

# Primum non nocere: rethinking our policies on out-of-home care in Australia

Are our child protection policies causing more harm to our most vulnerable children?

In Australia, there were 43 399 children in out-of-home care (OOHC) on 30 June 2015 (Box).<sup>1</sup> Over the past 18 years, the rate at which Indigenous children have been placed in care has more than tripled and more than doubled for non-Indigenous children.<sup>1–3</sup> This is disturbing, and particularly so for Indigenous children where one in 19 are in OOHC.<sup>1</sup> A recent review of child maltreatment across various countries, including Australia, concluded that 40 years after contemporary child protection policies were introduced in the 1970s, there has been “no clear evidence for an overall decrease in child maltreatment”.<sup>4</sup> Despite the call by this review for more evidence,<sup>4</sup> there have been no studies planned to assess the effectiveness of our current OOHC policy in Australia.

OOHC refers to the care of children and young people up to 18 years of age who are unable to live with their families and who are, in turn, placed with alternate caregivers on a short or long term basis. Most children in care are in good physical health and display improvements in psychological functioning over time. Recent statistics show that 93.4% of all children in OOHC in Australia live in home-based care. Eighty-one per cent of children in OOHC are in care for more than 1 year, of whom 41% remain in OOHC for over 5 years.<sup>5</sup>

Children in care experience significantly poorer mental health outcomes than children who have never been in care, with one study recording up to 60% having a current mental health diagnosis, including attention deficit hyperactivity disorder, depression, and attachment and conduct disorders.<sup>6</sup> Children in care are less likely than other children to continue their education beyond the age of compulsion. They are likely to attend a large number of different schools and experience substantial periods of absence from school, and many have to change school as a result of a placement change.<sup>6</sup> Several studies have identified that children entering care have usually experienced trauma and neglect and, as a group, are at significantly increased risk of mental health problems.<sup>7,8</sup> However, there is no evidence to indicate that OOHC reduces the prevalence of mental health problems in this population.

Community concerns about the risk of a child protection matter leading to the death of a child are out of proportion with the statistics. The homicide rate for children has remained the same at about 0.8 per 100 000 for the past two decades.<sup>9</sup> A major concern is that there is evidence that children in OOHC in Australia may experience an increased risk of harm while in care compared with children who have never been in care. A review of child deaths in New South Wales found that



there were 41 reviewable deaths due to suspected child abuse and neglect in 2012–2013; 14 of these deaths involved children who were in OOHC in NSW during the time of review.<sup>9</sup>

A South Australian study identified a significant minority of children in care (24%) with a history of placement disruption.<sup>10</sup> This group of children experience an average of 11 placements during their time in care and have experienced five placement breakdowns in the previous 2 years. The study showed a strong coincidence of early trauma and abuse and subsequent placement instability.<sup>10</sup> A key to mitigating the impact of the child abuse on vulnerable children is to have a stable long term placement; either reunited with their own family if possible, or in a stable alternative home as soon as practicable.<sup>11</sup>

## International experience

The Australian experience of rapidly rising numbers of children in OOHC over the past two decades has not occurred in the United States or New Zealand. In the US in the 1990s, there were 570 000 children (8.9 per 1000) in OOHC,<sup>12</sup> and there was concern that many children in OOHC languished in placements that were not permanent, leading to poor long term outcomes for those children. In response to this, in 1997 the US introduced the Adoption and Safe Families Act, which aims through legislation to compel state child protection authorities to limit the length of time children are allowed to remain in foster care. Almost two decades later in the US, there has been a 30% reduction in the number of children currently in OOHC, to 400 000 in 2014, and a 40% reduction in the rate of OOHC, from 8.9 per 1000 to 5.4 per 1000 between 1990 and 2014.<sup>12</sup>

In New Zealand, the number of children in OOHC has also been trending downwards. Between 2008 and 2012,

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Children in out-of-home care in Australia at 30 June, 1997–2015<sup>1-3</sup>

