Response to the Royal Commission into the protection and detention of children in the Northern Territory

Issues paper – Child protection

June 2017

Table of Contents

About CREATE Foundation

CREATE Foundation (CREATE) is a peak consumer body representing the voices of all children and young people in out-of-home care.

CREATE is national and has offices in all of Australia's states and territories. As the national consumer body advocating for children and young people with a care experience, CREATE seeks to provide opportunities for children and young people to have a voice and be heard. CREATE is unique in that it is one of only a handful of organisations in the world, and the only organisation of its kind in Australia expressly established to advocate on behalf of children and young people in care.

CREATE's mission is to create a better life for children and young people in care, including those who are or have been the subject of care and protection orders. CREATE achieves its mission by **connecting** children and young people with a care experience to each other and their community, **empowering** them to develop in order that they may realise their potential, and **changing** the care system, in consultation with children and young people through advocacy to improve policies, practices and services.

CREATE engages with children and young people at fun events, and regularly holds Youth Advisory Group meetings to discuss ideas and issues generated by children and young people. In addition, CREATE conducts formal consultations with children and young people to provide input to resources programs and policies and trains young people to be advocates for themselves and others within child protection system.

Young Consultants participate in child protection conferences and meetings to provide their direct experiences of child protection systems to child protection workers, senior staff and politicians. It is CREATE's view that improvements to the system must be informed by the knowledge and experiences of the children and young people who live or have lived in out-of-home care.

CREATE has a national research program, informed by the views of children and young people in OOHC that drives its advocacy work. CREATE's Report Cards are national research projects conducted every one to two years focussing on issues facing children and young people in care. Some of the single issues CREATE has looked at include, education, health and transitioning to independence.

CREATE's research provides an opportunity for children and young people to give their views on how they are faring and how the state and territory child protection systems are working. These views also inform other research projects, most recently a report into sibling and family contact in the child protection system. Importantly, CREATE's research allows for the views of children and young people to be expressed independently, without influence of political or bureaucratic priorities.

Introduction

CREATE thanks the Royal Commission into the Protection and Detention of Children in the Northern Territory (the Commission) for the opportunity to respond to the Issues Paper on Child Protection (the issues paper) released on the 30th of April 2017.

CREATE believes the voices of children and young people, relaying their own experiences and views, is crucial to any discussion about child protection systems, particularly OOHC, as they are best placed to provide feedback on living in the OOHC environment. Parliamentary Privilege

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In the 2013 Report Card, CREATE surveyed over 1000 children and young people with a care experience aged 8 – 17 years old, participants had wide and varied care experiences and were from all states and territories except Western Australia (where the state government chose not to support the project). A copy of CREATE's 2013 Report Card and a Parliamentary Privilege

████ has been attached to this submission for the Commissions reference.

CREATE notes the numerous past state and federal inquiries into child protection and the many recommendations that have not been implemented due to resourcing and other issues. Since 1997, there have been over 30 inquiries, investigations and reports into the various child protection systems across Australia, alongside a continual increase in the numbers of children entering care, and in particular, an increase in the number of Aboriginal and Torres Strait children and young people entering out-of-home care (Lonne, Harries, & Lantz, 2012)

In addition to the NT Royal Commission, CREATE is aware of several other inquiries and investigations underway. These include the Royal Commission into Institutional Responses to Child Sexual Abuse; the South Australian Child Protection Systems Royal Commission; the Independent Review of Detention in Queensland, and the Victorian Department of Health and Human Services has recently commenced a review of its youth support, youth diversion and youth justice services.

CREATE recommends that specific resources and time is allocated by the NT Commission, aimed at looking into previous child protection reform process, Senate inquiries, Royal Commissions, internal child protection reform processes, research and academic response to OOHC to see what other recommendations have already been made yet remain under resourced and unimplemented.

CREATE believes strongly that we cannot continue to reinvent and reform a system which continually fails to learn from what has already been reviewed and recommendations made. It is a financial cost and burden on an already under resourced system and removes already scarce resources which could be better used to support children and young people already living within the OOHC system.

Given the short time frame for the development of CREATE's response we have chosen to comment specifically on topics three (3) and four (4) in the issues paper. Whilst the questions posed and the issues raised in the other topic areas are as important, they are not as relevant to CREATE's organisational purview. In addition, the tight time constraints of the submission process has also restricted our ability to respond appropriately to all questions.

TOPIC 3: The out-of-home care process

As the NT issues paper states, 'the rate of children in OOHC in the Northern Territory is double the national average'. The Australian Institute of Health and Welfare (AIHW) data indicates that as at 30 June 2016 there were 1032 children and young people in OOHC in the Northern Territory, with 920 (89%) of these children and young people identifying as Indigenous (AIHW, 2017).

The continual rise in the numbers of children and young people entering the OOHC sector in NT is of concern to CREATE. In order to support the increase in numbers, effective assessment and decision-making policy, processes and early intervention programs are required. CREATE is pleased to see that the Royal Commission is investigating the ways in which the OOHC and the continuum of care can be improved and reformed in the NT.

Improving assessment and decision-making

Questions
1. **In your experience, how effectively are a child's needs assessed and reassessed (including health and cultural needs, and for children with disabilities) and responded to when a child enters OOHC, or while they are in care?**

The National Standards for OOHC, specifically standards 4, 5 and 10, reflect the requirements for children and young people to have their health needs assessed and attended to in a timely fashion and for this to be monitored as part of their individual care plan (FaHCSIA, 2011).

The initial assessment of a child or young people's needs are conducted in accordance with the Territory Families' policy and procedure manuals. Whilst it is clear that these policies and procedures exist on paper, anecdotal evidence suggests that time constraints and caseload numbers inhibit the case manager's ability to effectively complete a thorough assessments.

McDowall (2013) states that the general poor health and associated high needs of the care population has been an ongoing concern for researches and practitioners. The need for children and young people entering care to have a thorough assessment and then to be re-assessed on a yearly basis is widely supported by researchers and academics in the child protection section and is expressed clearly in National Standard 5.

The concern CREATE has with the initial needs assessments, is that many children and young people enter an OOHC placement often via crisis intervention and once placed, their case managers move onto more critical clients. Anecdotal evidence suggests that the crisis nature of the child protection environment reduces the number of thorough initial assessments conducted and completed. Emphasis is placed on placing and settling the child in as a key priority. If the placement becomes unstable in a short period of time (for a variety of reasons), this may result in the child or young person not being available for an assessment or a follow up assessment to occur.

CREATE's Report Card (2013) asked children and young people who had been in care for no longer than eight years, if they had received a health check within six months of coming into care. It was decided to included respondents within this shorter period to maintain a reasonable sample size (n=736) and to maximise the likelihood that respondents would be about to remember the experience (McDowall, 2013). Overall 35.3% (n=260) reported having a health check while only 16.4% (n=121) were clear they had not had such a health check and the remaining 48.2% (n=355) were not sure (McDowall, 2013).

Participants also indicated that they were able to access health treatment when required and had adequate exposure to preventative health services; however, respondents in the NT indicated that this was a little more difficult to do when compared to other jurisdictions. In order for a health assessment to be developed and implemented effectively, case managers must engage with the child and young person to discuss their issue or concerns.

This relationship development is critical to achieving a positive outcome and experience for children and young people in care. Instability in case managers and the requirement for children and young people to develop strong and supportive relationships repeatedly due to changes in workers and/or worker retention, has been identified by children and young people as a barrier to developing effective care plans (McDowall, 2013).

2. **How adequate are current procedures for identifying OOHC placements for children? What, if any, limitations are there to identifying appropriate OOHC placements for children? How children and families are consulted about OOHC placement decisions? Is there adequate consultation with children and their families about OOHC placement decisions?**

The limitations for placement options are entirely dependent on carer and placement availability. Currently there are too few carers in the NT. Stable and appropriate carers often tend to become overwhelmed by the sheer numbers of children and young people requiring placement, compounded by their high levels of complex needs.

