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Our Ref: DCFD2015/2323
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Ms Megan Mitchell
National Children's Commissioner
Australian Human Rights Commission

Via email: kids@humanrights.gov.au

Dear Ms ~~Mitchell~~, *Megan*

**RE: SUBMISSION TO THE NATIONAL CHILDREN'S COMMISSIONER'S
EXAMINATION OF CHILDREN AFFECTED BY FAMILY AND
DOMESTIC VIOLENCE**

Thank you for your email of 30 June 2015, inviting me to attend an expert roundtable to be held in Darwin on 4 August 2015, exploring how family and domestic violence impacts on children, and to make a submission for the current examination of this topic.

I was pleased to participate in the roundtable on 4 August 2015, along with Ms Lesley Merrett, Senior Project Manager, Service Development and Policy Division.

Please find enclosed a non-confidential submission from the Northern Territory Department of Children and Families.

Yours sincerely

Anne Bradford

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Encl. Department of Children and Families submission



SUBMISSION TO THE NATIONAL CHILDREN'S COMMISSIONER'S EXAMINATION OF CHILDREN AFFECTED BY FAMILY AND DOMESTIC VIOLENCE

AUGUST 2015

Introduction

As the Northern Territory's statutory child protection agency, the Department of Children and Families welcomes the opportunity to provide a submission to assist the National Children's Commissioner's examination of children affected by family and domestic violence¹ across Australia.

The submission will firstly describe the Department of Children and Families, and aspects of its operating context in order to facilitate a comparison with other jurisdictions. The submission will then outline some issues relevant to children affected by family and domestic violence, with a focus on the cohort of children who come to the attention of the Department of Children and Families. It has been informed by the first-hand knowledge and practice experience of senior Department of Children and Families' frontline practitioners and managers.

Department of Children and Families

The Department of Children and Families is a statutory child protection agency providing a range of services focused on protecting Northern Territory children from harm. The Department undertakes child protection investigations and assessments, provides care to children through foster care and other out of home care services, and administers adoption and family and parenting support services.

The Department of Children and Families' primary role is to provide:

- services aimed at the protection and minimisation of harm to children, including receiving and investigating reports of abuse and neglect, and responding to ensure the safety of children;
- services to children in the care of the Chief Executive Officer. This includes placement and case management, as well as recruitment, assessment and support of carers to provide a range of placement options for children; and
- targeted support to vulnerable families, in urban and remote localities, to prevent their children entering the child protection system, and to assist them to improve the wellbeing of their children.

The Department delivers and funds services for the following clients and stakeholders:

- children and young people who have experienced harm or are at risk of abuse and neglect, and are unable to safely live with their parents;
- parents and primary carers who need support to provide safe care for children through coordinated access to family support, parenting services and respite services;
- foster and kinship carers and other service providers providing care and support to children in care;
- individuals (including children and adults) experiencing or escaping domestic and family violence;

¹ Family and Domestic Violence' will be used throughout this submission to align with terminology used by the National Children's Commissioner, however, the term 'Domestic and Family Violence' is used more commonly within the Northern Territory, in accordance with the *Domestic and Family Violence Act*.

- the non-government sector, who work with the Department of Children and Families in provision of services to the target groups above; and
- individuals and communities affected by disasters, who require disaster welfare recovery responses.

Legislative Context

As at 1 July 2015, the Department of Children and Families is responsible for the administration of the following Acts and Regulations:

- *Adoption of Children Act*;
- *Adoption of Children Regulations*;
- *Care and Protection of Children Act 2007 (except Part 3.3)*;
- *Care and Protection of Children (Placement Arrangement) Regulations*;
- *Care and Protection of Children (Screening) Regulations*; and
- *Care and Protection of Children (Mediation Conferences) Regulations*.

