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## **CONFERENCE PAPER:**

### **UNDERSTANDING WHAT CHILD PROTECTION DATA MEAN: A NATIONAL COMPARISON**

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## **ABSTRACT**

*It is a difficult task to describe the child protection system in Australia. As a federation of states and territories that each has responsibility for its own health and welfare issues, Australia does not have one unified system, but rather eight different child protection systems. This paper is a national snapshot of Australian statutory child protection services. The National Child Protection Clearinghouse collected data in each state and territory via examination of legislation, policy documents and procedure manuals, as well as conducting telephone interviews with relevant child protection personnel. Topics covered are: who is responsible for child protection; intake procedures; who notifies concerns to child protection services; the process of providing child protection services in Australian states and territories (intake, risk assessment and investigation). Similarities and differences across states and territories in each of these areas are highlighted. The implications for policy makers in the areas of data collection, competency standards and training, cross-border issues, and the importance of national standards are addressed.*

The purpose of this paper is to describe the eight child protection systems currently in operation around Australia. Researchers and practitioners may have limited knowledge of how child protection services work. Where they are knowledgeable, their knowledge may be restricted to one jurisdiction. A broad overview will provide an important first step in synthesising an incredibly large volume of information, highlighting important similarities and differences.

## **Background**

The most recent—and perhaps the only—review of jurisdictional differences in child protection was conducted by Boss in 1986 who reviewed the legislative and administrative features of the six states (but not the territories) to show “what practitioners are expected or sometimes mandated to do” (p. 5). As with Boss’s study, what is presented is a description based on documentation (legislation, work manuals and protocols) supplemented by semi-structured interviews with key personnel in each jurisdiction.

## **Responsibility for child protection**

In Queensland, the child protection service is a separate specialist department. In all other Australian jurisdictions, it is part of a broader department of human services, community development/services, or family services.

The legislative grounds for intervention define a “child in need of protection” in each jurisdiction; it is these grounds that form the basis of what is substantiated following child protection investigation. The term “**substantiation**” refers to **notifications** (or “reports” or “allegations”) of maltreatment or harm that are found on investigation by a statutory child protection services to have “substance” (that is, is true). Research had indicated that despite an increasing number of notifications, the number of children found to be ‘harmed’ or at risk of harm (that is, substantiations) had not increased (see Thorpe 1994).

The grounds for intervention in each Australian state and territory are based on either the actions or outcome from which children are defined as being in need of protection. In some jurisdictions, the grounds for intervention restricted only to situations in which parents can be held responsible (i.e., they committed the action). All jurisdictions allow for intervening on the basis of the risk of an event in the future; however, in all jurisdictions except Queensland, past events can only lead to an intervention if there is also a future risk. Some jurisdictions also allow for Child Protection to intervene on grounds not relating to maltreatment, such as truancy (Tasmania; South Australia), risk-taking behaviour (ACT, WA).

This brief comparison demonstrates the range of different ways in which states and territories define a “child in need of protection”.

## **Statutory obligations to report child protection concerns**

In each state and territory, any person who has concerns about a child that fall under the grounds for intervention may make a report to the statutory child protection service. A report is an allegation (usually of maltreatment, but that can be an allegation about anything within the mandatory reporting requirements or legislative grounds for intervention) made to a statutory child protection service. However some legislation prescribes conditions under which specified people/professions are legally required to make a report to the statutory child protection service in their state or territory. That is, they are mandated to make a report; this statutory obligation is commonly referred to as *mandatory reporting*.

### ***Who is mandated to make a notification?***

The groups of people mandated to notify their concerns, suspicions, or reasonable grounds to the statutory child protection authority range from a limited number of specified persons in specified contexts (Western Australia, Queensland) through to every adult (Northern Territory, Tasmania). The Australian Capital Territory, New South Wales, South Australia and Victoria have a list of particular occupation groups that may come into contact with children. In some states, a limited number of occupations are listed, such as in Queensland (doctors, departmental officers, and employees of licensed residential care services) and Victoria (police, doctors, nurses and teachers). Other jurisdictions have more extensive lists (Australian Capital Territory, South Australia) or use generic descriptions such as “professionals working with children”.

Although many commentators have highlighted Western Australia as the only Australian jurisdiction without mandatory reporting requirements, in fact there are targeted legislative requirements for the reporting of child abuse (court personnel, counsellors and mediators are required to report allegations or suspicions of child abuse in Family Court cases; and licensed providers of child care or outside school hours care services are required to report abuse in a childcare service). These requirements are similar to those in place in Queensland.