More often than not, children and young people are not consulted about their placement into the OOHC system. These decisions occur within time pressured and crisis driven environments, resulting in minimal or no consultation with the child or young person. The placement is based on availability rather than suitability for the child or young person.

> *I was never asked where I wanted to go. They just put you where they want. – Male 15* (CREATE, 2017a).

The only discussions that may occur with the family, child and young person about the suitability of a placement may be in the case of kinship care arrangements. These placements occur within existing family structural arrangements where the child or young person is placed outside of the immediate family into an extended family network. Research data indicates that home based care in the NT is the highest form of care placement (AIHW 2017).

Anecdotal evidence suggests that it can often be difficult for Indigenous carers to meet all of the standards and the Working With Children checks required by Territory Families to provide foster or kinship placements, often resulting in too few Indigenous placement options available.

> *I never once got put with an Indigenous carer – Female 19 years (Indigenous).* (CREATE, 2017a)

CREATE is aware of a number of cases where critical information about a child or young person's behavioural issues were not passed onto the carer, partly due the department's priority in securing a placement. The impression formed by carers, is that the department is more concerned to place the child or young person rather than inform the carer of the full case history, including high and complex needs.

In the above scenario, the care then realises the needs of the young person and contacts the department only to learn that there may not be any extra funding allocated to deal with the child/young person's care needs adequately. These scenarios can often lead to a break down in the placement and the carer refusing to continue to accommodate the child or young person.

Due to the lack of long term available foster/kinship carers in the NT, if a carer refuses to accommodate the child or young person, the department is then faced with finding an alternative placement or opting for a residential care placement, which in the NT is 11% compared with less than six percent for Australia (AIHW 2017). For further information and CREATE's position on these placement types, their uses and suggested improvements, refer to CREATE's position papers on Residential Care[1] and ▮Parliamentary▮ ▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮[2] (CREATE 2015b & ▮Parliamentary▮).

Children in Care

The principle of children being able to have a say in decisions that affect their lives is becoming more recognised in Australian policy and practice however in reality, children's voices are not often heard and decisions are made for and about them, without their input (Queensland Child Protection Commission of Inquiry, 2012). Any child-centred approach must be continually reviewed to ensure that true engagement and participation of children and young people is occurring (McDowall, 2013).

1. **How can children and young people be better supported to maintain contact with culture while they are in care?**

The United Nations Convention on the Rights of the Child (1989), Australia's National Framework, the National Standards for Out-of-Home Care (particularly Standards 9 and 10) and the Charter of Rights for children and young people in care in the Northern Territory, all affirm children and young people's right to maintain connections with their family, community, and cultures (FaHCSIA, 2011). CREATE's research has shown that connection to culture is closely linked with their connection to family. In this section of the response, the family connection is investigated, for a full discussion of connection to culture for Indigenous children and young people, please see the Aboriginal Child Placement Principle discussion of this response.

Many children and young people view the right to be supported to maintain connections with their birth family as a basic need, closely linked to feelings of identity and culture (McDowall, 2013). Their feedback to CREATE demonstrates why they feel this way.

> *You grow up not knowing where you come from or where you belong.*

> *I feel like I don't have a family.*

> *I want group contact with my mum and all my siblings. We're family, and we've never been in the same room together* (McDowall, 2015).

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[1] http://create.org.au/wp-content/uploads/2015/02/CREATE-Position-Paper-Residential-Care-CREATE-Foundation-2015.pdf

[2] ▮Parliamentary Privilege▮
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Research supports children and young people's calls to be placed with their siblings. In the *Sibling Placement and Contact in Out-of-Home Care* report, McDowall (2015) discusses the importance of nurturing sibling bonds and supporting family and cultural connections, and the positive impact this has on children and young people's growth, wellbeing and care outcomes.

Whilst most departments responsible for child protection across Australia advocate in policy that siblings should remain together whenever possible, there is little evidence and data to indicate that this is actually being applied. CREATE's 2013 Report Card (McDowall, 2013) touched on aspects of sibling placement, with the findings indicating that greater national investigation was required.

The *Sibling Placement and Contact in out of home care* report (McDowall, 2015) resulted from a dearth of information on sibling placements in OOHC. The report looked at the impact sibling placement has on children and young people in OOHC and sought to define the role key role caseworkers and carers play (or not) in establishing and facilitate sibling contact. The results showed that across Australia less than a third of all participants lived with all of their family while in OOHC. However, this result was higher in the NT, where 43% of siblings were together with all of their siblings, while 28% were in splintered placements and 30% lived with none of their siblings while in care (McDowall, 2015).

Whilst departmental case workers are responsible for developing family and sibling contact plans as part of an overall case management continuum, it is also imperative that carers are actively encouraged and supported to facilitate face to face contact among siblings and birth parents were practical (McDowall, 2015). When CREATE asked children and young people in care about their families, they told us that their siblings are the people they contact most often, followed by their mothers and grandparents (McDowall, 2015). Fathers were contacted the least.

Meaningful family contact (with parents, siblings, and extended family) is essential to both family reunification and permanency planning (Tilbury, 2009). Interest in maintaining or improving family contact is reflected in the views of children and young people (McDowall, 2013).

> *All siblings should be able to contact each other unless there is a strong reason not to. I have brothers in care I have never seen or met.* (Female, 10 years)

> *I'd like contact with my entire family… I'm not sure who/where all of my relatives are.* (Female, 14 years)

> *Family contact is really important and not just with siblings, mum and dad, but with extended family – aunts, uncles, cousins, grandparents. I'm about to have a baby and I got married this year and don't really have a relationship [with family]. It's hard to begin again with family when you've had no contact for 15 years.*
>
> (McDowall, 2013)

Connection with the birth family is an emotive issue that is complex. It is very important to young people that caseworkers and carers involve them in the decision-making processes and not assume that they know what is best for them. Children and young people have said they want to participate in decisions not only about the frequency of contact but also how it is supervised and where contact occurs (McDowall, 2013).

> *I want [my parents] to come to my sports activities like competitions and sports days.* (Male, 12 years)

I want contact in open places like parks. Somewhere with space where we can have fun.
(Female, 13 years)

Mix it up where we meet! Don't always have it in the same place. Have it outside the DCP office, like the shops or a place somewhere nice. (Female, 16 years)

(McDowall, 2013)

While it might not always be possible to facilitate contact in a way that the child or young person wants (i.e., due to safety concerns, resources etc.), it is important to recognise that each child or young person has a different idea of what they would like the contact to look like. To be truly child-focussed in the delivery of family contact, it is important to hear from children and young people and consider their views as part of the planning so that contact is enjoyable and meaningful for them (CREATE, 2014d).

Although contact may be wanted, it can still sometimes be confusing and challenging. Children and young people have also identified that better follow-up after contact is needed to ensure they are feeling safe and well.

Sometimes contact is overwhelming. (Female, 16 years)

It used to be really, emotional after contact. Comfort would be good. (Female, 17 years)

Additionally, in some focus group discussions children and young people have told CREATE that they did not want contact with their birth family, and that the child protection system should respect and take into account their views in making decisions about parental and family contact.

In line with CREATE's position paper on Sibling Placement and Contact in OOHC we urge the NT government to prioritise and monitor the implementation of the National Standards for OOHC (FaHCSIA, 2011), particularly Standard 9, and other that impact the provision of contact between children and young people in care and their siblings.