Year	Total		Indigenous children		Non-Indigenous children		Ratio of Indigenous to non-Indigenous children
	No.	Rate per 1000 children	No.	Rate per 1000 children	No.	Rate per 1000 children	
2015	43 399	8.1	15 455	52.5	27 817	5.5	9.5:1
2005	23 695	5.2	5450	26.5	18 245	3.9	6.8:1
1997	13 965	3.0	2785	16.3	11 180	2.5	6.5:1

the number reduced from 4522 to 3783.<sup>13</sup> Based on NZ population statistics,<sup>14</sup> this represented an almost 20% reduction in the proportion of children in OOHC, from 5.1 per 1000 in 2008 to 4.2 per 1000 in 2012. This is likely the result of the policy changes of the Ministry for Vulnerable Children, where there has been a deliberate effort to reduce the number of children entering care by having agreements to have the children placed with kin without formally placing those children under the guardianship of the court. There has been policy encouragement to have those carers seek additional guardianship and custody rights as a consequence of the Care of Children Act 2004.

### Reducing the number of children in OOHC in Australia

More than 90% of the children in OOHC in Australia have been placed there after a court order. The substantiated abuse in over 70% of these cases involves neglect and emotional abuse.<sup>1</sup> The majority of parents involved in child protection matters are from marginalised groups in society who frequently do not have access to legal representation for non-criminal matters. This means that there is frequently a great power imbalance between well resourced officers of state or territory community services departments, whose applications to the Children’s Court are mostly unchallenged by legal representatives acting on behalf of either the biological parents or the child recommended for placement in OOHC.<sup>15</sup> In Australia, OOHC has been assumed to be the safest option for vulnerable children if there is any suggestion of risk of further harm to the child. This assumption needs to be challenged.

In 2015, a Senate committee report on OOHC was commissioned by the Australian government because of concerns about the increasing number of children in OOHC, the grossly disproportionate representation of Indigenous children in care, and the challenge of finding enough suitably trained carers and homes to cater for the increasing numbers of children. The report made 39 specific recommendations about how OOHC could be improved. The focus was on improving the quality of care and training provided to better support foster carers in Australia.<sup>16</sup>

The report noted the achievements of the US in reducing the number of children in OOHC and the need to consider

similar strategies here. However, it maintained the assumption that we should expect an ever-increasing number of children in OOHC in Australia. Even if all the recommendations were to be implemented, they would not reduce Australia’s reliance on the OOHC system for vulnerable children. It is disappointing that the report did not consider the broader societal questions of why we are placing such a large number of children in foster

care and whether there are ways to reduce the number of children who experience abuse and neglect and who need OOHC.

There is no one policy innovation that will change the number of children placed in OOHC in Australia. Decreasing our reliance on OOHC will require many different strategies implemented over a sustained period of time. There is little hope of achieving change if we consider OOHC in isolation from other social policies regarding welfare and increasing societal inequality evidenced by the 17.4% of our children being raised in poverty in Australia.<sup>17</sup>

We need look no further than the public health success stories in Australia of reducing cigarette smoking rates among adults from 38% in 1974 to 15% in 2013,<sup>18</sup> and reducing the national road toll from a rate of 30 per 100 000 people in 1970<sup>19</sup> to 5 per 100 000 people in 2014.<sup>20</sup> These successes have been achieved through multiple initiatives over decades leading to incremental and sustained improvement.

### Conclusion

There are far too many children in OOHC in Australia. A child being placed in OOHC should be seen as an indicator that our society needs to do better rather than being accepted as an expected consequence of modern society. The resources to support our most vulnerable children should be directed more towards strengthening the family into which they are born as the first option. We need to ask politically charged questions, such as should we be developing policies that encourage disadvantaged families to have fewer children? We need to aggressively invest in young vulnerable mothers when they have their first child in disadvantaged circumstances, and not wait until there have been documented problems with child neglect before the child protection and social services systems react. We must incrementally reduce our reliance on OOHC as a key goal in overcoming the complex problem of child abuse, neglect and increasing inequity in Australia.

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