

# IV

CHILDREN ON THE APY LANDS COMMISSION OF INQUIRY

## **Part IV Prevention and consequences**

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## Chapter 1 Welfare and child protection

*[Welfare] still has 100 people less than they need to work there but at least there seems to be an increase in commitment to try ... there's a definite improvement in service.*

### Health professional on the Lands

During the course of this Inquiry, Families SA, for the first time in almost 30 years, placed social workers to live on the Lands, rather than simply having them operate out of Coober Pedy. Their arrival on the Lands is part of the Families SA strategy to protect children on the Lands.

This chapter looks at the placement of social workers on the Lands and some other programs that make up Families SA preventive strategies. It then mentions the other part of the child protection work of Families SA - what occurs once child sex abuse is suspected or detected? The application of mandatory reporting is examined and its concomitant problems are discussed. The Inquiry found that overall those working on the Lands supported the mandatory reporting of child sexual abuse; however, there are problems with how the system operates.

There is also a discussion about the application of the Aboriginal Child Protection Policy and its use in child sexual abuse cases. Recommendations are made as to what measures should be implemented to improve services to prevent child sexual abuse and to deal with the consequences of that abuse on the Lands.

The chapter first mentions a brief history of welfare services to the Lands and then the relevant current organisational structure of welfare services.

### A brief history of welfare services provided on the Lands<sup>1</sup>

Up until the late 1950s, the Aborigines Protection Board (under the auspices of the State Department of Aboriginal Affairs) provided Anangu with 'welfare' services through mission settlements and protection officers visiting such locations.

In 1959, a 'welfare officer', who was positioned at Port Augusta, visited stations and homesteads from Port Augusta to Pukatja (Ernabella) and Oodnadatta. These stations/ homesteads were ration centres for Aboriginal people.

The *Aboriginal Affairs Act 1962* repealed the *Aborigines Act 1934-39*. In doing so, the powers of the Aborigines Protection Board to remove children from their families were abolished. An Aboriginal Affairs Advisory Board was created. The 1962 Act also abolished restrictions on Aboriginal persons in participating in activities outside missions. Under the 1962 Act, the State Department of Aboriginal Affairs had two principal functions:

- deliver 'welfare service' to Aboriginal people in South Australia; and
- service, manage and control Aboriginal communities (then referred to as Aboriginal Reserves) and institutions.

In 1964 the State Department of Aboriginal Affairs started a medical patrol that was based in Amata. In mid-1965, a 'welfare patrol' was introduced to complement the medical patrol. It left Coober Pedy and visited Granite Downs, Mimili (Everard Park), Oodnadatta, Anna Creek and stations and homesteads in between.

In 1967 a 'welfare officer' was appointed and based at Oodnadatta. This officer patrolled into the Lands.

<sup>1</sup> The Inquiry acknowledges the research that went into the Families SA written submission to the Inquiry dated 15 October 2007. A brief history of the initial administration and provision of welfare service on the Pitjantjatjara lands. In *An introduction to Far North District Office Coober Pedy / Dept. for Community Welfare*. Coober Pedy, S. Aust.: DCW Far North District Office, 1985; March, Allen. *An introduction to Far North District Office Coober Pedy / Dept. for Community Welfare*. Coober Pedy, S. Aust.: DCW Far North District Office, 1985.

In 1969 the State Department of Aboriginal Affairs opened an office in Iwantja (Indulkana). The Iwantja office, like the Amata office, was responsible for the control and management of communities in the Far North-West of the State. These two communities traditionally had been reserves administered by the Department of Aboriginal Affairs. Gradually, management and control of an Aboriginal reserve was transferred to the appropriate incorporated Aboriginal community.

In 1970, the Department of Social Welfare and the Department of Aboriginal Affairs amalgamated. The vast majority of departmental standard procedures were developed after the passing of the *Community Welfare Act in 1972*, which brought structural and philosophical changes in the provision of welfare. Uniform procedures were needed to inform staff members from the previously separate departments about each other's existing methods of operation, and to educate all staff about any new procedural requirements. As decentralisation meant functions were delegated down to regional offices, clear procedures were essential to ensure that they were carried out in the same manner in each location.

During the 1970s the State Government had district offices at Amata, Iwantja (Indulkana) and Oodnadatta that provided traditional welfare-type services and trade and housing services, storekeeping and nursing sisters.

A senior administrator, who was at the Iwantja office during the second half of the 1970s, told the Inquiry

*At Indulkana I found it necessary to construct and maintain genealogical records to identify the people ... official registration of births and deaths had been rare.*

He said he had spent time with 'helping relatively illiterate people comply with the demands of ... Social security and health'. He also told the Inquiry 'We would do social work with families in neglect situations until formal action ... to remove the children'.

In March 1977, the State Premier appointed a Pitjantjatjara Land Rights Working Party to enquire into, amongst other matters,

*The feasibility of establishing via legislation a separate Pitjantjatjara Lands Trust to cover the North-West Reserve, Everard Park, Indulkana, Ernabella, Fregon, provided that the inalienability of the land is firmly established and that arrangements proposed do not contravene the wishes of any of the Pitjantjatjara community ...*

In June 1978, the working party made its report. The working party noted that the communities on the North-West Reserve were incorporated and each received a grant from the Commonwealth Department of Aboriginal Affairs.<sup>2</sup>

From the 1970 to 1990s, the South Australian Government allowed the Australian Government to oversee the Lands. 'The Australian Government, in line with self-determination, supported Anangu on the Lands through Anangu community organisations.'<sup>3</sup>

<sup>2</sup> It said to that extent each was autonomous but pursuant to the *Community Welfare Act 1972*, the administrative responsibility for all reserve land was still vested in the Minister of Community Welfare.

<sup>3</sup> The Future of Indigenous Policy on Remote Communities, John Summers, School of Political and International Studies, quoted in the DFC written submission dated October 2007.

By July 1979, at the request of the communities at Amata and Iwantja (Indulkana), the Department of Community Welfare relinquished the last of its residual operations at Amata and Iwantja. As an interim measure, the department's operations were located at Alice Springs, which provided 'welfare' services to South Australian persons who had crossed the NT border from the Lands.

In 1981, the Oodnadatta office was closed (after having been downgraded to a branch office in 1975). Also in 1981, the Alice Springs office closed and transferred its services to the Coober Pedy District Centre, which is still operational today.

In March 2002, the State Government commissioned the *Child Protection Review*, which was undertaken by Ms Robin Layton QC (as she then was). In March 2003, the Layton Report was released formally.<sup>4</sup> The report included a plan to assist with the prevention and rehabilitation of abused and neglected children. In all, the Review made 206 recommendations that covered a broad range of issues. Importantly for this Inquiry, the Layton Report devoted a chapter solely to Indigenous children and young persons. Within that chapter, matters relevant to children living on the Lands were discussed with consequent recommendations.

The Layton Report also examined the Gordon Report handed to the WA Government in July 2002, which is mentioned in Part II Chapter 2 of this report. The Gordon Report stated

*Evidence and research provided to the Inquiry indicate that family violence and child abuse occur in Aboriginal communities at a rate that is much higher than that of non-Aboriginal communities.*

As earlier mentioned she described

*an 'epidemic' of family violence and child abuse in Aboriginal communities.<sup>5</sup>*

The Layton Report said that

*A similar statement could be made for many of the Indigenous communities within South Australia.<sup>6</sup>*

Indeed, this Inquiry found that child sexual abuse in Aboriginal communities on the Lands is widespread and severely under-reported.

The Gordon Report described the system by which seven key WA Government agencies provided services to respond to family violence and child abuse. The Gordon Report stated that that current service system was not able to adequately address the escalating rates of family violence and child abuse. The same could be said for the services provided by the State Government to the Lands and, in particular, insofar as they relate to the prevention, incidence and consequences of sexual abuse of children on the Lands.

In May 2004, the State Government released its policy for the general reform of the child protection system: '*Keeping Them Safe: the South Australian Government's child protection reform program*'. In 2005 and 2006, the State government published an important and significant reform agenda<sup>7</sup> dedicated to children and young people in State care. These are positive signs of change, which are discussed in the CISC Inquiry Report. The Office of the Guardian for Children and Young Persons was created and its role in the care of State children is discussed extensively in the CISC Inquiry report.

<sup>4</sup> 'Our Best Investment: A State Plan to Protect and Advance the Interests of the Children' Layton, R., March 2003.

<sup>5</sup> "Putting the picture together" Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities, 31 July 2002, at page XXIII

<sup>6</sup> At [8.4]

<sup>7</sup> *Rapid Response: Whole of government services for children and young people under the guardianship of the Minister* (2005); *Keeping Them Safe – In Our Care* (2006)



The 2006 *Keeping Them Safe* 'New Directions Action Plan' outlined extensive reforms to the State's child protection systems, including for Aboriginal children in State care. The *Keeping Them Safe* report found that the

*... over-representation of Aboriginal children and young people in the child protection system has deep rooted causes. It is a legacy of intergenerational trauma and disadvantage experienced by Indigenous Australians.<sup>8</sup>*

As part of this reform, the *Rapid Response Progress Report of December 2007* highlighted that ongoing strategies were being implemented by the State Government to improve services. The progress report confirmed that more resources would be provided for improvements in therapeutic and medical services in regional areas, including the Families SA Coober Pedy District Centre.

It also outlined plans for a Regional Guardianship Service Network for regional SA, including representatives from SA Police, Families SA and other agencies. These networks aim to provide better co-ordinated responses in rural and regional communities. However, the report does not include any specific references to a link with Aboriginal health service provider, Nganampa.

## Relevant organisational structure of welfare services

In the recent past, various incarnations of different government departments and bodies have helped to provide 'welfare' services for the Lands.<sup>9</sup> For the purpose of the Inquiry, it is sufficient to note that in 2004, the South Australian Department of Human Services was replaced by two separate entities:

- the Department for Families and Communities (DFC) and

- the Department of Health.

DFC has a broad mandate to work with those who, amongst other things, are at risk of harm. Families SA is a division of DFC.

Aboriginal Affairs and Reconciliation Division (AARD) informed the Inquiry that DFC is the responsible agency, which has the funding to manage the issue of sexual abuse of Aboriginal children. AARD told the Inquiry that Aboriginal affairs are 'so hard' and 'so complex' and it has to be 'driven day and night'.

*And because these departments are under a lot of pressure, too, it tends to just fall off the radar, and that's why you need, I believe, Aboriginal affairs to be in a central agency. It has to be powerful. You can't assign it to a line agency and forever and a day; it's been in a line agency and never has it got real results. We're now starting to put pressure on those agencies to deliver and we are beginning to get some results, and APY Lands is an example. But we're also a thorn in their side. They don't like other people working in their patch, so that it can create a little bit of friction and that's why we need a strong Minister, that's why we need the Premier at times to intervene.*

AARD said DFC needed 'to work in combination with' AARD, which had 'the expertise'. AARD said that about 33 per cent of its workforce was Aboriginal, including 'the most senior Aboriginal [person] in the public sector' who previously had been head of child protection.

AARD praised DFC managers and employees and said they were very dedicated and had helped to secure the two social worker positions on the Lands but 'this work is very, very difficult'.

<sup>8</sup> Action 4 – Getting it right for Aboriginal children

<sup>9</sup> Such as Department of Aboriginal Affairs, Department of Social Welfare and the Department for Community Welfare.

*We've got a very small division. There are only a few people allocated to this community development role and, again, we have to prioritise our resources and, if we could, we would be working everywhere, but we're working in these sort of crisis areas.*

A key role for Families SA is to protect children and young people from harm and abuse, including sexual abuse. DFC states its 'primary area of concern is the protection of children - keeping them safe'.<sup>10</sup>

Another relevant operational division within DFC is Housing SA and the Office of Aboriginal Housing (OAH). The role of that operational division and its relevance to the nature and extent of child sexual abuse, and its role in preventing such abuse on the Lands is discussed at the end of this chapter.

### Coober Pedy District Centre

The nearest welfare/child protection office to the Lands is the Families SA District Centre at Coober Pedy, which is a mining town on the Stuart Highway about 600 kilometres north-west of Port Augusta. According to the Australian Bureau of Statistics 2006 Census, the population of Coober Pedy is 1,911 of which 263 are Aboriginal. In that census it is reported that 308 persons had not stated their Indigenous status. Nearby is the Umoona Reserve, for Aboriginal people<sup>11</sup> with a population of 70 people.

Apart from being responsible for child protection on the Lands, the Coober Pedy District Centre also has responsibility for Coober Pedy, Umoona Reserve and the township of Oodnadatta, which is

further to the north and was a railway town until 1980. Oodnadatta's population is 274 people of whom 100 are Aboriginal.<sup>12</sup>

Evidence received by the CISC Inquiry indicates a high incidence of sexual abuse among Aboriginal children at Coober Pedy and, to a lesser extent, Oodnadatta.<sup>13</sup> There are many welfare and child protection issues confronting the staff of the Coober Pedy District Centre independently of the issues arising on the Lands.

### Staffing issues

Families SA reported that its Coober Pedy District Centre currently had the equivalent of 20 full-time employees. Two of the three social worker positions on the Lands have been filled since January 2008. There is still a position at Kaltjiti (Fregon) that is vacant. From 1 July 2008, Families SA will have a further two full-time employee positions made available. Of the current 20 full-time positions, four people are in the anti-poverty team, three in business/finance, one manager, two supervisors, two senior social workers, a senior practitioner, five social workers, an Aboriginal Family Practitioner and a care and protection officer.

Families SA, as do other government agencies, provides incentives to its staff to work on the Lands. The Inquiry was told that to take on two more social workers to work in this remote area is the financial equivalent of about five social workers in Adelaide because staff are employed on base rates plus any negotiated attraction/retention package. There are also entitlements of tax breaks, locality allowances and other costs.

<sup>10</sup> "Keeping Them Safe" was the title given to the State Government's 2004 strategic response.

<sup>11</sup> Not to be confused with the administrative centre, Umuwa, on the Lands.

<sup>12</sup> 2006 Census figures, which also said the Indigenous status was not known for 68 persons.

<sup>13</sup> CISC Report, p. 5-6

An experienced doctor who works on the Lands told the Inquiry that in the past Families SA personnel

*...would come and be there for three months and then somebody would be ringing you up yet again to go over the same material because somebody new was in the job. Now, we have staff turnover, as well, but we don't have to re-invent the wheel every time someone new is here, and so one thing that has helped a little bit is trying to get that continuity. They've got people staying longer and they've got - you know, things tend not to get lost and have to be restarted every time. Just in the last year or two that's an improvement.*

A senior Families SA worker said:

*I am going to continue to poach the toughest, most competent senior Aboriginal women to DFC. I am not going to be shamed about it. We are going to build little pillars right on the Lands, who are going to be saying that that is inappropriate, and getting the young mums and the grannies and senior blokes and going back and talking to them ... We will start talking to men about what their appropriate behaviour is, what their ceremonial responsibilities are, what are Aboriginal law and culture issues.*

Families SA said that from 30 September 2008, its workforce on the Lands would increase from 23 to 39 to participate in the Home and Community Care (HACC) program, a Commonwealth and State Government funded home-help program. The senior Families SA worker said these extra employees would be Anangu and

*If I can't find a local Aboriginal person, the next trick is to find an Aboriginal person. If I*

*can't find those, I make sure the meal is delivered if I have to do it. I don't care who they are. That is the plan. So far of the 19, 20 people we have there, 12 are Aboriginal people.*

## Recommendation 2

**That initiatives related to salary and conditions of Families SA staff on the Lands be frequently reviewed to ensure that Families SA is able to attract and retain appropriate professional staff to implement its strategies and programs dealing with child sexual abuse on the Lands.**

### Strategies to prevent abuse

The CISC Report stated that an early intervention strategy, rather than a

*general policy of removing children is most critical for the protection of Aboriginal children and young people.<sup>14</sup>*

*The present challenge is how to protect Aboriginal children and young people from sexual abuse given the legacy of the stolen generations and indications of widespread sexual abuse of children in some Aboriginal communities.*

As the CISC Report noted<sup>15</sup>, *Keeping Them Safe – In Our Care: Draft for consultation*, the government reported that Aboriginal children made up 23.9 per cent of children in care but only 3.2 per cent of the general population. While notification rates in general increased by 43 per cent between 2001 and 2005, they increased for Aboriginal children by 53 per cent. This Draft for consultation stated that there is to be 'a renewed priority and commitment to developing effective and culturally appropriate responses to the high numbers of Aboriginal

<sup>14</sup> CISC Report p 365

<sup>15</sup> CISC Report p 365-366 (footnotes omitted)

# IV

## Part IV Prevention and consequences

children in our care'. In *Keeping Them Safe – In Our Care: Draft for consultation* responses, most responses supported proposals to 'tackle the high numbers of Aboriginal children and young people in care as a priority, in collaboration with Aboriginal families and communities'. It was reported that responses 'overwhelmingly showed that people felt we cannot "get it right" for Aboriginal children and young people without considering the historical context of the stolen generations'. Specific suggestions were made, including early intervention services to support families, prevent family breakdown and prevent children and young people entering care, and the expansion of Aboriginal family preservation programs.

However, as the CISC Report noted, and as has been mentioned in, in *Keeping Them Safe – In Our Care: Implementation* the section 'What we've done so far' made no reference to initiatives for Aboriginal children. The 'Immediate actions' section said 'each action area gives priority to developing effective and culturally appropriate responses for the high numbers of Aboriginal children and young people in care'. But there was no specific reference to Aboriginal children other than finalising a new policy to promote stability and continuity for children and young people in care, including a recognition of the significance of the Aboriginal Child Placement Principle (discussed later in this chapter). The section, 'Medium term actions to be put in place over the coming years', made no specific reference to Aboriginal children.

### Coober Pedy outreach and new social workers

Up until January 2008, there were no Families SA social workers living on the Lands. There is now a social worker living at Amata and one at Iwantja (Indulkana).<sup>16</sup> The Coober Pedy District Centre of Families SA provides 'a service response across all

Families SA program areas to the Lands' by making a one-week trip into the Lands each month. Families SA refers to this type of service delivery as its 'outreach service model'. Families SA told the Inquiry these trips were aimed

*... at addressing identified safety concerns for individual children and young people, follow up on existing cases and opportunity to connect with local service providers to maintain effective working relationships.*<sup>17</sup>

Even with the placement of a social worker at Amata and one at Iwantja (Indulkana), Families SA told the Inquiry that, at this stage, it did not envisage a change in the outreach service model.

While the exact roles of the two new social workers is being refined, it can be said that generally they will work with school-based counsellors and Anangu staff to respond to child and youth safety concerns. They will help to develop and deliver prevention and intervention programs in consultation with their various communities. Families SA told the Inquiry they will be involved in educational programs for children and parents to better understand issues such as substance abuse, protective strategies and assisting in the provision of youth programs.

*We are expecting them to engage with communities but not in isolation with other DFC people. We want them to ... get an understanding of communities and be known and hopefully have people talking to them about issues. We are going to get them to do some program-type responses to vulnerable kids ...*

Overall, it is envisaged the social workers will play an important role in preventive strategies that hopefully will reduce neglect and child sexual abuse. While the placement of these social workers

<sup>16</sup> The Inquiry was advised that a position of social worker to be based at Kaltjiti (Fregon) was to be re-advertised.

<sup>17</sup> DFC's written submission to the Inquiry dated October 2007

is a start in the right direction, undoubtedly more can be done - and needs to be done - within the child protection regime to prevent sexual abuse of children on the Lands.

## Strategies and programs

The Families SA preventive strategies involve programs to help families to be self-sufficient, to 'empower them to manage their own family dynamics', to give families skills to enable them to effectively find 'pathways through government and non-government service and support systems' and to 'build family and community strength to heal'. Family Centres, the homemaker programs and the Substance Misuse and Youth Program are examples of some of these programs.

Broadly speaking, DFC services to the Lands, including through Families SA, can be categorised as being directed to anti-poverty, child protection, youth justice and alternative care. DFC told the Inquiry that these services 'enable a comprehensive and responsive child safety and well-being service to Anangu children, young people, families and communities'.

Government informed the Inquiry that the services were

*'culturally relevant' and 'developed in partnership with the Aboriginal community based on best practice and working with Aboriginal children, young people and families'.*

Families SA told the Inquiry that child sexual abuse must be addressed in the context of family violence and it will require 'the development of a comprehensive strategic response for issues related to Aboriginal family violence and its integration into an overarching strategic plan' for the Lands.

## Family Centres and the homemaker program

Commonwealth and State Government funds are establishing programs and centres in various communities on the Lands. Family Centres operate in Pipalyatjara, Kalka, Amata, Pukatja (Ernabella) and Kaltjiti (Fregon). Centres are also being built in Iwantja (Indulkana) and Mimili. DFC operates its homemaker program from the various centres. DFC told the Inquiry that Family Centre staff, who had attended training to enable them to identify behaviours that may be related to abuse 'are able to discuss with the family members issues of abuse and family violence which enable them to be referred to appropriate services'.

The homemaker program is an intensive in-home support program with the goal to 'increase the opportunity for more APY Lands' families to participate in programs that aim to ensure that appropriate care is provided to children'.

The Inquiry was told that the program involves a person working 'intensively in the home with families in providing basic support to the family, including role modelling of appropriate home environment activities and developing family routines'. In some instances, for example in Iwantja, which operates a home cleaning program, it was sometimes as basic as taking a mop and bucket to a family's home and saying, this is how and when you should mop.

As mentioned, Families SA workforce on the Lands will increase from 23 to 39 by 30 September 2008 and many of those extra people will be involved in running the Family Centres, teaching young mothers how to cook, helping families to clean their houses, and delivering food and providing home help through the HACC program run out of the Family Centres.

### The Amata Family Centre

The Family Centre at Amata was established in 2006 due to concern about the health of children through malnutrition, the failure to thrive and poor hygiene. Up to six babies a week were being flown to Alice Springs Hospital. Some of the parents were using marijuana and were not organising their money and their lives. When some of the children returned to Amata, the malnutrition and poor hygiene would resume.

A building was obtained and the centre opened in October 2006. An Anangu woman manages the centre. Meals are provided, including breakfast and lunch. Mothers are encouraged to assist with the cooking and get the children to sit with them and eat. There are toys and books for the children and a room for sleeping and a room for the mothers where they can talk about their problems and concerns. Second-hand clothes are available.

Some of the people who had used the centre also attend and use facilities such as washing machines. There are facilities for washing blankets, which can break the cycle of scabies and other health problems. Fathers and grandparents also use the centre and help feed the children. During school holidays, older children play at the centre. Meals are also provided for the elderly and persons with disability. Some younger persons work at the centre and receive income to take up their CDEP, which is the Commonwealth Development Employment Program.

The centre has had considerable positive health impacts. There are now no miserable babies. No children have been sent to the Alice Springs Hospital for about a year. Children have put on weight. Nganampa's clinic contacts the centre and informs the staff of which children are in need of specific care or attention.

Health workers from the Nganampa clinic assist at the centre. About 20 children usually attend.

The manager of the centre would like to extend the facilities to assist pregnant girls and expectant fathers with advice, encouragement, support and services which are available. She wants to have the young persons trained in simple home maintenance. No person in the community does this maintenance '... the whole thing of the centre is to build up self-esteem and be proud again'. DFC provides financial assistance.

It is proposed to start working with young people who are about to leave school and develop programs for employment.

The mothers are now more interested in their children. They feed and play with them.

*People can come and sit down and they can have a coffee, they can sit in the lounge room, they can sit outside. You know, they're in control of the meeting, not white fella in control of the office ...*

*... it's the people's. It's theirs, and how they look after it – they keep it clean, which is really good and neat. We've had it for a year and nothing is smashed in there. That's amazing. It's good. No one goes there and trashes the building.*



## The Youth Program and Substance Misuse Program

The communities of Pukatja (Ernabella), Amata, Pipalyatjara, Kalka, Mimili, Kaltjiti (Fregon) and Iwantja employ youth workers funded by DFC. Two co-ordinators, one based in the east and one in the west, give practical assistance and mentoring to the community youth workers to implement the program. Relationships Australia (SA) has given accredited training to the community youth workers, who have been trained to recognise signs of sexual abuse.

Families SA told the Inquiry that there are Anangu who hold certificates 2-4 in youth work and the Northern Territory was sending some of their people to do training arranged by Families SA.

DFC staff at Marla manage and monitor how grant funds are spent on activities that support the Youth Program to 'divert young people from substance misuse'. Funds are used to provide vehicles for workers, renovate buildings to be used for discos, or video games, consumables for school holiday programs and activities such as a dirt bike program and sponsorship of the Finke Desert Race, which was described as the 'Clipsal' of the Outback.

The Inquiry was told that there was scope to extend such programs to include skills-based programs. For example, a natural extension of the Substance Misuse Program was for a motor mechanics program linked to the racing bike program and a horse-breaking program linked to the cattle industry.

## Community responsibility

The homemaker programs and the Family Centres appear to the Inquiry to be doing very good and important work. Many witnesses and, indeed,

Families SA, also praised their effectiveness. The ultimate goal should be for individual communities and families to be sufficiently empowered to take control of the issue of child sexual abuse. All of the government resources now put into the Lands, and even more resources, will not reduce the incidence of child sexual abuse without the co-operation and determination of the people living in the communities.

The Executive Director of Families SA told the Inquiry that:

*Communities have to take responsibility and have to realise that everyone has got to do something about this. Obviously they need to know what to do. We are certainly happy to take the lead on that. That is what we are trying to do. The evidence all around the world shows that welfare agencies can't do it.*

An Anangu worker in education who has been involved with the Lands since the late 1960s, when the self-determination movement was gathering momentum, told the Inquiry

*the dream is that by now Anangu would have taken over in every area, but it didn't happen. ... a dream of the old people is not always a dream of the young people.*

She told the Inquiry that she thought that Anangu had not taken over because

*I think welfare is a big - played a big part in that. I mean, why when you just sort of get sit-down money why - you sit down. ... The kids that I used to teach dreamt of being stockman - the boys. ... They all want to be a stockman. ... and there were men who knew how to put down bores ... and they were Anangu men going out and doing all that stuff.*

Given the legacy of past Aboriginal involvement in the 'welfare system', it would be understandable if some Anangu approached the current welfare and child protection policies with some suspicion, reluctance or resistance. The homemaker program and the Family Centres are important steps in the right direction. It shows the power of Indigenous people providing real, valuable assistance to young Anangu so that they learn how to run a home, how to care for children and how to protect them. The Inquiry supports their continued operation and growth throughout all of the communities.

Indeed, the use of Anangu staff running these community programs, and the Family Centres themselves, as well as the recently appointed Indigenous liaison officers, the community constables, AEWs, and the Yaitya Tirramangkotti unit personnel, are all based on the principles of self-determination and empowerment of the communities on the Lands in relation to child sexual abuse matters. All of these initiatives are of considerable importance.

It seems to the Inquiry that education is the key. The homemaker programs show the benefit of Anangu women educating other Anangu women, particularly young mothers, about child rearing, home-making, protecting themselves and their children and knowing what supports are available to them. There must be other education programs that inform about mandatory reporting; child sexual abuse; the availability of therapeutic services; speaking up and disclosing inappropriate sexual behaviour; community safety; domestic violence; substance abuse, including cannabis and petrol and other 'at risk' adolescent behaviour. The Inquiry was told that in February 2008, SA Police began to organise 'Community Safety Meetings' in some communities on the Lands that also involved

representatives from DFC, health clinics and schools.

### The application of preventive strategies

It is only when people feel safe within their communities that other socio-economic factors that contribute to child sexual abuse on the Lands can be addressed, hence the need for a strong police presence on the Lands.

In Chapter 4 of this part of this report, mention is made of community constables and some of the problems which they encounter because of family and kinship ties. These problems are likely to be faced by Anangu working on the Lands in child care and protection but with training and support by Families SA and SA Police, could be overcome.

A SA Police detective who gave evidence to the Inquiry said that in a recent investigation where the community constable was assisting Adelaide detectives for several days (and stayed in their living quarters at night), the Adelaide detectives were guarded and reticent in talking about a sexual abuse case being investigated in front of the community constable, who may have had conflicting kinship ties in the community.

Recent research shows that when it comes to substance misuse policy and practice 'different approaches are needed to meet the cultural, gender or age specific needs' of Indigenous communities'.

*Intervention or treatment regimes targeting the individual drug or alcohol user may not be effective when taken out of the dynamic of the families within which they are situated . Parental drug and alcohol misuse is part of a complex web that may contribute to the difficulties experienced by families.*<sup>18</sup>

<sup>18</sup> Dodd, J., Siggers, S., *Current policies and practices addressing the impact of drug and alcohol misuse on children and families*, West Perth, W.A.: Australian Research Alliance for Children & Youth, December 2006 at p13.



The research<sup>19</sup> suggests that in responding to 'substance misuse', it was important that 'services are informed and managed by Indigenous people'

*The issue of partnerships and collaboration are also seen as important. It is increasingly recommended that stronger links are formed between Indigenous primary health care services and mainstream specialist services. The relationship between Indigenous substance misuse and the justice system is also seen as crucial in responding effectively to the treatment needs of Indigenous people – this includes access to diversionary programs, pre-sentencing programs and legal aid.*

Several reports have noted that sexual exploitation of Aboriginal children must be seen as a human rights issue.<sup>20</sup> Aboriginal children are not afforded the same access to welfare and justice responses as other children.<sup>21</sup>

Early intervention was a theme raised by many respondents to the *Keeping Them Safe - In Our Care: Draft consultation*.

*The need for specialist Aboriginal early intervention services to support families, prevent family breakdown and children and young people entering care was identified. As well, it was felt there was a need to expand specialist Aboriginal Family Preservation programs.<sup>22</sup>*

A school principal told the Inquiry that 'the best start in life [children] can have is with their parents'.

*It all starts with the parents and a lot of ... Aboriginal parents tend to be very young, so they're barely out of being kids themselves when they have kids and ... with the social*

*problems and the work problems ... somewhere along the line the kids tend to be quite often left to their own devices at a very early age; left to look after themselves and fend for themselves.*

Insofar as all of the Government's preventive strategies, including diversionary programs, contribute to a reduction of child sexual abuse on the Lands, the Inquiry supports their existence and encourages their expansion. A better method of keeping children safe is to prevent child sexual abuse rather than merely responding to abuse.

However, the terms of reference of the Inquiry require attention to the other major part of Families SA child protection work - what occurs once child sex abuse is suspected or detected? In this aspect of its work, there seems to be another whole strategy around managing the notification of the abuse, responding to notification, investigating the allegations and deciding how best to keep the child, who is at risk, safe.

## Recommendation

# 3

**That the programs of Families SA to prevent child sexual abuse on the Lands continue to receive sufficient funding and, where possible, those programs be expanded.**

**That there be regular monitoring on the effectiveness of such programs and a regular review to determine if, and how, they may be improved or better co-ordinated to reduce the incidence of child sexual abuse on the Lands.**

<sup>19</sup> At pp22-23

<sup>20</sup> e.g. Layton, p 8.5 *Little Children are Sacred*

<sup>21</sup> Layton p 8.5

<sup>22</sup> *Keeping Them Safe - In Our Care Consultation Responses, May 2007*, p 9

# IV

## Part IV Prevention and consequences

### Responsive strategies to abuse

*The current level of resourcing by SA Government for child protection services for the APY Lands is woefully inadequate.*

#### Nganampa Health

The difficult issue is what does Families SA do when it suspects or confirms that a child on the Lands is at risk of sexual abuse? Is the child to be removed from that situation by being taken from that community? Is the child to be taken off the Lands? Where is the child to stay? For how long? Is the perpetrator to be removed? Where is the perpetrator to be taken initially? How does the community deal with such allegations? How do the families of the victim and perpetrator continue to interact with each other in such close quarters in these remote communities?

These matters are not easy to resolve. The Inquiry heard evidence that in one case considerable unrest occurred in a community after it was reported to police that a girl had been sexually assaulted. A brawl involving more than 100 people, some using iron bars, spears and nulla nullas, broke out in the community. The victim's father, an Anangu man, went to the home of the perpetrator's family and assaulted the perpetrator and his sister. The victim's father was arrested, remanded in custody and was imprisoned for these offences. The perpetrator was released on bail and assaulted the girl's sister. He was remanded in custody and was imprisoned for both the sexual assault of the girl and the physical assault of her sister.

Families SA rhetorically asked the Inquiry

*where are we going to put the children to be*

*safe whilst the matter is being investigated, which could take two years. In their community with their aunties and uncles and support?*

*We can't guarantee we can keep them safe in that community. We can't guarantee they won't be punished for speaking up, or ostracised in that community. It's a really vexed question because nobody but nobody agrees that this abuse shouldn't be dealt with, notified, responded to. But, sometimes when we do that, in the manner we would do it here, we just compound it and send it underground because they are not going to come forward if they see a result of a notification that is damaging.*

### Mandatory notification of sexual abuse

The mandatory reporting process of child sexual abuse and who is obliged to make a report is explained at the start of Part II of the report. This section concentrates on how Families SA deals with notifications and includes evidence from those who frequently use the mandatory notification system. The evidence indicates that it does not run as smoothly as it is designed to do and, consequently, recommendations as to the refinement of the mandatory reporting process are made.

To place the mandatory notification of child sexual abuse on the Lands in some context, in 2006-2007, Families SA received from throughout the entire State 29,814 notifications dealing with all forms of abuse and neglect of children. Only about 8,000 are investigated which of 5,735 related to Aboriginal children throughout the State.<sup>23</sup>

<sup>23</sup> Of the 29,814 notifications, 327 were notified to the Coober Pedy District Centre. Of the 327 notifications, 277 related to Aboriginal children in the Coober Pedy District Centre area, which includes the Lands. Of those 277, only 47 (17%) related to child sexual abuse, the balance related to other forms of child abuse or neglect. From all these figures, what can be said is that during 2006-2007, about 3-4% of Aboriginal children in the Coober Pedy District Centre catchment area were reported to Families SA for suspected child sexual abuse.

Pursuant to the CP Act any form of child sexual abuse must be reported and should result in action by Families SA.

For reasons discussed in Part I of this report, the law deems that a child under 10 years of age cannot commit a criminal offence but nevertheless can perpetrate child sexual abuse. Families SA told the Inquiry

*Reports of sexualised behaviour between children require careful assessment. Essentially, Families SA needs to ascertain whether the behaviour falls within the range of normal childhood exploration or whether the behaviour is such that it indicates that an older (unknown) person may have sexually abused the child initiating the contact. Further to this, assessments must take into consideration any contextual and/or culturally significant factors that may affect an incident being seen as 'suspected abuse' or 'culturally appropriate behaviours'. For example, what may be seen as healthy sexual development in environments that are known to be 'child safe' may need heightened levels of assessment in environments where children are exposed to sexual abuse, activities and interactions.*

All sexual activity of children coming to the notice of a relevant notifier should be the subject of a mandatory report.

A statement of the observations, information and opinions on which the suspicion is based must accompany a notification under section 11 of the CP Act.<sup>24</sup> The Act makes it clear that it is the personal responsibility of a mandated notifier to report suspected child abuse and neglect. It is not the responsibility of that person's supervisor, principal or employer.

A senior departmental worker told the Inquiry

*... you could quite easily walk into APY Lands as you do, and make 30 notifications without blinking. When you are based in the community you are more likely to discount, based on context, because you don't want to notify every child in the community. ... That is why we went to the Child Abuse Report Line. The same phenomenon happens in the city. There was a real discrepancy about how people assess the same matters depending on the environment and context, ...*

Families SA said that what Nganampa does and does not define as child protection 'is based on context and environment'. By way of example, the Inquiry was told that babies who failed to thrive, frequently were not reported by Nganampa; it was considered a health issue even though 'there might be issues around parenting'.

## What happens after a report is made?

Mandatory reports relating to suspicions of sexual abuse of children on the Lands must be promptly referred to the Coober Pedy District Centre. A decision should then be made as to what response is required.

Families SA told the Inquiry that it provides a service to reported incidents of alleged sexual abuse of children and young people on the Lands from the moment of notification right through to case closure. However, 'individual needs of children, young people, families and communities do create variances'.

Families SA said that using the information provided, a decision is made as to whether there is a need for the State to intervene. A Families SA worker, guided by a supervisor, will also consult with relevant people, such as 'community and departmental stakeholders'.

<sup>24</sup> A person does not necessarily exhaust his or her duty of care to a child by making a mandatory notification.

# IV

## Part IV Prevention and consequences

### Assessment of a mandatory notification report

At the point of notification, an initial safety assessment should be made to determine if there is immediate or imminent danger of serious harm and incorporates a tiered response to notifications.

If there is harm, or risk of harm, to a child or young person, a 'Tier Rating' is assigned to the notifications, which are forwarded electronically each morning to Coober Pedy District Centre for follow-up and to make further assessment. Families SA told the Inquiry

*... if it is deemed that a child or young person is in immediate and imminent danger (Tier 1) a phone call is made to the Coober Pedy District Centre to advise that this particular concern has been identified and requires immediate response.*

### The practical experience of some mandatory notifiers

A doctor with significant experience working in communities on the Lands told the Inquiry that mandatory reporting was 'helpful and not helpful'. The doctor said he had

*... almost never had any feedback to indicate who or what the abuser might be and what the level of ...ongoing risk for the child is...Mandatory reporting was a one-way passage of information where the reporter provides information but the reporting body is not required to provide anything back to the reporter.*

*That's been a real problem for me over the years because as the only kind of functioning health body on the Lands, not to know the level of risk or veracity of a report that I make has been difficult, because it doesn't actually*

*allow you to follow up the child in a sensible way.*

The Inquiry was told that 'over the last couple of years', Families SA 'quality of work' had been 'much better'.

*I think that they are much more likely to listen to a report, to try and take on board information that you can provide and sometimes to give a little bit of information back. ...*

*...So I think the quality of work out of Coober Pedy has been better and I think their ongoing concerns for children have been higher, so that's been really good. But in general I still don't get direct feedback from them.*

Another doctor, with vast experience of working on the Lands, told the Inquiry 'one of the hardest things' in working in with Families SA had been 'the fact that you make reports and nothing happens, or maybe something happens and you never hear about it'. The doctor said that in some instances mandatory reports of child sexual abuse were not followed up adequately by police.

A health professional on the Lands told the Inquiry the services provided by Families SA, particularly feedback to mandatory reporting, 'has improved somewhat in the last couple of years, so something is 100 per cent better than nothing but there's still a huge way to go'.

A teacher, who recently worked on the Lands, told the Inquiry that on one occasion he did not ring the CARL/YT directly but rang the police.

*I rang [police officer], who was the detective investigating the situation, I rang CAMHS and I rang Coober Pedy [welfare], who we'd had long conversations about, and none of them treated it as a mandatory notification.*

*Unfortunately, I made that assumption that they would, and when nothing had happened about six weeks later, I spoke to Coober Pedy Families SA and said, 'Look, what's going on?' and they said, 'Well, yes, we've had a conversation.' I said, 'Well, you are treating this as a report or a conversation?' They said, 'No, no, this is a conversation. If you want to make a report, you've got to ring Adelaide,' which I then did.*

An educational professional on the Lands told the Inquiry that at her school, due to the pressures of time, teachers frequently passed on their concerns and multiple notifications are made at the one time. She said she would ring CARL and say:

*... 'These are children that we've got concerns of. These are the teachers that are concerned. These are their numbers. Can you please ring them...', so that we're actually making the notifications, and me putting aside some time each week to actually do that, and then putting the onus on them to then contact the teachers to get the actual information, because teachers don't have 45 minutes to wait - or even 20 minutes, 10 minutes to wait on hold.*

A registered nurse working on the Lands told the Inquiry that because she had 'such limited time' mandatory reports were 'followed up when they pop into your head and you've got a minute to make that phone call'.