Examples of legislative reforms led by the Department of Children and Families and enacted since 2013 include:

- improved legal representation of children in Court;
- enhanced role of the Northern Territory Children's Commissioner, through the creation of a standalone Act (with responsibility for that Act now transferred to the Department of the Attorney-General and Justice);
- strengthened powers to respond to concerns in relation to children in the care of the Chief Executive Officer;
- extended powers for Police Officers to inspect a place to monitor the wellbeing of a child in care, and to apprehend a child in care;
- clarified provisions for an Authorised Officer or Police Officer to search a child for harmful substances or items that are believed may be used to harm themselves or someone else;
- introduced a Charter of Rights for children in the care of the Chief Executive Officer; and
- established Permanent Care Orders to provide stability for children on long term Protection Orders where all avenues for family reunification have been exhausted.

One notable and unique feature of the Northern Territory's legislative context for child protection is that the *Care and Protection of Children Act* and the *Domestic and Family Violence Act 2007* both include provisions for universal mandatory reporting² where vulnerable parties have been harmed, or are at risk of harm. The Northern Territory remains the only jurisdiction to have implemented mandatory reporting for family and domestic violence, with this provision in operation since March 2009.

Reports under the *Domestic and Family Violence Act* are made to the Northern Territory Police, while reports under the *Care and Protection of Children Act* can be made to either the Department of Children and Families or the Northern Territory Police.

² For their respective mandatory reporting provisions, see the *Care and Protection of Children Act* section 24 to section 30 and the *Domestic and Family Violence Act* section 124A to section 125. Both Acts are available online at: http://dcm.nt.gov.au/strong_service_delivery/supporting_government/current_northern_territory_legislation_database.

Northern Territory Government's Domestic and Family Violence Reduction Strategy 2014-17

Department of Children and Families' frontline practitioners suggest that an increased number of children may be coming to the attention of the statutory child protection system, due to community education campaigns about family violence and the introduction of family and domestic violence reporting provisions in 2009.

In September 2014, the Northern Territory Government launched the 'Domestic and Family Violence Reduction Strategy 2014-17: 'Safety is Everyone's Right'³, in conjunction with the Australian Government. The Safety is Everyone's Right Strategy aligns directly with the Northern Territory Government's 'Framing the Future' blueprint and the 'National Plan to Reduce Violence against Women and their Children 2010-22'.

The Safety is Everyone's Right Strategy aims to:

- increase the safety of victims and their children;
- reduce rates of intergenerational trauma caused by exposure to domestic and family violence;
- increase accountability of perpetrators; and
- establish integrated service delivery systems that are sustainable and adaptable.

As highlighted by the National Children's Commissioner, the National Plan to Reduce Violence against Women and their Children 2010-22 and the National Framework for Protecting Australia's Children 2009-20, promote more integrated and holistic responses to family and domestic violence and child abuse and neglect. This theme is strongly reflected in the Safety is Everyone's Right Strategy, which identifies eight 'critical points of intervention' across Northern Territory Government and non-government organisation services, with the intent of addressing the negative impact of service fragmentation on vulnerable children, adults, families and communities. In a practical sense, this translates into the aspiration that every contact between a family and domestic violence victim and a frontline worker should result in the victim receiving appropriate support, and where needed, a referral to a relevant organisation. Child protection is identified as one these critical intervention points. The Department of Children and Families is one of 10 Northern Territory Government agencies actively involved in developing and implementing the Safety is Everyone's Right Strategy.

As part of the implementation of the Safety is Everyone's Right Strategy, a review of the *Domestic and Family Violence Act* is currently underway in the Northern Territory. The Department of Children and Families' submission to the review of the *Domestic and Family Violence Act* noted that there is broad consistency between the objects of the *Care and Protection of Children Act* and the objects of the *Domestic and Family Violence Act 2007*⁴, and raised several issues for consideration where the Department of Children and Families believes there may be opportunities to strengthen the Northern Territory's response to family and domestic violence, particularly as it relates to children affected by family and domestic violence who come to the attention of the statutory child protection system.

³ An overview of the Safety is Everyone's Right Strategy can be found at <http://www.domesticviolence.nt.gov.au/>.

⁴ The objects of the *Care and Protection of Children Act* are defined at section 4 (a) as "...promoting the wellbeing of children, including to protect children from harm and to maximise the opportunities for children to achieve their full potential" and (b) "to assist families to achieve the object in paragraph (a)". The objects of the *Domestic and Family Violence Act* include as section 3 (1) (a) "to ensure the safety and protection of all persons, including children who experience or are exposed to domestic violence..."

