A Trauma-Focused Review of the Australian Child Protection Systems

Kristie DeLuca, Bachelor of Criminology
Master of Arts by Research
College of Arts, Social Sciences and Commerce.
School of Humanities and Social Sciences
La Trobe University, Victoria, Australia
August 2021

Table of Contents

Abstract

This thesis analyses the need for a unified approach to Child Protection in Australia, to ensure that no children fall through the system's cracks due to bureaucracy and policy inconsistencies across states/territories. The analysis is conducted by utilising The United Nations Convention of the Rights of the Child (1989) (UNCRC) and the UNCRC Committees recommendations to examine whether Australia has met these standards which Australia have agreed to under the UNCRC. The tentative conclusion is that Australia has breached the principles outlined by the UNCRC, due to not implementing a national framework and subsequently a federal legislation that allows for of consistent definitions and practice models at a domestic level. Despite multiple recommendations across many years, Australia operates with eight different Child Protection bodies rather than one nationally consistent, fair, and cohesive system. Secondly, it needs an established child-focused, trauma informed practice at the forefront of decision making. Finally, Australia lacks a national data collection approach that could assist in evidence-based policymaking. This thesis provides a snapshot of the current Australian Child Protection Systems, including policies and procedures that highlight the similarities and differences across each states/territories approach. The thesis proposes that the Australian Child Protection System should enact a unified approach to addressing child abuse, including federal legislation that is trauma informed, in order to ensure that the system reflects an understanding of the consequences of trauma on children, addressing their needs and reducing the re-notification of clients. Lastly, the thesis reflects on the difficulties Australia has in accurately measuring the current systems' effectiveness as there are significant gaps in data reporting due to inconsistent data collection methods across Australia.

Statement of Authorship

Except where reference is made in the text of the thesis, this thesis contains no material published elsewhere or extracted in whole or in part from a thesis accepted for the award of any other degree or diploma. No other person's work has been used without due acknowledgment in the main text of the thesis. This thesis has not been submitted for the award of any degree or diploma in any other tertiary institution.

Kristie De Luca 18 August 2021

Content Warning

The following report contains material, graphic descriptions of or extensive discussion of child abuse, including sexual abuse, and descriptions exceptionally lengthy or psychologically realistic ones, of someone suffering abuse that may be harmful or traumatising to some readers.

Acknowledgement

This work was supported by an Australian Government Research Training Program Scholarship.

This work was supported by a La Trobe University Postgraduate Research Scholarship.

Introduction

Australia is set up as a Federation of states/territories where each has responsibilities for their populations' health and welfare issues. Federalism can be defined as "constitutionally protected division of powers between two levels of government, is thought to make a difference to policy making including by enhancing opportunities for policy innovation" (Chappell & Curtin 2013). Federalism can support innovation by "decentralized experimentation, mutual learning, and competition" (Kerber & Eckardt 2007) in which meso-level governments operate as labourers, experimenting with policies that can be reflected across jurisdictions as well as learnings around polices. This study will examine each individual legislation that protects children and supports the framework of each Child Protection System. Based on an analysis of a range of data sources, documents and academic works, this study argues that the Child Protection Systems across the nation vary significantly across jurisdictions, creating difficulty with data collection and causing confusing and inconsistent policies. The analysis demonstrates that regardless of increased resources at their disposal, current government bodies fail to improve living conditions for Australian children. Trauma-focused policies that address the root causes of abuse and neglect are ignored, favouring a crisis-driven ad hoc style operation. This thesis will advocate for a federalised system, a national trauma informed approach and a change of future policies concerning national data collection to enhance Child Protection assessments. This will improve outcomes for the children within the Child Protection Systems.

This thesis draws a upon a mixture of primary and secondary sources to critically evaluate and reflect on the current Australian Child Protection Systems. It draws from primary sources such as original submissions to the Joint Standing Committee on Treaties (JSCOT) inquiry 'United Nations Convention of the Rights of the Child' 1998 (described in Chapter Five) and data collection from each Child Protection Systems. I hope that this work is a critical step in developing a broader research project that assesses the views of Child Protection practitioners and critically explores the current system to provide a solution to the issues found within this thesis.

Through working in the Child Protection System and seeing firsthand the pitfalls of the disjointed and non-collaborative framework Australian Child Protection has to offer, I began questioning the process and started reading literature that resonated with my experiences. The research highlighted the limitations of the current Australian Child Protection Systems, most notably the lack of a unified system and its inability to provide trauma informed care.

This thesis will be broken down into six chapters with each chapter depicting the following:

Chapter One: *Diagnosing the Problem* identifies a case study, *Boy X*, that illustrates the difficulty with individual legislations and inconsistent court orders has on practice on the ground. Secondly, this chapter will address the aim and methodology of the research in determining the barriers of the current Child Protection Systems' ability to ensure children's safety and wellbeing effectively and measure the impact of the obstacles on the system's effectiveness. Thirdly, a scoping exercise is undertaken to demonstrate a gap within the existing body of literature concerning current information and statistics about Child Protection. Further, it critically explores literature that discusses a need for a national framework to ensure the safety of children. Finally, a critical perspective is taken on reformist and abolitionist theory, acknowledging the Indigenous perspective on Australian Child Protections' role in institutional racism, structural racism, and violence. Chapter One aims to paint an overview of the problems this thesis is trying to address by describing the difficulties that arise because of the operation of separate systems. It also gives an example in the form of a case study, providing the reader with a clear understanding of the problem before delving into how it came about and how to resolve it.

Chapter Two: *An Evaluation of the Current Child Protection Framework* explores a range of issues that have been identified throughout the evaluation of the current system. This chapter initially examines the history of Child Protection in Australia and the system's adaptability to widening social constructions and definitions of abuse. It will then discuss how the globalisation of family social constructs raises conflicting issues when there is no unified legislation throughout Australia, permitting multiple meanings on abuse and neglect, allowing children to 'fall through the cracks' due to bureaucratic and policy inconsistencies. Secondly, the chapter examines the current Australian Child Protection framework in its entirety to identify its limitations. These limitations include: inconsistent legislation across the nation, inefficient allocation of funding, an overall recorded increase in Child Protection reports, and the impact not addressing a child's trauma have on that child re-entering the system. Thirdly, there will be an analysis of government funding and Child Protection notification rates, showing how such rates increase whilst children's safety and wellbeing remain sidelined. Finally, this chapter questions the system's shortcomings, highlighting a lack of therapeutic care, despite significant research (e.g. Felitti et al. 1998), indicating that traumatic events can have lasting adverse effects on the health and wellbeing of an individual. This allows the following chapters to explore each of these limitations and provide recommendations, such as a critical analysis of each states/territories legislation and discussions of trauma informed practice to reduce Child Protection reports and re-notification rates. The purpose of Chapter Two is to provide the reader with a detailed

unpacking of the elements of the system that are causing failure; with this understanding, we can then move onto how to potentially remedy the problems.

Chapter Three: *A Critical Analysis of the Current Child Protection Legislation Australian Wide* applies a critical examination of the inconsistency in frameworks across the states/territories and the impact on the effectiveness of the Child Protection Systems. To perform a critical analysis of the current Child Protection legislations, each Child Protection Systems' legislation was collated and separated into essential indicators such as 'actions or outcomes', 'the definition of harm' and 'the definition of at risk' (refer to Appendix Three to observe the table). This chapter firstly breaks down the initial indicator of 'actions and outcomes', with subcategories: Abandonment, Emotional and Psychological harm/abuse, Neglect, Physical injury/abuse, Sexual abuse, Abuse and Family/Domestic Violence, and places each state/territory within the subcategory that they determine as a requirement for statutory intervention. It is observed that there are significant inconsistencies throughout each state/territory's indicators, demonstrating that an 'at risk' child in one state/territory may require statutory intervention. However, due to the wording of the legislation in another state/territory, this child may not be deemed 'at risk'. Secondly, the definition of 'harm' is explored, identifying six states/territories that include a definition yet are all different. However, two states (Victoria and Tasmania) do not define harm even though the terminology of harm is used within their legislations. This can be problematic as ambiguity in terms allows for interpretation, while it is to be noted that legislation must always be 'interpreted' the problem lays with the possibility of differing interpretations. This is demonstrated in the case study, *Mason Jet Lee*, exploring how inconsistencies within definitions of harm can lead to a child's death. Thirdly, the definition of 'at risk' is explored, identifying four states/territories that define 'at risk' whilst the remaining four provide no definition. Here, I reflect on the vagueness within the legislation and the implications this has on protecting children, and the consequences on data collection. Finally, I further examine how these inconsistencies' impact on safeguarding children and the system's effectiveness. Like Chapter Two, Chapter Three looks closely at areas of shortcomings in the current system, this time in the specific area of inconsistent legislation. The case study portrays the potentially dire consequences of these inconsistencies, showing the reader another system element that needs to be addressed.

Chapter Four focuses on *Trauma Informed Practice in Child Protection*. The reader might question how this is relevant to the thesis' main argument, that the Australian Child Protection systems should be a national framework. While the thesis has a heavy focus on consistency across jurisdictions, it is also important to not lose sight of the primary function of a Child Protection System – reducing harm to

children. Chapter Four discusses the critical need for trauma informed policy to be included in any Child Protection System remodel. While removing a child is a last resort, it is sometimes inevitable, and therefore the Child Protection process needs to be mindful of the role it plays in a child's trauma. Hence, this thesis explores the need to introduce a trauma informed approach to Child Protection in conjunction with the development of national legislation. Thus, this chapter explores what trauma is and how it affects an individual's brain function. It identifies that children are at a high risk of experiencing Adverse Childhood Experiences (ACEs), which can have a detrimental impact on a child's brain development and function. Secondly, as mentioned above, it discusses the implications that a reactive Child Protection System can have on a child. This further explored through a case study provided by the *Melbourne Coroners Report* concerning *baby 'HB'*. In this case, the five previous reports of harm were not progressed to investigation indicating the view there was no 'crisis' that had occurred. However, there may have been a different outcome for baby 'HB' had a trauma informed model of policy and practice been in place. Finally, I discuss the implementation of trauma informed practice and the advantages this can have for children and families and Child Protection practitioners.

Chapter Five: *Australian Inquiries* applies a critical lens to explore the inquiries that have taken place and their effectiveness. Within the last 25 years, it has become apparent to the Australian public that persistent recommendations to improve the Australian Child Protections Systems provided by inquiries have not been met, subsequently raising questions around inquiries efficiency. This chapter also draws from the Joint Standing Committee on Treaties (JSCOT) and the UNCRC Committees continual repetitious recommendations to demonstrate Australia's clear disregard from inquiries. Chapter Five highlights that these problems have been identified repeatedly, yet no solution has been offered, questioning the effectiveness of current accountability measures, and strengthening the view that a complete overhaul is needed.

Chapter Six: *Towards a Solution* identifies how to restructure the current Child Protection systems via legislative reform, primarily focusing on making Child Protection fall within the Australian Commonwealth jurisdiction to ensure national consistency in protecting children. This thesis sidelines the political and legal implications of a federal system because the concept of Federalism does not fit the scope of this thesis and could be addressed in future work. Secondly, inconsistent legislation must be addressed and ensure that trauma informed practices are incorporated into the new reform to ensure that families' protective concerns and chronic issues are dealt with rather than missed, resulting in families re-entering into the Child Protection Systems. Thirdly, exploring the problems the current systems face with a lack of unified approach, the inconsistent data, and the effect on

policymakers' inability to assess the current systems. Finally, this chapter discovers the need to consolidate all client database systems, ensuring all client information is accessible for practitioners to make appropriate trauma informed, child-focused assessments. After pulling apart the failing areas of the current systems, Chapter Six finally offers a potential solution.

.

Chapter One: Diagnosing the Problem

Chapter One identifies a case study, '*Boy X'*, that demonstrates the individual legislation's impact on Child Protection's practicality of maintaining a child's safety. This chapter will explore the barriers of the current states/territories-based Child Protection Systems' ability to ensure a child's safety and the impact these obstacles have on the system's effectiveness. A scoping exercise of the current literature demonstrates a clear gap concerning current information and statistics about Child Protection. It further identifies the lack of literature that discusses the breaches of the *United Nations Convention of the Rights of the Child* (UNCRC) and minimal discussions related to implementing a national legislation, consistent with the UNCRC recommendations. While there is previous research in the field there has been less scholarship on the topic in the last ten years, and particularly focusing on the specific issues addressed in this thesis. Finally, this chapter applies a critical lens towards the reformist and abolitionist theory to acknowledge the Indigenous perspective on the Australian Child Protection's role in institution racism, structural racism, and violence.

All children have the right to feel loved and supported. Most importantly, children have the right to be safe to receive the support that will enable them to succeed in life. Unfortunately, not all children have this opportunity. Australia ratified the most important human rights treaty on children's rights, the UNCRC in 1990, to ensure that all children are safe and further "ensured that governments are accountable for how well the rights recognised in the Convention are realised in practice" (Alston 1991, pp.11). The UNCRC articulates in Article 4 that "governments must do all they can to ensure every child can enjoy their rights by creating systems and passing laws that promote a protect children rights" (UNCRC 1989). Additionally, in Article 19 "governments should ensure that children are properly cared for and protect them from violence, abuse and neglect by their parents, or anyone else who looks after them" (UNCRC 1989), thus emphasising governments must ensure that there are laws that protect children from abuse, therefore allowing governments to remove children from an environment that is determined by authorities. Furthermore, the UNCRC sets out guiding principles that respect the child's best interest as the primary consideration. These principles include that all decision-making should take into account the child's right to survival and development; that all children have the right to express their views freely on all matters affecting them and finally, that the child has the right to enjoy all the rights that the UNCRC has outlined without discrimination of any kind. The fundamental objective of the treaty is to ensure that children are not treated as objects which belong to their parents; instead, they are human beings and individuals with their rights (UNICEF 2021).

The following case study is given as a hypothetical example based on the author's own practical experience with Child Protection in conjunction with an analysis of the Australian legislation. It indicates a lack of communication across jurisdictions and the difficulty caused by transferring a case between jurisdictions in this instance from Victoria to South Australia. The case study does not pertain to a real case, but rather a collection of common themes/protective concerns usually presented to Child Protection, including issues with transferring cases out of jurisdictions.

Boy X Case Study

Boy X's mother had a history of substance use and was using substances throughout her pregnancy. She attended limited antenatal care, and when she did attend, she was presenting as substance affected. It was reported that Boy X's mother and father presented as substance-affected on their arrival at the hospital for the birth of Boy X. Upon birth, Boy X was removed from his parent's care, and placed with his Maternal Grandmother in South Australia, on an Interim Accommodation Order. Given there were concerns for both the mother and the father's substance use, the Melbourne Children Court's granted a condition for the parents to complete Urine Drug Screens to demonstrate their ability to maintain abstinence and demonstrate meaningful engagement with support services over a period of time. Neither the mother nor the father completed any Urine Drug Screens or communicated and engaged with Child Protection. Despite the father being allowed contact with Boy X three times per week, he failed to attend any contacts. Despite the mother being allowed contact with Boy X five times per week, she also did not attend any contacts. It was assessed by the Child Protection worker that Boy X be placed on a Care by Secretary Order (CBSO, the Secretary of the Department of Health and Human Services (DHHS, Victoria) has parental responsibility for a child under a CBSO, to the exclusion of all others) for 24 months due to the above concerns.

Boy X was granted a CBSO, from the Melbourne Children's Court and remained in the Maternal Grandmothers care. Therefore, Boy X will remain in South Australia with his Maternal Grandparents on a Victorian CBSO. Victorian Child Protection were seeking to transfer the case to South Australia, so that South Australia's Child Protection can case manage this family, as the state in which Boy X is residing in should be managing the case and essentially be his legal guardian rather than another state that he does not reside in.

The Victorian Child Protection Practitioner needed to contact the Victorian Interstate Liaison Officer (ILO) to seek approval of the transfer as the Victorian court orders were not equivalent to orders

made in the South Australia Children's Court. The Victorian ILO then contacted the South Australian ILO to communicate the transfer and equivalent orders in South Australia.

However, in South Australia, they only have a Guardianship Order that would be considered the closest equivalent to a CBSO: An order placing the child/young person, for a specified period not exceeding 12 months, under the Guardianship of Chief Executive (this means a shorter order can be sought – example three months- but cannot exceed 12 months).

A Victorian CBSO has a longevity of two years. Therefore, there was no equivalent order in South Australia (for two years). South Australia would have accepted an order transfer once the two-year order had less than 12 months left (as then it can be transferred to a 12-month Guardianship Order under the type of order listed above). However, this created other potential issues, including a limited timeframe in which to complete the transfer process, i.e. six months or less which under the Protocol, the South Australian Department of Child Protection (DCP) does not need to accept an order transfer request if there is six months or less remaining.

If the DHHS assessment is that long-term orders are required for the child, it would be South Australia's DCP's preference and request for DHHS to seek a long-term order to secure the care arrangements for the child, and then transfer the long-term order to South Australia. Therefore, the onus is not on DCP to apply for long term orders if the DHHS case plan is non-reunification. DCP are not automatically able to use long term orders based upon a two-year CBSO.

Essentially, Boy X's case cannot be transferred to South Australia. A Victorian Child Protection Practitioner has three options:

1. *Wait the year and a half to transfer and hope that the paperwork is completed in five months before the transfer cut-off date.*
2. *Go back to court and ask for a long-term care order, potentially reigniting a court battle with the parents or Magistrate (as the parents are transient and are not located).*
3. *Ask the Maternal Grandmother to go to Family Law Court and battle it out for custody of the child at the risk of financial hardship.*

The disjointed operation highlighted in this case illustrates that the system needs reform at a national level. With a lack of unity across jurisdictions, cases can become engulfed in red tape. The effort required to transfer court orders and chase up information takes up valuable time and resources that

could otherwise be spent on the primary goal of a Child Protection body – minimising harm to children. The recommendations put forward in this thesis aim to streamline these processes, unifying departments and making cases and relevant information easily transferable and accessible. This will allow for more efficient use of resources, a better quality of care, and trauma informed practices to be developed and implemented nationally.

Methodology

This thesis is based on a systematic review of legislation and data collected, to determine the level of inconsistencies in the current Australian Child Protection's legislation and the impact on the system's ability to keep children safe. The 32 inquiries from 1997 to 2011 raised concerns about a lack of communication, inter-agency coordination, a lack of national consistency, and unity within the Australian Child Protection Systems (Bromfield & Higgins 2005). The research aims to determine the barriers of the current states/territories-based Child Protection Systems' ability to effectively ensure children's safety and wellbeing and measure the impact of the obstacles on the system's effectiveness. The impact these inconsistencies have on data collection provides negative repercussions concerning policymakers to include trauma informed policies. These inconsistencies also provide significant consequences to the court system. The research will highlight the current legislation's inconsistencies and the impact on the system's ability to be effective (trauma informed). The study also seeks to acknowledge the persistent breach of a *UNCRC* and identify why this breach has continued for nearly 30 years.

The review was guided by the following question: *Is there a need for nationally consistent Child Protection legislation?* A 2005 report titled: 'National Comparison of Child Protection Systems' written by Leah Bromfield and Daryl Higgins made me reflect on how a national issue, such as protecting children and ensuring their safety and wellbeing, can fall under states/territories' legislative power. Yet, Family Law Court proceedings fall under the Federal Circuit Court. Why does Child Protection not meet the scope of this court? The report demonstrated a lack of consistency in the Australian Child Protection legislations and its breach of the UNCRC. If Australia has signed the treaty to ensure children's rights, but Australia has been breaching the treaty, what is the direct impact on the children that fall between the system's gaps due to its breaches? This was the ultimate question that I felt needs to be addressed. After further analysis of the report, I found an Australian Government plan to roll out an 'Overarching Framework', which was to be rolled out between 2009 and 2020. The "Evaluation of the National Framework for Protecting Australia's Children 2009-2020" (2020) report identified that the proposed framework was "ambitious in seeking to adopt a shared agenda across

Commonwealth, state and territory governments" (pp. 57). It further noted that there is a need for a "unified approach" as "our separate efforts still fail many children and young people" (pp.75). The report identifies that there is opportunity to "enhance" the governments structure to "better connect", which should support collaboration across the whole service system to reduce child abuse and neglect (pp.63). While the report acknowledges that there is no unified approach, the report cannot provide solutions to the limitations of the current systems. Therefore, it offers no clear plan for an overarching framework to address the legislative inconsistencies. While the reformative framework addressed some issues, it failed to acknowledge the most pressing issue: the non-existent national framework.

As an employee of the Department of Families, Fairness and Housing (DFFH) as a Child Protection Practitioner, I acknowledge that my research could be influenced by my views and perspectives developed as a working professional in this field, and by my particular line of work. As a practitioner-researcher, I need to be aware of the risk of a lack of critical distance, leading to conclusions that lack credibility and validity (Saunders 2007), especially since I might already have a theoretical stance on the project due to assumptions made while working (Drake and Heath 2011; Wellington and Sikes 2006). Practitioner-researchers face limitations but also bring major strengths to the research project, in particular their well-informed expertise and insight into specific topics. In addition, it allows for easy access to field research and a unique position of knowing the issues that arise on a practical level. Throughout this study, I build on these strengths and engage in critical reflection, whilst also being as aware as possible of how my own position may sway different aspects of the project, including the findings and data collection.

Main Argument

This research seeks to explore whether the Australian Child Protection Systems should be reformulated as a national approach run by the Federal Government and how this could be achieved. Under this national approach, there would be one appropriate legislation, a consolidated client database and a unified set of court orders that are enforceable nationwide, just like the Federal Family Law court. A national approach would see a reduction in the duplication of processes from jurisdiction to jurisdiction. Having cohesive court orders recognised nationally, would reduce administrative tasks for practitioners, leaving them focused on trauma informed, therapeutic practice. Additionally, it would also reduce the amount of money that is currently wasted on court fees. A consistent system running at a federal level will allow for consistent practices across the nation, thus ensuring a child's

safety and wellbeing are homogeneous, ultimately no child would 'fall through the cracks' due to legislative disparities.

Throughout this thesis, recommendations are made by reiterating other bodies/individuals that have already argued for a nationally consistent response to protecting children. Additionally, this thesis brings forward some new proposals that have the potential to streamline Child Protection in Australia by encouraging the creation of legislation and policies that provide cohesion to a chaotic system. A detailed review of this nature could provide governments, not-for-profit organisations, and policymakers with knowledge on how the current system operates, its pitfalls, and ways for improvement.

Literature Review- Scoping and Systematic

I conducted a scoping exercise of the current literature to demonstrate whether there is a clear gap concerning current information and statistics about Child Protection. It further seeks to identify the lack of scholarly work that discusses the breaches of the UNCRC and obtains any discussions that relate to incorporating national legislation consistent with the UNCRC recommendations, seeking to identify works that specifically deal with this research exercise's topic and scope. It was evident with this exercise that within 17 years (2002-2019), there has only been one relevant publication. However, in 2014 and 2018, there were two relevant publications. The lack of consistent research in this field creates difficulty finding appropriate data and indicates a clear gap within the literature and thus a need for this thesis.

Scoping Exercise

After discussions with my supervisors, we identified the need for a scoping literature review to analyse literature that explicitly addressed the topic I was researching, as narrowed down and specific as possible. The purpose was to confirm a gap in the literature, which this thesis would address and thus contribute to existing scholarship. On the other hand, it is important to highlight that, through this exercise, the thesis does not mean to exclude key literature regarding different relevant themes. As is evident throughout the thesis, this work aims to engage with a wider range of scholarly sources.

The thesis aims to break down the significant discrepancies with each legislation and the impact on the Australian Child Protection systems' ability to keep children safe. Thus, it was determined that the search terms included "Australian Child Protection Legislation", "Child welfare system OR Child

Protection legislation inconsistencies Australia", "Australian Child Protection legislation inconsistencies", and "Child Protection":

1. It was assessed that the keywords included "Australia", given the thesis discussed Australia's approach to Child Protection.
2. "Child Protection" or "Child welfare System" were assessed as keywords given it was the field this thesis was researching.
3. "Legislation" was a keyword used for the thesis exploring the different Child Protection legislation across Australia.

La Trobe library staff specialised in research support reviewed the outcomes of the scoping literature review and acknowledged that the search document was completed correctly[1]. To carry out this search I used eight databases (APAFT Informit, APO, AIC, Capitol Monitor, EDSCO, Factiva, ProQuest Criminal Justice and ProQuest Social Science Database) during the scoping literature. Firstly, APAFT (Informit): Australian Public Affairs provides indexed and full-text access to journal articles on the social sciences and humanities. Secondly, AGIS Plus Text (Informit): provides comprehensive journal coverage from over one hundred Australian, New Zealand and Pacific law journals. Thirdly, AGIS-ATSIS (Informit): includes material from the Attorney-General's Information Service (AGIS) on aspects of the law that relate to Aboriginal and Torres Strait Islander peoples. Finally, CINCH (Informit): Australian Criminology Database (CINCH) provides indexed articles from published and unpublished material on all aspects of crime and criminal justice. Includes corrections, crime, crime prevention, criminal law, criminology, juvenile justice, law enforcement, police and victims of crime.

For international literature, HeinOnline was searched for legal journals and other legal documents predominantly the U.S., including major international publications and some Australia Law reviews, and good coverage of Human Rights Journals. Additionally, ProQuest Criminal Justice was used as it provides a comprehensive collection of U.S. and international criminal justice journals, including information for professionals in law enforcement, corrections administration, drug enforcement, rehabilitation, family law, and industrial security. Also, ProQuest Social Science provides extensive social science and humanities-related publications coverage. Finally, PsycINFO (Ovid): provides

[1] Additional information about the nature of the support offered may be made available by directly consulting Library Staff. Library Staff noted the scoping study "covered a good range of databases and grey literature sources, the search strategy was clear and logical, and your search has delivered results, but you've reviewed them carefully to reveal that very few (eventually none) covered the specific area that your research will focus on, which to me would indicate a clear gap for your research to fill".

literature on Psychology and related disciplines including psychiatry, nursing and sociology (refer to Appendix One) [2].

For the literature to be included in the study, it needed to meet two criteria. First, it required to present with a standpoint on Australian Commonwealth and states/territories legislation and secondly, a perspective on Australian Child Protection legislation.

The search was also limited to studies published from the year 2000-2020. It was assessed that limiting the timeframe of the publications would allow for recent data to be at the forefront of the review. This assessment was made due to the outcome of the systematic review, which found limited information within the periods 2010-2020 period. It was hypothesised that this could be due to a gap within the literature and government response.

Data Collection and Results

For every paper that meet the inclusion criteria, the following variables were documented: the topic area and the year of publication. The findings of individual research were not included in the summary table, given the purpose of the scoping review was to understand whether there was literature about Child Protection legislation.

In total, across eight databases with four different search terms used, there were 386,142 results. However, upon further review of scrolling through the outcome searches and searching for research that met the inclusion criteria, it was assessed that out of the 386, 142, only 12 research papers were published discussing the Australian Child Protection Legislation. The 12 research papers publication range was between 2002 and 2019.

Discussion

The scoping review described in this paper demonstrated the need for an intersection between the Commonwealth, states/territories legislation in the Child Protection space. There is a gap within the literature concerning current information and statistics about Child Protection and limited research that discusses a need for a national framework to ensure the safety of children. This came as a

[2] I am confident this provided a strong starting point for the thesis, allowing me to identify to what extent there was a need for further research in this topic, and affording key sources that I could use to start developing my work.

concern given that there was a current publication, *The National Framework for Protecting Australia's Children 2009-2020,* which the Council of Australian Government endorsed in April 2009. The Commonwealth supported the plan with a long-term goal to ensure the safety of Australia's children by delivering a reduction in incidents of child abuse. Given the Australian Government has acknowledged the need for a 10-year plan to action with collaborative work, you would believe that within that time, there would be literature discussing the difficulties and limitations that arise, given there are eight separate pieces of Child Protection legislation. What has further become evident within this scoping review is that within the 17 years (2002-2019), there has only been one relevant publication published a year. In the years 2014 and 2018, there are two relevant publications. The lack of consistent national and local research in this field creates difficulty in finding appropriate data.

Systematic Review

A Systematic Review was completed to obtain a broader range of literature that was applicable, such as literature around trauma, trauma informed practices and a reformist and abolitionist perspective. While the Systematic Review was able to provide contextual literature it demonstrated the lack of literature that address the narrowed-down topic the thesis required, thus resulting in then need for a Scoping Literature Exercise to take place.