The Inquiry was informed that an electronic notification system for some specific mandatory notifiers, such as school principals, was being developed and would be introduced soon to the

Lands. It was planned that this form of notification would continue to be assessed at CARL/YT.

Decisions relating to the type of response and manner would be made by CARL/YT.

If the present system of mandatory reporting regarding children on the Lands is to continue and the reports are to be made to CARL/YT and referred to the Coober Pedy District Centre, notification by an electronic system should be introduced.

There are advantages of such an electronic notification system – people do not have to wait on the end of the telephone line; notifiers are able to target their information according to questions posed to them on the electronic system, which would still allow for further information to be collected before the submission of the notification form. The Inquiry was told that the implications of such a development was that only some computer systems and networks currently are compatible with this system and that general community notifiers were unable to use this system. Also, any information gained from a general discussion over the telephone would be lost; however, the e-notification system does provide for call-back options.

The development and expansion of such a system so that more mandatory notifiers can fulfill their mandatory notification obligations without having to use the telephone, which often causes frustration because of the frequent delays involved, should be introduced. Any use of technology that will help to facilitate mandatory reporting obligations is to be encouraged.

## Recommendation 4

**That e-notification technology be further developed to allow mandatory notifiers on the Lands to fulfill their statutory obligations other than by use of the telephone.**

**That Families SA child protection staff be placed on the Lands to receive, assess, and respond promptly to mandatory reports concerning Anangu children as is discussed and recommended in Part IV Chapter 3.**

### Responding to an assessment of sexual abuse

Families SA said its Coober Pedy District Centre attempted to provide a co-ordinated interagency approach involving all relevant agencies, including ascertaining each agency's roles/responsibilities and developing

*a respectful approach to looking into such concerns'. Coober Pedy had 'adapted its service approach to meet locational specific need by undertaking strategy discussions where there is receipt of notifications that are categorised as all sexual abuse, all Tier 1 and Tier 2 serious physical abuse.*

The Inquiry was told that Coober Pedy staff use teleconference facilities and face-to-face meetings with the following types of agencies, health clinics, SA Police, Child Protection Services (CPS), CAMHS, NPY Women's Council and DECS. Families SA told the inquiry that 'it is common for the notifier to be involved in such discussions as primarily the notifier is from one of these agencies'.

In theory, the response of Families SA to an assessment of sexual abuse seems appropriate.

However, the evidence to the Inquiry establishes significant deficiencies in the system. Families SA told the Inquiry that between 2000/2001 and 2003/2004 there were no qualified social workers who worked on the Lands. At other times prior to 2000, no qualified social worker was based in Coober Pedy. The Inquiry's investigations detected deficiencies in its response to child sexual abuse matters on the Lands. Those investigations are mentioned in Part II Chapter 3. The deficiencies may be due to lack of staff, resources and the distance that needed to be travelled (and hence time) before any Families SA social workers could be on the spot to make an assessment and provide child protection, or they may be due to policy.

By way of illustration, a pregnant girl, aged 12 years, was diagnosed with a STI, was treated for the infection and the pregnancy terminated. The identity of the 'youngish' father was not known. Families SA responded to the mandatory report and informed the police; then Families SA closed the case.

A year later, Nganampa advised Families SA the same girl was pregnant again and she was

*'known to be in a relationship with an older person (identity unknown)'. Families SA initially assessed the matter as Tier 2 and welfare 'intervention is warranted due to the uncertainty of how protective the mother is in keeping [girl] safe ...'*

According to Families SA, this case should have attracted a 'strategy discussion' by the Coober Pedy District Centre to co-ordinate an interagency approach involving all relevant agencies. The day after receiving the mandatory report, Families SA, after consulting with the District Centre at Coober Pedy, down-graded the Tier 2 assessment because there was 'no indication that family are not



protective hence it does not fit TR2 assessment'. The Inquiry saw nothing in Families SA records to suggest that it notified the police of the matter. The omission may have been as a direct result of the downgrading of the Tier 2 assessment, such that a 'strategy discussion' with relevant agencies did not occur as a matter of course. The Inquiry checked police records and there was no notification of this matter to the police.

Such an assessment appears inadequate. That the pregnant girl was in a relationship with an older man, with no evidence of the family seeking to stop that relationship, coupled with the girl's non-disclosure of the offender's identity, and bearing in mind she was pregnant a year earlier, suggests that even if the girl's carers were well-intentioned, they were failing to keep the girl safe. It is highly improbable that Families SA spoke to the family or the girl before the Tier 2 assessment was downgraded because the downgrading occurred the day after the mandatory notification. The girl needed assistance. There should have been an assessment of her in a timely manner which would have required an appropriately trained child protection officer to visit the Lands and see her and her family. It is possible that such an approach was not undertaken due to a lack of resources.

A senior Families SA worker acknowledged that a lack of resources has resulted in it failing to carry out its statutory obligations of child protection in some instances. 'If I'm very blunt it's because of resources ... It's hit and miss depending on availability of resources.'

In another case, a girl, aged 12 years, went to a health clinic to request birth control. She admitted being sexually active with a 15-year-old, whom she named. It was a 'wrong skin' relationship and she said she did not want her mother to find out. She was placed on contraception as a harm

minimisation strategy. Nganampa notified Families SA and the perpetrator was described as an irresponsible male who is a 'bit' exploitive.

Families SA's assessment of the notification stated in part

*Given the young person's age and that her parents are not aware and not able to provide adequate care and protection an investigative response by FSA is justified.*

It appears no investigation occurred. Three months later the girl presented at the health clinic with a pelvic inflammatory disease, suggesting she had contracted chlamydia. A mandatory report was made to Families SA, which recorded:

*notifier wishes it to be noted that he is appaled that nobody from Families SA has considered seeing this child (to date), in light of the concerns cited (three months earlier).*

Families SA initially classified the response as 'no grounds for intervention'.

The following day, the response was reclassified as Tier 2. About four weeks later, two Families SA social workers visited the community and located the family.

This case illustrates some important issues. First, there was a lack of resources. Families SA failed to investigate after it had identified the need for an investigation (much to the distress of the health professional who made the mandatory report). When the second mandatory report was received and there were no workers living on the Lands with field trips occurring only once a month, four weeks passed before any Families SA social worker went to the community. Child protection social workers are required on the Lands so that investigation times are reduced.

# IV

## Part IV Prevention and consequences

Families SA informed the Inquiry that since 2004 it used a standard to assess risk as very high, high, moderate or low. The risk assessment should be reviewed every three months and, by working with the relevant family, it was hoped the risk assessment would be reduced incrementally. Due to the shortage of staff, Families SA did not work with children assessed to be at 'low' or 'moderate' risk. In some instances, Families SA told the Inquiry, it did not work with children assessed at 'high risk'. Very few cases of child sexual abuse were classified as very high risk.

The Inquiry notes that Families SA receives funds for the provision of Aboriginal Family Practitioners (AFP). There is one AFP in the Coober Pedy District Centre. A senior Families SA worker told the Inquiry that an AFP is a person engaged to 'walk alongside us and walk alongside families we are dealing with'. One of the difficulties that faces Families SA, even with two social workers living on the Lands, is that they lack a cultural link to Anangu. Also, the two social workers on the Lands are male. Their gender is likely to limit their usefulness in some circumstances when dealing with matters related to child sexual abuse. Ideally, two social workers, one male and one female should be attached to work in each community.

### Outreach service model

Families SA told the Inquiry that the Outreach Service Model - its program of providing services to the Lands from its Coober Pedy District Centre - is unlikely to change even with the placement of a social worker at Amata and one at Iwantja (Indulkana).

The case of a girl, aged 12, who went to a health clinic to request birth control, highlights some limitations in this model. Families SA closed its

investigation after one meeting with the parents during which the mother was evasive and the girl was not consulted. No therapeutic support was provided to her. Nganampa continued to provide general medical treatment for the STI and pelvic inflammatory disease. The Inquiry saw no evidence on the CAMHS index that indicated the girl received any counselling. This case is illustrative of a poor response to a child who was in need of protection and assistance. It highlights that lack of resources causes a failure to investigate (after the first mandatory report) and delay of four weeks after the second mandatory report due to the 'outreach service delivery model'.

Families SA told the Inquiry<sup>25</sup> that during the monthly trips, a minimum of two staff travelled to communities in a four-wheel drive vehicle. The major functions of such trips were to:

- follow up on notifications received whilst not on the Lands
- follow up of cases which are allocated to the Coober Pedy District Centre
- address any outstanding work that has been coordinated from Coober Pedy
- connect with community based staff from other government and non-government agencies
- connect with key community members regarding child safety and well-being issues and
- undertake agreed actions from various meetings.

Practically, there were 'considerable difficulties' in being able to:

- respond immediately to the needs of Anangu
- provide ongoing and consistent services
- meet the needs of families
- identify and monitor ongoing positive change within families.

<sup>25</sup> Families SA written submission to the Inquiry dated 15 October 2007



The delivery of these services from Coober Pedy has failed to provide residents on the Lands with appropriate welfare and child protection services.

Families SA acknowledges that:

- it is logistically difficult to immediately and urgently respond to child safety needs
- there is limited capacity to work with families in a sustainable and ongoing manner
- it is critical to building relationships with children and families
- it is difficult to recruit and retain skilled and experienced staff leading to high staff turnover
- communication is constrained due to cultural and language barriers leading to ineffective social work assessments and interventions
- it is difficult to form sustainable relationships with community members and other service providers if visits are infrequent
- the provision of conventional child protection responses have minimal impact on the broad range of social issues that exist on the Lands, and
- there is difficulty in developing and implementing community development approaches.

It is unlikely that any deficiencies and shortcomings to the outreach service model will be ameliorated by the two social workers on the Lands.

Appropriate welfare and child protection services cannot adequately be delivered to communities on the Lands except by resident officers carrying out the necessary welfare and child protection work. It is only when such officers are resident in the communities that they are able to acquire sufficient information about the nature and extent of the problems which affect families and communities

and contribute to children being at risk. Residence on the Lands will assist in the development of good relationships with Anangu.

It is essential that suitably trained staff from Families SA be resident in each of the communities on the Lands.

Nganampa told the Inquiry that 'a child protection office staffed by a high quality and experience professional child protection outreach team' was needed.

*The current level of resourcing by SA Government for child protection services for the APY Lands is woefully inadequate.*

The Families SA written submission effectively concedes that its service delivery from Coober Pedy District Centre is inadequate and inappropriate.

*... current capacity for involvement with Anangu almost exclusively relates to ... crisis services for families who have struggled to provide protective environments for the most vulnerable [generally children and young people].*

*... there remain significant gaps in consistent and locally based core service areas relating to safety and well-being, such as therapy and counselling services, drug/alcohol and substance misuse services, family support/preservation programs, family violence services, parenting support services, mental health services, youth and offending diversion programs.*

The Inquiry's investigation of Families SA records revealed a mode of service delivery, which was confirmed by an experienced doctor working for Nganampa, that appears to highlight the 'necessary shortcuts' that are taken in child protection on the Lands. The doctor told the Inquiry

that quite often Families SA relied on Nganampa to do part (and sometimes all) of its assessment when Families SA was 'unable to get to the Lands'. This situation will change if sufficient social workers are placed on the Lands.

*... still ring our clinic and want us to ... get information and do that kind of stuff. We don't have time to do anything like our work, you know. I work 80-hour weeks frequently. The nursing staff here probably work well in excess of their paid time, as well, and we have this huge un-met need of pathology in the community that we're trying to struggle with.*

*You get asked to go and ask someone to come in ... 'Could you go out and get them in and weigh them today,' and all that kind of stuff. You know, in one sense I think if we ring people and say, 'We've been asking this person to come in every week for weighs because the child is not putting on weight, and they won't come. We're very concerned about the safety of this child' - I think it falls on their side of the fence to actually do something about it or to say they can't do something about it; but what they do is get us to go and hassle people on behalf of them.*

Families SA told the Inquiry that there had been efforts for several years to get a presence on the Lands but that 'resources are the significant component of it'.

*... over probably a four-year period there was significant level of ... government bids put in which address, certainly, the mental health services for young people, child and youth health, adult mental health services, family violence ... Some of those positions got funded but a lot didn't.*

Families SA conceded that there were also

*'some challenges for some of those agencies about how they would provide the service ... and as a good public servant, I think I'll stop there'.*

The arrival in January 2008 of two full-time social workers on the Lands does not address the problem. Their task is to work at schools and assist in the resolution of problems which are observed at school. What is required is at least two child protection social workers resident on the Lands to receive mandatory notifications and make timely responses as is discussed later in this report.

## Recommendation 5

**That the initiative to place social workers on the Lands be expanded from the proposed three to at least six and some of them to be female.**

**That each of the six social workers be aligned to one school, so that each of the six major schools on the Lands has one dedicated social worker involved in early prevention strategies/training to help prevent child sexual abuse and to minimise its effects in the communities.**

### Families SA and access to health records

Nganampa submitted to the Inquiry that it was the 'pre-eminent remote Aboriginal Community Controlled Health Organisation' in Australia and it 'has a national reputation for excellence in the delivery of comprehensive primary health care on the APY Lands'. It also said that it, along with other agencies that deliver health, welfare, education and police services to the Lands,

*struggles to provide responsive, high-quality and sustained services in what is in all likelihood as complex and challenging a context as any in the country.*

Families SA told the Inquiry that on occasions it experienced difficulty in obtaining from Nganampa access to medical records that it required to carry out its statutory duties of child protection.

Nganampa said many Anangu families, despite dire economic and social circumstances on the Lands, provide good care for their children and 'a high level of safety and protection for their children'. Nganampa is concerned to protect its client's sensitive information contained in such records. No doubt, in most circumstances, Families SA and Nganampa come to some sort of arrangement in relation to access to information about children at risk pursuant to the CP Act. However, Nganampa must provide information about each child which is the subject of a mandatory notification to enable adequate investigation and response so that Families SA can carry out its statutory child protection obligations.

## Recommendation 6

**That Nganampa and the State Government reach agreement to ensure that Nganampa provides to Families SA all information about a child who is the subject of a mandatory notification pursuant to the *Children's Protection Act* to enable Families SA to discharge its function under that Act.**

**That if such agreement is not possible the State Government consider legislation to achieve that objective.**

## Child protection services to the Lands

An important role of Families SA on the Lands is to provide protection to children who are at risk of abuse or neglect. Families SA does not itself provide the services needed by the children who are at risk – it identifies a child at risk and determines what services would benefit that child. The services to benefit the child, often called counselling and therapeutic services, are provided by CPS WCH where children have been removed to Adelaide and the Child and Adolescent Mental Health Services (CAMHS).

As stated in the CISC Report, Chapter 4.1 p. 413, there is clear evidence of a need for a therapeutic response to children who disclose sexual abuse. There is also evidence that indicates that the existing service must be reviewed and provided with a significant increase in resources. In the 'Keeping Them Safe' and 'Rapid Response' reform agenda, the State Government refers to the provision of therapeutic services to children in State care. However, the reform agenda does not directly address the issue of a therapeutic response to the child or young person who discloses sexual abuse, let alone a child or young person from the Lands who makes such a disclosure.

The CPS WCH provides services to assess and treat children from birth to 18 years and their families where there are suspicions of child abuse or neglect.

Its services<sup>26</sup> include forensic medical/ psychosocial/psychological assessment to develop an understanding of a child's situation by gathering information and forming opinions and recommendations with regard to abuse, safety issues and needs of the child and family/carers.

<sup>26</sup> See website [www.wch.sa.gov.au/services](http://www.wch.sa.gov.au/services)

Families SA's written submission correctly notes that assessments and medical examinations often will have a vital role to play in helping to determine if child sexual abuse has occurred (with the assistance of SA Police). Such medical assessments are also important in determining what intervention and services are required for that particular child or young person, including on-going physical and psychological interventions.

*In cases where there is a need for evidentiary collection for potential police prosecution and forensic medical assessment it is deemed important to engage parents/primary caregivers in such processes to enable a less traumatic experience for the child or young person. Families SA makes considerable efforts in engaging families in such processes (with due considerations as to family members being potential perpetrators, initiators of the alleged sexual abuse and/or unprotective).<sup>27</sup>*

It is important to note that no services involving the Sexual Crime Investigation Branch of SA Police, or CPS WCH or Yarrow Place<sup>28</sup> are based on the Lands. Families SA told the Inquiry that SA Police services were obtained on an

*'as needs' basis but 'medical services and equipment can be accessed only in Adelaide (SA) or in other instances Darwin'.<sup>29</sup>*

The absence of these services on the Lands requires additional considerations to be made with regard to exposing children and young people to further trauma. The temporary relocation of children, young people and families from their community for the purposes of such formal

processes can impede significantly on families' engagement with key agencies; withdrawal of information and participation in such processes; lessen the likelihood of disclosure; reinforce notions of 'removal; and create heightened levels of isolation for children, young people and families.

Families SA told the Inquiry that there is not

*any therapy for kids that have been sexually abused, for instance, and we know that those kids are going to sexually abuse.*

*You know, we've had it for decades in the metro and in other regional areas, but APY Lands don't have child and adolescent mental health and have only just got them. ... There's nobody that can actually provide a service really up there, and we can't just transpose the services that we've got in the metro region and even in the regional region and put them up in the Pit Lands*

### CAMHS' experience

As has been mentioned CPS WCH and CAMHS provide counselling and some therapeutic services. The Inquiry was told that the delivery of CAMHS services on the Lands could be improved if there was better co-ordination with Families SA.

CAMHS went on its first trip to the Lands in June 2004 on a scoping study.

CAMHS has been to the Lands about 13 times since 2005. Most of those visits were for clinical assessment of children. CAMHS told the Inquiry that 'We're not welfare and we're not sent up here because of abuse'. CAMHS said it was very cautious about being identified as 'welfare workers'.

<sup>27</sup> Families SA written submission, p23. SA Police Sexual Assault Unit provides forensic interviews (collection of evidence) for children aged over 7. Forensic interviews for children under 7 years are provided by Child Protection Services. Medical Assessments are provided by Child Protection Services or Yarrow Place, Women's and Children's Hospital.

<sup>28</sup> Yarrow Place Rape and Sexual Assault Service (see website [www.yarrowplace.sa.gov.au](http://www.yarrowplace.sa.gov.au)) is the main public health agency responding to adult rape and sexual assault in South Australia.

<sup>29</sup> Policy and procedural differences between NT and SA medical assessments may have some implications for any subsequent criminal prosecution.

The Inquiry was told that in the past Families SA had referred matters to CAMHS 'for psychotherapy' before Families SA had conducted an investigation.

*... so we're saying to them, 'Well, no, that's not a referral, you know, you're just bouncing them over to us, and we're not accepting them'. And then we go through the questions of '... what has already happened? What have you done? ... Who does this kid live with?' - there's no context in there. It's whoever has rung it in with what they know, and like I say, a coding. You know, that's how we get them. ... it's just - it's revolting.*

CAMHS said they had 'been having that conversation ever since we've started with Families SA'.

*'You need to investigate. You need to do your bit first and then we can come in afterwards,' and we just get them direct all the time and nothing has happened. Then we say, 'Well, when you do your bit, then give us appropriate information and then we can follow it up ...' They kind of expect us to just march out there and go, 'Oh, someone rang us about something that might have happened. Do you want to engage with us? Here's another form.' It's just ridiculous. That's an ongoing problem and we keep having to sort of talk about that.*

The Inquiry was told that when CAMHS began going to the Lands in 2005, Families SA thought

*... we were going to go up there to provide therapy services ... our list of referrals includes a typed list of names and dates of birth next to it. That's it. ... it doesn't even tell you what communities they live in. ... This is*

*not a referral. This is a list of names that you haven't dealt with over the last 18 months. Like, that's literally what it is.*

CAMHS said it appreciated that 'there are lots of issues' as to why Families SA 'can't investigate or don't investigate and resources and all of that, but we can't be, you know, proxy child protection stuff'.

Families SA told the Inquiry that it has a 'very good working relationship' CAMHS, although there had been 'issues with expectation and roles'.

## Recommendation 7

**That CAMHS and Families SA review the protocols that govern their working relationship with a view to providing better assistance to children who have been, or may have been, sexually abused on the Lands.**

### A way forward

Families SA submitted to the Inquiry<sup>30</sup> that providing therapeutic help to children and young people on the Lands to help them recover from child sex abuse is 'one of the biggest challenges ... within Anangu communities'. For therapeutic intervention to succeed, it must be conducted in a safe place, which often means that it cannot occur in the family environment, or in the community. The 'relative absence of such services' means either no therapy is provided or the child/young people (and family) are 'placed outside their community to receive such services'.

*Further to this, the provision of therapy in locations outside the child/young person's community/home, provide added layers of trauma.*

Dr Terence Donald of CPS WCH gave extensive evidence to the CISC Inquiry and the Inquiry.

<sup>30</sup> Families SA written submission, p24

According to him there are insufficient resources to provide therapeutic services to children in State care who have been sexually abused. Despite a substantial increase in funding as a result of the 'Keeping Them Safe' initiative of the State Government not even 30 per cent of children in State care who have been sexually abused received therapeutic treatment from his service. The Lands is within the area of responsibility of CPS WCH.

That service does not have the resources to provide services to children on the Lands unless they are removed to Adelaide. The service at Port Augusta closed due to lack of resources.

The Victim Support Service Inc submitted<sup>31</sup> that 'it would be appropriate' if CPS WCH and CPS FMC 'were able to offer a comprehensive service to children'. The department submitted that Families SA social workers currently make referrals to appropriate services but that

*generally, therapeutic services for children are limited and not always readily available when required. Provision of additional services/resources, as well as financial support to ensure carer involvement in such services, would ensure more responsive treatment to children.*

In late 2007, a director working in Families SA told the Inquiry that the CAMHS services are 'so over-stretched' that the department has to

*... outsource to private therapists in the community, so already that is additional money that we're spending because there's a gap in the services. It's really about two things: increasing capacity of those sorts of service and also in resourcing them and focusing on our client group.<sup>32</sup>*

## Recommendation 8

**That the necessary long-term funding be provided to allow Families SA to provide the required therapeutic services to children and young people on the Lands who have been sexually abused.**

### Services for children aged seven years and under

Immediately an allegation of sexual abuse of a child aged seven years or younger is made to Families SA or SA Police, and CPS WCH, Dr Donald said he, or his staff, must undertake the investigation insofar as it relates to the alleged victim so as to avoid contamination. Other aspects of the investigation may be undertaken by experienced police officers.

According to Dr Donald, the investigation of child sexual abuse of very young children must be undertaken by medical practitioners or psychologists who are highly skilled in forensic assessments of children who are suspected of having been sexually abused.

Dr Donald conducts that training in various parts of Australia. There are no appropriately trained medical practitioners or psychologists to undertake the assessments on the Lands, although there are two paediatricians at Alice Springs who are undertaking the training.

Dr Donald told the Inquiry that there is a major population of children on the Lands who need very careful evaluation, which should happen as soon as possible. According to him, Aboriginal psychologists or social workers who are interested

<sup>31</sup> Submission to the Children in State Care Commission of Inquiry Issues Paper by Victim Support Service Inc, March 2007

<sup>32</sup> Families SA, Written Response to the Commission of Inquiry/Children in State care - May 2007, pp118 - 9



in interviewing young children should be trained to undertake these assessments so that they can interview the children in their own language.

An important issue with interviewing young Aboriginal children is language. Dr Donald related an incident when an interpreter translated inadequately because the interpreter had connections with a family involved which prevented disclosure. Part of the training for those undertaking the assessments is to find appropriate words to which children can relate particularly when discussing sexual matters.

## Recommendation 9

**That the staff of the Children's Protection Services at the Women's and Children's Hospital be increased to enable timely and effective investigation of allegations of sexual abuse of young children on the Lands.**

**That resources be provided to enable the training of sufficient Aboriginal medical practitioners, psychologists and social workers to undertake forensic assessments of Anangu children alleged to have been sexually abused.**

AARD told the Inquiry that it was hoped five or six community liaison persons would be employed. 'It depends on the rates we have to pay them'. The community liaison person would 'live in their communities, but they'll need support because you can't just create these positions and not support them. That would be very difficult.'

*So there will be a support structure around them, and that will be part of this multidisciplinary team of four police, the social workers, the counsellors and the liaison workers. This hasn't been trialled before ...*

In Part IV Chapter 4 of this report mention is made about the community constables who support the sworn SA Police officers on the Lands. As of November 2007, only three of the 10 community constable positions were filled. In April 2008, only two were filled. In March 2008, four Anangu finished a week of training to be Police Aboriginal Liaison Officers, who will assist community constables and police officers on the Lands with police matters and crime prevention.

Families SA told the Inquiry that

*you might have some families that are getting three or four individual non-co-ordinated service responses from three or four agencies and then there are four or five families that are getting none. We have been looking at a model of multi-skill and multi-disciplinary teams and joint case management and using our resources so that all of them can cover certain parts of it and feed the information to each other.*

## Recommendation 10

**That a review to evaluate the effectiveness of a 'multi-disciplinary' team approach involving Families SA and other service providers on the Lands to disclose and detect of child sexual abuse be undertaken by an independent consultant after such teams have been in place for 12 months.**

Families SA informed the Inquiry that when safety concerns are identified there is an initial safety and risk assessment that is undertaken to ascertain the most appropriate response.

*Notification, information, family discussion, and other agency knowledge of situation and previous family history of involvement with Families SA generally inform this assessment.*

# IV

## Part IV Prevention and consequences

Families SA said that if such an assessment determined that an 'immediate and urgent response' were required, Families SA will co-ordinate with agencies (primarily SA Police and health) regarding the urgent need for action.

*In some instances, medical health plane has been used to evacuate child/family from community ... A plane can also be chartered to attend the community by Families SA staff if required.*

*If the Families SA assessment determined that a 'short-term response' was required, it would co-ordinate 'opportunities for other agency to undertake well-being response to child/family' and Families SA would follow-up on its next outreach trip.*

The Inquiry was told that the Coober Pedy District Centre provided 'linkages and information forwarding to relevant local service provider' when a child and/or family are returned to the community. The Coober Pedy District Centre also co-ordinated services based in Alice Springs.

Information provided to the Inquiry indicates that usually there is not a co-ordinated interagency approach to meet the needs of children on the Lands. Evidence received by the Inquiry suggests that in many cases there is no response at all. There are criticisms by Nganampa and school teachers.

It is essential that when there is a mandatory notification, or in some other way Families SA becomes aware that a child on the Lands may have been sexually abused, there must be an immediate response which involves consultation between all of the main agencies, Families SA, Nganampa, DECS, teachers and SA Police. It is likely that in many cases all of them will have important information about the child and can assist in developing an appropriate response

based upon the needs and circumstances of the child.

It is to be hoped that all of those agencies will soon have appropriate staff resident in the communities. Issues of disclosure of sexual abuse and response can be addressed better if there is safety in the community and for the child and family where appropriate. It is for this reason that the Inquiry makes Recommendation 28 in chapter 3 of this part.

Through this approach informed decisions can be made about whether other agencies should be involved such as CPS WCH and CAMHS. Also, a community liaison person should play a significant role. Above all there must be consultation with appropriate Anangu men and women in the community about what is best for the child or young person.

Once the circumstances of the child are known decisions can be made about the immediate future, including whether the child can remain in the community and if so, with the immediate or extended family or someone else.

If there has been intra-familial sexual abuse, consideration can be given to removing the perpetrator and not the child. If the alleged perpetrator lives in the same community, decisions can be made about keeping the child and family safe.

Also the health needs of the child can be considered at each stage of the process, particularly the provision of therapeutic services.

Special problems arise when it is necessary to remove a child or young person from the Lands.

In cases where SA Police commence an investigation, that cannot be the end of the matter for Families SA. Its role in making the child safe and providing care and services, is critical and must commence immediately.



When a child or young person (and or his/her family member) is removed from the Lands for safety reasons or to receive appropriate medical treatment, a well considered plan needs to be in place. If there is no such plan, serious problems can arise.

The Wiltja school in Adelaide told the Inquiry about seven alleged victims of child sexual abuse who were removed from a community and brought to Adelaide. Wiltja residence had received a telephone call from a refuge in Adelaide

*to say, 'Look, we've got this bunch of Anangu children here. We don't really know what to do with them. They want to come and see people at Wiltja'.'*

*Anyway, it was an absolute debacle. These kids were in Adelaide, supposedly under [welfare] protection, being placed in a women's hostel. They were running all over Adelaide - in fact, came to visit Wiltja one night; two girls just turned up in the middle of the night. We'd not been informed that they were in Adelaide. ... then we got a phone call about a week later saying, 'Well, look, these kids need to go to school. What can you do? Why can't you sort this out for us?'*

The Inquiry was told that it was a 'completely inappropriate placement; no supervision of these girls'. Families SA staff had asked 'whether some of these girls could come and stay in Wiltja'.

*And I talked to this woman. I said, 'Well, can't you place them? What are you doing for them?' and [she] said, 'Well, look, basically we can't do this. We want Wiltja to look after them,' and I said, 'Well, look, we are not in a position to do this. We don't have trained personnel in that regard. If they were going to be here, we would need support and all of the rest of it.'*

The Inquiry was told that some of the children did go to Wiltja and welfare was 'relieved that finally they'd found some place that was willing to take these kids'. Wiltja 'ended up' with 13 and 14-year-old children

*'who were absolutely traumatised ... Dreadful. ... but, again, no support; nothing. You are given no information, and increasingly that's what's happening from a variety of agencies - are ringing Wiltja and saying, 'Look, we've got these kids. They've got this issue ...'*

When children are first removed from the Lands they should be taken to CPS WCH for assessment and treatment if necessary. Suitable accommodation and supervision must be in place. It is to be expected that the assessment and treatment will take time. It may not be possible to keep the children and young persons at the Women's and Children's Hospital.

As has been mentioned, Wiltja residence is not appropriate. It does not provide the treatment and degree of supervision which children leaving the Lands, perhaps for the first time, will require.

There needs to be a suitable house or other residence with appropriately trained staff to accommodate the children and young persons. It is to be expected that some of them will be accompanied by parents or other carers. There should also be suitable accommodation and counselling or other treatment for them. Anangu or other Aboriginal persons should be involved.

Also adequate financial support must be provided for the children and young persons and their carers and decisions made about the long term care of the children and young persons.

Despite the evidence, the Inquiry was informed that in about the last four years only two children were removed from the Lands as a result of the

intervention of Families SA and that had been done with parental consent.

The Inquiry is alarmed at that information given the conclusion that sexual abuse of children on the Lands is widespread and the nature and extent of the abuse which is revealed in this report including the many notifications where there was no response.

Families SA told the Inquiry when children were taken off the Lands in a crisis situation to receive medical treatment or taken to a forensic environment they always had been accompanied by a parent or relative.

*I think that bit we do pretty well. I think that's the bit when it's a critical urgent situation, I think SA Police and Child Protection Services and Families SA do that reasonably well. I think the complicating bit is after that. That is where we struggle. If we do, we might get a disclosure. ... while we might have an initial disclosure when we are talking about people with a mum on the Lands, I don't think we have had one disclosure in the APY Lands, not generally, through Child Protection Services. When we actually take [Lands] children out of that environment, and get them to a forensic environment, we have never had a kid disclose.*

This evidence does not establish that children and young persons on the Lands who have been sexually abused are receiving an appropriate response from Families SA.

Families SA wants to arrange accommodation in Adelaide for people coming from the country – not just the Lands – that is run by people who could help in these circumstances. A lack of funding has prevented this arrangement. Currently, if a child is

not in hospital, the child might stay in an Aboriginal hostel, a house arranged by Aboriginal Housing, or with extended family in Adelaide. Accommodation was 'much more of an issue in Adelaide than Alice Springs; the services are much more geared to being supportive than in Adelaide'.

Despite those observations there should be appropriate facilities for children and young persons and family members in Adelaide where forensic investigation occurs.

## Recommendation 11

**That adequate treatment and services, accommodation, supervision, and support for children removed from the Lands to Adelaide for child protection reasons and their parents or carers be established and provided.**

### Welfare role of NPY Women's Council

DFC told the Inquiry that it helped to fund NPY Women's Council. The funding is for the Cross Borders Domestic Violence Service. This service provided the

*... support, referral and case management services to women and children escaping domestic violence or who are homeless or at imminent risk of homelessness.*

Nganampa submitted to the Inquiry that 'resources to assist women in relation to the problem of domestic violence should be significantly increased on the APY Lands'.

*NPY Women's Council capacity to assess, advocate and case manage on the APY Lands in relation to domestic violence should be significantly enhanced.*

The Inquiry was informed that NPY Women's Council has provided considerable assistance to women involved in domestic violence over many years including in the criminal justice system.

Families SA told the Inquiry that it has a 'close relationship' with NPY Women's Council but it appears that there have been issues between them at times. A senior Families SA worker said

*Women's Council is an advocacy organisation that sprung up and through customer drift they started taking on operation responsibilities because there was no-one else. There are only two NGOs up there – Nganampa and Women's Council – that were doing case management for Disability SA and those sorts of things. Now, I think it would be right if they went back to their roles where they were an advocacy organisation, policy and maybe case management role.*

The DFC funded the NPY Women's Council to do case management plans and

*then our local people who run other services can just pick up those plans and we can get them to - carrying them out.*

A senior Families SA staff member told the Inquiry

*I would make the place safer by having numbers, by actually taking away the money we gave to Women's Council, who criticised us in the coroner's for being shiny bums fly in/fly out from Adelaide. We are now closer there than the Women's Council. They actually ask us to employ Aboriginal staff for them. We have taken away money, we have employed local Aboriginal people, if we can, who have got the skill, who have got potential and a bit of determination, and we can provide someone to support that person.*

*Youth programs are a classic case where we have got criticised for taking on people who were unqualified. Now there are Aboriginal youth workers, Pitjantjatjara people who are certificate threes, fours and twos in youth work and people, who were criticising us, are now sending their people down from the Northern Territory to do the training we provide.*

Families SA submitted that there are insufficient healthy elder men in communities to 'enforce the decisions and keep the campaign going to tell people that is inappropriate behaviour' ... so it was important to work with the senior women.

*We need someone to work with that group as well about strengthening their spirit, their community, their feelings and back to what was appropriate behaviour ... You need somebody who is going to do and work, campaign to talk through the issues ... Who you can marry into, who you can have relationships with, and when ...*

## Recommendation 12

**That Families SA and NPY Women's Council establish closer co-operation and develop an understanding as to the role which the Council is to play in supporting children who have been sexually abused, or are identified as at risk from sexual abuse.**

**That DFC develop relationships with elder men in the communities to exercise their cultural authority in condemning the sexual abuse of children on the Lands.**

**That DFC increase funding to NPY Women's Council to enable increased support and advocacy for children who have been sexually abused.**

### Aboriginal Child Placement Principle (ACPP)

It is not possible to mention the problems facing Families SA on the Lands without mentioning the Aboriginal Child Placement Principle (ACPP).

While the paramount consideration in the deliberations of Families SA must be the child's safety, section 4 (5) of the *Children's Protection Act 1993* (CP Act) requires that in relation to an Aboriginal child, the ACPP is to be observed.

Section 4 of the CP Act states that safety of the child is to be the paramount consideration and the powers must always be exercised in the best interest of the child. Serious consideration must, however, be given to the desirability of keeping the child within his or her family.

Section 5 of the CP Act provides that, in respect of Aboriginal or Torres Strait Islander children, no decision or order may be made under the Act as to where such a child 'will reside unless consultation has first been had with a recognised Aboriginal organisation ...' (For the purposes of this section NPY Women's Council is a recognised Aboriginal organisation, as are many community councils on the Lands).

The ACPP has the following order of preference for the placement of Aboriginal children:

- with the child's extended family
- within the child's Indigenous community, and failing that
- with other Indigenous people.<sup>33</sup>

Non-Aboriginal placements should be considered only when all other Aboriginal options higher on the placement hierarchy have been exhausted.<sup>34</sup>

What concerned some of the Inquiry's witnesses and some members of the Aboriginal Advisory Committee of the CISC Inquiry was the application

of the ACPP when there may be a better option for the care and safety of the child. All decisions should be made on the basis of what is in the best interests of the child.

There were special problems about the application of the ACPP on the Lands. As has been mentioned there are high levels of dysfunction, violence, lack of safety, poverty, drug and alcohol abuse and sexual abuse of children in communities. Special care must be taken when deciding whether to remove a child from family and place the child with another family.

Families SA gave the following examples where there was an increased risk to children and young people if they remain within their community:

- the perpetrator of abuse is unknown
- the perpetrator of abuse is a family member and remains within the community
- level of recognition or acceptance that abuse has occurred
- family members are not exercising appropriate levels of protectiveness
- likelihood of further instances of sexual abuse
- violence or aggression (including pay back) from community members due to disclosure of sexual abuse and
- level of risk to child or young person if they are ostracised from family and community groups.

Families SA submitted that

*In such situations assessments may be undertaken to ascertain family and community protectiveness of the child or young person and willingness to address such risks.*

There is not a large pool of potential carers for Aboriginal children generally and there must be careful consideration of the Anangu way of care of

<sup>33</sup> Child Protection Australia 2005/06 p 57

<sup>34</sup> 'Bringing Them Home' HREOC (1997) p 441

children when making decisions about children on the Lands. The social structure of Anangu provides for relatives to take the place of dysfunctional parents. Consequently there is the need for close consultation with appropriate persons in the communities.

It is likely that the establishment of the Family Centres and the employment of community liaison officers with knowledge will assist.

The Families SA written submission states, in part

*Sexual abuse cannot be considered in isolation of other community dynamics and social disadvantage, therefore any service response must include the provision of services, which are locally based, comprehensive and responsive to child safety and wellbeing of Anangu children, young people, families and communities on the Lands ...*

The operation of the ACPP was a source of contention for the CISC Inquiry's Aboriginal Advisory Committee, whose members offered divergent views about the appropriateness of the Principle and how well it was operating.

One member said

*The Aboriginal Placement Principle should not be mandatory. It should include the phrase 'an appropriate place'. A non-Aboriginal woman cared for two young Aboriginal people. She had a close connection with Aboriginal culture. The Aboriginal Placement Principle tore her apart.*

The Layton Report revealed concerns that inflexible application of the ACPP was increasing the risk of re-abuse<sup>35</sup> and taking precedent over the needs of the child<sup>36</sup>.

If it is decided to remove a child or young person from the community, consideration should be given to allowing a parent, or another family member, to accompany the child, and for appropriate support and services to be provided for them if the circumstances justify that approach. In that way the child or young person will not be put in the care of strangers.

## Family care meeting agreements

Family care meeting agreements are made pursuant to Part 5 Division 1 of the CP Act. They may involve the child, parents, guardians and family members. They include arrangements for the care and protection of the child. There is no court order under the CP Act placing the child under the guardianship of the Minister. The child does not become a State child by this process.

As at 30 June 2007, there were 405 Aboriginal children in State care in South Australia of whom four were living interstate. Of the 401 children under the care of the Minister, five were living on the Lands.

Families SA prefers to place a child at risk on the Lands into informal arrangements with relatives in Aboriginal communities pursuant to family care meeting agreements, rather than have the child placed in the formal care of the State.

There is a concern that a different standard of care by Families SA may operate in respect of children living on the Lands who are at risk, including risk of sexual abuse, than for children living elsewhere in South Australia. A departmental social worker, who is not operating out of the Lands, told the Inquiry that a level of abuse with Aboriginal children will be tolerated that would not be tolerated for a non-Aboriginal child.

<sup>35</sup> Layton, p 8.9

<sup>36</sup> Layton, p 8.21

Families SA told the Inquiry that the 'ongoing safety and well-being' of families and the child 'requires the engagement and participation of all relevant stakeholders'.