Further, we believe that siblings, wherever possible, must be supported to stay together; and where co-placement is not possible, they must be enabled to maintain regular contact with each other whilst in care. Sibling contact should be included in individual case planning and the frequency and method of contact and should be directed by each individual child in care, unless there is particular risk of harm (CREATE, 2014d).[3]

2. **What would be the advantages or benefits, if any, in adopting a more intensive and integrated case management approach, with a single caseworker for both the child in protection and their parents/family, including during any involvement of the child in the youth justice system? What would be the barriers to implementing such an approach?**

CREATE believes that a single case worker for both the child and/or young person in protection and their parents/family would be a beneficial and successful approach to case management processes. The consistency of a single worker would help to develop a strong, supportive and stable relationship for

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[3] http://create.org.au/wp-content/uploads/2015/02/CREATE-Position-Paper-Sibling-Placement-and-Contact-in-Out-of-Home-Care-CREATE-Foundation-2014.pdf

the child and the family. Dealing with the same caseworker overtime would allow the relationships to build so that the 'caseworkers then become able to serve as 'gateway providers' or effective brokers for the children and young people' (McDowall, 2013, pg. 86).

However, the reality for NT case managers is that they often have large fluctuations, both in their individual caseloads and in the department's ability to retain staff. This then leads to an instability in contact with the children and young people and a lack of time allocated to developing working relationship with the children and young people that they have been assigned to support.

CREATE believes that a single case worker for both the child, young person and family would be a key contributing factor in working towards reunification and addressing early intervention concerns as they arise.

Resourcing is required to address the existing systemic barriers of high caseloads and retention of staff within Territory Families. Without addressing these critical systemic issues, an intensive and integrated case management approach cannot be effectively implemented.

3. **Should there be enhanced case management services for families with children with complex needs? If so, how should this be implemented?**

Complex needs require complex solutions and fiscal investment. Departments and non-government organisations cannot operate effectively to address the existing large issues with episodic or ad hoc funding arrangements. Research indicates that children and young people are entering the child protection and OOHC systems at a higher rate and with more complex needs than ever before. Whilst the increased rate has occurred, there has not been an equivalent increase in funding and support packages to support the high numbers of children and young people entering OOHC.

CREATE believes that greater investment is required in early intervention programs that address child protection issues and concerns within the family unit, rather than separating the child from the family, placing them in a foreign and often isolating environment and then expecting all parties to be independently working towards reunification. The use of a single intensive caseworker model working with the family in the early intervention phase would greatly benefit families with high and complex needs. Developing strong and supportive relationships with all members of the family and working towards specific goals as a family, rather than isolating individuals from their family members, may help to address abuse and neglect concerns.

4. **How might greater community involvement and empowerment improve the position for children in care and their families?**

The experience of being in care can be confusing for children and young people, particularly when children and young people do not understand why they are in care.

Young people often raise the stigma of being in care as a confronting issue and one that they feel the community does not understand. Feedback from children and young people and their own perception of being in care and not wanting to be seen as different also causes them to worry, as expressed by a young people.

> *I got teased from other students saying you parents didn't want you. My best friend said 'nobody wants you, not even your mother'.*

> *…I kept people from knowing that I was in foster care, worried about what people might think. I found school activities like concerts awkward because I didn't want both sets of parents there because it would give away that I was in care* (CREATE, 2017a).

CREATE believes that more awareness of the children and young people in care and their lived experiences will help to raise awareness of child protection and OOHC in the community[4].

As part of CREATE's 2015 – 2017 Strategic Plan there is a goal to reduce the stigma associated with children and young people with a care experience (CREATE, 2015b). At CREATE's 2015 'Youth For Change' conference, we heard the voices of young people on a panel discussion talk about stigma. The panel included CREATE Young Consultants who shared their experiences about how stigma had affected them in their lives. Some of the comments young people shared with us included:

> *Foster kids never do as well as the other kids*

> *Your life won't go anywhere*

> *You've got no ambition*

CREATE wants to break down these barriers and the stigma associated to children and young people in care and set up the campaign #SnapthatStigma. As part of this campaign, CREATE worked with young people to develop a video, to help change the pre-conceived views that people may have about children and young people with a care experience.

CREATE wanted to share the positive stories of children and young people in care who are doing great things, to help change these views. CREATE believes it all starts with believing that children and young people are more than just their care experience. The video is of eight young people involved with CREATE their experiences and perspectives on the issue of stigma during their time in care, the video helps to make it clear that they are not just kids in care. CREATE encourages the Commissioners to take the time to watch the stigma video to hear from young people in care about the ways in which we can snap the stigma associated to being in care[5]

CREATE has made the video available to the public via our website and believes that the video should be watched by carers, case workers, policy officers and the general public to help raise public awareness about child protection and the OOHC sector.

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[4] http://create.org.au/wp-content/uploads/2017/03/CREATE-Position-Paper-Stigma-in-Out-of-Home-Care-CREATE-Foundation-2017.pdf

[5] http://create.org.au/snap-stigma-youth-week/

The Aboriginal Child Placement Principle

Questions

1. **From your experience, what barriers exist to have child protection authorities make all necessary efforts to comply with the Aboriginal Child Placement Principle, which aims to find a placement for an Aboriginal child in need of care that maintains the child's connection to family, community and culture?**

Connection to family and culture for Aboriginal and Torres Strait Islander children and young people is particularly important in the child's development (Moss, 2009). Positive self-identity is reinforced by cultural and community connections (Lewis & Burton, 2014).

> [Contact is important] *for knowing who your family is, and where you come from.* (Female, 16 years)

The Aboriginal Child Placement Principle was introduced for this reason and is why all states and territories have it incorporated in their OOHC policies and legislation. However CREATE has found that 30.1% of the Indigenous respondents to CREATE's Report Card (2013) felt they were "not at all" or "a little" connected to their culture or cultural community, demonstrating the need for much more work in this area (McDowall, 2013).

The largest barrier for child protection authorities in the NT to comply with the Aboriginal Child Placement Principle (the Principles) is the lack of available, trained and approved Aboriginal carers, due to this; Aboriginal children and young people are often placed in non-Indigenous placements. Whilst the Principle allows for this placement to occur is it is the department's statutory responsibility to ensure that connection to family and culture play a critical role in the on-going suitability of the placement.

If non-Indigenous carers are unable to demonstrate their ability to provide and support the child or young person's cultural, engagement with their family and community in a true and meaningful way, then the suitability of the placement must be in question. Non-Indigenous carers must be required to demonstrate on a regular basis to the department, how the continuation of the placement is in the 'best interest of the child or young person' if they are unable to apply the placement Principles as a part of the child and young person's everyday lives. Failure to monitor this engagement and application of the Principles is a failure not only of the purpose of the Principles but also for the child and young person and the system as a whole.

Research conducted by CREATE as part of the 2013 Report card, found that despite Cultural Support Plans being in place and in child protection legislation across Australia, only 10% of the Indigenous young people who participated in the survey actually knew about them.

CREATE questions how such a low level of awareness could be conducive to improving cultural understanding and engagement. Recommendations made in the 2013 Report Card were that specific cultural education programs relevant to specific regions and clans be developed by, and in conjunction with, Indigenous elders and that they be made available to interested children and young people in care (McDowall, 2013, pg. 88).

2. What barriers exist to applying the Aboriginal Child Placement Principle? Do you have suggestions as to how any barriers may be overcome?

As noted previously in this submission, the lack of suitably, trained and supported Indigenous carers is the most critical barrier to the placement Principles. Research conducted by Arney, F. ,Iannos.M. ,Chong.A. ,McDougall. S. ,Parkinson.S (2015) indicated that efforts to implement the Principles are not going far enough, nor are they achieving their goals.