Trauma

Trauma informed care can be described as understanding and considering the pervasive nature of trauma and promoting environments of healing and recovery, rather than practices and services that may inadvertently re-traumatise (SAMHS 2014). Developing a national approach to the Child Protection Systems is a perfect opportunity to introduce a uniformed trauma informed method in order to reduce the likelihood of a crisis-driven framework and the limitations that come with this approach. To understand the failures of a crisis-driven model, it is crucial to survey the literature on the Australian Child Protection legislation, trauma informed care, and the need for a national database to ensure trauma informed care is practised.

There have been discussions concerning the spread of programs and policies across state/territory governments, specifically focusing on children and their lack of visibility. Therefore, ensuring the impossibility to assess their safety and wellbeing (The United Nations Association of Australia, Submission No. 3 p. S212 as cited in Parliament of Australia 1998, p. 137), and the lack of critical reflection of resources that are allocated to the child welfare program (Defence for Children

International Australia, op cit, p. 11; Ozchild: Children Australia, Supplementary Submission No. 413a, p. S 3408 as cited in Parliament of Australia 1998, p. 137). Several Non-Government Organisations (NGOs), including Ozchild, Youth Affairs Network, Association for the Welfare of Children, Australian Early Childhood Foundation, Family Services Australia, World Vision Australia, Uniting Church, Kids Health Line, UNICEF Australia and National Legal Aid, have commented on the lack of focus on government coordination and have all supplied submissions in support of a national Child Protection System. There has also been a comment on the lack of focus on government coordination and its delivery of policies about children, as concerns have been raised about the "confusion within the Federal bureaucracy" (Defence for Children International Australia, op cit, p.11 as cited in Parliament of Australia 1998, p. 137) and who has responsibility for the implementation of the recommendations of the UNCRC. The Australian Reform Commission believes that divided responsibilities across Australia at the domestic level under the current Federal system have led to "inadequate, incomplete and inappropriate outcomes for families and children" (Australian Law Reform Commission, Submission No. 382, p.S21551 as cited in Parliament of Australia 1998, p. 138). Additionally, the Child Health Council of South Australia has commented that differences within the states/territories welfare legislation are causing inconveniences, confusion, and distress on families (Child Health Council of South Australia, Supplementary Submission No. 151a, p.S1004 as cited in Parliament of Australia 1998, p. 138). It is important to note that NGOs that work to protect children are concerned with the lack of coordination between the pieces of legislation and agree with the thesis's main argument.

Historically, many proposals have raised concerns about the inconsistencies and procedures across the Australian Child Protection Systems. Specifically, the Child Health Council emphasised that the divide in the current Australian system provides an unacceptable risk to children, but also that the Commonwealth Government should uniform the Child Protection and Youth Justice systems throughout Australia (Hanshin, Transcript of Evidence 4 July 1997, p.711 as cited in Parliament of Australia 1998, p.141). Additionally, The Australian Youth Policy 1993 recognised the need to coordinate policy across government agencies to address the needs of children (National Children's and Youth Law Centre, Supplementary Submission No. 321a, p.s2777 as cited in Parliament of Australia 1998, p.138).

Moreover, it has been identified that the development of a unified national approach would allow for the opportunity to review roles and responsibilities of stakeholders but also have the ability to highlight the inconsistencies within the jurisdictions (Department of Health and Family Services, Submission No 137, p. s871 as cited in Parliament of Australia 1998, p.141). It was suggested that a

nationally consistent framework would allow for consistent national standards that will prevent the states/territories from having legislative control (Fitzgerald, Submission no. 562, p. 2980 as cited in Parliament of Australia 1998, p.141).

The Australian Federal Government has been made aware of the problems that a series of individual non-cohesive states/territories Child Protection legislation can cause. As a result, the Federal Government released a plan to roll out a 'National Framework' in 2009, claiming it "represents the highest level of collaboration between the Commonwealth, state/territory governments and NGO's", and aiming to "deliver a substantial and sustained reduction in levels of child abuse and neglect over time" (Department of Social Services 2009 pp.11). The 'National Framework' was implemented to share a plan across all states/territories, bringing them together to achieve a common goal. However, there was no proposed Federal legislation for consistency across all jurisdictions, and secondly, there has been no reduction in levels of abuse. Therefore, no 'National Framework' ever resulted, and they failed to achieve their goal.

On the other hand, there has also been increasing awareness about the need for a trauma-focused approach to Child Protection. For instance, the social work community recognises that a movement towards trauma informed, proactive early intervention policies is desirable. In 2014, the Australian Association of Social Workers (AASW) released a discussion paper seeking feedback on possible reforms to NSW policy regarding Child Protection. The proposed changes include proactive preventative suggestions such as orders requiring parents to attend parenting capacity-building or education courses and creating a 'child-focused system that considers factors affecting each child (Hunter and Price-Robertson 2014). The paper also proposes incorporating education, therapeutic services, and rehabilitation sentencing options instead of fines, which can further hardship already struggling families.

Trauma can have long-standing effects on a child's development (Murphy et al. 2017) and affect a child's impulsivity, relationship, attachment, logic, and reasoning (Felitti et al. 1998). Although trauma is individual, it can vary between emotional and behavioural reactions/ responses to adverse events. Generally, the more Adverse Childhood Experiences (ACEs), the more likely that trauma will negatively impact a child's development (Anda et al. 2006). Children and families that work with the child welfare system are vulnerable families and often have extensive trauma histories (Murphy et al. 2017). Moreover, the child welfare system is problematic for children with trauma. The system can re-

traumatise the child by removing them from their primary caregiver (even though the parent may be abusive) and place them essentially with strangers.

Additionally, while Child Protection Practitioners are trained to interview children, the interview processes can negatively impact the child. Therefore, the system itself is traumatising within its essence. If the child welfare system is not trauma informed or child-focused, experiences for a child such as placement changes, school transfers, and interviewing children will have profound and long-lasting impacts on the child. The child welfare system has not always incorporated a trauma informed response when working with families and children, thus resulting in heightened behaviours such as emotional and behavioural dysregulation (Brown et al. 2013). The child welfare systems inability to identify and address children's trauma histories can inadvertently exacerbate symptoms, trigger trauma memories, and further traumatise the child (Child Welfare Information Gateway 2015; Donisch et al. 2016). Therefore, the need for the child welfare system to become more trauma informed is essential (Bartlett et al. 2016; Lang et al. 2016; Kerns et al. 2016).

As mentioned above, ACEs/ trauma have a profound effect on a child's brain development. Thus, there is a need to understand Perry's (2009) Neurosequential Model. This Neurodevelopmental model identified a link between psychosis and over-reactivity to the stress of the hypothalamic-pituitary-adrenal axis. Perry's theory (2017) indicated that children could be subject to trauma in utero, demonstrating that the individual brain does not stop processing the incoming signal from our senses. Our brain processes these signals and stores them accordingly. These incoming signals can become so ingrained that your brain essentially begins to ignore them. Therefore, an individual or, in this case, a child forms a tolerance or 'habituation' to these signals (Perry & Szalavitz 2017 pp. 46). Thus, the child develops a tolerance to stressor signals such as exposure to family violence, parental substance use or even exposure to parental mental health, leading the child to be placed in a hyperarousal state. Because the developing brain organises and internalises new information based on use, the more a child is in a state of hyperarousal, the more likely the child will have neuropsychiatric symptoms, thus leading to trauma and result in significant consequences on a child's brain development, further discussed in Chapter Four. It is essential to keep this in mind while reading this thesis as it brings to the fore the significant impact trauma has on the brain. Should the current Australian Child Protection systems fail to address a child's trauma, it will profoundly affect a child's life moving forward. Bromfield and Holzer (2008) also believe that families and children who experience complex needs such as trauma, require "a whole-of-government approach" in targeted working relationships between Child Protection and different government agencies (family support services). Perry,

Bromfield and Holzer all agree that having a systematic whole-government approach allows for multi-agency and multilateral department initiatives to protect children, therefore becoming more trauma informed in practice and providing vulnerable children with a collaborative, holistic approach addressing protective concerns. Thus, attempting to mitigate a child's form of tolerance to stressors and the long-term impact on that individual. It is essential that when addressing the disjointed system and creating a national framework, we concurrently include trauma informed practices.

Reformist and Abolitionist Perspectives

In addition, this thesis would like to acknowledge critical perspectives that are key to addressing these problems in the future: the reformist and the abolitionist views. Discussing the abolitionist and Indigenous perspectives acknowledges institutional racism is central to the conception and exercise of state power. Moreover, the Child Protection System is a significant vehicle for structural racism and the violence that accompanies it (Hyslop & Keddell 2018; Young 2008).

The abolitionist movement began alongside the anti-slavery movement. The history of the inception of the Child Protection Systems had a heavy involvement in policies between 1910 and the 1970s that "left a legacy of trauma and loss that continues to affect Indigenous communities, families and individuals today" (Australians Together 2021). Therefore, it can be argued that the system at its roots has been created for families to adhere to white social norms. Today it focuses on the protection of children and ensuring their safety and wellbeing. However, given the current aspects of the system, it can be seen as punitive, disruptive and a sense of surveillance. Abolitionists believe we should not be trying to reform the system built with racist, broken foundations, but instead, collapse the current system altogether and rebuild from the ground up (upEND) (Dettlaff et al. 2020).

We cannot talk about moving forward and reforming a system without going back and acknowledging the past. Australia's First Nations people experienced colonisation and the disempowerment of their rights inflicted through a series of culturally inappropriate impositions and policy arrangements (protection, assimilation, and integration) (Bamblett & Lewis 2007, pp.44). Assimilation policies saw the disempowerment of the First Nations people through the removal of Indigenous children from their families. This phenomenon is known as 'The Stolen Generation' (Australian Human Rights Commission 1997). It is estimated that tens of thousands of children were removed from their families and raised in institutions and foster families that were non-indigenous (Australian Human Rights Commission 1997, pp. 28). The removal of these children was deemed in "their best interests"; however, the children's 'best interest' can be contentious given these removals led to separation and

alienation (Australian Human Rights Commission 1997, pp. 95). While this is the historical component of the Australian Child Protection Systems, it still is essential in today's context. Indigenous families remain disproportionately represented in the current Australian Child Protection Systems; the reasons for this are complex (Bamblett & Lewis 2007, pp.45). We need to acknowledge that Child Protection is based on individualist concepts of child welfare – which is different to that of Indigenous culture – and the impact colonial culture has on family dysfunction. The term 'the best interest of the child' is set out in the UNCRC, articulating that the child's best interests are a primary consideration in all actions concerning children. More specifically, concerning Child Protection and Custody under Article 9, the UNCRC states that "State parties shall ensure that a child shall not be separated from [their] parents against their will, except when competent authorities subject to judicial review determine… such separation is necessary for the best interests of the child". The concept of the 'best interests of the child' is evident in the *Child, Youth and Families Act 2005* (Vic), which states that "the child must always be paramount", and the *Children and Young Persons (Care and Protection) Act 1998* (NSW), which states that "the paramount consideration in the provision of children's services id the best interest of children". However, in the context of the Aboriginal child and family welfare sector, the term 'best interests of the child' has historically underpinned the removal of thousands of Aboriginal and Torres Strait Islander children from their families based on their race (Bamblett & Lewis 2006). For example, under the 'best interest' principle, acts of colonisation were carried out through policies and practises that resulted in the forcible removal of 10 to 30 per cent of Aboriginal children between 1919 and 1970 (Long & Sephton 2001, pp. 97). The Australian Government used the 'best interest' principle to remove children from their families, to subsequently assimilate them into 'white' societies, due to the interpretation of the legislation based on the decision-maker's values. The interpretation of the 'best interest' principles brings up criticism around the practice's ability to legitimise cultural bias. Allowing decision-makers, who are normally from the dominant culture, to impose family values that could be inconsistent with those of the minority culture (Ralph 1998, pp.140), reinforces the systemic problems derived from colonialism that are embedded in the Child Protection Systems.

Redleaf (2018) draws attention to the inequalities and inconsistencies that are present in the Child Protection Systems by emphasising racial disparities, bureaucracy, and policy inconsistencies. Abolitionist scholars contend that the current approach to protecting children is insufficient. Further literature from Clifford and Silver-Greenberg (2017) characterises the current Child Protection Systems as overly punitive. This is indicated by the fact that any deviation from either of the mandates and court orders, even directions that can be unclear and confusing, is viewed as non-compliance. Such

deviation can then be presented as evidence towards the court concerning parents lack of the capacity to addressing the protective concerns. Researchers who react to current gaps within the Child Protection Systems have a reformist approach to addressing the system's limitations. In an abolitionist view, reformists focus on developing a wider-reaching welfare service and limiting the number of children that are relocated (Williams 2020, p.8). Williams (2020, p.9) further believes that reformists deem strengthening the system a "be-all and end-all" solution to addressing injustice. Williams (2020) additionally draws similarity between a reformist approach to the prison system as a "rehabilitative" approach. Meiners (2011) believes that "the prevailing contemporary carceral logic recycles the false notion that safety can be achieved through essentially more of the same: more guards, fences, surveillance, suspensions, punishment, etc. [...] We must reclaim definitions of safety". Meiners (2011) draws from a Foucauldian approach to surveillance and how the welfare state uses surveillance as a function to examine and monitor their clients. Fong's (2019) research worked with low-socioeconomic mothers and their experience with the Child Protection Systems and the surveillance state. The interviews concluded that the mother maintained "compliance under authorities' gaze" (Foucault 1977 & Fong 2019).

While the current Child Protection Systems identify themselves as a vehicle for child's safety, the system's functionality operates as a penal system, like the police force. The similarity is presented in that the police force, much like Child Protection, monitors and punishes families in their lack of compliance rather than taking a collaborative approach to address the protective concerns with supporting services. Applying an abolitionist methodology to address the inconsistencies within the Child Protection Systems is a long-term method, given the system is entrenched with bureaucracy. An abolitionist approach focuses on eliminating the current system and creating an entirely new means of protecting children rather than the reformist view of addressing/fixing small functions of an already dysfunctional system. Therefore, it is believed that the collapse of the Child Protection Systems and the beginning of a new non-dysfunctional system is the most appropriate way forward. Williams (2020) advises that initially, society must rid of the inaccurate concepts of "child welfare system" and "Child Protection System" due to the concern that the current system does not "generate children's welfare or protection" or that it paints the system as an intervening body to "shield" children from harm. However, Williams (2020) believes that intervention, often the removal of the child, is harmful. This is especially the case for the children of The Stolen Generation. The current system is described as disruptive in the short (removing children and then quickly returning) and in the long term (removal of children into the foster care system). Therefore, a possible name change to "family regulation system" would be fitting.

Abolishing the current Child Protection Systems would seek to address the harm and trauma that families and communities endure through invasive interventions. Dettlaff et al. (2020 pp. 255) outlined that removing children from their parents can cause lifelong trauma. He states that "trauma associated with separation has been shown to result in cognitive delays, depression, increased aggression, behavioural problems, poor educational achievement, and other harmful outcomes" (Dettlaff et al. 2020 pp. 255). The abolition process of the current system does not wish to abandon the protection of children. Instead, it seeks to develop a new way of protecting and supporting families that would involve collapsing the current system's punitive, coercive, and surveillance aspects. This could be achieved by erecting a system that recognises the support families need and maintains supportive communities. Currently, in the United States of America, there is a new social movement, "upEND", which seeks to "end the current child welfare system through the creation of new, anti-racist structures and practices to keep children safe and protected in their homes" (Centre for the Study of Social Policy 2021). Successful features of this system could be used to help reform the new Australian system.

Overall, the abolitionist theory is in stark contrast to the reformist approach, especially in relation to how the Child Protection System should move forward. While both identify and acknowledge that the current system has pitfalls, the abolitionists believe that the system's collapse and starting a new one is the most appropriate approach moving forward. However, reformists believe and identify that to move forward is one step at a time, approaching each dysfunctional aspect of the system. This thesis takes a reformist approach to address the limitations of the current system. However, the reader should acknowledge that the author agrees with many of the abolitionist principles, as significant changes need to be made, and the improved system must make careful considerations to be culturally sensitive and move away from racist roots. The thesis acknowledges that the new system will be vastly different after a series of carefully sequenced changes. On an operational level, a complete abolishment of the whole system, starting again, is not practical. Each shortfall needs to be addressed while operations are maintained; a shutdown of the Child Protection system altogether would place many families in danger. Both views agree that the government needs to change its currently dysfunctional, ineffective Child Protection System. This thesis argues that this change should come in the form of a nationally consistent, trauma informed, new Child Protection system in Australia.

Concluding Remarks

Protecting children is a human rights issue and, as such, a federal problem because it is the nation, not the states/territories that signed the international treaty. So why is there no nationally consistent legislation? That is the main argument of this thesis. The main idea was derived from Higgins and Bromfield (2005) 'National Comparison of Child Protection Systems'. This report explored a snapshot of the Australian statutory Child Protection services. It identified that while there are similarities and differences across each state/territory, each state/territory provided similar models of intervention. Further, Australia had signed up to the UNCRC in 1990 on behalf of each state/territory, yet each state/territory took a different approach to protect children (the nation does not protect children; nor do states/territories). Even more confusing is that Family Court (parental custody) is running at a federal level, and its orders are nationally recognised. After further investigation, it became clear that many cross-jurisdictional issues contribute to children falling through the bureaucracy gap and consistent breaches of the UNCRC recommendations. In the case study, *Boy X* can provide a practical problem faced with non-national legislation to protect children. Court orders issued to protect children do not marry up from one state/territory to another. This chapter undertakes a scoping exercise of the current literature, which demonstrates a clear gap concerning current information and statistics about Child Protection. It further identified the lack of scholarly work that discussed the breaches of the UNCRC and minimal discussions that relate to incorporating national legislation, consistent with the UNCRC recommendations. It was evident with this exercise that within 17 years (2002-2019), there has only been one publication that specifically addresses the topic, and in 2014 and 2018, there are two publications. The lack of consistent research in this field creates difficulty in finding appropriate data and indicates a clear gap within the literature and thus a need for this thesis.

Finally, this thesis acknowledges the Indigenous perspectives towards the institutional racism that Child Protection has contributed historically and continues in the over-representation of the Indigenous population in the current Child Protection Systems. A critical stance is taken to compare an abolitionist and reformist approach. In contrast, both approaches can acknowledge that the current system has its pitfalls; the stark contrast is the system's collapse and start anew or identifying these issues and addressing each issue one step at a time. This thesis does take a reformist approach in terms of suggesting the complete abolishment of the whole system. Starting again is not practical when the system operating has large numbers of children and families, a shutdown of the Child Protection System altogether would place many families in danger.

Chapter Two: An Evaluation of the Current Child Protection Framework

This chapter explores a range of issues that have been identified throughout the evaluation of the current system in the previous chapter. It will initially examine the history of Child Protection in Australia and the system's adaptability throughout the widening of social constructions and definitions of abuse. It will then discuss how the globalisation of family social constructs raises conflicting issues when there is no unified legislation throughout Australia. This lack of unification permits multiple meanings on abuse and neglect, allowing children to fall through the gaps due to bureaucracy and policy inconsistencies. Secondly, by examining the current Australian Child Protection framework in its entirety, the limitations of the current system will be identified as inconsistent legislation across the nation, inefficient allocation of funding, an overall increase in Child Protection reports, and the impact that not addressing a child's trauma has on that child re-entering the system. Thirdly, analysis of the Victorian Government's funding and Child Protection notification rates will show how such rates increase whilst children's safety and wellbeing remain sidelined. Finally, this chapter highlights the system's shortcomings, shining light on the practice's lack of therapeutic care, despite significant research indicating that traumatic events can have lasting adverse effects on an individual's health and wellbeing of an individual (Felitti et al. 1998). This allows the following chapters to explore these limitations and provide recommendations to improve them, such as a critical analysis of each state/territory's legislation and discussions of trauma informed practice to reduce Child Protection reports and re-notification rates.

The Evolution of Australian Child Protection

In the early colonial period (1850-79) children that were without parents and guardians and were unable to stay in an orphanage, were placed in an asylum. The first child welfare legislation was designed to remove children from these environments, by placing them into reformatory schools from 1864 to 1873 which were government-run. The initial purpose of the legislations was 'to protect the state from the danger…posed by destitute children' (Swain 2014). These children were brought before a magistrate, charged with being neglected (defined as needing control rather than care) and then committed to an institution until the age of 18. Queensland added a clause to their legislation classifying all children born to an Aboriginal to half-caste mother as neglected. At this stage it is to be noted under this legislation there was little active removal of children from their families, rather the legislation was designed to take control of children assumed to be 'destitute'.

In the late 1880 the legislations were refined to reflect child rescue, focusing on a child's need for protection from their parents or guardians who were failing to keep them safe. By introducing new categories of neglect (found soliciting and street trading) which still focused on the child's behaviour, it was understood it was because of a parent's neglect. Between 1890-1906, each state/territory introduced definitions of child neglect to include (ill treatment or exposure; not provided with food, nursing, clothing, medical aid, or lodging; taking part in a public exhibition or performance where life or limbs are endangered), as well as giving governments the power to proactively seek out children in need of rescue (Swain 2014). By the 1950s legislation shifted towards children in state care and the notion of the 'best interests of the child' was founded. This shift saw Victoria remove the need for a child to be charged in 1954 and shifted to the child being in need of care and protection by the state. Other states such as Tasmania, Queensland, South Australia and Western Australia followed the change in perspective.

As previously mentioned, Australia is set up as a Federation of states/territories where each has responsibilities for their populations' health and welfare issues, including the legislation and policy around Child Protection and its client information system (Bromfield & Higgins 2005). A Child Protection System can be defined as "certain formal and informal structures, functions and capacities that have been assembled to prevent and respond to violence, abuse, neglect and exploitation of children" (UNICEF et al. 2013, pp. 3). A Child Protection System generally comprises the following components: human resources, finance, laws and policies, governance, monitoring and data collection, protection and response services, and case management. It also includes different stakeholders – children, families, communities, professionals, and those working at sub-national, national, and international levels. Most important are the relationships and interactions between and among these components and the stakeholders within the system. Therefore, an evaluation of the system needs to consider its practices, as carried out by those who use, operate, and participate in it.

Much like society, Child Protection in Australia is ever-changing. Child Protection evolves alongside the roles and responsibilities of families and social constructions. More specifically, Child Protection's development of the definition of abuse and neglect concerning children is contentious. The description of abuse and neglect is ever-changing, allowing for conflicting goals and priorities across all Australian jurisdictions in the Child Protection space—compounded with the lack of centralised legislation throughout Australia. The very definition of a child in need differs from state to state, therefore often vastly overlooking vulnerable children. Throughout Australia, there have been many inquires in the context of Child Protection; each inquiry has illustrated crisis and failure within the

eight separate systems. The inquires identified that there is a lack of inter-agency cooperation, communication, and coordination. Significantly, the inquiries found that previous reforms focused on the "bureaucracy" rather than "human factors" (Lonne, Harries & Lantz 2013, pp.1632). The inquiries identified that previous reforms failed to address the systemic issues. There was an increase in the number of notifications received to Child Protection throughout Australia- between 1999-2000; there were 170,134 notifications compared to 286,437 between 2009-2010 (AIHW 2013, pp. 20). Additionally, over a five-year period, from 2014-15 to 2018-19, the number of children who received Child Protection involvement rose by 12 per cent "from around 152,000 children (29 per 1000) to around 170,000 (30 per 1000)" (AIHW 2020). Moreover, Aboriginal children continue to be over-represented in the Child Protection Systems. In 2018-19, 51,500 Aboriginal and Torres Strait Islander children received Child Protection services, a rate of 156 per 1000 Indigenous children. This was almost eight times the rate for non-Indigenous children (21 per 1000 non-Indigenous children) (AIHW 2020).

There are many factors for the substantial increase in notifications; from practitioners missing immediacy to justify statutory intervention to the system's inability to provide tangible assistance to families in need, compounding with significant staffing issues; work stress, burnout, vicarious trauma, and a high level of practitioner turnover (Stanley and Goddard 2002; Collins 2008; Martin and Healy, 2010). Fundamentally, this is due to the failure of the current system. The capacity that statutory Child Protection agencies must achieve their social objectives is severely disadvantaged by the inability to acknowledge conflicting ideologies across each jurisdiction. It is emphasised that there are many problems experienced within the Child Protection services in Australia due to the lack of a collaborative approach.

The Pitfalls of the Current Child Protection Approach

The main problems identified in the system which are explored in this thesis, are inconsistencies in legislation, inadequate funding, an increase in notifications and the lack of a trauma orientated practice. I further discuss these problems in this chapter and evaluate them in greater detail in subsequent chapters to propose ideas towards future reform.

Inconsistencies in Legislations

The most significant and repeated concern that has been raised at each of the inquiries is that "Australia does not have one unified system, but rather eight different Child Protection Systems"

(Bromfield & Higgins 2005, pp. 1). The current system of trying to ensure that each piece of legislation complies with the UNCRC leads to inconsistencies in standards. As the available evidence, demonstrates, the treatment of children and the level of service they receive vary depending on where they happen to live (HREOC 1997). The inevitable consequence of lack of coordination will allow children to "fall through the cracks", therefore failing to receive the care they require. This is one of the significant negative features of Australia's implementation of the UNCRC, which has been going on since it was adopted/ratified back in 1990. (HREOC 1997). For example, in Queensland (QLD), the actions or outcomes from which children require protection are extensive. They are listed as "Harm – immaterial how the harm is caused," and "Harm caused by physical, psychological or emotional abuse or neglect, sexual abuse or exploitation" (*Child Protection Act* 1999 QLD). Comparatively, Victoria lists specific requirements "Abandonment, Physical injury, Sexual abuse, Emotional and Psychological harm and Neglect". Some actions or outcomes can be as explicit as "residing with a person who has previously killed a child" listed for Australian Capital Territory (ACT), South Australia (SA) and Tasmania (Tas) (Bromfield & Higgins 2005, pp. 5). With differences in what qualifies a child for statutory intervention, the initial screening process would overlook what may require intervention in one state/territory. Therefore, children deemed to need help by one jurisdiction may be left to suffer due to residing in another legislative division.

Consequently, there is an inequality in relation to levels of care being provided across the various jurisdictions, which "runs counter to the principles of the UNCRC" (Bromfield & Higgins 2005, pp.28). Bromfield and Higgins (2005, pp.26) also explain that inequality in the initial screening process implies issues for data collection at a national level. The fact that each piece of legislation has its own definition poses difficulties for researchers trying to obtain information on the frequency of abuse. Thus, some states/territories will record occurrences while others have not due to the child not qualifying for statutory intervention. Access to accurate statistics encompassing the nation in its entirety is crucial in developing new or improving upon existing legislation or protocols. One of the inquiries documented in 'Towards a National Child Protection Strategy for Australia' (Families Australia, 2007) has caused the Coalition of Organisations Committed to the Safety and Wellbeing of Australia's Children (the "NGO Coalition") to call for a National Framework, with the need to "establish inter-governmental approaches to ensure collaboration and the maximisation of collective investments and intelligence" (Babington 2011).

The Australian Human Rights Commission (2018, p. 34) identified that the Australian Government fails to demonstrate a commitment to achieving the highest level of implementation of the UNCRC. As a

result, Australia has been unable to complete adequate progress in responding to the UN Committee's recommendations during the examination process. The Australian Human Rights Commission (2018) acknowledges that within the Australian context, state/territory governments are responsible for the efforts made to implement the UNCRC recommendations, highlighting the difficulty in developing a national picture and consistent responses (pp.34). The Australian Child Rights Taskforce (2018, p. 84) recommends that the Australian Government adopts a proactive approach to child rights protection underpinned by several measures. Firstly, to establish a dedicated Children and Families Council within the Council of Australian Government. Secondly, to ensure adequate coordination across states/territories and that the UNCRC recommendation is implemented. Finally, to introduce Federal and states/territories child-specific budgeting measures to plan and monitor levels of financial investment in children and to enact a Federal Charter of Human Rights, or a comprehensive national Children's Act which provides full and direct effect to the provisions of the UNCRC (Australian Child Rights Taskforce 2018).

Because Australia does not have a robust incidence/prevalence data collection, there are significant gaps in Australia's ability to measure child abuse and neglect. The lack of coordination and consistency across all jurisdictions within each legislation involves multiple variations on the definition of "at-risk", "abuse", and "neglect". Data collection on child protection has undermined numerous challenges, making it difficult to draw comparisons between jurisdictions or see the national context. The lack of data results in an inability to accurately assess the implementation of policies and the effectiveness of procedures. Australia remains one of the few developed countries that have not conducted a national study on child abuse and neglect, possibly due to Australia not having national statistics to allow for a nationwide study. The improvement of data collection provides for prevention, early intervention, and understanding of intergenerational trauma. This would help achieve this thesis recommendation on developing nationally consistent and trauma informed policy.