A senior department officer told the Inquiry

*The Minister will offer everything he would offer a guardianship child. That is complicated on the APY Lands because some of the services don't exist.*

In March 2008, there were 26 current agreements. Families SA told the Inquiry that its Coober Pedy District Centre uses the family care meetings 'at one of the highest rates across the State'. They were used due to their 'flexible ... approach to Anangu needs ... and decision-making processes about the care and safety of children'. Such meetings were 'culturally inclusive and respectful to differing Anangu needs and obligations'.

Family care meeting agreements

*'can be within or outside the community, dependant on level of risk the child or young person would be exposed. Care and safety issues may continue to be present if a child or young person remains within their community...'*

There are some disadvantages for the children in this approach. They do not come within the jurisdiction of the Guardian for Children and Young People. They may not receive all of the benefits and advantages which are now to be made available to children in State care. They will not be included in the group of children in State care referred to CPS WCH by Families SA. However, it is acknowledged that it is stated in *Rapid Response - Whole of Government Services*, that the response will apply to children in State care and also 'an additional small group' that consists primarily of

Aboriginal children following a family care meeting agreement.

Another possible problem with placing a child under a 'family care meeting agreement', rather than having the State as the guardian, may arise in the area of medical consents. This issue is discussed in the next chapter of the report.

A further potential problem is that the CISC Inquiry made several recommendations that will provide further protection to children 'in State care'. At a legislative level, children who are the subject of a family care meeting agreement are not children 'in State care'. While they may be treated as such in the whole-of-government response, according to Rapid Response, it is essential to ensure that children who are the subject of family care meeting agreements do not fall between the cracks where the legislative and operational forces meet. When any change, legislative or operational, is being made to implement a recommendation made by the CISC Inquiry, it is imperative that those extra protections afforded to a 'child in State care' also be afforded to a child who is the subject of a 'family care meeting agreement'.

The Inquiry was told that after an allegation of sexual abuse – whether the child has been temporarily removed from the Lands for medical or forensic services or not – there is always the issue of what is going on 'back at home in the communities'.

The Inquiry did not receive any evidence that the use of a family care meeting agreement rather than placing a child under the guardianship of the Minister caused any disadvantage to a child.

Mention is made of the following case investigated by the Inquiry to illustrate the importance of mandatory reporting and a timely and appropriate response.



In about 2000, a girl aged 15 years had two parents who were permanently absent. It appears from records that her primary carer was a grandmother. The only welfare record for the girl originated from the grandmother who was concerned that the girl's mother was not providing care.

The girl was diagnosed with a STI. She named the contact. There was no mandatory report. The Inquiry could find no record of any care arrangements ever being formalised or assisted by welfare. At age 16, the girl 'married' a youth of the same age. Aged 17, the youth was charged with assaulting the girl. Records indicate that he was also raping her. The Inquiry could find no record of sexual offences being raised by police. The Inquiry could also find no record of any of these matters being reported to welfare. NPY Women's Council records indicate that this violence continued for the next four years, despite several attempts by the young woman to leave her partner, who regularly abused alcohol and engaged in some petrol sniffing.

As young adults, the couple had a number of children. Medical records state:

*these children are fortunate to have survived ... suffered periods of starvation and neglect and had life-threatening illnesses on at least one occasion when their life was in jeopardy and assistance from the extended family to secure the health and safety of the child was not forthcoming.*

The children were eventually placed in relative care off the Lands.

The Inquiry heard about many children and young persons who were neglected and sexually abused and did not receive any assistance from welfare. As has been mentioned, it is proposed that many

additional resources and services be placed on the Lands which should have an impact upon the protection of children. The current problems will not be resolved quickly but over time changes should greatly assist the protection of children. It is important to constantly assess whether children are disadvantaged by family care meeting agreements and whether it is in their interests to be placed under State care.

## Housing SA and Office of Aboriginal Housing

### Overcrowding

The Inquiry was told that overcrowding 'results in the constant breakdown of all hygiene facilities and a lack of family security'. The home was not a place of refuge or family pride. 'Possessions cannot be locked in while chaos cannot be locked out.'

In August 2007, the Commonwealth Government announced that it would provide to the State Government \$25 million to build new houses and upgrade existing houses. The Inquiry was told that during the next two to three years, 65 new and replacement houses on the Lands are likely to be built.

The Inquiry received evidence that in some communities overcrowding in houses was quite a problem. A senior man in one community told the Inquiry

*... there are still some communities that there is overcrowding and that is a concern, you know. I think housing needs to be looked at but you also have to look at different housing ... if you've got a lot of young people, then you need to have a look - maybe instead of having a big mob of four bedroom houses, let's look at some two bedroom houses ...*

A doctor working on the Lands told the Inquiry that there were some big houses but a lot had too many in the house and there was, therefore, very close contact between people.

A registered nurse told the Inquiry that

*As regards child sexual abuse ... their attitude to sex and the sexual act out there is so different to how we consider sex.*

*It's a part of life. They live in houses, you know, where 20, 25 people are in there. You have no privacy. I'm sure that they see sexual acts happening all the time. I know they certainly have access to other stuff as well. Like a big thing recently, Austar<sup>37</sup> - a lot of people got Austar in the community. All the young boys are sitting around watching pornographic material on Austar.*

A mother told the Inquiry how she deliberately positioned herself to sleep in an area of the house that she could monitor who went in and out of her children's bedroom.

Given that the Inquiry has found a considerable body of evidence to show that young people often were committing acts of sexual abuse, it is reasonable to assume that they themselves may have been directly sexually abused or exposed to inappropriate sexual activity by living in close confines in overcrowded houses, or through being exposed to pornography.

The *Little Children are Sacred* report found

*It is apparent that children in Aboriginal communities are widely exposed to inappropriate sexual activities such as pornography, adult films and adults having sex within the child's view. This exposure can produce a number of effects, particularly resulting in the 'sexualisation' of childhood*

*and the creation of normalcy around sexual activity that may be used to engage children in sexual activity. It may also result in sexual 'acting out', and actual offending by children and young people against others ... The Inquiry was told that due to overcrowding in housing, children were often exposed to adults having sex.*

The DFC told the Inquiry that it hopes that an improvement in the housing situation will keep children safe by

- *reducing anti-social behaviour and make significant improvement in safety, health and well-being*
- *integrating the planning and delivery of housing services with child protection, health, justice, education and employment*
- *connecting the continuum of housing responses which lead to independence, increased housing opportunities and prosperity*
- *generating new training and employment opportunities.*

Insofar as the present level of overcrowding of houses in communities has a direct or indirect impact on child sexual abuse, the Inquiry supports the planned injection of funds to build additional new and replacement homes during the next two to three years.

There is also another aspect to housing that impacts upon child sexual abuse. The Inquiry received evidence from many different service providers that due to a lack of housing they were not able to put personnel on the Lands in the communities where they wished. In some cases, personnel had to be based at Marla or other places off the Lands and services aimed at reducing child sexual abuse have been adversely affected by the

<sup>37</sup> Austar Paid TV Service. The Inquiry was advised that all subscriptions to Austar were purchased by customers who had contacted Austar, rather than Austar contacting people on the community. The Inquiry also learned that blocking devices were available that could be applied to particular film classifications, such as barring access to R-rated programs, although it appears that instructions for these blocking devices was only supplied in English.



inability to house the required personnel within the communities. The Inquiry supports the building of houses as soon as possible to provide suitable accommodation for personnel in the fields of welfare, health, education and police.

## Recommendation 13

**That as a matter of urgency the housing construction program, with the assistance of Commonwealth Government funds, begins as soon as possible to construct houses that are appropriately designed for Anangu families and for houses to be built to be used by appropriate personnel of service providers on the Lands.**

DFC informed the Inquiry that frequently women and children who had escaped domestic violence or who were homeless, or at imminent risk of homelessness, were assisted by the NPY Women's Council, which received funds from DFC. As a result of moving off the Lands, these women and children (most frequently) required respite and transition housing. The Inquiry was told that there was a managed short stay accommodation at Port Augusta which was frequently used by people accessing specialist health services, employment, seeking respite and transition from community and, 'travelling to maintain family connections and care support'.

*Individuals who are chronically transient with intellectual, physical, behavioural and psychological disabilities and disorders are supported to stay in this safe environment. This initiative prevents overcrowding in regional public rental housing, reduces housing management costs associated with overcrowding, provides a safe and secure short stay environment ...*

DFC and other witnesses informed the Inquiry that Anangu frequently travelled to Adelaide to receive medical assistance, attend funerals and to escape from family violence, including child sexual abuse. They frequently stayed at the houses of friends and relatives.

DFC informed the Inquiry that they come into contact with Anangu from the Lands through the tenants of Housing SA properties, 'particularly in relation to reports of overcrowding and disruption by a neighbour'

*Housing SA assists Anangu to return home by providing bus tickets to return to the Lands.*

*DFC also provides short-term housing support to women and children who are victims of family violence through its Adelaide based Sturt Street project.*

DFC also informed the Inquiry that Aboriginal people who move between remote communities and South Australian regional and city centres have specific housing needs. The Inquiry was informed that it is proposed to have 'four co-ordinated, interconnected regional accommodation and service centres based at Ceduna, Coober Pedy, Port Augusta and Adelaide ...'.

## Recommendation 14

**That sufficient funds are provided to DFC to ensure that adequate temporary or permanent accommodation can be provided to Aboriginal people seeking medical, therapeutic and respite care, who have left the Lands on account of child sexual abuse.**

# IV

## Part IV Prevention and consequences

### Safe house

The Inquiry heard a substantial body of evidence at community consultative meetings that safe houses in communities are strongly supported.

The Inquiry was informed that there was currently one 'safe house' operating successfully in the Yuendumu community in the Northern Territory. Nganampa submitted that a regional safe house for women and children should be provided for on the Lands at Umuwa. Nganampa believes 'that domestic violence, in particular violence directed at women, is an entrenched and widespread feature of the social landscape'. Families SA also supports the initiative of a safe house on the Lands.

APY submitted that there should be established 'safety houses as exist in mainstream communities with training and support for house operators'.

The Inquiry is of the view that this type of initiative should be seriously investigated as a matter of urgency. It will, no doubt, require appropriate funds to train and resource the appropriate staff. Such an initiative is likely to give a further sense of empowerment to the people of the Lands and a feeling that the Anangu community itself is beginning to take control of measures to reduce the likelihood of child sexual abuse. The establishment of safe houses on the Lands is discussed later in this report in Part IV Chapter 3 on education.



### Chapter 2 Health and well-being

#### Introduction

During the course of the Inquiry a considerable body of evidence and information was received about the state of health of Anangu on the Lands, consequences of sexual abuse of children, to the children themselves and to the communities, and as to what measures are in place and should be introduced to assist those children and the communities.

The Inquiry received considerable evidence about the physical and mental health consequences of sexual abuse to individual children on the Lands and its impact to their communities.

Also evidence was received as to problems experienced by health professionals on the Lands in the treatment of children who have been sexually abused and in responding to that abuse.

The bulk of this chapter focuses upon the health consequences of child sexual abuse - mental health issues, including suicide, drug and alcohol problems, pregnancy, and STIs. The chapter explains and considers the service responses to those consequences. Matters such as petrol sniffing and violence are both causative of, and exacerbated by, incidents of sexual abuse and are also discussed. Where the service response is provided by secondary health organisations their programs are explained. What measures are in place and should be introduced to assist sexually abused children and their communities are also mentioned. Early intervention health programs and strategies are discussed briefly at the end of the chapter.

It is convenient to begin with a brief description of health care on the Lands.

#### Health care

Primary health care on the Lands can play a crucial role in the detection of, and response to, child sexual abuse. The nurses and general medical practitioners who treat children are often in the best position to identify and recognise sexual abuse or possible abuse. Medical conditions such as STIs, pregnancy, sexualised behaviour, and physical injury to genitalia may indicate sexual abuse of children. Other medical conditions such as mental illness and gross injuries from domestic violence may also be companions to sexual abuse, whether in the immediate instance or over prolonged periods of time. In addition to mandatory reporting obligations, health professionals must provide appropriate clinical care to address the damage to the health of children as a consequence of sexual abuse.

For the past few years, the Parliamentary Aboriginal Lands Standing Committee of the State Parliament identified the health and well-being of young people on the Lands as a key area for service development. The Aboriginal Affairs and Reconciliation Division (AARD) of DPC has reported on health and well-being services in its recent annual reports. Health was prioritised in the AL Task Force Strategic Plan released in 2005. In December 2007 the Department of Health released a state wide Aboriginal Health Policy. Where relevant these policies and programs are referred to in this chapter.

As primary health care is delivered by the Nganampa clinics, the operation and staffing of these clinics is briefly mentioned. Nganampa provided considerable evidence and assistance to the Inquiry.

## A brief history of health services on the Lands

The first health service to Anangu on the Lands was provided by the Ernabella Mission and commenced in about the 1960s. Ms Dorothy Forbes, who was a nursing sister, was appointed Medical Patrol Officer for the Amata Aboriginal Reserve in about 1963. She was employed by the Aborigines Protection Board and worked extensively on the Lands, including at Amata, Granite Downs, Mimili as well as the homelands. Later these medical services were provided by Ms Faith Thomas, another nursing sister, who is an Aboriginal woman.

In the 1970s the South Australian Health Department established clinics at Amata, Indulkana and Ernabella. The clinics were staffed by nurses with occasional visits from medical practitioners.

The outstation movement gained impetus in the early 1970s with the advent of the Whitlam government and its policy of self determination. The South Australian Department of Aboriginal Affairs started to provide assistance to incorporate associations that sought to establish outstations. The assistance generally included a bore and some basic infrastructure. Initially most of the outstations were established west of Amata towards (and over) the Western Australia border and north of the Northern Territory border. In the late 1970s the Pipalyatjara Homelands Health Service was established to provide health services to the developing outstation communities. It was based at Kalka.

That health service established clinics in South Australia and Western Australia and employed medical practitioners at some of those clinics.

The Amata Health Council Incorporated was

established in approximately 1983 to provide an independent Aboriginal control and primarily health care service to Anangu 'Within and outside the Pipalyatjara freehold land in South Australia.'

## Nganampa

Nganampa is a Pitjantjatjara and Yankunytjatjara word meaning 'ours'.

The Nganampa Health Council Incorporated (Nganampa) is an Anangu community controlled health organisation providing primary health care services to all people living on the Lands. It was established on 1 December 1983. Nganampa then assumed control over the existing clinics at Amata, Iwantja (Indulkana) and Pukatja (Ernabella). In 1985 it took over the Pipalyatjara Homelands Health Service Clinics located between Amata and Kalka. Local community health committees were established with an office based at Alice Springs. In 1993 the Regional Office of Nganampa on the Lands was opened at Umuwa.

Nganampa is a voluntary association whose members are all Anangu who live in 'areas of operation'. The operation of Nganampa is not confined to South Australia.

The governing body is the Health Committee which has 20 members and is comprised of the Director, Anangu Health Mayatjas (who are the Anangu clinic managers), one elected representative from health worker stations at Yunyarinyi, Watarru, Murputja, three elected representatives of the NPY Women's Council, four elected general representatives from the Lands, two elected Anangu health worker representatives and the Chairman of APY.

The Director is Mr John Singer, an Anangu person from the Lands. He is based at Umuwa and works under the direction of the Health Committee. The

Health Services Co-ordinator works for the Health Committee alongside the Director to assist in planning and implementation of objectives. It is not an Aboriginal designated position. The Medical Director is at present a part-time position occupied by Professor Paul Torzillo who lives in Sydney, New South Wales but visits the Lands frequently and convenes quarterly clinical meetings. He has had a long association with Nganampa.

Nganampa provides primary health care for Anangu through six major clinics across the Lands: Iwantja (Indulkana), Mimili, Kaltjiti (Fregon), Amata, Pukatja (Ernabella) and Pipalyatjara and smaller community clinics or health units at Yunyarinyi (Kenmore Park), Nyapari, Watinuma (Officer Creek) and Watarru the last three of which were established in 2005. The smaller clinics are not serviced full time. Indeed, the Inquiry was informed that one of those clinics, Kenmore Park, has not yet opened. Some clinics provide regular services to homelands.

Each clinic is managed by an Anangu Health Mayatja who is responsible to the Director. The Mayatja has three main roles: public and environmental health, participation on the Health Committee and organisation of the clinic. Clinic staff must liaise with the Mayatja on matters that affect the management of the clinic.

The Mayatjas are appointed by the Nganampa Executive. It is important to establish that their role is confined to basic administration and liaison with community councils and that they do not have any role in the professional work of the medical practitioners, nurses and the Aboriginal health workers.

Nganampa informed the Inquiry that the Mayatja at each clinic supervised the nurses and Anangu health workers.

*Their main role I suppose in the community is to be able to get information from the council, if a council has a meeting and decides they've got a health issue, they approach the Mayatja who would then be able to bring that information to our board of management meeting and raise those issues there and it will either be dealt with at the board or then our management team would have to go out to that community and talk with that office.*

Key managerial staff working across the organisation includes the Director, Medical Director, Health Services Manager, Nurse Manager, and a Human Resources Manager based in Alice Springs. Nganampa also have program managers in the areas of women's and men's health, aged care, STI/HIV, and a liaison team working to organise hospital treatment in Alice Springs.

With some minor exceptions, all of the main clinics have a staff of three registered/community health nurses, three to four Aboriginal health workers (AHW), at least one of whom is male, and one Mayatja. Watarru also has a Mayatja. Staff are employed by Nganampa.

Anangu health workers are an important link between non-Anangu health professionals and their clients. AHWs have either a certificate II or certificate III in Aboriginal Primary Health Care. Nganampa regularly provides this training at Umuwa.

For some time until late 2007, three general medical practitioners had been servicing the clinics, with a fourth and long-standing employee providing advisory services from NSW. Up until 2006, Nganampa had two general practitioners living and working full time on the Lands. One is now also based in New South Wales and supports the nurses with clinical advice by telephone. The



other is based part-time on the Lands and part time in Alice Springs. There is now one general practitioner living and practising full-time on the Lands. Across the whole of Nganampa's services there are three general practitioners, and usually 27 Aboriginal health workers and 18 registered nurses, in full-time equivalent terms.

Nganampa advised the Inquiry that general practitioners on the Lands were overworked. There are about 4,000 patient contacts each year requiring primary health care across all health needs. Until late 2006, each doctor cared for around 1200 patients. According to Nganampa this was three times the recommended caseload for GPs in Indigenous communities. 'The average GP is thought to be able to competently care for 600 people, and about 400 if they are Indigenous because the burden of medicine is worse'. Nganampa report that staff work long hours and struggle with 'a huge unmet need of pathology in the community'. Another witness observing Nganampa staff described them as stressed and without good debriefing support. Nevertheless, Nganampa has generally had good staff retention and the professional staff are regarded as competent, dedicated and hard working. Nganampa told the Inquiry that it is more difficult to find and retain necessary numbers of suitable staff, including nurses.

The nurses play an important role in the clinics. As is to be expected with only two medical practitioners working on the Lands, in the majority of instances, only a nurse sees patients but ensures that the doctors see and treat the women, men and children who require medical assistance. Experience of the Lands and Anangu is important for adequate health care.

The difficulties of being new to the community, and detecting and responding to sexual and other

forms of abuse, were expressed by a health professional with many years on the Lands.

*When I first arrived in the health service for the first few years I don't think I would have known very much of what was happening around me. I don't think I made any reports during that period of time. I didn't have the vaguest idea what was going on. I don't think that was because I concealed things. I think it's because I didn't actually know what was happening.*

Nganampa acknowledged the staffing and service provision difficulties they and other service providers on the Lands face.

*As with other agencies delivering health, welfare, education, police and social services, Nganampa Health Council struggles to provide responsive, high quality and sustained services in what is in all likelihood as complex and challenging a context as any in the country. Remoteness, entrenched poverty, language and cultural barriers, absence of basic services, and inadequate physical infrastructure all contribute. In this environment, the recruitment and retention of adequate numbers of professional staff to the highest quality and relevant experience is needed but incredibly difficult to achieve. The required professional workforce cannot currently be sourced in part from the local population, nor is it remotely likely to be in at least the next decade.*

It is essential that there are sufficient general practitioners and nurses working on the Lands. The present shortage needs to be overcome. As will be mentioned there are incentives for police officers to live and work on the Lands. Government should consult with Nganampa to address the shortages

and ascertain if incentives should be available to health professionals working on the Lands. They have an important role to play not only in the delivery of medical services but also in child protection.

In addition to primary health care services, Nganampa provides about 20 health programs across communities, including sexual health, antenatal, young women's, women's health, school aged screening, dog and environmental health, health education for men and women, housing and infrastructure and age and disability, dental programs and as mentioned in Part II and later, STI screening. Also Nganampa undertakes a childhood immunisation program with a coverage rate of greater than 98 per cent in the year 2006 to 2007. In that year there were 393 dental patient visits in five communities including 207 children.

No attempt has been made to describe comprehensively the services and programs provided by Nganampa on the Lands. These activities are of considerable importance in themselves, but also to the Inquiry, as they demonstrate that the health professionals of Nganampa have substantial experience of Anangu, including children.

## Recommendation 15

**That Nganampa receive increased funding so that the number of general medical practitioners based on the Lands can meet the professionally accepted ratio of doctors to patients.**

**That the increased funding to Nganampa enables medical practitioners and nurses to receive salary and financial incentives sufficient to recruit such staff and retain them in service on the Lands.**

## SA Health Strategic Plan

In January 2008 the South Australian Health Department finalised a new Aboriginal Health Policy, which includes a commitment to respect for culture, reconciliation, supporting the Aboriginal controlled health sector, and accountability. The policy sits under the SA Health Strategic Plan 2007-2009, Strategic Direction 4, which aims to improve the health of Aboriginal people by developing a culturally responsive health system.

In the policy's 'statement of commitment' the State government

*...recognises that it is essential to provide effective and sustainable health services, responsive to the population needs which are culturally appropriate and accessible. Particular consideration also needs to be given to the complex needs of Aboriginal people living in rural and remote settings.*

It says

*'a key priority of the SA Health Strategic Plan is to address the health inequities faced by Aboriginal people by reducing the gap in health outcomes between South Australia's Aboriginal people and the rest of South Australia's population'.*

## Mental health and emotional well-being

Mental health and support services are necessary for children and adults on the Lands. Sexual abuse of children may have serious consequences for family and relatives of abused children. They may be described as secondary victims.

Consequences of sexual abuse of children on the Lands are seen in the number of suicides and attempted suicides of children on the Lands. The Inquiry's investigations, as set out in Part II, Chapter 3 of this report, clearly show mental health problems for children sexually abused co-existing with issues of neglect, petrol sniffing and marijuana

use. In some cases, sexual abuse was a more direct cause of emotional and mental instability.

Widespread sexual abuse of children is likely to have consequences for the communities on the Lands not only because of the suffering of victims but the fear of further abuse as well as violence, which is likely to affect most members of the community.

It is likely that many adults were sexually abused as children on the Lands and did not receive any therapeutic treatment. It is also likely that many of them continue to suffer devastating effects of the abuse.

### Adult mental health services

Psychiatric services for Anangu adults on the Lands have been delivered remotely since about 2004. In the 2005 Annual Report of Nganampa it is stated that the most rapidly growing clinical demand faced by Nganampa is in the arena of mental health. A fledgling program was implemented with up to four one day visits to each clinic by a psychiatrist with the support of a mental health social worker or nurse from the Remote Mental Health Team in Alice Springs.

In the 2007 annual report of Nganampa it is stated that the visits continue to each of the larger communities. This service has been provided by a joint program of the Northern Territory and the South Australian Government referred to in the submission of the SA Department of Health to the Inquiry as Rural and Remote Mental Health Services (RRMHS) and the Medical Specialist Outreach Assistance Program (MSOAP) also operating from Alice Springs. Nganampa reported in 2007 that there is a significant current need for mental health services and it hoped the support for the service would continue.

The Department of Health in its submission informed the Inquiry that agreement had been reached with the South Australian Division of

General Practice regarding funding from the implementation of the Council of Commonwealth Government Mental Health initiatives of \$1.9 billion, which will include a specific focus on remote Aboriginal communities. No further information was provided but as it was varied in the context of Adult Mental Health Services, there may be a possibility of boosting such services on the Lands.

In recent years two psychiatrists based in Adelaide have visited the Lands at least four times a year for a period of three to five days. This service is arranged by Nganampa and is funded by MSOAP.

In 2007, Nganampa was funded by the Commonwealth Government to create positions for two psychiatric nurses to assist in the treatment of Anangu adults under RRMHS. These positions were eventually filled in early 2008, with experienced male staff, one of whom had long-term locum mental health experience on the Lands. He is presently based in Alice Springs and spends half of his time consulting on the Lands and the other half consulting by telephone. Like many other workers seeking to take up full time employment on the Lands, the other person must wait for a house to be built for him before he can be stationed there. The nurses assess the patients, provide medication and counselling and make follow-up assessments. They are supervised by the visiting psychiatrists.

### Child and adolescent mental health services

The Child and Mental Health Service (CAMHS) is part of the Mental Health Division of the Children, Youth and Women's Health Service within the SA Department of Health. There is a northern and a southern section. The northern section is based at the Women's and Children's Hospital in Adelaide and the southern section at the Flinders Medical Centre. The northern section has provided clinical assessment of children on the Lands since May 2006.

A team including a child psychiatrist, Indigenous Mental Health consultant, and manager (social worker) travel to the Lands every two three months. Recently, a member from the Mary Street Adolescent Sexual Abuse Prevention Program in Adelaide has joined the team. CAMHS also provide a positive mental health program to students resident at Wiltja.

CAMHS first conducted a scoping study on the Lands in June 2004, pre-empted by a series of inter-governmental discussions following the release of the second Coroner's Report, which was critical of government inaction on the Lands.

CAMHS returned to the Lands in June 2005. CAMHS had received \$70,000 towards providing services to children and young people on the Lands. The funding was utilised to pay the travel costs of the visits. There was no funding of staff time. A CAMHS record entitled a briefing note, records:

- *Well-being needs of young people on the APY Lands are very great, however a lot of the problems are symptomatic of broader society issues and require both clinical and community development responses*
- *Nutritional issues and chronic medical problems have a significant impact on young person's overall growth and academic achievement*
- *Issues relating to cultural disconnectedness and the breakdown of family and community structures have impacted on young people's experience of attachment, belonging and continuity*
- *Issues of grief and loss are prevalent.*

The briefing note also identified a difference of opinion between CAMHS and Nganampa about what services were required for children, with CAMHS preferring a service that involved broad

community consultation and Nganampa seeking to restrict itself to clinical assessment and intervention. Also the briefing note indicated that despite receiving referrals from Nganampa, CAMHS refused to see children on this trip citing inadequate funding.

CAMHS draft report on the June 2005 visit identified a series of issues including the following:

- *Nutritional issues from infancy – biological stressors such as low birth weights and poor nutrition can diversely impact on growth, in particular of the brain and nervous system*
- *Absence of role model figures: death of elders, separation from attachment figures ... chaotic environments can disrupt attachments and the young person's sense of belonging and continuity*
- *Breakdown of family structure*
- *Issues of grief and loss in relation to the high rate of threatened, attempted and completed suicide. This has a significant impact on the coping skills young people develop in order to deal with life stressors*
- *Chronic medical problems such as Glue Ear and respiratory tract infections impact on the young person's overall growth and achievement at school*
- *School refusal/truancy*
- *Yirara Aboriginal School in Alice Springs has limited access to mental health services and resources.*

There was no direct reference to the consequences of child sexual abuse.

The draft report recommended, *inter alia*:

*Particular attention needs to be paid to the training needs of Aboriginal Education Workers and Aboriginal Health Workers. The*

*aim of the training is to build capacity within the communities to identify emotional and behavioural well-being issues for young people and to promote appropriate help-seeking behaviours.*

The report noted that a number of the children referred to attend Wiltja or Yirara during school term and return to their communities during the school holidays. It recommended providing consultation services to these schools. Children requiring ongoing residential mental health care should be referred to Boylan Inpatient Services in Adelaide, the nearest inpatient service for people under the age of 18.

In June 2006, CAMHS met with Amata school.

*The school staff spoke about having limited training to identify mental health issues and report being unsure how to respond to suicidal behaviour and petrol sniffing. They also expressed concerns about the limited information about adolescents who were medically evacuated from the community due to self-harm then returned to school with no information or management plans. They were also unsure about the role school should take following death or serious suicide attempt.*

CAMHS also met with the education professionals in Pukatja (Ernabella) who requested training on identifying sexualised behaviours and how to respond. The report notes that regarding sexualised behaviour and alleged sexual abuse of students 'that it was agreed' there would be 'follow up with the council to seek permission to have further discussions with the community'.

CAMHS concentrated its work around sexual abuse in Pukatja (Ernabella). It delivered sexualised behaviour training to Anangu staff at Pukatja, and also held six meetings with women and one with men concerning sexual abuse.

In mid-2007, CAMHS developed a proposal for a 'short-term intensive clinical response' to allegations of sexual abuse of boys, sexual activity between young boys and girls and increased levels of sexualised behaviours. The model was developed in response to:

*numerous requests for an intensive counselling response from individuals within the Anangu community, Families SA, APY Lands Service Co-ordinators and DECS. The APY Visiting Team has received broad permission for a therapeutic response to be developed.*

CAMHS and Nganampa do not have a particularly effective relationship. CAMHS rely upon Nganampa for both professional support in the way of referrals and logistical support such as housing and transport to do their job well. Nganampa's understanding and support for the program was not secured prior to its commencement, and there remain differences of opinion over the model used. The team from CAMHS has persisted in delivering a service. It is evident, however, that they stumbled into the problem of child sexual abuse without adequate skills and resources. Differences between CAMHS and Nganampa should be resolved promptly by an appropriate mediator and consultant.

A January 2007 file note of CAMHS states:

*A positive and collaborate relationship with Nganampa Health is critical as their health staff are on the ground and manage any issues between visits. They have a lot of the history and knowledge of the communities and the families, which is critical to ongoing and successful work.*

CAMHS returned to the Lands in August, October and November 2007, and February 2008. However, there are ongoing issues over the delivery of



services to young people, particularly the lack of referrals made by Nganampa on local children requiring mental health services. They instead rely on other services, such as schools. CAMHS stated:

*The clinics have not been the ones identifying sexual abuse at all, which is pretty odd really. Well, you would assume that the clinic are going to see - they're going to see most of the families. They say they know the community really well. They've got relationships with all these kids. They've been there forever. They know all the community.*

CAMHS said:

*I think the schools - particularly the teachers - and that's why a lot of effort has been put on the teachers - we do know that if the teachers are empowered, then they can provide some intervention for the kids and that will make them go back to the teachers for the same reason.*

Nganampa has advised the Inquiry that it supports CAMHS continuing to service the Lands. It is frustrated, however, by a lack of attention to the difficulties of case managing and funding many of the treatment modalities they are recommending for children, many of which would be delivered from Adelaide over a reasonable time frame. Children require case plans and someone responsible for ensuring those plans are met. Nganampa identified the need for mental health professionals - as with other staff - to be competent and reliable people Anangu 'can talk to without fear of adverse circumstances or not being taken seriously or being betrayed'. They advised the Inquiry that a long-term commitment to counselling was necessary, especially for teenagers.

Sole reliance upon a remotely delivered mental health service to children has problems, as Country

Health SA, who fund the program, identified:

*The reality is CAMHS are experts, but the reality is going in there six or eight times a year when business is on, or fronting up in this community, and the kid you want to see is 400 Ks away there, the kid's not going to get to you. How are you going to get to that kid? How are you going to identify, and once you've identified, support that child? Not just with the visit that Child and Adolescents make, but in the absence of Child and Adolescents - when they're gone; they've come in and done their week and they've gone away.*

In his evidence one experienced educator pointed out the political processes he went through to ensure that CAMHS were finally involved with the boy victims of a perpetrator of sexual abuse, albeit two years after the event.

*CAMHS has, with limited resources, tried to provide a response - support for the boys ... but trying to grab them is like trying to herd cats ... It's been hard ... About four weeks ago, on their last visit, they actually spoke to the boys about what happened for the first time.*

The Inquiry has been unable to ascertain the precise number of children who were the subject of allegations who did not receive mental health treatment or counselling following the alleged abuse but it is certainly the vast majority.<sup>1</sup>

### Need for mental health and therapeutic services on the Lands

The CISC Inquiry received a considerable body of evidence from people who had been sexually abused as children, many of whom suffered long-term devastating consequences throughout their

<sup>1</sup> It is likely very few Aboriginal children who were sexually abused received any therapeutic services. Refer to CISC Report p415



lives. Many of the witnesses in the CISC Inquiry said they had difficulty in speaking about the abuse, even as adults, but they had benefited from making the disclosure.

A practitioner working with victims of sexual abuse told the CISC Inquiry

*The psychological impact has the ongoing impact on the rest of their lives ... there is a particular problem with sexual abuse of children, and that is the secrecy with which it is engaged ... [the victims] internalise the responsibility for it faster than children with other forms of abuse ... I think that's partly because they don't tell anybody so they carry it for longer alone.*

As is mentioned in the CISC Report, there was debate among various experts who gave evidence to the CISC Inquiry about the science of explaining the effects of child sexual abuse and the diagnostic labels for the symptoms. However, they agreed that although the effects of child sexual abuse vary it often has significant lifelong consequences, especially if appropriate immediate treatment is not provided.<sup>2</sup>

Evidence and submissions to the CISC Inquiry were unanimous in support for children and young people to receive appropriate counselling and therapy after disclosing sexual abuse.<sup>3</sup> It is to be expected that many Anangu children who are sexually abused will suffer the same consequences and will require psychiatric, psychological and counselling services from time to time throughout their lives.

It was also established that many of the victims required psychiatric or psychological assistance in their adult lives and access to such services extensively and without expense.

The CISC Inquiry accepted that therapeutic support is required by carers of children and young persons who have been sexually abused.<sup>4</sup>

Also, there is a need for treatment of people who have perpetrated sexual abuse of children even if they have not been brought within the criminal justice system. The CISC Inquiry was informed that about 40 per cent of people who had perpetrated sexual abuse had been sexually abused.

Appropriate treatment is available for young people at the Mary Street program and for adults through the Sexual Offenders Treatment and Assessment Program which are both in Adelaide.<sup>5</sup> As has been mentioned, Mr Allan Jenkins, of the Mary Street Program, has visited the Lands in conjunction with CAMHS.

Children who have been sexually abused require a timely therapeutic response. The CISC Inquiry received evidence about therapeutic services available at the Children's Protection Service at the Women's and Children's Hospital (CPS WCH) and the Children's Protection Service at the Flinders Medical Centre (CPS FMC) and CAMHS. These services which are mentioned in the CISC Report, Chapter 4.1, pp. 414-416. As is mentioned in Part IV Chapter 1 of this report these services are overstretched and unable to provide the service that is required by all children who have been sexually abused. Clearly, there are inadequate services for all of the persons in need on the Lands. Without the appropriate therapeutic response by suitably qualified experts, children who have been sexually abused are likely to suffer serious lifelong consequences. Without an appropriate response, many victims may become perpetrators. Without appropriate treatment, many perpetrators are likely to continue to sexually abuse children with disastrous consequences for them and for the communities on the Lands.

<sup>2</sup> CISC Report, Chapter 4.1, p 349.

<sup>3</sup> CISC Report, Chapter 4.1, p. 413.

<sup>4</sup> CISC Report, Chapter 4.1 pp, 417-418.

<sup>5</sup> CISC Report, Chapter 4.1 pp, 384-385

## Recommendation 16

**That there be a substantial increase in services on the Lands for persons with mental health issues and for persons who have been sexually abused as children who require therapeutic services.**

### Drug and alcohol problems

There are serious health problems occasioned by drug and alcohol abuse by sexually abused children on the Lands.

The Inquiry received evidence and information that establishes long-term petrol sniffing and alcohol abuse over many years and more recently the growing use of marijuana. There is a long history of children giving sex for petrol and now for marijuana and to significant alcohol abuse on the Lands.

The Inquiry was informed that marijuana has replaced petrol to a large extent. It is more expensive and there is concern that there is significant incidence of sex being exchanged for marijuana. One senior person in SA Government told the Inquiry:

*I have no doubt that some of the perpetrators of sexual abuse, provision of petrol, provision of drugs, gambling, is done by some senior people.*

Although it is reported by Nganampa that there has been a substantial reduction in the incidence of petrol sniffing, the evidence to the Inquiry establishes that petrol sniffing has been widespread on the Lands for many years. There has been significant injury to health caused by petrol sniffing. Nganampa said many people with a history of petrol sniffing were now in their late 30s, who may think that they are still in their early 20s, and are unable to control their behaviour, which can spill over into their sexual behaviour.

Many young persons involved in petrol sniffing were also involved in sexual abuse. The Inquiry was informed that petrol sniffers were often involved in 'wrong way' relationships, which can have significant adverse consequences to them.

One girl, 13 years of age, was sniffing petrol and became pregnant. A medical professional summed up the situation at that time:

*Pregnancy at risk ... resisting antenatal care ... possible serious foetal abnormality ... No family support or supervision for some years. Marked anaemia...*

Babies of petrol sniffers are sometimes passed around the community because the mothers are unable to care for them.

There are also serious consequences of the use of marijuana. Community meetings of the Inquiry were informed that extensive use drives sexual and erratic behaviour. One medical practitioner informed the Inquiry that it was difficult to estimate the use of marijuana on the Lands. 'Marijuana is harder to police and I think, you know, there's heaps more than we know about really'. A medical practitioner told the Inquiry that there is considerable damage caused by the drug. 'I think it is the psychoses that are the biggest issues', but added that the consumption of family income is also an issue.

The Inquiry accepts that marijuana use can cause serious mental health issues.

Also, the Inquiry was informed that alcohol continues to be brought onto the Lands. One Anangu man said that when members of the community had access to money, they had access to alcohol.

*... they go off, buy up big - a lot of them will just divide it with family or, you know - don't hear a lot of selling it, not the level like marijuana is sold.*

The health issues caused by petrol, marijuana and alcohol abuse all need an appropriate response as part of the response to sexual abuse of children, improvement of community safety, and the prevention of sexual abuse of children.

### Drug rehabilitation centre

Drug and Alcohol Services South Australia (DASSA) run the principal substance abuse services on the Lands.

After consulting with community, State and Commonwealth governments, Nganampa and NPY Women's Council, it was agreed that a culturally appropriate substance abuse rehabilitation facility should be built in Amata.

After some delays, the drug rehabilitation centre has been built. The Positive Behaviours Program links into the Amata centre. It cares for people who suffer from the effects of petrol sniffing and other substance abuse, and offers rehabilitation services.

Stage one of the Amata complex was finished in late 2007. Two staff houses also have been completed. The second stage, which comprises camping and ablution facilities for families, was to be completed early this year. DASSA has appointed a manager and two nurses to work at the facility. Three Anangu have been employed as community workers and a senior Anangu man is employed as a cultural consultant.

The facility will provide:

- assessment by facility staff (in local communities)
- referral to hospital where intensive medical support is required for detoxification
- residential rehabilitation programs for up to three months
- outreach services in communities by facility staff.

However, the Inquiry was informed that the protocols for the new Amata centre do not allow for

people under 18 years of age to access the services provided at the Centre. In the Inquiry's view, such a restriction is unwarranted.

## Recommendation 17

**That the protocols of the Drug Rehabilitation Centre at Amata be altered to allow children access to the drug and rehabilitation program.**

**That the Drug Rehabilitation Centre at Amata be adequately funded in the long-term so as to allow appropriate services for children who require rehabilitation.**

### Highlighting mental health issues

The Inquiry investigated, at least 30 cases that highlighted mental health issues. Some of these cases suggest that mental health problems arising from problems such as neglect, petrol sniffing, and marijuana were coexisting with sexual abuse. Other cases suggest sexual abuse is a more direct cause of emotional and mental well-being problems. The limited availability of mental health services to Anangu children restricted the Inquiry's examination in this area. The Inquiry suspects that the number of cases of sexual abuse with mental health and well-being concerns to be much higher. The examples mentioned highlight some mental health issues and demonstrate that there is a desperate need for improved mental health and psychological treatment on the Lands.