As part of the research, a 'systemic audit' into the implementation of the Principle in Queensland (the only audit one of its kind throughout Australia) was conducted. The research found that whilst compliance within each step was reported as "quite good", full compliance with each of the five required steps, when viewed together, was not achieved at all in the 2008 sample. It was only achieved in 15% of the audit sample in 2010-11 and 12.5% in 2012-13 (Arney et al, 2015)

The report findings by Arney et al (2015) echoes SNAICC's position on the implementation of the Principles and raises concern as to what the specific barriers to preventing the full implementation of the Principle may be. Initial research indicates that the specific barriers include limited understanding of the Principle: over-representation of Aboriginal and Torres Strait Islander children in the child protection system, poor identification and assessment of carers, and inconsistent involvement of Aboriginal and Torres Strait Islander people and organisations in decision-making. (Arney et al, 2015) (SNAICC, 2015)[6] .

Whilst the list of barriers creates concern for the implementation of the Principle, the AIFS report indicates, promising approaches to addressing these barriers including: establishing partnerships between communities and government, and enhancing understanding of the Principle (SNAICC, 2015). The implementation of the Principle is a specific role of the Territory Families caseworkers and managers; however if the case managers did not have the support or resources required to implement the Principle, it is ultimately the children and young people in their care who suffer.

In conjunction with the placement Principle issue, are the concerns relating to maintaining contact with family and culture through maintaining sibling relationships for Indigenous children and young people. The maintenance of these relationships must be considered not only for continuity of family connections but also for linkages to community and culture. (Holzer, Bromfield, Richardson & Higgins 2006).

The need for connection between Indigenous siblings, particularly when placed with different carers, has been recognised for some time, given the cultural significance of family (Holzer et al, 2006)

Holzer et al, (2006) noted in a follow up consultation with Indigenous young people that,
"it would appear that the cultural commitment to community and caring, often identified as a characteristic of Indigenous culture in Australia, is evident in the sense of the responsibility to family, that is already being experienced by some of the young people in care" (Holze et al, pg. 44, 2006).

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[6] http://www.snaicc.org.au/australian-institute-of-family-studies-releases-new-cfca-paper-examining-implementation-of-child-placement-principle/

This "sense of responsibility" for their siblings, amongst Indigenous children and young people in OOHC, has also been noted in other studies by Long & Sephton, 2011 (As cited in Holzer et al, 2006, p. 44).

Moore, Bennet and McArthur (2007), (as cited in McDowall, 2015) conducted two youth forums with 52 Indigenous children and young people and asked them to talk about their family and siblings. It was evident from their responses, that participants felt that, *"family provided them with support, with belonging and often identified family as being the most important thing in their lives".*

Several of the children and young people consulted thought that greater early intervention and family support could have prevented their entry into care. The respondents reported similar views to other children and young people regarding sibling contact: *"they wanted to be placed with their siblings or, at least, to be able to stay in constant contact during their placement"* (McDowall, 2015, pg. 27). Older siblings felt a need to support and protect younger children; the younger ones felt safer with that support (Moore et al, 2007) (as cited in McDowall, 2015).

CREATE recommends that the Commission work with SNAICC and local NT Indigenous organisations to address barriers to the implementation of the Principles as CREATE believes that these organisations are best placed to provide advice on future strategies.

Supporting young people and leaving care

Questions

1. **What support services are available, and accessible, to children leaving care? Is adequate information provided to children, families and support services? What are the barriers to accessing services? Do you have suggestions for further services to support children leaving care?**

Young people preparing to transition from care are among the most vulnerable groups in our society. Developing, implementing and maintaining clear transition from care plans, is central to increasing the likelihood of a young person successfully leaving care, and to them gaining positive longer term outcomes (McDowall, 2016).

In 2016, CREATE conducted a review of its '*Go Your Own Way'* leaving care Kit. The review found that young people did not have a consistent and clear plan in many instances and that they often did not know where to go or who to ask for assistance even prior to leaving care (McDowall, 2016).

CREATE is aware of a range of support services for children and young people across the NT including support for: housing; mental health; addiction; legal support; pregnancy; family planning, victim support; relationship counselling; employment; consumer advice; and so on. CREATE however believes that whilst these services appear as 'available and accessible' in reality they do not offer the support many of the children and young people desperately require.

For example, if we look into the housing services as an example, the public wait list for appropriate housing for young people in the NT is more than 12 months. Emergency accommodation options such as Salvation Army Hostels are inappropriate options for young people leaving care, due to the high needs of the older adult residents already placed in the facility. Other community-based housing projects are often full and again have long wait lists. A YWCA housing and parent education program for young pregnant women in Darwin is regularly full from referrals that originate from within their own agency.

Participation in alcohol and other drug-addiction support services is generally accessed via court ordered referral processes and more often are full or oversubscribed. Both public and benevolent legal support services are governed by rules that often exclude young people. Accessing a mental health service requires a high level of self-awareness, motivation to address the issues and resources to continue to access these services via public transport.

The reality is that a young person in the NT who has left care and is in need of support will generally have a multiplicity of issues. They are struggling with a number of issues and find it difficult to access support. For example, a young person needing mental health counselling, cannot get to an appointments because they have no driver's license or car. Many services are run by poorly resourced non-government organisations, with the services located in areas that are difficult to access via the public bus service.

Young people find it difficult to access legal support due to not having birth certificates or other forms of identification. Many of the existing support services are structured as to assume that their clients already have a high level of functioning in order to negotiate the service entry requirements. For some illiterate or semi-literate care leavers, even finding and reading a bus timetable to get to an appointment can be challenging or impossible. Other services require upfront fees that young people are unable to provide and therefore cannot access the services they require.

CREATE believes that whilst there are existing services that young people who have left care can access in the NT, CREATE's experience is that without the support of an adult, the time dedicated to 'being with' the young person, combined with a lack of access and monitory resources, young care leavers have little success in negotiating and accessing existing services.

CREATE recommends that Territory Families conduct an audit of existing support services in the NT to clarify the specific services that are available for young people who have left care.

2. How effective is the leaving care planning process in supporting children to exit care? What could be done to improve leaving care plans and ensure children are properly supported when they leave care and do not exit into homelessness, poverty or isolation?

The disadvantage and vulnerability experienced by young people transitioning from care, along with the additional risk factors they face, is well known. CREATE has conducted research into transitioning out of and leaving care for a number of years (McDowall, 2009; 2013; 2016). CREATE's recent response to the Northern Territory Royal Commission (2017c) noted in relation to outcomes for young people leaving care that:

- 35% were homeless in the first year of leaving care;
- 46% of boys were involved in the juvenile justice system;
- 35% completed Year 12 (compared to that of the general population);
- 29% were unemployed (compared to the national average which is 9.7%); and
- 28% were already parents themselves (McDowall, 2009).

Quality transition from care is critical to healthy outcomes for children and young people. Robust exit planning in which young person have actively participated, support from external agencies, departmental support and the capacity to return to care if needed are all factors which characterise a healthy transition (McDowall, 2009, 2011, 2013, 2016).

CREATE has long advocated for more detailed planning processes and resourcing for young people preparing to transition from care. In 2016 CREATE conducted a national review of its *'Go Your Own Way'* Kits to assess the usefulness of the kit in preparing young people aged 17 years of age who are preparing to transition out of care. One thousand, nine hundred and sixty-one (1961) kits were distributed nationally, 52 of those were to young people in the Northern Territory (McDowall, 2016).

Results of the review indicated that only 47% of young people who received a Kit, also had a leaving care plan that they were aware of and a further 34% did not have a leaving care plan at all (McDowall, 2016).

CREATE's discussions with young people indicates that the Department has worked hard to ensure that most young people leaving care are subject to a Leaving Care plan. Despite this, CREATE is aware of numerous examples of young people who are not aware that such plans exist for them and indicate that they did not participate in its development and could not therefore benefit from it in any way.