Differences in how child protection is executed across jurisdictions run deeply into each department's day-to-day operations. They also influence the hiring processes and different minimum qualifications needed to be a Child Protection Practitioner from state to state. Only two frameworks required a prospective practitioner to have a social work-specific university degree (Cross, Hubbard & Munro 2010). Only three of the frameworks insisted on experience in executing sound professional judgement (Connolly & Smith 2010; Miller 2012), being able to effectively engage with clientele and skills/experience in implementing interventions (Goodman & Trowler 2012). This leaves an alarming number of states/territories with potentially under-trained and under-experienced staff. In an industry

where practitioners are responsible for alleviating suffering and potentially saving the lives of children in need, qualifications, experience, and training should be considered paramount. Staff dealing with children must have a deep understanding of trauma and its impact on the lives of children. This allows them to shape their practice in a way that has the best result in mind - minimising trauma in the lives of young Australians and improving their quality of life.

For example, the Victorian Commission for Children and Young People submitted a case study in their 2018-19 Annual Report. The case study demonstrated an inadequate response to family violence and its impact on exposure to Tom. Tom had been exposed to ongoing family violence that his father perpetrated towards his mother. However, Tom and his mother did not report these incidents to Child Protection until Tom was 12 years old and Tom's father was asked to leave the home. The family were linked in with support services. However, their focus predominately was on Tom's mother and did not address the exposure to violence and its impact on Tom. Tom, therefore, did not receive any service support to address his experience with family violence. It is evident through Tom's increase in high-risk behaviours (absconding from home and substance abuse) that his trauma had been manifesting. Tom was placed in secure welfare (a state-wide service prescribed under the *Children, Youth and Families Act* 2005 (Vic). Secure welfare services provides short-term secure care (24 hours to three weeks) for children and young people aged 10-17 years deemed to be at substantial and immediate risk of harm), to stabilise these behaviours on two different occasions. However, this accomplished minimal impact and Tom continued his drug use and disengaged with services. At 16 years old, Tom died because of an accidental drug overdose. The inquiry into his death found that the service system did not consider his cumulative harm and the associated impact this trauma had on Tom's psychological wellbeing and the service's systems inability to provide a therapeutic response to meet Tom's needs (Commission for Children and Young People 2019).

Furthermore, without adequate knowledge and training in crucial areas like clientele engagement and intervention implementation, staff cannot be expected to provide appropriate care and assistance to parents and children in need. These requirements are essential given the current state of Child Protection in Australia, with family violence at epidemic proportions. A nationally consistent framework with the same qualifications across all states/territories will help ensure that we have the professionals equipped with the most appropriate training, collectively working to improve our children's lives. Trauma informed practice, and adequate staff training should be at the forefront in developing the new national system.

Ineffective Funding and an Increase in Notifications

The Australian Government has been specifically focused on the Child Protection space within the last ten years, mainly on the impact of family violence on emotional, psychological, and physical development (the impacts of exposure to trauma are discussed in Chapter Four). However, despite these actions and tensions, there has been little to no improvement, which continues to impact Australian's children's safety and wellbeing. Statistics concerning family violence, child abuse and neglect remain stagnant or deteriorate (AIHW 2019). In addition, the workload for the Child Protection services or programs is increasing, with notifications at an all-time high and no relief in sight (Victorian Auditor-Generals Office 2018, p. 8). This has been bolstered by the release of a new inquiry into child deaths in Victoria, which found that Child Protection's assessments and interventions are delayed, leaving children in vulnerable situations and that the delay may be attributed to increasing pressures on the workforce and their ability to prioritise urgent tasks (Johnston 2021).

The Federal and state/territory governments are seemingly aware that Australia has a problem with family violence as many educational programs have been implemented and supported. However, it can be suggested that both the Federal and state/territory governments are missing the impact and direct correlation family violence puts on the current Child Protection frameworks. Governments have funded initiatives to combat family violence, which is evident by increasing allocated funding by each state/territory government. Although there's growing recognition of the problem, this does not necessarily translate into better outcomes. The Victorian Government alone estimates a budget allowance of one and a half-billion dollars for Child Protection services for 2019-2020, a six-point seven per cent increase in allocated funding (Figure 1.1). Figure 1.1 shows the increase in funding invested in the Victorian Child Protection service and the increased funding that has been transferred to the Family Violence service delivery output.

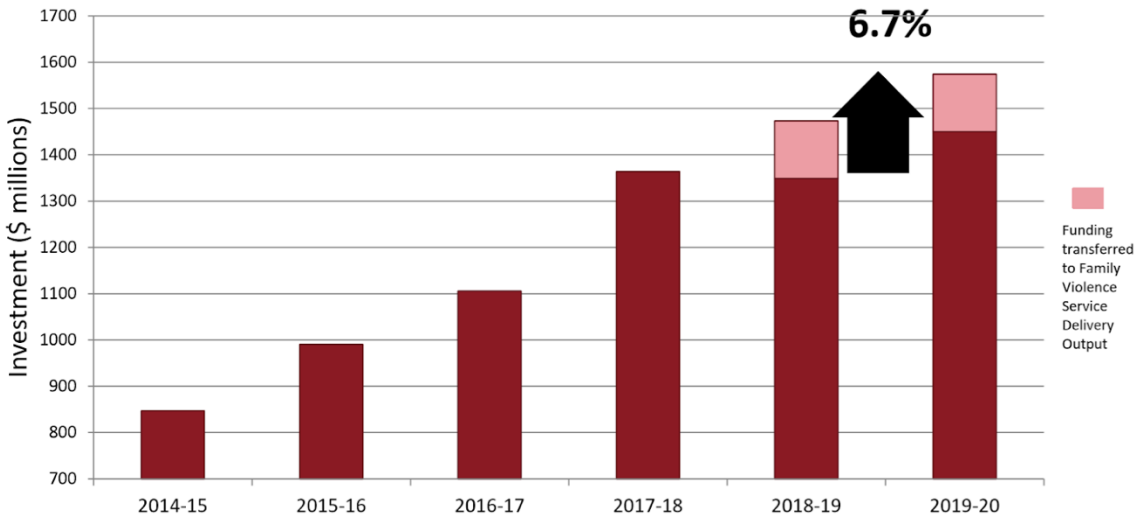

Figure 1.1 Reproduced from "Victorian Government's Child Protection Budget Output Growth" by The Hon Luke Donnellan MP 2019.

However, as we will see below, Victoria has increasing notifications and frighteningly high re-notification rates (Victorian Department of Health and Human Services 2017). Increased spending and worsening conditions for children are not localised to Victoria; it is an Australia-wide trend. For instance, a report drafted by the Productivity Commission (2019) about the "Expenditure on Children in the Northern Territory" showed that despite contributions of more than 500 million dollars a year from the Federal and Northern Territory (NT) Governments to address Child Protection issues the NT is "failing to make any real gains" (Productivity Commission 2019). The Productivity Commission's (2019) report denotes that there is inadequate coordination between governments. As a counteraction to this, each government is unaware of what one another is funding, with direct implications to the delivery on the ground (Productivity Commission 2019). It notes that while there are genuine attempts to "do good" with positive reforms and "pockets of good practice", a fundamental shift is required, one that is underpinned by a more substantial commitment to transparency and collaboration between governments, service providers and communities (Productivity Commission 2019, p.10).

The Absences of a Trauma Informed Practice and the Impact this has on Re-Notification Rates

The current outlook for the state of the Child Protection policy in Australia is depicted as a failing system in desperate need of reform, as it does not cater for children's interests adequately. Finan et al. (2018, pp. 5) have described the current framework as "concerning" due to the lack of comprehensiveness and the appropriateness of the framework's contents. It has been identified that the existing structure tends to have a narrow method with a "one-size-fits-all approach" in providing safety to children. In another analysis, Lonnie, Harries and Lantz (2013, pp. 31) highlight the many

problems experienced by the current Child Protection framework and advocate for its urgent reform. Inquiries have demonstrated consistent overwhelming demand, inadequate workforce capacity and poor-quality practice and decision making (McDougall et al. 2016). These inefficiencies are also reflected in a high return rate; for example, a study of the Australian Institute of Health and Welfare (AIHW) found that up to 67 per cent of the notifications received to Child Protection across Australia are returned clients (AIHW 2020). The current system is ineffective in remedying the protective concerns within the families; therefore, leading them to re-enter the system due to the same original protective concerns or increasing problems. Without a drastic change in the form of a unified trauma informed framework, individual state/territory governments will continue to waste money and resources on practices that fail to alleviate the suffering of children and fulfil the system's goals.

Why is there a high proportion of clients returning to use the services? Part of the reason is the lack of attention given to addressing the trauma experienced by children. A non-trauma focused, child-aware practice (practices and attitudes that aim to keep the 'child in mind') (Emerging Minds 2021) makes it difficult for the current system to make any real difference in overall rates of re-notifications. Perry (2009) suggests that maltreated children often have parents with similar developmental traumas, thus implying that children born into the Child Protection System will return to the system with their own children. Beyond an individual level, the effects of child maltreatment can be intergenerational, impacting the trajectory of the abused children (Menger Leeman 2018, pp.33). This trajectory is based on the theoretical perspective that a child's emotional and social wellbeing is influenced by the caregiver-child relationship's quality and environment (Osofsky & Liebermen 2011). The core of child maltreatment is the notion of traumatic disruption of the parent-child relationship and that this negatively impacts the healthy development of a child.

Most children that experience childhood maltreatment do not go on to abuse or neglect their own children. Yet, it has been established that children who are born from a parent that has experienced Adverse Childhood Experiences (ACEs) are more likely to have children who are abused or neglected, than children who were born to parents who had not (Berlin, Appleyard & Dodge 2011; Kwong, Bartholomew, Henderson, & Trinke 2003; Li, Godinet & Arnsberger 2010; Pears & Capaldi 2001; Thompson 2006). Felitti et al. (1998) conducted an extensive study relating to ACEs from 1995-1997. Almost two-thirds of participants reported experiencing at least one ACE, and more than five said they experienced three or more ACEs (Appendix Two, includes the ACE survey to determine how many ACEs an individual has experiences before the age of 18 years). The study determined that as the number of ACEs increased, the risk of adverse outcomes (Figure 1.2). Figure 1.2 shows the negatively,

long-lasting effects adverse/ traumatic experiences have on a childhood. It further explores the likely consequences ACEs has on individuals, noting that 64 per cent of the population have at least experienced one ACE before the age of 18 years, with one out of eight having experienced more than four. These studies suggest that people who share four or more are 14 times more likely to attempt suicide, 11 times more likely to use intravenous substances and four and a half times more likely to develop depression (Marie 2020).

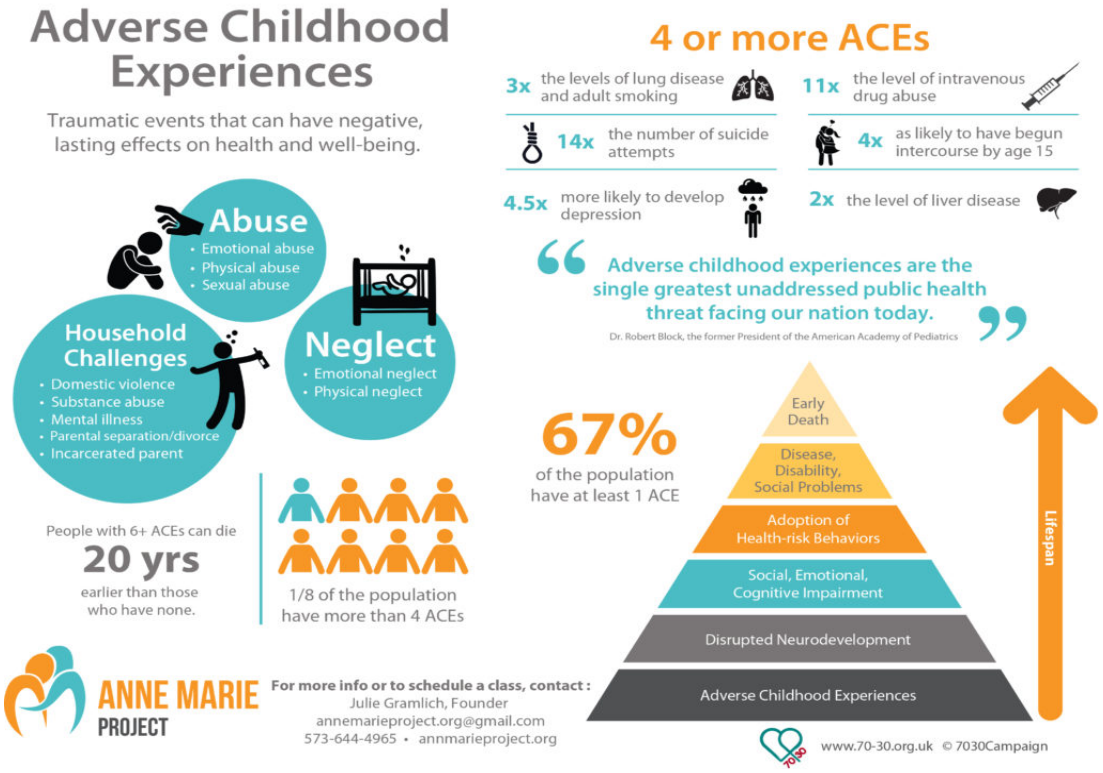

Figure 1.2 Adverse Childhood Experiences. Reproduced from 'Anne Marie Project', viewed 2 March 2020 <http://annemarieproject.org/adverse-child-experience>

Within the current system, it is evident that the Child Protection practice cannot adequately work with families and children to address the protective concerns, therefore, the primary reason why 67 per cent of Child Protection clients are return clients to the system (AIHW 2021a). Furthermore, it depicts that the current Child Protection framework fails to address the protective concerns within the initial stages of their involvement and allows for the intergenerational Child Protection cycle to continue. Moreover, the number of children receiving Child Protection services has risen four per cent over four years, from 168,300 children in 2016-17 to 174,700 children in 2019-20 (AIHW 2021, p.8) .

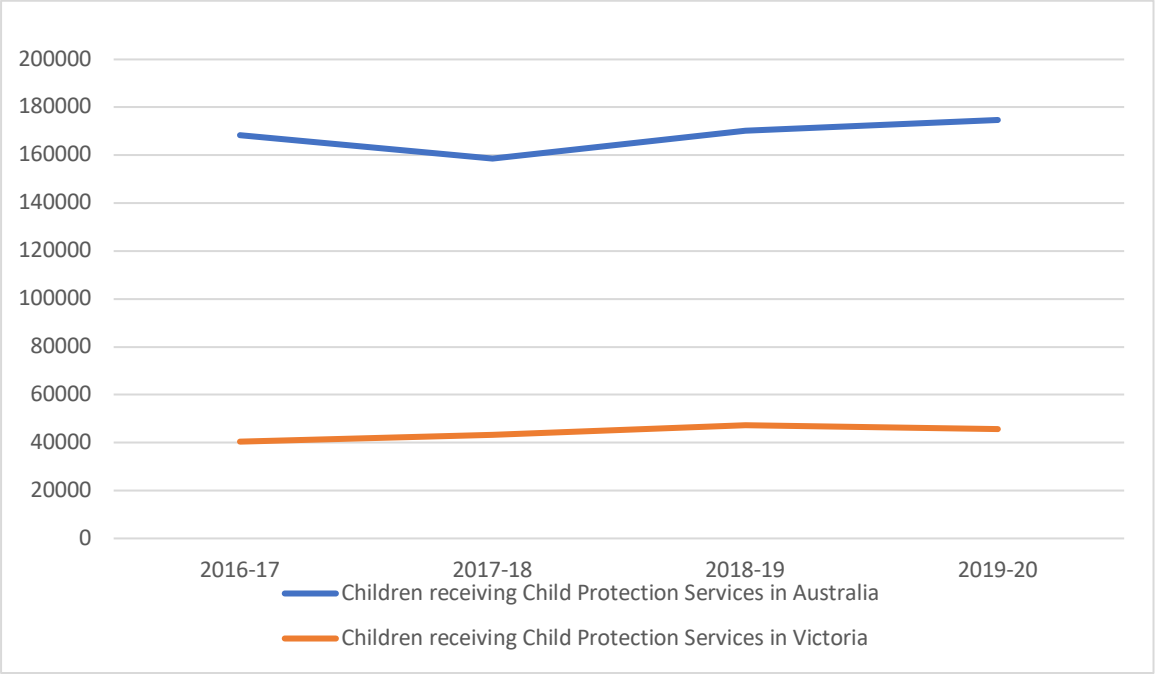

Figure 1.3 illustrates the number of children that received Child Protection involvement 2016-17 and 2019-20. Australian Institute of Health and Welfare 2021, *Child Protection*, Australian Institute of Health and Welfare, Canberra. https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2019-20/summary

Figure 1.4 illustrated below indicates the total demand in the Victorian Child Protection System for 2019-20, including reports on children, investigations, substantiations, and re-substantiations within 12 months.

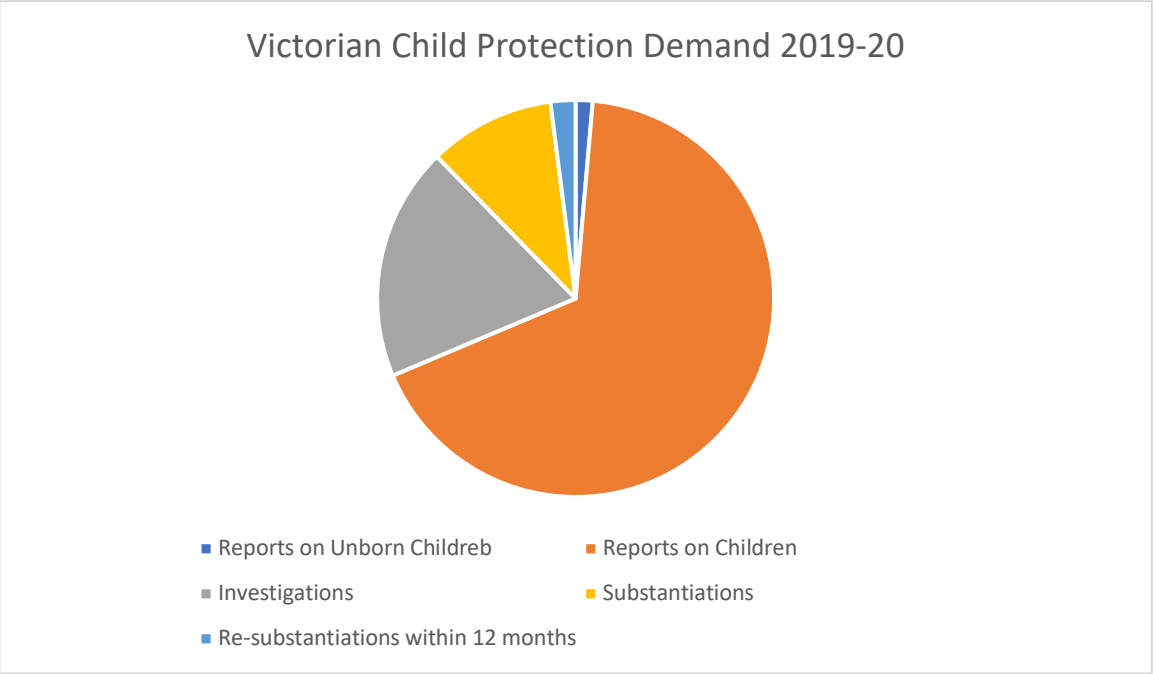

Figure 1.4 *Victorian Department of Health and Human Services 2019, 'Annual Report- Child Protection and Family Services- Additional Service Delivery Data 2019-20, Victorian Department of Health and Human Services, Canberra.*

The figures depicted above employs Victoria as an example to indicate issues concerning an increase in government funding. Statistics that are provided by the Victorian Government show an increase of reports on children within 10 months. It is to be noted that there are compounding factors as to why there are increased notifications, these include changes in the underlying rate of child abuse and neglect, increase in reports, access to services, or a combination of these factors. However, studies such as the Anne Marie Project (2020) have successfully been able to conclude that traumatic events have long-lasting adverse effects on a child. Therefore, to some degree, an increase in notifications results from the lack of appropriate trauma informed practice.

Concluding Remarks

Society is based on ever-evolving social constructs, such as the roles and responsibilities of families and social norms. With this evolution, Child Protection also needs to advance alongside new social models formed within the family unit. Yet, this globalisation of social constructs concerning family raises conflicting issues when there is no unified legislation throughout Australia, permitting multiple meanings on abuse and neglect and allowing children to fall through the gaps due to bureaucracy and policy inconsistencies. This chapter has been able to identify three limitations within the current system. Firstly, inconsistent legislation across the nation, which includes eight different legislations, conflicting definitions of 'harm' and 'at risk' as well as incompatible court orders, that all "run counter to the principles of the UNCRC" (Bromfield & Higgins 2005, pp.28). By having contradictory legislation, data collection, processes and court proceedings, and an overall lack of coordination and consistency, Australia is providing children with inequality of care, thus not protecting children from harm. Secondly, from 2017-18 to 2018-19, the Victorian Government has increased their funding by eight per cent annually, yet Australian Child Protection re-notification rates between 2014-15 to 2018-19 rose by 12 per cent from 152,000 to 172,000 (AIWH 2020), indicating an increase in spending and worsening statistics. Finally, this chapter questions the system's shortcomings, drawing light on the practice's lack of therapeutic care, despite there being significant research (Felitti et al. 1998) indicating that traumatic events can have lasting adverse effects on the health and wellbeing of an individual. The segregation of law, policy, procedures and client database has immediate consequences for children's safety and the wellbeing of children, with this separation in the legislation allowing children to 'fall through the cracks'. This is reflected in the high proportion of children who

return to the system– a staggering 67 per cent of the current Australian Child Protection clientele are return clients (AIHW 2020, pp.7). This chapter explained why the current "National Framework", or lack thereof, fails to address re notifications into the system. The existing structure fails to adopt a trauma informed practice model that understands and can work with appropriately experienced ACEs families. Ultimately, these deficiencies leave children and families to re-enter the system because the initial protective concerns never addressed adequately.

Chapter Three: A Critical Analysis of the Current Child Protection Legislations across Australia

Chapter Three offers a critical analysis of the inconsistency in frameworks across the states/territories and the impact on the effectiveness of the Child Protection Systems. To perform a critical analysis of the current Child Protection legislation, each legislation was collated and was separated into essential indicators such as 'actions or outcomes', 'the definition of harm' and 'the definition of at risk' (please refer to Appendix Three to observe the table). Breaking down the jurisdictions in this way allows them to be viewed with specific points of comparison, making it easier to highlight fundamental differences instead of aimlessly describing each state.

This chapter firstly breaks down the initial indicator of 'actions and outcomes', with subcategories: Abandonment, Emotional and Psychological harm/abuse, Neglect, Physical injury/abuse, Sexual abuse, Abuse and Family/Domestic Violence and places each states/territories within the subcategory that they determine as a requirement for statutory intervention. It is observed that there are significant inconsistencies throughout each of the states/territories' indicators, demonstrating that an at-risk child in one state/territory may require statutory intervention; however, due to the wording of the legislation in another state/territory, this child may not be deemed 'at risk'. Secondly, the definition of 'harm' is explored, noting that six states/territories include a definition yet are all different. However, two states (Victoria and Tasmania) do not define harm even though the terminology of harm is used throughout both legislations. This can be problematic as ambiguity in terms allows for interpretation; this is demonstrated in the case study, *Mason Jet Lee*, as it explores how inconsistencies within definitions of harm can lead to child death. Thirdly, the definition of 'at risk' is reviewed, where four states/territories define 'at risk'. The remaining four provide no definition—reflecting on vagueness within the law and the implications on protecting children, and the consequences this has on data collection. Finally, the chapter discusses the aforementioned inconsistencies' impact on safeguarding children and the system's effectiveness. The use of case studies within this chapter illustrates how the legislative inconsistencies impact on keeping children safe at a practical level.

Critical Analysis

As noted in Chapter Two, researchers have pointed out there needs to be nationally consistent legislation. For example, a recent report by the Australian Human Rights Commission, *Children's Rights Report 2019,* identified that one of Australia's most critical issues was that there were "no comprehensive national plan, policy, legislation or budgeting processes to support children's rights in

Australia" (pp. 12). Furthermore, the United Nations made note that the recommendations for Australia are to "enact comprehensive national child rights legislation fully incorporating the Convention and providing clear guidelines for its consistent and direct application throughout the states/territories of the state party" (United Nations Committee on the Rights of the Child, 2019, pp. 2). The need for national consistency has been on the radar of Child Protection bodies both at a domestic and international level for many years since the United Nations Committee has consistently recalled the above recommendation since 1997 (CRC/C/15/Add.79). Yet, as this chapter will demonstrate, there are still distinct inconsistencies between legislations that fail to incorporate the Conventions guidelines from all eight legislations.

For the critical analysis of the eight-separate legislations, essential features of each system were compared to support the hypothesis that inconsistencies within the legislation cause a significant barrier to effective and equal care, data collection and effective policy development. The observations can be categorised around data comparison, which allows the results to be measures to the variables of consistent or inconsistent. The key features, when compared, revealed significant differences in actions or outcomes from which children are 'in need protection'; definition of 'harm'; definition of 'at-risk'; 'best interest of the child'; and court orders (please refer to Appendix Three for the complete list).

Actions or outcomes from which children are 'in need of protection'

Actions or outcomes are indicators for when a child is 'in need of protection' and requires statutory intervention. What may require intervention in one state/territory can be overlooked in the initial screening process from another jurisdiction. A child is deemed 'in need of protection' in one jurisdiction, and a child in another jurisdiction with the same set of circumstances may fall through the gaps. Consequently, there is an inequality of care provided across the various jurisdictions, which "runs counter to the principles of the UNCRC" (Bromfield & Higgins 2005, pp.28).

Abandonment

Out of eight legislations, four states/territories (VIC, TAS, NT and SA) include the abandonment of a child as an indicator of a child needing protection. The other four states/territories (QLD, WA, NSW and ACT) do not include this as a factor. This raises a concerning question: is a child being abandoned not enough reason for these states to intervene? If it is, then why is this not clearly listed as a reason for intervention?

Emotional and Psychological harm/abuse

Six of eight states (VIC, SA, NT, SA, QLD, WA, and NSW) include various synonyms throughout each legislation, including emotional or intellectual impairment, mental abuse, emotional abuse, and psychological harm. Neither Tasmania nor Australian Capital Territory have any emotional harm within their outcomes to indicate a child needs protection.

Neglect

All eight legislations have neglect as a critical indicator for a child needing protection.

Physical Injury/ abuse

Six of eight (VIC, NT, SA, QLD, WA, and NSW) legislations comprise variations of bodily injury and physical abuse as indicators of a child in need of protection. It is concerning that Tasmania and Australian Capital Territory do not include a clear indicator, such as physical abuse in their legislation to ensure a child that is being physically abused needs protection.

Sexual Abuse

Six of eight (VIC, NT, SA, QLD, WA, and NSW) clearly understand that sexual abuse is an indicator of a child's need. However, this is missed by Tasmania and Australian Capital Territory. Australian Capital Territory, however, does include sexual exploitation as an indicator.

Abuse

Only Tasmania and Australian Capital Territory have included the broad term of abuse to initiate Child Protection involvement. This might have been included as a general statement ensuring all types of abuse, such as the ones above and more, can be encompassed. However, as discussed below, researchers have indicated that broad concepts within the law allow for interpretation which can be problematic.

Family/Domestic Violence

Tasmania and New South Wales are the only two states that include family or domestic violence within their legislation as a specific indicator.

We can see that some states such as Queensland have very general requirements to consider a child in need of protection: harm; immaterial of how the harm is caused; and a general list of types of harm. In contrast, the Australian Capital Territory has specific situations listed in their legislation, including residing with a person who has previously killed a child, sexual or financial exploitation or threats to kill. On the other hand, Victoria has very general requirements, including abandonment of a child,

emotional and psychological harm, neglect, physical injury, and sexual abuse. National legislation should draw up a clear, all-encompassing list of reasons to intervene to apply across all states/territories to ensure no child falls through the cracks. In addition, there should be policies and legislation to prevent children from ending up in the care of people with violent criminal histories; at a minimum, they should be closely monitored.