### ***Is the identity of notifiers protected?***

In most jurisdictions (Australian Capital Territory, New South Wales, Northern Territory, South Australia, Victoria, Western Australia), the identity of notifiers—whether mandated or not—is explicitly protected (this issue is unclear in the Queensland and Tasmania legislation). However, in some jurisdictions there are limits to this protection. For example, in the Northern Territory, the identity of reporters is not disclosed to families, but may be disclosed to the Family Matters Court upon request.

### ***About whom can notifications be made (age of child/young person)?***

Although the legislation in each jurisdiction covers all young people up to the age of 18 (whether they use the term “children” or “children and young people”), the responsibility for mandatory notifiers does not always extend to age 18. In New South Wales, the mandatory reporting obligation does not extend to young people aged 16 and 17, even though the legislative grounds for intervention cover young people up to 18 years of age. Otherwise, mandatory reporting in all states/territories (except Western Australia where there is targeted, but not universal mandatory reporting) occurs in relation to all children and young people up to age 18.

Although particular professionals (such as psychologists) or government agencies (such as education departments in some states) may also have protocols outlining the moral, ethical, or professional responsibility—or indeed the organisational requirement—to report, they may not be officially mandated under their jurisdiction’s child protection legislation. For example, in Western Australia, there is an agreement between the Department of Health, the Department for Community Development and the Police that requires the reporting of all children under 14 years of age with sexually transmitted infections (STI) and the reporting of children 14 and 15 years of age with STI acquired through abuse (Western Australian Health Amendment Bill 2004).

### ***What type of concerns must be reported – and to what must child protection respond?***

Mandatory reporting laws specify those conditions under which an individual is legally required to make a report to the statutory child protection service in their jurisdiction. This does not preclude an individual from making a report to the statutory child protection service if they have concerns for the safety and wellbeing of a child that do not fall within mandatory reporting requirements. A common assumption is that the following are the same: (a) mandatory reporting requirements, (b) the legislative grounds for intervention, and (c) research classifications of abusive and neglectful behaviour. For example, media reports may include claims about the number of cases of abuse and neglect, but yet the data on which these claims are based are actually the number of reports to statutory child protection services (that is, the data reflect child protection service activity not necessarily the incidence of maltreatment).

*Mandatory reporting laws* define the types of situations that must be reported to statutory child protection services. *Legislative grounds for intervention* define the circumstances and importantly the threshold at which the statutory child protection service is legally able to intervene to protect a child. *Researchers* typically focus on defining behaviours and circumstances that can be categorised as abuse and neglect. These differences arise as each description serves a different purpose; the lack of commonality does not mean that the system is failing to work as policy makers had intended.

*Grounds for intervention cf. activities mandated to report*

A distinction needs to be made between the legislative definition for the circumstances in which children and young people are in need of protection, and what mandated notifiers are required by law to report. In most jurisdictions, individuals are mandated to report a reasonable belief or a suspicion that a child has experienced or is likely to experience one or more of the specified forms of abuse or neglect. Anomalies may arise as statutory child protection services are authorised to respond only if the child has been or is likely to experience *significant harm* as a consequence of the alleged event and (in most jurisdictions) only if a parent is *unable or unwilling to protect the child*. A professional may be legally obliged to report to child protection their suspicion that a child is being sexually abused, however—even if the abuse is confirmed—if neither parent perpetrated the maltreatment and a parent has acted to protect the child from the perpetrator (that is, preventing further abuse), then child protection may not have a mandate to intervene and the case would most likely be referred to police (Bromfield and Higgins 2004). Policies were designed in this way so that the statutory child protection service—not the mandated notifier—is responsible for deciding the threshold at which a child requires statutory intervention.

The types of adult/caregiver actions or types of harm specified in legislative mandatory reporting requirements may not necessarily be as comprehensive as the types of abuse or harm from which child protection services are obliged to protect children. For example, in the Australian Capital Territory and Victoria, mandatory reporting is limited to concerns about physical and sexual abuse, whereas the grounds for intervention are broader and include psychological maltreatment and neglect. Mandatory reporting laws that require suspicions of only physical abuse or neglect to be reported may be a reflection of social values that rank physical and sexual abuse as being more severe than psychological maltreatment and neglect. However, research evidence does not support this “hierarchy” of maltreatment subtypes (Higgins 2004). Alternatively, the limiting of mandatory reporting requirements to physical and sexual abuse could reflect an attempt to minimise the rise in notifications occurring as a consequence of the introduction of mandatory reporting laws.