What is clear is that early planning for transition, assists young people to develop a better understanding and awareness of their transition planning, and resourcing them adequately assists their engagement in the various tasks required.

CREATE maintains that the leaving care age must be raised nationally to 21 years, and that supports be provided to young people leaving care up to the age of 25 years. Further CREATE's recommends the establishment a system of continuing support for care leavers, similar to the effective Personal Advisors program in the United Kingdom, and programs already trialled in Australia.

These programs provide individual mentoring for young people who have transitioned to help address any of their ongoing needs. The area of Australia the young person lives in will determine the level of ongoing support, and how long it can be maintained. Mentors can be specialist paid staff or significant people (who receive training) from the young person's own social network (McDowall, 2016).

Sharing of Information

Research indicates planning for leaving care appears disconnected and haphazard, with the primary responsibility lying with the departmental case manager however the foster/kinship carers must also be involved, as well as any potential support services.

CREATE NT runs a training program for young people that covers many of the basics areas that young people will need to know prior to moving to independent living. CREATE also provides young people with a "Go Your Own Way "kit which details how services can be accessed and contains relevant resources. For a young person to get the greatest benefit from this use of the kit, CREATE needs to be able to make ongoing contact with the young person via their up to date contact details.

Currently, Territory Families does not share any personal information of the young people in care aged 17 who are about to transition out of care with CREATE. It relies on CREATE's ability to engage them in CREATE programs. This presents a challenge as CREATE is unaware of their placement or location of the young people and it is difficult to make contact with such limited information. CREATE is currently in discussion with Territory Families as to how this issue could be resolved.

It is important for the NT government and Territory Families to work closely with non-government organisations in order to improve the process of supporting young people leaving care. CREATE commends the Territory Families in recently responded positively in this area, by calling high level

meetings with NGO's, seeking their input to planning, organising meetings to develop services and seeking the views of young people to help inform the process.

CREATE believes that the department's efforts are to be applauded and that if the government and NGO partnerships continue in this manner, the care sector can find collaborative and effective partnerships to support young people approaching the end of their care journey.

One of the biggest impediments to the implementation of support program's for young people leaving care is the difficulty encountered when information about the needs of the young people is not shared between the Department and agencies such as CREATE. CREATE is aware that the Department and its caseworkers see the sharing of information as a positive and necessary thing.

CREATE is also aware that a number of foster and kinship carers also support this process however the actual sharing of information is currently blocked by legal review processes with the NT department. The reasons provided to CREATE currently as to why this information cannot shared, relates to privacy laws surrounding the identification of Foster and Kinship carers and their contact information.

It is CREATE'S view that carers should be required to provide permission for access to this information as a part of their initial induction processes to become a carer.

CREATE believes that the Royal Commission could play a critical role in auctioning and permitting this information to be made accessible and available to CREATE. Parliamentary Privilege

CREATE believes that a similar decision in the NT would improve CREATE NT's capacity to engage with and provide information too children and young people in care and those preparing to leaving care.

3. Are the particular needs of Aboriginal children, children living in remote areas, or of children from culturally and linguistically diverse backgrounds being met when they leave care? What changes need to be made to ensure this happens?

Aboriginal and Torres Strait Islander children are over-represented within the child protection and OOHC sector. According to AIHW (2017), data there were 1032 children and young people in OOHC in the NT in 2016 and of these, 920 were Indigenous.

This over-representation of Aboriginal and Torres Strait Islander children and young people in statutory care, demonstrates that current approaches to ensuring the safety and wellbeing of Aboriginal and Torres Strait Islander children and their families are not working. In addition, governments are required under the UNCROC (1989) to help families protect their children's rights – including their rights to live with their families and to practice their culture, language, and religion (CREATE, 2014e).

CREATE (2014) supports the actions advocated by SNAICC (2014) to address this situation. With this in mind, CREATE recommends that governments take responsibility for:

1. Promoting understanding of, and respect for, Aboriginal and Torres Strait Islander rights and cultures;
2. Placing Aboriginal and Torres Strait Islander family and community decision making at the center of ensuring the safety and wellbeing of children;

3. Increasing the proportion of government expenditure on Aboriginal and Torres Strait Islander developed and delivered prevention and early intervention services, and targeted family support services; and

4. Increasing the number and capacity of Aboriginal and Torres Strait Islander child protection services available to provide prevention and early intervention services, targeted family support services and out of home care services[7]

Children and young people living in remote and regional areas generally do not access leaving care services or resources. This is primarily due to the expense associated with travel to remote areas as well as the lack of culturally appropriate programs and resources.

The issue of children and young people living in remote areas is a complex one that requires comment from people more qualified and experienced in the area. It is clear however that there are a multiplicity of problems requiring an eclectic and coordinated approach from government, communities and NGOs in order support these children, young people and their communities. The problems tend to be socio-economic in nature and reflect the experiences of governments and Indigenous populations in other jurisdictions and indeed in other countries.

CREATE's perception is that the government and Territory Families recognises these issues and works to address them.

Reunification

Questions

1. **What information is given to parents as to what would be required to have their children returned from care? What support is provided to children, their families and communities for reunification (where appropriate)? How do aspects of the current system, where children may be placed in temporary placements in locations away from their parents, affect the prospect of reunification?**

Whilst the issue of reunification is not a specific area in which CREATE focusses its attention, CREATE believes that there needs to be programs in place to monitor any attempts made by both the parents and the child to participate in programs or activities which would benefit the reunification process. CREATE is concerned that reunification is often tried prior to the birth parents having worked extensively on the issues or concerns around their parenting skills which led to the contact with the department in the first place.

CREATE believes that reunification can only occur when all parties are able to clearly articulate the programs, process and counselling they have participated in and will continue to participate in once the child or young person returns. CREATE believes that there should be ongoing monitoring and supports in place to support families to achieve reunification.

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[7] http://create.org.au/wp-content/uploads/2015/02/CREATE-Position-Paper-Overrepresentation-of-Aboriginal-and-Torres-Strait-Islander-Children-and-Young-People-in-Out-of-Home-Care-CREATE-Foundation-2014.pdf

Improving Out of Home Care

Questions

1.   **In your experience, what causes placement breakdowns in the Northern Territory?**

There are many reasons why OOHC placements break down. It has to be recognised that children and young people taken into care have come from high levels of abuse and neglect and are traumatised. They often exhibit behavioral issues that require a high level of training and competency that some carers have not been trained to deal with nor resourced to handle.

2.   **What changes could be made to reduce placement breakdowns?**

CREATE believes that the following changes could be made to assist in the reduction of OOHC placement breakdowns.

- Include children and young people in discussions of where to live and include meetings with carers to assess for a proper 'fit'.
- Increase the level of support available to foster carers via caseworkers, psychological services, specialist behavioral management officers.
- Provide every child/young person entering care with trauma counselling including counselling from psychiatrists familiar with attachment disorder and anxiety.
- Resource a fully staffed and equipped foster carer recruitment team within the department with a high level of expertise in both recruitment and support.
- Regulate the numbers of children and young people being placed with any carer and ensure that there is sufficient monitoring of the placement so that case managers are able to better support carers who are experiencing stress related to caring for a foster child or young person.

CREATE Northern Territory (2016) conducted a consultation with children and young people in care in the Alice Springs region (n=25). The consultation provided children and young people with the opportunity to comment on what makes a 'good placement' and whether they felt comfortable in their current placement (CREATE, 2016a).

The consultation provided CREATE with the opportunity to engage with children and young people and support their right to be heard and involved in decisions that affect their lives. CREATE believes it would be necessary to consider their responses when considering what changes could be made to reduce OOHC placement breakdown.