A more effective system would see a trauma informed approach to policy creation and operations, with holistic methodology, diagnosing and remedying maltreatment causes earlier. A national approach to Child Protection goes hand in hand with it needing to implement a trauma informed approach. While reforming the system's overall functionality, policymakers need to address the impact that a crisis-driven approach is having on the Child Protection Systems as a whole. If practitioners are not addressing the core traumatic issues with families and not completing trauma informed practices in the initial stages of working with families, then the data suggests that 67 per cent of the clientele will return to the system.

Definition of 'harm'

Harm can be defined as "damage or injury that is caused by a person or an event" (The Oxford Dictionary 2010). Subsequently, cumulative harm is defined as "a result of a series or pattern of harmful events and experiences that may be historical, or ongoing, with the strong possibility if the risk factors being multiple, inter-related and co-existing over critical development periods" (Victorian Government Department of Human Services 2007, p.3). Due to 'harm' being associated with an immediate harmful event, 'cumulative harm' allows for consideration from immediate consequences of a single event to the long-term effects of exposure to negative impacts abuse and neglect has on a child's emotional, social, physical, and neurological development. As such, there needs to be a consideration to include 'cumulative harm' within the legislation because, as it stands, cumulative harm is not defined in any of the seven Child Protection legislations.
Further inconsistencies have been identified within the definitions of fundamental terms within each legislation, such as harm. Six (ACT, NSW, SA, NT, QLD and WA) of the separate legislations have different criteria for what *'harm'* means. Moreover, Victoria and Tasmania do not define what 'harm' is at all. The fundamental aim of any Child Protection System is to protect children from harm. Again, this creates issues when trying to provide equal care and compare data nationally.

For example, Western Australia has a very general definition of what 'harm' is; "in relation to a child, means any detrimental effect of a significant nature on the child's wellbeing, whether caused by (a) a

single act, omission or circumstances; or (b) a series or combination of acts, omissions or circumstances" (*Children and Community Services Act 2004* (WA) pp.32). However, the New South Wales legislation gives a specific list of circumstances that deem a child experiencing 'harm'. Such events include things as straightforward as the child not attending school or as ambiguous as the child's parent or caregiver exuding behaviour that "poses a risk of serious physical or psychological harm". With no clear guidelines to what this means, it is not easy to draw a precise analysis of the legislation that can be applied consistently and fairly, given the term's ambiguity. Even worse still, Victoria and Tasmania do not define what 'harm' is at all. The term 'harm' is open to different interpretations by different stakeholders as there are no parameters to describe it. While it is to be noted that having a broad term that can be interpreted in different ways is not a bad thing, as there would be problems with having a definition that is too narrow. However, having no description, which is noted with two states/territories, can cause issues. Given its ambiguity, it becomes a matter of interpretation by a Child Protection practitioner initially, then when the case is presented at court, the interpretation of the Magistrate.

Consequently, what happens when there are two differing interpretations? One party (parent) believes one meaning, and the second party (Child Protection practitioner) believes it to be another (Singh 2013)? Such ambiguities arise in the English language. However, when such occurs in the space of law, it becomes a contentious issue, given the importance of a legal proceeding to be fair and just (Singh 2013)—resulting in the need to ensure that within the Child Protection legislation, the removal of ambiguous terms occurs to reduce the impact of ambiguity.

Case Study- Mason Jet Lee

The following case study contains material that may be harmful or traumatising to some readers.

A Queensland Coroner's Inquest into the death of Mason Jet Lee, delivered in June 2020, found that Mason died due to abdominal injuries inflicted by Mr O'Sullivan and the subsequent failure of Mr O'Sullivan and Ms Lee to obtain medical treatment for him. The inquiry further indicated that the handling of this case by the Department "was a failure in nearly every possible way", including complying with statutory obligations and the department's policy and procedures. Mason Jet Lee of Brisbane died aged 22 months old; Mason was solely dependent on his caregivers to feed, nurture, love and care for him. Mason died on the 11th of June 2016. By the time police and paramedics arrived at the residence, Mason had already been deceased for some time. Bruises covered his body, and he had severe injuries to his anus. An examination of Mason's body found that he had been violently abused for a time; a total of 46 bruises, damaged internal organs, old fractures, and horrific

internal and external injuries to his anus were all found. Many of his injuries occurred well before his death. This is a direct extract from the Autopsy report summarising Mason's injuries: "In summary, Mason had suffered displacement of his large bowel and rectum, displaced fracture of his coccyx, a fracture of his tibia, 46 bruises to his body, mouth and ear ulcers, scalp haemorrhages consistent with head trauma and hair pulling and severe bowel injuries which led to the infection of the peritoneum and sepsis" (Queensland Court, 2020).

Mason's cause of death was found to be multiple blunt force trauma injuries, leading to the contents of his ruptured bowel escaping into his abdomen and the resulting infection spread to his bloodstream, causing his death. Mason was in extreme pain and was vomiting profusely from the time of his injuries up until his passing. Mason's Stepfather, Mr William O'Sullivan, was sentenced to 12 years imprisonment for manslaughter. Mason's mother, Ms Anne Lee was sentenced to nine years' imprisonment for cruelty and manslaughter.

Mason fell through the gaps of the Queensland Child Protection System. Mr O'Sullivan had a criminal history, including a serious assault and attempted robbery and was a known methamphetamine user. The inquiry found that even before Mason's birth, Ms Lee used substances and abused her other children. "Ms Lee was using speed and ice, hitting the children and experiencing domestic violence" (Queensland Court, 2020 p.22). There are significant links between substance abuse and generally violent behaviour to the abuse of children, yet the QLD, Child Protection System, failed to intervene (Bromfield, Lamont, Parker & Horsfall 2010 & Nair et al. 2003 & McCord 1983).

The Suspected Child and Abuse System (SCAN), mandated by *Queensland's Child Protection* Act 1999, "is a multi-agency team-based response system, which coordinates assessments of children and families that have suspected child abuse and neglect". This is done by information sharing between emergency services and professionals. Assessments are further based on a family's pattern, history, and the likelihood of harm to a child. Unfortunately, in the case of Mason, the family did have a long history of expressions of concern by doctors, hospital visits, incidents of neglect and abuse. However, after a series of neglectful actions and lack of due diligence, SCAN closed Mason's case (Queensland Court 2020 pp. 43). He later died horrifically at the hands of the people responsible for his protection and care.

It should not take a child death for policy to change. A total overhaul of the Child Protection Systems, with standardised and equal legislation and policies, will help ensure that all children in need of

protection, like Mason, will not fall through the gaps of the political system. This case study demonstrates that a family known Child Protection for cumulative harm and chronic neglect, yet the case was closed.

Definition of 'at risk'

While the definition of harm was inconsistent between states/territories, the description of a child 'at risk' seems to pose a significant issue. Only four (ACT, NSW, SA and Tas) describe what a child 'at risk' represents in the context of Child Protection, while four (VIC, NT, QLD and WA) stipulate no understanding around the phrase, leaving it open for interpretation. Vagueness within the law calls for specific performance, which therefore causes other voids. Waldron (1994) provides an example of ambiguity with the concept of colours, articulating that while there are subtle graduations of hues, there is also something that is either blue or not blue. Therefore, problems will generally arise when one challenges the continuum with terminology that has or aspires to be two-valued. Thus, to the extent of the meaning of a term within the legislation, to "whom it is addressed may not know exactly what is required" (Waldron 1994 pp.534), that society needs to know what is required of them. In other words, it needs to be made clear to Child Protection agencies what it is they are looking out for and when they need to act. The concern that arises from the lack of definition is that the words play a significant role in deciding whether the department protects a child- a child must be at risk of harm for statutory intervention to occur. Tasmania and South Australia have a list of specific circumstances that would place a child in the category of 'at-risk'. For example, both jurisdictions consider a child at risk if they are not attending a school or training institution when they are school age. South Australia further identifies that if a child is likely to be removed from the state/territory for an illegal medical procedure (such as female genital mutilation) or an illegal marriage, they are deemed not at risk. The variants within how children are categorised across different states/territories cause concern around unequal care and the potential for children to fall between the gaps. As mentioned above, having a different definition in each legislation makes for a problematic collection of precise valuable data to aid in assessing the effectiveness of current policy and future policy creation. The difficulties with data collection will be further discussed below.

Case Study- Application of State/Territory Legislation

In addition to the eight jurisdiction's conflicting laws producing unequal outcomes for children, further questions arise when each state/territory has its laws; what occurs when a child is subject to court orders in one state/territory but lives in another? Does the order apply? Or is it void until the

state/territory they reside in identifies the potential need for care and makes an order of their own under their legislation? The following case study illustrates additional flaws in having eight separate Child Protection Systems with eight different legislations and court orders; the case studies present transferability issues that arise due to inconsistent court orders and legislation.

For example, a young person aged 16 was removed from her father's care in Victoria and placed on an Interim Accommodation Order (IAO) with a kinship option in Queensland. While the young person's parents agree to be in Queensland, there is no legal obligation for them to remain in Queensland. The Victorian order is not valid in Queensland, nor is there an order of equivalence to convert the order to. Therefore, if the young person's parents did not agree for the young person to be placed there, they would remove the young person, and Queensland police or Child Protection would have no legislative power to stop this. The only way for this to be stopped is if Queensland Child Protection becomes involved and serves an application to remove the young person. Therefore, Queensland Child Protection would become involved and remain involved until those protective concerns (the young person is not removed from placement) are addressed, and the young person is secure in their placement.

An additional situation occurred in 2012 when a QLD Magistrate made a Temporary Assessment Order (TAO) regarding a Queensland mother residing in NSW when her child was born. The matter was taken to the Federal Court of Australia about the validity (Mott 2013). Mott (2013) intervened in deciding whether a QLD TAO granted in respect of a baby whose mother resided in QLD, however, was currently in NSW, was valid. Although the mother lived on the Gold Coast, the child was born in Northern NSW. The QLD authorities knew the woman, and the day after the child was born, a QLD magistrate made a TAO regarding the new child so that investigators could deem if the child required protection. The TAO resulted in the baby being placed into foster care. The issue arose when the mother claimed the baby bonus under A New Tax System (*Family Assistance Act* 1999 (Cth). The woman claimed she was providing care for the child for periods that the child was under the TAO to receive the benefit; however, the child was in the care of the Queensland Government, making the mother ineligible for the payment.

Attention was drawn to a case *SBD v Chief Executive, Department of Child Safety* [2008] 1 Qd R 474 at [29] and at [32] (*SBD v Chief Executive, Department of Child Safety*), that there is a clear indication that the purposes of the Act, and the related jurisdiction of the Children's Court, cannot be defeated by the mere assertion that a child, who has habitually resided in the state, has been removed permanently

from the state. It does not matter which states/territories the child is at/or in to determine if the child is at risk. Providing the rationale under the *Child Protection Act,* Cth can be reconciled with other legislations from other states/territories, even if the child does not ordinarily live in that state.

The Attorney General assessed that the TAO was to be considered valid regardless of the existence of the NSW Act, as it was within the legislative competence to make a TAO. In submissions, it was heard that if the order was valid in "New South Wales as there was a sufficient nexus between Queensland and the child (his parents both resided in Queensland), and there was no operational inconsistency between the relevant laws of Queensland and New South Wales" (Mott 2013).

The transferability across jurisdictions is arduous when it takes a Federal court ruling to decide if a TAO is valid across various jurisdictions. With consistent legislation and policies, a National Child Protection System would allow for greater cohesion between states/territories, better use of resources, and ultimately fewer children exposed to harm. If the Child Protection legislation ran Federally, such as the Federal Circuit Family Law Court, discrepancies such as the above would not take up valuable court time. Child Protection Practitioners could focus more on trauma informed child-focused practices.

Discussion: The Impact of Inconsistent Legislation, Operations and Policy on Data Collection, Assessment and Future Policy Making

The most significant and repetitive concern that has been raised from all the inquiries, studies and reports evaluating Australia's Child Protection practices is that Australia does not have a unified system. The need for National consistency has been on the radar of Child Protection bodies, both domestic and international, for approximately 27 years, including in-direct and direct recommendations seeking a national policy. However, as the table demonstrates, eight separate jurisdictions continue to operate under inconsistent legislation.

The vague and inconsistent elements of states/territories legislation are consistent with the statement in the Australian Human Rights Commission's 2019 report that "the legal protection of children's rights in Australia are not comprehensive and do not provide an effective remedy for violations" (Australian Human Rights Commission 2019, pp. 41). The Australian Government's response to criticisms of its subpar legislation to protect children falls under the responsibility of state/territory governments. However, The Australian Human Rights Commission (2019) is clear on its position that the Governance structure is not an adequate excuse for its "failure to comply with human rights" (pp. 41). The

Committee of the Rights of the Child's (CRC) 2019 report stands with the same theory that a national structure should oversee Child Protection efforts. Each time the committee meets, they recall its previous recommendations (CRC/C/AUS/CO/4, para. 12). They again recommend, as a proactive measure, that the state party firstly "enact comprehensive national child rights legislation fully incorporating the Convention and providing clear guidelines for its consistent and direct application throughout the states/territories of the state party"(Australian Human Rights Commission 2019, pp. 316). Secondly, "ensure that the resources of the Parliamentary Joint Committee on Human Rights are adequate and sufficient to examine effectively, including in consultation with the National Children's Commissioner and other interested parties, all proposed legislation and their impact on children's rights" (Australian Human Rights Commission 2019, pp. 316). Finally, "guarantee that such legislation is fully compatible with the Convention" (Australian Human Rights Commission 2019, pp. 316). The committee has recalled this same recommendation since 1995, with the Australian Government not directly addressing this issue for 24 years. The Australian Government's lack of compliance with a United Nations treaty significantly concerns that this breach has not been made a national priority, even more so as the discrepancy is directly related to vulnerable children.

The Australian Human Rights Commission's report also notes the Federal Government's disregard for the recommendations of the UNCRC about there being no nation-level coordination of policy initiatives concerning children. Nor is there a national plan of action to meet the UNCRC principles or provisions (Australian Human Rights Commission 2019, p. 42). Additionally, there have been multiple Royal Commissions involving elements of Child Protection, such as the Royal Commission into Institutional Responses to Child Sexual Abuse which was established in 2013. However, once again, the bare minimum of the recommendations made have been implemented. The first inquiry into the implementations of the UNCRC within Australia in 1996 made recommendations to improve Australia's current Child Protection Systems and suggestions that worked towards making Australia compliant with the UNCRC. However, it is now 2021, and the Committee continues to recall the primary recommendation created 20 years ago. Chapter Five provides a detailed look into Child Protection inquiries and their impacts.

Not only are there discrepancies in the court orders across the nation, Bromfield and Higgins (2005, pp.26) further explain that there are inequalities in the initial screening process and definitions within each legislation creates problems for data collection at a national level. The fact that each legislation has its definitions, poses difficulties for researchers trying to obtain information on the frequency of abuse, making it very difficult for critical analysis to be conducted on the harm caused to children and

Child Protection effectiveness. Bromfield and Higgins (2005, pp.26) explain that inequality in the initial screening process and definitions within individual legislation implies issues for data collection at a national level. In 2000, The Australian Institute of Health and Welfare (AIHW) examined the comparability of Child Protection data across the states/territories of Australia. It was reported that differences in intake procedures, investigation, policies, data entry, etc., meant that data collected across jurisdictions is difficult to compare (AIHW 2000, pp. 6-7). This also creates problems when trying to analyse the effectiveness of policies and legislation as policymakers are unable to establish accurate key performance indicators (KPIs)—indicating that the system needs to improve towards a more generic, unified framework. In addition, the fact that each legislation has its definitions poses difficulties for researchers trying to obtain information on the frequency of abuse.

Mandated Child Protection bodies and independent researchers collect data that is often classified as being about "emotional abuse", "physical abuse", "sexual abuse", and "neglect". This is problematic because what defines each of these classifications is unclear. These actions and results are dependent on many factors and are affected by the application of loose definitions that are not consistent across jurisdictions. Additionally, there are discrepancies in how the data is collected, what is considered appropriate to report and what subcategory the information is recorded. This is discussed further in Chapter Four.

Concluding Remarks

A critical analysis was conducted by compiling all eight legislations and identifying and comparing essential indicators such as ‘actions or outcomes’, ‘the definition of harm’ and ‘the definition of at risk’ (Appendix Three). First, it is observed that there are significant inconsistencies throughout each states/territories’ indicators, demonstrating that an at-risk child in one state/territory may require statutory intervention. However, due to the wording of the legislation in other states/territories, this child may not be deemed as ‘at risk. Secondly, there is “no comprehensive national plan, policy or legislation…to support children’s rights in Australia” (Australian Human Rights Commission 2019, pp.12), while there are a few laws at a national level that protect children’s rights, there is no national platform to advance children’s rights across the UNCRC, even if the UNCRC Committee is requesting the Australian Government to have a national plan. Thirdly, the definition of ‘harm’ is included in six states/territories, yet different. However, two states (Victoria and Tasmania) do not define harm even though the terminology of harm is used throughout these states’ legislations. The case study of *Mason Jet Lee* was used to demonstrate how inconsistencies within definitions of harm can have horrific outcomes such as death. Fourthly, the definition of ‘at risk’ was provided for four states/territories,

with the remaining four providing no definition, which leads to a reflectiveness on vagueness within the law and the implications this has on protecting children and the consequences this has on data collection. Finally, this chapter explored the impact inconsistencies has on safeguarding children and the system's effectiveness by arguing that these gaps and differences in legislation significantly affect the practicality of service. It is additionally impacting data collection and accurate record keeping. A National Child Protection System with consistent legislation, intake processes, and data collection methods will significantly reduce the future suffering of Australia's children.

Chapter Four: Trauma Informed Practice in Child Protection

Chapter Four explores what trauma is and how it affects an individual's brain function. It identifies those children that are at high risk of experiencing Adverse Childhood Experiences (ACEs) and the impact these events play on a child's brain development and function. It explains what trauma-focused practice looks like and how incorporating more holistic policies based on a trauma-focused approach would improve outcomes for Australian children. Secondly, as mentioned above, it discusses the impact the reactive Child Protection Systems has on a child, which is further explored through a case study provided by the Melbourne Coroner's Report on baby 'HB', in which the five previous reports of harm were not progressed to the investigation as there was no 'crisis' that had occurred. The chapter will contend that there may have been a better outcome for baby 'HB' in a trauma informed model. Finally, this chapter discusses the current system's shortcomings in addressing underlying issues and children's trauma, creating a cycle of abuse and neglect that further affects them whilst resulting in high notification rates and unmotivated and burnt-out caseworkers. A potential solution would see high-risk families become identifiable through a database to provide a means for early intervention and the implementation of trauma informed practice and the advantages this can have on children and families. We would also need to see a shift in culture and a change in focus at a policy-making level. I introduce these solutions in this chapter before a more elaborate discussion in Chapter Six.

What is Trauma and Trauma Informed Practice

Trauma can be characterised as an "emotional response to a terrible event like an accident, rape or natural disaster. Immediately after the event, shock and denial are typical. Longer-term reactions include unpredictable emotions, flashbacks, strained relationships and even physical symptoms like headaches or nausea" (American Psychology Association 2020). According to ACE studies, 64 per cent of participants experience at least one ACE (Marie 2020). Additionally, the study explains that 12 per cent of participants experienced more than four ACEs before their 18th birthday (Anda et al. 2006). Traumatic experiences can manifest in any circumstance, such as physical, emotional, sexual abuse, neglect, and antenatal substance exposure (Hunter 2014).

Essentially, due to the high risk of children experiencing ACEs, the government's responsibility is to ensure children's safety and minimise or prevent traumatic experiences. There is substantial evidence across various studies that physical or emotional trauma adversely affects a child's development. Trauma is known to be detrimental to the development of the brain, which includes hormone

production and cognitive and language development (McLean 2016, pp.5). Thus, exposure to complex trauma has been "linked to a greater number and severity of functional and mental health problems both in the child welfare system and other service settings" (Kisiel et al. 2014, p.2). This link is exceptionally evident in children who are in out-of-home-care who experience difficulty in regulating their emotions. The effects of trauma often experienced by children in care are so profound that it negatively affects the development of the child's brain (McLean 2016). "Complex Trauma" can be defined as persistent exposure to traumatic events that have a direct impact on the development of a child's brain, including stress hormone regulation and long-term effects on interpersonal relationships (Cook et al. 2005). Trauma also contributes to general cognitive function, language delay, memory and the processing of emotions, metacognitive skills, and regulating behaviour (McLean 2016). Therefore, the effect of trauma is profound and can cause lasting impacts on the individual.

Structural Development of the Brain

There are many theories on the effects of trauma; given we are talking about children, this thesis will focus on the impact of trauma on a developing brain. To understand the impact trauma has on the brain, one must know the essential function and order of the brain's development. A straightforward explanation of the parts of the brain and the order in which they develop can be explored with Figure 2.1 Perry's (2002) Neurosequential Model of the development of a child's brain. The human brain has a hierarchical structure, with multiple parallel systems organised within the brain, with the simplest in the brainstem and the most complex in the cortical/ cortex known as the frontal part of the brain.

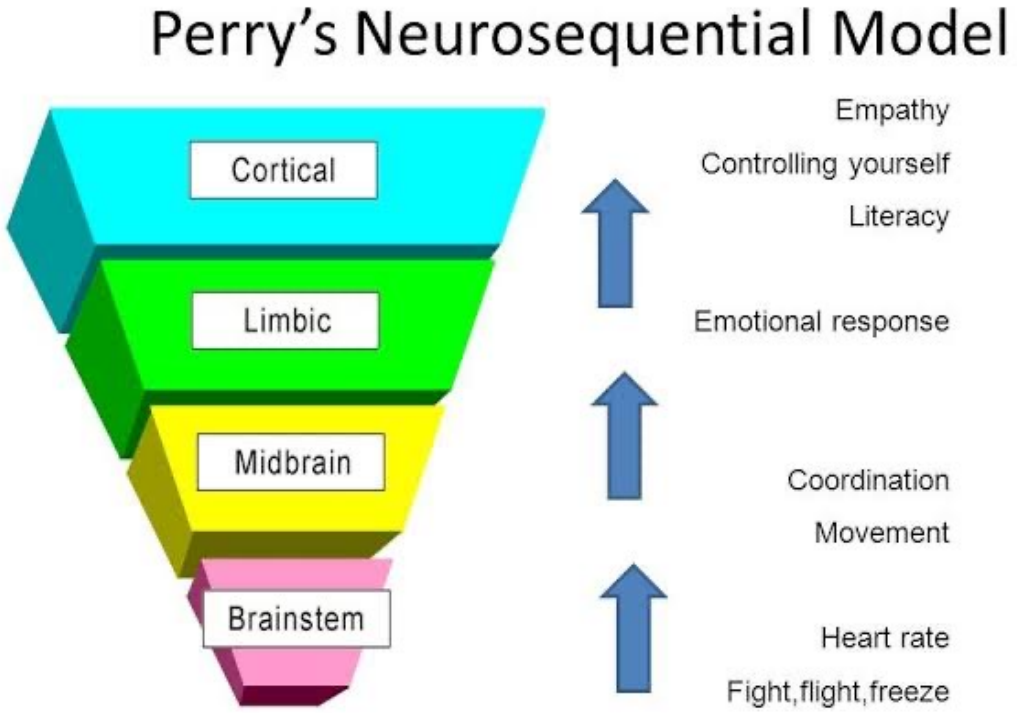

Figure 2.1 Perry, BD 2002, *Brain Structure and Function,* Adapted in part from '*Maltreated Children: Experience, Brain Development and the Next Generation* (W.W Norton & Company), viewed 17 July 2021 https://www.optionsautism.co.uk/wp-content/uploads/2019/06/Issue-25-Art-Therapy-using-the-Neurosequential-Model.pdf

The brainstem is the part of the brain that develops first. The brainstem controls arousal and automatic responses (e.g. survival). The limbic region develops second. It includes the amygdala (the area that identifies danger) and the hippocampus (its role is to consolidate information from short-term memory to long term memory). The amygdala is responsible for the experiences and expression of emotion and memory. The cortex develops last. It allows for a person to reflect (e.g. cognition and thinking). The cortex includes the area for the brain's higher function.

The brain develops throughout childhood and grows from the 'bottom-up', meaning the brain stem is formed first, and the frontal cortex develops last. Therefore, the survival functions of the brain develop before those for planning and impulse control. Our brainstem controls all of our basic needs: our heart rate, sleep, breathing and hunger. The amygdala is also developed in infancy and is the area in the brain that recognises danger. The brain develops in stages throughout childhood milestones; however, consistent exposure to stress through ACEs profoundly impacts brain development (Gunnar & Quevedo 2007; Pechtel & Pizzagali 2011). Fundamentally, trauma affects the body's stress hormone system (McLean 2016, pp.5). A prevailing theory is that the dysregulation of the Hypothalamic-Pituitary-Adrenal Axis, the stress response system (becoming over-activated or under-responsive over time), causes the changes in one's brain development (McLean 2016, pp.5). Consistent exposure to trauma makes a child's stress hormone system sit in the space of hyperarousal, whereby the system is

overactive. Children who experience persistent hyperarousal of stress affects the system so much that the system begins to have an under-response to fear.

Perry (1997) provided an example of an eight-year-old boy presenting as extremely agitated, hysterically sobbing when staff refused to cut up his hot dog before he ate it. His father and other men had sexually abused the boy; therefore, foods such as hot dogs, bananas and popsicles evoked his brain's fear response. Until the 'signal' was removed or altered, his brain experiences that signal as a threat. Figure 2.2 below demonstrates the effect of negligence on the developing brain. The image on the left is a healthy brain of a three-year-old child with an average size brain. The image on the right is of a three-year-old child's brain following total neglect during early childhood. The brain is significantly smaller than average and has abnormal development of the cortical, limbic and brain structure as a whole.

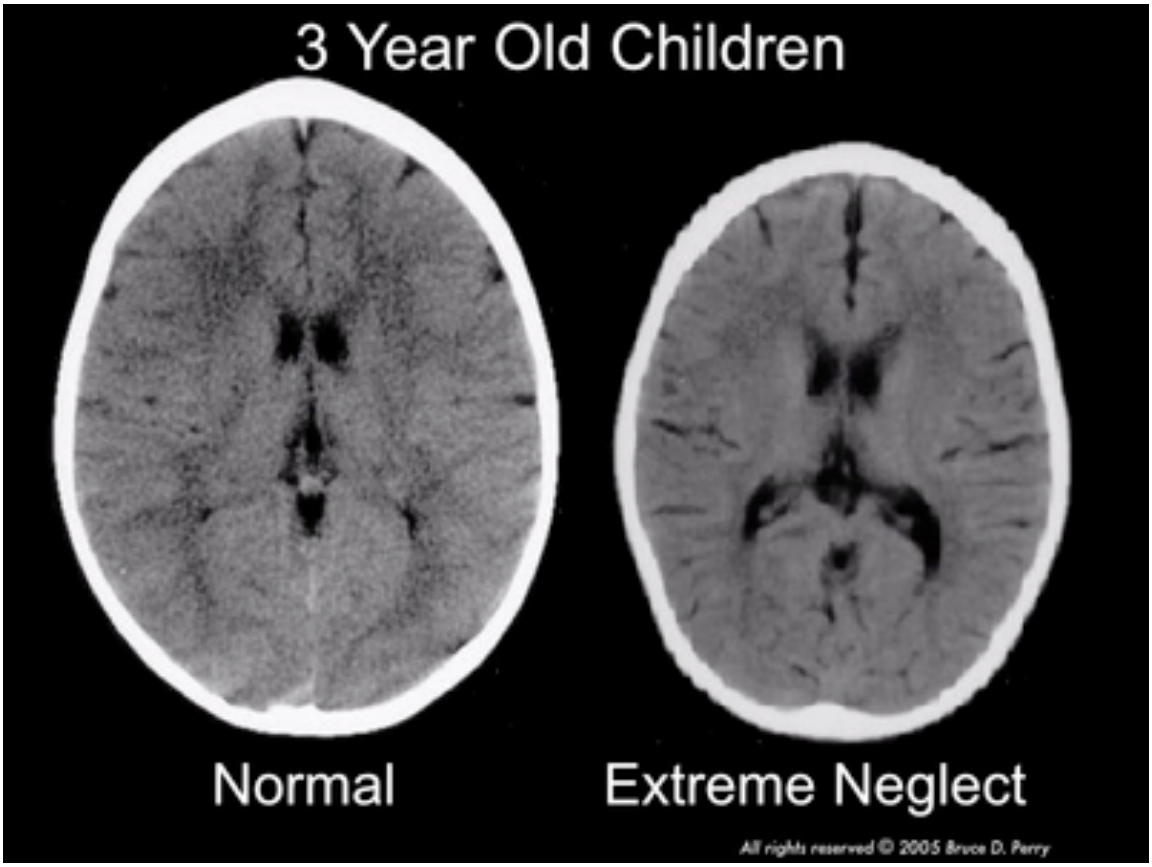

Figure 2.2 Perry, BD 2002, *Maltreated Children: Experience, Brain Development, and the Next Generation,* 93-129. New York: W.W. Norton, viewed 17 July 2021 https://www.google.com/url?sa=i&url=http%3A%2F%2Fwww.musicandresilience.net%2Fsites%2Fdefault%2Ffiles%2F2018-04%2Fperry_psychopathology_chapter_08.pdf&psig=AOvVaw3eg6kmn_0qYqxN-qPM8RuC&ust=1626582773610000&source=images&cd=vfe&ved=0CA0Q3YkBahcKEwjgmfuXo-nxAhUAAAAAHQAAAAAQAw

The effects of maltreatment and, thus, trauma is manifold. There is a strong correlation between maltreated children and extensive cognitive and language development (McLean 2016, pp.5-6). Children who experience neglect and abuse are more likely to have a lower IQ than compared with children who have not been exposed to abuse or neglect (McLean 2016, pp.6). One study has found that children exposed to family violence will have a lower IQ than someone who does not (McLean 2016, pp.6). Koenen et al. (2003, pp. 305) conducted a study testing whether family violence has a mediated effect on young children's brains, they found that children exposed to high levels of violence have IQs that were eight points lower than children who were not exposed to family violence. Reduced intelligence is likely to have a profound effect on children for the rest of their lives. On top of reduced IQ, trauma has been shown to affect one's memory negatively, and it is hypothesised that declarative memory and learning may be damaged when the hippocampus is damaged. Researchers have found correlations between "hippocampal damage following trauma and memory deficits" (Wilson, Hansen & Li 2011, pp.94). Trauma has also been linked to changing brain development, specifically, exposure to threatening stimuli in early development that has altered the neural pathways in the brain that processes fear. Research also indicates that ongoing exposure to ACEs such as family violence and abuse can shift a child's mind's basic format and functions. It ultimately reduces a child's IQ and social and emotional information, where a child can read emotional expressions on a person's face.

