



**CHAPTER 1**  
**INTRODUCTION**

# CHAPTER 1

## Introduction

The Inquiry into the child protection system in the Northern Territory was announced by the then Minister for Child Protection, the Hon. Malarndirri McCarthy, on 11 November 2009. This was followed on 9 December 2009 by the formal appointment of the Board of Inquiry by the Chief Minister, the Hon. Paul Henderson. Professor Muriel Bamblett, Dr Howard Bath and Dr Rob Roseby were appointed as co-chairs of the Board of Inquiry, with any one member constituting a quorum.<sup>1</sup>

The Inquiry is established under the *Inquiries Act 1945* which defines the powers, protections and obligations of the Board of Inquiry, the protection of witnesses, evidence gathering processes, and reporting requirements.<sup>2</sup>

The Inquiry was commissioned in response to alleged failings of Northern Territory Families and Children (NTFC), a division of the Department of Health and Families (DHF or the Department). In the months prior to the announcement of the Inquiry a number of concerns had come to light, including allegations that the Department had failed to act following reports about the exposure of some infants to harm. In two cases it was alleged that infants had died as a result of the Department's inaction, whilst in another instance, an infant was seriously injured some weeks after a number of notifications had been made. Despite the Northern Territory Coroner's announcement that the deaths of the particular infants in question did not appear to be the result of physical abuse, public concern sharply increased. Concerns were highlighted in statements from professional associations, critical comments contained in the Children's Commissioner's annual report<sup>3</sup>, and in the proceedings of a Coroners' investigations into the deaths of two children under protection orders.<sup>4</sup> All highlight significant concerns about the functioning of the child protection system.

On 3 November 2009, the then Minister requested that the Children's Commissioner prepare a report under section 260(1)(e) of the *Care and Protection of Children Act 2007* (the *Act*) into the intake and response services of NTFC to be completed prior to Christmas that year. This action did not allay concerns about the child protection system expressed by professional associations, individuals and various politicians. Following a series of consultations, the Minister announced the present 'wide-ranging' inquiry.

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1 See biographical details in Appendix 1.1 and the Instrument of Appointment, 9 December 2009, Appendix 1.2.

2 As in force on 17 May 2007.

3 Children's Commissioner Northern Territory, 2009, *Annual report 2008-2009*. Office of the Children's Commissioner, Northern Territory Government, Darwin, <http://childrenscommissioner.nt.gov.au/publications/Annual%20Report%2008-09.pdf>.

4 G Cavanagh, 2010, *Inquest into the death of Kalib Peter Johnston-Borrett, NTMC 006*, Office of the NT Coroner, Darwin; ———, 2010, *Inquest into the death of Deborah Leanne Melville-Lothian, NTMC 007*, Office of the NT Coroner, Darwin.

## Terms of Reference

Terms of Reference (ToR) for this Inquiry were provided together with the Minister's public announcement on 11 November 2009.<sup>5</sup>

The purpose of the Inquiry is to review the child protection system and make recommendations which will substantially strengthen and improve the system to ensure it meets the needs of Northern Territory children.

Specifically, the Inquiry is to report and make recommendations on:

- the functioning of the current child protection system including the roles and responsibilities of Northern Territory Families and Children and other service providers involved in child protection
- specific approaches to address the needs of Territory children in the child protection system, including the delivery of child protection services in regional and remote areas as part of the development of *A Working Future*
- support systems and operational procedures for all workers engaged in child protection, in particular staff retention and training
- quality, sustainability and strategic directions of out of home care programs including support systems for foster parents, carers and families
- the interaction between government departments and agencies involved in child protection, care and safety and non-Government organisations and other groups involved in the protection, care and safety of children.

The Inquiry will consider and, where appropriate, incorporate:

- findings and recommendations arising from recent coronials and other recent investigations, reviews and inquiries into the functioning of the child protection system, and
- child protection issues and developments at the local, national and international level, and its implications for the Northern Territory.