One young girl who had a history of depression, suicide attempts and chronic petrol sniffing, was referred to a psychiatrist but the specialist was unable to make any diagnoses. At the age of 15 years, she had been diagnosed with STIs, and was living in a 'wrong-way' relationship with an adult male. Because of the relationship, she had been ostracised by her family, was in constant conflict

# IV

## Part IV Prevention and consequences

with them and was threatening to self-harm. The psychiatrist tried to assist but the girl would not discuss any issues. Police were informed of the psychiatrist's attempts to interview the girl and no further action was taken.

Being alienated by family and community is a consequence for some girls who are sexually abused, that can cause considerable emotional and psychological distress not only to the children and their families but also to the wider community.

Threatening to self-harm and being in fear of older, domineering partners, was a common theme of many younger sexual abuse victims.

A student counsellor made the following comments about an Anangu teenager who was living a lifestyle common to many young girls.

*...like one of those girls who ... six or seven times to try and commit suicide; she'd come around to my house and yes, she'd been beaten up by her boyfriend and stabbed by her boyfriend, and you hear the teenage girls say so often, 'He does it because he loves me.'*

A girl, aged 13 years, who may have been sexually abused by an older man, attempted suicide and was taken to a medical clinic for treatment. The girl was seen by a psychiatrist four times, was interviewed by police, but she did not make any disclosures. It became common knowledge that she then became involved with a married Anangu man and within months the Child Abuse Report Line (CARL) received a report that she had attempted suicide 'possibly due to conflict/accusations within the community about her engaging in a sexual relationship with an adult married man'.

Another girl aged 13 years, who was pregnant to an older man, had her pregnancy terminated. However, the girl continued to live with the older

man, and was the victim of several violent assaults. The girl tried to kill herself, but declined offers of assistance to move away from the man. Doctors referred her to CAMHS, describing her as 'extremely quiet and always looks morose and downcast'.

The Inquiry is aware of one teenager who attempted suicide several times over a period of five years, including at one stage attempting suicide on successive days.

There is some evidence that, despite the intervention of welfare and health authorities, some children are not able to be protected.

One girl aged 14 years, was a chronic petrol sniffer and threatening suicide. After an attempted suicide, she was seen by a psychiatrist but did not disclose much information. As has been mentioned, visiting psychiatrists provide all psychiatric services on the Lands.

Another girl had a record of self-harm and was also known to be a heavy petrol sniffer. She had contracted an STI at the age of 12 years. She told police she attempted suicide at the age of 14 years because 'she was sick and tired of her mother ... being continually drunk and fighting with other members of community'.

The Inquiry also heard reports of a young woman with mental health problems suffering an exacerbation of those issues as the trial of the alleged perpetrators was approaching.

*She was terrified that they were going to be released and come back. She still lives in fear that other family members or people in that community will victimise her because she gave evidence.*

Other victims of sexual abuse exhibited behavioural problems, including chronic kleptomania, suicidal behaviour, explicit sexual-based teasing and violence. A witness described

one boy's behaviour as 'instantaneous anger, leaping into violence'. The information received by the Inquiry does not permit a conclusion that this type of violence is the consequence of sexual abuse. It may be due to other matters but sexual abuse could have been a cause. An older man allegedly abused this boy and a number of other boys. No therapy or other mental health treatment was provided to these boys until at least 3 years after the alleged events.

The Inquiry obtained little information on the mental and emotional effects of child sexual abuse into adulthood. The barriers to disclosure discussed earlier in the report carry on for Aṇangu later in life. In the handful of cases brought to the attention of the Inquiry, depression and drug dependency were cited as long-term, ongoing effects.

A considerable body of evidence was received by the CISC Inquiry about the long-term effects of child sexual abuse and for many, throughout the rest of their lives. It is reasonable to accept that sexual abuse of Aṇangu children has the same consequence.

A number of the allegations of sexual abuse involved children with intellectual disabilities. Expert evidence concerning the incidence of disability amongst children on the Lands was not sought. However, evidence generally received about substance abuse suggests that the incidence of permanent and temporary disability as a result of substance abuse by a parent or the child, is considerable.

Children with disabilities, particularly involving mental illness or intellectual disabilities can be easy targets of perpetrators of child sexual abuse. A paucity of services for children with disabilities and their carers increases their vulnerability.

Many children with pre-existing intellectual disabilities exhibited behavioural problems from an

early age. In such cases, determining the mental and emotional impact of sexual abuse is extremely difficult. These are children who were likely to have suffered mental impairment as a result of petrol sniffing or foetal alcohol syndrome.

The Inquiry also heard that sexualised behaviour among young people also may highlight mental or psychological issues, not only those caused by sexual abuse.

One young teenage boy, had been exhibiting highly sexualised behaviours, including touching teachers and demanding sex from adults. There were some suspicions that he had also sexually abused a younger girl from the community. Police were advised and welfare determined the boy should be put into State care. He was first seen by specialist child mental health services at a young age some time after the alleged abuse. He was then diagnosed with 'severe' mental disorders and 'severe intellectual impairment'.

One other child, who had been abused since the age of 15 years, had lived a nomadic lifestyle for most of her childhood. She had STIs, was a regular petrol sniffer, and had threatened suicide on several occasions.

Other children also showed a downhill spiral of petrol sniffing, and drug and alcohol use after being sexually abused.

From the age of 13 years, when one girl was diagnosed with an STI, her behaviour changed. At that point, she considered medical counselling when offered, but as she reached her late teens, rebelled and was heavily involved in petrol for sex and drug taking. More than a year later, the girl was taken to hospital after attempting suicide. The girl continued to prostitute herself for petrol or money.

There are serious mental health issues in the communities on the Lands that require the provision of appropriate and continuing services,

including therapeutic intervention and ongoing counselling and treatment to resolve these issues. As has been mentioned they are needed by children soon after they have been sexually abused and by all people who have been sexually abused.

Perpetrators of child sexual abuse who are themselves children and young persons, need treatment and assistance as provided by the Mary Street program, possibly therapeutic treatment if they are also victims of child sexual abuse, to assist them to overcome the effects of the sexual abuse, and also to reduce the risk of their continuing to be perpetrators.

Adults who are perpetrators of child sexual abuse need treatment and assistance to end their abusive conduct and prevent future abuses.

Also young people who have been sexually abused may need assistance to overcome confusion about their sexuality if the abuse is of the same sex.

## Pregnancy

Pregnancy was a common consequence of sexual abuse in the allegations examined by the Inquiry. In total, there were 31 instances of pregnancy of children on the Lands. Ten pregnancies were terminated. One 15-year-old girl died just before giving birth. Pregnancies occurred in three girls aged 12 and in eight girls aged 13. One girl had two pregnancies by the age of 13. Only 14 of the 31 pregnancies were reported to welfare.

In almost all instances, the children and their families were not prepared for the pregnancy. Some girls sought medical treatment upon experiencing abdominal pain, unaware that they may be pregnant; which suggests they may not be aware of how pregnancy occurs and are often unable to appreciate its long-term consequences.

In many cases, substance abuse and domestic violence served to escalate the damage to mother and child. In one case, a baby was born in Adelaide with some defects. At three weeks, the baby was admitted to hospital with serious non-accidental brain trauma whilst in the mother's care. It seems the cycle of abuse had crossed into another generation. The child and baby remained in Adelaide but 'the baby was really cared for by extended family members'.

The Inquiry encountered several instances of young mothers with petrol, alcohol or drug addictions being unable to care for their babies. Some girls gave their babies to friends. One welfare report stated that local professionals did 'not have resources to respond to these young people'. In the case of one such mother in her late teens, she continued heavy petrol sniffing, began an abusive relationship with an older man and had another baby, which was 'not growing well and concern raised'.

Another girl with a history of petrol sniffing also experienced prolonged domestic violence during her pregnancy. Although health reports show that that the girl had been badly assaulted by her partner just prior to the birth of the baby, the Inquiry was unable to find any evidence that the matter was reported to the police or Families SA.

Some of the cases mentioned in Part II Chapter 3 of this report highlight a predicament for young girls when they lack the power or confidence to leave abusive and domineering partners.

The Inquiry is concerned that in most of these instances, the male was never identified or questioned, because girls rarely revealed the name of the father. In instances where the father was known, police did not question them. In other instances, police have investigated and girls have withdrawn their complaints.



There was evidence that families wanted pregnancies terminated or babies adopted out because of their concern that it is the result of a 'wrong-way' relationship. In one such instance a health professional noted that the family were more concerned with the baby being 'wrong skin' than the sexual exploitation of the girl.

Nganampa informed the Inquiry of the struggle of 15 to 17-year-old parents and the neglect of their babies:

*they're the ones whose kids are going in, not enough food - you know, going in to see the nutritionist or need to build up their nutrition.*

Nganampa said that for the 'first time we're starting to see young girls actually presenting for mental health ... about 15, 16, 17'.

The Inquiry is of the view that young girls are now presenting to mental health more simply because the service is now there. The Inquiry suspects that the need has long been there.

Several health workers told the Inquiry that the desire to get pregnant was also being influenced by the availability of the Commonwealth Government's baby bonus. Nganampa reported it had observed from its family planning education in schools that more of the older girls wanted to get pregnant than did not want to get pregnant. Further, it is concerned that partners and families are pressuring teenage girls to become pregnant in order to access the grant, which will be \$5,000 from 1 July 2008.

*Once the child is born, the mother or the family gets the grant but then the kid is dumped on normally grandparents, who don't see any of the money.*

The expression 'baby cars' also has been coined to describe the practice of young fathers using the Baby Bonus to purchase a car.

As was mentioned in the previous chapter, children who are the subject of family care meeting agreements are not under the guardianship of the minister. The care agreements that relate to such children are likely to be on a more informal basis than arrangements ordered by a court. It is imperative that the actual person who is caring for a child receives all financial benefits to which he or she is entitled, including the Baby Bonus. So, for instance, if a baby is subsequently put into the care of a grandmother, then the grandmother must be the one to receive the financial benefits to be applied to assist that child.

## Recommendation 18

**That in the case of babies born to children resident on the Lands, the payment of the Baby Bonus be given in instalments.**

**That in the case of a baby being removed from the mother, who is a child resident on the Lands, the balance of the Baby Bonus payment unpaid at the time of removal follow the baby and be paid to the person or persons who provide the care for the baby.**

**That the State and Commonwealth Governments consider whether these arrangements can be implemented.**

## Sexually transmitted infections

The Inquiry received information about particular children having STIs. These cases were investigated mainly through the records of police, Families SA and Nganampa. The prevalence of STIs among children is a major health issue facing communities on the Lands.

Since 1994 Nganampa has conducted an annual STI screening program for gonorrhoea and chlamydia across all the main communities on the

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Lands, usually in March and April. Females aged 14 to 40 years and males between 15 and 45 years routinely are screened. Selection criteria have been used to determine which children under the age of 14 years should be screened, particularly those who are viewed as being at risk or are suspected of having been sexually abused.

The Nganampa co-ordinator of the STI program informed the Inquiry that before testing people 14 years and younger, attempts were made to obtain consent from a parent or guardian unless there was some overriding good reason to the contrary.

In 2006, 1025 people aged between 14 and 40 years participated in the screen, a participation rate of about 75 per cent. About 28 per cent of people in that age group were reported to be away from the Lands at the relevant time.<sup>6</sup>

STI data was obtained from Nganampa's results of annual screenings for gonorrhoea and chlamydia for all children 17 years of age and under who were screened on the Lands from January 2000 to April 2007. The name of the child, gender or dates of the screening test are not disclosed. In addition, a review was undertaken of the clinical records of all children who had a positive result for an STI or who were under the age of 14 years and had been screened during that period. De-identified data also was obtained from the notifications to the Department of Health for 2000 to 2006.

The second source of STI data was the Inquiry's examination of cases of possible child sexual abuse. Of the 269 allegations examined, the Inquiry discovered a total of 113 cases of STIs in 73 children between the ages of 0 and 17 during the period 1997 to June 2007. Four of these cases concerned children 5 and under, five cases concerned children between 6 and 10 years of age, 89 between 11 and 15, and 15 between 16 and 17 years. The highest number of STIs were discovered in 14-year-olds, 23 cases, and 15-year-olds, 43 cases. In the case of all of the 73 children

with STIs there was further evidence to suggest the reasonable possibility of sexual abuse.

As has been mentioned, the Nganampa survey indicated that there were 1047 children aged 17 years or under on the Lands as at 1 April 2007.

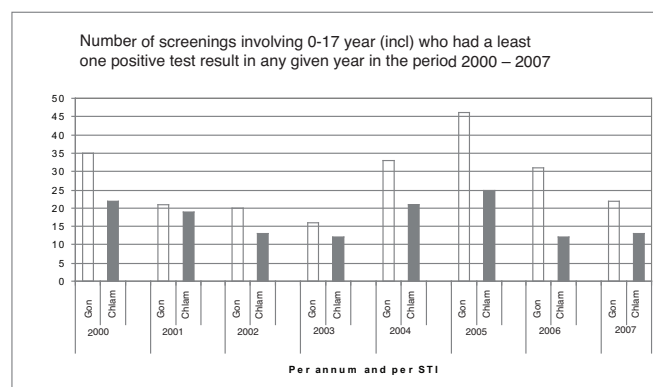
Screenings of children for gonorrhoea and chlamydia from 2000 to April 2007 are shown in Chart 1.

**Chart 1**



It may be seen that the number of these screenings are generally the same across most years, with a slight increase in 2000 and 2001. This increase is due to the inclusion of children 12 to 14 years of age in the routine screening population.

**Chart 2**



<sup>6</sup> Nganampa Health Council Annual Report 2006, p 16.

Chart 2 indicates the number of children 17 years of age or under who were screened and had at least one positive result in any given year. There were never more than 46 children with at least one positive result and never less than 12 children with a positive result.

**Chart 3**

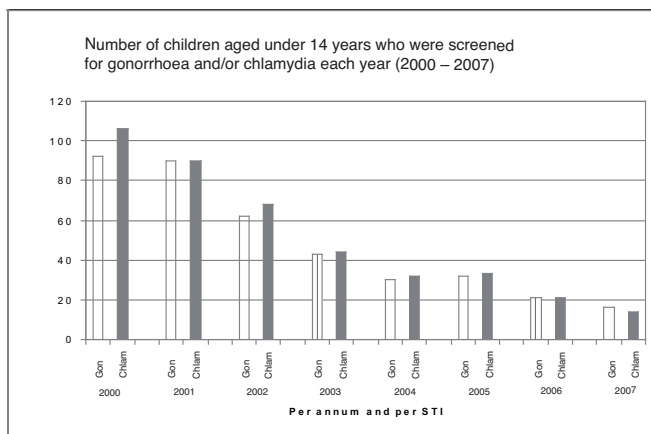


Chart 3 reveals that the number of children screened for infection each year has decreased from between about 90 to 100 in 2000 to about 20 in 2006. The high figures in 2000 and 2001 possibly could be explained by the inclusion of children aged 12 years and 13 years. Also, Chart 3 shows that the number of screens for gonorrhoea and chlamydia generally have been the same in each year. The Inquiry did not determine why the number of screenings for those aged under 14 years decreased.

Table 7 –shows the number of screenings for children aged 13 years and under during the period 2000 to 2007.

**Table 7: Screenings for 13 year old children 2000 – 2007**

Age	No. of screenings
First year	3
1	3
2	3
3	unknown
4	5
5	9
6	9
7	20
8	13
9	9
10	13
11	28
12	114
13	248

As mentioned, children under the age of 14 years are screened only if it is thought that they are at risk or there are allegations of sexual abuse involving them.

During this period (2000 - 2007) the number of children who tested positive in at least one test are shown in Table 8.

**Table 8: Children under 14 who tested positive 2000 - 2007**

Age	Tested positive
First year	1
1 – 4	Nil
5	2
6	2
7	1
8	1
9 – 11	Nil
12	8
13	15

Table 9 indicates the total number of children who were under the age of 14 years who had at least one positive test result during the eight-year period.

**Table 9: Under 14s with at least one positive result 2000 - 2007**

Age group of child	Number of children with positive result	
	Male	Female
0 yr	1	
5 yr		2
6 yr		2
7 yr		1
8 yr		1
12 yr	2	5
13 yr	3	9
	6	20
		26

The *Public and Environmental Health Act 1987* section 37 provides for the reporting of communicable or notifiable diseases, including STIs. Notifications are made to the Central Northern Australian Health Service at the Royal Adelaide Hospital. The STD Services Surveillance Section is responsible for obtaining and analysing all notifications. The STD Surveillance Section told the Inquiry it received the following number of notifications for the Lands, per infection and age group.

**Table 10: Numbers of notifications of STIs 2000 - 2006**

Infection	Age Group	Total
<b>Chlamydia</b>		<b>225</b>
	5 - 9 years	1
	10 - 14 years	22
	15 - 19 years	202
<b>Gonorrhoea</b>		<b>362</b>
	5 - 9 years	3
	10 - 14 years	30
	15 - 19 years	329
<b>Syphilis</b>		<b>31</b>
	5 - 9 years	0
	10 - 14 years	13
	15 - 19 years	18

These notifications relate to cases of disease and not the number of children who contracted the infections. If a child contracted both gonorrhoea and chlamydia, two notifications would be shown. Also if a child had two infections in one year it would be registered as two notifications.

There are a number of observations that must be made about these statistics. The first is that it is very likely that they do not indicate the true incidence of STIs among the children under 14 years of age on the Lands. There may be many such children who were not tested in a particular year because they were not seen as at risk or suspected of having been sexually abused.

The evidence before the Inquiry does not establish whether all infections that were STIs were notified in the relevant year because they may have been incorrectly reported and therefore not notified.

The Inquiry received evidence that it cannot be assumed that the existence of an STI necessarily means that a child has been sexually abused. A senior health professional expressed the view that some positive results can be false positives, which occurred with some frequency prior to 2004.

Dr Terence Donald is a paediatric forensic physician and the head of the Child Protection Services at the Women's and Children's Hospital (CPS WCH). He has considerable experience in the forensic investigation of child sexual abuse, including in very young children and in the treatment of them. He is also extensively engaged in the training of medical practitioners and others in those fields. He gave extensive evidence to the Inquiry. He expressed the view that it cannot be assumed that a child with an STI has been sexually abused because a positive result of chlamydia may not be accurate. Dr Donald estimated 90 per cent of such results are accurate.

There is not really a concern from a medical point of view because treatment can be given if the particular infection does exist. From a forensic

point of view, more is required. In the case of children, appropriately trained experts, medical practitioners, psychologists or social workers need to investigate the circumstances of the child to ascertain the likely course of the infection and whether it is an infection that is normally acquired by sexual contact.

It is unnecessary to discuss this evidence because the Inquiry has taken the view that the screenings have been conducted competently by Nganampa, tested independently by suitable expert laboratories and published by Nganampa without qualification.

The Inquiry was informed that sexual activity of children of the age of 14 years and a few years younger is sometimes discounted, because of incorrect assumptions that the girls consent to sexual activity and consensual sex is not sexual abuse. As has been mentioned, the policy of the law is clear – children under 17 do not have the maturity to consent to sexual activity.

The Inquiry is not aware of the reason for the sharp decline in numbers of children under the age of 14 years who were screened for STIs after 2002 as is shown in Chart 3. It may mean that there was a substantial reduction in the number of children who were perceived as ‘at risk’ or as possibly having been sexually abused.

The statistics in Table 7 show the substantial increase in confirmed STIs for children in the age groups of 10 years to 14 years and 15 years to 19 years. Although persons aged 18 years and 19 years are not children, it is reasonable to conclude that as these statistics include children aged 15, 16 and 17 years there was also a sharp increase in STIs in that age group, which tends to indicate a sexual cause.

As had been mentioned, Families SA maintains an intake register of all mandatory notifications of children, including children with STIs. The Inquiry

inspected records of Families SA regarding children who were the subject of notifications. A total of 22 files relating to children from the Lands contained references to STIs, in some instances to a positive result, in other instances with no mention of a clear outcome. The persons named in those files are part of the 141 cases investigated by the Inquiry.

However, there were many more positive results of STI screenings, as can be seen from Chart 2, and very likely involving more than 22 children. All positive results of STI screenings of persons aged under 18 years should be reported to Families SA pursuant to section 11 of the *Children's Protection Act 1993*.

The Inquiry received evidence that in some Nganampa clinics there has been under-reporting of STIs by not reporting some instances at all. If that is so, the statistics that have been mentioned do not reflect the true incidence of STIs involving children on the Lands. Also, the low number of STIs in the records of Families SA regarding children on the Lands compared with the records of the STD Services Surveillance Section, tends to indicate inadequate mandatory reporting by Nganampa. A consequence is that Families SA cannot undertake investigations and some children cannot receive the protection and therapy they require.

Evidence received by the Inquiry indicates that on occasions even when reports are made they are discounted for some reason or another and not acted upon. From a physical health point of view, it may be appropriate to treat the infection medically and resolve that aspect of the problem. But if the infection is a result of child sexual abuse, other major problems exist, including protection and therapy for the child and possible action against the perpetrator. The identification of perpetrators and, in the case of consensual sex, partners, is desirable for their own health protection and the protection of the public.

At the very least, in nearly every case, a positive result of a STI to the screening of a child should give rise to a suspicion on reasonable grounds that the child has been sexually abused and appropriate responses are required. The possibility of sexual abuse of the child of the age of seven years or less should not be discounted without investigation by the CPS WCH.

At present CPS WCH investigates for a forensic purpose, possible sexual abuse of children of the age of seven years or under, but can, and does, undertake therapeutic services for all children who have been sexually abused and are brought into that service. That service is better equipped by reason of the training and experience of staff to provide appropriate therapeutic treatment for children than is CAMHS. All notifications of sexual abuse of children on the Lands should be referred to CPS WCH for a decision as to what treatment option should be considered.

Having considered all of the evidence, the Inquiry concluded that STIs are a significant indication of sexual abuse of children and enable the conclusion that it is reasonably possible that Anangu children with STIs were sexually abused.

## Recommendation 19

**That every positive result of a screening test for a sexually transmitted infection of a child on the Lands should be immediately notified to Families SA even if the person reviewing the result has not formed the relevant suspicion under section 11 of the *Children's Protection Act*.**

**That every such result also be immediately notified to the Department of Health.**

**That upon receipt of such a notification Families SA assess whether there is evidence that the child may have been sexually abused and refer the matter to the Child Protection**

**Services of the Women's and Children's Hospital for assessment, investigation and, if required, appropriate therapy.**

**That the Child Protection Services of the Women's and Children's Hospital be adequately funded for that role.**

**If there is evidence that the child has been sexually abused Families SA must take whatever action is in the best interests of the child which may include referring the matter to SCIB of SA Police and informing Nganampa of what decisions have been made.**

## Some problems incurred by Nganampa

As has been mentioned, STIs in children, underage pregnancies, sexualised conduct by children and injuries, particularly to genitalia, are indicators of possible child sexual abuse. Evidence was received by the Inquiry as to problems encountered by health workers.

The first matter is that the Inquiry was informed that some health professionals are uncertain about whether to notify pursuant to the CP Act because sexual abuse is not defined in the CP Act. There is no need for any uncertainty. Any sexual conduct with a child that constitutes a criminal offence must constitute sexual abuse of the child. No definition in the CP Act is required.

These matters of mandatory notification are first considered in relation to STIs. Nganampa appears to be largely consistent in the mandatory reporting to welfare of STIs in children under 14. However, the Inquiry found three instances where there was no mandatory report of STIs of children under 11 years of age, four instances of failure to report a STI in a 12-year-old and two instances of failure to report a STI in a 13-year-old.



In terms of children 14 years and over, the Inquiry found 62 diagnoses of STIs that were not the subject of a mandatory report to CARL. In the case of only eight of these children there was no evidence of sexual or other abuse other than the presence of the STI itself and an admission by the child of recent sexual activity.

On reporting to CARL, one health professional explained to the Inquiry:

*When you make a mandatory report you have to be convinced that it's actually going to make a difference ... You would like to think that the report is actually going to change something for the child, but it often doesn't seem to make a great deal of difference at all.*

As is mentioned in Part I, a positive result of a STI to a test of a child should give rise to a suspicion on reasonable grounds that the child has been sexually abused and there should be a mandatory report. There is no discretion to be exercised by the health professional, subject to an observation that is later made. This obligation is made clear in the CARPA Standard Treatment Manual 4th Edition published by the Central Australian Rural Practitioners Association Alice Springs in 2003 (CARPA manual), which is a clinic manual for primary health care medical practitioners in remote and rural communities in Central and Northern Australia.

The relevant section of the CARPA manual is:

*Suspected sexual abuse/assault*

- *Talk with your local child protection office if you think a child is being sexually abused*
- *All positive STIs in children must be reported; however, if your client is a teenager and you believe they are in a consenting sexual relationship, talk with your local child protection office about whether notification is required. Don't ignore the possibility that even in a marriage sexual assault is possible*

- *Remember that a young person's intellectual and emotional development may lag behind their physical age: Their age may suggest they are able to give consent, but their development may indicate this is questionable. They may be vulnerable to exploitation*
- *In most cases there will be no physical or medical evidence of sexual abuse, but there may be signs in a child's behaviour that shows the child is experiencing stress*
- *Often other types of abuse or neglect co-exist with sexual abuse; be alert to the possibility that this may be happening for the child or young person*
- *Remember most cases of sexual abuse within a family begin with non-invasive behaviours, but often progress to oral, anal or vaginal sex*
- *Talk to the carer about whether they have any concerns for the child, or have noticed any changes in the child's behaviour. It is usually better not to say your concerns relate to sexual abuse, as the child may then be inappropriately questioned. If you do not feel confident to do this, talk with your local child protection office*
- *Do not attempt to question the child about sexual abuse yourself. However, if the child does disclose sexual abuse, be supportive and believe the child. Notify the child protection agency or police*
- *Support the child and the non-offending parent, who will most likely be in shock and not know what to believe. Expect to be pressured not to believe the child*
- *Do not talk about the child's allegations, or your suspicions. Remember confidentiality; it will protect you and the child.*

The guidance in that passage is re-affirmed in the subsequent CARPA manual reference book published online that contains the following:

*Sexual abuse should be suspected when a child is brought to the clinic with any of the following:*

- *bruises, bleeding or other evidence of physical trauma in the genital area*
- *foreign objects in the genital or rectal openings*
- *sexually transmitted diseases*
- *pregnancy in a young girl who refuses to reveal any information about the father and/or complete denial of the pregnancy by the child or her family*
- *itching, inflammation or infection in urethral, vaginal or rectal areas*
- *trauma to breasts, buttocks or thighs.*

It may be seen that those guidelines provide that sexual abuse of a child should be suspected when a child has a STI and that all positive STIs must be reported. Discussing a positive STI with 'the local child protection office' is not to be discouraged but whatever the outcome of that discussion the mandatory obligation to report remains. As has been mentioned, the existence of a consenting sexual relationship is not to the point. If the person is underage, consent is irrelevant to the existence of a sexual offence, which constitutes sexual abuse.

The role of the health professional in this context is limited. It does not involve consideration of the circumstances of the sexual abuse.

The Inquiry was given an example by a health professional of how the CARPA guidelines are applied in practice with the example of a 14-year-old girl in a relationship with an 18-year-old man. The girl was seeking contraception and tested positive to a STI. The health professional outlined the approach to her treatment.

*Was a drug of intoxication involved, was there sexual favours exchanged for anything, was this an exploitative relationship? When you've got an age imbalance, there's the problem of a power imbalance, even if the person believes that they're giving consent.*

Children are counselled on safe sex and advised that the law requires Nganampa to report their situation to Families SA.

*We tell them that we do this for a couple of reasons, one is that the law requires it, but the other is that we think that young women who are starting out into something as important as sexual relations need to be sure that people are supporting and caring. We're not reporting it because they've done something wrong. We're always concerned about whether it's free and good for them ... The Families SA guys might come and have a talk and make sure that things are going smoothly, that there's someone they can talk to that's not family, isn't at the clinic ... is private.*

Despite having formed the view that the relationship appeared consensual and respectful, the matter was nonetheless reported to Families SA. There were concerns about whether 'there is love and affection in exchange for sex, in a girl who hasn't had that before or not nearly enough'.

*So although this looks free and there's no money or whatever, the fact is that subconsciously there may well be dependence, this extraordinary kind of positive feedback that she has never had before. Her commitment to this person is likely to be considerable ... I think that's a real problem in terms of asking questions about freedom and consent.*

The nub of the concerns was not the sexual activity per se, but whether the girl had formed the relationship because she wasn't getting adequate parental supervision.

*My real concerns were the social situation of the child. The issue is you've got a 14 year old adolescent at risk, separated from her mother, travelling between houses with an immature alleged carer ... So I rang the [regional] office the next day to make sure that there was going to be a nuanced response and was told*

*that the law just requires that it be passed onto the police.*

The health professional pointed out that just leaving these matters to the police might jeopardise a child's long-term health care and damage the child's self-esteem.

*As happened in another case ... 15 year old kid ... The police turned up. She denied that she was sexually active. She no longer trusted the nurse in our clinic. She came in though to get her next dose of Depo<sup>7</sup> and said, 'she wasn't sexually active'. I mean, she was no longer telling us the truth, but at least was coming getting contraception. I think that's a terrible thing ... the risk that the kid ends up pregnant or with STIs that are not treated so she's infertile for life, is a serious cost if all that happens is a policeman comes and she says, 'Oh well I won't talk to the clinic again and nothing's happening. You know, I love this guy and he hasn't done anything to me', ... That's a pretty bad outcome.*

This problem for health workers may be readily understood. It is a potential problem for many persons who have close relationships with children such as teachers, psychologists and social workers. However, the policy of the law is clear and is stated in the CP Act. Notification is mandatory. It is for the child protection agency to decide what action is to be taken.

Also it is of no significance in making the decision to report a STI whether any action is going to be taken. That is a decision to be made by Families SA and should involve an assessment of information from a variety of sources such as information already on file, the CPS WCH, DECS, SA Police, and Families SA staff. The existence of the STI is important information and should not be withheld from Families SA.

Families SA told the Inquiry that in 2006 it received 22 notifications of children aged up to 17 years on the Lands having contracted some form of STI. After discussions with SA Police, CPS WCH and Families SA, it was decided that age specific responses were required. Families SA did eventually meet with each of the children involved. In 21 of the cases, the children explained their sexual encounters were consensual. In the other case, an adult male with an intellectual disability had sexually abused a girl. The man was subsequently detained under mental health legislation.

The CARPA manual has a section on sexual abuse of children. There is no reference in the CARPA manual to the reporting of underage pregnancy or for girls requesting the 'morning after' pill. For Nganampa health professionals that cannot be a matter of insignificance. The fact of the pregnancy establishes sexual activity of the child and therefore sexual abuse requiring a mandatory report.

## Recommendation 20

**That Nganampa develop its own guidelines and procedures to ensure that all indicators of child sexual abuse are reported to Families SA.**

**That all Nganampa health workers receive regular training regarding their South Australian mandatory reporting obligations.**

Health professionals face a particular dilemma as a result of health services on the Lands being limited. As one witness explained in the context of domestic violence:

<sup>7</sup> Depo Provera is a form of contraception.

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## Part IV Prevention and consequences

*It's really the adversarial nature of any kind of report, namely that the person you report for, and the person you report against, are equally well your patient.*

*Now, you can't actually tell the person to go somewhere else. You still have to be able to walk out into the waiting room in the clinic and see the alleged perpetrator of the domestic violence sitting there and know that you can still deal with that person as your patient. Because if you can't provide a service to that person in a way that makes him or her trust you, then you can't do your job. That's really the paradox for people working in these unique environments where they are the only health care providers. So however you manage any of these situations, you do absolutely have to be in a situation where you can continue to interact with your client group. If you can't, you're stuffed and you're frightened all the time.*

Nevertheless, mandatory reporting is meant to be an independent, fearless and anonymous provision of information, even on suspicion. The Inquiry received evidence indicating that in some clinics of Nganampa there has been interference with staff in the reporting process.

Welfare staff gave evidence to the Inquiry of a concern that there had not been any child sexual abuse notifications from one clinic even though there was concern about sexual abuse of children in that community. They had been told that girls aged between eight and 15 had been tested and that 70 per cent of those tested had STIs. Welfare staff had asked if that information could be used, whereupon it had been told that it would cost the source their job. The Inquiry did not receive first-hand evidence of actual interference in the notification process in this instance.

Another health worker at a different clinic informed the Inquiry that she was threatened with physical

violence, including sexual attack, by a Mayatja if she notified sexually transmitted incidents to CARL.

A health professional at another clinic informed the Inquiry that she had been warned by someone associated with management not to make some mandatory notifications. Another talked of expectations from management that child abuse should be dealt with by the community and the police should not become involved.

The evidence about these events was not put to the persons who may have interfered with the reporting process in each of those clinics. Therefore, no finding that such incidents occurred can, or should, be made. To seek responses would have involved the Inquiry in something akin to three trials with multiple witnesses, which would have occupied considerable time that was not available to the Inquiry. The Inquiry's terms of reference do not require findings about whether such events occurred. The importance of the allegations is to indicate that the interference with the mandatory reporting process is a very serious matter. Mandatory reporting is an essential part of the child protection system. It enables Families SA to make an appropriate response. If that response cannot occur because of interference in the process, the abuse or neglect of the child is likely to continue.

As noted in Part II Chapter 1 of this report, failure to notify is an offence pursuant to section 11(1) of the *Children's Protection Act 1993* with a maximum penalty of \$10,000. Prevention of, or interference with, a person discharging that obligation should also be an offence with a substantial penalty.

Section 61 of the CP Act provides:

*A person who hinders or obstructs the Chief Executive, an authorised police officer or any other person in the execution, performance or discharge of a power, function or duty under this Act is guilty of an offence.*

The question arises as to whether preventing or interfering with a person specified in section 11(2) of the CP Act from discharging the obligation under section 11(1) constitutes the offence of hindering or obstructing a person in the execution, performance or discharge of a power, function or duty under the Act. Clearly the obligation under section 11(2) is not a power under the Act. The question is whether it is a function or duty under the Act.

For the avoidance of doubt a separate offence should be created as part of section 11 of the CP Act, namely that it is an offence to prevent, obstruct or interfere with a person discharging the obligation of mandatory reporting pursuant to section 11(1) of that Act.

## Recommendation 21

**That section 11 of the *Children's Protection Act* be amended to provide that it is an offence to prevent, obstruct or interfere with a person discharging or attempting to discharge the obligation of mandatory reporting pursuant to section 11(1) of that Act.**

### Consensual underage sexual activity

Health professionals may become aware of sexual activity by a client other than by a STI or physical injury. A child or young person may disclose sexual activity, seek contraception, seek the morning after pill, or be pregnant. Nganampa health professionals have been concerned about issues of mandatory reporting, treatment and consent to treatment.

As is mentioned in the CARPA manual, intellectual and emotional development of a young person may lag behind the physical age. There are other reasons why an assertion of consent may not reflect the true state of mind of the young person.

There may be an abusive relationship and fear and other abuse may mask the true position.

Evidence to the Inquiry indicates that some health professionals may be confused about the significance of consensual sexual activity between girls and boys of about the same age. In the CARPA manual, it is acknowledged that sexual activity involving very young children, for example a girl aged nine years, causes, and indicates, the need for concern for her general well-being and not only the possibility of sexual abuse.

*She is clearly too young to legally consent to sexual intercourse. Who is looking out for her? Most practitioners would have little difficulty in identifying this as a case where something is not right, and where the notification needs to occur.*

*However, the question is often asked: at what age is sexual activity/experimentation simply that and unlikely to be a marker for abuse?*

*It is important not to place overwhelming confidence in the age of your client as being a protective factor for abuse: adult women are raped, and their age does not protect them from this. Nonetheless, young people are engaging in consensual peer-related sexual experimentation and activities at younger ages than many realise, or necessarily approve of.*

Later it is stated that whilst the age of consent in the Northern Territory is 16 years,

*...authorities in the Northern Territory and elsewhere have, of necessity, taken a commonsense interpretation of the law: it would be rare for a nineteen-year-old to be charged with having consensual sex with his fifteen-year-old girlfriend. The purpose of this provision of the criminal code [the age of consent] is to protect a vulnerable group from exploitation, and to acknowledge the real power adults have over children and young people.*



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## Part IV Prevention and consequences

The observations in the CARPA reference book do not accord with the law in South Australia. As has been mentioned, sexual activity by a young person, male or female, underage is a crime and child sexual abuse. There is no stage in the life of a child where in law underage consensual sexual activity is permissible or acceptable. The purpose of the law is not only as stated in the guideline. The law recognises that young people do not have the maturity to engage in sexual activity without complications and has selected an age below which sexual activity is not permissible. The law does not permit or accept 'consensual peer-related sexual experimentation'.

It may be accepted that young people may not be prosecuted for having consensual sex with a person underage but that is because of the exercise of prosecutorial discretion based upon the circumstances of the case. It is not an indication that such conduct is within the law and is not child sexual abuse.

From time to time there have been suggestions that the age of consent to sexual activity should be lowered but Parliament has not done so despite amending the law in relation to the sexual abuse of underage children.

In 2007 the Northern Territory Department of Health and Community Services created guidelines for clinical staff to report the following situations:

- where there is clear evidence of sexual abuse
- when pregnancy has occurred under 14 years of age
- when sexual activity is occurring in a person under 14 years of age
- when an STI is diagnosed in a person under 14 years of age
- when sexual activity is occurring in any person

under the age of 16 years who is not considered mature enough to understand the concept of consent to sexual activity.

These guidelines do not represent the law in South Australia which, as has been mentioned, applies to the Lands and they should not be followed by health professionals and workers on the Lands.

One experienced nurse who worked extensively on the Lands expressed the view that consent did not exist as a 'philosophy'. The signs of physical development were the main kind of indicator that it was appropriate to have sex with a female. Many Anangu girls reached puberty at a young age, perhaps 10 or 11 years and boys a little later. The nurse said

*As regards child sexual abuse, my concern is not sexual relationships between boys and girls of a similar age ... It is a part of life.*

The nurse said the concern was the older men focusing on the girls. That may be her opinion but it does not reflect the position at law. At all events children of any particular age should not be regarded as having the same degree of physical and psychological development and maturity.

The CARPA reference book does point out that child protection legislation generally defines 'child' as a person under the age of 18 years. It states:

*The purpose of this legislation is not to regulate sexual activity among young people, nor to arbitrarily intervene in cultural practices that affect young people, but rather to protect them from abuse and exploitation. There is, and always will be, a grey area at the basis of any accepted cultural practice and over time that culture continues to find acceptance.*

No authority for this statement is provided and it is potentially harmful to Anangu children. The evidence received by the Inquiry clearly



establishes there is no traditional culture among Anangu that permits or accepts sexual activity between children outside of formal and permanent relationships that have been arranged in the traditional way and which may be referred to as 'marriage'. Brief mention is made of this matter in Part II Chapter 3 of this report. Sexual activity was not permitted by females or males before that formal arrangement and, in any event, did not occur at a young age. The Inquiry also was informed that sexual intercourse with children and young persons is not permitted or accepted by traditional ways.

Witnesses expressed concern that young girls may not be in a position to consent to sexual activity. They may not have freedom of movement and the capacity to decline sexual activity.

From information provided to the Inquiry, it seems there may be a misunderstanding by some relevant professionals as to their mandatory reporting obligations.