Specialist Family and Domestic Violence Crisis Support and Accommodation Services in the Northern Territory

In addition to its role as the Northern Territory statutory child protection agency, the Department of Children and Families funds and operates specialist, non-statutory family and domestic violence crisis support and accommodation services (also known as safe houses, safe places, shelters or refuges) in urban and some remote localities across the Northern Territory.

The majority of services are designed for female victims of family and domestic violence and their accompanying children. One service is available specifically for female victims without children and one service is accessible to small family groups (female or male victims with children). Urban services can sometimes broker emergency accommodation for larger family groups, male family and domestic violence victims or older male children.

Some services were initially established and operated largely under the former national Supported Accommodation Assistance Program. These services continue to be operated by non-government organisations and receive their core operational funding under grant-funding arrangements through the Department of Children and Families.

Other services were established under the Northern Territory Emergency Response and have operated since 2009-10. These services receive core operational funding under the 'Stronger Futures in the Northern Territory' National Partnership Agreement, now known as the 'Northern Territory Remote Aboriginal Investment Strategy'. Of these, the majority of services are operated by the Department of Children and Families in remote localities, although four services (two remote and two urban) are operated by non-government organisations under grant funding arrangements through the Department of Children and Families.

A unique feature of the Northern Territory operating context for these services is that clients (or referrers) access the relevant service directly, unlike some other jurisdictions where a central triage system exists to coordinate family and domestic violence referrals and crisis accommodation vacancies⁵.

A further differentiating feature in the Northern Territory is that the location of its specialist family and domestic violence services is often well known by members of the broader community, particularly in remote locations. This contrasts with the strict confidentiality of locations enforced in other jurisdictions and often enables victims to 'self-refer' prior to a violent incident occurring.

Prevalence and Incidence of Family and Domestic Violence Affecting Children

The Northern Territory faces significant challenges in identifying and quantifying the impact of family and domestic violence on children as it presents in a statutory child protection setting. The data collected is limited and 'silos' exist between child protection and family and domestic violence services by virtue of their different objectives in legislation, and in operations.

Family and domestic violence is also likely to be under reported for a variety of reasons, including fear and shame on the part of victims. The Northern Territory's mandatory reporting obligations may also create a dilemma for adults and parents who are family and domestic violence victims, as they may fear that their children will be removed by the Department of Children and Families. A further issue that may inhibit the reporting violence to the Northern Territory Police or the Department of Children and Families is the fear of further violence or abuse from others in the community as 'payback'.

⁵ Note: Northern Territory Police is currently leading a trial of a centralised non-crisis referral system using SupportLink National Pty Ltd.

Some clients using family and domestic violence crisis accommodation services remain silent about the details of their stories, as they believe that in this way they are protecting themselves and their children as best they can.

Department of Children and Families' frontline practitioners have observed a growing cohort of young people experiencing violence within their relationships. Typically, they are teenage girls partnered by teenage boys or young men, and includes cases where the teenage girl is still technically a child and already has children of her own. The girls and their children may be the subject of child protection interventions. They may be 'self-placing', removing themselves from a child protection placement and relocating to another place of their own choosing, typically with their boyfriend and/or his family, which both reflects and reinforces inter-generational trauma related to family and domestic violence.

Contextual Factors which Influence Family and Domestic Violence and Child Protection in the Northern Territory

The experiences of Department of Children and Families' frontline practitioners in both statutory and non-statutory roles are consistent with research findings about the importance of understanding Aboriginal kinship systems⁶ in order to ensure effective and holistic service responses for Aboriginal children. An understanding of the importance of kinship systems is a critical factor in all child protection and family and domestic violence assessments and interventions, as any decisions made about family relationships will impact upon the wider family network. Department of Children and Families' frontline practitioners report that some women say it is safer to stay with a partner even if he is violent, because if they leave him and 'go it alone', they fear being vulnerable to abuse or attack from others in the community.