In addition to the formal terms, the following two specifications were attached:

The Inquiry is encouraged to draw on the advice and expertise of existing Northern Territory Government advisory councils, as well as other subject matter experts within the broader community.

The Inquiry's consultation processes should be conducted publicly, unless people or organisations contributing to the Inquiry request that their contributions remain confidential.

In media comments during and after the formal announcement, both the Minister and the Chief Minister drew attention to the 'broad ranging' nature of the ToR and the Inquiry has likewise adopted a broad interpretation. This approach is particularly informed by

<sup>5</sup> M. McCarthy (Minister for Child Protection), 11 November 2009, *Child Protection Inquiry Announced*, media release, NT Government., See Appendix 1.3.

the statement in the ToR that the purpose of the Inquiry is to ‘review the child protection system and to make recommendations to strengthen and improve the system.’

The Inquiry is of the view that the child protection system is part of a broad agenda for child safety and wellbeing which involves much more than the components of and processes involved in the delivery of statutory child protection services by NTFC. In this report we have conceptualised the system for protecting children as a continuum of services and supports which range from the promotion of child wellbeing for all children, to the prevention of child abuse and neglect in targeted populations, through to investigative and therapeutic responses for children who have experienced abuse and neglect (including child protection and out of home care services). The Inquiry sees it as imperative that both the causes and the consequences of child abuse and neglect are addressed.

The child protection system incorporates roles of teachers, health staff, housing officers, the police, many non-government health and welfare-oriented organisations (NGOs), volunteer foster carers and, indeed, members of the wider community. It also includes the child wellbeing and protection services provided or funded by other levels of government. The system is more fully detailed in Chapter 3 of this Report.

Commonwealth agencies such as the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), the Department of Education, Employment and Workplace Relations (DEEWR), the Attorney General’s Department, and Centrelink, provide funding, training and direct interventions designed to assist and protect vulnerable children and families across the Northern Territory as part of, or in addition to, the Northern Territory Emergency Response (NTER).<sup>6</sup> Likewise, child safety and wellbeing measures, such as the provision of road safety signage, animal control measures, and recreation services undertaken by local government shires, are also part of the broader child protection system.

Finally, in addition to the formal system, informal child protection plays a significant role in the protection of children in the Northern Territory. In particular, there is the invaluable role played by countless grandmothers, ‘aunties’ and other relatives within the Aboriginal community, who take the initiative to protect and care for children in need.

Although the Inquiry has adopted a broad view of what constitutes the child protection system, drawing attention to the need for governments and others to address concerns at a number of levels, the specific recommendations arising from this Inquiry are, for practical reasons, focused on actions the Northern Territory Government and, to some extent, the Commonwealth Government can take on services for more vulnerable and at-risk children and families. A majority of the specific recommendations relate to the operations of NTFC.

The Inquiry has addressed its ToR fully, with responses generally carried in a number of chapters. For example, responses to point 5 of the ToR, regarding the interaction between government departments, non government organisations (NGOs) and other groups, are discussed throughout the report.

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6 NTER Review Board, 2008, *Northern Territory Emergency Response - Report of the NTER Review Board*, Commonwealth of Australia, Canberra.. NTER is commonly referred to as the ‘Intervention’.

## Broader context of the Inquiry

The Northern Territory Inquiry follows a recent series of similar inquiries in other jurisdictions. The Wood Inquiry in New South Wales (NSW)<sup>7</sup> covered much of the same ground as did the Victorian Ombudsman's two recent investigations into child protection and out-of-home care services in that state<sup>8</sup> as did, on a smaller scale, the Report of the Select Committee on Families in South Australia.<sup>9</sup> Issues addressed by these Inquiries/ investigations are very similar to those in this Report and, indeed, in numerous others in Australia and overseas in the past decade.