As has been mentioned in the section dealing with the reporting of STIs, the obligation of a relevant health professional is clear. What happens as a consequence of the notification is a matter for the child protection agency, Families SA, not the health professional who has made the mandatory notification. Families SA is the only body that can assess all information from a variety of sources, such as CPS, DECS, SA Police, and Families SA staff.

Consequently, the law is framed in two parts: first the obligation to report and secondly, the response to any report. Different agencies are responsible for the separate parts.

The Inquiry makes no observation about whether consensual sexual conduct between children aged under 18 should or should not be permitted. It merely draws attention to the law as laid down by Parliament.

The Inquiry can foresee that if the law is strictly applied on the Lands there is likely to be a rise in the number of mandatory notifications that understandably, will result in certain logistical issues. Those issues need to be resolved by the groups who represent the mandatory notifiers and the child protection agency, Families SA.

## Recommendation 22

**That Families SA be adequately resourced to respond effectively and in a timely manner to all mandatory reports from the Lands.**

Patient-doctor confidentiality is not a bar to mandatory reporting. Indeed the CP Act requires doctors and other health professionals to notify child abuse, including sexual abuse.

It is not the role of the medical practitioner or nurse to make judgments about the circumstances of the sexual activity. They are matters for the child protection authority, Families SA, to be assessed on the basis of all information available and after due investigation.

Some health professionals on the Lands told the Inquiry that they feared mandatory reporting for the retribution that could be inflicted upon them by the families concerned. No evidence was received of particular incidents of retributive conduct towards Nganampa staff but the concern cannot be dismissed for that reason. The Inquiry received evidence of retribution to the family of alleged victims by the family of an alleged perpetrator. These concerns are another reason for a permanent police presence in the communities on the Lands.

However, when it comes to investigations of child sexual abuse, an experienced nurse told the Inquiry of a practical flaw in the procedure. By way of example, the Inquiry was told of a girl, aged 12,

who reported that she had been raped. Health staff tried to make a clinical assessment and the girl was kept at the clinic. The nurse said that the girl's family was outside and there was a lot of pressure from the family, which, in the nurse's opinion, meant no charges were laid.

This incident raises an important issue. After a report of such a serious sexual assault of a child, the alleged victim must be made safe. Generally, that is likely to require the removal of the child to allow proper medical and police investigation. It is quite likely that in some circumstances the child will be at a health clinic. Each staff member in those clinics needs to know how to react appropriately to respond to such situations. Guidelines and policies for contacting parents/carers, Families SA, CPS and police must be established. A permanent presence in the communities of Families SA child protection workers and police should enable the safety of the child, family and health workers. Problems may arise if health workers contact the family of the child and disclose information. A police investigation could be compromised. Reaction of the family may be exacerbated. The safety of the child could be compromised.

### Recommendation 23

**That Nganampa, DECS, Families SA and SA Police establish appropriate protocols, policies and guidelines for the management of disclosure, or detection of child sexual abuse, including what information is to be provided to the family and carers of the child and by whom.**

### Recommendation 24

**That Nganampa develop policies and guidelines that address mandatory reporting of any activity that may indicate sexual activity of children, including STIs, requests for contraception, injuries, as well as underage pregnancy.**

#### Consent to medical treatment

Nganampa reported difficulties in providing medical care to girls who attend the clinic for contraception, STI or antenatal treatment, and termination of pregnancy, because they are unable to find a responsible adult looking after them to give consent to their treatment.

*One of the biggest problems we have with kids under 16 who are sexually active is trying to find a parent that is looking after them.*

Under South Australian law, medical care of a child under the age of 16 requires the consent of a parent or parental equivalent. Section 6 of the *Consent to Medical Treatment and Palliative Care Act 1995* provides:

*A person of or over 16 years of age may make decisions about his or her own medical treatment as validly and effectively as an adult.*

Section 12 of that Act provides for medical treatment of a child.

*A medical practitioner may administer medical treatment to a child if-*

*(a) the parent or guardian consents; or*

- (b) *the child consents and -*
  - (i) *the medical practitioner who is to administer the treatment is of the opinion that the child is capable of understanding the nature, consequences and risks of the treatment and that the treatment is in the best interest of the child's health and well-being; and*
  - (ii) *that opinion is supported by the written opinion of at least one other medical practitioner who personally examines the child before the treatment is commenced.*

It is likely to be extremely difficult for a medical practitioner on the Lands to obtain a second opinion of another medical practitioner in writing who has personally examined the child.

A child is defined in section 4 of that Act as a person under the age of 16 years. Medical treatment is defined in section 4 of that Act as meaning

*treatment or procedures administered or carried out by a medical practitioner in the course of medical or surgical practice or by a dentist in the course of dental practice and includes the prescription or supply of drugs.*

Section 16 of the Act provides:

- A medical practitioner responsible for the treatment or care of a patient, or a person participating in the treatment or care of the patient under the medical practitioner's supervision, incurs no civil or criminal liability for an act or omission done or made -*
- (a) *with the consent of the patient or the patient's representative or without consent but in accordance with an authority conferred by this Act or any other Act; and*

- (b) in good faith and without negligence; and*
- (c) in accordance with proper professional standards of medical practice; and*
- (d) in order to preserve or improve the quality of life.*

A parent is defined in section 4 of that Act as including a person in loco parentis. A guardian is defined in that section as meaning a person acting or appointed under any Act or law as the guardian of another. A Nganampa health professional told the Inquiry:

*If the child is underage, [my approach is] to get an adult, a mother or an appropriate guardian, to be involved in the discussion. Not just to give consent, [to a requested termination or contraception] but to make sure that this child has family support and family involvement, and someone to turn to and someone sensible looking after them.*

Nganampa reported that they respect Anangu's own understanding or nominations concerning carers.

*Very often they're in the care of maybe a couple who (sic) is an older brother or sister ... These are relationships of care that are recognised by local people and, you know, our organisation says that we take local culture seriously, so if it's an aunt or something that says they're a carer, well, they probably really are, not just that they're saying they are.*

These matters are important concerns for health professionals on the Lands.

The issue of consent for children aged under 16 can arise in the context of contraception to avoid pregnancy, or the termination of a pregnancy, treatment of a STI, any mental health treatment provided by a CAMHS psychiatrist as a result of

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## Part IV Prevention and consequences

possible child sexual abuse, or any medical treatment for physical injuries, such as injuries to the genital region, or any physical injury that accompanied a sexual assault.

The medical practitioner is concerned with a child under the age of 16 years because, as has been mentioned, a young person of that or greater age, may make decisions about his or her medical treatment as reliably and effectively as an adult.

The position in which Nganampa medical practitioners find themselves on occasions is very difficult. To refuse contraception may lead to unwanted pregnancies and problems consequent upon childbirth.

The Inquiry was informed of one case of a girl, aged 14, who was refused contraception because she attended the health clinic without an adult guardian. She was counselled on safe sex and the age of consent. She denied being sexually active. Consistent with medical consent laws, she was asked to return to the clinic with a guardian to see the doctor. There were no suspicions of sexual abuse referred to welfare.

The girl did not return for her appointment. The following year she was diagnosed as being 25 weeks' pregnant. The father was believed to be about the same age and of the 'wrong skin'. Welfare were advised that the girl was 'in a consensual sexual arrangement with people of a similar age ... [who] are petrol sniffing and [girl] is also believed to be petrol sniffing'.

The medical practitioner cannot be expected to mediate in any dispute let alone be an arbiter. In cases of termination of pregnancy, it is expected such a procedure will be conducted in hospital, in Alice Springs, Adelaide, or possibly Port Augusta where there will not be any obstacle to compliance with section 12 as two medical practitioners should

be available to examine the child and give the relevant opinion.

The *Consent to Medical Treatment and Palliative Care Act 1995* provides for emergency medical treatment to a patient who is incapable of consenting, including a child if the practitioner is of the opinion that the treatment is necessary to meet an imminent risk to life or health and that opinion is supported by the written opinion of another medical practitioner who has personally examined the patient: section 13(1).

However, the supporting opinion is not necessary if, in the circumstances of the case, it is not practicable to obtain such an opinion: section 13(2). These provisions do not assist in resolving the problems of the Nganampa health professionals under discussion because there is no imminent risk to life or health.

The critical issue is what should the health practitioner be able to do in the best interests of the child when the child is unable to give an informed consent to treatment due to lack of knowledge or understanding, or immaturity, but the treatment should be given in her interests. The most obvious example is contraception where there is no parental or guardian consent, such as in the case described above. As the law stands the solution is to make a mandatory report to Families SA.

If the child is having a sexual relationship, or the practitioner suspects as much, there should be a full assessment of the circumstances of the girl. The problem may be resolved by an appropriate consent under that Act or an order of a court under section 38 of the CP Act and the child being placed under the guardianship of the Minister or another person who may make necessary decisions and give consent.

It is not necessary to recommend any changes to the law. The provisions of the CP Act are adequate provided there is a mandatory notification, an appropriate response by Families SA and prompt action by the court. The person to be appointed the guardian could be a member of the family of the child, or the community.

### **Early intervention health programs**

The Inquiry is aware of various programs, funded by State and Commonwealth Governments, which either apply now to the Lands, or are planned to be implemented on the Lands. They include home visiting services to check on new-born children and the mother and a program to visit disadvantaged mothers and families, including mothers aged under 20.

The Lands has a program called Mai Wiru Regional Stores policy, which is an Anangu community initiative for health and wellbeing on the Lands. The Inquiry heard evidence that the program is not without its problems and the Inquiry itself experienced the high prices in the stores on the Lands, for example \$8 for half a wilted broccoli.

The focus of the Inquiry is on child sexual abuse on the Lands. To the extent that all of these early intervention health programs and strategies are aimed at improving the health, wellbeing and nutrition of Anangu, the Inquiry supports such initiatives. It is very likely that if a child is well nourished and well cared for, the risk of his or her being sexually abused on the Lands is diminished.

# IV

## **Part IV Prevention and consequences**

### **Chapter 3 Education**



## Introduction

*We want an education that helps us strengthen our identity, not weaken it*

### PY Education Committee

The Inquiry received evidence and information from a large number of principals, teachers and Aboriginal education workers (AEWs) on the Lands. They have a most important task and are doing a very good job in the most difficult circumstances. Principals, teachers and AEWS, play a major role in the education, health and well-being of their students. The Inquiry received information that the development of the schools with well-trained education specialists is essential to reduce sexual abuse of children on the Lands.

However, there is much room for improvement. The Department of Education and Children's Services (DECS) acknowledges as much in its Aboriginal Strategy 2005-2010.

An educator told the Inquiry

*We need to have, I think, at least a counsellor or a social worker in every school. We need to try and implement ways to get kids to go to schools and for the schools to make a difference to their lives. The schools are supposed to be about helping people adapt to the problems of their day and to live their life, to have opportunities and be able to make choices; and that's not what's happening in schools... all across the Lands and probably in most of central Australia.*

Six matters emerged from the Inquiry's visits to

school communities and in the evidence in respect of education:

- schools are sanctuaries for children
- poor attendance and retention of school students
- the need to work with other agencies, such as welfare and health
- generalised neglect and substance abuse heightens risk of exposure to sexual abuse
- the reporting (or non-reporting) of suspicions of child sexual abuse after seeing students acting out sexualised behaviour and
- the teaching of sex education/protective strategies.

The schools on the Lands are of critical importance to child protection generally and prevention of child sexual abuse in particular, so much so, that the information received by the Inquiry should be mentioned in some detail and considered by those responsible for education and protection of children on the Lands.

In 2000, a report by the Human Rights and Equal Opportunity Commission<sup>1</sup> stated that

*levels of literacy and numeracy are not adequate to equip many [Aboriginals] for the labour market. There is very limited involvement by parents and communities in the education of their children, at all levels, due to the lack of education of the parents themselves.*

Evidence received by the Inquiry indicates that despite all the money and resources devoted to educating Anangu on the Lands, there are still severe problems in school attendance rates,

<sup>1</sup> Human Rights and Equal Opportunity Commission (HREOC), Report on Rural and Remote Education (2000).

literacy and numeracy abilities of students and the pathway from school to work. Programs are in place to address these problems. To succeed, there will have to be a willingness on the part of parents/carers to get children to school; for children to learn what is taught in school, that what is taught is relevant and interesting; and there will have to be post-school vocations to inspire children to stay at school. Children who attend school are in safe care; by not attending, they are at risk of being in abusive situations.

Also it may be accepted that poor education outcomes for children and young persons causes a lack of self-esteem and self-worth which can directly and indirectly result in children being more susceptible to sexual abuse.

Children are likely to see little value for them in school and education if there is no prospect of educational achievements leading to a good life on the Lands or elsewhere.

## Education Services on the Lands

### Department of Education and Children's Services

The Department of Education and Children's Services (DECS) is the largest employer of people on the Lands.

In 1940, the first school on what is now the APY Lands, was established at the Ernabella Mission. Staffed by qualified teachers, the mission school employed a vernacular language policy whereby students were taught to read and write in their own language before progressing to English literacy. During the next 60 years, the opening of additional schools followed on from the establishment of other population centres.

DECS has had a presence on the Lands since the early 1970s. The passing of the *AP Land Rights Act* in 1981, as it was then known, had little immediate impact on Anangu schooling. For most of the 1980s, Pitjantjatjara remained the dominant language of instruction up until year 5. In 1985, the State Education Department, as it was then known, appointed a regional teacher-linguist to the Ernabella School and established a literature production centre. The centre was equipped with an on-site printing press and serviced all bilingual schools on the Lands.

### Anangu Education Services

In 1993, Anangu Education Services was established as a unit within DECS. It provides education services for communities on the Lands, the Maralinga Tjarutja Lands and the Yalata Lands.

At the request of Anangu and with the DECS policy on community involvement in schools, an agreement was made between the Minister of Education, Anangu Education and the Pitjantjatjara Yankunytjatjara Education Committee (PYEC). The agreement gives PYEC policy and operational control of education on the Lands.

PYEC is made up of five representatives from each community where there is a school. There are nine school sites on the Lands that provide education services from pre-school to tertiary.

PYEC has a full-time director,<sup>2</sup> who is always a significant Anangu community member. It is the director's role to convene PYEC meetings, liaise with relevant DECS personnel to ensure that PYEC decisions are implemented and constantly monitored. The director also provides professional support for all Anangu Education Workers (AEWs) and teachers, and the opportunity for them to discuss matters with *piranpa* (whitefella) staff, including principals.

<sup>2</sup> A position paid by DECS

The Inquiry was told that individual communities and their local governing school councils have a strong role to play in decisions associated with the education of their children. It was part of the responsibility of principals and all staff to ensure that this link between school and community was maintained and developed so that genuine empowerment of the community in matters relating to education and school occurred.

PYEC set the strategic directions for education on the Lands. Its current 2007-2009 strategic directions include goals for improved:

- student attendance
- encouragement and retention levels of students at a secondary level
- literacy outcomes
- numeracy outcomes
- pathway development for adults through Anangu Tertiary Education Program (AnTEP)
- pathways from school to work
- student's well-being.

AnTEP is mentioned later in this chapter.

According to the DECS Aboriginal Strategy 2005-2010, it is committed to a 'substantial improvement in the educational outcomes of its Aboriginal children and students'. The strategy focuses on four areas:

- more innovative and cohesive services
- participation, retention and attendance at school
- literacy and numeracy
- culturally appropriate curriculum and teaching.

DECS, through the Aboriginal Lands District Office in Adelaide, provides support and services to the schools on the Lands. Those supports include administrative and financial services, public relations, liaison with other DECS services, recruitment and induction, curriculum development and adaptation, including materials development

and publication, student learning outcomes data gathering and management, teacher professional development, a hearing impairment officer, a speech pathologist, an educational psychologist and a disabilities and well-being manager.

There is an APY Lands Education office in Pukatja (Ernabella). Personnel in that office provide professional development for principals, teachers and AEWs, and information and technology support. This office also serves as a base for coordinators in hearing impairment, Anangu teacher support, secondary education, resource-based learning methodology, and vocation education and training.

### Schools

As mentioned, there are nine schools in the communities with a total enrolment of 461. They and their enrolments are, Iwantja (Indulkana) (82), Mimili (73), Kaltjiti (Fregon) (40), Pukatja (Ernabella) (88), Amata (75), Pipalyatjara and Watarru (60), Yunyarinyi (Kenmore Park) (23). Also there is a school at Murputja with about 20 students. In addition, the Wiltja Residential program in Adelaide accommodates up to 55 students.

The Inquiry was informed that even though the number of enrolled students on the Lands is 461, the numbers of students who attend school vary from time to time, with about 250 attending regularly.

Each school has a team of Aboriginal Education Workers (AEWs), social workers and other support personnel work together with school staff, including non-Aboriginal staff and principals.

The numbers of teachers and AEWs at each school are Iwantja (Indulkana), Mimili and Amata (8 and 8), Murputja, Yunyarinyi (Kenmore Park) and Watarru (3 and 3), Pipalyatjara and Kaltjiti (Fregon) (6 and 6) and Pukatja (Ernabella) (11 and 10). In addition there are two Anangu teachers at Amata, one at Kaltjiti and two at Pukatja.

## Wiltja

In addition to the schools on the Lands, children from the Lands can attend boarding school at the Wiltja Program attached to Woodville High School in Adelaide or at Yirara College in Alice Springs, which offers specialist education for Aboriginal children from central Australian communities.

The Wiltja Program and Residence was established in 1997 to provide accommodation and support for Aboriginal children and young persons from the Lands and other communities. At the end of 2007, there were 51 residents in the age range of 13 years to 19 years with about the same number of boys as girls. They attend the Wiltja Program at Woodville High School.

At the Residence there are programs for the children and young persons for their well-being and development administered by nine trained teachers and two AEWs. They provide education on health and protective behaviours and work with CAMHS, the Women's and Children's Hospital, Families SA and other agencies to provide for the needs of the children and young persons.

DECS told the Inquiry that the Wiltja program is able to provide a much greater breadth and depth of secondary education than is available on the Lands. For example, secondary school numbers may range from three in a small school to 20 in a large school.

A senior Anangu person was critical of Wiltja for not providing sufficient supervision of the children, particularly at night. It was said that some of the children engaged in drinking and sexual activities.

Linked to the schools on the Lands, is the Anangu Teacher Education Program (AnTEP), which provides educational programs and training for the AEWs. AnTEP runs programs at each of the schools, using the school facilities and classrooms. AnTEP tutors are employed by DECS. Lecturers are located on the Lands at Pukatja (Ernabella) and in Adelaide at the Mawson Lakes campus of the University of South Australia. AnTEP enables Anangu to study towards and obtain teaching qualifications whilst continuing to live in their home communities.

There are specific programs at the schools on the Lands to help reduce the risk of sexual abuse of children. School counsellors have been in all schools since the start of term 3 in 2007. They are to work with social workers, and to be appointed by Families SA. The counsellors are undertaking training in Strategies for Managing Abuse Related Trauma (SMART), which is discussed in the CISC Report, Chapter 4.1 at p. 367. This program assists educators to support children at risk of abuse and neglect and in the identification and recognition of child sexual abuse.

Also the 'Countering Risky Behaviours' curriculum was introduced to schools on the Lands in response to the 2002 Coronial Inquest. The curriculum focuses on HIV/AIDS, hepatitis, substance abuse, including petrol and marijuana, and sexual matters. It is approved by PYEC and is delivered to children in years 6 to 10 with the support of Nganampa Health Council Inc. and SA Police. However, the program does not address sexualised behaviour and many teachers believe not enough is being done to protect and assist workers on the Lands.

The evidence received by the Inquiry establishes that schools are very important to the communities

in many ways. The schools are long-standing and the most reliable institutions in each community. They are stable places; a port in a storm for children. The schools provide important child protection services, including meals, washing and showering facilities, clothes, a sanctuary, counselling and support.

Schools on the Lands are well established and equipped and well supported by the Anangu Education Services of DECS based in Adelaide. Schools employ good staff for whom incentives and accommodation are provided. The schools provide some additional resources for the communities and are used to train AEWs.

Close cooperation between school teachers and social workers with appropriate training and experience in child sexual abuse matters is an important measure in the prevention of sexual abuse of children on the Lands. The social workers will be able to assist in the recognition and identification of sexual abuse of children and in an appropriate and immediate response to any disclosure or detection of sexual abuse which will assist in the protection and future of the child.

### Post-school training

As has been mentioned, the importance of education is more likely to be recognised and accepted by children and young persons if post-school training is available, which can lead to employment and the enhancement of the quality of life.

There are TAFE SA centres in all the main communities as well as at Kalka and these centres service the smaller communities of Watarru, Nyapari, Kanpi, Yunyarinyi (Kenmore Park), the homelands and Umuwa.

Over the past 20 years, changes in the provision of vocational training have reduced the opportunity for Anangu to be involved in the work force. Many

tasks formerly performed by them on the Lands are now outsourced to contractors. In the Inquiry's view, this is a detrimental development that must be addressed as soon as possible. The Inquiry was told that on the Lands there are not sufficient vocational teachers with the necessary industry experience and Anangu are not being employed in relevant work, as required, to provide on-the-job training to qualify as plumbers, carpenters, bricklayers and in other trades required on the Lands. It is likely that if more Anangu could perform trade tasks, such as basic plumbing or carpentry, the well-being of the communities will be greatly enhanced. A positive example will be set for all young persons which will not only improve infrastructure such as housing, but reduce the sense of hopelessness in communities which can cause sexual abuse of children.

## Staying in school

### Attendance and retention

The positive features of education and school life are important in the prevention of sexual abuse of children, not only because of a sense of well-being and achievement, but also for the specific reason of continuing instruction in self-protection and avoidance of sexual abuse.

A major challenge for education professionals is both attracting and retaining young Aboriginal students. According to the Census 2007, there were about 600 school-aged children; however, DECS statistics show only about 250 children are regularly attending school.<sup>3</sup>

According to the Department of the Premier and Cabinet in the Aboriginal Affairs and Reconciliation Division's 2007 progress report, school retention rates have increased in recent years. The Inquiry was informed that the retention rates for year 9 to year 12 students increased from 46.4% to 48.9% in

<sup>3</sup> DECS acknowledged that due to the itinerant nature of the school population, its flexible approach to attending school, cultural days, days for funerals and so on, collecting data on student attendance is problematic.

2005 to 2006, and the retention rates for year 10 to year 12 increased from 48.9% to 51.7% over the same period.

DECS told the Inquiry that until 1999, no secondary student had graduated with a SA Certificate of Education (SACE). By the end of 2007, more than 30 students had achieved their SACE.

The 2006 Census figures show that of the Indigenous persons aged 15 years and over who were usually resident on the Lands:

- 17.2% had completed year 10 (compared with 28% Indigenous persons in Australia) and
- 4.9% had completed year 12 (compared with 19.4% Indigenous person in Australia).<sup>4</sup>

The Inquiry was told that new programs are being implemented to improve literacy and numeracy in schools, as well as to identify and enhance well-being and health issues. During 2007, a 'major review of literacy strategies at all schools' was conducted. According to DECS figures, literacy and numeracy outcomes, after previously rising, did not improve in 2006 or 2007. Literacy and numeracy outcomes are still well below the South Australian average. This year, an independent post-primary pathways review is being conducted by Charles Darwin University.

As the *Little Children are Sacred* report noted<sup>5</sup>

*Once again, there is no mystery about any of this. Governments, educators, Aboriginal leaders and social commentators have been exploring, researching and analysing these issues for years. The Inquiry might be tempted to say it is time something was done. In fact, a lot has been done, but without (with the greatest of respect to a large number of decent people) a real commitment to success*

*– a determination to get kids to school and keep them there.*

The Inquiry endorses those sentiments in respect of the Lands.

Of particular concern for education professionals was the high proportion of children who arrived at school without food having suffered sexual, physical or emotional abuse. Teachers also reported that there were many transient students, as well as children who attend school for only part of the day and those who believed school was not important. Some children also had little or no supervision, and often roamed the streets at night and were then tired, aggressive or unable to concentrate during school days.

Many schools have now developed programs to try and retain students, such as having teachers drive around the community and camps in the morning to collect children and take them to school. Also children are often collected by teachers or the school principal in a school bus. One department official told the Inquiry.

*... no pre-commitment to parents sending children, in the main, to school. So that's a consistent issue around the nature of to what degree is schooling valued, and the will of the parents and grandparents to actually demonstrate that by sending children to school is somewhat absent.*

Others also had systems in place where the children would be given breakfast and clean clothes when they arrived at school. Children have also come to rely on school as a safe environment. There was also the much-heralded 'no school, no pool' program (which applies in the three communities with a swimming pool).

<sup>4</sup> 2006 ABS Census

<sup>5</sup> At p150



One department official reports that as many children are unsupervised, they only come to school when they want to

*... children control their parents. Children control their own environments. Children decide whether they will attend or not, for those and other reasons: they just feel like staying away, and do. Teachers, therefore, have to be creative to encourage children to attend. There is, far and away, a strong commitment to each child and each child's learning. The core business, however, becomes more than the teaching within an academic framework or a social framework. It becomes a pseudo-parenting exercise.*

Another witness told how socio-economic issues also played a part in whether children would attend school.

*... communities that are more stable have higher attendance rates, and the children from families that are more stable tend to attend school more often. There's no doubt about that. The kids that are lower down the pecking order, who might be more transitory, looked after by whoever, all over the place, certainly have very poor attendance patterns.*

Once children were at school, the evidence was that teachers took on 'parenting' roles, in terms of well-being, care, health considerations and general nurturing. A teacher said it was 'a series of acts which, to a degree, release parents from those responsibilities, yet if it is not done, then it doesn't happen'. The importance of this care for children by teachers cannot be over-estimated.

With the obvious difficulties of getting children to attend school, section 6(2)(d) of the *Children's Protection Act 1993* must not be overlooked by authorities. That section of the Act is to the effect

that if a child of compulsory school age is 'persistently absent from school without satisfactory explanation of the absence', then that child is 'at risk'. A child who is 'at risk' may come under the guardianship of the Minister, or at the very least, a Family Care Meeting Agreement. The Inquiry was told that there exist protocols whereby, in such a situation, in the first instance the child and/or the child's parent/carer would be formally spoken to about the situation. If school attendance did not improve, further action may be taken. The Inquiry's investigations revealed a handful of cases where non-attendance at school was the subject of a mandatory notification. In one case, a boy, aged 14, was reported for not attending at school. It was reported that he was a 'chronic' marijuana smoker, who was living with a relative who also was a 'chronic smoker'. Within a month of that report, the boy was then diagnosed with an STI and he admitted to being sexually active.

In another case, there was a mandatory report involving a 13-year-old girl coming to school frequently driving the family car which was loaded up with fellow school students.

As part of the Commonwealth Government's intervention into the Northern Territory, 'income management measures' have been introduced for some 7,700 people across 29 communities and town camps in the Northern Territory. The Commonwealth Government says<sup>6</sup> that the income management measure 'in the Northern Territory Emergency response' which sees welfare quarantine 50 per cent of recipient's payments 'to ensure income is spent on essential items' is important. That government says 'income management provides better financial management for many mothers, grandmothers and other community members to feed and raise their children'.

<sup>6</sup> Australian Government Media Release 'Income Management Rollout Continues Across Northern Territory Communities', 1 April 2008.

*Early indicators are showing that, through income management, families are purchasing more of the goods and services essential to improving their children's health and well-being.<sup>7</sup>*

The Inquiry did not receive any evidence about the practical effect of that income management measure.

If a child regularly does not attend school, the child's education must suffer. The child's ability to communicate in English will suffer. If a child attends school, then during school hours, that child is safe from child sexual abuse. If a child is frequently absent from school on the Lands, the child is likely to be in a situation, or doing an activity, that may possibly place that child at risk of sexual abuse. Also, if a child is frequently absent from school, the child is not receiving essential education in self-protection measures including from sexual abuse.

Some teachers told the Inquiry that education on the Lands was not going to work unless parents are forced to get their kids to go to school, or at the very least a 'carrot and stick' approval was used.

It is important to engage the community to address school attendance and retention. An example, the Inquiry was informed, where this has worked well is at the Centralian Senior Secondary College in Alice Springs which was concerned by the level of enrolments, attendance and retention of Indigenous students. The college embarked on an extensive consultation process from which emerged the Gateways support program.

That addressed the identified needs for support and secured funding for a nine-day leadership camp for 35 students. Indigenous school attendance rose from 80% in 2005 to 95% in 2006.

## Recommendation 25

**That as a matter of urgency DECS continue to assess ways and means of ensuring that all children on the Lands of compulsory school age attend school and that adequate resources are provided for that assessment.**

**That DECS and DFC with the support of Anangu leaders in communities engage parents and carers as well as children, in activities to enable the provision of information to the communities about the value and importance of school for children including as a way of reducing the incidence of child sexual abuse.**

The Inquiry considered whether some form of income management measure should be implemented which would reduce the income of parents and carers unless their children attended school but rejected that approach for three main reasons; first, because there was no evidence given to the Inquiry that reduction of income would have the desired effect, secondly, because there was no evidence to indicate that such a measure would be enforceable without DECS providing information to Centrelink which could compromise the teacher, child and carer relationship, and thirdly, because the Inquiry took the view that parents and carers should not, as a matter of principle, be prejudiced because of the behaviour of children. A positive attitude of parents and carers to a child attending school does not necessarily mean that the child will attend or remain at school.

<sup>7</sup> ibid

## After school

A senior Aboriginal woman told the Inquiry,

*Talk to the elders and they'll yarn for hours re their achievements and important contribution to their involvement in stations. I envisage a trade centre (TAFE) established in the Lands where boys and girls can be fully trained in whatever trade they desire. I envisage them 'eventually' walking out with a ticket and pride in their achievements. Kids want to contribute meaningfully to their communities.*

One health service provider said children at school should be offered counselling and other advice, in an attempt to keep them at school longer.

*We've got young teenagers getting married and having kids. Where is this counselling for them, for the kids at school?*

A senior Families SA worker, with more than 30 years' experience in the field of Aboriginal affairs, told the Inquiry that attitudes of teachers and limited opportunities of students are significant.

*...what school teachers were doing is thinking these people won't want to leave the Lands, so we will train them up to get a job here; collecting rubbish, or those things. It's a life sentence. They will never be able to leave the AP Lands. They can't transfer. ...These people get a life sentence from the Education Department. It is changing a bit now. The first three years, we talk about people learning concepts best in their own language. They have a bilingual program, but because it's difficult to recruit, we will get the junior school teachers going there, and for the first three years, Pitjantjatjara kids will teach that teacher to speak Pitjantjatjara. Then they have enough credits to transfer to ...the first home they bought, so, whose education are we talking about? Teachers are getting educated.*

Once teenagers finish school, many community members and teachers report that the students don't go on to tertiary study, or to employment. Currently there are TAFE centres in all the main communities and Kalka. TAFE centres also service the smaller communities of Watarru, Nyapari, Kanpi, Yunyarinyi (Kenmore Park), homelands and Umuwa.

*What's happening to the people here on the lands is they're getting TAFE - going in and doing TAFE courses, but there's not enough for them to go on. There's people with certificates - all different sorts of certificates - but people just don't use them.*

One teacher in Adelaide said that a lack of social and family networks in big cities made it difficult for teenagers to move away from their communities. When they finish school, at year 10, 11 or 12, the majority go

*... back to the lands. I can't imagine in the foreseeable future anything being different, to be honest. They talk about it but I don't think it will actually happen. What do they do? A whole variety of things. Probably half them have done nothing, in our terms; so unemployed. You know, 'year 12' gets point up on the tree under which they sit. Again you've got the issue of the family thing, the status thing. I think, just quickly scanning through, the only kids that have really got jobs are those from the higher-status families.*

Several teachers also believed that the subjects offered to Anangu children should be more relevant and help young people embrace changes in technology, and better prepare them for living a productive and happy life.

*Another one we are going to look at is IT, some IT industries, because it can be done from remote locations with skill, but we've got to make pathways, because this sort of thing*

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*is hopelessness, and it's tragic, you know. We shouldn't have hopelessness. We have to have hope. Everybody has to have hope. Everybody has to have a dream. Everybody has to have something that they want to move to and be. I know it's not going to happen ...*

Teachers from another school also explained there were considerable pressures on students to do well at school. Families want their children to complete year 12 but don't understand that there is a 'cultural cost' to that – which means the students have to attend classes all term and might miss out on funerals and ceremonies sometimes.

On other occasions, when children are doing well at school, the families want them to come home so that 'their light shines on the family'. There is no concept that if someone is doing well at school they could benefit by staying on, and they only want the difficult ones to stay at school.

It is the Inquiry's view that children and young persons are more likely to attend and remain at school if what they are taught is interesting and challenging for them. While commentators speak extensively about literacy and numeracy, which are important, further consideration should be given to increasing instruction for life skills including pre-vocational basic training for trade skills and home and family management for girls and boys. Consideration should also be given to the teaching of traditional Anangu skills including self-protection, hunting, food gathering and preparation, and basic law.

### Recommendation 26

**That DECS assess extending the school curriculum on the Lands to include increased study of information technology and appropriate computer based courses which can be accessed by children and young persons on the Lands to develop computer skills.**

**That consideration of the teaching of numeracy and literacy in a manner suitable to Anangu children continue to be assessed and implemented.**

**That DECS assess whether appropriate pre-vocational training for trade, home and family management skills should be introduced into the curriculum of the schools on the Lands.**

**That the principals and teachers at the schools on the Lands consult with senior Anangu and consider whether traditional Anangu skills and law should be introduced into the curriculum.**

**That adequate resources be provided to DECS for all of these purposes.**

Dare to Lead is an organisation which is actively seeking to improve understanding of Aboriginal culture as well as educational outcomes for Aboriginal children. *Dare to Lead: making the difference* is an initiative of the Australian Principals Associations Professional Development Council (APAPDC) funded by the Commonwealth Government. Over 3400 schools and 140 educational organisations across Australia have signed up to be members of the Dare to Lead Coalition. They have committed to improve educational outcomes for Indigenous students. An example of its work is the Aboriginal Summer School for Excellence in Technology and Science held in residence over 10 days in Adelaide in January 2008.

*There is no greater challenge facing Australian educators today than that of improving Indigenous outcomes across the nation, but it is a challenge that we must overcome. We have agreed to 'take it on'. Now it is time to 'make the difference'.*

**Ted Brierly, Chair of APAPDC**

## Literacy and numeracy

The Inquiry was informed that literacy education of Aboriginal students also is complicated by the fact that while Aboriginal cultures always have been oral, the mainstream classroom is based on literacy, the written word and standard English. Children are confronted by written and oral language that is more or less totally unfamiliar to them.

The problems facing Anangu children are compounded by a high incidence of hearing loss. It is estimated that 50% of Anangu children in any classroom might have a significant hearing loss on any day.

One school principal said older members of the community questioned the importance of school, which was often not considered important.

*To be quite honest, the implosions within the community, the social structural breakdown, there are other things that really are of much higher priority than schooling.*

*We've got kids who are 15, 16, 17 who can barely write their name ... I think you can directly attribute it to lack of attendance. ... if you crunch the numbers, a kid is lucky in primary school if they get two years of quality education, and then you look at their skills when they hit us, year 7 or year 8, and they generally have academic skills of around about a year 2 child.*

A professional person with years of experience working with children on the Lands, told the Inquiry

*The kids are never going to get out - I want to say this: the kids are never going to get out of here. We're never going to deal with the youth alienation problems that are so hard; the violence, the kind of risk-taking behaviour, the*

*drug use, the lack of job opportunities in any meaningful way, even if they go somewhere else. These kids can't read and write, quite a lot of them. In any practical sense they have functional illiteracy.*

This lack of literacy and ability to speak and understand English is a theme that is common in many instances of child sexual abuse investigated by the Inquiry.

By way of example, one mandatory notifier told the Child Abuse Report Line (CARL) that a girl, aged 14 years

*... is having difficulty explaining how she is feeling because of language and cultural issues, but [the girl] refuses to have an Aboriginal worker present when she talks to notifier and other non-Aboriginal people.*

In another instance, a 14-year-old girl's pregnancy was terminated. The police were required to use an interpreter to investigate an allegation of rape.

In these types of cases, an interpreter is needed frequently because the child appeared not to understand English, or be able to communicate clearly in English.

DECS must be encouraged and resourced to enable educators on the Lands to continue to teach literacy, numeracy and writing in English and language to every child. English skills may be relevant to the disclosure of abuse by young persons but are also relevant to empowerment generally of Aboriginal children. Children need such basic skills if they are to obtain employment off the Lands, if that is their wish.

In May 2008, benchmark numeracy and literacy will be administered throughout Australia for years 3, 5, 7, and 9. DECS told the Inquiry that it is making a more determined effort to get all children assessed. It thought that by getting more children



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assessed, it was likely that the results might show more children with educational difficulties. From the results of these tests, DECS will be able to ascertain a great deal of information that will assist it in its effort to monitor and improve the education of Anangu children on the Lands. The Commonwealth Government has indicated that all children must be tested and all parents/carers are to be informed of the results. It has been reported<sup>8</sup> that the Prime Minister has 'promised progress on closing the gap on literacy and numeracy outcomes between Indigenous and non-Indigenous Australians' and that it 'will be reported on the first day of Federal Parliament each year'.

In view of the impact of poor literacy of teenagers on the Lands, including those who have been sexually abused, remedial teaching for early teenagers who missed out on primary education ought to be a priority for DECS. Their needs should be recognised, respected and remedied as a matter of urgency.

Many teachers suggested that one specific measure to help attract and retain Anangu children would be to provide a stronger teaching emphasis on acquiring English skills.

*This is one of the very important elements of empowerment. I'll term it as 'secret English', the way we use English in the various professions, the nuances of English and how people can actually function in a piranpa, a white, society. ... That is essential for any bicultural strength ... being able to live ... in a very functional way in two societies.*

Retaining teenage children at school also presents unique difficulties: girls often become involved in relationships and reach child-bearing age; boys are sometimes taken out of school for traditional and ceremonial reasons.

One principal also said many girls leave school while still in their mid-teens.

*The girls aren't too good at staying at school because a lot of them get pregnant when they are quite young, or get married.*

Another teacher said it was also difficult to keep teenage boys at school during their traditional initiation. 'This idea of coming back to school after initiation took about three years to get across.' However, there are about 18 initiated boys in the senior class at present in the school. Families make the decision when the boys go.

The Inquiry was told that after initiation, the males are not to have 'anything to do with females, and particularly younger females, for a couple of years after they've been through business'

*They are not supposed to associate with women and they're not supposed to associate with younger boys, so we can't really go and put them into the boys' class. We actually need to create another class for them. Last year they didn't come back to school. The previous year they had a male teacher and after a couple of terms they came back in. These young fellas went through business in - they finished at Easter time. They didn't come to school until this term. ... There are about 20 on the roll. One turned up today. [An average turn up is] between four and 10.*

There should be the opportunity for Anangu children and adults who missed educational opportunities to return to school for remedial teaching when they are ready and willing to learn regardless of age. In non-Indigenous communities many young persons missed an education and DECS provides facilities for their education later in life. This facility should be provided in schools on the Lands as a matter of urgency.

<sup>8</sup> The Australian, 7 April 2008, p8



## Recommendation 27

**That priority be given to remedial teaching at schools on the Lands for Anangu who have missed education as children.**

**That the benchmark testing of years 3, 5, 7 and 9 be monitored closely and that sufficient funding be provided to achieve the goal of bringing the results of children on the Lands up to the respective averages of mainstream South Australian schools.**

**That making education more relevant to Anangu students, and recognising the importance of Anangu culture continue to be assessed.**

### Discipline

In past generations, children's parents or grandparents disciplined students. Due to a breakdown in family structure, many children today have little guidance, according to one former teacher, and therefore they have scant interest in going to school.