*Research definitions cf. grounds for intervention*

There may also be differences in the statutory grounds for intervention and the definitions of abuse and neglect used by researchers. Researchers focus on defining abusive and neglectful behaviours. Legislative grounds for intervention prescribe the conditions under which child protection can and must step in to protect a child. Legislative grounds for intervention may be broader than research definitions of abuse or neglect; for example, in Victoria the grounds for intervention include the protection of children whose parents are dead or incapacitated – thus including children who may not have experienced abuse or neglect at all. Alternatively, researchers may consider a child to have experienced abuse or neglect if they have been yelled at, denigrated, left at home alone or touched inappropriately; however, if these abusive or neglectful behaviours did not or were unlikely to cause the child significant harm, statutory child protection services would not have grounds to intervene.

Legislative grounds for intervention, mandatory reporting requirements and research definitions of abuse and neglect may overlap, but are not the same as they each serve a different purpose. **Researchers** are interested in determining those children who have experienced abuse or neglect in order to make generalisations about the precursors or consequences of maltreatment. **Mandatory reporting requirements** define those circumstances in which a professional needs to make report to the statutory child protection in order that child protection make a determination about whether or not statutory intervention is required to protect the child. **Legislative grounds for intervention** define the circumstances in which the department is required to intervene to protect children. Just because a report is not investigated or substantiated does not mean that a child has not experienced maltreatment – but rather that it falls outside the grounds for intervention (for example, abuse perpetrated by an extra familial or juvenile offender) or falls below a threshold of severity (that is, verbal aggression, which taken in isolation may not appear to place the child at risk of significant harm). Finally, reports that are investigated and substantiated may not all comprise child maltreatment per se (for example, a child with an incarcerated parent and no other appropriate carer).

## The process of providing child protection services in Australian states and territories

Bromfield and Higgins (2005) describe the models of child protection recorded in policy and procedure documents as at April 2005. The components of child protection services are divided into the core areas of intake, assessment, investigation and case management. These processes across Australian states and territories are summarised below.

### Intake

The core components of child protection intake are essentially the same in all jurisdictions. Intake is an office (and predominantly telephone-based) response. Reports are received, most commonly by phone, and intake workers must determine whether the reported concerns fall within the mandated area of the statutory child protection service (in some jurisdictions notifications not requiring a statutory response may be diverted into a family support service stream). The notification details are recorded, the client's prior history with child protection is checked and any necessary follow-up phone calls are conducted (for example, to the school). Following this preliminary investigation the intake worker conducts an initial risk assessment based on the information available to them. On the basis of this assessment, the intake worker determines whether the report warrants further investigation to establish whether the child has been harmed or is at risk of being harmed (not all jurisdictions specify whether the harm is a consequence of maltreatment). Those cases requiring further investigation are referred to the second phase of statutory child protection (investigation).

In all states and territories, the intake worker assigns a priority rating to those reports assessed as requiring follow up. The priority rating determines the maximum period of time that may elapse before the investigation is commenced. For example, in all states and territories except Victoria, investigation of reports categorised by an intake worker as "Priority 1" must commence within 24-hours. Those cases assessed as not requiring a statutory response may receive family support services or be referred to an external service for appropriate services. During the intake process, the intake worker conducts the activities required to make an initial assessment and recommends an appropriate case outcome. However decision-making at intake is actually carried out by the intake supervisor under the advice of the intake worker, ensuring that intake decisions are not made in isolation. The core elements of child protection intake are similar across jurisdictions, the mechanisms for conducting intake vary.

### Risk assessment

The aim of risk assessment is to assess the immediate danger to the child and the likelihood of the child experiencing harm in the future as a consequence of similar behaviour by the same perpetrator(s).

In all Australian states and territories (except South Australia) assessment is made using a "professional judgement" risk assessment tool: the Victorian Risk Framework (VRF) or a modified risk assessment framework based on the VRF.

The *Victorian Risk Framework* is a guided professional judgement approach to risk assessment, combining theory, practice and assessment, which comprises three phases of risk assessment: information gathering, analysis, and judgement. The VRF is completed at intake, at each stage of the monitoring and review process, and prior to case closure.