The work of Bob Lonne and colleagues compellingly shows that many of the current problems in child protection, and background events leading to Inquiries, are shared across states and even countries.<sup>10</sup> They note that:

The solutions proposed to the problems we face in our policies and practices for protecting children generally follow on the heels of public scandals, child deaths and... subsequent inquiries.<sup>11</sup>

They go on to warn that remarkably similar solutions are often offered by such inquiries but unless there is a fundamental paradigm shift in our understanding of what protecting children entails and in our approach to remediation, the same problems and failures will re-emerge. Their observations alert us to the fact that, although we are focused on issues and problems besetting the child protection system in the Northern Territory, many of these are related to broader systemic issues and problems that affect child protection systems wherever they are located.

Workforce issues are a case in point. It is clear from previous reports that workforce challenges underlie many of the practice problems in the Northern Territory.<sup>12</sup> Lonne and colleagues point out that workforce issues in child protection are endemic worldwide. They observe that:

there is compelling evidence that the level of staff turnover is so high as to make staffing the key organisational issue in child protection systems.<sup>13</sup>

There are many other inquiries and reports with particular relevance to the current Inquiry. A number make specific recommendations directly related to the provision of child protection services in the Northern Territory. The 'Bringing Them Home' report focused on the forced removal of Aboriginal children from their families, many of them in the Northern Territory<sup>14</sup>. 'Bringing them Home' was followed some time later by the widely heralded 'Report of the Northern Territory Board of Inquiry into the Protection of

7 J Wood, 2008, *Report of the Special Commission of Inquiry into child protection services in NSW*, State of NSW through the Special Commission of Inquiry into Child Protection Services in NSW, Sydney.

8 Ombudsman Victoria, 2010, *Own motion investigation into child protection - out of home care*, Ombudsman Victoria, Melbourne; ———, 2009, *Own motion investigation into the Department of Human Services Child Protection Program*, Victorian Ombudsman, Melbourne.

9 (Select Committee, 2009, *Report of the Select Committee on Families SA*, Parliament of South Australia, Adelaide.

10 B Lonne et al., 2009, *Reforming child protection*, Routledge, Abingdon, Oxford.

11 *ibid.*, p.8.

12 Children's Commissioner Northern Territory, *Annual report 2008-2009*; ———, 2010, *Interim progress report into Northern Territory Families and Children intake and response processes*, Office of the Children's Commissioner, Northern Territory Government, Darwin, p.27.

13 Lonne et al., *Reforming child protection*, p.68.

14 Human Rights and Equal Opportunity Commission (HREOC), 1997, *Bringing them home: National inquiry into the separation of of Aboriginal and Torres Strait Islander children from their families*, HREOC, Sydney.

Aboriginal Children from Sexual Abuse’<sup>15</sup> (known also as the ‘Little Children are Sacred Report’). That report had both a national and Territory-wide impact<sup>16</sup> and triggered the federal ‘Intervention’ (Northern Territory Emergency Response; NTER). In addition, various reports into the child protection system in the Northern Territory were undertaken by Dr Howard Bath, initially as a consultant and then as Children’s Commissioner.<sup>17</sup>

These reports reviewed the functions of different aspects of the system and recommended reform.

At a national level there have been recent initiatives that have direct relevance to this Inquiry. The NTER Review Board made a number of key recommendations regarding welfare reform and supporting families and this was followed by the official joint Northern Territory Government and Commonwealth response committing to continue the intervention programs to at least mid-2012.<sup>18</sup> In 2009, the Council of Australian Governments (COAG) published the landmark ‘National Framework for Protecting Australia’s Children’.<sup>19</sup> The framework was the first national initiative to address core child protection issues, followed closely by the development of a three-year action plan.<sup>20</sup>

The COAG initiative sets out a shared conceptual model for services and a set of national priorities and is significantly relevant to the reform of child protection services in the Northern Territory. Finally, as a component of the COAG action plan, the recently released draft national out-of-home care standards will have a direct bearing on the shape of Northern Territory services.<sup>21</sup>

## Approach and methodology

The Inquiry commenced the work of establishing a secretariat in December 2009, and formally opened its office in late January 2010. Professional staff were recruited to provide executive coordination, administrative support, child protection policy expertise, legal advice and assistance, media liaison, research skills and an investigative capacity. Specialist staff members were sought from within and outside of the Northern Territory and formal research links were established with nationally prominent institutions, such as the National Child Protection Clearing House at the Australian Institute of Family Studies and the Menzies School of Health Research in the Northern Territory. In addition to funding the activities of the Inquiry, the Department of Chief Minister provided practical support to establish the office, secretariat and information technology (IT) facilities.