Another social worker told the Inquiry that children 'ruled the roost'.

*Children could do no wrong. They're totally indulged. They had total freedom to do what they wanted, to have what they wanted, and chastising a child was a huge sin, and you still see it today. Schoolteachers, you know, chastise kids at their risk.*

Older residents are also disenchanted, having grown up believing that things would get better with the availability of schools.

*...I guess back when we first came there was this hope that the kids would get an education and one day they'd be the doctors and they'd be the, you know ... there would be no more*

*whitefellas, so they would never have dreamt that in this time there would still be whitefellas here, because they really believed that if their kids went to school and they could - but it hasn't happened.*

It is to be hoped that with the development of family centres on the Lands and greater involvement of parents and carers in schools and contact with teachers, that parents and carers will assist in the discipline and instruction of children and develop the confidence and ability to guide and assist them in their education and in child protection measures.

### Better co-ordination of agencies

The Inquiry was told that another key aspect of getting children to school and retaining their attendance was to have agencies working together on the Lands. The staff at schools are a hub of valuable information and contacts when it comes to child protection on the Lands. The Inquiry heard that sometimes agencies, such as welfare, health providers and police, did not communicate well. As a result, some children may not have been carefully monitored or reported as being 'at risk'. An educator from Wiltja told the Inquiry

*Other agencies really do need to get their act together. There is a dire need for rehab programs and non-rehab programs - just sort of a safe environment for non-academic kids to be able to grow up safely. There isn't anything else ... And some form of clear assessment where a child is. Quite often they can come to us; poor health, mental health problems are not being tagged, which they've had for many, many years, and the social aspects of their life have deteriorated to a point where they do then need rehabilitation in many areas.*

A DECS professional agreed that children needed to be cared for more appropriately, particularly those with sexual abuse issues.

*... the agencies need to better develop a collective sense of responsibility. In terms of the provision for students around issues that may bear on shame, then yes, there would need to be a structure and a strategy put in place for developing that, across agencies. It cannot remain the single responsibility of one single agency because there are severe limitations in relation to resources and what one agency can do.*

The Inquiry was told that school counsellors have been in place in all schools since the start of term 3 in 2007. A key focus of the school counsellors is to work collaboratively with the new Families SA social workers to form trusting relationships with children at risk. Given the likely extent of child sexual abuse problems, it may be beneficial to allocate more resources into this area of preventive action and with considerable involvement of SA Police.

Nganampa, while acknowledging education was not its area of expertise, said it believed education, police and health agencies on the Lands should be adequately resourced 'to collaboratively deliver life skills and 'keep safe' behaviours training as an integral and ongoing component of the education/training curricula from pre-school onwards'.

Many more children could be helped if more resources were made available to have a counsellor or social worker placed in every school. Experts gave evidence that this would not only help identify children at risk, but also ensure professional assistance could be provided rapidly, rather than having to wait for a suitably qualified person to travel to the often remote communities.

Without question there must be close co-operation between each of the major service providers on the Lands, Nganampa, DFC including Families SA, DECS and SA Police to reduce the incidence of child sexual abuse. Each have an important role to play in child protection, and the prevention of child sexual abuse and an appropriate response to the disclosure or detection of such abuse.

## Recommendation 28

**That there be regular meetings of all staff of Nganampa, DFC including Families SA, DECS and SA Police working on the Lands to receive continuing education about child care and protection, to discuss the needs and problems of sexually abused children and the problems encountered by those service providers.**

**That such meetings should be held at least three times each year.**

**That they be initiated and managed by AARD rather than any one of the particular agencies.**

## Consequences of sexual abuse

The Inquiry received substantial evidence that generalised neglect and substance abuse increases the risk of sexual abuse of children on the Lands.

Substance abuse by parents and/or their children also increased the possibility of sexual abuse. The Inquiry noted that a number of children were said to be addicted to *minkelblas*, a plant, tobacco and ash-based combination, which is chewed as a sedative narcotic. The other main substance that is abused is marijuana. The incidence of petrol sniffing had decreased from its height several years ago.

The importance of the abuse of these substances is that it may make children more vulnerable to sexual abuse but it might also act as a mask or a numbing agent to assist the children in coping with the effects of abuse.

One counsellor said she had seen many children unable to function at school because of events happening in their family or community. She said staff felt frustrated because they wanted to help the children, but often did not get enough support from welfare.

*If you come to school and you're being sexually abused or you've been up all night listening or watching or being involved in violence - he's not going to come to school the next day and go, 'Yes, come on, I want to learn to read now,' you know. It doesn't happen.*

One witness said she knew of many communities where the children roamed the streets at night, with no supervision from parents

*because sometimes in the community they walk all night till morning ... I see a lot of kids, you know, walking around and when they come to school they sleep, you know; they're not working properly.*

A senior educator also reported problems with young children being sleepy and vague at school, due to the effects of late nights, little adult supervision, probably watching R-rated videos and pornographic movies on satellite TV, petrol sniffing, drugs and engaging or being exposed to sexual activity in overcrowded houses.

*I say, up to 80 per cent of the kids in my class at times - in 2002, 2003 - were sniffing very heavily, which means they're out at night - not in the day - and that's what's happening through the night, you know. So occasionally they'd come to school and they would lay under a table, and if you disturbed them you'd*

*lose all - you'd lose everything in the class.*

*They'd smash it to bits. You couldn't ask them to stay awake or to join in or - it was a very violent time to be a teacher here, with such high levels of petrol-sniffing. And I would say absolutely that the kids had no emotional cushioning whatsoever, because they were tired, they were regularly being abused...*

One teacher told the Inquiry of the disruption to student learning as a result of abuse. The teacher said that two successful young teenage students were preparing to pass year 12. However, after one of the student's relatives was arrested on child sex charges, the students were forced to return to their communities to 'culturally' show support for the family, who were being ostracised locally. The students then withdrew from school '... so it's unintended consequences'.

One experienced educator said the arrest of an alleged sexual offender had had a major impact on the local school. He recalled that students refused to attend, believing the school was behind the arrest of a popular member of the community

*... we'd had an exceptionally good half-year with student attendance. It was up around the 80 per cent mark, or over. I heard all of these distressing stories, people saying about what I'd done, and came back to school at the beginning of third term and I think on the first day two kids rolled up to school.*

*On the second day, I think there was one kid at school. He felt he was ... being shunned... Student attendance dropped right off. I think it was something like 20 per cent it dropped off by. A lot of staff were very stressed through all of this. There were some people that had their house stoned, some people had to ... get out.*

The Inquiry was told there needed to be more counsellors in schools to assist children to deal with issues of abuse and other problems within their communities.

### Cross-cultural training

The Inquiry was told by APY, that in order to achieve better disclosure of child sexual abuse, there should be 'education and training in cultural and legal standards' such as the age of consent. It was suggested the community meetings be held 'to define what is and is not culturally acceptable and consistent with SA criminal law'.

While there is considerable benefit in those providing services to the Lands being trained in appropriate cultural behaviours and the like, the Inquiry can see the benefits in educational programs conducted throughout the communities that do inform Anangu in those communities what is appropriate behaviours in both Anangu and in Western culture and the consequences of child sexual abuse for children and perpetrators. This type of information is presented in school-based programs, which are discussed later in this report. The Inquiry supports attempts to broaden any educative programs to the wider community.

## Recommendation 29

**That a program to educate members of the communities on the Lands as to what is inappropriate sexual conduct, and its consequences, and the supports which are available for victims of sexual abuse (including children) be designed and implemented.**

### Children's rights and preventive behaviour education

Teaching young children their rights, and how to keep themselves safe, is the focus of several major education-based programs being run on the Lands.

The programs aim to increase student participation at school, as well as develop student well-being, particularly physical health and psychological well-being. Some of the programs teach children how to be safe, and use paintings and storytelling to help explain safe behaviours while others involve specific sexual health education on issues such as pregnancy, STIs and sexual rights.

Mention has been made earlier of the SMART program and the 'Countering Risky Behaviours' Curriculum.

A Commonwealth Government-funded program, MindMatters, aims to promote and protect the mental health of members of school communities. This program was developed after the suicide of a young person on the Lands in 2004. It is now delivered to schools throughout the Lands.

DECS and Families SA have developed a mandatory reporting training package that is inclusive of Anangu. Important issues such as neglect and abuse have been defined and are now raised in Anangu society. The training package was delivered in term 2 of 2005, led by the PYEC Director, for all Anangu staff in schools as well as for others, including community constables, youth workers and TAFE lecturers.

DECS also began a new protective behaviours curriculum in 2006, after extensive communication with members of the community, teachers and other experts. The 'Keeping Safe' program places protective behaviours in the context and experience of Anangu communities.

The program includes a range of hands-on activities that promote discussion about actively developing physical, emotional, sexual and spiritual well-being. It has been developed by Anangu for teaching in the classroom by Anangu, with the support of non-Aboriginal teachers.

The DECS Drug Education Strategy team also has worked closely with all schools on the Lands to develop a whole-of-school drug strategy with each school site.

As mentioned earlier, since January 2008 Families SA has had two social workers on the Lands at Amata and Iwantja (Indulkana). Families SA hopes to have another social worker based at Kaltjiti (Fregon) in the not-too-distant future. The social workers work in close collaboration with DECS staff.

### Sexual health education

The Inquiry was informed of some sexual health education in schools but it appears not to have been consistent or maintained.

One teacher told the Inquiry that she asks the little children to draw special parts of their body. She said she gets back some very explicit drawings. She has been doing this sex education for about four years. The Inquiry was told that younger children are more open and more likely to speak about things. A course had been developed in consultation with female health workers and the community. Nganampa itself has brought in a more upmarket sex education course.

A witness told the Inquiry that parents and children should be taught safer behaviours, at both school and on special camps

*...we've got to teach parents about these problems ... I want to teach parents about keeping safe. They think that keeping safe is not a story, but that's my opinion. I was thinking sometimes kids when parents go out and play cards, kids there by themselves sleeping ... And other problems like parents going out drinking and their grandmothers are looking after them - grandparents are sick, you know.*

He also recalled how he had counselled a young girl who had been forced into sex.

*She didn't want sex ... she said that happens all the time ... and that's when I went into ... the relationship type thing and that sex isn't meant to be rough, it's actually meant to be nice and ... it wasn't horror, the querying on her face, the 'Huh?' you know, and I tried to explain nice sex, making love, that kind of thing, and she had no concept that it could be pleasurable, no concept whatsoever - nothing about that. But it was just something that she had to do.*

*If I had to form a view, it would be that it's widespread, especially in the younger girls. I don't think any of them would realise that sexual intercourse could be a more pleasurable thing, and it could be a gentle thing and it could be something very consensual and meaningful between two people.*

Some communities have organised sex education classes, to help reduce risky behaviour.

*It happened at the clinic where ... we set up days where we had girls' days and we made lunch and ... dyed hair and did facials and did sex education and talked about boys ... we tried to do it a couple of times a term but ... it didn't always happen.*

These programs have helped teach young people to identify and reduce risk taking, which has increased school attendance and improved children's behaviour.

*... programs really focused on some of those issues and dealing with them in supportive ways, behaviour management structures improved. The whole school environment is better.*



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One DECS officer said there were many ways to educate young children better, and to help provide them with a better life.

*That is a severe limitation, I believe, in relation to the growth of opening up students' minds to health and well-being issues, and sexual issues. So the agencies need to better develop a collective sense of responsibility. If we throw up our hands and say, 'Well, look, if we don't do it, then nothing will happen,' and we do it and then we collapse under the weight, that's not assisting anyone. But if we say, 'Nothing can happen,' then if we look at 10 or 20 or 30 or 40 years, we are only being prophetic in relation to the continuity of human devastation, which is unthinkable. I mean, that's unconscionable and unthinkable. So something must be done.*

Teaching children about sexual health issues could also be complicated by having to translate lessons from English into Pitjantjatjara. Some points may be lost in translation, particularly if the AEW felt uncomfortable talking about sexual matters in a public arena.

*How do we know that with any degree of accuracy? Well, I don't. However, in any interpretation, given there are sets of social mores that impact upon the translator, no matter how brilliant you are, there's never a completely objective - so that's the best I can do with that. But I do think that it has an impact, yes. And is it limiting? I suspect it is.*

While many AEWs delivering sex education and other lessons were women, there was still a strong need to have male AEWs for the boys at school.

*Well, we don't have very many male AEWs, but we have got some and we're going to be encouraging them to come, as well, because it's really important that the men are there for the boys.*

Regular sexual and health education sessions for school children on the Lands are run in some communities. Nurses, both white and Aboriginal, discuss

*... being safe, looking after yourself, and staying close to family. The nurse comes to the school and talks to the secondary students with an older lady from the community, and they talk about choosing the right partner and talking about the body issues and that.*

One health professional was concerned also that school children, particularly girls, did not know they were within their rights to refuse sex.

*I mean, the reality was, you know, you can't give consent if you don't know what's going on. You can't give consent if you don't think you've got an alternative. You can't give consent if you believe that boys can do this to you and you don't have a say.*

Girls were taught about sex, menstruation, pregnancy, childbirth, traditional naming and birth, as well as learning about STIs, while boys were given sexual information specific to their needs at special school sessions and camps.

At another school sexual education program, a youth worker recalled a conversation between students.

*There two girls heard to shout over the fence, 'You boys aren't able to fuck us any more because we can say no.' Like, it was really - I mean, at 14 you sort of have an understanding that their parents would have taught them, you know, that they were able to.*

One Aboriginal woman said it was critical for young women to be taught their rights.

*They don't know no better ... just starting to go into the schools to talk about sex education, and the kids - the girls especially -*



*didn't realise that they could say no; it's not a thing that has to be done ... all the kids went out into the yard, all the girls, and sang out to the boys, 'We can say no.'*

There was also a need to educate parents, and give them the skills to be better role models. 'The sort of feedback I've had from other adults - they're a bit confused. Like, 'How much control should I have over this child? What should I be regulating?'

Another added that without a parent or caregiver '... who is responsible for them and is taking care of them, they're automatically going to be a target, aren't they, or at risk?'

The witness also said it was important that under age girls learnt about their sexual rights, and that they understood sexual relationships should be caring and non-exploitative.

*With kids under 16 is that we tell them that there are actually laws about when you can actually say yes to sex, and we tell them that - well, what until recently I've been telling kids really, or getting nurses to tell them, is that, you know, the law requires that we report children who are sexually active under 16 to Families SA.*

Of course, as has been mentioned, that is not the law in South Australia. The age of consent is 17 years not 16 years.

A doctor said many of the girls were aware of contraception, but still did not understand STIs and the need to use protection.

## Recommendation 30

**That more resources be focused on education measures to better advise children, their parents and carers and the community on appropriate sexual behaviours, the law and their rights.**

## Sexualised behaviour at school

Many school staff and health professionals reported a high incidence of sexualised behaviour and role-play by students – in one instance the children were aged only five and six years.

In that case, the children took off their pants and underpants and the girl tried to suck the boy's penis. Two AEWs intervened and reported the matter to the school counsellor, who reported the matter to Families SA. The AEWS had noted that '... the children may be exposed to sexual acts within their homes given there are often large numbers of people living in the homes'.

One of the children was described as 'filthy dirty and wearing the same clothes all the time...[child] is very skinny... mother gambles every pay day'.

Teachers often considered sexualised behaviour was a consequence of the child either being sexually abused or exposed to sexual activity.

One educator noted that teachers often noticed sexualised behaviour by students, either through speech, actions or explicit artwork.

*Teachers would talk about children pelvic thrusting; also whenever there were any - there were examples of when people had dolls and that, that they were engaging in sexual activity.*

In one case, records showed that a five-year-old girl at a school was 'using a toy cucumber pretending it was a dildo, she has also been humping pillows'. Welfare inquiries concluded that the girl was living in over crowded accommodation and had been exposed to pornographic material. Records show the girl's father was a petrol sniffer.

One 10-year-old girl would try to kiss her teacher, touch a female teacher's breast and masturbate in class while other children would have a

*... highly sexually charged feel about the kids; like, they were interested in all this kind of stuff. They were acting out more sexually*

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*explicit things in classrooms. There were also many ... rumours about girls being abused by other kids.*

One young boy would also sexually assault male and female teachers.

*He would actually go up to teachers and touch them, and grab them on the breast and then he would grab them in the vagina area. He would grab the male teachers similarly. The staff were pretty horrified by it all, but nobody knew what to do about it.*

The person who reported this matter to Families SA was unhappy with the response. 'They weren't that concerned. They were more concerned that he wasn't getting fed necessarily.'

In one case, a boy aged 13 came to the Inquiry's attention as a possible victim of sexual abuse and also a possible perpetrator on a young girl. The Inquiry was told that the boy said to a health professional that he wanted 'to have sex with you' and pulled down his pants. In another incident, the boy told a teacher 'I want to fuck you'.

Teachers also noticed other children would also become withdrawn. They would also behave strangely with other children

*... they were constantly grabbing other boys, you know, around the genital area, and we spent a lot of time working on those kids. Now, this behaviour was not exhibited previously. It stopped or lessened not because I think the issues were actually dealt with, but because finally it was got through to the boys that that wasn't appropriate and was causing all sorts of other problems with other boys. So it wasn't actually dealt with from a core issue, but they just ceased doing it because they understood that it wasn't an appropriate thing to do.*

Another girl, aged 11, came to the attention of teachers due to her sexualised behaviour at school.

*Other teachers had said that she masturbated in class - she knew the moves and ... she touched other children in inappropriate ways. I reported that on a number of occasions, as did the clinic, and people did come out and speak to the mum.*

Families SA investigated the girl, who was described as having foetal alcohol syndrome. It was suspected that she may have been abused sexually in the past. A psychiatrist, who saw the girl, noted there was significant overcrowding in her house and reported

*'Her main issues revolve around significant hearing impairment and subsequent learning impairment, which is further aggravating her academic performance. I suspect she is engaging in disruptive behaviour to mask her underlying learning difficulty'.*

The Inquiry was informed that in the first few years of life, it was estimated that at least 70% of children on the Lands had ear infections that affected their capacity to acquire language and impeded their cognitive development. A child on the Lands who finds school difficult for these reasons may not attend school regularly.

As was mentioned above, if a child regularly does not attend school, which acts as a safe haven, that child is likely to be in a situation, or doing an activity, that may possibly place that child at risk of sexual abuse.

One social worker reported children as young as five as having contracted an STI.

*We had a reception class where several five-year-old girls brought to our attention, at least one with an STD... the teacher wasn't able to*

*manage sexualised behaviours. Also it was summertime and a lot of the kids came to school naked so they were more vulnerable to other children touching their bodies. But children masturbating in the classroom, simulating sexual intercourse, drawing penises ... We were in a quandary because we couldn't work out whether children were mimicking behaviour they had seen or it had been perpetrated against them.*

One principal said he had heard of many occasions when young boys were pressuring girls to have sex.

*The majority of our boys and the majority of our girls I have no doubt, when they're not in our care, are sexually active, and I have no doubt that the great majority of that activity that takes place is without consent in our terms. The girls talk about having 'rough sex', and what they're actually talking about is rape. When they've talked about it or described it, they're talking about being out at night in a community, boys coming along, boys wanting to have sex with them, the girls very clearly say, 'Well, we can't say no, and if we say no, they're going to drag us off anyway, so we do,' and that happens.*

*It seems to be that there's a trend in age, where the pressure is put on these girls for sex, and it is the very young ... I'd probably go down as young as 11 ... Through to 15, 16, and sort of as they get older they then - a lot of the girls will get married and end up with a partner anyway, so they're off the radar. But it's, yes, very young girls, and a lot of the time again it's from families that are the more weaker families in the community. ... Not as much status as some of the other families. ... they don't have a support system in place.*

An experienced doctor said he had been told of an older boy sexually abusing a young girl at school. It was investigated and the girl was moved out of the school.

*I think kids becoming sexually active early in life in situations where, you know, it's a mutually kind of desired and satisfactory thing but at an inappropriate age, is still really common here.*

One teacher recalls suspicions about a young Aboriginal girl who had otherwise been a bright, happy child. One day the girl came to school and

*... just laid down on my lap, her head on my lap and sobbed. Like, heartbreaking, wrenching sobs. There was snot and tears dripping down my legs and she sobbed, probably, for 20 minutes.*

While she didn't feel the girl had been sexually abused at the time, from then on she '... just kept an eye on her'. The teacher then noticed a change in behaviour in both the girl and her siblings, and contacted the department, reporting the two girls' names. After notifying the department, she heard nothing more. Another sibling was '... a really, really lovely boy but he was just getting a bit aggressive and angry and then he started missing school a lot'. She later left the school and does not know what happened to the children. One teacher also reported sexual behaviour of a five-year-old girl

*... who was showing unusual ways of dealing with dolls and with herself - she was masturbating and she was playing sexually with the doll.*

She reported the behaviour to the department but nothing happened.

*Now, I just thought that in a community where this had already happened to older girls and*

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*in a community where things were dysfunctional and where kids were at risk, that something like that was fairly important, and yet the response we got was, I thought, inadequate. I don't think there was ever any follow-up.*

Another teacher said she was very concerned about the behaviour of an 8-year-old girl, who would be both violent, disruptive and display extreme sexual behaviours: '... humping teddy bears, pulling her pants down, sticking the plastic fruit and whatever - like, cucumbers, carrots, that kind of thing, in her private parts.' This girl was later confirmed as having an STI.

A teacher, who was new to her role on the Lands, told the Inquiry she had seen children as young as four displaying sexual behaviours

*What I was told was it was families would watch blue movies, they're called, or pornos, and just children were exposed to that. Now, whether that's the reason why they were showing those behaviours or whether they were being interfered with as well, or instead of that, I don't know, but their behaviours were definitely right out there. Like pretending to hump each other, or toys; playing inappropriately with the babies, the dolls, including one four-year-old boy pretended to do oral sex on a doll.*

Records show another girl, aged 7, masturbated in class at least once a week under her desk. Welfare assessed the situation as insufficient information to warrant investigation of child abuse.

### Violence at school

One principal said children who he believed had been sexually abused were often violent, could not adjust to school and were disruptive.

*Within that, that group of boys has extremely explicit sexual based teasing that only comes, I think, from having experience in that situation. They cannot engage in school when they come in. They're just so disruptive. They seem to find it difficult to socialise normally within a group of senior secondary boys, and they're a really disruptive influence socially. And it's very much pulling the rest of the students' focus away, and they can't focus themselves. And they're floaters; just in and out. They're not attached, and their families have just thrown their hands up; don't know what to do.*

The Inquiry received specific allegations of children leaving school following incidents of sexual abuse and violence as well as general evidence to this effect.

One girl, who had been living with her adult 'boyfriend' since at least the age of 13 left school at 15 after he physically assaulted her after school on the school premises.

On several occasions, family violence spills over into the school ground. One counsellor told the Inquiry that staff were concerned about a young girl's safety when her parents arrived at school during a violent argument.

*They were fighting again and they brought the - the violence came into the school. Yes, it's always - we're trying to help community keep the violence outside of the school, but it just seemed to keep coming back into the school.*

One principal said she had a situation where she had to lock the children in the classroom, because a violent parent had come on to the school grounds and wanted to kill some students who had been teasing his daughter.

*I wouldn't let him in there, but the Anangu teacher let the child out despite me telling her not to, because, you know, he was threatening to kill the child. He's a violent man. I didn't want anything happening on the school grounds. ... his family walk in and they've got sticks and stones ... he's yelling and ranting. You know, it was a very threatening situation.*

One principal recalled instances of violence at school among boys who he believed had been sexually abused by a local paedophile.

*We had an adolescent boys' health care session one night. A little bit of teasing - sexualised teasing - and those boys instantly became extremely violent towards each other, assaulting each other with a shovel and smashing things to bits. There are boys in the class who aren't victims. So they've got to put up with this sort of stuff.*

A police officer told of an incident where children witnessed a violent incident in the school yard, where a woman was stabbed several times by a local man because she had made a complaint to police about him

*... this poor woman has been carved up in the schoolyard in front of the school kids, to try and force her to retract her statement - the kids thought she had died.*

There were also other reports where teachers would be threatened with violence, and physically attacked on school grounds, as well as having their homes broken into regularly.

One teacher said she had seen children who she suspected had been sexually abused behave badly in class. One boy

*... couldn't sit down and listen for more than maybe three or four minutes at a time. He would disrupt the rest of the class - throw chairs. With assistance from another child, they would ... just completely trash the classroom, or they would rev each other up and they would fight with each other. It would be either them against the rest of the class destroying everything, or them physically fighting, pulling each other's hair, pinching, spitting, punching, kicking and all of those things. Other children often got involved ... so those younger boys then picked up on that negative behaviour which almost created an out-of-control environment which made it really difficult to teach.*

One specialist in the field also recalled instances where children who had made allegations of abuse felt scared of the repercussions.

*The perpetrator, the offender, was apprehended and, I believe, taken away, but there were big fights between her family and the offender's family which resulted in her father offending against members of the perpetrator's family. He was sent off to jail. She couldn't go to school, because members of his family, younger members, were abusing her and threatening her at school.*

## Sexualisation in young and older children

Many witnesses reported that children were engaging in sexual behaviour at a very young age. There was much information about underage sexual activity in homes and camps, as well as widespread availability of pornography.

Sexualised behaviour among young children was also common in communities, particularly on the Lands where children were rarely supervised and there were high levels of aggression, violence and petrol sniffing. It was easy for adults to lure children away because



*... no-one worried about where they were day or night. And so I think that's another thing that blurs it, because even now I could say, well, no-one is looking after these kids. And I could say that that's actually an effect of that abuse, but it probably actually was what made them vulnerable to that abuse in the first place.*

One teacher discussed a 15-year-old girl who had been sexually active for at least three years, she said that others had told her they had started having sex as young as two years old.

*I mean, I suppose the nice thing is she'd sit there and talk to me about it, but I just found it unsettling. We've talked about the sex between students and the impact on the school with the fights and the teasing. We've talked about the stuff where teachers were reminding students of the age of consent and the students saying they start as young as two or three.*

A former principal said many young children were involved in consensual sex, despite being aged only 12 or 13 at the time.

*It's what they do. It's the model that they see and, you know, when their peers are getting pregnant and having babies, it's celebrated. ... certainly the older women see it as a problem because they're too young ... there was a young girl ... she was 12 or 13, who got pregnant and died as a result of the pregnancy ... and that sort of sent off alarm bells right across the land and, you know, the older women were sort of trying to drum it into the younger girls that, you know, 'You'll die if you get pregnant too early.' It certainly didn't stop the young girls from exploring and some of them becoming pregnant. I know that through the works that I did with the clinic ... anybody who we thought was ... old enough*

*to be sexually active, we grabbed and brought them in with parent consent to talk about ... sexual activity and... a number of the girls subsequently went in to talk to the sister on their own and information was gathered from that and reports were made and - yes. There was a surprising incidence of young girls who had been sexually active and who had STIs.*

Many teachers feel the children are not safe once night falls. While their parents or older relatives engage in drinking, substance abuse or gambling, many children are left at home or wandering the streets with no supervision.

One carer had

*... explained to me that this boy had trashed her house, her yard, and she was - what really alarmed her was not the destructive behaviours, it was that he was constantly rubbing himself up against table legs, furniture, and all of her nieces and nephews and whatever when they visited - he was whisking them off into dark rooms, shutting the door and sexually assaulting them.*

A teacher told how children as young as two or three were being prepared for sex by older relatives, sometimes through massage.

*They touch their breasts and their vaginal areas. She was actually talking about her grand-daughter, and that's what they're doing to her, is preparing her for sex ... At the time she would have been two, two and a half, three. That's horrific, that this grandmother is saying this is what they do and that that's normal ... she has just shut up since, because, you know, we were all horrified and just talked about how inappropriate it was. Now it is just sort of under the table. Nobody talks about it.*



Another teacher also reported that it was difficult for children to learn safe behaviours within the community, or sometimes for teachers to gauge what was happening in their homes or camps.

*Well, it's just that they tend to all sleep together, which makes it really hard to tell if something's normal or not normal. That's what they do - they all share beds. Just that the line - it's blurry because you don't know - like, with the same thing with the dancing style, you don't know whether it's innocent or not because everyone seems to do it and it's accepted.*

Some children are sent out of the communities to protect them from alleged sexual abuse, and are schooled in other regional cities or in Adelaide. However, this witness said he was concerned that this led to a further breakdown in Aboriginal communities

*... that again reinforces this notion of an almost complete social breakdown, because once you come back into the communities again, you're not actually addressing the root and branch of the problems there.*

Another said that her experience was that mothers sent their children – particularly girls - away to school

*... because they don't want them to be running around at night, being sexually active, and they think that by sending them away, where they have supervised activities, they have separate, you know, accommodation; that they will stave off the inevitable for a bit longer.*

Another expert also reported that it was becoming increasingly common for children at risk to be sent away to school.

*I think it's just like the parents and grandparents are finding it really hard, and they've got so many of their own problems*

*that they just seem to think that this is the best way just to send them out. I mean, there's a lot of positive stories of kids going out and doing so well.*

One Aboriginal woman has taken her children off the lands and moved to a nearby city, after being concerned for the safety of her daughters.

*I think it's a very unsafe place in the AP lands at the moment as far as the younger female generation is going, due to the inactivity in social life and the abuse of addictive substances there. It's a sad and sorry place to be at the moment.*

A teacher who worked on the Lands said, even after an alleged paedophile had been arrested, people in the community still did not fully understand what had happened.

*My opinion, in my dealing with after the event, was they didn't seem to have any concept that men would do this to boys, but even more so that white men would do this to boys. There was very little education in terms of that kind of thing for kids or adults. Nobody sort of had a concept of it at all.*

One medical expert said sexualised behaviour among children was considered normal but once young girls started school, some started to question what had been happening to them.

*That's why a lot of little girls start to talk about what's happened to them when they get to school, even though it's happened to them when they're younger, because when they're four and three, someone touching them in a lot of situations is not a problem to them. It becomes a problem when they realise that it's morally wrong and they don't realise that until they get to school and start to learn about what's right and wrong, because most kids don't get taught that at home. It's something that comes with school.*

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### Violence and male attitudes

One principal said that many girls told him that they are sometimes locked in a room at night until they agree to have sex.

*The boys have a whistle call, if you like, and they know where the girls are, which girls are where, and they'll follow the girls around, whichever girl they might want. Some are boyfriend and girlfriends, but some are not, and basically the girls say that, you know, if a boy says he wants sex, it's just like, 'Well, anyway, you've got to do it' for fear of being bashed up or fear of, you know, being detained ...*

One educator recalls that nightfall often led to bad behaviour, including petrol sniffing and drug use, among many children in the community.

*I'd had a niece living with us for a while, and she was in and out of sniffing. And our rule is, 'If you stay with us, you're home at dark.' That's the one rule. So I would often drive around the saltbush at night and, as soon as she saw the car and I saw her, she'd get in. There was never an issue, but finding her could be hard. And what I learnt from just sticking my headlights in the saltbush is that basically petrol-sniffing equals sexual abuse, violence, rape - that's part of the culture. I had a period of six months where I was far more aware of what was happening after midnight in the community. She went off to boarding school after that.*

A counsellor from the Lands also reported that violence and abuse were common among her students. She recalled a girl who had tried to commit suicide.

*She'd come around to my house and yes, she'd been beaten up by her boyfriend and*

*stabbed by her boyfriend, and you hear the teenage girls say so often, 'He does it because he loves me.' ... in their families - most of the families up there, there's violence and abuse, so they just see it all the time, that they obviously maybe think it's normal, and so when you talk to them about what's happened to them, they just say, 'Oh, he does that because he loves me.'*

She said many of the girls don't feel they are able to say no to men

*... they see so much, and I think that they just think that that's just how it is. Basically that they can't say much otherwise they can get hurt, that the boyfriend or whoever it is can get more violent and aggressive.*

One woman reported that she was worried about the behaviour of some older men, such as

*... one 47-year-old man trying to round them up in the Toyota to try and marry them, and one is 17 and one is 15, he's a 47-year-old man and he didn't grow up on the AP Lands so he should have had the upbringing and the common decency to leave a little kid alone, especially at his age in life where his kids are older than my kids ...*

A medical specialist said he was very concerned about the number of girls, aged as young as 13, who the community accepted would be sexually active.

*What troubles us is when ... an interpretation has been placed on someone having sex with a 13-year-old as being okay because it's a traditional - you know, she was promised traditionally. That's when we get worried, or when the police decide that something is not worth investigating because she's 13 and all the 13-year-olds up here have lots of sex.*

A department worker agreed

*... the law we talked about earlier - as to the expectations of women; that they're actually just there for men, you know, whether they're women or children. Often there's no distinction. You know, they're sexual objects.*

The community would often ostracise young female victims of sexual abuse. One counsellor recalled an incident when some girls, aged in their mid-teens, had told of providing sexual favours to an older man, in return for petrol to sniff. The girls were sent away to another school, and when they returned to the community several months later, they were unable to fit in, or even return to school.

*They were just lost souls all year. I think the girls themselves felt a bit ashamed about coming back. I don't know whether they just felt uncomfortable. They came back to school for a little while but they never really settled.*

She does not know what happened to the girls, and believes they were not offered any counselling.

Another situation the health professional witnessed was a case of an Aboriginal man having an ongoing relationship with a young girl, where petrol was exchanged for sex. Despite the man being considerably older than the girl, she was underage and her family objected, he continually tried to have a relationship with her. 'Even though this has all become public knowledge he doesn't seem to have any idea that what he is doing is wrong.'

Staff at one school believe that more needs to be done to educate men in order to stop the abuse of young children. Staff told that it was accepted that adolescent girls were ready for sex. There is a 'she's big enough' attitude, and men say 'if you've got the body you do the thing'. If a child is abused, some think 'well it must be my turn' or 'I must be big enough'.

A social worker agreed, saying '... if you're male you get away with things on the Lands'.

One Aboriginal man said he was worried about young people, who are now growing up in an unsafe environment.

*There's no trust - it's gone; family unity is all destroyed, I mean as it was before, maybe 30 years ago. They're a proud people with their culture and song and all that, but all these other new problems created which are things clicking in and other things happening, changes, and it's new to them. That's why we've got to kind of work together maybe.*

One social worker from the Lands said it was always concerning seeing older men showering children with expensive gifts and food.

*I've heard one man make several sexual references to young women. This is to sort of 15-year-old girls - 'If this was the old days, I'd bang you on the head and drag you out and you'd be my wife,' to which the girls sort of look at him. I've heard him make other sexual references too in the company of men.*

Mention is made in Part IV, Chapter 4, Administration of Justice, of the attempt by SA Police to improve safety in communities by establishing Community Safety Committees which were designed to encourage Anangu to work with police to find solutions to crime and disorder. As is mentioned this initiative was not successful.

However, an initiative of that nature should be tried again but involving not only SA Police but other male workers from the agencies on the Lands, welfare, health, education and police.

It should not be assumed that men who sexually abuse young persons must know that their conduct is wrong and against Anangu and white person's law. They may have been sexually abused as

children. They may have been brought up in that culture.

There should be meetings involving men and boys in communities with men from the agencies and Anangu seniors. It should explain that the sexual conduct with children is contrary to traditional law and white person's law and is harmful to children, their families and the communities. The consequences in white person's law should be explained, prosecution and severe punishment. Anangu elders should be empowered to express traditional views and law and be supported when they do so.

## Recommendation 31

**That meetings with men and boys in communities with male Anangu elders and men from the agencies on the Lands regarding sexual conduct of men involving children and the consequences of such conduct be held without delay.**

**That such meetings be co-ordinated and managed by AARD.**

### Exposure of children to pornography

The Inquiry was told that sexualised behaviour by children, particularly noticeable at school, may in some circumstances be a consequence of the child having been exposed to pornography. A senior Anangu woman told the Inquiry that children frequently watched pornography at night in houses and 'next day they have to act it out'.

In one case, records show a boy, aged 7, and his peers had been acting out crude behaviour in class and going up to each other acting out sexual activity and 'the teacher surmised that the boys had had access to pornographic material given their sudden sexualised behaviour'. Welfare assessed the situation as not revealing any child abuse concerns.

On the information available to the Inquiry that response is inappropriate. Sexualised behaviour of that nature in a child of that age requires investigation by suitably qualified experts such as from CPS WCH. Such a remote negative response does not assist a young child who is obviously in need of therapeutic investigation and probably care.

In another case, a girl, aged 9, made humping actions and other children said 'she's having sex'. When the teacher asked the girl where she got this from, the girl said 'I have watched blue movies'. Records indicate that the girl's parents are in a violent relationship and that the girl herself had been physically assaulted. Police were to be informed 'but community have made it clear...that any action will inflame the problem'. Nevertheless, an appropriate response was required in the interests of the child.

The Inquiry's investigation on the Lands bears out the findings of the *Little Children are Sacred* report 2007 which states

*... that pornography was a major factor in communities and that it should be stopped. The daily diet of sexually explicit material has had a major impact, presenting young children and adolescent Aboriginals with a view of mainstream sexual practice and behaviour which is jaundiced. ... Exposure to pornography was also blamed for the sexualised behaviour evident in quite young children.*

One health professional said it was common in communities for children to act out sexual behaviours, and to be exposed to pornography from an early time.

*One of the things that I hear about that disturbs me is comments about, you know, the exposure to explicit pornography in what are communal rooms in houses around the lands ... this explicit, you know, X-rated video just*

*running on the TV and there are little kids walking through and there are some teenagers watching the TV, and it's just there as background kind of music and nobody is kind of paying too much attention to it; but realistically, you know, I think that is a bit of an issue.*

An experienced teacher also expressed concern about the widespread availability of pornography in the community.

*Pornography on the lands is rife. It's on in the house and kids two, three, four, 20 - you know, they're all through. You can't help but think that the kids - and adults for that matter - have this incredibly skewed view of sexuality and also of what happens in the white world.*

Two observations must be made. It is a serious mistake to assume that sexualised conduct of this nature is caused by observation of pornography. It may be a consequence of watching pornography but it may be a consequence of direct sexual abuse of the child. Investigation is required. Nevertheless children should not be subjected to pornography. The community education programs which have been recommended should include information about the dangers of pornography.

## Recommendation 32

**That strategies to restrict access to pornographic material, by children in particular, be investigated.**

**That there be a community education campaign on the dangers of exposing children to pornography.**

## Interaction between DECS and CAMHS

As is mentioned in Part IV, Chapter 2 of this report the Inquiry heard that until recently, there has been no specialist provision of mental health services for children on the Lands. Since 2006, Child and Adolescent Mental Health Service (CAMHS) has had sporadic involvement with children on the Lands. School teachers identified many of the children seen by CAMHS as possible victims of sexual abuse. Teachers had reported children exhibiting behaviour changes, difficulties in coping and destroying property. A medical professional told the Inquiry

*staff at the school noticed... withdrawal from school, avoidance... It seems to be in the situations of crisis; some of them reach very critical points where they are really unwell and highly agitated for a few days and then they settle after that.*

During a 2004 visit, CAMHS worked with schools to deliver formal training with school students and staff on how to recognise and respond to sexualised behaviour. CAMHS told the Inquiry

*There was obviously some really full on sexualised behaviour happening from some of the kids towards the women ... A lot of the time we just spent with adults, like delivering a training package, talking with teachers afterwards - in lots of ways, debriefing people who were really distressed ...*

From the evidence given by CAMHS, it appears they largely stumbled into the problem of child sexual abuse because their first visit coincided with the arrest of a number of men allegedly abusing boys.



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*Essentially a lot of the discussion was about people being really, really angry about why things hadn't happened more quickly and who was going to do the ongoing services, and how come the teachers weren't protected.*

Teaching staff also disclosed to CAMHS concerns about the sexualised behaviour of students in and out of the classroom.