The *South Australian Structured Decision Making framework* is based on the outcomes of Actuarial Risk Assessment tools that dictate a differential child protection response dependent on the scores obtained on the assessment tools. In South Australia, there are three different assessment tools (safety assessment, risk assessment, and strength/needs assessment), each serves a distinct purpose and is used at different points in the child protection response. The safety assessment is designed to assess the immediate risk of harm to the child during intake and investigation. The risk and strength/needs assessments are employed after abuse has been confirmed in order to inform case planning.

Some examples of features that differ between jurisdictions include:

- *Third Report Rule in the Northern Territory* – requires that the case proceed to child protection investigation when three reports are received in relation to any child living in the household within a 12-month period (that is, the third report per household, not per child).
- *Structured Decision Making (SA, QLD, and possibly NSW)* - Actuarial risk assessment describes risk assessment made using a scored risk assessment tool, where the score on the risk assessment tool determines the response.
- *Indigenous intake team in SA*
- *Differential response categories in Western Australia* – referrals classified as Child Maltreatment Allegations receive a child protection response and reports classified as Family Support are provided with, or referred to family support services. Child Concern Report is a temporary holding category for reports where the precise nature of the issue or problem was unclear and required further assessment.
- *Inbound call centres in NSW and ACT*
- *Joint Investigation Response Team – NSW Police and NSW Department of Community Services*
- *Co-located police liaison officer in ACT*
- *The Aboriginal and Torres Strait Islander Unit in ACT*

## **Investigation**

Investigation is the area of least variability between Australian states and territories. Teams responsible for investigation receive a referral from intake and plan the investigation (there may be formal procedures in place for investigation planning). In carrying out the investigation protective practitioners initiate direct contact with the family, coordinate any appropriate assessments (for example, medical or developmental assessment) and gather information from other sources (for example, school, police, health services). Having completed information gathering, a full assessment is made in regard to the child's safety (replacing the initial assessment conducted at intake). A determination is made regarding whether to substantiate the allegation and the child's risk of being subjected to further harmful events. However, the meaning of a 'substantiation' depends on the grounds for intervention in each jurisdiction. In some, not only abuse or neglect, but also 'risk' can be substantiated. Cases not substantiated may be referred for non-statutory family support services. For those cases that are substantiated, an assessment is made of the services and interventions required in order to keep the child safe and the case is referred to an intervention team for on-going involvement and case management. Initial intervention required to protect the child's immediate safety will be undertaken by the investigation team and court action will be initiated if appropriate (for example, removal of children by apprehension). At the completion of the investigation the family are advised of the outcome of the investigation.

## **Case management**

Cases in which maltreatment—or the need for statutory involvement to protect the child from harm—are substantiated have passed through the critical decision-making framework for screening (that is, intake and investigation) and represent those cases in which statutory child protection services are required to ensure the child's on-going safety. Statutory involvement comprising provision of child protection services is typically referred to as intervention or case management. At its most basic, the case management phase involves: the determination by the statutory child protection worker of the services and responses required; determining whether a court order is appropriate, and if so, which type is required to ensure the child's safety; ensuring that these services or responses are provided; and closing the case when the child's on-going safety has been secured. This process is managed and the actions of the persons involved made accountable through the process of case planning, case management, reassessment and review.

*Family Group Conferencing* is a unique case management procedure in Tasmania and is being introduced in Queensland. It is also offered or used in certain circumstances in other jurisdictions, particularly with Aboriginal and Torres Strait Islander families.

## A national comparison

“Intake” is the most procedural aspect of statutory child protection services in Australia, and therefore the area subject to the greatest variability. Although statutory child protection intake services in Australian states and territories have largely the same role (that is, screening reports to determine whether the alleged events fit within the grounds for intervention and whether further investigation is required) there is a great deal of variability in the grounds for intervention—and therefore what is substantiated—between each jurisdiction. The focus of the intake and investigation phases is screening and assessment for the purpose of risk management, however in Western Australia there are reforms in place to shift the direction away from risk management during assessment and to focus instead on the family’s strengths and needs.

There is also a great deal of variability in the response provided to those cases that do not meet the threshold for statutory child protection intervention, but in which concerns may have been raised about the welfare of children. In some jurisdictions, these families were referred for voluntary services; in others, the cases were closed (possibly with a referral) but without ensuring the family had engaged with any support service. This was an area undergoing change with many new programs and proposed reforms in place reflecting an increased emphasis on early intervention and long-term support for families (for example, *New Directions* in Western Australia, the *Innovations Family Support Program* in Victoria, and the *Early Intervention Teams* being piloted in New South Wales).