15 Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, 2007, *Ampe Akelyernemane Meke Mekarle “Little Children are Sacred”*, report prepared by P Anderson & R Wild, Northern Territory Government, Darwin., (also known as the ‘Little Children are Sacred’ report).

16 NTER Review Board, *Report of the NTER Review Board*.

17 Northern Territory Department of Health and Community Services, 2007, *Northern Territory Community Services high risk audit: Executive summary & recommendations*, report prepared by H Bath, Northern Territory Government, Darwin; Children’s Commissioner Northern Territory, *Annual report 2008-2009*; ———, *Interim progress report into intake and response processes*.

18 Australian Government & Northern Territory Government, 2009, *Response to the Report of the NTER Review Board*, [http://www.fahcsia.gov.au/sa/indigenous/pubs/nter\\_reports/response\\_to\\_reportNTER/Documents/Aust\\_response\\_1882953\\_1.pdf](http://www.fahcsia.gov.au/sa/indigenous/pubs/nter_reports/response_to_reportNTER/Documents/Aust_response_1882953_1.pdf).

19 Council of Australian Governments, 2009, *Protecting children is everyone’s business - National framework for protecting Australia’s children 2009-2020*, Commonwealth of Australia, Canberra.

20 ———, 2009, *Protecting children is everyone’s business - National framework for protecting Australia’s children: Implementing the first three-year action plan*, Commonwealth of Australia, Canberra.

21 Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), 2010, *Working document: Development of National Standards for out of home care*. FaHCSIA, Canberra, [http://www.fahcsia.gov.au/sa/families/pubs/Documents/working\\_doc\\_dev\\_nat\\_std\\_for\\_out\\_of\\_home\\_care.pdf](http://www.fahcsia.gov.au/sa/families/pubs/Documents/working_doc_dev_nat_std_for_out_of_home_care.pdf).

The scope of the Inquiry has been broad, covering a wide range of child protection issues. These include the roles and responsibilities of a number of statutory government and non-government agencies in addition to those of Northern Territory Families and Children (NTFC). This being the case, the Inquiry approached the task by gathering information from multiple sources using a range of methodologies and mechanisms. The key components of this approach were as follows:

### **Public Forums**

Public forums were held in five urban centres across the Northern Territory during February 2010 - Darwin including Casuarina and Palmerston, Katherine, Alice Springs, Tennant Creek and Nhulunbuy. They were designed to provide members of the public with information about the Inquiry and to provide an opportunity for attendees to raise issues that they felt should be explored. In all of these centres, additional forums were held for health, statutory welfare workers and the police.

The public forums were advertised widely in the print media in each regional centre, on radio, and on the Inquiry web-site. At each of the forum sessions in the larger centres, counsellors were contracted to provide assistance for participants should they become distressed, and Northern Territory Police were in attendance.

### **Written Submissions and Oral Hearings**

Submissions were invited from organisations and individuals with an interest in the child protection system and the wellbeing of children. The first call for submissions was in late January 2010 with around 250 invitations to submit posted to organisations and many others to individuals such as foster carers. An invitation for submissions from the public was widely advertised in the written press and on radio, and by means of radio and television interviews.<sup>22</sup>

A total of 156 written submissions were received by the Inquiry and 80 formal hearings were held across the Territory<sup>23</sup>. Written submissions were received from and oral hearings were conducted with Government agencies, Northern Territory and national NGOs, peak bodies, academics, child protection workers, medical personnel, education workers, foster carers, family members involved in the system, and numerous other interested individuals<sup>24</sup>.