Perry (2017) presents a case study of a boy named Connor, who is a 14-year-old boy that was raised in a middle-class family with loving parents. However, his parents had to go to work; therefore, his parents hired a nanny to watch the baby. The nanny was to watch Connor for nine hours a day. However, the parents were unaware that the nanny got another job and would attend the home at the start of her shift. She would then leave and return only at lunchtime to feed and change him before leaving again until later in the day before the parents returned. Connor's mother began noticing that Connor was not hitting his developmental milestones as expected. The doctor, at that point, advised that babies develop at different times and not to worry. The doctor did not believe the mother was neglecting her baby. Therefore, they did not ask if Connor cried or showed other signs. It is to be noted that Connor never cried. The mother came home early one day from work to find Connor, 18 months in a dark, empty house, sitting in his crib in a dirty diaper. Connor was severely neglected for 18 months, with no one to interact with and no one to attend to him when he started crying; this is why he had stopped crying. Connor developed abnormally, having difficulty with social isolations from his peers and kept engaging in repetitive behaviours like rocking and humming.

Trauma interrupts typical brain development and turns a child's life upside down, leaving Connor to spend most of his life in the survival space of his brain rather than the cognition space.

As illustrated by Berger (*Figure 2.3*), the below image represents the impact trauma has on the development of the brain. Trauma interrupts typical brain development and turns a child's life upside down. Unfortunately, the current Child Protection Systems are not focused on preventing childhood trauma; instead, it is a crisis management model. Quite often, its results are the opposite: It traumatises or re-traumatises children. The lack of a unified approach only makes these problems more challenging. Figure 2.3 illustrates the development of children and adolescents who have been exposed to trauma compared to those who have not. Children who have not been exposed to traumatic events can achieve survival, emotional and behavioural control, which is always for them to flourish and succeed socially, emotionally, and cognitively. Yet, those children and adolescents that have been exposed to trauma find it challenging to achieve at school due to their heightened state of arousal and real or perceived concerns about their safety and security.

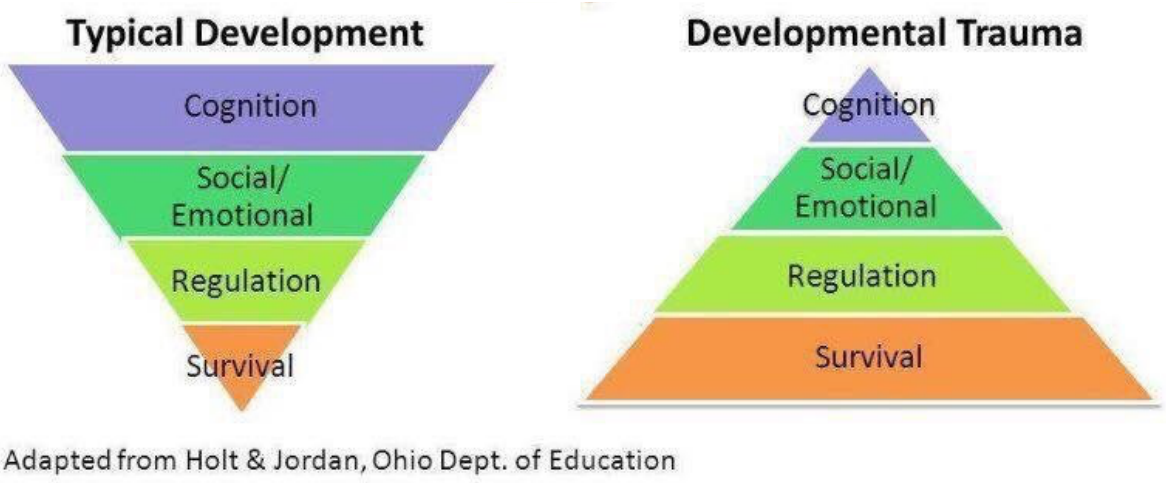

Figure 2.3 Berger, E 2019, "Five Approaches for Creating Trauma informed Classrooms" Monash University, viewed 17 July 2021, https://scopeconsultancy.com.au/uncategorised/trauma-brain-development-children/

The Child Protection System and Trauma

The current Child Protection Systems are primarily a reactive approach in all jurisdictions (Buckley & Nolan 2013). The existing systems across all domains are crisis focused, by which action only occurs after the incident of harm has transpired. Russ (2015, pp.83) conducted a research study with Child Protection practitioners as participants. Russ found there are system elements in crisis due to high workloads and high procedural and administrative requirements. The primary focus for the department is to close cases and address the immediate crisis without much of any discussion on early risk identification and prevention. Trauma informed practice is not incorporated as an approach. Resourcing issues are a significant reason why Child Protection practitioner's jobs are merely administrative rather than having the ability to work therapeutically with families, understanding a family's trauma and working together effectively towards a common goal (i.e. addressing the protective concerns) (Russ 2015). Conclusively, there has been an overemphasis on efficiency, which has therefore sidelined or not adequately considered a need to include trauma as a factor. For example, on 14 January 2020, the Melbourne Coroners Court delivered a report on the inquest into the death of baby 'HB', who was eight years old when she died on 1 August 2013 at home in the care of her mother, EG and father, DB. HB experienced no major adverse medical events since birth and appeared to be developing typically until five months of age, where it was noticed her development was slower than expected.

After investigation, HB was diagnosed with infantile spasms and commenced medication. HB could not speak besides making noises 'yes' or 'no' and could not move independently; she would spend her time either lying down or in a wheelchair. HB was utterly dependent on her caregivers, including to bath and toileting. HB could not swallow and was fed through her percutaneous endoscopic gastrostomy (PEG) and her medication. EG and DB separated; during the period before HB's death, DB sporadically saw HB. EG had not taken HB to her pending appointments at the Royal Children's Hospital between March and July 2013. Therefore HB was not linked in with a health care professional between 9 January 2013 and her death; HB was also not seen by anyone else beyond her family. Child Protection received a report on 7 April 2013 (the fifth involving the children of HB's siblings) expressing concerns for the children in their mother's care.

Further reports included that the mother was using 'ice' and leaving the children unsupervised for extended periods; that HB was left in the same nappy all day and missed her medication and has not been bathed for weeks; that the home was a 'pigsty'; that the children were not attending school regularly and the mother was not providing adequate care for them. The report was closed by Child

Protection at intake, and the family was referred to ChildFIRST on 16 April 2013. The referral resulted in two phone calls between ChildFIRST and EG on 6 May and 12 June 2013. However, the referral did not result in any substantive assistance being provided to EG. Child Protection received another (the sixth) report about the children on 15 July 2013; this report was still extant when HB died. The report alleged that DB was intoxicated when he grabbed the eldest daughter by the throat, causing the paternal grandfather to intervene by punching the father to make him cease. The report was progressed to an investigation; Child Protection attempted to conduct visits with the family; however, this was not successful. On 1 August 2013, HB was found deceased in her bed. The Victorian Coroner assessed the adequacy of the response of the Child Protection System, finding that "Child Protection intake decisions are crucial threshold decisions in the system, but are only as good as the information they are based on". Secondly, Child Protection's response to the fifth report involving HB's family "was flawed," leaving too much weight on EG's account of her family circumstances, even though there were serious allegations of neglect. Thirdly, Child Protection's involvement paid little attention to the pattern and history of the family that indicated the families lack of engagement with services and the cumulative harm and chronic neglect. This case study identifies that the current system is crisis-focused. On the fifth report, when the concerns were reported on the father for physically assaulting the children, the information progressed to investigations (an action occurred after the incident of harm that transpired), rather than the report progressing on the third or fourth report, where concerns were raised for mother's capacity to care for the children and problems for her substance misuse.

As mentioned in the chapter introduction, inquires found that the system that developed over time has a 'culture that is significantly crisis-driven'. Policies are made on the back of a single event in an 'ad hoc way' from upper management, with little consultation or involvement at all from the staff on the ground' (Salveron et al. 2014, pp.1). This culture creates an additional problem of not attracting and retaining frontline staff due to high workloads, limited assistance and supervision, and the "blame culture" (Munro 2018, pp.13) associated with Child Protection. The complex demands of clients leave staff not feeling committed and passionate about their work, as they are directly jumping from one case to the next. Workload burden and performance measures of a practitioner are seemed to be based on work throughputs rather than client outcomes (Russ 2015, pp.191). Therefore, practitioners merely respond to crisis after crisis, only to have the same families re-enter the system. This crisis-focused model is where practitioners are worried about KPIs and fixing the immediate risk with families rather than deep diving into the family and understanding the history and trauma that is underlining. This assumption has been further concreted with the release of the new inquiry into child

deaths, which found Child Protection was often too "focused on monitoring compliance rather than understanding and responding to the parents' underlying support needs" (Johnston 2021).

Tilby (2003) analysed data collection based on performance indicators, rates of re-notifications and substantiations. It intended to monitor whether the Child Protection System at the intervention phase effectively kept children safe from further harm. A report in 2002 has identified that in 1993-94, 64 per cent of all clients notified were new clients, comparatively in 2000-01, only 39 per cent were new clients. As mentioned in the previous chapter, two-thirds of notifications in 1999-2000 involved clients already known to the Child Protection System (Victorian Department of Human Service 2002, pp.15-16). In the most recent Child Protection Report (AIHW 2021a), it has been identified that 67 per cent of children who receive Child Protection services were returned clients. The current Child Protection approach is failing to keep children safe adequately. It is essential to understand these re-notifications are a vital accountability measure statistic for its crucial importance of prior history in predicting future harm (English et al. 1999) and the accountability and indicator of cumulative harm. Therefore, a higher level of re-notifications rates demonstrates that the current Child Protection Systems are not addressing cumulative harm. Cumulative harm can be missed when there are reports to Child Protection because individual reports may not meet the threshold for protective intervention. Therefore, the reports are closed at intake. Looking at reports individually or episodically lacks a child focus view and fails to assess the emotional and cumulative harm. For example, Jack died of suicide. By his mid-teens, he had a significant Child Protection history, with over 20 reports. The majority of these reports relate to his father being the perpetrator of violence—four of the reports pertained to Jack exhibiting challenging behaviours. The pattern and history of the reports included family violence, drug and alcohol misuse and mental illness. These reports raise many risk factors that would have provided solid grounds for ongoing protective intervention when considered together. The inquiry into Jack's involvement found that Child Protection needs to provide meaningful intervention earlier in cases where children are experiencing chronic and entrenched harm (Commission for Children and Young Person 2020, pp. 34)

Cumulative harm, much like trauma, affects a child's brain development, resilience, and attachment. Realistically, if the department is so concerned about KPIs and the input and output of clients, why is there no focus on the statistics surrounding re-notification? The data trends of re-notification rates in the Child Protection space illustrate that families are not receiving the help they need to maintain adequate care to look after their children. As a result, families are only superficially addressing the protective concerns that are then causing them to re-enter the Child Protection Systems. Numerous

families struggle with complex and chronic difficulties that Child Protection does not assess in the intake or investigation phase to meet the threshold of children at a significant risk of harm needing statutory intervention. Families that are not considered a significant risk of harm are referred out to agency support services such as Family First and Child First that are placed within the community to manage the concerns. However, these families are not receiving sufficient support to address the initial protective concerns primarily reported to Child Protection, and therefore, the cycle continues. Consequently, these families are being re-reported to Child Protection as the initial problems have not been addressed or subsequently worsened due to a lack of trauma informed practice. Rather than intervening earlier, working with families to resolve some of the stressors that can lead to trauma, the current system waits for the family to already be in crisis mode before taking action; often, the situation is already too far gone.

Reform Agenda: Implementation of Trauma Informed Practice

A possible method to assist practitioners in taking a proactive approach to protect children and intervening earlier and minimising trauma is creating a searchable database that includes a centralised clientele database nationwide. This would ensure that practitioners identify possible risk factors that make families vulnerable to child abuse or neglect, e.g. historical Child Protection involvement, financial stress, substance misuse, mental health concerns and parenting capacity (Bromfield, Lamont, Parker & Horsfall 2010). A trauma-focused, proactive system can identify patterns of vulnerability and adjust policies to prioritise early intervention and harm minimisation while also concurrently assisting families in times of crisis.

Difficulties for the child welfare system in implementing more trauma informed practices lay within the complications of the fundamental shift in thinking to trauma informed approaches at a policy level and for the policymakers to understand the need for the change. Politicians need evidence-based best practice information to verify the need for such a shift, especially in the child welfare scope. Policymakers can develop their understanding and base it on the nationally based resource that would have been published in the National Research Agenda. Therefore, Australia can improve policies and service delivery to enable trauma informed practice in the Child Protection sector that aligns with the child-focused approach recommended by the UNCRC. The ability to have a centralised resource database allows services to instrumentally shift the structure within the service system towards a trauma informed approach. Australia does not yet have a body that focuses on such extensive and specific work, which effectively furthers change in behavioural policy and incorporates understanding the effects of trauma on child development. New South Wales has begun a longitudinal study which

started in 2010 to provide large-scale research of children and young people in out-of-home care. Having the ability to align policy and service delivery to this theory is critical (Wise 2017).

Even though there are limited resources available to support the transition into trauma informed care within the Child Protection service, there does not appear to be any overarching trauma framework to support this change. Australian organisations have acknowledged a need for trauma informed services and intervention. Yet, there has been no solution to close this gap in the system. Another recent development is implementing a National Research Agenda (Arney, Bromfield & McDougall 2015, pp.104). This research plan aims to bring together available research into a searchable database. By having a readily accessible database containing all public research on Child Protection and relevant studies, practitioners can quickly and effectively identify "what works" and adjust practices and policies accordingly (Arney, Bromfield & McDougall 2015, pp.104). This initiative would provide evidence-based research into pattern recognition of the identification of vulnerable groups of children, thus creating proactive policies that minimise harm before it occurs and reduce costs in the future.

Concluding Remarks

Trauma undeniably impacts a child's brain development and function, which is supported by many scholars which include but is not limited to Perry (2017) and Anda (2006). Both Perry (2017) and Anda (2006) assess that children who experience trauma can have long-term effects such as unpredictable emotions, flashbacks, strained relationships, headaches, and nausea. Traumatic experiences can manifest themselves in any circumstances, physical, emotional, sexual abuse, neglect, and antenatal substance exposure, which can be described as ACEs. Sixty-four per cent of the population have at least experienced one ACE in their lifetime. However, one out of eight people have experienced more than four ACEs which studies suggest that these people who experience four or more ACEs are 14 times more likely to attempt suicide, 11 times more likely to use intravenous substances and four and a half more likely to develop depression (Marie 2020). The chapter explores the structure of the brain to demonstrate the significant impact trauma has on its development, that persistent exposure to ACEs and stress not only affects the children in a social aspect it physically affected the development of the brain and its function, which is depicted in Dr Perry's case study comparing two three-year-old children's brain scans. Secondly, discussed is the impact the current reactive crisis-driven system has on a child; this was explored through the case study of *baby 'HB',* that only after the sixth report, when there was an 'actual' incident of the father grabbing the eldest daughter by the throat did Child Protection initiate an investigation. Yet, five previous reports were pertaining to the mother using ICE,

leaving the children unsupervised for long periods and that HB was receiving appropriate care. Implementing a trauma informed model would have reduced the likelihood of baby HB's death as an investigation would commence at the second, third, fourth or fifth report. It is further noted that Australia's current Child Protection re-notification rates are 67 per cent; therefore, a higher level of re-notification rates demonstrates that the current Child Protection Systems are not addressing the initial protective concerns or the cumulative harm. Finally, it is to be acknowledged that while the primary focus of a Child Protection System should be minimising harm to children, the practice of Child Protection is traumatising hence why this thesis explores the need to introduce a trauma informed approach to Child Protection in conjunction with reform to national legislation. A more effective system would see a trauma informed approach to policy creation and operations, with holistic methodology, diagnosing and remedying maltreatment causes earlier. While reforming the system's overall functionality, policymakers need to address the impact a crisis-driven approach is having on the Child Protection System as a whole.

Chapter Five: Australian Inquiries

There has been a long-standing focus on protecting vulnerable children as a charitable response to suffering; however, at the start of the 20th century, some activists started promoting the idea that children should have rights. The first internationally recognised document to recognise children's rights specifically was the *Declaration of the Rights of the Child* (1984). Advocacy for children's rights further developed after World War Two left widespread suffering of children. This suffering led to the development of the organisation we know as UNICEF. Primarily called the "UN Fund for Urgency for the Children" in 1953, the organisation, now UNICEF, was given recognition as a permanent international organisation (Humanium 2021). However, within the last 25 years, it has become apparent to the Australian public that these guidelines are not being correctly followed, further reiterated by inquiries from Joint Sanding Committee of Treaties (JSCOT) and other independent bodies. This chapter dives into the shortcomings of the Australian Government concerning child safety and how relevant government systems are ineffective at identifying potential problems and solutions.

United Nations, Convention of the Rights of the Child

One of the ways in which the world aims to protect its children is by using a treaty, an "international agreement concluded in written form between two or more states/territories (or international organisations) and is governed by international law" (Department of Foreign Affairs and Trade 2021). A treaty is a way to outline a country's "international legal rights and obligations" (Department of Foreign Affairs and Trade 2021). As mentioned in Chapter One, Australia ratified the UNCRC to ensure the safety of children, which is the "most widely ratified human rights treaty in history and has helped transform children's lives around the world" (UNICEF 2021). The Convention has 54 articles in total, which outline the rights children are entitled to and "how adults and governments should work together to make sure that all children get all their rights" (UNICEF 2021). In conjunction with the ratification of the UNCRC, JSCOT was established (1996). Its role is to investigate and report on Australia's compliance to ratified treaties and review treaties before Australia ratifies them. JSCOT aims to make the treaty-making and signing process more informed and transparent (Parliament of Australia 2016). Since its establishment, JSCOT has considered over 800 treaties and written over 160 reports (Parliament of the Commonwealth of Australia 2016, pp. vvi).

Concerning Australia's adherence to the UNCRC, JSCOT received 746 submissions, 100 supplementary submissions and petitions. The JSCOT also met with the chairperson and Deputy Chairperson of

UNCRC to clarify interpretations and other issues relevant to Australia's implementation of the UNCRC (JSCOT, United Nations Convention on the Rights of the Child, p. xvii.). JSCOT's concluding report was 500 pages and contained 49 recommendations. The 38th Parliament tabled the JSCOT inquiry, which was between May 1996 and August 1998. However, five years later, the Australian Government's response was released at the 42nd Parliament on 6 March 2003. Of the 49 recommendations proposed by JSCOT, the government agreed to 12 proposals, disagreed with five and had already undertaken four. Of the remaining 28 recommendations, the Australian Government agreed in part to eight of them and noted 20. Of those 20, the Commonwealth Government responded that the Commonwealth Constitution placed the primary responsibilities for children's matters upon state/territory governments. The delay in the government's response to the JSCOT's report is concerning, highlighting the governments lack of urgency in complying with the UNCRC. The Commonwealth report also does not propose to implement the UNCRC through the enactment of domestic law, indicating that the Commonwealth Government does not see justification indirectly incorporating the UNCRC into legislation as other legislation that exists includes the essence of the UNCRC, however as mentioned in Chapter Two and Chapter Three of this thesis this causes a range of issues. Yet, the Australian Government continues to distribute responsibility to states/territories rather than answering the calls for reform. It is to note that this aspect has been thoroughly reviewed to the best of my knowledge, and no recent scholarly reports are analysing the government's response to the implementation of these recommendations.

Despite the Federal Government's efforts to pass the responsibility of reform onto the states/territories, of the 20 recommendations noted, only five were identified as the states/territories governments responsibilities (Parliament of Australia 2003). JSCOT highlighted the Commonwealth's failure to consult with states/territories that were affected by the implementation of the treaty, even though in 1996 the Foreign Minister advised that "[These measures] will also ensure that every Australian individual and interest group with a concern about treaty issues has the opportunity to make that concern known" (HR Deb (02.05.1996) 231). The Foreign Minister appeared to believe that merely informing the states/territories of the treaty, which is under consideration, suffices as a consultation. JSCOT holds concerns that this limited approach concerning consultation is not acceptable, but rather a discussion with all stakeholders is required to allow for accurate and practical discussions around what is expected of each states/territories with the treaty's implementation (JSCOT, Tenth Report, p. 7). JSCOT holds the view that "as [it is the Commonwealth's] signature to the convention it is the responsibility of the Commonwealth Government to ensure that legislation and policy comply with UNCRC" (Parliament of Australia 1998, ch.3, p.38). Yet, the Commonwealth passes the responsibility of five of the state/territories' recommendations to ensure the treaty's

implementation. Because of this, there "is no mechanism to ensure that the principles of the conventions are reflected" (Parliament of Australia 1998, ch.3, p.39) within the policy at a states/territories level or even consistent between each states/territories. Therefore, if states/territories do not comply with the minimum standards of the UNCRC, then the Commonwealth must legislate uniform national standards (Parliament of Australia 1998, ch. 3, p.39).

The Federal Government has not implemented the core principles of the treaty but rather informed each jurisdiction of its existence and expected them to adhere to the guidelines. JSCOT has outlined 49 recommendations over 500 pages to address issues within our Child Protection Systems. As a country, we are not complying with the international standards on children's rights, even close to as well as we could be. The Australian Child's Right Taskforce's report 'The Children's Report' (2018) contends that despite Australia's favourable economic and prosperous position, 'Australia is not making sufficient progress for all children and young people and has regressed in areas of critical importance' (pp.6). Rather than looking at the report and taking on board the recommendations, working with the state/territory governments to create a Nationally consistent, compliant Child Protection System, the Federal Government uses our disjointed, inconsistent system to do the bare minimum. As the body that signed the treaty, the Commonwealth Government should be responsible for creating a National system that is up to the international agreed-upon standards in the UNCRC. This is a key premise of this thesis. Cass (1991) and Single (2000) articulate that a child's right is a matter of national interest due to children being a national resource. A national resource is the responsibility of the Commonwealth Government, who should co-ordinate appropriate resources, establish national standards and monitor the policies and laws surrounding children. This thesis suggests that this could be done with the Commonwealth Government building one Federal legislation that can actively promote a child's best interest or clear legislation that helps articulate different standards and addresses the problems highlighted in this thesis. Representatives of the government have continually informed the United Nations of the importance of the national action and implementation of the Convention. Yet, it is 2021, and the government has not answered the calls for the incorporation of the Convention via legislation. Additionally, it has made reports indicating that they do not propose implementing the UNCRC within domestic law, a clear rejection of the Convention's recommendations.

JSCOT's Recommendations

Below the thesis will discuss the relevant recommendations that depict JSCOT's concerns for the lack of compliance with the UNCRC implementation. JSCOT's recommendations are consistent with the

contention of this thesis, indicating a need for Australia to have national, consistent legislation to protect children. A recurring theme in the concerns of stakeholders is the need for national consistency across all jurisdictions concerning the protection of children. JSCOT airs this same concern early in the report. Recommendation two (Parliament of Australia 1998, ch.4, p.131) calls the Governor-General to "investigate and remedy the inconsistencies between legislation in different jurisdictions that may adversely impact children." The impacts of inconsistency between jurisdictions are discussed in depth in Chapters Two and Three of this thesis. JSCOT is in agreeance that this is a primary concern in remedying the failing system. The inconsistencies are not only regarding legislation but include the day-to-day operation of each Child Protection body. Recommendation 19 urges the government to ensure "all relevant bodies address the inconsistencies within Australia concerning matters that impact children's rights, responsibilities and services" (Parliament of Australia 1998, ch.5, p.142).

The following recommendation follows the same themes regarding the services that each states/territories jurisdiction offer or refer families to. Recommendation 20 calls for the Federal Government to "reduce the inconsistencies between portfolios concerning the provision of programs and services for children and young people" (Parliament of Australia 1998, ch.5, p.117). JSCOT agrees with the thesis' main contention that combining resources would allow for best services and practices to be employed nationwide. Recommendation 21 supports the notion that the Federal Government should not just inform the state/territory governments of the signed treaty but rather have an active stance in the treaty's enforcement and compliance. Additionally, JSCOT recommends that there should be a "review to the existing legislation, policies and practices at [a] Federal, states/territories levels for compliance with the UNCRC" (Parliament of Australia 1998, ch.5, p.193) and further notes that a solution to the above issues is a national reform. The lack of a national policy or Federal legislation leaves the government open for criticism, especially when it is "clear that without a coherent, consistent and permanent voice for the child at both states/territories and Federal levels, the recommendations of the UNCRC are not met" (Parliament of Australia 1998, ch.5, pp.350).

Government Response to the Recommendations

The Australian Government has been slow to respond to any recommendations that the United Nations and JSCOT have made. It is to be noted that these meetings are few and far between, often many years apart. As mentioned above, the JSCOT tabled its inquiry before the Australian Government in 1998. The government responded five years later in 2003, which highlights concerns over Australia's

lack of urgency in complying with the UNCRC. Within the Australian Government's response to the JSCOT inquiry, the government agreed to 12 requests involving, issues relating to the media, the right to know the parents, non-discrimination, participation in policy and program development, jurisdictional inconsistencies, support for families, support for disadvantaged and disabled children, juveniles in detention and prosecution of child sex offences committed internationally (Parliament of Australia 2003).

Additionally, the government acknowledged that they have already undertaken four of the recommendations linked to topics such as monitoring the implementation of the Convention in Australia, support for families and sterilisation of disabled children. However, the government only agreed to eight recommendations linked to topics involving; best interest principles, the right to know the parents, non-discrimination; decision-making responsibilities of government agencies; jurisdictional inconsistencies; complaints mechanisms and teaching of the Convention in schools. Additionally, the government disagreed with five recommendations related to jurisdictional inconsistencies, office for children, juveniles in detention and declarations on the importance of families (Parliament of Australia 2003). The Commonwealth further 'noted' 20 of the recommendations that related to inconsistencies between states/territories and Federal legislation, issues relating to media, non-discrimination, support for women contemplating abortions, teenage pregnancy, the status of non-legislated international treaties in Australia, office for children, support for families, involvement of extended families, children and young people in care, access to support for young Indigenous people, training for professionals working with children, discipline in schools and juveniles in detention.