A number of historical factors influence individual and family decision making, service responses and outcomes for Aboriginal children in the Northern Territory, including:

- the forced removal of children from their parents and families (the Stolen Generations), with continuing fear of children being removed. These experiences are still within the living memory of many Aboriginal people and communities in the Northern Territory;
- 'mainstream' service systems' limited understanding of the role of kinship networks and the issues associated with the breakdown of traditional cultural protections, a potential causal factor in "lateral violence"⁷; and
- previous failures of public policy to implement responses to family and domestic violence that prioritise the safety of women and children, violence being treated as merely a habituated and 'traditional' cultural practice.

Gender is universally acknowledged as a key factor in family and domestic violence. It is predominantly females who are victims of family and domestic violence and predominantly males who use violence against their families or partners. This is also the case in the Northern Territory, however, use of violence by females against known or related males and other females is increasingly noted in cross-agency discussions.

Other factors generally known to be associated with high rates of family and domestic violence are relevant in the Northern Territory, including: low socio-economic status, isolation, rural and remote residency, English as a second or third language, a lack of schooling or early school leaving, unemployment, disability, early or forced first exposure to sexual activity, and early first pregnancy.

⁶ For example, see Fejo-King, C. (2013) Let's Talk Kinship: Innovating Australian social work education, theory, research and practice through Aboriginal knowledge; Christine Fejo-King Consulting.

⁷ Gooda, M. (2011) Social Justice Report 2011, Australian Human Rights Commission; Chapter 2.

Additional factors relevant to understanding how family and domestic violence affects children in the Northern Territory include: the experience of families with suicide, high drug, alcohol and substance abuse, high rates of incarceration (including juvenile detention), over-crowded or inappropriate housing, limited housing options, and the pervasive effects of racism.

The experiences of children living with family and domestic violence in the Northern Territory, as observed by Department of Children and Families' frontline practitioners and managers, mirror many of the typical features identified by researchers and practitioners across Australia and internationally, with some significant additional factors. The number of Aboriginal children in the Northern Territory impacted by family and domestic violence is significantly higher than in other areas of Australia. Up to 30 per cent of the general Northern Territory population identify as Aboriginal, but the proportion of Aboriginal children in the Northern Territory's child protection system is around 85 per cent. Northern Territory practitioners and service providers, in Central Australia and urban centres, estimate that up to 90 per cent of adult and child clients accessing specialist family and domestic violence services are Aboriginal. In remote areas, the percentage is more likely to be closer to 100 per cent where these services are present.

Child Protection and Family and Domestic Violence Issues in the Northern Territory

Anecdotally, Department of Children and Families' frontline practitioners consistently cite family and domestic violence as one of the most common features present when children, young people and families are brought to their attention, in addition to abuse of alcohol and other substances, and parental mental health issues. This is consistent with the experience of statutory child protection workers nationally and internationally.

Almost 45 per cent of notifications to the Department of Children and Families Central Intake Team in 2013-14 came from Northern Territory Police. Of these, 87 per cent concerned a family and domestic violence incident and 16 per cent concerned 'conflict in family'⁸.

A significant policy and practice dilemma arises for the Department of Children and Families and other service providers. An increasing number of young people are being defined simultaneously as both victims and perpetrators of family and domestic violence, within the child protection and youth justices systems, a significant number of young people in the Northern Territory are concurrently involved in both systems. New strategies and interventions are needed to address safety issues for this group of vulnerable children and young people, while concurrently ensuring that justice issues, rehabilitation, and the prevention of further violence, are addressed.

Research highlights the multiple and varied ways that children may be exposed to family and domestic violence⁹, the harmful short term and longer term impacts of family and domestic violence on children¹⁰, the high co-occurrence of child abuse and family and domestic violence in the same family^{11,12} and the critical importance of interventions that reduce 'inter-generational cycles of violence'¹³.

⁸ Data provided by Department of Children and Families Performance and Reporting Unit and current at 1 June 2015.