In addition to the formal hearings, numerous less formal consultations were held with Aboriginal community members, young people in care, statutory workers, academics, and others.

To encourage contributions from child protection workers and other government workers, the Chief Minister and Minister for Child Protection publicly announced that any government employee could make a submission to the Inquiry without fear of adverse treatment for having done so. The Inquiry communicated with the chief executives of DHF, the Department of Education and Training (DET) and the Police on the issue of the protection of staff members who may choose to make a submission. In each case, chief executives communicated with their own staff members guaranteeing that they would not suffer any adverse treatment. Under Section 308(2)(c) of the Act, the Chief Executive

22 An example of the newspaper advertisements is in Appendix 1.4.

23 A list of the written submissions to the Inquiry can be found in Appendix 1.5.

24 A list of the contributors to the Inquiry can be found in Appendix 1.6.

of DHF may explicitly absolve staff members from adverse repercussions that might arise from the sharing of confidential material gained in the course of their work by deeming that such a contribution to the Inquiry was in the public interest.

### **Information and Data Requests**

The Inquiry invited a number of organisations and individuals to contribute material to the Inquiry at different levels. Specific invitations were also forwarded to individuals with statutory roles who are in a position contribute evidence or useful information. In a few cases, usually after consultation with an individual or organisation, the Inquiry issued a summons to individuals who were in a position to provide the Inquiry with specific information. Some individuals felt more comfortable presenting material to the Inquiry where they had the protection of such a legal summons. Numerous specific requests for data, information and briefings were made to government policy and service providers in the course of the Inquiry.

### **Reference Group**

Given the specific request to examine ‘child protection issues and developments at the local, national and international level...’ the Inquiry formed a specialist Reference Group to help inform its work. The resulting Reference Group met formally with the Co-Chairs of the Board of Inquiry and secretariat on three occasions over five days to consider, provide advice on and review the Inquiry’s work, and to assist with specific issues in the manuscript of this report<sup>25</sup>.

### **The Inquiry’s policy, research and investigative capacity**

The Inquiry secretariat included a number of specialist policy and research staff. The research undertaken by the policy and research staff or by contracted organisations was essential for ensuring the Inquiry was informed of the most up to date knowledge, thinking and practice from the field internationally. This also enabled the information contained in submissions and hearings to be analysed in a broader research and policy context. The secretariat also included staff who could investigate some specific complaints and allegations.

### **Reviews of recent Inquiries and investigations**

The Inquiry was informed by recent reviews and recommendations of inquiries into child protection systems in other states and in the Northern Territory. These included numerous reports, audits, Coroner’s investigations and Ombudsman reports, most of which are reviewed in this report.

### **Visits to urban, regional and remote areas**

In order to consult as widely as possible and to further inform itself about issues, the Inquiry visited the five main urban centres in the Northern Territory on multiple occasions, 15 remote communities and a number of town camps throughout the course of the Inquiry to consult with community representatives and local service providers. Remote communities and town camps visited by members of the Inquiry are listed in Appendix 1.8. The Inquiry also visited child protection services and education programs in urban and remote areas.

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25 See Appendix 1.7 for a list of the Reference Group members.

### **Commissioned input**

Obtaining input from individuals personally affected by the child protection system but who were unlikely to engage with the Inquiry, was often difficult. To help determine the views of Aboriginal people who were not well-placed to attend forums or make formal submissions, the Inquiry commissioned two organisations to consult with Aboriginal people with whom they were in regular contact, Tangentyere Council and the Katherine Women's Information and Legal Service. This approach enabled the Inquiry to hear the views of a sample of town camp residents in Alice Springs, together with women from several communities and town camps in the Barkly and Roper regions which the Inquiry was unable to visit directly. Legal organisations in both Alice Springs and Darwin were also approached to help identify people who had direct experience of the child protection system and who may be interested in commenting on child protection. As a result, a number of their clients came forward and were able to give evidence to the Inquiry.