The actions to the recommendations that were mentioned explicitly above correspond to the need for the thesis. Recommendation two has been "referred" back to the states/territories; however, the government indicated that they would seek advice on this issue through- the Family Law Council. This recommendation suggested that the Standing Committee of Attorney-General investigate and remedy the inconsistencies between different legislative jurisdictions that may adversely impact children. Additionally, the government disagreed with recommendation 21, which articulates that there should be a review of the existing legislation, policies, and practices at Federal, states/territories levels to comply with the UNCRC. However, the Federal Government does not believe that this recommendation is within the Attorney-General's scope and thus seeks to refer it to states/territories for their consideration. These comments provided by the government are conflicting with the signed

treaty, given the Commonwealth Government signed the treaty and therefore must ensure compliance with the UNCRC.

Recommendations 19 and 20 both seek relevant bodies to address Australia's inconsistencies concerning the impact of the children's rights and seek a review into Australia's policies and practices to reduce the discrepancies between portfolios. The government's response identifies that while they agree with the recommendation, it will be passed off to relevant services such as Community Services Minister' Advisory Council and the Minister for Family and Community Services that will consider inter-and intra-jurisdictional consistency and coordination and consistency. Due to the above 'handballing' of responsibilities in the Australian Government's response, the UNCRC published a General Comment in November 2019 to ensure that all domestic legislation will "guarantee that all proposed legislation is fully compatible with the Convention" (CRC/CAUS/CO/5-6). Additionally, it recommends that the "state party adopt a national comprehensive policy and strategy on children that encompasses all areas of the Convention, with sufficient human, technical and financial resources for its implementation". However, given that international treaties and Conventions do not automatically form part of the Australian law, therefore, they cannot be enforced in domestic courts and do not take precedence over Federal legislation.

The Commonwealth's response to the 49th recommendations provided by JSCOT is that 16 of the recommendations "fall within the responsibilities of the states/territories" or "the recommendation concerns issues for which individual states/territories are primarily responsible", which has further "been referred to the states/territories for their consideration" (Parliament of Australia 2003). Thus, the inquiry itself is advocating for the creation of a coherent, consistent national policy. However, the Commonwealth's response to the inquiry is to perpetuate further the cycle of offloading the responsibility of Child Protection onto states/territories, which is counterintuitive to the contention 746 recommendations towards the inquiry.

In 2012, the UNCRC recalled its recommendation on legislation; while it is positive the Commonwealth Government has enacted several acts at both a Federal and state/territory level to align with the Convention, the Committee remained concerned that there is "no comprehensive child rights Act at a national level" (CRC/C/AUS/CO/4). Also, the absence of national legislation has created a fragmented and inconsistent implementation of children's rights across the nation. As a result, children in similar situations are subject to variations in the enforcement of their rights depending on the states/territories in which they reside (CRC/C/AUS/CO/4). The Committee reiterated the need for the

Commonwealth to strengthen its efforts on eliminating legislative inconsistencies to ensure that no child 'falls through the cracks. This can be achieved by enacting a comprehensive Child Rights Act at a national level, incorporating the provisions of the Convention and the Operational Protocols to provide clear guidelines for consistent and direct application throughout the Australian Commonwealth. The Committee had further recalled the recommendations for a national child rights Act in 2019; however, the Australian Government maintains that programs that fall under UNCRC guidelines are the responsibilities of domestic governments. The Australian Government further concludes that Australia did not need a broad-based child rights law at a national level and justified that the Convention already exists at a state/territory level.

The Australian Human Rights Commission (2019) that operates independently from the Australian Government, indicated that the system of government (Federation) is not a valid reason to not comply with the UNCRC (Australian Human Rights Commission 2019, pp.41). Furthermore, it was noted that the Federal Government could not offload responsibility to the sub-national government. United Nations, Concluding Observations (2019) report stated that the Committee on the Rights of the Child recommended that the Australian Government enact comprehensive national child rights legislation fully incorporating the Convention and providing clear guidelines for its consistent and direct application throughout its states/territories (UNCRC 2019, para 7a). As previously mentioned, there is no national coordination of the many policies across all states/territories. Many national initiatives focus on individual groups, such as closing the gap between Child Protection and Aboriginal and Torres Strait Islanders and reducing violence against women and children; however, there is no clear focus on children and national consistency in legislative responsibilities. The Committee will wait for the Commonwealth to submit its seventh periodic report by 15 January 2024, with information and follow-up on the present concluding observations.

Effectiveness of Inquiries

A public inquiry refers to a temporary ad hoc public body appointed by the executive government to investigate and advised on a breadth of issues. Their members are drawn predominantly from outside the government. General inquiries can consist of different forms such as Royal Commissions, task forces; committees; reviews; commissions; and inquiries. A public inquiry is required when a policy issue arises and needs to be addressed by the Commission for public consultation and exposure. This is often due to the problem having a significant impact on different groups within society or contentious or complex nature. For example, a Royal Commission is "an investigation, independent of

government, into a matter of great importance", they "have broad powers to hold public hearings, call witnesses under oath and compel evidence" (Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability 2021). Royal Commissions and Inquiries have become entrenched as Australia's advisory instrument to create an impact on public policy and government action. They are one way to expose issues, and recommendations can be given to the government to rectify them (Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability 2021).

Australia has had 137 Federal Royal Commissions since its Federation; 54 were between 1910 and 1929. Some have provided a sense of justice (Royal Commission into Institutional Responses to Child Sexual Abuse 2013-2017). Sometimes, Royal Commissions can be highly effective at exposing wrongdoings, resulting in drastic policy changes following recommendations, or nothing evident within the Aged Care Sector. Within the last 20 years, there have been 20 separate Royal Commissions, with no substantial policy changes taking effect, with recommendations emulated with previous recommendations (Royal Commission into Aged Care Quality and Safety 2021, pp.15). Australia has no formal accountability procedure; there are no standard checks to ensure that public inquiries lead to change; there is also no procedure holding governments accountable to follow any recommendations. Therefore, it is hard to determine or conclude the impact and the effectiveness inquiries have on Australia's policy change. Due to the proliferation of Royal Commissions, questions have arisen due to their effectiveness or just a political act?

Many inquiries focus on three questions; What happened? Who is responsible? And what can we learn? These questions are the focus of the JSCOT inquiry into the government's adherence to the UNCRC we discussed above. Investigations are set to uncover and understand who is at fault and often highlight where failings have occurred. However, most importantly, inquiries focus on how to move forward and learn from these failings. Usually, this means allowing participants to present to the Commission concerning the matter, permitting different points of view to be heard and considered. This means the success of an inquiry can depend on the community's activeness to provide these submissions.

In a practical sense, this is what occurred with the commencement of Australia's review into the implementation of the UNCRC, given the contentious outcome from the *Teoh* High Court decision. JSCOT's UNCRC – 17th report (1998) received 846 submissions comparable to the Mental Health Inquiry (2020), which received 1,932 submissions. There is a 22-year difference between the two

inquiries, yet there are only 1,068 fewer submissions for the JSCOT's inquiry. At the same time, this may seem like a large discrepancy; the evolution of technology and accessibility would have characterised and affected the number of submissions submitted for JSCOT. Therefore, each of these inquiries seems to have highly active community participation, allowing for well-rounded submissions. It also indicates a gross need for JSCOT's inquiry, with the public holding significant concerns for the safety and wellbeing of children.

In 2012, the Australian Law Reform Commission recommended legislation that required the Commonwealth Government to publish updates on the implementations of the recommendations that it accepts; however, this is still yet to be implemented (Australian Law Reform Commission 2010). Subsequently, the only indicator to determine if inquiries are helpful is if the government chooses to take action on the findings and recommendations that the inquiry presents. Australia is not alone in having no formal accountability; the United Kingdom relies on public inquires to examine significant incidents. A 2017 report by the 'Institution for Governments' found that of the 68 public inquiries that have taken place since 1990, only six were thoroughly followed up by selected committees to see what the government did as a result (Norris & Shepheard 2017). It is to be noted that I have used a United Kingdom study to provide data about public inquires due to limited academic research provided by Australian authors in this field. While inquires might satisfy the public's autonomous need, it poses a risk that learning from policy failures will not avoid repetition.

This is evident in the 1991 Royal Commission into Aboriginal Deaths in Custody (RCIADIC) that investigated 99 deaths and found that Aboriginal people died due to systemic and institutional racism (Anthony & Blagg 2021). Since then, there have been over 400 Aboriginal deaths in custody (Allam et al. 2021). Most of these deaths have been linked to circumstances that mocked the Royal Commission's recommendations for "safer, culturally appropriate, and humane practices, including the provision of appropriate healthcare" (Anthony & Blagg 2021)—highlighting that the relevant recommendations from RCIADIC and other Coronial inquires have not yet been adequately implemented. After 30 years, the RCIADIC review, found that only two-thirds of the recommendations have been fully implanted across Australia (Department of the Prime Minister and Cabinet 2018). With 78 per cent of the recommendations being fully implemented across all government levels, 16 per cent of recommendations had been partially implemented, and six per cent had not been implemented (Department of the Prime Minister and Cabinet 2018). The question raised after an extensive inquiry was lengthy and costly, why have some of the 369 recommendations not been

implemented? Scholars raise the point of a "lack of commitment by Federal, state/territory governments to fully implement the recommendations" (Harding 1995).

Similarly, to the JSCOT's inquiry, of the 369 recommendations handed down in RCIADIC found that 194 of the recommendations were the joint responsibility of the Commonwealth and the states/territories, 29 of the recommendations were solely the responsibility of the Commonwealth, and 116 recommendations were exclusively the responsibility of the states/territories (Department of the Prime Minister and Cabinet 2018). The Australian Human Rights Commissioner (2018) have clearly articulated that the recommendations have not been meaningfully met. This is due to a lack of accountability for implementing the recommendations given the Royal Commission was undertaken and funded by the Commonwealth; the Commonwealth must show leadership in ensuring the recommendations' performance.

It can indeed be agreed that decisions to implement inquiry recommendations are a matter for the government. However, the failure to enforce recommendations portends to undermine public confidence in the Royal Commission process and questions its effectiveness to achieve policy change (Australian Law Reform Commission 2009). Public inquiries are in place to investigate contentious issues and allow the public to present submissions concerning the matter. However, given there are still recommendations that have still not been implemented from RCIADIC and JSCOT's inquiries 30 and 25 years ago, why would the public have faith in the process and believe it is effective? Ultimately, the multiple reviews and Royal Commissions into the Age Care Facilities speak volumes to the reviews' effectiveness, all of them handing down the same recommendations. Essentially the governments establishing inquires and Royal Commissions to fund recommendations after recommendations, with no apparent intention to implement them. What is even more disconcerting is the Australian Law Reform Commission's (ALRC) recommendation in 2010 to implement legislation that requires the government to publish updates on the implementations of the recommendation. That recommendation from the ALRC is still not implemented.

While the public is seeking self-governance due to the lack of action by the government, the public views that Royal Commissions seem to be ineffective at leading to meaningful policy change. Firstly, the difficulty surrounding the recommendations handed down by inquires is advisory and not binding, meaning that governments have no obligation to implement the recommendations. Secondly, the contentious issue of public inquires, and Royal Commissions' effectiveness arises when recommendations are provided; however, the Commonwealth passes the responsibility to the

state/territory governments. Subsequently, suppose we refer to the competing issue of protecting children. In that case, it is not helpful for the wellbeing of children to be caught up in the Commonwealth and states/territories bureaucracy.

Concluding Remarks

Australia's adherence to the principles of treaties such as the UNCRC is an excellent place to start when accessing how well we are protecting Australian children. A purpose formed committees like JSCOT, and their reports are the best bodies to reveal how well we are adhering to treaties compared to the rest of the world. Unfortunately, reports do not place our Federal Government in a positive light. Reports often come back with the same recommendations, with years between government actions and responses, revealing a culture with a lack of urgency in solving legislative and operational shortcomings. This could be seen in other areas, as the seemingly blatant ignorance of recommendations regarding Aboriginal deaths in custody. Many deaths following the inquiry were preventable if the Commonwealth Government had followed the recommendations. Does this raise the question of is there any point to these types of investigations if the recommendations are likely ignored? Many of the issues raised in the JSCOT inquiry are concerning national consistency and accountability. Suppose the Commonwealth Government would implement the majority of the recommendations outlined above. In that case, many of the problems within the failing Child Protection Systems could be solved if Australia were to implement a Nationally consistent, trauma informed Child Protection System.

Chapter Six: Towards A Solution

Chapter Six *Towards a Solution* identifies resolutions to the limitations that have been identified through this thesis. Firstly, it has argued for the need for the Child Protection System to be coordinated federally, rather than at the state/territory level. It is to be noted that this thesis has sidelined the political and legal implications of a federal system. This is not the author's intention; addressing this concept does not fit within the scope of this thesis. However, it could be addressed further in future work. Secondly, the thesis has demonstrated the need for national reform concerning best practices based on a trauma informed approach that ensures protective concerns and the chronic issues with families are dealt with rather than missed, resulting in families re-entering into the Child Protection System. Thirdly, it has explored the problems the current system faces with a lack of a unified approach, the inconsistent data, and the effect on policymakers' inability to assess the current system. Finally, it has shown the need to consolidate all client database systems ensuring all client information is accessible for practitioners to make appropriate trauma informed, child-focused assessments.

Regretfully, since the UNCRC, the Australian Child Protection Systems have made minimal efforts to ensure to adopt the principles into the legislation and practice. A great deal of literature has broken down each recommendation suggested by the UNCRC—providing evidence that the "*Convention* has still not been comprehensively implemented into Australian law" (Child Rights Taskforce 2018), along with the UNCRC recommending a comprehensive legislative framework that encompasses obligations. It also sheds light on the pitfalls of the current Australian practice by having a disconnected approach at a domestic and Federal level, a challenge Australia and other countries with a national system might face. As a result, there is a risk that the legislation and its implementation would be fragmented and inconsistent (Child Rights Taskforce 2019, p. 1). Moreover, the current legislation remains based at a sub-national level (i.e. states/territories), which adopts diverse approaches to protect rights, leaving no consistency or national standard to hold individual jurisdictions accountable. The UNCRC also identified that Australia has failed to meet the UN's core values concerning the rights of a child and has failed to demonstrate a commitment to improving the quality of the Child Protection System (Australian Human Rights Commission 2011, p.5; UNICEF 2018). Additionally, the UNCRC recommended that Australia create an independent National Children's Commissioner to aid in evidence-based policy development, which will allow for a more trauma informed approach (Australian Human Rights Commission 2011, p.13).

Unified legislation would ensure that children are not falling through the gaps due to Australia's inability to reform policy according to the UNCRC's recommendations. For instance, if there is no consistent definition of 'harm' and 'a child at risk' nationally, vulnerable children in each jurisdiction are assessed according to different thresholds of what is deemed at 'risk' and 'in need' of statutory intervention. Additionally, the system might result in inconsistent data collection, which might significantly impact evidence-based research within the Australian Child Protection space.

Ultimately, children who enter the Child Protection System have almost certainly experienced early-life adversity and have had exposure to various traumas (Gabbay et al. 2004). The effects of trauma can be so significant on a child that exposure to adversity can negatively affect the brain's development and function (Fraser et al. 2014, pp. 1). The impact of trauma is drastic, yet the current Child Protection approach is crisis-focused (action only occurs after the incident of harm has transpired) rather than trauma informed, based on a risk management approach rather than a therapeutic approach. With a focus on input and output of cases (i.e. case closures) due to high work demands, practitioners fail to provide restorative care to families, including unpacking and addressing protective concerns. The trauma informed practice can connect with the clients and work through their protective concerns, in conjunction with working through the family's trauma, helping to educate families by addressing the link between the two factors.

However, due to the current legislation being implemented through a risk management focus rather than a trauma informed approach, clients return to the Child Protection System at an increasing rate. Victorian data indicates that during 2016-17 there was a four per cent increase in reports to Child Protection compared to the previous year (Victorian Department of Health and Human Services 2017). That four per cent further grew another four-point two per cent between 2017-18 (Victorian Department of Health and Human Services 2018). Legislative reform to include trauma informed practices will hopefully shift practitioners and policymakers focus from risk management to a therapeutic approach. This helps practitioners have available current research to ensure that best practice principles (trauma informed, child-focused) are at the forefront of client outcomes. Child Protection practitioners have a very narrow window to identify the concerns and make sound assessments to ensure children's safety and wellbeing, which is problematic. There is no unified national client database to ensure practitioners are reviewing all relevant information about the clients. Implementing a nationwide initiative would reduce inconsistencies in the Child Protection Systems whilst advancing a trauma informed perspective. Specifically, Australia needs to promote practices of change by training practitioners to recognised and react to trauma.

Thus, legislative reform would focus on national consistency, equality of care and proactive trauma-focused policy. A piece of nationwide Child Protection legislation would promote the value and influence of the client's voice in all aspects of community services, delivery and development to improve quality and safety. It would provide principles and guidance to inform and connect multiple pieces of related work, emphasising the critical link between quality governance, the client voice and outcome. Finally, it would provide a reference point for everyone working in the community service (regardless of their role or the stage and nature of their work) to assess and reflect on how things are currently done and develop new ways of working, with the constant commitment to improving client outcomes. Having a national database would aid the practitioner's ability to understand a client's history, which makes the person who they are. Most importantly, it would promote acknowledgement of client trauma.

Legislative Reform

For Australia to improve conditions for children, an overhaul of Child Protection policies and legislation is needed, or otherwise establish coordination mechanisms that ensure that the main problems discussed in this thesis can be adequately addressed. The new system would be formed around national consistency, equality of care and proactive trauma-focused policies. The improved legislation will allow for valuable data collection, meaning the effectiveness of strategies can be quickly evaluated, and policymakers can make adjustments to reflect the data. Trauma informed practices would focus on identifying risk and early intervention to minimise harm to Australia's most vulnerable citizens. The new system would sample practical qualities from the Child Protection Systems of other developed countries worldwide, reflecting the recommendations and values of the UNCRC.

As proposed in this thesis, the Australian Child Protection System should adopt a national approach, preferably run or coordinated by the Federal Government. This means unified legislation, a consolidated client database, and a unified set of enforceable court orders nationally, just like the Federal Family Law Court (Peel & Croucher 2011). With this in place, there would be no confusion associated with pursuing information from other states/territories and then trying and transferring orders into the often-conflicting legislation and policies of a family's new place of residence. While changing a country's entire legislative structure seems a grand fete, it will be a much more effective way to spend money and utilise resources in the long run. A national approach would see a reduction in the duplication of processes from jurisdiction to jurisdiction. Having cohesive court orders nationally reduces administrative takes for practitioners, leaving them to focus on trauma informed, therapeutic

practice and reduce the amount of money wasted on court fees. A Federal system and consistent processes will ensure that intake, investigation, protective intervention, protective orders and case closure would all be done once and then apply across all states/territories. It removes the need for a new government body to duplicate the work, freeing up resources, money, and time to help more children in need (Families Australia 2007; Productivity Commissioner 2019; Merkel-Holguin, Fluke & Krugman 2018, pp. 23). Wise (2017) has noted considerable changes to the system to protect children; these changes have responded to the system's shortcomings. While strategies are adopted as a response are an improvement from the past, the unique context of the service delivery in each jurisdiction has considerable problems. A new system architecture for Australian Child Protection would allow for a more "robust and coordinated service" (Wise 2017). Coordination of all jurisdictions about Child Protection and have unified Federal legislation that draws on the UNCRC recommendations and consolidation of all current legislation concerning Child Protection will allow for cohesiveness.

Trauma Informed Practice Reform

As highlighted in Chapter Two, a nationally consistent process dramatically improves the quality and usability of data. Having eight different systems, with individual legislations, procedures and definitions, difficulty obtaining and interpreting meaningful data. Different initial screening processes and descriptions of crucial terminology means that data from each system is mainly incomparable. It creates further problems when it comes to accessing the effectiveness of legislation and policy. There is little information to demonstrate whether what agencies are doing is reducing harm to children. AIHW (2000) agree that at a national level, Australia should use a "generic" framework to improve best practice trauma informed, improve data collection, and ensure all jurisdictions are held accountable for keeping children safe.

For a system to be trauma informed, especially Child Protection, it must recognise that the impact of trauma is widespread and aims to work towards recovery pathways – it must be aware of signs and symptoms and avoid re-traumatisation (SAMHS 2014). Yet, following a crisis model, the system focuses on immediate behaviour concerns and opts for a "quick fix". This culture and style of approach is a significant contributing factor to the appalling 67 per cent re-notification rate across Australian Child Protection bodies (AIHW 2020). The National Child Protection framework would be centred around pattern recognition and identifying families at risk of experiencing family violence or neglect and early intervention.

The lack of available and consistent data means that there is no outcome-based data to assist future policymaking. Consistent data allows policymakers to see the pitfalls in re-notification rates and ineffective risk management models when working with this demographic. Additionally, centralised data will depict Child Protection need to move towards a more trauma-focused approach, with the ability to target and reduce re-notification rates nationwide. Wise (2017) explores the number of developments towards a degree of change in the Child Protection Systems across Australia. Wise (2017) articulates a strong focus on the "use of big data and actuarial calculations to derive evidence and insights about where to target interventions"—bringing consideration to investing in strategic research to understand how policies are currently working and planning for the future. For example, New South Wales is carrying out a longitudinal study in 2010 to provide a large-scale analysis of children and young people in out-of-home care (Australian Institute of Family Studies & University of Chicago Chapin Hall Centre for Children 2015). It is clear that a strong focus on developing articulate data collection is fundamental and steps in the right direction. However, it misses the opportunity to apply a national data study (as recommended by the UNCRC). There is the contentious issue of a disjointed array of systems across the nation.

Learning from Other Countries: Sweden's Approach to Child Protection

When forming the National Framework, Australia should look to the systems adopted by other developed countries and embrace auspicious qualities from each, such as trauma-focused policies and more holistic policies.

Sweden is an example of a country that has taken a holistic approach towards Child Protection, making prevention and family support an integral part of their system (Hetherington 2006). This approach is referred to as a "family service model", which has been adopted by many European countries, while Australia, Canada, The United States and The United Kingdom adopt a "Child Protection" model (Price-Robertson, Bromfield & Lamont 2014). A crucial difference to Australia's Child Protection model is that Sweden and many other European countries focus on assisting struggling, at-risk families with their needs to try and better their situation and prevent trauma to children by managing risk proactively (Wiklund 2006). Sweden places importance on the social worker's relationship with families and uses more discretion than rigid policy. Differences in operation and delegation of responsibility make it challenging to access precisely how much better or worse Sweden's system is than Australia's. However, the number of notifications for child abuse and neglect in Sweden is relatively low, implying they have qualities worth considering adopting (Wiklund 2007). Wise (2017) identifies that particular jurisdictions are leaning towards introducing more of a community service system to divert families

from statutory Child Protection and assist families more holistically. This can be implemented and operate smoothly when the current system for 'protecting children' collaborates as one entity. Australian Child Protection should be leaning towards a trauma informed, child-focused, multi-agency national framework. That allows for early intervention and intensive family support which is established from evidence-based research. A change to a family service concept will need to be an ongoing commitment from all stakeholders until the new concept is considered the norm.

Consolidation of Client Data Base Systems

Each jurisdiction has its client database, which includes crucial information about clients such as; pattern and history; generational trauma (parental Child Protection history); previous substantiations; return clients and responsible for the harm. Each Child Protection System, not having clear communication with the other enables vulnerable children to fall through the gap of the system, especially if a family was to move interstate. Demonstrating the weaknesses of the current system- the lack of communication of valuable information held on states/territories client databases. Data and information systems play a crucial role in the welfare of children and the ability of Child Protection practitioners to do their jobs. These data systems allow for implementing case management systems, interactions with children, case planning decisions and care team discussions. Yet, state-wide systems do not communicate with each other.

As mentioned above, Child Protection models are based on predictive risk models, whereby prior history can predict future harm (English et al. 1999) and that ‘the best guide to "future behaviour is past behaviour’ (Munro 2008, pp.77). However, research has repeatedly shown that historical information is not given enough attention that it should be when assessing a child's risk (Rose and Barnes 2008; Reder and Duncan 1999). Information gathering across all services is beneficial to help build a picture of the pattern and behaviour and whether circumstances have changed over time. Identifying these patterns allows for more straightforward predictions of the likelihood of harm as neglect can become cumulative and made up of repeated failures by parents to meet the basic needs of a child.

Understanding a family's dynamic allows a practitioner to establish a more trauma informed practice when working with the family and build relationships with the families—doing this therapeutic work aids in breaking the cycle of families coming in and out of the Child Protection Systems. If a family re-enters the system, there would be a well-documented assessment on the centralised Child Protection

database so that the next worker can have insight into the case and have that ability to clearly distinguish what worked well and what did not work well in the past.

The Australian Department of Social Services (ADSS) has acknowledged that there needs to be planning to make a Child Protection state-based system available to all practitioners across Australia, with available information in real-time. The system should allow for interstate searches and "alarm features to allow Child Practitioner agencies in all states/territories to check the status of children at risk and detect persons of interest" (Hendry 2018). A national database would help keep track of Child Protection issues and the ability to safeguard vulnerable children from "falling between the cracks" (Hendry 2018). No current system alerts practitioners to background information about families in other states/territories databases.

A national database would allow current cases to be handled in the most informed and effective way possible. Still, it would also aid in the amendment of existing and creation of new policies and legislation. The current system is inconsistent and primarily inaccessible across different jurisdictions; this creates a problem in making informed decisions on policies and legislation. In addition, it is difficult to gauge the effectiveness of current intervention methods when there is a lack of data to assess the performance. A national system with nationally consistent data collection and record-keeping standards would help make data more comparable across jurisdictions. Australia will then be provided with valuable statistics to act as KPIs, to ascertain what policies and processes are working and which ones need amending.

Identifying areas of policy that are ineffective effectively will be crucial in the movement towards becoming more trauma informed. Changing how families are processed to become more proactive will involve pattern recognition and developing means to identify at-risk children and intervene early. Such changes will mean a lot of new policies and processes being created and many existing ones transforming. For example, initial screening, intake, investigation, issuing orders and day to day operations would all have to undergo modifications. When a lot of change occurs, it is crucial to assess the effectiveness of these new policies, procedures, processes, and legislation and adjust them when necessary. Consistent, comparable, and accessible data provided through a national database will assist in facilitating such transition.

Concluding Remarks

A consistent National Framework across all states/territories of Australia would remedy many of the current jurisdiction's faults. A constant policy and procedure would provide equality of care for all of Australia's children, no matter where they reside. Having the same legislation, policies, procedures and reporting requirements across jurisdictions would enable the creation of valuable data and KPIs to assist with the design of a future system. Families would no longer be able to take advantage of the lack of cooperation between states/territories. If a family were to move to a different jurisdiction, they would face the same intervention methods, and their history would be readily available to the new team handling their case. Additionally, creating a new framework that applies to the entirety of Australia would allow for the inclusion of trauma informed policy to break the cycle of abuse and neglect and address the problems at the source. When it comes to protecting Australia's children, consistency is critical.

Conclusion

A change needs to occur in the Australian Child Protection space. There have been 32 inquiries into the care and protection of children. All 32 inquiries have raised concerns that the current Australian Child Protection model is not doing an adequate job of keeping vulnerable children safe. The 32 inquiries over 14 years conclude that the current system "is in crisis," focusing on the lack of communication and inter-agency coordination. Another significant concern that has been raised is the lack of national consistency and lack of unity within Australia (Bromfield & Higgins 2005). The absence of cohesiveness across the states/territories in multiple facets, including the mere definition of a child 'at risk' and 'neglect', indicates significant issues concerning data collection and children missing the threshold of 'in need' of statutory intervention. How can a definition be so inconsistent when the outcome can be so detrimental? For example, a baby in one state who is being exposed to family violence and parental substance misuse may not meet the threshold in another. How is that reasonable?

As this thesis discussed in Chapters Two and Three, having separate Child Protection jurisdictions and pieces of legislation across Australia has been raised internationally. The UNCRC has highlighted the difficulty this system provides, resulting in inadequate service provision to clients. The UNCRC has also indicated that the Australian Child Protection space needs to change to allow for adequate coordination across states/territories. Child Protection legislative reform should allow the Child Protection Systems to become more collaborative and improve the lack of coordination across states/territories. Australia is one of the only developed countries that has not conducted a national study on vulnerable children (AIHW 2020, pp.376). Child Protection should be a national issue, with the ability for states/territories to have shared responsibilities to support clients actively. Not only does a legislative reform allow for unity across the nation. It will also enable policymakers to identify the need to change the current Child Protection policy from crisis-focused to more trauma informed and child-focused. This would ensure that Australians that the child's voice is being heard and those practitioners are taking action to understand the barriers that clients face and are able to respond to cultural needs and the impact of trauma and geographical or social isolation.