Based on the findings from the Alice Spring's consultation the top five things children and young people want in regards to their placement are:

1. *Family is important* – overwhelmingly the children and young people said that they want to be in kinship care. Whilst we are aware that this is not always what is best for the young person, finding family who are capable, and willing to take on the responsibility to care for these young people needs to be a priority.
2. *Make the transition into care as painless as possible* – if there are family groups coming into care, and where safe to do so, it is a priority to keep the sibling groups together. Children and young people feel further traumatise when separated from their siblings and parents at the

same time. Children and young people want to have access to and with family (where possible) so that they can maintain these relationships.

3. *Consistency of care* – young people need consistency, in their placement and with their carer's. Children and young people who come into OOHC wanted long term solutions not short term solutions.

4. *Listen to them* –children and young people want to be asked what they want, of course sometimes may not be achievable or in their best interest, however they have the right to be involved and informed of decisions which impact upon their lives.

5. *Involve children and young people in decision-making processes* – children and young people want their case managers to involve them in decisions which affect their lives (CREATE, 2016a).

3.   The Commission has heard that a number of children in the Northern Territory leave a placement and self-place with family or other individuals. What are the reasons for this? How can we avoid children self-placing, or at least manage it to ensure that children remain safe and accounted for? How have, and how should, the relevant authorities respond

CREATE Northern Territory concurs with this observation. CREATE would argue that the comments made by young people in the previous question apply to this question as well. The real question is why are young people unhappy in their OOHC placements in the first place? CREATE's (2016a) discussions with young people in care in the NT told us that:

- kinship placements does do not appear to be a priority;
- siblings are often separated;
- too often placements are temporary and seem to meet the needs of the department rather than the needs of the children; and
- children are not consulted in relation to important placement decisions (CREATE, 2016a).

CREATE believes that all carers and people working with children and young people who are in out-of-home care should be adequately trained in trauma aware practise and have access to resources to support and maintain this knowledge.

Breakdown of foster and kinship care placements can lead to placement in the residential care environment. Entry into this residential care is often fraught with a multitude of issues and starts a cycle for the young people through a multitude of residential care placement options, as noted previously please refer to our Position paper on Residential Care.

Children and young people's participation must be paramount, everyone involved in the case, including the child or young person must be informed about why they came into care, what will happen for them whilst they are in care, what changes need to be made and when, will they have contact with their birth parents and siblings and if so when. If children and young people are kept in the dark and not actively involved in their life and the decision that impact upon them, they will vote with their feet and leave. Uncertainty in the future can lead to anxiety, depression and other erratic behavior.

CREATE recommends that further research into this field would provide clearer insight to this area to improve policy and practice for children and young people in OOHC in the Northern Territory.

4. Is there a need for a greater focus and more data on outcomes? How should that be framed?

CREATE's and numerous other research in the field of child protection and OOHC indicates that the life outcomes for children entering care are substantially poorer in all areas of their life than outcomes for the general population. Territory Families also acknowledges this and continues to work to improve these outcomes however, progress has been slow.

We believe that there is room to ask the question "Would these children have fared better had they been left in the care of their parents?" (Immediate and serious risk of harm excluded of course). A question of this nature would need to be considered by skilled and experienced researchers with access to data and the resources to fully examine the issue but questions of this nature ought to be a part of the overall discussion.

Another question that could be investigated is "How do outcomes for children and young people in care compare against their peers from disadvantaged backgrounds?" to assess the similarities and differences as to where the system has improved or failed to deliver effectively. Information gleaned from both of these research endeavors would deliver strong evidence bases for improvements to mainstream and child protection systems and programs.

CREATE recommends decisions regarding OOHC in the NT ought to be informed by structured and purposeful data collection from the Department, national child protection research and data collect resources, care providers, relevant NGOs, community consultation and of course (and most importantly) from children and young people in and emerging out of the OOHC environment.

Permanent Care Orders

Questions

1. **To what extent do you think PCOs have been used to ensure a placement is in the best interests of a child? In your experience, what factors are considered when opting to seek a PCO versus other available options (including working intensively with a family)?**

2. **Are there alternative models to the current model of permanent care that should be considered?**

Stability in care can be achieved through well-resourced and actively supported placements, in some cases involving long-term legal guardianship. Any decision regarding the placement of a child or young person in care must include the child or young person in the decision-making process. (CREATE, 2016b).

Long-term placements can provide carers, children, and young people with more stability and more parental day-to-day responsibilities. Carers are more able to make everyday decisions regarding the child or young person that reduces their contact with the department and provides for greater autonomy for the family and the children or young people in their care.

CREATE believes that if long term placements were to become more widely used, the issues of contact with the birth family and/or siblings would have to form part of a long term case management plan. The department would be responsibility for maintaining, ensuring and monitoring that this contact was taking place in the best interests of the child or young person in the placement

For more information on CREATE's position on permanency planning, stability and adoption please refer to our positions papers on adoption[8] and stability in care[9] (CREATE, 2014b and CREATE, 2016b).

Community information

Questions

1. **What would improve community understanding of child protection as an issue and a system?**

The National Framework for Protecting Australia's Children 2009-2020 (the framework), was endorsed by the Council of Australian Governments (COAG) in April 2009 and states as it motto, 'protecting children is everyone's business'. The framework is for Commonwealth, State and Territory governments, non-government organisations, service providers and individuals with an interest in ensuring Australia's children are safe and well.

Whilst the Commonwealth, state and territory child protection departments and a large number of other government and non-government organisations across Australia are committed to the protection of children and young people, often the 'on the ground' community members are not so sure of their role or of how to action such ambiguous statements.

A community-based model developed by Barth and Price (2005), demonstrates a shared family care model (the SFC model) for child protection and community involvement. The SFC model is aimed at achieving permanency for children and their families involved with the child protection system and places the 'whole family' into homes of community members who then support the 'placed' family and act as mentors.

A large team of professionals is then engaged to provide support and motivation to help the 'placed family' work on their family goals and address any child protection issues and concerns. Barth and Price (2005) believe that their model works and raises greater community awareness by, 'simultaneously protecting children and preserving families'. The greatest outcome of the SFC model is that it fills a critical service gap between traditional family preservation and out-of-home care' (Barth & Price, 2005, pg. 197).

This model would be specifically suited to Aboriginal and Torres Strait Islander children, young people and their families who are involved with the child protection system. The children and/ or young people would not need to be removed from their families and/or communities as families 'on location' could be trained and supported to participate in the SFC model and provide 'in community' support (Barth & Price, 2005).

The SFC model places the entire family into a 'care model' within a trained and supportive family placement. Indigenous carers who are already registered and assessed could be re-trained in accordance with the SFC model and take on families rather than individual children and young people. Relationships, mentoring and support are all developed and worked on during the 'in family placements'

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[8] http://create.org.au/wp-content/uploads/2015/02/CREATE-Position-Paper-Adoption-CREATE-Foundation-2014.pdf
[9] http://create.org.au/wp-content/uploads/2015/02/CREATE-Position-Paper-Stability-in-Care-CREATE-Foundation-2016.pdf

with department and other professionals providing monitoring and supervision as when and if required (Barth & Price, 2005).

CREATE recommends that the Commission investigate the development and implementation of the SFC models application in the Northern Territory.

TOPIC 4: The pathway from protection to detention

The Australian Institute of Health and Welfare's (2016) report on *Young people in child protection and under youth justice supervision for the years 2014-2015* indicates a number of concerning figures for children and young people in the child protection system. These include:

- 5.5% of children and young people aged 10-17 were in the child protection system and under a youth justice supervision in the same year;
- young people in the child protection system are 14 more times as likely as the general population to be under youth justice in the same year;
- young people under youth justice supervision were 15 times as likely as the general population to be in the child protection system in the same year;
- indigenous young people in the child protection system were more than twice as likely to be under youth justice supervision than non-Indigenous young people; and
- the level of dual involvement was 8.0% for those under care and protection orders, 6.3%, for those in out of home care and 4.1%.