⁹ See K. Richards (2011) "Children's exposure to domestic violence in Australia" Australian Institute of Criminology: Trends and Issues in Crime and Criminal Justice accessed 26 May 2015 from <http://aic.gov.au/publications/current%20series/tandi/401-420/tandi419.htm>.

¹⁰ See Australian Domestic Violence Clearinghouse & University of New South Wales Report to the Benevolent Society (2011) "The Impact of Domestic Violence on Children: A Literature Review" accessed 26 May 2015 from <http://www.aFDVc.unsw.edu.au/documents/ImpactofDVonChildren.pdf>.

¹¹ See L.Laing (2003) "Domestic Violence in the Context of Child Abuse and Neglect", Australian Domestic and Family Violence Clearinghouse Topic Paper, accessed 26 May 2015 from http://www.madew.aFDVc.unsw.edu.au/PDF%20files/child_protection.pdf.

¹² See Australian Institute of Family Studies (2014) CFCA Resource Sheet, accessed 17 June 2015 from <https://aifs.gov.au/cfca/publications/who-abuses-children>.

¹³ Eriksson, L. & Mazerolle, P. (2015), "A Cycle of Violence? Examining Family-of-Origin Violence, Attitudes, and Intimate Partner Violence Perpetration", *Journal of Interpersonal Violence*, vol. 30: 6, pp. 945-964.

The Department of Children and Families also notes that while child abuse and family and domestic violence are both predominantly about violence and abuse within the family home, societal responses to these issues have developed independently. Community awareness, legislation, policies and practice, treatment and support programs have been developed separately, different organisations often tasked with the response to either child abuse or domestic violence, not an integrated response to both¹⁴.

There is broad consistency in the definitions of child, parent, relatives, family and relationships in Northern Territory legislation (though all terms do not appear in both the *Care and Protection of Children Act* and the *Domestic and Family Violence Act*). This is appropriate to ensure that the Acts are applicable across the complex family and kinship systems and structures that co-exist in the Northern Territory. However, in practice, the ‘silo-ing’ of child protection and family and domestic violence concerns continues, which could be addressed by more cross-referencing between the respective Acts.

The recognition of ‘cumulative harm’ from repeated exposure to family and domestic violence, as a concept within the *Care and Protection of Children Act*, is also considered critical to helping Department of Children and Families’ practitioners appropriately respond to the children and young people affected by family and domestic violence. In relation to non-legal definitions of family and domestic violence, acknowledging the concept of child abuse and neglect as one form of family and domestic violence or ‘relationship violence’¹⁵ could encourage more integrated policy development and service responses across the child protection and family and domestic violence sectors.

Overall, the Department of Children and Families is optimistic about the opportunity to begin addressing these legacy issues through cross-agency and cross-sector initiatives to develop a more integrated service system under the ‘Safety is Everyone’s Right’ strategy. A contemporary example is the extended roll-out to a range of Northern Territory locations of a multi-agency crisis management system for high risk family and domestic violence victims, the ‘Family Safety Framework’¹⁶, after an initial trial in Alice Springs. The evaluation of other elements of the ‘Integrated Response to Family Violence in Alice Springs’ project will continue to inform future policy and practice developments in the Northern Territory.

While Department of Children and Families’ practitioners see many negative impacts of family and domestic violence on children, it is possible that interventions may ultimately be more effective if they can be informed by a stronger evidence base about factors related to children’s resilience. Similarly, an increased focus on the strengths that families demonstrate in keeping their children safe, even when family and domestic violence occurs, could also inform a range of interventions that would be of benefit to children.

¹⁴ Queensland Department of Communities, Child Safety and Disability Services (2012) “Domestic and family violence and its relationship to child protection: practice paper”, p 4; accessed 26 May 2015 from <https://www.communities.qld.gov.au/resources/childdisability/practice-manual/prac-paper-domestic-violence.pdf>.

¹⁵ The concept of ‘relationship violence’ could serve as a counterpoint to violence actioned by strangers.

¹⁶ The Northern Territory’s “Family Safety Framework” was adapted and tailored for the Northern Territory with the permission and cooperation of the South Australian Government’s Office of Women’s Policy.