As explained in Chapter Four, trauma has a profound effect on a child's development, especially on the brain's development. The exposure to ACEs can have a long-standing severe negative impact on the health and wellbeing of children, so much so that people who experience more than six-plus ACEs can die 20 years earlier than those who have not (Marie 2020). Compounded with the current reports indicating that Child Protection re-notification rates are currently sitting at 67 per cent, children are

more likely to be experiencing six or more ACEs. Seventy-two per cent is a statistic that implies that the current system is ineffective in remedying the problems in these families that lead them to re-enter the system. It indicates that Child Protection practitioners and Child Protection policies are not trauma informed but rather based on KPIs and input and outputs. Implementing trauma informed procedures in the Child Protection space will allow partitioners to focus on working with families rather than an output focus of cases and being driven by crisis. The issues practitioners face in the implementation of trauma informed work currently are workload demands. If practitioners had lower caseloads, the workers would do more therapeutic work with clients than "closing cases" (Russ 2015, pp.191). A fundamental shift in approach is needed, underpinned by a more substantial commitment to transparency and collaboration between governments, service providers, and communities. Without a drastic change in a unified, national framework, individual state governments will continue to waste money and resources on practices that inherently have a 67 per cent failure rate in alleviating the suffering of children. The Australian legislative reform aims to develop and maintain a collaborative network to support resource and policy development in child trauma education and training.

A Child Protection National Database will provide greater consistency and easier access to Child Protection practitioners and other services. The integrated approach will place clients at the centre of service delivery, enabling Child Protection to provide evidence-based interventions that more adequately reflect the whole-of-live needs of the child. It is not a single program of work or a times limited project; it is about transitioning to a new way of working with all Australian jurisdictions to promote the safety and wellbeing of vulnerable children. Through close examination of the current Child Protection systems relevant legislation, systems, KPIs and reviews from external parties this thesis has revealed a failing system in desperate need of review. In order to better protect children in Australia, the Commonwealth Government needs to take an immediate action to ensure practitioners are achieving the implementation of holistic therapeutic work. Legislative reform compounded with applying a national client database will allow the Australia Child Protection System to meet the UNCRC standard. It can address the lack of national data and increase communication and inter-agency coordination; more importantly, it acknowledges trauma.

Appendix Contents Page

Appendix One- Scoping Literature Review

Completed with the assistance of La Trobe Library Staff.

2. Search Strategy

Research Question
For my research I am focusing on the Australian Child Protection System and how Australian Child Protection has 8 separate (state and territory) based legislations that are not collaborative including court orders. My thesis breaks down the major inconsistencies in the 8 legislations and the impact this has on the Australian Child Protection Systems ability to keep children safe. The thesis incudes how a non-national consistent framework effects the trauma response model and therefore the safety and wellbeing of children. The thesis presents a solution of a national legislation which also includes a cohesive court system (like the Federal Family Circuit)

Concept 1: Child Protection legislation	Concept 2: Jurisdiction
Child Protection legislation Australia Child Protection legislation inconsistencies Inconsistent Child Protection/welfare laws Australian Child Protection/welfare framework	Australian State and territory Commonwealth

Inclusion Criteria	Exclusion Criteria
Australian Commonwealth, State and Territory legislation Australian Child Protection legislation	Family violence

Other Information
Grey literature –
State and Commonwealth government websites
Theses (use LTU Library Search or Trove (https://trove.nla.gov.au/) for Australian theses
Print Media (use Factiva database)
Social Media
Analysis & Policy Observatory: https://apo.org.au/

Database scope notes
Australia
APAFT (Informit): Australian Public Affairs - Full Text (APA-FT) provides indexed and full text access to journal articles on the social sciences and humanities.
AGIS Plus Text (Informit): Comprehensive journal coverage from over 100 Australian, New Zealand and Pacific law journals. For taxation articles of interest to Australia; full text from 1999 onwards and bibliographic only for pre-1999 periods
AGIS-ATSIS (Informit): Material from the Attorney-Generals Information Service (AGIS) on aspects of the law that relate to Aboriginal and Torres Strait Islander peoples.
CINCH (Informit): Australian Criminology Database (CINCH) indexes articles from published and unpublished material on all aspects of crime and criminal justice. Includes corrections, crime, crime prevention, criminal law, criminology, juvenile justice, law enforcement, police and victims of crime.
International
HeinOnline: Full-text legal journals and other legal documents predominantly US, also includes major international publications and some Australia Law reviews. Good coverage of Human Rights Journals. More than 143 million pages of legal history including more than 2,300 law and law-related journals. Also contains the Congressional Record Bound volumes in entirety, complete U.S. Reports back to 1754, famous world trials back to the early 1700s, legal classics from the 16th to the 20th centuries, the UN and League of Nations Treaty Series, all US treaties, the Federal Register from inception in 1936, the CFR from inception in 1938, and much more.
ProQuest Criminal Justice: Search a comprehensive collection of U.S. and international criminal justice journals including information for professionals in law enforcement, corrections administration, drug enforcement, rehabilitation, family law, and industrial security.
ProQuest Social Science: Extensive coverage of social science and humanities related publications
PsycINFO (Ovid): Psychology and related disciplines including psychiatry, nursing and sociology

Notes about search:
Additional notes about the search

3. Database Search
Summary of search

Database	Total articles
Australian Institute of Criminology Troy, A, et al. 2018 “Who is responsible for child maltreatment?”	1
AGIS Plus Text Informit Winkworth, G, White, M 2010 “May Do, Should Do, Can Do: Collaboration between Commonwealth and State Service Systems for Vulnerable Children” Bessant, J, Watts, R 2015 “Continuing subversion of the children's court: A review of Victoria's new Child Protection laws 2014” Peel, S, Croucher, R, F 2011 “Mind(ing) the gap: Law reform recommendations responding to Child Protection in a federal system” Peltola, C 2002 “What Should a Good Statutory Child Protection System Look Like?”	4
Analysis and Policy Observation: Bromfield, L, Higgins, D 2005 “National Comparison of Child Protection systems” Bromfield, L, Holzer, P 2008 “A National Approach for Child Protection: project report”	2
Factiva: Australia institute of Family Studies, 2014 “Australian Child Protection Legislation”	1
Capitol Monitor: Australian Institute of Family Studies, 2018 Child Protection legislation fact sheet	1
ProQuest Criminal Database: Hanson, P, Ainsworth, F 2013 “Australian Child Protection services: A game without end”	1
ProQuest Social Science Database: Fernandez, E 2014 “Child Protection and Vulnerable Families: Trends and Issues in the Australian Context” Sheehan, R 2019 “Cumulative harm in the Child Protection System: The Australian context”	2
Total articles 2002-1 2005- 1 2008-1 2010-1 2011-1 2013- 1 2014- 2 2015-1 2018-2 2019-1	12

Database 1- AGIS Plus Text Informit +AFPD (Informit) + APAFT (Informit)+ CINCH (Informit) + CINCH-ATSIS (Informit) + CINCH-Health (Infromit)

Search date: 27/01/2021

Search Strategy:

Search ID#	Search Terms	Search Notes	Results
S1	Australian Child Protection Legislation	Most relevant searches: Dates range from 2000-2017 Mandatory reporting Engaging children Cumulative Harm Nurses and CP School duty of care Public Health Model Approach	28909
S2	Child welfare system OR Child Protection legislation inconsistencies Australia	Most relevant searches: Dates range from 2001-2019 Practitioners views Research Outcomes Gap between Family Law Court and Child Protection School response to abuse Therapeutic responses Child abduction Cultural sensitivity	2736
S3	Australian Child Protection legislation inconsistencies	Most relevant searches: Dates range from 2008-2019 Gap between federal system Inquests and Inquiries Vic Child Protection laws reviewed Inappropriate discipline Engaging children Cultural sensitivity Collaboration between state and commonwealth government Racial discrimination within the act	6682
S4			

Database 2- APO
Search date: 27/01/21
Search Strategy:

Search ID#	Search Terms	Search Notes	Results
S1	Australian Child Protection Legislation	Most Relevant: Date range 2012-2015 AIHW 2013 report Cultural diversity Broken system in relation to aboriginal culture Mandatory reporting Sexual abuse legislation	69

S2	Child welfare system OR Child Protection legislation inconsistencies Australia	Most Relevant: 2018 National adoption framework	1
S3	Australian Child Protection legislation inconsistencies	Most Relevant: 2011-2017 Family Violence information sharing Adoption framework Infertile Australian families	4
S4	Child Protection	Most Relevant: 2005-2017 Australian Centre of Child Protection Royal Commission Report History of Child Protection Risk Assessment National Comparison National Approach	796

Database 3- Australian Institute of Criminology
Search date: 27/01/21
Search Strategy:

Search ID#	Search Terms	Search Notes	Results
S1	Australian Child Protection Legislation		0
S2	Child welfare system OR Child Protection legislation inconsistencies Australia		0
S3	Australian Child Protection legislation inconsistencies		0
S4	Child Protection	Most Relevant: YP in criminal justice system Orphanages and sexual exploitation Responsible of harm Online grooming laws Child Abuse Family Law Court	14

Database 4- Capital Monitor
Search date: 27/01/21
Search Strategy:

Search ID#	Search Terms	Search Notes	Results
S1	Australian Child Protection Legislation	Most Relevant: 2018 AIFS Child Protection legislation fact sheet 2003 New legislation in WA	2
S2	Child welfare system OR Child Protection legislation inconsistencies Australia		0
S3	Australian Child Protection legislation inconsistencies		0
S4	Child Protection		4875

Database 5- Criminal Justice Abstracts (EBSCO)
Search date: 27/01/21
Search Strategy:

Search ID#	Search Terms	Search Notes	Results
S1	Australian Child Protection Legislation		0
S2	Child welfare system OR Child Protection legislation inconsistencies Australia	No relevant searches	933
S3	Australian Child Protection legislation inconsistencies		0
S4	Child Protection		3515

Database 6- Factivia
Search date: 27/01/21
Search Strategy:

Search ID#	Search Terms	Search Notes	Results
S1	Australian Child Protection Legislation	2014, Australian Child Protection Legislation – Foreign Affairs	1
S2	Child welfare system OR Child Protection legislation inconsistencies Australia	No relevant searches	25,908
S3	Australian Child Protection legislation inconsistencies	No relevant searches	0
S4	Child Protection	No relevant searches	294,568

Database 7- ProQuest Criminal Justice Database
Search date: 27/01/21
Search Strategy:

Search ID#	Search Terms	Search Notes	Results
S1	Australian Child Protection Legislation	Most Relevant: 2008-2013 Khyber Pakhtunkhwa Child Protection Life sentences UK Human Rights and UN rights. Terrorism Child Protection database misuse Child Protection and logical typing Children and Domestic Violence	6

S2	Child welfare system OR Child Protection legislation inconsistencies Australia	No relevant searches	0
S3	Australian Child Protection legislation inconsistencies	No relevant searches	573
S4	Child Protection AND Australia	No relevant searches	189

Database 8- ProQuest Social Science Database
Search date: 27/01/21
Search Strategy:

Search ID#	Search Terms	Search Notes	Results
S1	Australian Child Protection Legislation	Most Recent: 2004-2020 Child labour Cumulative harm- Aust context Child Protection and Maltreatment in Philippines. Life sentences UK Human Rights and UN rights. Cosmopolitanism Child Protection trends Australia Substances use and pregnancy Cultural Genocide- Aboriginality.	9
S2	Australian Child welfare system OR Child Protection legislation inconsistencies Australia	No relevant searches	53
S3	Australian Child Protection legislation inconsistencies	No relevant searches	0
S4	Child Protection AND Australia	No relevant searches	16,299

Appendix Two- ACE Questionnaire

For each "yes" answer, add 1. The total number at the end is your cumulative number of ACEs.

Before your 18th birthday:

1. Did a parent or other adult in the household often or very often… Swear at you, insult you, put you down, or humiliate you? or Act in a way that made you afraid that you might be physically hurt?
2. Did a parent or other adult in the household often or very often… Push, grab, slap, or throw something at you? or Ever hit you so hard that you had marks or were injured?
3. Did an adult or person at least 5 years older than you ever… Touch or fondle you or have you touch their body in a sexual way? or Attempt or actually have oral, anal, or vaginal intercourse with you?
4. Did you often or very often feel that … No one in your family loved you or thought you were important or special? or Your family did not look out for each other, feel close to each other, or support each other?
5. Did you often or very often feel that … You did not have enough to eat, had to wear dirty clothes, and had no one to protect you? or Your parents were too drunk or high to take care of you or take you to the doctor if you needed it?
6. Were your parents ever separated or divorced?
7. Was your mother or stepmother:

   Often or very often pushed, grabbed, slapped, or had something thrown at her? or

   Sometimes, often, or very often kicked, bitten, hit with a fist, or hit with something hard? or Ever repeatedly hit over at least a few minutes or threatened with a gun or knife?
8. Did you live with anyone who was a problem drinker or alcoholic, or who used street drugs?

9. Was a household member depressed or mentally ill, or did a household member attempt suicide?
10. Did a household member go to prison?

Source: NPR, ACEsTooHigh.com. This ACEs Quiz is a variation on the questions asked in the original ACEs study conducted by CDC researchers

Appendix Three- Table of Legislative Inconsistencies

The legislative review was conducted in a three-stage process:

Stage 1: Identification

Identify statutory provisions within the legislations that engage or limit the United Nations Convention of the Rights of the Child (UNCRC).

- Department Responsible.
- Principal Act.
- Actions or outcomes from which children are 'in need of protection'.
- Definition of harm.
- Definition of "at risk".
- Best Interests of the child.
- Court orders.

Stage 2: Legislative analysis

Assess the compatibility of those provisions with the UNCRC treaty.

Stage 3: Policy analysis

Considered competing policy issues and categorise any provisions that are potentially incompatible with the UNCRC.

	Victoria
Department Responsible	Department of Health and Human Services (DHHS)
Principal Act	*Children, Youth and Families Act 2005* (Vic.)
Actions or outcomes from which children are in need of protection	• Abandonment • Emotional and psychological harm. • Neglect • Physical injury. • Sexual abuse
Definition of harm	No definition.
Definition of "at risk"	No definition.
Best Interests of the child	Gives the following circumstances: • Best interest of the child needs to be paramount • Need of protection from harm • Protection of their rights • To promote their development (age and stage to be considered). • Widest possible protection and assistance to ensure family unit. • Strengthen and preserve positive relationships between family. • Aboriginal children to protect and promote culture and identity. • Childs views and wishes. • Effects of cumulative patterns of harm • Continuity and permanency in child's care. • Timely decision making. • Removal of a child only when there is an unacceptable risk of harm to the child. • Kinship options considered first. • Reunification plan • Parents goals to be set out in case plan. • Contact arrangements for children, siblings and parents. • Child to continue to be connected to cultural/ religious/ sexual identity. • Cultural plans. • Child to be supported to educational/ health and accommodation services. • Childs education/ training/ employment not to be disturbed. • Attempts for siblings to be placed together.

Court Orders	• Undertakings • Family Preservation Order • Family Reunification Order • Care by Secretary Orders • Long Term Care Order • Permanent Care Orders

	Tasmania
Department Responsible	Department of Communities Tasmania (DHHS)
Principal Act	*Children, Young Persons and their Families Act 1997* (Tas.)
Actions or outcomes from which children are in need of protection	• Abandonment • Abuse • Family violence • Neglect • Non-school attendance. • Threats to kill.
Definition of harm	No definition.
Definition of "at risk"	Gives the following circumstances: • Child has been or is likely to be abused or neglected. • Someone that lives with the child or sees them often has either threatened to kill the child and is likely to do so or has killed someone else and is likely to kill the child. • The guardians of the child are unable to maintain or supervise the child. • -They are unable to prevent the child from suffering. • -They do not ensure the child goes to school or a training institute. • They are dead or have abandoned the child.
Best Interests of the child	Gives the following circumstances: • Best interests of the child need to be paramount. • Need to protect from physical, psychological and other harm and exploitation. • Child's views and wishes. • Parents capacity and willingness to care of child. • Nature of the child's relationships of child and parent/ siblings.

	• Child stability and nurturing relationships. • Child need for stability on placements. • Child's physical, emotional, intellectual, spiritual, developmental and educational needs; • Parents attitude to the child and responsibilities of parenthood • the need to provide opportunities for the child to achieve his or her full potential • Child's age, maturity, sex, sexuality and cultural, ethnic and religious backgrounds • Other special characteristics of the child • Effect of change on the child. • The least intrusive intervention possible in all the circumstances • Assisting child to recover. • As a result of abuse or neglect. • Reports of a child being harmed or at risk of harm and cumulative harm.
Court Orders	• Care and Protection Order • Supervision Order • Restraint Order

	Northern Territory
Department Responsible	Territory Families (DCF)
Principal Act	*Care and Protection of Children Act 2007* (NT)
Actions or outcomes from which children are in need of protection	• Abandoned. • Female genital mutilation. • Maltreatment (physical injury, serious emotional or intellectual impairment, physical impairment, sexual abuse or exploitation) • Neglect.
Definition of harm	Harm to a child is any significant detrimental effect caused by any act, omission, or circumstance on the physical, psychological, or emotional wellbeing or development of the child. They list the following factors: physical, psychological, emotional abuse, neglect of the child, sexual abuse or other exploitation of the child, exposure of the child to physical violence.
Definition of "at risk"	No definition.
Best Interests of the child	Given the following circumstances: • Best interest of the child needs to be paramount.

	• Need of protection from harm and exploitation. • Capacity and willingness of the child's parents to care for the child • Nature of the child's relationships. • Strengthen and preserve positives relationships between family. • Reunification Plan. • Childs views and wishes. • Child's need for permanency. • Childs need for stable relationships. • Child's physical, emotional, intellectual, spiritual, developmental and educational needs. • Child's need for stable and nurturing relationships • Child's age, maturity, sex, sexuality and cultural, ethnic and religious backgrounds • Aboriginal children to protect and promote culture and identity. • Effect of change on the child.
Court Orders	• Temporary Protection Orders • Assessment Order • Protection Order • Permanent Order

	South Australia
Department Responsible	Department for Child Protection
Principal Act	*Children and Young People (Safety) Act 2017*
Actions or outcomes from which children are in need of protection	• Abandonment • Emotional abuse • Female genital mutilation. • Mental abuse • Neglect. • Physical abuse • Sexual abuse • Transience.
Definition of harm	Meaning of harm is a reference to physical harm or psychological harm (whether caused by an act or omission). They list the following factors: sexual, physical, mental, or emotional abuse or neglect. It is noted that psychological harm does not include emotional reactions such as distress, grief, fear, or anger that are a response to the ordinary vicissitudes of life.
Definition of "at risk"	Gives the following circumstances:

	• The child has or is likely to experience harm that they would usually be protected from. • They are likely to be removed from the state for the purpose of an illegal medical procedure (such as female genital mutilation) or an illegal marriage. • They are unwilling or unable to care for the child. • They have abandoned the child, cannot be found or are dead. • The child is of compulsory school age and is not attending school.
Best Interests of the child	No clear circumstances for best interest of the child principles given. Besides the best interest of the child needs to be paramount, which is to be considered administration, operation, and enforcement of the legislation.
Court Orders	N/A

	Queensland
Department Responsible	Department of Child Safety, Youth and Women (DCYW)
Principal Act	*Child Protection Act 1999.*
Actions or outcomes from which children are in need of protection	• Harm - immaterial how the harm is caused. • Harm caused by physical, psychological, or emotional abuse or neglect, sexual abuse, or exploitation
Definition of harm	Harm is any detrimental effect of a significant nature on the child's physical, psychological, or emotional wellbeing. They note that it is immaterial how the harm is caused. They list the following factors: physical, psychological, emotional abuse, sexual abuse, or exploitation.
Definition of "at risk"	No definition.
Best Interests of the child	Given the following circumstances: • Best interest of the child needs to be paramount. • Need of protection from harm or at risk. • Child's family has the primary responsibility of the child's upbringing. • To support the child's family. • State is responsible if they child's parent is not willing or able. • Removal should only occur in warranted circumstances.

	• Family Reunification. • Parents to be supported to meet goals. • Child permanency. • Kinship options. • Attempts for siblings to be placed together. • Child to maintain relationships with family. • Child to continue to be connected to cultural/ religious/ sexual identity. • Timely decision making
Court Orders	• Temporary Assessment Order • Temporary Custody Order • Court Assessment Order • Directive Order • Protective Supervision Order. • Transition Order. • Short Term Custody Order

	Western Australia
Department Responsible	Department of Communities, Child Protection and Family Support (CPFS)
Principal Act	*Children and Community Services Act 2004* (WA)
Actions or outcomes from which children are in need of protection	• Emotional abuse. • Neglect. • Physical abuse. • Sexual abuse.
Definition of harm	Harm, in relation to a child, includes harm to the child's physical, emotional, or psychological development.
Definition of "at risk"	No definition.
Best Interests of the child	Given the following circumstances: • Need to protection from harm. • Capacity of the child's parents to protect the child from harm • Capacity of the child's parents to provide for the child's needs • Nature of the child's relationships of parents/siblings. • Parents attitudes to the child and responsibility. • Child's views and wishes. • Childs permanency and stability. • Contact arrangements for children/siblings and parents. • Child's age, maturity, sex, sexuality and cultural, ethnic and religious backgrounds

	• Child to continue to be connected to cultural/ religious/ sexual identity. • Childs physical, emotional, intellectual, spiritual and developmental needs; • Child's educational needs; • Effect of change on the child.
Court Orders	• Protection Order (supervision) • Protection Order (time limited) • Protection Order (until 18) • Protection Order (special guardianship)

	New South Wales
Department Responsible	Department of Family and Community Services (DCJS)
Principal Act	*Children and Young Persons (Care and Protection) Act 1998* *Child Protection Legislation Amendment Act 2003.*
Actions or outcomes from which children are in need of protection	• Domestic violence. • Neglect. • Physical abuse. • Psychological harm. • Sexual abuse.
Definition of harm	Gives a specific list of circumstances to be able to say a child is at risk of harm: • The child's or young person's basic physical or psychological needs are not being met or are at risk of not being met. • The child is not given necessary medical care. • The Child is not going to school. • The Child has been or is at risk of being physically or sexually abused. • The Child is living in a house with domestic violence and is therefore at risk of physical or psychological harm. • A parent or care givers behaviour poses risk of serious physical or psychological harm. • "The child was the subject of a pre-natal report under section 25 and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report."

Definition of "at risk"	Same as above. Legislation provides a definition for "at risk of significant harm"
Best Interests of the child	Given the following circumstances: • Best interest of the child needs to be paramount. • Child's views and wishes. • Child's age, maturity, sex, sexuality and cultural, ethnic and religious backgrounds • Child to continue to be connected to cultural/ religious/ sexual identity. • Least intrusive intervention needs to be considered. • Timely decision making • Child's permanency and stability. • "If a child or young person is placed in out-of-home care, the child or young person is entitled to a safe, nurturing, stable and secure environment. Unless it is contrary to his or her best interests, and taking into account the wishes of the child or young person, this will include the retention by the child or young person of relationships with people significant to the child or young person, including birth or adoptive parents, siblings, extended family, peers, family friends and community."
Court Orders	N/A

	Australian Capital Territory
Department Responsible	Child and Youth Protection Services (CYPS)
Principal Act	*Children and Young People Act 2008* (ACT
Actions or outcomes from which children are in need of protection	• Abuse • Neglect. • Residing with a person who has previously killed a child. • Sexual or financial exploitation. • Threats to kill
Definition of harm	"Significant harm includes a single instance of significant harm or multiple instances of harm that together make up significant harm."
Definition of "at risk"	"A child or young person is at risk of abuse or neglect if, on the balance of probabilities, there

	is a significant risk of the child or young person being abused or neglected."
Best Interests of the child	Given the following circumstances: • Need to protect from risk of abuse and neglect. • Child's views and wishes. • Nature of the child's relationship of parents/ siblings. • -the likely effect on the child or young person of changes to the child's or young person's circumstances, including separation from a parent or anyone else with whom the child has been living • Child's right to contact.
Court Orders	N/A

References

Allam, L, Wahlquist, C, Evershed, N & Herbet, M 2021, 'The 474 deaths inside: tragic toll of Indigenous deaths in custody revealed', *Guardian,* 9 April 2021, viewed 26 December 2021, https://www.theguardian.com/australia-news/2021/apr/09/the-474-deaths-inside-rising-number-of-indigenous-deaths-in-custody-revealed

Alston, P & Brennan, G (eds) 1991, *The UN Children's Convention and Australia,* The Human Rights and Equal Opportunity Commission, Sydney.

American Psychological Association 2020, *Trauma,* American Psychological Association, viewed 17 June 2020, <https://www.apa.org/topics/trauma/#:~:text=Trauma,symptoms%20like%20headaches%20or%20nausea.>

Anda, RF, Felitti, VJ, Bremner, JD, Walker, JD, Whitfield, C, Perry, BD, Dube, SR & Giles, WH 2006, 'The Enduring Effects Of Abuse And Related Adverse Experiences In Childhood: A Convergence of Evidence from Neurobiology and Epidemiology', *European Archives of Psychiatry and Clinical Neuroscience,* vol. 256, no. 3, pp. 174-186.

Anthony, T & Blagg, H 2021, 'Biopower of Colonialism in Carceral Contexts: Implications for Aboriginal Deaths in Custody', *Journal of Bioethical Inquiry.*

Arney, F, Bromfield, L & Mcdougall, S 2015, 'Research in Child Protection: An Australian Perspective', in Lorraine Waterhouse And Janice Mcghee (Ed.), *Challenging Child Protection: New Directions in Safeguarding Children,* Jessica Kingsley Publications, Australia, pp.100-105.

Australian Association of Social Workers 2014, *Practice Standards for Mental Health Social Workers 2014,* Australian Association of Social Workers, Canberra.

Australian Human Rights Commission 1997, *Bringing the Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families,* Australian Human Rights Commission, Canberra.

Australian Human Rights Commission 2011, *Information concerning Australia and the Convention on the Rights of the Child: Australian Human Rights Commission Submission to the Committee on the Rights of the Child.* https://humanrights.gov.au/sites/default/files/content/legal/submissions/2011/201108_child_rights.pdf

Australian Human Rights Commission 2018*, Information Relating to Australia's Joint Fifth and Sixth Report Under the Convention on The Rights of the Child, Second Report on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, and Second Report on the Optional Protocol on the Involvement of Children in Armed Conflict: Submission to the Committee on The Rights of the Child,* Australian Human Rights Commission, Canberra.

Australian Human Rights Commission 2019, *Children's Rights Report 2019 In Their Own Right: Children's Rights in Australia NATIONAL CHILDREN'S COMMISSIONER,* Australian Human Rights Commission, Canberra.

Australian Institute of Family Studies & University of Chicago Chapin Hall Centre for Children 2015, *Pathways of Care Longitudinal Study: outcomes of children and young people in out-of-home care in NSW- Wave 1 baseline statistical report,* Australian Institute of Family Studies.

Australian Institute of Health and Welfare 2000, *Child Protection Australia: 1998-99*, Australian Institute of Health and Welfare, Canberra.

Australian Institute of Health and Welfare 2013, *Child Protection Australia: 2011-12,* Australian Institute of Health and Welfare, Canberra.

Australian Institute of Health and Welfare 2019, *Child Protection Australia: 2017-18*, Australian Institute of Health and Welfare, Canberra.

Australian Institute of Health and Welfare 2020, *Australia's Children,* Australian Institute of Health and Welfare, Canberra. https://www.aihw.gov.au/reports/children-youth/australias-children/contents/data-gaps/overarching-data-gaps.

Australian Institute of Health and Welfare 2021, *Child Protection*, Australian Institute of Health and Welfare, Canberra. https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2019-20/summary

Australian Child Rights Taskforce 2018, *The Children's Report: Australia's NGO coalition report to the United Nations Committee on the Rights of the Child, UNICEF Australia. https://www.unicef.org.au/Upload/UNICEF/Media/Documents/Child-Rights-Taskforce-NGO-Coalition-Report-For-UNCRC-LR.pdf*

Australians Together 2021, *The Stolen Generations* Australians Together, viewed 11 July 2021, https://australianstogether.org.au/discover/australian-history/stolen-generations

Babington, B 2011, 'National Framework for Protecting Australia's Children: Perspective on Progress and Challenges', *Australia Institute of Family Studies: Family Matters,* no.89.