*The teachers were telling lots of stories ... they didn't use specifics, but lots of sexualised stuff happening between the children ... They were talking about, you know, in play time the kids were sort of disappearing ... and engaging in sexualised behaviour between them. When you asked specifics about it, the people looked at you like you were creepy ... there was a lot of just, 'Rude stuff, okay?' you know, even from the teachers, who were very uncomfortable about it.*

CAMHS said in evidence that both boys and girls had inappropriately touched AEWs.

*Then there was quite overt sexualised stuff towards - particularly towards a couple of the AEWs that were attached - junior primary kind of classes. Even when you were there, you know, really obvious sort of touching of their breasts, trying to touch their, you know, groin to the women, and the women kind of saying, 'Don't know what to do.'*

CAMHS have now prioritised regular meetings with teachers. CAMHS staff try to encourage students to trust teachers with any information on sexual abuse.

*... we do know that if the teachers are empowered, then they can provide some intervention for the kids and that will make*

*them go back to the teachers for the same reason. After all, we may go back in six, seven weeks, and they don't have anyone else to support them.*

Several AEWs also provided information to the Inquiry; about communities struggling to look after children, violence and the availability of alcohol and marijuana. One said that the

*... children are sad. If that child is not being looked after and it goes on and stays with someone else, then that's where the trouble is. Mother and father's gone, and when someone else tries to look after that child, they can tend to pass that child on too, and that's when that child gets abused, when it's going from house to house, don't know where it's sleeping the next night and the next night, and that's when they can get abused.*

Another teacher described that there were many negative feelings within communities on the Lands.

*The child abuse might be the thing that grabs people's attention as being an horrific thing, and okay, that might get something happening, but at the end of the day that's just symptomatic, as is the hearing loss, as are a hundred other factors we can talk about, of this underlying absolute malaise, where I believe people feel absolutely hopeless. They have views that the whitefellas can do everything and that they can't do anything. The kids have got no confidence in the communities. Adults haven't got any confidence. All this stuff is happening about them, and people are saying, 'Well, why aren't you doing something about it?' They don't think they can. I think it's that simple.*



## Mandatory reporting

Education workers play a key part in bringing child sexual abuse concerns to the attention of Families SA. As mentioned earlier in this report, education workers are required by section 11 of the *Children's Protection Act* to report to Families SA a suspicion formed at work, on reasonable grounds, that a child has been sexually abused.

There were, however, several allegations brought to the attention of the Inquiry by education professionals that they had not previously reported to Families SA.

One of the reasons given by education professionals for not reporting is uncertainty that a child has been abused. This is particularly the case when a teacher's suspicion is raised as a result of the child's sexualised behaviour. However, what is to be reported is the suspicion; a mental state of certainty is not required.

## Difficulty in interpreting behaviour

Teachers and school counsellors frequently reported difficulties and frustrations concerning interpreting sexualised and other disruptive behaviours in class. The following example from a counsellor illustrates the type of behaviour and the counsellor's conclusions of what is signified.

*She was displaying various behaviours. She found it really hard to concentrate; she was very agitated, like, couldn't just sit and do her work. She got teased a lot by the other kids. She would draw a lot of sexual pictures. She would get scissors and just be cutting pencils and then try to cut herself. She'd just display all these kind of different things that were just warning bells, alarm bells.*

*I thought that she had been interfered with, sexually abused ... Kids can draw sexual*

*pictures, but she was drawing them all the time, and just trying to hurt herself and just not settled and couldn't focus.*

Interpreting and responding to this child's behaviour was more challenging given that the child most likely had an intellectual disability. The counsellor, through a discussion about the child's sexualised behaviour with the family, discovered the intellectual disability.

*When I tried to talk to the family, they just said that she fell off a building and she's just 'no good in the head', and they just put it down to that. They wouldn't talk about anything except for that.*

Despite these concerns, the teacher did not report the matter.

As is mentioned in Part II, Chapter 2, expert evidence before the Inquiry indicates that sexualised behaviour may indicate only neglect and lack of parental sanctions about sexual play or sexual interest. What must be kept in mind is that persons making a notification to Families SA are reporting a suspicion of child sexual abuse, not a conclusion that such abuse has occurred.

One education professional told the Inquiry of her prevarication in making a mandatory report because she felt for the safety of the young girl concerned.

*It took me three days - and it's probably terrible - to notify, because she just expressed such fear to me about his family also beating her up, but also him getting beaten up by her family. And even though she knew - she didn't want to have sex, she didn't want to do anything with this fellow - that she knew that the outcry that it would cause would be a big violent outbreak on the lands... I rang up one of the managers ... and I said, 'Look, this is*

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*what's come out of it,' and he said, 'Well, what are you waiting for? That's your job,' you know. 'I'll make it clear for you: that is your job, you need to do it,' and it was as clear as water once he said that. You know, I really did need to notify, but I was frightened to because I knew that, yes, possibly it would have effects for her. I wasn't worried about the bloke.*

This evidence illustrates the statutory role of the notifier pursuant to section 11 of the CP Act. It is the suspicion which must be notified. The consequences are for Families SA, not the notifier.

Other information received indicates that some teachers would gather together to discuss their concerns as a group. One senior staff member would then make the mandatory report, rather than the relevant staff member, so as to reduce the potential for negative feedback within the school environment.

*Because of the way we work and because we've got so many people with so many issues and all that sort of stuff, our system is that, if people have concerns, they will talk with their team leader or they will come directly to me and then - we will always notify, but it's usually myself who actually does that as opposed to the person concerned.*

After being frustrated by the amount of time that was required to lodge a report, one school adopted a unique approach when reporting suspected abuse.

*So I think one of the things we discussed is actually pooling together at staff meetings, saying, 'Who are the kids that we've got concerns about?' and me as the school counsellor ringing up and saying, 'These are children that we've got concerns of'.*

Some other teachers also admitted to not adhering to DECS protocols by not reporting immediately, or not reporting at all. There were some issues detailed by AEWs, who were also concerned about reporting suspected abuse. It was reported that AEWs often notice subtle changes to a child's behaviour or are able to communicate with children in their own language, which may encourage a child at risk to disclose incidents of abuse. However, AEWs were also put under extreme pressure from the community and family members, which resulted in some suspicions of abuse not being reported, due to fear of reprisals.

### Fear of repercussions

Other AEWs were also concerned about what would happen once a report of suspected abuse was made.

*I think that they're really, really scared of repercussions, and just the way the Welfare just come in, and often ask the person who reported it things. I think for them it's very difficult to be able to report ... that somehow it will get out that they're the ones that disclosed, and so there'll be payback.*

One education professional said of the welfare system in place at the time

*... staff said to me, 'We don't even want to talk to [welfare] any more, because we do all of this mandatory reporting and nothing happens.'*

*In my perception, there'd been no response, and in the teachers' perception there had been no response. Whether they'd actually been doing stuff behind the scenes - I understand the whole stuff around confidentiality and they're not at liberty to tell us those things.*

On maintaining the confidentiality of the mandated notifier '... it was either the school or the clinic. It's not rocket science to work out'.

However, the educational professional acknowledged that it was critical for staff to adhere to mandatory reporting protocols, regardless of repercussions: '... if you've got any doubts, make a report. Don't sit on your hands'.

Another teacher also expressed concerns about mandatory reporting within such small communities. She believes she was identified as the 'reporter' with Aboriginal families, which placed her

*... professionally in terms of my safety in the community because, of course, if I'm making these reports about her daughter, then that puts me in an interesting position.*

One educator said that, during staff training on mandatory reporting and discussions over reporting suspicions of sexual abuse, she noticed that Aboriginal staff and AEWs were nervous about telling senior departmental staff or police, due to threats of violence.

*I said to them, quite directly, 'So what you are saying to me is that if you tell, that you might be speared?' You know, 'You might be hurt?' Then they said, (Aboriginal dialect) 'Yes.' I asked them, very clearly, the question, 'So you would be afraid that you would be hurt?' 'Yes' was their answer. Then somebody said, 'I'd be afraid for my family. They might get speared.'*

This evidence reinforces the need for a permanent police presence in each community on the Lands to ensure safety of notifiers as well as other people and also that there must be co-operation between all agencies on the Lands. A teacher who has concerns about safety should be able to inform police of those concerns.

Some witnesses told the Inquiry that children sometimes did not fully understand the ramifications of mandatory reporting.

*I notified, and I explained ... what mandatory notification was in very simple terms and said to her that, if she continues to tell me, I'm going to have to tell somebody to help her. Not that we wanted, you know, any trouble for her - we just needed to make sure that she's going to be safe - and she said, 'That's fine,' because she was in one of her states when I said that to her, and she said, 'That's fine, you can tell whoever you fucking like, I'm not going to say nothing to anyone.'*

And I tried and tried to say to her this was for her benefit, and she saw it as a mistrust thing, I think, from that day on. She saw it as me going against her in a fashion.

Other witnesses said it was difficult for people working on the Lands to respond quickly, particularly when family pressures and kinship problems were involved. Some believe that a specially trained unit of counsellors should be formed to help deal with emergency situations instantly, to help identify particular issues surrounding children at risk and help children directly involved in dangerous situations.

*Both our police and particularly in our schools, I think we need to see this as an elite core of people who are doing a very difficult job in difficult environments a long way away from everybody else they know and care about. We should be studying the problems of why kids don't go to schools, why they're not working effectively to change the social situations that cause all these symptoms.*

The Inquiry also heard that a 'safe house' should be set up to protect children at risk, such as those

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already operating in the Northern Territory, and identified in the *Little Children are Sacred* report in 2007.

*I think when we look at behaviour and we look at a lot of these mental health issues that arise in our kids in the teens ... wouldn't be surprised if that's issues from if something like that did happen to them and ... things might be playing on their mind for a long time ... and also some sort of safe house ... which identify that it's a safe place for children to go if their parents aren't in town or their parents have gone away drinking, whatever - that they should be able to find accommodation.*

Another health provider told the Inquiry it was critical to find new ways of helping victims of sexual abuse, and that safe houses – while difficult to run – may be a good option.

*I'm just trying to imagine how you would maintain staff and sustain a safe house in a community ... I know how incredibly difficult it is to sustain any sort of professional service on the lands of any kind.*

At a community meeting, several Anangu people discussed the option of safe houses, and their concerns about having appropriate staffing.

*You've got to get the right person in there to know who's, you know, like coming and going from the place because the husband might rock up and then - or she might - the wife might be on her way out or something and then the bloke gives her a hiding, you know, so you've got to be aware of who is working in that safe house.*

The establishment of safe houses for children who have been sexually abused raises the considerations which have been mentioned in this evidence.

The Inquiry received evidence from an Aboriginal woman who lived in a community for many years

with her own young children. Her home became an informal safe house for many children over the years.

Safe houses are essential for children who are being abused. They need to be able to escape the abuse and have a sanctuary from where support, counselling and treatment may be arranged. Adults, particularly women, also need safe houses to be safe from abuse.

A concern about safe houses is that the occupants will not be secure and safe from attack by abusers which is another reason for a permanent police presence in communities on the Lands.

Establishing safe houses is a priority. They need to be established in the communities after consideration by each of the main agencies providing services on the Lands and Anangu leaders in each community. They should be established as soon as the permanent police presence has been established in communities and where Families SA social workers are resident. They need to be staffed by suitable people, preferably Anangu, who have received appropriate training. AARD, with the assistance of DFC, must be adequately resourced.

Safe houses should not be used to accommodate Anangu adults and children on a permanent basis but only for as long as is necessary for arrangements to be made for their safety.

## Recommendation 33

**That AARD, with the assistance of DFC, establish safe houses for Anangu, particularly children who need short-term sanctuary from abuse, after consultation with Anangu leaders in communities, Families SA, Nganampa, DECS staff and SA Police.**

**That the State Government adequately resource the safe houses with suitable staff, services and facilities.**

### Response to mandatory notifications

The Inquiry was told of many incidents where staff of DECS were dissatisfied with the response of Families SA to a mandatory notification. Many believed that the system was too complicated and took too long. One former principal recalls making contact with Families SA expressing her concerns over a man who had a lot of contact with young boys. She believes nothing was done for many years. However, the man later pleaded guilty to a child sex offence. 'He had a lot of young boys staying at his house and that set off alarm bells, really'.

A former principal also expressed some concerns with the reporting system.

*I do recall being told, 'Well, without any evidence it's' - well, not - not worth investigating ... all the time I was out that way they were rarely seen.*

A health worker said there were many problems with the current system of mandatory reporting.

*You know, when you make reports, it doesn't make a difference. Mandatory reporting is fine, but if nobody is going to follow up or it's not going to be followed up adequately or whatever - and when it comes to child - you know, there have been one or two instances where we've reported concerns about child sexual abuse and a policeman has gone out to the house and said, you know, 'Have you been assaulted?' or however they ask that question, and they say, 'No,' and so they go away. The police say, 'Well, they're not disclosing. There's nothing more we can do about it.' All that has happened is that the child is now kind of thinking that nobody can help them. It makes things worse. It doesn't help.*

One experienced teacher also said it was vital the AEWs understood the importance of mandatory reporting and identify potential victims of sexual abuse, and

*... to look at the different types of abuse, and I would say neglect, and it's not deliberate; you know like because they were so good at looking after the kids, but it's just that now the kids have just - and they've got some issues themselves. They've grown up and they have their own problems and they just can't be a good parent to their kids.*

A principal also highlighted problems with mandatory reporting when it involved AEWs and their close links to families or local communities. One AEW said he would not make a mandatory report '... because people will get us'. The AEW is considered a strong person in the community, well educated and 'one of the chosen ones to carry on the culture'.

The principal said that an AEW is not prepared to stand up against the perpetrators although he is aware that sexual abuse is happening.

*He just feels threatened, and this is how they all feel.... You know, there are some powerful people in this community and even though he's a powerful young fellow, he's not, you know.*

A counsellor said some of the mandatory reporting processes with Families SA were

*... pretty frustrating ... all the years that I've been out there, that you make reports and often see nothing. They can just take ages to come and, even when they come, it's like they're sort of in and out.*

She said teachers and other professionals were very worried about being identified as the person who made a mandatory report.



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*When they do come, kind of really seek you out and come straight into the staff room, and it's just really not good. ...Not very tactful, they don't let you know when they're coming; they just kind of rock up. They just seek you out, they just ask you all this stuff, they expect you to show where the people live, explain all the gear, and you're just, 'Oh, my goodness.' ... I have very good relationships with the kids, with the community, but I also obviously have the legal obligation to report, and so if a particular family or person wanted to blame me, or found out that it was me that reported, I know that I could get kicked out of community.*

Another witness said

*... obviously legally we have to do it. But my own ethics and morals say that I have to do this, and if it means me getting kicked - like, chased out of the community, then that's what we'll do.*

An education professional said that she felt the reporting process was difficult and that some teachers had decided to not report their suspicions.

*You know it's all very clinical to me. It's like, 'Oh, yes, I'm in Adelaide and I get 600 of these a day. You're number 595. Do tell your story. Thank you for that. Goodbye. Yes, we've got that on a database now,' and it has actually got to the stage where a lot of teachers won't even bother reporting.*

*At staff meetings we discuss and we discuss and I say to them, 'You've got to keep reporting.' It doesn't matter how hopeless you feel with this or whether someone is not listening, it has got to be there, even if it's for - later on if something does happen to that kid, the data is there and we have reported, you*

*know, and maybe that will make it easier next time, so, 'Whoops, this was reported and we didn't do anything about it,' but there has to be something.*

Advances in technology could allow mandatory reports to be sent electronically, rather than teachers having to make a report over the phone

*... the problem that we find up here - or I find - is that there's not enough time in the day to do everything we need to do anyway, and mandatory reporting normally takes about 40 minutes to get through. And when you do get through, you normally get through to somebody who has no idea about what we're talking about, and gets really sidetracked by things like - you know, you might ring up and they'll say, 'Well, describe the child,' and you say, 'Well, they come to school naked,' and that horrifies them, when really that's not the issue. Like, here, that happens quite a lot. So you're talking to people who have absolutely no concept of the children and of the communities and things.*

This education expert also felt sorry for the staff receiving the mandatory reporting calls.

*I just think they're so understaffed, and I guess it's really a negative cycle because what happens is the less staff there are, the longer it is for us to get through, which makes it less likely that we report, which means they have less staff, and it goes like that because there doesn't seem to be the need for it when, in fact, there is a need.*

Many teachers also feared the 'payback' of mandatory reporting

*... not necessarily payback, but the consequences, the ramifications, of possible gossip in the community and the*



*consequential anger that is borne out of that gossip and, you know, the stories that are told, and often because of our visibility in the community and our accessibility, 24-7, then absolutely you're always mindful of what to say to who and when ... for your own safety. And that's bad because sometimes you're immobilised by that fear of repercussion, that you might not act correctly in order to actually assist that person in need.*

Following a particular mandatory report, and the subsequent arrest and removal of the perpetrator, many community members reacted angrily to school staff, who were seen as responsible.

Former teachers reported how their houses were pelted with rocks and some left the community in the interests of their own safety. As a result, many teachers, and AEWs, thought it was important that police numbers – both non-Aboriginal and Aboriginal officers – be increased on the Lands to better cope with child protection and safety issues.

*Yes, there should be policemen in the community. At the moment, when we ring to the office, wherever they're supposed to be, we ring there but they're not there. People at Port Augusta answer the phone.*

One community meeting at Iwantja (Indulkana) discussed the issue and concluded that a community constable would also be valuable asset.

*We're thinking about is police in every community; female and male police and community constable in each of the communities on the Lands.*

Serious issues are raised by this evidence and is mentioned in Part II, Chapter 1, mandatory reporting is an essential part of the child protection system in South Australia. Of equal importance is

that the child protection authority, DFC, through Families SA, responds appropriately to the notifications in a timely manner. A primary responsibility is to make children safe and then determine the best method of care in accordance with the principles set out in the CP Act which have been mentioned.

Failure to respond to notifications is as serious as failure to make notifications. The circumstances of the child are likely to remain unaltered, including where the child is the subject of sexual abuse.

It must immediately be recognised that responding appropriately to notifications about children on the Lands under present arrangements is difficult. The notifications are made to CARL in Adelaide. As is mentioned earlier in this report, Part IV, Chapter 1, if they involve suspicions of sexual abuse the Coober Pedy District Centre has the responsibility of a response. It is situated a long way from the Lands and only visits periodically. There is little possibility for a prompt or urgent investigation.

There should be a permanent presence of Families SA staff on the Lands who are qualified to receive notifications and make an immediate response by way of investigation and decision as to which action must be taken to ensure the safety of the child. That investigation can involve discussions with teachers, health professionals, police and Families SA staff elsewhere.

An immediate response will not only be in the interests of an abused child but will give the Anangu and the people who are required to make mandatory reports confidence in the system.

Also with such a presence of Families SA on the Lands the difficulties expressed by mandatory reporters in making the reports, should be resolved. The reports should be able to be made by telephone or, as recommended in Part IV,

Chapter 1, electronically. The Families SA staff should act on the reports promptly but also forward them to CARL for statistical and intelligence purposes.

DFC or Families SA should decide how many staff should be allocated to the Lands for this purpose, where they should live and what resources they would require. There should initially be two staff who could probably be located at Umuwa. They must be in addition to the Families SA staff who are to be placed at schools.

In cases involving reports about sexual abuse of children, no rejection of the notifier should be made without investigation. It is insufficient to merely report the allegations to SA Police, although that is important, because police cannot undertake the essential role of Families SA in child protection and safety.

The Inquiry does not make a recommendation that Families SA should inform the notifier of what action is being taken about a child who is the subject of the notification because it is aware of some problems which can arise by providing that information. However, it appears that the people closely concerned with the children, health professionals and teachers, should be aware of the outcome of investigations and what is happening to the children.

## Recommendation 34

**That Families SA place two social workers on the Lands to respond to mandatory notifications of suspected sexual abuse of Anangu children on the Lands.**

**That Families SA review any policy about whether mandatory notifiers should be informed of the action which is taken following the making of the report.**

## Staff health and retention

Teachers and education experts gave a considerable amount of evidence about the issues affecting school staff on the Lands. Teachers are often threatened with violence, spend considerable time acting as student counsellors and are also expected to carry out a 'parenting' role to their students.

A professional person with years of experience working with children on the Lands, said the Lands were among one of the most difficult places in Australia to work, and retaining both students and skilled teachers was almost impossible.

A counsellor told the Inquiry it was hard to retain teachers because there was not enough support from Families SA, and staff were often very stressed.

*Like I can see this kid at risk; I can see this kid in danger; I can see this kid behaving badly; I can see this kid not learning, and as educators we're trying to do a job and we can't do our job because other things aren't happening for this kid. How much can we pick up on? How much can we do? That's the reason the teachers don't stay in the Lands schools for long; three or four years and they can't handle it - it's burnout - because they're trying to pick up on - looking after everything, as well as teaching, because all these things impact on learning and, until they happen for this kid, the education program is not going to happen for him.*

Schools commonly reported that it was very difficult to find and retain staff. Some staff had been threatened with violence and had their houses vandalised by angry residents. One teacher said that an Aboriginal woman

*... threatened me at one stage in my very first few weeks of teaching - threatened to hit me with a nulla-nulla for not looking after her grandchild. So yes, I feared for my safety.*

These constant pressures on school staff, such as teachers, counsellors and AEWs, were heightened whenever there were sexual, behavioural or violent issues at school. There are times, such as when a mandatory report is made, which are especially stressful for staff, with many telling the Inquiry they had considered leaving the Lands.

One education professional said that in one instance, after police had arrested and charged a local man and taken him out of the community, '... we were just, like, outcasts. Nobody wanted anything to do with the school or with any of the teachers'.

Another staff member agreed it had been a difficult time for staff.

*People wouldn't speak to us on the street, so you'd walk past people who were your friends up until that moment, and they'd refuse to look at you or refuse to speak to you.*

However, after that offender was convicted, and the community came to understand the charges

*... in the whole journey, school actually ended up coming out of it with its credibility enhanced, and my personal credibility as well. People in the community knew that and they really appreciated it, and people who spoke poorly of me at the time in some of the public meetings and that, I don't think they'd admit it that they did it because time has proven me - you know, us at school to have been right in what we did.*

Instances such as this reinforced to the Inquiry that the issues of sexual abuse within close

communities had many flow-on effects. For school staff, many had to re-assess the way they interacted with children and take their '... self-protection and preservation seriously'. As one senior educator said

*We made a rule as a school that teachers didn't have kids in their houses full stop. The only exception is if they were in fact teachers, were parents and they had children of their own. It is fair and reasonable for kids to have kids around to play, but we made decisions around not having kids come to houses ... If kids come around, put them on the front verandah, the tables and chairs, and if they have a cool drink or biscuits or whatever, do it there so it's in public view.*

Teachers were also afraid of upsetting the community, particularly through being identified as the source of a mandatory report.

*Teachers are absolutely petrified. Their houses were stoned; they were threatened; community members wouldn't even look at them, let alone speak to them; no kids turned up to school. These people have lived here forever and, if we're causing what seems to be trouble for them, then of course they're going to want us out of here.*

One teacher also reported that more needed to be done to support on-going professional development of teachers and support staff to ensure they remain on the Lands for longer periods of time

*... to encourage people that are well trained, qualified and committed to stay for more than just a few weeks or a few months or a year or so. 'People who are prepared to come here for more than a year, I think need the kinds of incentives that make it reasonable'.*

One teacher also confirmed that staff retention, and lack of resources, was a constant issue on the Lands, but the situation had improved over recent years.

*People would come and be there for three months and then somebody would be ringing you up yet again to go over the same material because somebody new was in the job. Now, we have staff turnover, as well, but we don't have to re-invent the wheel every time someone new is here, and so one thing that has helped a little bit is trying to get that continuity. They've got people staying longer and they've got - you know, things tend not to get lost and have to be restarted every time.*

The Inquiry was informed that there is an Australia-wide confidential 24-hour, 7-day a week counselling service to assist DECS managers and staff.

A medical expert said teachers were often disenchanted because they felt they were not achieving good results.

*School attendance is appalling, even when it occurs - you know, it's not often because say teachers aren't trying to do the right thing, but we get a significant number of young kids just out of school who can't get - you know out of teacher training - can't get a job in the city, who come here for a year or two without a wealth of in-class training, without peers around them that they know and can trust and be supportive, and they come out here to work in the most difficult teaching environment in the country, and so many of them have major problems.*

He said there were many cases of staff having breakdowns or needing help with psychological stress, and that greater counselling should be in place for teaching staff.

*You know, there's no doubt this is a hard place to work. You know, I see horrific things. You know, I need to have debriefing periodically and I see a psychologist from time to time, just to work through some of the kind of horrific things that have happened so that it doesn't actually destroy me and that I don't burn out.*

One social worker said teachers became

*... really, really stressed people ... so many staff that are just really, really, really struggling. They hit the ground. They know nothing about anything to do with the lands. They either survive or they don't.*

Another social worker told of one teacher who was very traumatised by reports of child sexual abuse but was forced to wait

*... 12 months before anyone spoke to her... It took a long time before the Department actually went up there. I'm not sure if it was done well.*

Another teacher reported that constant pressure left her

*... very tired, exhausted, emotionally exhausted, very homesick. She had also considered resigning, saying she was a 'nervous wreck. I needed some assistance, I needed some ideas, some help, some strategies that I could use with these children to help them through what they were going through, which caused, yes, a bit of emotional stress.*

An experienced teacher said language difficulties also made it frustrating for teachers to be able to deal with allegations of abuse

*... even trying to get kids to talk about, 'What happened, what went wrong, why are you upset?' is really, really difficult, because ... you don't have that same language stuff.... if you want to disclose about being sexually*

*abused, or even being abused or you're emotionally upset, trying to work it through in your second language is just too difficult.*

A medical practitioner said retaining good teaching staff in Aboriginal communities was difficult, due to the cross-cultural environment as well as a lack of resources.

*I think that sometimes the best people haven't been sent there. I think there's a parallel in the school system as well in that teaching in a cross-cultural environment is incredibly difficult and yet often the most junior school teachers are sent. So in a way those system problems set people up to fail. It's very difficult to do the job. They're under-resourced, and so they just can't manage.*

The violence and threats, or fear of violence towards teachers and other school staff, is another very strong reason for the permanent presence of sworn police in all of the communities on the Lands. Such a presence and the need for safety in the communities is mentioned in the next chapter.

Clearly there is also the need to protect the health and enhance the well-being of the educators. As has been mentioned they work in very difficult circumstances and staff retention rates overall are said to be poor. The Inquiry accepts that primary health services are available to them through Nganampa, but other appropriate services such as counselling and mentoring must be available as needed. Teachers and other staff must have appropriate incentives to live, work and remain on the Lands. They should also have respite leave as is provided to some staff of other agencies such as SA Police.

The principals of the schools on the Lands should together consider and report to DECS as to what is needed to enhance recruitment of teaching staff and retention rates.

## Recommendation 35

**That appropriate health, mentoring and counselling services be established for teaching and other education staff resident on the Lands.**

**That DECS arrange and resource adequate respite for teachers and other school staff resident on the Lands.**

**That principals of the schools on the Lands consider and report to DECS as to what is needed to enhance recruitment of teaching staff and retention rates.**

# IV

## **Part IV Prevention and consequences**

### **Chapter 4 Administration of justice**



## Safety on the Lands

*...the community has got to get together and do something with the white police... and try and solve the problem; otherwise it's going to destroy family ties.*

### Senior Aboriginal man

*...the [Nganampa] Health Council's view is that policing and services ought to be in communities and you ought to be able to get the police after hours and if the sort of level of policing that we've got in communities here existed in Vacluse or in Malvern in Melbourne, there would be an outrage and it would last two minutes. So this is second-class policing for blackfellas that don't matter; ...which is not to comment on some individual police who work here at the moment*

### Senior executive of Nganampa

Many people involved in the care of children on the Lands fear for their safety and the safety of the children including parents, relatives and those involved in the provision of services. While consulting with residents of the Lands during the Inquiry's field trips, it was widely accepted that an increase in the police presence in the communities should make people safe and establish peace and order. Without safety on the Lands, no measures to protect children will be effective. As Nganampa told the Inquiry that 'without fundamentally lawful communities and policing resources to proactively maintain law and order, a social context that nurtures children and promotes healthy families and relationships cannot be sustained'.

This chapter sets out the existing police presence on the Lands, including police infrastructure. It briefly discusses relevant community and policing

strategies managed by South Australia Police (SA Police) for the communities. Next, there is mention of the child abuse investigations of SA Police on the Lands, including the method of investigation and a statistical summary of the child sex abuse allegations investigated and the apprehension of alleged perpetrators. The Inquiry has concluded that a very small number of allegations of child sexual abuse on the Lands has been made to SA Police given the high incidence of such abuse that is reasonably possible to have occurred.

Recommendations are made in respect of the need for more police stations to be established that have adequate and appropriate facilities to enable the investigation of allegations of sexual abuse of children on the Lands. Further, there are recommendations that the relevant police officers have clearly defined roles and that they receive specific training to equip them to work effectively in communities inhabited by Anangu people of the Western Desert.

Finally, this chapter considers the particular role of the criminal justice system on the Lands, including the place of restorative justice, and the appropriate methods to detain suspects on the Lands.

## The existing police presence

SA Police made an extensive submission to the Inquiry and evidence was received from police officers who have worked on the Lands. SA Police submitted that it seeks to create an environment within remote communities that recognises:

- safety and security underpins all the other services provided on the Lands
- the need to provide for the development and sustainability of communities by increasing the level of safety and security for people who live and work on the Lands

- that safety and security on the Lands equates to the proper and timely application of the laws of the land and maintenance of order
- that irrespective of distance and isolation, like all other communities, those within the Lands can rightfully expect a policing service of no lesser standard than that provided elsewhere in the State.

At the end of 2007 there were eight fully sworn police officers residing on the Lands on a permanent basis. There is a total of 25 police positions, including one administrative officer, allocated to the Lands and Marla. They are positioned as follows:

- four officers reside at Murputja who police Amata and the homelands to the west, Kalka and Pipalyatjara. Murputja is about 100 kilometres from Amata and about the same distance from Pipalyatjara
- four officers reside at Umuwa who police Pukatja (Ernabella) and Kaltjiti (Fregon). Umuwa is about 25 kilometres south of Pukatja and about 35 kilometres to the north of Kaltjiti
- six officers and the Administration Officer reside at Marla and they police Mintabie, a mining settlement about 30 kilometres to the west of Marla, Iwantja (Indulkana), about 50 kilometres to the north-west of Marla, and Mimili, about 115 kilometres to the north-west of Marla.

For some years SA Police has not required its members to reside permanently within communities. Murputja and Umuwa are not Anangu communities. In addition, there are 10 community constable positions only three of which are presently filled. They are positioned at Pipalyatjara, Amata and Pukatja (Ernabella). Another community constable is placed at Iwantja (Indulkana) but is absent due to injury and is unlikely to return to duties.

The Community Constable Scheme commenced in South Australia in October 1986 under the name of the Aboriginal Police Aid Scheme. Initially there were four community constables and the scheme expanded over the years to include Pipalyatjara and Mimili. According to the submission of SA Police, their role is to preserve the peace in communities by providing the first line of policing within the limitations provided to them, intervening in the early stages of incidents before they escalate, providing a presence in the communities and at gatherings and utilising problem solving approaches which take into account cultural factors including kinship obligations operating in any particular situation.

Community constables recently have experienced various problems on the Lands. The communities must have trust, faith and confidence in the constable and are to be consulted and provide nominations. A senior police officer told the Inquiry:

*The pressures on community constables are immense and most police going up there to work now have some idea, but they've got no idea of the totality of what the community constables come up against. That is part of the reason some of them have had breaks ... Certain obligations. It may well be that an uncle expects a community constable to take he and his family from one community to the next community utilising the police vehicle, and the community constable has to say no, because instructions have been issued. But the community constable has traditional obligations that he must obey, as a matter of customary law.*

At present there are no women who are community constables although there were some in past years. The Inquiry was informed that women now have no interest in being involved in the positions

for cultural reasons but some women are interested in policing as liaison officers. During this year SA Police will commence a trial using Anangu women in specific communities to act as liaison officers between community and police. They will be employed on a part time basis as Ancillary Service Officers and will not have police powers.

In 2004 the government established the APY Lands Task Force within the Department of the Premier and Cabinet (DPC) headed by the Executive Director, Aboriginal Affairs and Reconciliation. The Deputy Commissioner of Police was a member of the Task Force and one of the six strategies developed in a two-year plan was to increase safety in all communities on the Lands.

That Task Force has been subsumed into the Aboriginal Strategic Plan Task Force.

SA Police has been aware of the need for special conditions to attract police officers to work on the Lands due to:

- remoteness and harshness of the environment
- inability to separate employment from personal life
- absence of employment opportunities for partners
- absence of adequate educational facilities
- absence of adequate health services
- increased cost of living
- no career advantage
- inability to partake of alcohol in a social setting on the Lands.

The Inquiry was informed that the South Australia Police Enterprise Agreement 2007 includes special conditions of employment and incentives for sworn members of police working on the Lands, including significant financial and other benefits. The Inquiry

was informed that they have the approval of police serving on the Lands.

## Present SA Police infrastructure

### Police stations

The nearest 24 hour police station to the Lands is at Port Augusta. There are police facilities at Iwantja (Indulkana), Kaltjiti (Fregon), Mimili, Pipalyatjara, Amata and Pukatja (Ernabella) referred to as police stations that are basically a lined shed. There are no residential police officers at any of these facilities but SA Police owns a building at Amata, which it uses for overnight accommodation and offices when necessary. The facilities at Amata and Pukatja are to be replaced with larger facilities.

Recently the Commonwealth Government provided \$7.5 million to build police stations with residential accommodation and court facilities. It is envisaged that both buildings will be completed by mid-2009. Dwellings to accommodate two police officers will be included in each of these facilities.

### Custody facilities

The existing police facilities at the communities have cells that were constructed in the 1980s before the 1991 Royal Commission into Aboriginal Deaths in Custody. These cells were decommissioned in 2003. There are no cell facilities at Murputja or Umuwa. Following arrest it is necessary for persons in custody to be transferred immediately off the Lands to Marla where there is limited cell accommodation.

The new police stations at Amata and Pukatja (Ernabella) have been designed to include appropriate custodial facilities. It is a substantial distance by road to Amata and Pukatja from each of the other communities.

### Offices and administration

The Officer-in-Charge on the Lands and four other police officers use a dwelling at Umuwa for administration and office purposes. According to the SA Police submission, the size and layout of the building does not suit this purpose, particularly when the building is also used as residential accommodation for relief police officers.

SA Police is reviewing funding opportunities to provide office accommodation at both Umuwa and Murputja.

As is later mentioned, police facilities and personnel on the Lands are inadequate to provide basic safety and security for the communities and therefore do not contribute significantly to the prevention of sexual abuse of children.

### Community engagement

According to the submission, police officers on the Lands are charged with the responsibility of establishing positive relationships with each of the communities. It is expected they will visit the communities on a daily basis and, apart from usual police work, will have contact with community leaders. SA Police manages the following community and policing strategies for the communities.

- **PY Media Program**

Police are involved in a weekly media program broadcast throughout the Lands on local PY radio which gives advice and information on police related issues. An example of positive use of this initiative was advice to wear seat belts and warnings of detection and fines after a number of road accidents. This resulted in increased compliance in the wearing of seat belts.

- **Community Safety Committees**

These committees have been established in each community and are designed to encourage Anangu to work with police to find solutions to crime and disorder. Police officers are assigned to the communities. SA Police informed the Inquiry that they experience difficulty in organising community attendance and participation which, it is suggested by police, reflects 'individual apathy by those who should be seeking to improve community safety'. There may be many other reasons. It may take a long time for community members to develop confidence in themselves and the police to engage in discussions about such matters. Many Anangu have had dealings with police at a personal level that may impede that confidence. It is possible that community leaders may have difficulty in discussing matters that could relate to them, or other particular families. Some may fear being seen to be talking to police. However, it is likely that the reasons are not due to individual apathy. The experience of the Inquiry is that the many hundreds of Anangu who spoke to the Inquiry during the field trips do have a deep and genuine concern about the problems in their communities particularly those concerning the children.

- **Blue Light Discos**

SA Police has a Blue Light Disco trailer with appropriate equipment and there are regular and well attended discos throughout the Lands. On occasions SA Police has used those events to encourage community activity by requiring the production of a bag of litter as a condition of entry. Arrangements were made for Australian Football League Indigenous players to attend these events during a week in 2003. In 2006 members of an Aboriginal football team were

hosted at the Police Academy at Fort Largs during their participation at an AFL fixture in Adelaide.

#### • Bicycle Program

A bicycle program was introduced in 2005 within the community at Kaltjiti (Fregon) in partnership with that community and the school. The bicycles were provided by SA Police. The aim of the program was to reduce juvenile crime and truancy. Police officers built a bicycle track. According to the submission of SA Police the project was not sustained due to community apathy. Other information provided to the Inquiry suggests that there must be constant interaction between police and Anangu to ensure that the equipment is maintained and police must continue to be involved.

The police officers on the Lands are to be commended for those initiatives. Community outreach by police is essential in any community to develop positive relations between police and the community, including children, and particularly on the Lands where there is a high level of dysfunction, lack of safety and disorder in the communities.

There are added difficulties for police on the Lands as they do not live in the communities and are possibly seen as remote and primarily concerned with enforcing the law. However, the Inquiry commends this type of activity which may expand and become considerably more effective when police officers are resident in the communities.

#### Night Patrols

In 2004 SA Police was requested by the Department of Families and Communities (DFC) to seek funding for night patrols from the APY Lands Task Force. The Task Force approved funding to complement Commonwealth funding for night patrols in two communities.

SA Police developed night patrols in four communities: Iwantja (Indulkana), Mimili, Pukatja (Ernabella) and Amata. There were negotiations with community leaders, protocols were identified, training was organised and delivered, and resources secured.

The intention was to employ members of the community to patrol their communities at night, or in other times of need, to influence and manage behaviours that constituted a problem for the community, and afford protection to community members.

According to SA Police, all of the communities showed significant interest immediately but the program had little or no success. The Inquiry was informed that the reliability of community members to undertake the night patrols was questionable. Police officers did not go on the night patrols. Enthusiasm waned as the communities or individuals were not able to organise themselves. There was misuse of vehicles, which repeatedly were used for private purposes. One senior police officer said

*night patrols supposedly operated on the Lands for two years. The reality is that there was little evidence, none documented, which identifies any value that came to communities by reason of their existence.*

On 15 March 2006 Indigenous Affairs and Special Projects of the DPC convened a meeting of government agencies, State and Commonwealth, which were involved in the establishment, management and funding of the program. At that time the program was operating in a limited way in a few communities and not at all in the majority of them.

SA Police informed the Inquiry that it did not seek to remove itself from responsibility to make the programs work but expressed the view that the programs cannot work without the ongoing

commitment and participation of the communities but in any event there is a need for full time management. One senior officer said the patrols had '... some merit. However, I don't think it's a policing issue as such'.

The communities that received the funding did not apply for continuation of funding past the end of June 2006.

The Commonwealth Government withdrew from the program. On 13 April 2006 the DPC reconvened the meeting to consider the future of the night patrol program. It was decided to halt the program.

The Inquiry believes that properly managed and adequately resourced night patrols in communities would have a significant effect upon increasing safety and the protection of children. APY supports the reintroduction of 'good quality night patrols'. It is suggested that perhaps they would succeed with police presence during the patrols at least in the early stages. Education and training of participants is required. The role of the patrols needs to be defined. The participants would not have police powers personally but the observation of disruptive or illegal conduct could be reported to police. Police action could be immediate particularly in those communities with a permanent police presence.

