That the Northern Territory Government develop and fund a network of Indigenous family support services and programs which are universally accessible and focussed on primary prevention of family conflict, breakdown, family violence, child abuse and child neglect.

RECOMMENDATION TEN: Child welfare reform funding package

10a. That the Northern Territory Government develop a child welfare reform funding package in consultation with Indigenous agencies and communities of not less than \$20 million per annum with elements directed towards:

- community education, training and professional development
- establishment of additional Indigenous community based child and family welfare services
- resourcing Indigenous community based child protection teams, as provided for under the 1983 Community Welfare Act, to work from within communities on the prevention of child abuse
- supporting the long term development of Indigenous community based child and family welfare services
- establishing effective foster care programs for all Indigenous communities in the Northern Territory, and
- providing additional support for the recruitment, training, financial assistance, support and supervision of foster carers with the care of Indigenous children

10b. That the majority of the child welfare reform funding package be directed towards development and support of community based Indigenous child and family welfare services and programs.

10c. That the Northern Territory Government seek Commonwealth assistance with the establishment of a funding package for child welfare reform given the direct responsibility of the Commonwealth Government for past practices of child removal and their ongoing

role to support the welfare of all children and families, particularly in the areas of family support and early intervention.

RECOMMENDATION ELEVEN: Indigenous child welfare policy statement

That the Northern Territory Government develop a Indigenous child welfare policy statement in partnership with Indigenous communities which:

- recognises the ongoing impact of past practices of child removal in the Northern Territory
- outlines support for ecological, holistic and community based approaches to child welfare,
- clearly states the objectives of child welfare policy including prevention of family breakdown, family violence, child abuse and child neglect and child removal, and
- supports the establishment of national standards legislation for Indigenous child welfare as recommended by the *Bringing Them Home* report.

RECOMMENDATION TWELVE: Long term planning

That the Northern Territory Government establish planning mechanisms to ensure that all portfolio areas of government take account of the high proportion of children and young people within the Indigenous population, including by allocating additional funding to cater for the increasing number of Indigenous children and young people.

RECOMMENDATION THIRTEEN: National Reforms

That the Northern Territory Government use its membership of the Council of Australian Governments, the Community Services Ministerial Council and other inter governmental forums to seek national support for:

- a national policy framework for Indigenous child welfare under pinned by support for ecological, holistic and community based approaches to child welfare with the objective of preventing child abuse and neglect and child removal
- the establishment of national standards legislation for Indigenous child welfare as recommended by the *Bringing Them Home* report

Conclusion

Aboriginal children in the Northern Territory remain at significantly higher risk of harm from all forms of abuse and neglect compared to other Australian children. This is everyone's business and all parts of the Australian community bear some responsibility to resolve the issues under discussion.

The personal, social and economic costs of abuse to children, their families and communities are immense. The economic costs to governments and the broader community are no less immense. In the area of child protection and alternative care the Departmental budget costs are escalating at unsustainable rates as it costs far more to keep a child in out-of-home care than to keep them at home.

Child abuse and neglect are not unique to Aboriginal communities nor are they related to Aboriginal culture. They stem from underlying issues including poverty, dispossession, substance misuse and unresolved trauma. These issues can tear at the stability and fabric of any community but Aboriginal communities continue to carry an unfair burden of these national social, political and economic problems.

SNAICC remains hopeful that the Northern Territory government will have the will and capacity to develop a response to the sexual abuse of Aboriginal children with the breadth and scale to make a significant difference. We have been encouraged by the original decision to create the inquiry and believe that there has been a genuine shift within the Northern Territory Government at Departmental and Ministerial level to find solutions to these issues. We remain committed to working with the Northern Territory government and Aboriginal communities to do so.

The Federal government must also play its part. With responsibility for areas such as Aboriginal housing, children's services, family violence programs, income support and employment assistance its capacity to do more to assist children significant. It's time it did.

In developing recommendations for the advice of governments, Territory and Commonwealth, we would encourage the board of inquiry to be ambitious and brave. There is no need to compromise on what needs to be done - only a danger doing so.

Attachment one: Background on SNAICC

SNAICC was formally established in 1981 after Aboriginal and Torres Strait Islander people at, “The First Aboriginal Child Survival Seminar” held in Melbourne in 1979 proposed the creation of such a body. The organisation elected its first national executive in 1982 and opened its office after first receiving Federal Government funding support in 1983.

The first Aboriginal and Islander Child Care Agencies, AICCAs, SNAICC’s founding members, developed following a study trip to the United States by the late (Auntie) Mollie Dyer from the Victorian Aboriginal Legal Service.

Inspired by the success of Native Americans in reducing the rate of child removal , and in particular the Yakima Indian Nation, Mollie returned to Australia to establish the Victorian Aboriginal Child Care Agency, VACCA. Soon afterwards the NSW Aboriginal Children’s Service was formed in Redfern and South Australia AICCA in Adelaide with these new bodies becoming a model and source of inspiration for the establishment of similar agencies across Australia.

SNAICC now operates from a membership base of Aboriginal and Torres Strait Islander community based child care agencies, Multi-functional Aboriginal Children’s Services, family support services, foster care agencies, link up and family reunification services, family group homes, community groups and voluntary associations, long day care child care services, pre schools, early childhood education services and services for young people at risk.

In addition to these members SNAICC has a network and subscriber list of over 1400 community groups, mostly Aboriginal and Torres Strait Islander, but also significant numbers of non-Indigenous community based services and individuals with an interest in Aboriginal and Torres Strait Islander families and children.

SNAICC is governed by a national executive of Aboriginal and Torres Strait Islander people drawn from our members and operates from an office located in Melbourne with thirteen staff.

Some recent and typical activities.

Key milestones in SNAICC's commitment to serving the interests of Aboriginal and Torres Strait Islander children and families have included:

- Bringing to national prominence the story of the ‘Stolen Generations’ when in 1991 SNAICC was the first national Indigenous organisation to call for a national inquiry into the ‘Stolen Generations’
- Production of "Through Black Eyes - Family Violence Resource Handbook" in 1991 and 1992
- Development of National Aboriginal and Islander Children’s Day, NAICD, (August 4th each year), as a major annual event celebrated by communities throughout Australia.

- Representing the rights and needs of Aboriginal and Torres Strait Islander children to the United Nations Working Group on Indigenous Populations in 1998 and 2000
- Research and production of the 'Proposed Plan of Action for Child Abuse and Neglect in Aboriginal Communities' in 1996
- Convening the second National Aboriginal and Torres Strait Islander Child Survival conference in June 1997.
- Publication in 2002 of 'Through Young Black Eyes' a national resource booklet and community elders guide responding to issues of family violence and child abuse in Aboriginal and Torres Strait Islander communities. (updated in 2005);
- Convening a major national seminar with the Commonwealth, ATSIC and the Victorian Government in 2003, Our Future Generations – The National Indigenous Child Welfare & Development Seminar.
- Research and publication of a paper on child abuse and neglect in the Northern Territory, *State of Denial* – the Neglect and Abuse of Indigenous Children in the Northern Territory
- Publication of 30 early childhood case studies from Indigenous communities across Australia to highlight the positive work of Indigenous family and children's services.
- Establishment in 2004 of the SNAICC Resource Service which facilitates, funds and supports the development of resources for Aboriginal and Torres Strait early childhood and child and family welfare agencies.

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