The variability in the grounds for intervention, what is substantiated and the response to families that do not meet the threshold for statutory child protection intervention means that children in different parts of Australia may be subject to similar adverse circumstances but experience a different response dependent upon where they live (for example, the family of a child who is sexually abused by their sibling may receive services from child protection in New South Wales, and from police in Victoria). Child protection data are a reflection of child protection activity and thus will also vary as a consequence of the different grounds for intervention in each state and territory.

There is a great deal of similarity in the case management process across jurisdictions, which—despite some differences in timelines and procedures for case review—is essentially the same in terms of what workers *do* with families. Essentially all cases are subject to on-going case planning, assessment, and review. Although in every jurisdiction the case management phase of involvement is based on some form of case planning, the procedural requirements for case planning vary between jurisdictions.

Statutory child protection services in Australia have a continuing emphasis on risk management. However there were trends towards: more diversionary programs providing early intervention and/or long-term support for families that do not meet the threshold for statutory child protection services; and a more collaborative model of case planning for those families for whom it is assessed that statutory intervention is required to ensure the on-going safety of the child. These trends reflect recommendations in research to achieve best practice in service provision (Spratt 2000; 2001).

What is similar is how services are managed/delivered to statutory child protection service clients in each state/territory; what differs is the types of situations that get a family into the statutory child protection service system.

## Implications

The greatest area of disparity was in the initial intake phase up to case substantiation. These are the phases of involvement from which national statutory child protection data are drawn. For example the term “notification” is used to describe the point of first contact (for example, Tasmania and Victoria), and a report that has passed through two stages of screening and is being referred for investigation (for example, Queensland). These differences in the initial intake screening process have implications for data collection at a national level. There are differences in: what states and territories classify as a report (for example, differential response at intake results in large reductions in numbers of child protection reports); what states and territories accept as a report of maltreatment (for example, some jurisdictions limiting reports to allegations of maltreatment only where the parent is unable or unwilling to protect the child); and what is substantiated (for example, harm to the child or maltreating behaviours directed towards the child).

The issues associated with the comparability of statutory child protection data in Australia states and territories have been discussed in detail elsewhere (see AIHW 2005; Bromfield and Higgins 2004). The Australian Institute of Health and Welfare now talk about data for *child protection activity* as opposed to data for *child maltreatment*.

The primary consequence of this lack of comparability between states and territories in their definitions of maltreatment is that there are no national data on the incidence of child maltreatment that comes to the attention of statutory services. Although child protection service activity data do not accurately reflect the incidence of child maltreatment and therefore limit comparability of maltreatment (in absolute numbers) between jurisdictions, it is still useful to compare referral and substantiation trends within and between states.

As child protection service activity data are dependent on the legislative frameworks that define the scope and activities of the child protection service, some commonly agreed definitions would improve the comparability of data across jurisdictions. Despite differences in definitions, the broad similarities in the service response to child protection clients suggests that as well as reducing duplication in developing training for workers, a more integrated national approach to child protection training would have the additional benefit of enabling child protection practitioners to move more easily between jurisdictions in response to personal needs and workforce demands.

The differences between states and territories in the types of reports accepted by statutory child protection services and the statutory service response may result in children and their families receiving differing levels of care and protection dependent upon where in Australia their family resides.

## **Conclusion**

It is hoped that the outcome of this study is a more transparent picture of what is being done by statutory child protection services to protect children and that a greater knowledge of the work of child protection services will: facilitate discussion and understanding between statutory and non-statutory service providers, researchers and policy makers; provide researchers with a greater understanding of the work of statutory services and consequently prompt practice relevant research; and provide the Australian community and policy makers with a national resource on the differences and similarities between statutory child protection services in Australian states and territories.

The core activities being undertaken by child protection practitioners (information gathering, assessment, case planning and case management) are very similar. However the procedural and legislative frameworks guiding this work and defining the child protection population vary greatly between jurisdictions. Any moves toward coordination between states and territories in definitions of “abuse” or “harm”, data collection, training standards, or procedures for intake, investigation and case-management should be bench-marked against international best-practice. In particular, the need to achieve a balance between focusing on the immediate safety of children and having a service that is responsive and flexible in supporting the long-term needs of children and families should be recognised.

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