Bamblett, M & Lewis, P 2007, 'A Vision for Koorie children and families: Embedding rights, embedding culture', *Just Policy*, vol. 41, pp. 42- 46.

Bamblett, M & Lewis, P 2007, 'Detoxifying the Child and Family Welfare System for Australian Indigenous Peoples: Self-determination, Rights and Culture as the Critical Tools', *First Peoples Child & Family Review,* vol. 3, no. 3, pp. 43-56.

Bartlett, J.D, Barto, B, Griffin, J.L, Fraser, J.G, Hodgdon, H & Bodian, R 2016, 'Trauma informed Care in the Massachusetts Child Trauma Project', *Child Maltreatment,* vol.21, no.2, pp.101-112.

Berger, E 2019, 'Five Approaches for Creating Trauma informed Classrooms', Monash University https://www.monash.edu/education/teachspace/articles/five-approaches-for-creating-trauma informed-classrooms

Berlin, LJ, Appleyard, K & Dodge, KA 2011, 'Intergenerational Continuity in Child Maltreatment: Mediating Mechanisms and Implications for Prevention', *Child Development*, vol. 82, no. 1, pp. 162–176.

Bromfield, L & Higgins, D 2005, 'National Comparison of Child Protection System', *Issues: Child Abuse Prevention,* no. 22, pp. 1-28.

Bromfield, L & Holzer, P 2008, 'A National Approach for Child Protection- Project Report', *Australian Institute of Family Studies,* pp.119.

Bromfield, L, Lamont, A, Parker, R & Horsfall, B 2010, 'Issues for the safety and wellbeing of children in families with multiple and complex problems: The co-occurrence of domestic violence, parental substance misuse, and mental health problems', *Australian Institute of Family Studies,* viewed 22 July 2021, https://aifs.gov.au/cfca/publications/issues-safety-and-wellbeing-children-families-multiple-and-co

Brown, A.D, McCauley, K, Navalta, C.P, Saxe, G.N 2013, 'Trauma Systems Therapy in Residential Settings: Improving Emotion Regulation and the Social Environment of Traumatized Children and Youth in Congregate Care', *Journal of Family Violence,* vol. 28, no.7, pp.693-703.

Buckley, H & O'Nolan, C 2013, *An Examination of Recommendations from Inquiries into Events in Families and their Interactions with State Services, and their Impact on Policy and Practice,* Department of Children and Youth Affairs- Irish Research Council, Government of Ireland, Ireland.

Care and Protection of Children Act 2007 (NT)

Cass, B 1991, 'Towards a National Agenda for Children', in Alston and Brennan (eds), *The UN Children's Convention and Australia,* ANU Centre for International and Public Law.

Centre for the Study of Social Policy 2021, 'UpEnd: All Children Deserve to be with their Families', viewed 27 December 2021, https://cssp.org/our-work/project/upend/

Chappell, L, Curtin, J 2013, 'Does federalism matter? Evaluating state architecture and family and domestic violence policy in Australia and New Zealand', *The Journal of Federalism*, vol. *43, no.* (1), pp.24-43.

Child Protection Act 1999 (QLD)

Child Protection Legislation Amendment Act 2003 (NSW).

Child Welfare Information Gateway 2015, 'Developing a Trauma-Information Child Welfare System', *Child Welfare Information Gateway,* viewed 3 February 2020, < https://www.childwelfare.gov/pubPDFs/trauma_informed.pdf >

Children and Community Services Act 2004 (WA)

Children and Young People (Safety) Act 2017(SA)

Children and Young People Act 2008 (ACT)

Children and Young Persons (Care and Protection) Act 1998 (NSW.)

Children, Young Persons and their Families Act 1997 (Tas.)

Children, Youth and Families Act 2005 (Vic.)

Clifford, S & Silver-Greenbery, J 2017, 'Foster Care as Punishment: The New Reality of Jane Crow', *The New York Times,* 21 July 2017, viewed on 27 December 2021, https://www.nytimes.com/2017/07/21/nyregion/foster-care-nyc-jane-crow.html

Collins, S 2008, 'Statutory Social Workers: Stress, Job Satisfaction, Coping, Social Support and Individual Differences, *British Journal of Social Work,* vol. 38, pp. 1173-1193.

Commission for Children and Young People 2019, *Annual Report 2018-19,* Commission for Children and Young People, Melbourne.

Commission for Children and Young People 2020, *Annual Report 2019-2020,* Commission for Children and Young People, Melbourne.

Connolly, M & Smith, R 2010, 'Reforming Child Welfare: An Integrated Approach', *Child Welfare,* vol. 89, no. 3, pp. 9-31.

Cook, A, Spinazzola, J, Ford, J.D, Lanktree, C, Blaustein, M & Cloitre, M 2005, 'Complex Trauma in Children and Adolescents', *Psychiatric Annals,* vol. 35, no. 5, pp. 390-398.

Cross, S, Hubbard, A & Munro, E 2010, *Reclaiming Social Work,* London Borough of Hackney Children and Young People's Service, < Https://Secure.Toolkitfiles.Co.Uk/Clients/28663/Sitedata/Files/Eileen-Munro.Pdf >

Declaration of the Rights of the Child (1984).

Department of Foreign Affairs and Trade 2021, *Treaties,* Department of Foreign Affairs and Trade, Canberra.

Department of the Prime Minister and Cabinet 2018, 'Review of the implementation of the recommendations of the Royal Commission into Aboriginal deaths in custody', Department of the Prime Minister and Cabinet, Canberra.

Department of Social Services 2009, *The National Framework for Protecting Australia's Children 2009-2020.*

Department of Social Services 2020, *Evaluation of the National Framework for Protecting Australia's Children 2009-2020,* pp.57-79, https://www.dss.gov.au/sites/default/files/documents/11_2020/evaluation-national-framework-pwc-report-12-july-2020-updated-oct-2020.pdf

Dettalff, A, Weber, K, Pendelton, M, Boyd, R, Bettencourt, B & Burton, L 2020, 'It is not a broken system, it is a system that needs to be broken: the upEND movement to abolish the child welfare system', *Journal of Public Child Welfare,* vol. 14, no. 5, pp.

Donisch, K, Bray, C & Gewirtz, A 2016, 'Child Welfare, Juvenile Justice, Mental Health, and Educational Providers' Conceptualizations of Trauma informed Practice', *Child Maltreatment,* vol.21, no.1, pp.124-134.

Drake, P, Heath, L 2011 *Practitioner research at doctoral level: developing coherent methodologies*, Routledge, London.

Emerging Minds 2011, 'Child Aware Practice', viewed on 22 December 2021 https://emergingminds.com.au/online-course/child-aware-practice/

English, D, Marshall, D, Brummel, S. & Orme, M 1999, 'Characteristics of Repeated Referrals to Child Protective Services in Washington State', *Child Maltreatment*, vol.4, no. 4, pp. 297-307.

Families Australia (2007), *Towards a National Child Protection Strategy for Australia: Discussion Paper,* Canberra: Families Australia.

Family Assistance Act 1999 (Cth)

Felitti, VJ, Anda, RF, Nordenberg, D, Williamson, DF, Spitz, AM, Edwards, V, Koss, MP &

Finan, S, Bromfield, L, Arney, F, Moore, T 2018, *Assessing the Quality and Comprehensiveness of Child Protection Practice Frameworks*. Adelaide: Australian Centre for Child Protection, University of South Australia.

Fong, K 2019, 'Concealment and Constraint: Child Protective Services Fears and Poor Mothers' Institutional Engagement', *Social Forces,* vol. 97, no. 4, pp. 1785–1810

Foucault, M 1977, *Disipline and Punsih: The Birth of the Prison,* Pantheon Books, New York.

Fraser, JG, Griffin, JL, Barto, BL, Lo, C, Wenz-Gross, M, Spinazzola, J, Bodina, RA, Nisenbaum, JM & Bartlett, JD 2014, 'Implementation of a Workforce Initiative to Build Trauma informed Child Welfare Practice and Services: Findings from the Massachusetts Child Trauma Project', *Children And Youth Services Review,* vol. 44, pp. 233-242.

Gabbay, V, Oatis, MD, Silva, RR & Hirsch, GS 2004, 'Epidemiological Aspects of PTSD in Children and Adolescents. In R. R. Silva eds., *Posttraumatic stress disorders in children and adolescents: Handbook,* pp. 1-17.

Goodman, S & Trowler, S (Eds.) 2012, *Social Work Reclaimed: Innovative Frameworks for Child and Family Social Work Practice*, Jessica Kingsley Publishers, London.

Gunnar, M & Quevedo, K 2007, '*The Neurobiology of Stress and Development', Annual Review of Psychology, vol. 58, no. 1, pp. 145-173.*

Hendry, J 2018, 'How DSS Will Link up State-Based Child Protection Systems', itnews, Viewed 3 February 2020, < Https://Www.Itnews.Com.Au/News/How-Dss-Will-Link-Up-State-Based-Child-Protection-Systems-482094*>.*

Hetherington, R 2006, 'Learning from Difference: Comparing Child Welfare System' in Freymond, N & Cameron, G (Ed.), *Towards Positive Systems of Child and Family Welfare.* University of Toronto Press, Toronto.

Holzer, P, Bromfield, L 2008, 'NCPASS comparability of Child Protection data- Project report'

HREOC 1997, *Submission to the Inquiry by the Joint Standing Committee on Treaties into the Status of the United Nations Convention on the Rights of the Child in Australia*

Humanium 2021, *Children's Rights History,* viewed 29 May 2021, https://www.humanium.org/en/childrens-rights-history/

Humanium 2021, *Geneva Declaration of the Rights of the Child 1924*, viewed 29 May 2021, https://www.humanium.org/en/geneva-declaration/

Hunter, C 2014. 'Effects of child abuse and neglect for children and adolescents', Australian Government, *Australian Institute of Family Studies*

Hunter, C, Price-Roberston, R 2017, 'The good practice guide to Child Aware Approaches: Keeping children safe and well' Australian Government, *Australian Institutes of Family Studies,* no.21

Johnston, D 2021, 'Child Protection failures: 65 Victorian children dead in just a year' *The Australian*, 26 March 2021, viewed 2 May 2021 https://www.theaustralian.com.au/nation/politics/child-protection-failures-65-victorian-kids-dead-in-just-a-year/news-story/172bf9e9106c14fd3141bfdc1b9ed975

Hyslop, I, Kenddell, E 2018, 'Outing the Elephants: Exploring a New Paradigm for Child Protection Social Work', *Social Sciences,* vol.7, no. 7, pp. 105, https://www.mdpi.com/2076-0760/7/7/105#cite

Kerber, W, Eckardt, M 2007, 'Policy learning in Europe: The open method of co-ordination and laboratory federalism', *Journal of European Public Policy*, vol.14, no. 2, pp.227–47.

Kerns, S.E, Pullmann, M.D, Negrete, A, Uomoto, J.A, Berliner, L, Shogren, D & Putnam, B 2016, 'Development and Implementation of a Child Welfare Workforce Strategy to Build a Trauma informed System of Support for Foster Care, *Child Maltreatment,* vol.21, no.2, pp.135-146.

Kisiel, CL, Fehrenbach, T, Torgersen, E, Stolbach, B, Mcclelland, G, Griffin, G & Burkman, K 2014 'Constellations of Interpersonal Trauma and Symptoms in Child Welfare: Implications for a Developmental Trauma Framework', *Journal of Family Violence,* vol. 29, no. 1, pp. 1-14.

Koenen, KC, Moffit, TE, Caspi, A & Taylor, A 2001 'Domestic Violence is Associated with Environmental Suppression of IQ in Young Children', *Development in Psychopathology,* vol. 15, no. 2, pp.297-311.

Kwong, M, Bartholomew, K, Henderson, A, & Trinke, S 2003, 'The Intergenerational Transmission of Relationship Violence', *Journal of Family Psychology*, vol. 17, no. 3, pp. 288-301.

Lang, J.M, Campbell, K, Shanley, P, Crusto, C.A & Connell, C.M 2016, 'Building Capacity for Trauma informed Care in the Child Welfare System: Initial Results of a Statewide Implementation', *Child Maltreatment,* vol.21, no.2, pp.113-124.

Li, F, Godinet, MT, & Arnsberger, P 2010, 'Protective Factors Among Families with Children at Risk of Maltreatment: Follow up to Early School Years', *Children and Youth Services Review*, vol. 33, pp. 139–148.

Long, M, Sephton, R 2011, 'Rethinking the "Best Interests" of the Child: Voices from Aboriginal Child and Family Welfare Practitioners', *Aboriginal Policy Research Consortium International (APRCi)* https://ir.lib.uwo.ca/cgi/viewcontent.cgi?article=1105&context=aprci

Lonne, B, Harries, M, Lantz, S 2013, 'Workforce Development: A Pathway to Reforming Child Protection Systems in Australia', *British Journal of Social Work*, vol. 43, pp. 1630-1648.
Marie, A 2020, 'Adverse Child Experience', Viewed 2 March 2020, < Https://Annemarieproject.Org/Adverse-Child-Experience/>

Martin, B & Healy, J 2010, Who Works in Community Services? A Profile of Australian Workforces in Child Protection, Juvenile Justice, Disability Services and General Community Services, National Institute of Labour Studies, Flinders University, Adelaide.

McCord, J 1983, 'A Forty Year Perspective on Effects of Child Abuse and Neglect', *Child Abuse & Neglect,* vol. 7, no. 3, pp. 264-270.

Mcdougall, S, Parkinson, S, Lewig, K, & Arney, F 2016, *The Implementation of Recommendations Made by Independent Child Protection Inquiries in South Australia*. Adelaide: Australian Centre for Child Protection.

Mclean, S 2016, 'The Effect of Trauma on the Brain Development of Children: Evidence-Based Principles for Supporting the Recovery of Children in Care' (CFCA Practitioner Resource*)* Melbourne: Child Family Community Australia Information Exchange, *Australian Institute of Family Studies*.

Meiners, E 2011, 'Ending the School to Prison Pipeline/ Building Abolition Futures', *Urban Review: Issues and Ideas in Public Education,* vol. 42, no. 4, pp. 547-565.

Menger Leeman, JM 2018, 'Living Our Parents' Trauma: Effects of Child Abuse and Neglect on the Next Generation' (Thesis, Australian Catholic University).

Merkel-Holguin, L, Fluke, J & Krugman, R (eds) 2018, *National Systems of Child Protection: Understanding the International Variability and Context for Developing Policy and Practice (Volume 8 of Child Maltreatment),* Springer.

Miller, R 2012, *Best Interests Case Practice Model: Summary Guide*, Viewed 20 December 2019, Http://Www.Cpmanual.Vic.Gov.Au/Sites/Default/Files/Best%20interests%20case%20practice%20Model%20summary%20guide%202012%203002.Pdf

Minister of State for Immigration & Ethnic Affairs v Ah Hin Teoh ("Teoh's case") [1995] HCA 20; (1995) 128 ALR 353; (1995) 69 ALJR 423; (1995) EOC 92-696 (extract); (1995) 183 CLR 273 (7 April 1995)

Mott, P 2013, ' No Operational Inconsistency Between Queensland and NSW Child Protection Laws', Queensland Government, https://www.crownlaw.qld.gov.au/resources/publications/no-operational-inconsistency-between-queensland-and-nsw-child-protection-laws

Munro, E 2008, *Effective Child Protection* (2nd Edn), Sage, UK.

Munro, E 2018, 'Decision-making under uncertainty in Child Protection: Creating a just and learning culture', *Child & Family Social Work*

Murphy, K, Anderson Moore, K, Redd, Z, Malm, K 2017, 'Trauma informed child welfare systems and children's wellbeing: A longitudinal evaluation of KVC's bridging the way home initiative' *Children and Youth Services Review,* vol. 75, p. 23-34

Nair, P, Schuler, M, Black, M, Kettinger, L & Harrington, D 2003, 'Cumulative Environmental Risk in Substance Abusing Women: Early Intervention, Parenting Stress, Child Abuse Potential and Child Development', *Child Abuse & Neglect,* vol. 27, no. 9, pp.997-1017.

Osofsky, JD & Lieberman, AF 2011, 'A Call for Integrating a Mental Health Perspective into Systems of Care for Abused and Neglected Infants and Young Children', *American Psychologist,* vol. 66, no. 2, pp. 120-128.

Parliament of Australia 1998, *United Nations Convention on the Rights of the Child, 17th Report*, pp. 137-197, Canberra.

Parliament of Australia 2003, *Government Response to Joint Standing Committee on Treaties Inquiry into the Conventions on the Rights of the Child*, Canberra.

Parliament of Australia 2016, *A History of the Joint Standing Committee on Treaties: 20 years- report 160,* Canberra.

Pears, KC, & Capaldi, DM 2001, 'Intergenerational Transmission of Abuse: A Two-Generational Prospective Study of an At-Risk Sample', *Child Abuse & Neglect*, vol. 25, no. 11, pp. 1439-1461.

Pechtel, P & Pizzagali, D 2011, '*Effects of Early Life Stress on Cognitive and Affective Function: An Integrated Review of Human Literate', Psychopharmacology*, vol. 214, no. 1, pp. 55-70.

Peel, S & Croucher, R 2011, 'Mind(ing) the Gap- Law reform recommendations responding to Child Protection in a federal system', *Family Matters,* vol. 89, pp. 21- 30.

Perry, BD 1997, *Incubated in Terror: Neurodevelopmental Factors in the 'Cycle of* Violence The Guilford Press

Perry, BD 2002, *Brain Structure and Function,* Adapted in part from '*Maltreated Children: Experience, Brain Development and the Next Generation* (W.W Norton & Company), viewed 17 July 2021 https://www.optionsautism.co.uk/wp-content/uploads/2019/06/Issue-25-Art-Therapy-using-the-Neurosequential-Model.pdf

Perry, BD 2002, *Maltreated Children: Experience, Brain Development, and the Next Generation,* 93-129. New York: W.W. Norton, viewed 17 July 2021 https://www.google.com/url?sa=i&url=http%3A%2F%2Fwww.musicandresilience.net%2Fsites%2Fdefault%2Ffiles%2F2018-04%2Fperry_psychopathology_chapter_08.pdf&psig=AOvVaw3eg6kmn_0qYqxN-qPM8RuC&ust=1626582773610000&source=images&cd=vfe&ved=0CA0Q3YkBahcKEwjgmfuXo-nxAhUAAAAAHQAAAAQAw

Perry, BD 2004, *Maltreated Children: Experience, Brain Development, and the Next Generation*. New York: W.W. Norton.

Perry, BD 2009, 'Examining Child Maltreatment Through a Neurodevelopmental Lens: Clinical Applications of the Neurosequential Model of Therapeutics', *Journal of Loss and Trauma,* vol. 14, no. 4, pp. 240-255.

Perry, BD & Szalavitz, M 2017, *The Boy Who Was Raised As A Dog,* Basic Books, New York.

Price-Robertson, R, Bromfield, L & Lamount, A 2014, *International Approaches to Child Protection: What Can Australia Learn?,* Child Family Community Australia, Melbourne.

Productivity Commission 2019, *Expenditure on Children in the Northern Territory: Productivity Commission Draft Report- Overview and Recommendations,* Productivity Commission, Canberra, Viewed 2 March 2020, < Https://Www.Pc.Gov.Au/Inquiries/Current/Nt-Children/Draft/Nt-Children-Draft-Overview.Pdf>

Productivity Commission 2019, *What is known about systems that enable the 'public health approach' to protecting children,* Productivity Commission, Canberra, viewed 17 June 2020, < https://www.pc.gov.au/research/ongoing/report-on-government-services/what-works/child-protection/consultation/what-works-child-protection-consultation.pdf>

Queensland Court 2020, *Inquest into the death of Mason Jet Lee* (2016/2338). https://www.courts.qld.gov.au/__data/assets/pdf_file/0009/651636/cif-lee-mj-20200602.pdf

Ralph, S 1998, 'The best interests of the Aboriginal child in family law proceedings', *Australian Journal of Family Law*, vol. 12, pp.140-149

Reder, P & Duncan, S 1999, *Lost Innocents: A Follow-Up Study of Fatal Child Abuse,* Routledge, London.

Redleaf, D 2018, *They Took the Children Last Night: How the Child Protection System Puts Families at Risk,* Prager

Rose, W & Barnes, J 2008, *Improving Safeguarding Practice: Study of Serious Case Reviews 2001-2003,* Department for Children Schools and Families, Open University.

Royal Commission into Aboriginal Deaths in Custody (RCIADIC) 1996, 'Final Report: Royal Commission into Aboriginal Deaths in Custody (RCIADIC) 1987-1991', *Commonwealth of Australia,* viewed on 22 July 2021, https://www.naa.gov.au/sites/default/files/2020-06/research-guide-aboriginal-deaths-in-custody_0.pdf

Royal Commission into Aged Care Quality and Safety 2021, 'Final Report: Care, Dignity and Respect', *Commonwealth of Australia,* vol. 1, pp.15, viewed on 22 July 2021, https://agedcare.royalcommission.gov.au/sites/default/files/2021-03/final-report-volume-1.pdf

Royal Commission into Institutional Responses to Child Sexual Abuse 2017, 'Final Report: Royal Commission into Institutional Responses to Child Sexual Abuse 2013-2017', *Commonwealth of Australia,* viewed on 22 July 2021, https://www.royalcommission.gov.au/child-abuse/final-report

Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability 2021, *About Royal Commission,* viewed on 29 May 2021, https://disability.royalcommission.gov.au/about-royal-commission#:~:text=A%20Royal%20Commission%20is%20an,government%20about%20what%20should%20change.

Russ, E 2015, 'Witnessing Resilience: Resilience of Child Protection Workers in Queensland', Phd Thesis, School of Nursing, Midwifery and Social Work, *the University of Queensland Australia,* P.1-274. Https://Doi.Org/10.14264/Uql.2016.363

Salveron, M, Bromfield, L, Kirika, C, Simmons, J, Murphy, T, Turnell, A 2014, ''Changing the way we do Child Protection': The implementation of Signs of Safety within the Western Australia Department for Child Protection and Family Support', *Children and Youth Services Review,* vol. 48, pp. 126-139.

Saunders, L 2007, 'Professional values and research values: from dilemmas to diversity', in A. Campbell and S. Groundwater-Smith (eds), *An ethical approach to practitioner research,* Routledge, London and New York, pp. 62-74

SBD v Chief Executive, Department of Child Safety [2008] 1 Qd R 474

Norris, E & Shepheard, M 2017, *How Public Inquires can Lead to Change,* Institute for Government, United Kingdom.

Singh, H 2013, 'Language of Law- Ambiguities and Interpretation', *American International Journal of Research in Humanities, Arts and Social Sciences*, http://iasir.net/AIJRHASSpapers/AIJRHASS13-157.pdf

Single, J 2000, 'The Status of the UN Convention on the Rights of the Child in Australian Law', *Polemic,* vol. 9, no. 1, pp. 36-41, viewed 17 July 2021, https://search.informit.org/doi/abs/10.3316/agispt.20013188

Stanley, J & Goddard, C 2002, *In the Firing Line: Violence and Power in Child Protection Work*. John Wiley & Sons, Chichester.

Substance Abuse and Mental Health Services Administration 2014, SAMHS's Concept of Trauma and Guidance for a Trauma informed Approach, HHS Publication, Rockville.

Swain, S 2014, 'History of Child Protection Legislation', *Royal Commission into Institutional Responses to Child Sexual Abuse*. Sydney

Thompson, R 2006, 'Exploring the Link Between Maternal History of Childhood Victimization and Child Risk of Maltreatment', *Journal of Trauma Practice*, vol. 5, no. 2, pp. 57–72.

Tilby, C 2003, 'Repeated Reports to Child Protection: Interpreting the Data', *Children Australia,* vol. 28, no. 3, pp. 4-10.

UNICEF 2001, *What is the Convention on the Rights of the Child?,* viewed 22 July 2021, https://www.unicef.org/child-rights-convention/what-is-the-convention

UNICEF 2021, *United Nations Convention on the Rights of the Children,* viewed 29 May 2021, https://www.unicef.org.au/our-work/information-for-children/un-convention-on-the-rights-of-the-child

UNICEF 2018, *Research shows Australian government continuing to fail our most vulnerable children almost 30 years after signing the UN Children's Convention,* UNICEF, viewed 6 December 2021. https://www.unicef.org.au/about-us/media/november-2018/research-shows-australian-government-continuing-to

UNICEF & United Nations High Commissioner for Refugees, Save the Children and World Vision 2013, *A Better Way to Protect All Children: The Theory and Practice of Child Protection Systems,* UNICEF, New York.

United Nations Convention on the Rights of the Child (UNCRC) 1989.

United Nations 1997, *Committee of the Rights of the Child- Concluding observations on the rights of the child: Australia,* United Nations CRC/C/15/Add.79

United Nations 2012, *Committee of the Rights of the Child- Consideration of reports submitted by States parties under article 44 of the Convention, Sixtieth Session,* United Nations, CRC/C/AUS/CO/4, para. 12

United Nations 2019, *Committee of the Rights of the Child- Concluding observations on the combined fifth and sixth periodic reports of Australia,* United Nations, CRC/C/AUS/CO/5-6

Victorian Auditor-General's Office 2018, *Maintaining the Mental Health of Child Protection Practitioners.* https://www.audit.vic.gov.au/sites/default/files/2018-06/20180510-Child-Protection-Post-Erratum.pdf

Victorian Court 2020, *Finding into Death with Inquest (*File No. COR 2013 3373) https://www.coronerscourt.vic.gov.au/sites/default/files/2020-01/HB_337313_0.pdf

Victorian Department of Health and Human Services 2002, *Annual Report 2001-02,* Victorian Department of Health and Human Services, Victoria.

Victorian Department of Health and Human Services 2017, *Annual Report 2016-17,* Victorian Department of Health and Human Services, Victoria.

Victorian Department of Health And Human Services 2018, *Annual Report 2017-18,* Victorian Department Of Health and Human Services, Victoria.

Victorian Department of Health and Human Services 2019, 'Annual Report- Child Protection and Family Services- Additional Service Delivery Data 2019-20, Victorian Department of Health and Human Services, Canberra

Victorian Government 2019, *Victorian Budget 2019-20,* < Https://Www.Parliament.Vic.Gov.Au/Images/Stories/Committees/Paec/2019-20_Budget_Estimates/Presentations/2019-20_BE_Presentation_Child_Protection.Pdf>

Victorian Government Department of Human Services 2007, *Cumulative harm: a conceptual overview,* Victorian Government Department of Human Services, Melbourne, Victoria. https://www.vgls.vic.gov.au/client/en_AU/search/asset/1266273/0

Waldron, J 1994, 'Vagueness in Law and Language: Some Philosophical Issues', *California Law Review,* vol. 82, no. 3, pp. 509-540.

Wellington, J, Sikes, P 2006, 'A doctorate in a tight compartment: why do students choose a professional doctorate and what impact does it have on their personal and professional lives?' *Studies in Higher Education*, vol. 31, no. 6, pp.723-734.

Wiklund, S 2006, 'Signs of Child Maltreatment: The Extent and Nature of Referrals to Swedish Child Welfare Agencies', *European Journal of Social Work,* vol. 9, no. 1, pp.39-58.

Wiklund, S 2007, 'United We Stand? Collaboration as a Means for Identifying Children and Adolescents at Risk, *International Journal of Social Welfare,* vol. 16, pp. 202-211.

Williams, E 2020, 'Dreaming of Abolitionist Futures, Reconceptualizing Child Welfare: Keeping Kids Safe in the Age of Abolition' *Honours Paper,* Oberlin College https://digitalcommons.oberlin.edu/cgi/viewcontent.cgi?article=1711&context=honors

Williams, E 2020, 'Family Regulation,' Not 'Child Welfare': Abolition Starts with Changing our Language', *The Imprint,* 28 July 2020, viewed 13 April 2021, https://imprintnews.org/opinion/family-regulation-not-child-welfare-abolition-starts-changing-language/45586

Wilson, KR, Hansen, DJ & Li, M 2011, 'The Traumatic Stress Response in Child Maltreatment and Resultant Neuropsychological Effects', *Aggression and Violent Behaviour,* vol. 16, no. 2, pp. 87-97.

Wise, S 2017, 'Developments to Strengthen Systems for Child Protection Across Australia (CFCA Paper No. 44)', Melbourne: Child Family Community Australia Information Exchange *Australian Institute of Family Service.*

Young, S 2008, 'indigenous child protection policy in Australia: using whiteness theory for social work', *Sites: New Series,* vol. 5, no. 1, pp. 102-123. //doi.org/10.11157/sites-vol5iss1id82