Additional results from the report indicate that the younger a child is at their first contact with youth justice supervision, the more likely they were to be also in child protection. In 2014-15, three in five (60%) of those aged 10 at their first youth justice supervision were also in child protection (AIHW, 2016). 'Cross-over' or 'dual order' children and young people are defined as "children or young people living in the care of the child welfare system who are subsequently charged with a criminal offence, hence they 'cross-over' from one system (child protection) to another (youth justice)" (Herz & Ryan, 2008; Piscitelli & Follet, 2012).

A review of the literature identified six casual factors that may increase the likelihood that a child or young person in child protection or OOHC may "cross-over" into the youth justice system, the factors include:
- multiple moves once in care;
- being placed in a group home (residential care);
- facing mental health issues;
- facing substance use issues;
- exposure to maltreatment (abuse) for long periods of time; and
- being male (Herz & Ryan, 2008; Piscitelli & Follet, 2012)

Questions
1. **In your experience, how do the following affect a child or young person's behaviour and social relationships?**

The following are a list of the possible affects and impacts that children and young people in OOHC display and are affected by as observed by CREATE in our day to day work and interactions.

a. **Removal from their family and community (because of an OOHC placement).**

The impact of removing children and young people from their family and community can often present with the following physical, social and mental health concerns.

- Post-Traumatic Stress Disorder (PTSD)
- Attachment disorder
- Generalised anxiety
- Self esteem
- Behaviour issues
- Failure to thrive
- Poor academic achievement
- Relationship issues throughout life

b.   Removal from their school (because of an OOHC placement).

CREATE has produced a position paper on the education outcomes for children and young people in OOHC. The following are a list of issues which children and young people in care may be affected by. These physical and social impacts can have a large negative impact on their ability to thrive in mainstream education. For further information please refer to the CREATE's education position paper (CREATE, 2015a).[10]

- Poor academic results
- Social disruption
- Stigmatisation
- Anxiety
- Victim of bullying
- Development of bullying behavior

c.   Early involvement with the child protection system.

Cashmore and Paxman (2007) highlight the following issues for children and young people's early entry into OOHC. Many of the issues mentioned below can continue to impact upon the children and young people into their adulthood.

- Poor outcomes compared to control group not taken into care
- Greater chance of abuse in care
- Behavioural issues
- Socially disconnected
- Difficulty negotiating normal relationships (Cashmore & Paxman, 2007).

2   In your experience, have children and young people been exposed to positive or negative influences in OOHC? Has OOHC influenced them to improve behaviour or engage in offending behaviour? If so, outline your experience.

CREATE recently conducted structured interviews with 200 young people aged between 18 -25

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[10] http://create.org.au/wp-content/uploads/2015/02/CREATE-Position-Paper-Education-CREATE-Foundation-2015.pdf

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years of age across Australia. Whilst the final report is not yet finalised, initial data and qualitative analysis reveals that many young people are entering the criminal justice system via their placement within the OOHC sector. Initial demographic information is detailed below:

- 60% of the participants identified as female, 38% male and 2% where unsure
- The mean age of the participants was 22.4 years of age
- The most responses were received from NSW (33) SA (28) and the NT (24)
- 25% of the participants identified as Aboriginal or Torres Strait Islander
- 140 (30%) of participants identified as having some type of disability and 31% had comorbid conditions
- 77% of the participants had been involved with the justice system (police, the courts, youth justice and youth detention) during their time in OOHC, 48% of these was when they were aged between 11 – 15 years of age.

The structured interview contained thirty-nine questions, CREATE staff worked through the questions with the young people and recorded the young people's responses. The interviews were conditionally branched questions, including check boxes, rating scales, and open text boxes.

The aim of the interviews was to look at how many young people with an OOHC experience had been involved with the justice system in anyway. If they had been involved, CREATE wanted to know what type of support had they received and who had offered this support to them during their contact with the justice system.

The type of offences participants had been involved with which lead to their contact with the justice system included:

- General contact with the Police and the Police being called out to attend a situation the young person was involved in
- Assault or arguments with other young people
- Running away from an OOHC placement
- Property damage
- Stealing/shoplifting
- Car theft
- Drug and alcohol

Twenty-five per cent (25%) of the 119 young people (who answered this particular question) stated that their initial contact with the justice system had been through contact with the Police. Young people's comments included:

Stealing alcohol. The police spoke to me and gave me a warning. They put me in youth diversion.

I was self-harming and the police were called - there were 3 officers.

I attempted suicide because of life problems and drug misuse.

All the dealings I had with the police were around violence.

When the participants were asked if they had been supported during their contact with the Police, 59 of the 173 (34%) (who answered this question) young people said that they had 'No one' to provide them with support. Secondary support was offered by caseworkers (young people did not specify if they were either departmental on non-government specific case workers) and residential care workers.

> *They didn't offer me to have any support, given that I was under age and in care, they should have given me the option to have a support person.*

> *I felt disappointed with how it was handled and with the lack of care from the police, I felt like I was another problem they had to deal with.*

The third highest level of support during their contact with the Police was received from their biological family (19). This biological support was offered to the young people during a time when they were within the OOHC sector and under statutory child protection orders.

Thirty-eight (38%) of the 153 participants identified that they had been to court. Twenty-nine per cent (29%) of the respondents who went to court were charged with an offence. Young people indicated mixed levels of support whilst they were involved in the court processes.

The highest level of support during their time in court was identified in the 'Other' category. Closer analysis at the other category indicated that some of the young people had indicated 'Other' and had then written down a support person who was already listed in the multiply choice list initially supplied. 'No one' was the second highest category identified for support during court processes.

Caseworkers and Lawyers was the third highest category of support indicated by the young people.

> *Youth workers provided practical support - picked me up if I needed to get somewhere. Provided emotional and mental health services. Linking up psychologists as needed.*

> *Did not go to court with me. Was on my own for a lot of this.*

> *Unfortunately me and my Caseworker – I didn't like my Caseworker at the time. "I had asked to be transferred to another Caseworker during the time of this court case and it felt unfair that they were sending them with me when they knew I didn't have a connection with them. I did have other connection with other DCP workers in the office and I asked to have them be my support officer for this case but this didn't happen."*

> *I reckon there should have been a lot more support. They should have kept in mind my priorities and goals and reminded me of these. I should have been given the people I asked for, especially in that situation. Or at least someone I had a connection with, and could have spoken to before and after the court case.*

> *"My caseworker from DCP and a few people from my house were there. "Mainly support if I needed anything. Just making me feel like I was belonging again because they knew I had had a rough time in the lock up. They asked me if I wanted food so bought me maccers after the court. I wasn't allowed leave the [residential care] house until I was done at Juvenile justice [as punishment].*

DHS worker came with me. Not a lot of support - drove me there, sent me home in a taxi.

She showed up because it was her job, I didn't feel supported by her at all. All she did was tell me off, she didn't want to hear my side

Thirty-seven (37) participants from the one hundred and forty-four (144) young people who completed this section of the interview, entered detention (26%). The highest area of support whilst in detention was again identified in the 'Other' category (86) and 'No-one' (49). As to the types of support offered whilst in detention, the young people stated:

I had a youth justice worker when I was locked up in youth detention but they never visited me there, I had no contact with them, they didn't support me. I didn't have any visitors at all the whole time.

No support people while detained

Initial results indicated that the young people who had contact with or entered the justice system during their time in OOHC felt that they were unsupported and that there was a lack of appropriate levels of statutory care (corporate parenting) being provided. Statutory support roles such as youth justice workers or child protection case workers and the support they are legislatively required to provide is currently missing for these young people.