Suitable people should instruct the participants in cultural matters that may be thought to impede the efficacy of night patrols. Sexual abuse of children was never acceptable to Anangu in traditional life and some instruction about this type of conduct and prevention could be valuable. Persons with cultural authority should be asked to support night patrols and assist in the participants' instruction and training.

## Recommendation 36

**That there be night patrols in each community on the Lands, initially in the presence of sworn police.**

**That people with cultural authority, sworn police and community professionals and residents assist in the training of people to participate in the patrols as is appropriate.**

### Drug Diversion Initiative

As has been mentioned, petrol sniffing and alcohol and drug abuse are major problems in Anangu communities. SA Police recognises these problems.

In February 2006, the SA Police Drug Diversion Initiative Reference Group, which includes the South Australian Department of Health, was informed that the Commonwealth Department of Health and Ageing was providing small amounts of money for one-off drug diversion projects that could not be used to extend or expand current projects. SA Police established three projects with this funding and after consultation, a sports-orientated approach was developed.

It was acknowledged that while petrol sniffing continued to be a problem in some communities, marijuana use was increasing. A message was developed to target both petrol sniffing and marijuana use by Anangu young people, which is displayed on footballs, netballs and frisbees. The message is: 'Say No to Petrol Sniffing'.

The effect of this strategy is not known to the Inquiry but it is a positive response to a serious issue on the Lands.



### Domestic violence intervention

According to SA Police, Operation Kungka, Pungkuntja Wiya (Don't Hit Women) is an ongoing domestic violence operation on the Lands. Police have close contact with the NPY Women's Council and Nganampa and attempt a positive and affirmative response to reports of domestic violence. NPY Women's Council provides support for victims.

There are obvious deficiencies caused by the lack of police resident in communities on the Lands, which usually prevents prompt response to allegations of domestic violence and immediate protection. The service provided by the NPY Women's Council is the only service to women. It is based at Alice Springs but is usually active on the Lands.

The Inquiry was informed of an episode where a young man walked around a community for several hours saying he was going to kill himself. 'His partner's sister got sick of it and chased him away throwing rocks at him'. The man subsequently committed suicide.

*What followed then was his family then went and beat up the women who chased him away with rocks and so she ended up in (hospital). The people who beat her up, two of those people got stabbed. This is a nice Sunday morning. There were police sitting 20 kilometres away; they flew in STAR force. A house got set alight and they tried to burn another building...STAR force Taser gun had the biggest effect that I had ever seen. Listening to the radio, the UHF, everyone from Pipalyatjara to Indulkana were talking about the Taser. ... That was the most significant*

*police thing the AP Lands has seen happen when they first saw the use of that.*

According to SA Police, there is an obstacle for police in the use of the criminal justice system as a response to the problem of domestic violence. There is an unwillingness on the part of victims to give evidence against perpetrators for cultural reasons or fear of reprisal. The latter reason is probably compounded by the lack of resident police officers in the communities. Charges are dismissed for want of evidence or reduced in seriousness to achieve a result.

Nevertheless, police continue to take action against alleged perpetrators, which reinforces to them the seriousness of such conduct and that support is offered to victims.

In May 2007, SA Police announced it intended to develop an additional investigation capacity focussed on child sexual abuse and child and family violence on the Lands. One family intervention officer has now been positioned at Murputja on the Lands, and a detective from SA Police will be allocated to the Lands during 2008. Another family intervention officer will be placed on the Lands. They will have expertise in obtaining information from Anangu. The detective will be stationed at Marla until accommodation is available on the Lands.

The evidence to the Inquiry does not suggest that this initiative will be effective without more facilities, which should be placed in each community and are mentioned later in this report.

### Restorative justice

The Centre for Restorative Justice (CRJ) is a division of the Offenders Aid and Rehabilitation Services SA Inc (OARS) and is described by OARS as a

*venture with key collaborators from the victims' movement with briefs and ideals that hope to bring a balanced approach with respect to the rights and needs of victims.*

A strategic partner is Victim Support Services.

The CRJ in its submission to the CISC Inquiry, defined restorative justice (RJ) as:

*a process that advocates that the people most effective at finding a solution to a problem are the people who are most directly affected by the problem, creating opportunities for those in a conflict to work together to understand, clarify, resolve the situation and work together towards repairing the person concerned.*

The CISC Inquiry Report discusses restorative justice and its wide use overseas, Chapter 4.1, p 433. That discussion need not be repeated in this report.

It is appropriate to mention that although the Inquiry did not receive evidence about the traditional way of Anangu resolving disputes, it appears from some information received that what are now referred to as restorative justice principles were probably used in the resolution of disputes in the traditional way. The Centre for Restorative Justice informed the Inquiry:

*It is recognised that Indigenous Australians are very well versed in the notions and practical implementation of restorative justice, as is the case in many First Nation communities around the world.*

It also expressed the view that general homelessness and disharmony are evident in

Indigenous communities where family violence, including sexual violence, and abuse associated with alcohol and illicit drugs are significant issues.

A member of the Aboriginal Legal Rights Movement Inc. (ALRM) told the Inquiry the current policing and judicial system was 'not satisfactory'. He said consideration should be given to restorative justice principles.

*It seems clear that for restorative justice principles to be successful, communities and community-based courts need lots of options and suitable facilities to enable their orders to be effective and to create the social space for restoration to take place.*

ALRM is of the view that to allow restorative justice, at least to some degree, in remote communities is consistent with the fundamental principles of equality before the law and by the principles underpinning the *Racial Discrimination Act (Cth) 1975*. He said that

*The existing dominant players who want to maintain their dominance in the system might need to adjust their perspectives and assumptions if a restorative system is to have any prospect of success.*

Also ALRM said a restorative justice system must recognise cultural difference is fundamental to the successful operation of courts and that includes cultural matters, including customary law and cultural context.

*Detailed consideration of circumstances of an offender and the offence in the presence of the offender's peers that can occur in such court, can make them effective in reducing the crime in Aboriginal communities because they allow for the settlement of disputes. They allow community members to be heard and to deal with issues that arise in the context of their culture and society.*

ALRM has developed a framework for the implementation of restorative justice in South Australian Indigenous communities, including the Lands, which is to be supported by CRJ. The Commonwealth Government is supporting the project.

APY submitted that the possibility should be explored as to using 'culturally trained "special juries" to act in a restorative justice mode in appropriate circumstances'.

It is clear that the criminal justice system, through SA Police and the courts, has not achieved safety and peace in the communities on the Lands. It is to be hoped that restorative justice, tailored to Anangu, will be successful.

The Inquiry does not suggest that a restorative justice approach is appropriate in all cases. It should be implemented to resolve some disputes in communities which are now passed into the criminal justice system, such as some cases of domestic violence and neighbourhood disputes. It may be appropriate in some cases of child sexual abuse depending upon the nature and cause of the abuse and the relationship between the participants. It may reduce participation of Anangu in the criminal justice system and facilitate sound relationships between them and police.

## Recommendation 37

**That a process of restorative justice for the resolution of disputes in communities on the Lands be developed, implemented and periodically assessed.**

## Child abuse investigations on the Lands

Over the past 20 years, SA Police has made considerable progress in responding to allegations of sexual crime against children throughout the State. An extensive intelligence system, with interstate and international connections, exists and is updated on a daily basis. Investigations of sex crimes are updated daily and undertaken by police officers who have undertaken extensive training; many have considerable experience. It is not appropriate, for police operational reasons, to reveal detail of the present approach of SA Police to allegations of sexual abuse of children. However, it can be said that the Sexual Crime Investigation Branch (SCIB) in Adelaide oversees every allegation made to police. SCIB decides if a particular case is to be investigated by the Local Service Area most geographically relevant to the persons involved, by the Paedophile Task Force (PTF) or the Child Exploitation Investigation Service (CEIS), which are part of SCIB and staffed by female and male police officers. All its officers have considerable training relevant to the investigation of cases of sexual abuse involving children. There has been extensive training of police involved in investigation of such allegations, including police at Local Service Areas. The Local Service Area that administers the Lands is at Port Augusta.

The Inquiry was informed of the records created and kept by SA Police when an allegation of sexual abuse of a child is made, and if an offence is disclosed, when it is investigated. The records that exist were available to the Inquiry and inspected.

According to SA Police, since the establishment of the existing records system the number of allegations investigated and the apprehension of alleged perpetrators relating to the Lands is as follows.

**Table 11: Actions and apprehensions**

Year	Actions issued	Number of apprehension reports (AP's)
2000	1	
2001	1	
2002	1	1
2003	4	
2004	15	
2005	17	3
2006	1	
2007	12	2

An apprehension report, is compiled when a person is arrested.

The average age of the victim in the cases where persons were apprehended is 13 years and the alleged victim knew the alleged offender in all offences.

The Inquiry investigated two cases of alleged sexual abuse in each of 2000 and 2001 and established that SA Police had been informed of these cases but appropriate records were only made with respect to one of them. They are all cases with significant evidence as to the nature of the abuse and the likely perpetrators. One girl was aged 13 years and was pregnant. Another girl was aged 10 years and had severe injuries, including a tear in her anus. No records were compiled for either of these cases.

In the latter case, Northern Territory police took a statement from the girl's mother. A copy of the mother's statement was faxed to the Coober Pedy Police Station, which statement the Inquiry has read. Coober Pedy Criminal Investigation Branch then faxed a copy of the mother's statement to the Coober Pedy welfare office. It appears SA police did not raise a police incident report and a most serious crime was not investigated.

In answer to the Inquiry's investigations, SA Police advised that: 'It appears that for some reason no Police Incident Report was raised regarding this matter, which is contrary to normal SA Police procedure.'

In 2001 two records were compiled by SA Police but only one is shown in the table.

The Inquiry received information that records are not made by SA Police in all cases of alleged sexual abuse on the Lands that they are notified of.

Time has not permitted such an extensive investigation by the Inquiry into the other years mentioned in the table and it is not known if the information accurately represents the number of cases referred to SA Police.

It is essential that all allegations of child sexual abuse on the Lands made to SA Police should be accurately recorded and notified to SCIB for both operational and intelligence reasons. That information should include the names of the alleged victim and perpetrator, the date, place and nature of the alleged abuse, any corroborating or confirming evidence and the action taken.

That information is required to enable SA Police to make operational decisions and plan for protection of the communities on the Lands. It will also enable the identification of problem locations and persons, which will assist in child protection.

## Recommendation 38

**That all allegations of sexual abuse of children on the Lands, including the names and identifying particulars of alleged victims and perpetrators, the date, place and nature of the alleged abuse, any corroborating or confirming evidence and action taken, be accurately recorded.**

**That all such information be provided to the Sexual Crime Investigation Branch of SA Police.**

The Inquiry was informed of four cases where charges of sex offences involving children were laid and proceeded to court. In one case a person was charged with two counts of indecent assault and was found guilty of two counts of gross indecency and was sentenced to imprisonment for 12 months with sentence suspended. Two other cases involve sexual offences against boys and have not been completed. Another case involved six charges of procuring an act of gross indecency, which were dismissed for want of prosecution, but the alleged offender is facing another charge. The remaining case involved two charges of rape and unlawful sexual intercourse and there was a finding of no case to answer.

It may be seen that there have been a very small number of allegations of child sexual abuse on the Lands made to SA Police since 2000 given the high incidence of such abuse that the Inquiry has found is reasonably possible to exist.

### **Police method of investigation**

The Inquiry was informed that although usually the responsibility for the investigation of allegations of child sexual abuse on the Lands rests with the Local Service Area at Port Augusta, investigations are often made by a detective based at Coober Pedy with support from detectives based at Port Augusta and SCIB.

The method of investigation undertaken by SA Police of allegations of child sexual abuse has depended upon a variety of matters. In the cases where the police at Coober Pedy have undertaken the investigation, there is usually discussion with Families SA. If a victim is at present or imminent risk, a police patrol on the Lands is asked to assist. If there is not immediate risk of harm to any person, police or Families SA attend and make an assessment.

If a medical assessment or examination is required as part of the investigation, a nurse in a community clinic, or a medical practitioner resident on the Lands, is asked to assist as is appropriate. In some cases involving young children the Child Protection Services at the Women's and Children's Hospital (CPS WCH) or the Alice Springs Hospital are used. Usually travel is organised by Families SA, Nganampa or SA Police.

According to the submission of SA Police, interviews of children are undertaken by trained women police officers on the Lands or at Coober Pedy, or CPS WCH or police in Adelaide or the Northern Territory. Isolation and distance are significant problems for police in conducting investigations. It is anticipated that investigation processes will be improved with the increase in police resources.

According to SA Police, SCIB has provided assistance in one way or another regarding 14 reported incidents of child sexual abuse on the Lands since late 2004 and on six other occasions when offences were not detected. Assistance was also provided on one occasion for a criminal investigation.

The Inquiry received evidence from a PTF police officer who was involved in the investigation of an allegation of the sexual abuse of a young girl in a community on the Lands and also from a senior prosecutor from the Office of the Director of Public Prosecutions (ODPP) who was involved in other cases. The prosecution explained difficulties in the preparation of cases for trial and the presentation of evidence at trial. It is not appropriate to mention this evidence in any detail because it is not known if police investigations have been completed or the cases where charges were laid have been finalised.

# IV

## Part IV Prevention and consequences

However, the evidence of these witnesses establishes some concerns. There is a need for a reliable interpreting service on the Lands to be available during police investigations, about which more will be said later. A permanent police presence in as many communities as possible is required to ensure the safety of victims and their families on the Lands. There is a need for investigations to be carried out promptly and effectively without undue delay and with the availability of support for victims and the necessary forensic services.

There is substantial under-reporting of child sexual abuse on the Lands and the present police facilities and personnel are inadequate to effect the necessary positive change, regardless of the calibre of the police personnel.

The first measure that must be implemented on the Lands to prevent sexual abuse of children is achieving safety in the communities. A considerable body of evidence and information to the Inquiry establishes that many people, particularly women and children, but also some men, have genuine fear for their safety. This fear includes what will happen to people and their families if they make disclosure of serious criminal conduct against others.

A senior official of DFC told the Inquiry

*I think law and order is a major issue and I think people need to feel safe. Once, I think, they feel safe, they then feel they can come forward and disclose a range of things, not just sexual abuse and domestic violence; but corruption is an issue.*

The police presence on the Lands must be readily available to each of the communities. The remote services provided by the police stationed at Murputja and Umuwa cannot provide a prompt response.

### New police stations

An Anangu man told the Inquiry that there should be police living in a community on the Lands.

*People who commit child sexual abuse should be punished. They cannot stay in the community. The community has to get together and do something with the white police. The community council must get stronger.*

A health professional with extensive experience on the Lands favoured a permanent police presence in all of the major communities. He said that nobody else in Australia has had to cope with inadequate policing or lack of policing that had occurred for many years on the Lands. In the past when police lived in the community there was a drop in the incidence of violence. This witness observed that the police at present resident on the Lands are at Umuwa and Murputja, 'which are quite nice places and where there are no problems. They're not actually in the community where I think they should be'.

The community council at Amata, in a meeting with the Commissioner and Mr Collett, expressed the desire for police to be resident in their community.

There must be a permanent and widespread presence of police in the communities on the Lands. As has been mentioned new police stations with residential accommodation for police and their families are to be built at Pukatja (Ernabella) and Amata. Those facilities are greatly needed but they will not provide an immediate police presence to the other communities and most of the area of the Lands.

Ideally, there should be a permanent police presence in all of the major communities with sufficient sworn police officers to provide safety. If the new police stations are only to be at Pukatja



(Ernabella) and Amata, the permanent police presence will be confined to the northern part of the Lands, namely at those locations and at Murputja and Umuwa which are not operational police stations. There will be no permanent police presence south of these locations, namely at Kaltjiti (Fregon), Mimili, and Iwantja (Indulkana). Also there cannot be a prompt police response to those communities or to the communities in the far west due to the distance police would have to travel. At the present time it appears unnecessary to establish separate police stations at both Pipalyatjara and Kalka as their populations are relatively small and the distance between them is 12 kilometres. If it is not economically feasible to establish a police station in each community, at the least another police station should be established at Mimili or Iwantja (Indulkana) as decided by SA Police on operational grounds so as to protect that other community and reduce the time of response by police to the communities closest to the community that is selected.

An AEW told the Inquiry that police on the Lands and community councils are not, 'doing the right job in the communities'. When their assistance is requested they do not arrive at the right place, or at all, on occasions. The police facility at Murputja is referred to by residents at one community as 'the Murputja holiday farm'. He said that the police should stay in the communities. People cannot ring through to them. They need to be able to contact the police and receive a quick response. He also said Anangu want more women to be police and community constables should be both women and men. APY submitted that appropriate numbers of experienced female officers at a range of age levels were required.

It is essential that the permanent police presence in the communities be established without further

delay. The Inquiry was informed that although a decision has been made to establish two police stations, as has been mentioned, construction has not commenced. Safety in the communities is essential. It cannot occur without the permanent police presence, which requires the building of police stations. They should be established as a matter of urgency.

## Recommendation 39

**That fully operational police stations with an adequate number of personnel be established at all of the main communities on the Lands, namely Pipalyatjara or Kalka, Amata, Pukatja (Ernabella), Kaltjiti (Fregon), Mimili and Iwantja (Indulkana).**

**In the alternative that police stations be established at Amata, Pukatja and either Mimili or Iwantja.**

**That the police stations be established as a matter of urgency.**

**That the safety of communities where there is not a police station with a permanent police presence be kept under review and such police stations be established as is required to maintain safety in the communities.**

Also, it is necessary that the police stations to be established have adequate and appropriate facilities to enable the investigation of allegations of sexual abuse of children on the Lands.

They must have secure buildings and perimeter to ensure the safety of the resident police officers and their families. There should be a separate residence for each police officer and his or her family so as to provide privacy and security of family life. There should be separate accommodation facilities within the precinct of

each police station for visiting police officers involved in investigative work, particularly of allegations of child sexual abuse, who may be from

the Northern Local Service Area, Coober Pedy, CEIS, or the Paedophile Task Force. It is to be expected that at two or three police officers may be involved in any particular case. Also there is a need for adequate facilities for people undertaking forensic examinations being members from CPS WCH or SA Police crime scene examiners.

The police stations should have adequate facilities for interviewing victims, witnesses and alleged perpetrators and the recording of interviews as is appropriate or required by law.

### Police officers

There must be adequate numbers of sworn police officers placed at the new police stations.

The Inquiry was informed that SA Police had proposed that there should be four sworn officers placed in each of the new police stations but that proposal had been rejected. It is now proposed that there only be two police officers in each of the new police stations.

A moment's reflection reveals that serious problems are likely to arise if the permanent police presence becomes effective and is limited to two sworn officers at each station. Arrests will be made and there will be the obligation to care for prisoners safely and adequately, even though in the short term.

Persons in custody will require frequent observation. All of the recommendations of the Royal Commission into Aboriginal Deaths in Custody must be observed regarding the safe keeping of people in custody. Obviously a person in custody cannot be left unattended. If there are

only two police officers at a police station whenever there is a person in custody, only one police officer will be available for operational work.

Persons in custody should not be transferred from a police station by only one police officer for a variety of obvious reasons. With only two police officers, during a transfer and return, the police station will be unattended and no operational work will be possible.

In circumstances of violence involving multiple offenders, not uncommon on the Lands, urgent action is required and two police officers will not be adequate.

With four police officers, there will be greater opportunity for community involvement which may assist operational work.

As has been mentioned, police officers on the Lands have attempted to engage young Anangu in activities and the wider communities in order to develop relationships that will facilitate police work in the community interest. Police officers who are to be the permanent police presence on the Lands should be selected not only for the usual reasons such as experience and ability, but also because of their suitability of personality and attitude. It is essential that good working relationships be established between the police officers and the members of the communities, but also with the children so they develop trust and confidence in them.

Mention has been made of initiatives of some police officers on the Lands to assist children and young persons and the abandonment of some activities due to apparent apathy of Anangu. It is to be hoped that activities will resume when there is a permanent police presence in communities and that police officers will not be discouraged by what happened in the past.

Also, it is essential that the police officers receive training to equip them to work effectively in the communities. That training should extend beyond cultural awareness training relevant to Aboriginal people generally, and to Anangu people of the Western Desert specifically. Suitable experts including Anangu, should design the content and nature of the training.

## Recommendation 40

**That at least four sworn police officers be placed in each of the new police stations to be established on the Lands.**

**That the police officers be selected not only because of experience and ability but also because of suitability of personality and attitude.**

**That all police officers positioned in the permanent placements on the Lands, or otherwise working on the Lands, undertake cultural training specifically designed to facilitate their working with Anangu people of the Western Desert.**

### Child sexual abuse - three types of police officers

Investigation of child sexual abuse cases often involves special difficulty. It is essential that investigating police are appropriately trained and resourced and have sufficient experience to overcome the difficulty. The problems are likely to be greater in the investigation of sexual abuse of Anangu children than the general population, due to language and cultural issues and the perception of lack of safety that has been mentioned. Cultural issues can involve consideration of gender. Will girls disclose to men or boys to women? Will Anangu women disclose to male police officers or Anangu men to female police officers? Is the gender of an interpreter significant?

There are three types of police officers who should be involved in cases of this nature. The role of the police officers in the communities should usually be restricted to the safety and security of the persons involved. Women wanting to make disclosures about their children should feel safe enough to do so. School teachers, health workers and Families SA staff should feel safe and be able to make disclosures as should children. Persons making disclosures, including family members, should be protected from retribution or payback by alleged perpetrators and their families. Alleged perpetrators must also be kept safe.

The permanent police in the communities need to always be sufficient in number and have adequate resources to keep the community and the persons involved in the investigation safe. In the usual course, they should not be involved in investigating cases of sexual abuse of children. Such investigation should be done by a second type of a police officer from the Northern Local Service Area, CEIS or the PTF who has undertaken a period of training, and has experience in the investigation of allegations of child sexual abuse. The Victim Management Service (VMS) of SCIB is comprised of police officers with expertise in interviewing victims of sexual offences who are aged over seven years. There is a risk of contamination of the evidence of victims if they are not interviewed appropriately. Members of the VMS should receive specialised training to interview Anangu children particularly with respect to cultural and language issues. Gender issues must be considered also when assigning a matter to police officers. The Inquiry was informed that many Anangu children suffer varying degrees of hearing loss and the training of police should include suitable methods of communication.

The third type of police officer is also a member of the Local Service Area, CEIS or PTF who should undertake other aspects of the investigation and where appropriate any interview and apprehension

of the alleged perpetrator. This type of police officer also should undertake special training and gender issues must also be considered.

These police officers should be flown to the relevant community on the Lands promptly after police have received the allegation so that the investigation is not compromised by delay and also to minimise interference with alleged victims and witnesses.

Appropriate police should undertake promptly other aspects of the investigation, such as evidence collection and medical examination. There must be suitable accommodation and other facilities for police officers at police stations on the Lands.

The need for specialised police to undertake this work is not based upon mere theory. Evidence received by the Inquiry revealed deficiencies in investigations of allegations of child sexual abuse on the Lands by police lacking the appropriate training, experience and expertise.

## Recommendation 41

**That whenever possible all allegations of child sexual abuse on the Lands be investigated by the Victim Management Service, Child Exploitation Investigation Service and Paedophile Task Force of SA Police, or the Far Northern Local Service Areas.**

**That members of SA Police required to investigate such allegations receive appropriate training regarding cultural, language and other communication matters concerning Anangu and sexual matters, and suitable techniques of investigation.**

## Interpreters

The criminal justice system has long been vexed by the lack of suitable interpreters in matters involving Aboriginal people and Anangu in particular. Interpreters with appropriate knowledge, skill, training and experience are required in numbers as a matter of urgency. Despite the information contained in the DPC report dated November 2007 referred to in Part III of this report regarding interpreting service, the Inquiry was informed that there are serious problems in the provision of interpreting services in the criminal justice system and generally. The problem is illustrated in a recent decision of the Supreme Court of South Australia.<sup>1</sup> Interpreters are needed before the criminal justice process begins. Correct interpreting is required when allegations of child sexual abuse are first made to non-Anangu, such as school teachers, health professionals and social workers or when indicators are first observed so as to avoid misunderstanding. They are needed at all stages of the criminal justice process, investigations by CPS WCH, the making of allegations and statements to police officers, the interviews with prosecutors, at court when giving evidence, and in discussions with a court companion. Interpreters also are required to assist in forensic examinations wherever they may occur and investigations by Families SA regarding child protection and safety.

Interpreters are required to assist the person against whom allegations of child sexual abuse are made, to properly understand the allegations and legal rights such as the right to silence and whether to exercise it. Interpreters are required when the accused is confronted by police, seeks

<sup>1</sup> *Police v Frank* [2007] SASC 418, which involved consideration of a man who pleaded guilty in the Magistrate's Court at Marla in May 2007. The Legal Services Commission represented him. No interpreter was present. The Full Court noted: Prior to sentencing the respondent the magistrate said that he would not deliver sentencing remarks as he was doubtful that the respondent would understand them. The magistrate continued: 'Frank, I am not sure how much of what I am going to say you understand. It is very unfortunate that we have not got an interpreter here this week who can assist you...' From the Magistrate's Court, the matter was appealed to a single judge of the Supreme Court. Relevantly, the single judge was of the view that the failure to afford the accused an interpreter in circumstances where he could not understand the proceedings rendered the proceedings unfair. The sentence of imprisonment was set aside and the man re-sentenced. The Crown sought permission to appeal to the Full Court. Permission was refused.

legal advice or representation. There must be separate interpreters for the court, the prosecution and the accused, including each accused if there is more than one accused.

Interpreters also will be required in a restorative justice process if it is to be effective in the resolution of disputes on the Lands.

Experts in interpreting language of traditional Aboriginal people, including Anangu, realise that often there are no words in Anangu language for the words or concepts used in English or vice versa. It is an acquired skill for the interpreter to ensure that the Aboriginal person understands what is being said in English and that the non-Aboriginal person understands what is being said in language. The interpreter also should appreciate cultural and gender issues when undertaking the role.

As a matter of urgency, training of suitable persons as interpreters should commence. There are reliable interpreters, both women and men, who can administer the training. The training also should include matters relating to the child protection and the criminal justice system and the capacity to interpret as required in situations involving health, welfare, local government, education of children including sex education. The training should be undertaken through an established tertiary education organisation such as TAFE and graduates should receive appropriate accreditation. As has been mentioned in Part III of this report interpreting courses are being established at TAFE on the Lands. However, suitable candidates at Port Augusta must not be excluded. There are extensive TAFE facilities, and a large Aboriginal population, including Anangu, in that city and there is extensive need for interpreters in the justice system in all parts of the State.

Consideration must be given to selecting Anangu to undertake the training. Young persons in secondary school on the Lands, Wiltja and

elsewhere, should be made aware of opportunities of training and also of employment and suitable students should be selected. Advice must be taken about cultural and language issues. Employment opportunities should be established for Anangu. The interpreting service should be available to courts and government and non-government agencies throughout the State.

## Recommendation 42

**That a training program for interpreters be developed by an established tertiary education organisation for Anangu and other persons with knowledge of Pitjantjatjara, Yankunytjatjara, Ngaanyatjarra and other languages used on the Lands as a matter of urgency.**

**That people undertaking the training also receive information about features of the child protection and the criminal justice system which are relevant to the role of interpreters.**

**That interpreters also be available to Families SA, DECS, Nganampa, ALRM and CRJ in the management and implementation of restorative justice on the Lands.**

## Companions

Victims of child sexual abuse can encounter difficulties in the criminal justice system.

One suggestion that may assist police and court processes is for an independent liaison person be available to help support victims when required. The person would be an extension of the current court companion system and could provide extra support in areas such as facilitating communications, understanding problems of victims, assisting people to stay involved, dealing with the financial issues and having some knowledge of how the court system operates '... someone who's not allied to any of the formal groups involved in the process'.

A suitable person from the NPY Women's Council has fulfilled this role on occasions and that council could appoint a person when required.

The Inquiry learned of one serious sexual assault case where the accused was aged in his 30s and the girl from the Lands was not yet a teenager. For various reasons, including delays in obtaining witness statements, an opinion from the ODPP and the non-attendance of the accused, the matter took about 2½ years to resolve in a guilty plea. A senior person from the NPY Women's Council, who provided a report in support of a vulnerable witness application to the court and 'ongoing liaison and support for the victim', expressed the view that

*Other factors that influenced the final outcome were the status of the accused's wife's family in [a community on the Lands], the victim's poor family support (both parents heavy drinkers who live [off the Lands]), the conflicting kinship loyalties toward both the accused and the victim by the victim's carer and the pressure on the victim and young female witness not to give evidence. The victim and witness were heavily pressured not to attend by the witness's mother who was also the carer of the victim at the time of the rape and in a ceremonial relationship to the accused.*

The Inquiry was told that due to the delay in the matter proceeding, there was time for 'the focus to turn from the safety and wellbeing of the victim to sympathies for the accused man and his wife and young child'.

The support person from the NPY Women's Council domestic violence unit, whose role also 'included persuading the victim, the witness and her mother

to attend court at Port Augusta after they had twice refused Coober Pedy CIB', told the Inquiry that 'the turning point in the case occurred when the accused sighted the victim and witness from the courthouse cells'.

*'Until then he was extremely confident that they would not appear. The accused then pleaded guilty'.*

## Recommendation 43

**That a liaison person be appointed in each case to assist alleged victims and witnesses with police and court processes, independent of police or prosecution.**

**That the NPY Women's Council be requested to make the appointment and that all reasonable costs should be paid by the State Government.**

In the CISC Inquiry Report, which relates to people who are, or were, children in State care, it is recommended that the *Children's Protection Act* be amended to add a function to the Guardian for Children and Young People (GCYP), namely to act as an advocate for a child or young person in State care who has made a disclosure of sexual abuse: See Recommendation 23 p. 420. It is also recommended that the chief executive of DFC or Commissioner of Police, notify the Guardian when a child or young person who is under the guardianship, or the custody of the Minister, makes an allegation of sexual abuse: See Recommendation 24. It was proposed that the Guardian could undertake a monitoring role of what happens to the allegations and what resources are needed and provided for the child or young person.



If those recommendations are adopted and implemented, the Guardian in that monitoring role would be entitled to information from courts, the ODPP and SA Police, as to the present position and progress of the matter. The Guardian could also assist children in State care in that way, but would not be able to assist other children, including Anangu, if they are not children in State care. If children and young persons on the Lands make allegations of sexual abuse and become children in State care, the Guardian can undertake that role. If they are not taken into State care and are the subject of only a family care meeting agreement, there is no one to undertake that monitoring role.

There are three solutions when a child or young person on the Lands makes an allegation of having been sexually abused or it is otherwise determined that the child has been sexually abused. The first is for the person to be taken into State care, which does not necessarily involve being removed from family and community. The Guardian could then undertake the monitoring role. The second is that the Children's Protection Act be amended to give that role to the Guardian even though the child or young person has not been taken into State care. The third is that the role be given to some other person or office.

It does not necessarily follow that a child or young person on the Lands should be taken into State care merely because the child has been sexually abused. There may be good reasons to the contrary such as care and support of family and community. Any intervention by Families SA could be resented, counter-productive and contrary to the interests of the child. It seems inappropriate at this stage to establish another person or office to undertake this monitoring role.

The Inquiry was informed that only a small number of Anangu children have been taken into State care. In cases where substantial assistance is required to protect Anangu children, Families SA has used Family Care Meeting Agreements. The CP Act provides for family care meetings and agreements for securing care and protection of a child. By this process arrangements can be made in appropriate circumstances for the care and protection of a child and the need to take the child into State care may be avoided.

Children who are the subject of these agreements do not come within the functions and powers of the Guardian which are set out in section 52C of the CP Act.

It is to be expected that Families SA will be involved with a child on the Lands who is alleged to have been sexually abused. That involvement may be through a Family Care Meeting Agreement. If so, the same monitoring role should be exercised by the Guardian as for a child in State care. It is not proposed at this stage by the Inquiry to include other children, but an extended role for the Guardian should be kept under consideration.

## Recommendation 44

**That the *Children's Protection Act* or regulations be amended to add a function of the Guardian for Children and Young People to act as an advocate of an Anangu child or young person who is not in State care but is the subject of a Family Care Meeting Agreement and who has made a disclosure of sexual abuse.**

**That in accordance with section 52B of the Act, the Guardian be provided with sufficient staff and resources to carry out this function.**

## Courts

There are two resident magistrates at Port Augusta who usually attend the Lands on circuit, as the South Australian Magistrates Court, on a rotational basis on eight occasions each year. Each circuit is usually for no more than one week. The court sits on the Lands at Pukatja (Ernabella), Mimili, Kaltjiti (Fregon), Iwantja (Indulkana), Amata and Pipalyatjara and in addition at Marla.

The facilities for the magistrate and court staff on the Lands are inadequate. There are no courthouses or suitable living or office accommodation for the magistrate and court staff at any of the communities on the Lands. They travel to and from communities by aircraft each day. However, these facilities have improved in recent years. There are transaction centres, or community halls, in each community, except Pukatja (Ernabella), which are adequate for the hearings. Hearings at Pukatja are conducted in inadequate office accommodation.

There is a need for urgent improvement of the facilities at Pukatja (Ernabella). A community hall is used at Marla where there is adequate office and residential accommodation.

A police prosecutor, usually from Port Augusta, attends each sitting. Lawyers from the Aboriginal Legal Rights Movement Inc. at Port Augusta, and the Legal Services Commission at Whyalla, attend the circuits. The prosecutor and lawyers experience considerable difficulties in the discharge of their work. Usually they can conduct interviews at each community only on the day of the sittings. There is little time for the disclosure of allegations by prosecutors and the negotiation of pleas of guilty on an informed and satisfactory basis.

There are no cells on the Lands to adequately accommodate persons on remand in custody, or sentenced to imprisonment. There are no facilities for interviewing witnesses and persons charged, or for trials, except at Marla and in the communities where there are transaction centres.

All concerned in the judicial system on the Lands have worked under extreme difficulties for many years, so much so that there is a real issue about the quality of justice in many cases. Are some cases under-prosecuted or under-defended in order to obtain a result in the allotted time? Is the sentencing process undertaken without the opportunity to provide all relevant information by prosecution and defence, and appropriate time for reflection by the magistrate? The justice system cannot operate effectively unless Anangu have confidence in it and are willing to participate effectively, particularly as witnesses.

Hopefully, if the proposed restorative justice processes are effective, fewer matters will proceed through the court and more time can be devoted to each case.

In all cases there must be adequate time and facilities for the taking of instructions, proofing witnesses, negotiations and preparation.

It is essential for the criminal justice system to work effectively and efficiently if the communities on the Lands are to be made safe and the courts are to be respected by Anangu.

The Inquiry was told of a recent court circuit to the Lands that resulted in the court being moved from one community 'because young fellows were getting angry with the decisions, or with someone being charged'.

*People know there is a little group of people who know they can actually outnumber the law now. You back off... They closed the court because they weren't feeling safe. It had never happened before because there would be police at the court case. ...That is not on. Do something about this. The message that was sent on that day was that the gang of ratbags can get rid of the cops and do whatever they want. That was the message that went all around the Lands.*

Also there must be adequate facilities in each community for the restorative justice process when it commences.

Over the next years, the State Government should consult with the Anangu leaders in the communities, the Courts Administration Authority, the Magistracy, the ODPP, SA Police, the Law Society of South Australia, ALRM, and the Legal Services Commission, to establish what services and facilities are required to enable the courts to operate effectively and efficiently on the Lands so as to improve community safety. It is understood consultations of this nature occur from time to time, but it is essential that with the new facilities which are to be established on the Lands by Government, the courts are consulted about what facilities are required.

The Inquiry has been informed that the new police stations to be built at Pukatja (Ernabella) and Amata will contain small courtrooms. Many years ago government separated court facilities from police stations and for good reasons. As recently as about 40 years ago courts of summary jurisdiction, as they were then described, were attached to police stations in Adelaide, the metropolitan area and in the country. When the separation occurred there could no longer be the perception that the courts were part of the police or that they were both part of the same organisation.

Magistrates and court staff have since been kept separate from SA Police premises.

It is disturbing to note that the old ways are to be introduced into the new facilities on the Lands. Anangu who may have had experiences with police and the criminal justice system, may see themselves as appearing before a police official in a police station. The perception of the separation of powers is fundamental to the justice system. The judiciary must not appear to be part of the police or any other agency of government, and particularly so in the criminal justice system.

The problem of adequate court facilities should not be resolved by mere expediency.

The relevance of this matter to the terms of reference of the Inquiry is in the context of measures to prevent sexual abuse of children on the Lands. An essential part of prevention is an effective and efficient criminal justice system which is perceived as such by Anangu and as truly independent of SA Police.

## Recommendation 45

**That during the next 12 months the State Government consult with the Courts Administration Authority and interested agencies, to establish what services and facilities are required to enable the courts to operate effectively and efficiently on the Lands and that all reasonable resources be provided for that purpose to enhance safety on the Lands.**

**That court facilities are not established as part of police stations on the Lands.**

In Part III, the *Consultative Draft National Indigenous Law and Justice Strategy* of the Attorney-General's Department of the Commonwealth Government, the four law and

# IV

## Part IV Prevention and consequences

justice aims and three programs funded by that Department are mentioned. These matters are of considerable importance in the administration of justice on the Lands.

### Corrections facility

As has been mentioned, the report of DPC in November 2007 states that a feasibility study has been undertaken into the development of a low-level security correctional facility on the Lands as an alternative to imprisonment for some categories of Aboriginal offenders on the Lands.

Investigation by the Inquiry established that the feasibility study was completed in September 2005 but there has not been a decision to establish such a facility. At this time it is not appropriate to make any adverse comment about the lack of such a facility. In view of dysfunction in communities on the Lands, violence, drug and alcohol abuse and issues of retribution and payback, it is difficult to see how any corrections facility could be of low-level security. Prisoners would have to be kept secure for the protection of the community as well as their own protection.

However, there is a need to establish a short-term facility for holding prisoners on the Lands once new police stations are established which have lockup facilities. Once prisoners are received in cells at a police station, there must be close supervision of them at all times to ensure their safety which will require the attention of resident police officers.

If the prisoner is to be kept in custody, usually on remand, it would be an onerous burden on the police to maintain the required degree of supervision resulting in the inability to attend to usual police work.

Transporting a prisoner from a police station off the Lands, at present to Marla, requires more than one police officer, which could leave the police station unattended.

The care of prisoners for longer than a brief period, such as overnight or during a day, requires the expertise of the Department for Corrections.

A facility should be established on the Lands adjacent to an all-weather airfield to which prisoners can be delivered by police and at which they can be adequately cared for by corrections officers suitably trained and experienced in caring for Aboriginal prisoners.

The Inquiry was informed that it would be financially cheaper to the Department for Corrections to have a contractual relationship with a provider of aircraft services to transport the prisoners to and from the corrections facility at Port Augusta than to keep them for substantial periods in a facility on the Lands.

SA Police uses aircraft services routinely on the Lands and that use is likely to become more extensive with the increase in the number of police resident on the Lands. Also, additional aircraft services will be required if there is an increase in the disclosure of sexual abuse of children which requires investigation by Families SA, SA Police and the CPS WCH. An increase in the number of staff of Families SA and DFC on the Lands will require additional aircraft services for regular respite leave for the staff.

Travel by aircraft is likely to reduce the risk of accidental injury to staff occurring through regular long distance travel by road.

## Recommendation 46

That a corrections facility be established on the Lands for prisoners on remand on a short-term basis.

That prisoners on remand for longer than short-term be removed from the Lands to the corrections facility at Port Augusta or elsewhere, as determined in the usual way by the Department for Corrections.

That the State Government arrange air travel for the removal of prisoners from the Lands and their return for court appearances.