### **Complaint investigations**

In the course of the Inquiry a number of specific allegations and complaints were received. These were assessed to determine whether further investigation was warranted. In some cases it became apparent that another statutory investigative body, such as the Ombudsman or Children's Commissioner, was investigating the matter whereas, in others, the complaint related to a court determination, or was otherwise subject to legal proceedings and thus outside the remit of the Inquiry. The Inquiry undertook different levels of investigation in the remaining complaints and allegations. In all cases, the substance of the allegations and complaints was considered by the Inquiry.

### **Forums with legal practitioners**

Due to the high number of specific legal practice and legislative issues identified in the submissions, the Inquiry organised two forums in Darwin and Alice Springs with a sample of legal practitioners and organisations that had raised legal issues in their submissions.

### **Forums with foster carers**

In view of the many issues that emerged from the initial forums, four dedicated foster carer forums were held in Darwin and Alice Springs, with day and evening sessions conducted to enable as many foster carers to attend as possible.

### **Consultations with specialists**

Some external specialists were engaged by the Inquiry to provide opinion on specific matters that arose in the course of the Inquiry or to help with costing considerations.

The Inquiry honoured the stipulation attached to the terms of reference that the:

consultation processes should be conducted publicly, unless people or organisations contributing to the Inquiry request that their contribution remain confidential.

To this end, the times and venues of formal hearings were advertised in the local press and on the Inquiry website. Requests from witnesses that their evidence be provided 'in camera', were honoured. Given the nature of the content, the majority of individuals who gave evidence requested that their contributions be kept confidential. Some of the NGOs also requested confidentiality.

Where individuals or organisations have not requested confidentiality, the Inquiry has endeavoured to upload their written submissions to its website after it has considered the contents. The Inquiry intends that this material will be available on the website for a period of time from the date the report is tabled.

The Inquiry has also honoured the request that it consult widely to include 'existing Northern Territory Government advisory councils, as well as other subject matter experts within the broader community'. We have taken 'subject matter experts' to include those families and children with experience of the system, Aboriginal community members given the over representation of Aboriginal children in the child protection statistics, child protection workers, and foster carers, in addition to those professionals (service providers, medical practitioners, academics and others) who are usually acknowledged as experts.

Given the extent of Commonwealth involvement in child safety and wellbeing services in the Northern Territory, its selective funding of what might be understood as core child protection services, the ongoing NTER, and the various initiatives linking welfare payments with child protection assessments, the Inquiry also consulted with several commonwealth departments.

## Principles

From its commencement, the Inquiry acknowledged that its work to address its Terms of Reference must be based on ethics and principles. A genuine and transparent value and ethical base is an essential ingredient of any human service programme, and there are few human services of greater importance than the care and protection of our children. In identifying the principles that guide this work, and responding to concerns of the community, the Inquiry generated a list of values and principles that it believes are essential elements of a system that provides for the care and protection of children.

Values and principles are not simply impenetrable philosophical ideals but they are deeply practical starting points for thinking, reasoning and decision making.<sup>26</sup> They help people in private and public life to make sound decisions and to deal with their everyday problems. Sometimes in everyday language they are understood better as morals or even values and it is accepted that they compete with each other when decisions have to be made. The ethical principles of respect for the rights and dignity of others, duty to do good and not to do harm and justice or fairness in allocating resources, are fundamental and generally accepted universal principles<sup>27</sup> even though they may be understood and applied differently across world cultures. They too compete with each other as they are applied to decisions in public life. What they also do is to draw attention to the fact that in order for societies to grow and develop, people have responsibilities for themselves, for each other and for the most vulnerable. These principles underpin and inform the work of this Inquiry.