This is of concern to CREATE, given that there are policy, practice, statutory and legislative requirements to do so. CREATE encourages the Commission to revisit the aspects of CREATE's initial paper to this Commission (addressing the youth justice issues) in terms of complaints processes and support mechanisms for children and young people (CREATE, 2017c, Pg., 11).

2. **Are there adequate and effective intervention strategies in place to prevent children and young people in OOHC from engaging in offending behaviour and coming into contact with the youth justice system?**

CREATE has not seen any policy or practice evidence in the NT of any effective intervention strategies in place to prevent children and young people in OOHC from engaging in offending behaviour. Whilst such policies and services may be in place, there is no community or sector awareness of such programs.

CREATE is aware of a joint protocol in NSW to help reduce the contact of young people in residential OOHC placements with the criminal justice system. The NSW Ombudsman developed the protocol after extensive consultation with key stakeholders. The protocol only came into place in 2016, so no real results may have been observed thus far on reducing the contact between young people in OOHC and the criminal justice system (NSW Ombudsman, 2016).

Additionally, work is underway in Queensland looking at how Police call outs to residential care facilities are contributing towards young people having contact with; and entering the criminal justice system. The protocol is in early stages and has not been rolled out across the OOHC sector.

CREATE recommends that the Commission further investigate the use of protocols and diversionary measures as intervention strategies to prevent young people in OOHC having contact with the justice system.

3. **What improvements or reform would you suggest to help children in care or leaving care avoid coming into contact with the youth justice system?**

CREATE believes the large sums of money allocated to inquiries could have been invested to improve service delivery rather than repeatedly looking for different answers. Bromfield (2012) notes that in Victoria the reforms stopped the increase of reports of child abuse to authorities but did not sufficiently improve the quality of child protection practice. CREATE strongly encourages the Commission to focus on delivering better outcomes for children and young people in OOHC in the Northern Territory.

A child and young person centred redesigned reform process would need to focus on recruitment and retention, staff training, staff support and supervision in the role and managerial support for the functions of a frontline worker. Consistency and continuity is key to enabling the participation of young people. Young people and workers become frustrated and disengaged if they have to continually repeat their stories if workers are constantly changing. This inconsistency alone can contribute to the re-traumatisation of the child, young person and their families (CREATE, 2015a).

CREATE believes that internal and independent complaint mechanisms are important for children and young people in care to be able to air their concerns, complain and/or seek redress without fear of repercussion and potentially harming the relationship with the service provider.

CREATE believes that any redevelopment of collaborative service provision will require an effective and child friendly complaints process both internally and through an independent oversight body such as the Northern Territory Children's Commission whose role it is to, "deal with complaints about services provided to vulnerable young people (CREATE, 2015a).

The National Royal Commission into Institutional Responses to Child Sexual Abuse (2015) also recommends a series of complaint handling policies that seek to ensure child safety via the improvement of systemic process:
- establish complaint handling policies which clearly outline roles and responsibilities, and approaches to dealing with different types of complaints and obligations to act and report;
- develop effective complaint handling processes which can be understood by children, staff, families and volunteers; and
- ensure that complaints are taken seriously, responded to promptly and thoroughly, and reporting, privacy and employment law obligations are met.

<div align="right">(Royal Commission into Institutional Responses to Child Sexual Abuse, 2015)</div>

CREATE supports all of the above recommendations from the National Royal Commission, noting that the recognition of the importance of allowing children to participate in decision making in institutional care is a recurring recommendation from several reports and research papers across the sector (Royal Commission into Institutional Responses to Child Sexual Abuse, 2015).

4. **In your experience, is there sufficient information sharing between child protection authorities and youth justice authorities to provide adequate information, support and services to children and their families? What are the barriers to information sharing and how could it be improved?**

CREATE has previously discussed and raised our key points in relation to the importance of information sharing in the above paper, specifically under the information sharing questions on page 7 of this submission.

In addition, anecdotal evidence gathered from young people as part of CREATE's 2016 interviews with young people (n=200) suggests that there is no support offered by either of the statutory bodies funded to do so. It is CREATE's belief that if the statutory bodies are not engaging with the young people before, during and after their contact with the justice system, it is hardly likely that they are sharing information between each agency.

Comments below from NT young people in 2016 reflecting on child protection caseworker's support during times they were in trouble with youth justice in response to the question "What might have helped improve the way your issue was dealt with (lead to a better outcome)?"

> *More support from my case manager that would have been nice.*

> *My case manager should have given more information.*

> *If I had more support from my case manager* (CREATE, 2017b).

CREATE is unaware of any programs in place to support young people with a care background transition out of the youth justice system whether it be within a community based supervision programs or detention. Richards & Renshaw (2013) state that supports provided to young people within the youth justice system are delivered by statutory youth justice agencies.

Each state and territory has statutory youth justice agencies that provides court support to young people facing bail determinations, and provide information to the court to assist with the judicial decisions about bail application and bail supervision. However, these people seem nonexistent to the young people who had lived the justice system experience.

CREATE believes the service users, i.e. the young people on the ground, who have had a lived experience of the system, are best placed to inform the Commission if these services are accessible, meaningful, supportive and well resourced.

As stated in the Institutional Responses to Child Abuse in OOHC Consultation paper,

> Information sharing, as part of a collaborative approach to child protection, is necessary for effective, integrated and therapeutic responses to risks and incidents of child sexual abuse. The importance of information sharing, in OOHC and other contexts, has been highlighted by a number of inquiries and reviews, as well as in the commitments and initiatives of Australian governments under the National Framework. (Royal Commission, 2015, pg. 61).

The paper continued to state the main concerns that can result from a lack of information sharing in child protection matters. These include:
- institutional failures to share information have resulted in missed opportunities to identify, prevent and respond to child sexual abuse in OOHC contexts;
- weaknesses in inter-jurisdictional information sharing arrangements create risks for the safety of children in OOHC; and

- information sharing with carers about the sexual abuse histories of children in their care is sometimes inadequate; this places children in care and other children in carer households at risk (Royal Commission, 2015, pg. 61).

Conclusion

CREATE believes that the voices of children and young people in care should be integral to inquiries and systemic reform processes of the child protection and OOHC systems. As such, this submission has been informed by the views and opinions of children and young people. This submission has outlined the key issues and factors that affect children and young people living in out-of-home care in the Northern Territory. Instability, high levels of over-representation of Aboriginal children and young people living in OOHC, poor information sharing and communication underpin the priority areas to be addressed to deliver a system that is safe for all children and young people living in OOHC in the Northern Territory.

The various actions or recommendations discussed throughout this submission have been developed to help promote the voice of children and young people in care as crucial players in the NT's systemic reform processes of the OOHC, child protection and youth justice systems more broadly.

In making this submission CREATE acknowledges that while previous governments have made efforts to address the issues associated with children and young people in the OOHC system, child protection and youth justice some of their programmes have met with some success, others have not. CREATE is unaware of any distinct long-term programmes which recognise and respond to the connection between child abuse, neglect, subsequent child protection orders, entry into OOHC and contact with the youth justice system.

CREATE believes that a holistic approach, which ensures that the voices of children and young people involved in the OOHC system and the child protection more broadly are listened and responded to, as this can bring about positive change and reform not only for the system but for the children and young people who live within it.

CREATE thanks the Royal Commission for the opportunity to provide comment and evidence to this important process. For any questions or further information about this submission, please contact Mike Campbell, State Coordinator (Northern Territory) on Priv ▮▮▮ or at mike.campbell@create.org.au or Noelle Hudson, National Policy and Advocacy Manager on Privacy ▮▮▮ or at noelle.hudson@create.org.au

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