Respect for all persons was accepted as a foundational requirement for the Inquiry's engagement with individuals, groups, communities and organisations. In keeping with accepted moral practice, the Inquiry determined that it would be deeply collaborative, transparent and honest in its dialogue and undertakings while maintaining the confidentiality and privacy that is required by the rules of ethical practice and law. In relation to the principle of justice, the Inquiry was also very mindful of the differentials

26 I Thompson et al., 2006, *Nursing Ethics*, 5th edn., Churchill Livingstone, Toronto.

27 T Beauchamp & J Childress, 2004, *Principles of Biomedical Ethics*, Routledge, London.

of power that exist in all human endeavours and how people who are powerless can be further disempowered, albeit unintentionally, by mechanisms and structures that are set up to be helpful. Inquiries, as instruments of government, are established to assist in understanding serious problems and to recommend change that will be helpful. They are charged with much power as well as responsibility and the people at the centre of their attention – in this case children, families, communities, and workers – are often already experiencing huge vulnerability.

The Inquiry determined to remain attentive to the nuances of power and to the risks of further disempowering already fragile people and arrangements whilst keeping its focus on the needs of some of the least powerful in our community – vulnerable children. It was acutely aware that it was inquiring into the lives of already disadvantaged and disenfranchised communities that had already been subjected to much public scrutiny and into the operations and practices of a dedicated workforce consisting of people working under conditions of huge pressure. An enduring respect for people and culture was the medium for maintaining an appreciation of the impact of these systemic issues and vulnerabilities.

A driving concern for the Inquiry was the significance and sensitivity of matters to do with Aboriginal communities in the Northern Territory. In particular, it was mindful of the often very negative public attention that has been focused on Aboriginal communities and families in recent times and the critical nature of the contemporary vulnerabilities of Aboriginal children and young people. Simultaneously, it was immediately aware of the strength, energy and effort that it could capitalise on in relation to Aboriginal cultural practice principles that have been articulated in national and international publications in recent years.<sup>28</sup> These have been incorporated in the procedural work of the Inquiry and have become foundational principles for thinking through the requirements for a system that cares for and protects children and the mechanisms for its implementation.

Whilst not retreating from the imperatives of addressing the very real crisis situation and needs of Aboriginal children and their families and communities in the Northern Territory, the Inquiry remains mindful of its obligations to address itself to the needs of all of the Territory's children and to map current and future service requirements across the Northern Territory. The Inquiry is mindful that children are and must remain the centre of our focus. The Inquiry is all about them, and not primarily about the system.

The overriding perspective of the Inquiry is that children, families and kinship groups don't live in isolation but are influenced by the various environments in which they live – ethnic group, family, clan, culture, living place, school, work and broader community. The capacity of children to realise their physical, developmental, psychological, social and spiritual potential and to 'grow strong' is heavily influenced by what happens to them in their formative years. They need to be physically safe but they also need to live in conditions that help them to flourish – in families and communities that are themselves strong and able to support them. They are impacted by their own family histories, and the legacy of diverse public policies and interventions some of which have been oppressive and have had a severely negative impact. The broadly defined child welfare workforce is similarly influenced by its environment and in particular by the competing expectations that are placed on it and the rival values and demands that drive services (e.g. keep children safe and don't interfere too much in family and community life).

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28 SNAICC, and others.

In recognition of these facts and as a corollary to the principles described previously, the Inquiry listed some important universal premises – most of them having a strong research as well as a value base:<sup>29</sup>

- Every child deserves the opportunity to reach her/his potential, to be safe and to lead a fulfilling life
- Family and community are pivotal for the care, nurturing, development and protection of children
- A safe and permanent home for children with family and in community provides the best place for children’s growth and development
- Most parents (men and women) and families care deeply about their children however they cannot do the work of child rearing alone and need community assistance to grow children well
- Family efforts to care for and nurture their children are profoundly affected by the social and economic environment and health of the place in which they live
- Some, possibly many, families and communities do not have the wherewithal or the capacity to provide the care that children need: none can do it on their own
- Some children cannot remain in the care of their families and if so, the state, on behalf of the people, has a moral duty to provide the best possible alternative care environment for them – one that enables them to stay connected with family and culture.

### **Principles for a system that cares for and protects its children**

The reform framework is committed to prevention and early intervention (early in the life of children and early in the emergence of problems), while recognising the need for strong, robust high quality tertiary services when children’s safety is under threat.<sup>30</sup> In so doing it acknowledges the principles stated in the National Child Protection Framework and in particular the imperative of adopting a public health approach to the care and protection of Australia’s children.

The Inquiry notes the following principles that it believes must underpin a range of services that care for and protect children. Services must:

1. Recognise the principles central to the United Nations Convention on the Rights of the Child (UNCROC) including:
  - Children’s right to safety (including cultural safety), security and wellbeing
  - Families are best placed to care for children
  - Government’s obligation is to provide the widest possible assistance to support families in their child rearing role
  - Children’s right to be free from abuse and neglect and that where parents can’t or

29 There are a large number of publications that identify general principles for child welfare services. See for instance Chapter 1 in P Pecora et al., 2007, *The Child Welfare Challenge: Policy, Practice and Research*, Aldine Transaction, London.

30 See Chapter 3.

won't protect and care for children (even with widest possible assistance) the State needs to intervene and care for the child. Statutory child protection is one part of a broad and robust system for protecting children and ensuring their wellbeing

2. Acknowledge the particular UN considerations that are relevant for Aboriginal children:<sup>31</sup>
  - the interconnectedness between children, communities, culture and context
  - their present situation cannot be understood without reference to the historical context and a large history of rights violations
  - obstacles to the rights of Aboriginal self-determination remain a real barrier to the realisation of the safety and wellbeing of children
  - the significance of land and its loss and violation to Aboriginal people is in part about its centrality in the future lives of the children
3. Be child-centred in the context of family and community (protection of children must occur within a framework of valuing children)
4. Be based on the understanding that child protection is everyone's responsibility – whole of government, whole of community
5. Recognise the need to build capacity in families and communities which requires family sensitive, culturally competent resources and systems for families that they and their communities can influence and grow
6. Be culturally literate and competent enabling access and availability to all cultural groups and able to acknowledge cultural differences and meet unique cultural needs
7. Use local, place-based approaches and models as opposed to importing ideas without adapting them to Territory and local ways. Service models need to be tailored to the local context – recognising that a system for protecting children in remote communities, town camps, regional communities and urban centres will be different
8. Be non-stigmatising and equitable and fair appreciating that all children have the same rights to safety, security and wellbeing
9. Acknowledge that whilst procedures are important, the work involved in caring for children, families and communities and keeping children safe is deeply relationship-based
10. Establish a clear mission, philosophy and objectives; have a practice-informed management that can engage with front-line staff; and resource and support a workforce that is enabled to do its work and have measurable performance criteria
11. Use evidence-informed approaches and where this is not possible, at least use theoretically informed approaches with a commitment to immediate evaluation
12. Be accountable to specific performance standards that demonstrate defined outcomes for children, families and communities

These principles are further explored throughout the two volumes of this report.

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31 United Nations Sub-Group on Indigenous Children and Young People (ISG), 2006, *Indigenous Children: Rights and Reality, A Report on Indigenous Children and the U.N. Convention on the Rights of the Child*, <http://www.fnfcs.com/docs/ISGReport.pdf>.

## Implementation principles

Implementation principles are those which inform how processes are carried out. In the context of the Inquiry, the change process includes the following principles:

- Change must be planned as well as responsive
- An action research approach is crucial, whereby reflective practice, monitoring of inputs, processes, outcomes and impacts are embedded within the system, not optional extras.
- The new system must involve real collaboration at all levels
- There is a need for some pilot programs but some things need to be done immediately
- Implementation needs to be strategic and staged
- The process of change must engage Aboriginal people
- The voices of children and young people must be heard in policy development.

### **Recommendation 1.1**

That Northern Territory Families and Children undertakes a process of engaging its entire workforce to commit to a strategic plan which clarifies its mission and includes the articulation of values and principles under which it will operate.

Urgency: Within 18 months