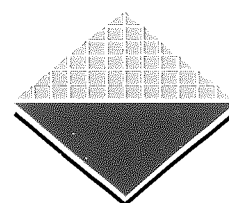


Children on care and protection orders Australia 1995-96

**Anne Broadbent
Rebecca Bentley**



AUSTRALIAN INSTITUTE OF
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Children on care and protection orders Australia 1995-96

**Anne Broadbent
Rebecca Bentley**

Australian Institute of Health and Welfare
Canberra

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Preface

This report was prepared by Anne Broadbent and Rebecca Bentley of the Australian Institute of Health and Welfare (AIHW). It is the AIHW's sixth report on children on care and protection orders and the eighteenth in the Child Welfare Series.

Tables in this publication showing statistics for Australia only are also available for individual States and Territories on request.

Numbers, rates and percentages shown in the tables may not add as a result of rounding. The numbers of male and female children may not add to total children because the sex of some children was not stated or unknown. Where appropriate, children whose age was not stated or unknown are included with children aged 0–17 years for the calculation of rates per 1,000 children.

It should be noted that the territory of Jervis Bay is included with the Australian Capital Territory in all the tables.

Rates per 1,000 population for children were calculated using projected population data for 30 June 1996. Population data for all children were obtained from projections of Australia's population, 1995–2051, Series A (ABS 1996a, unpublished data). Population data for Jervis Bay for all children at 31 March 1996 were obtained from the ABS (1996b). These data were added to the population data for the Australian Capital Territory.

Aboriginal and Torres Strait Islander population data were obtained from experimental projections, Medium Series, of the Aboriginal and Torres Strait Islander population (ABS 1996c, unpublished data). Population estimates for Indigenous children excludes Jervis Bay, Christmas Island or Cocos (Keeling) Island.

Symbols used in the tables

–	nil or rounded to zero
..	not applicable
n.a.	not available
M	males
F	females
P	persons

Summary

This report presents statistics on children on care and protection orders (guardianship and non-guardianship) in Australia at 30 June 1996. Data on the number of children admitted to and discharged from care and protection orders during the 1995-96 financial year are also presented.

Where a child is assessed to be 'in need of care and protection' the community services department in each State and Territory has the power to apply to the court (usually the Children's Court or equivalent) to seek a care and protection order. Each jurisdiction has its own legislation regarding when a child is 'in need of care and protection', but generally this includes where a child has been abused or neglected, a child has been abandoned by their caregiver, there is an irretrievable breakdown between a parent and a child or a child is a threat to themselves or others. It should be noted that recourse to the courts and the placing of a child on an order is used only as a last resort where other forms of intervention or assistance have been unsuccessful or are inappropriate.

For the purposes of this data collection, care and protection orders have been divided into 'guardianship' and 'non-guardianship' care and protection orders. Guardianship orders involve the transfer of legal guardianship of the child to an authorised department. Non-guardianship care and protection orders include custody and supervisory orders and undertakings. The number and types of non-guardianship orders vary considerably, and as a result care should be taken in comparing the numbers and rates of children on these orders across jurisdictions. It should be also be noted that children on interim orders, orders not issued through a court, permanent care orders in Victoria, and South Australian orders granting guardianship to a third party are excluded from the data.

The main points of interest are:

- At 30 June 1996, 13,241 children were on care and protection orders—66% on guardianship orders and the remaining 34% on non-guardianship orders.
- During 1995-96, 1,557 children were admitted to guardianship orders and 1,877 were discharged. During the same year 2,566 children were admitted to non-guardianship care and protection orders and 2,241 children were discharged.
- The rate per 1,000 population aged 0-17 years for children on care and protection orders at 30 June 1996 was 2.8 (1.9 per 1,000 for guardianship orders and 1.0 per 1,000 for non-guardianship orders). These rates varied considerably across jurisdictions as a result of the differences in legislation, types and numbers of orders, the policies and practices of each jurisdiction and the availability of alternatives (such as family services and voluntary placements).
- Children on guardianship orders at 30 June 1996 were more likely to be older than children on non-guardianship orders—24% of children on guardianship orders were aged 15 years or older compared with only 13% of children on non-guardianship orders. Just over half of the children on both types of orders were male.
- Indigenous children are overrepresented among children on care and protection orders. At 30 June 1996, 15% of children on guardianship orders and 14% of children on non-guardianship orders were Indigenous children. This compares with only 3% of the population aged 0-17 years. The rate per 1,000 population aged 0-17 years was much higher for Indigenous children than for non-Indigenous children. For guardianship orders,

the rates were 9.2 per 1,000 for Indigenous children compared with 1.6 per 1,000 for non-Indigenous children. The respective rates for non-guardianship orders were 4.4 per 1,000 and 0.9 per 1,000.

- The rates for Indigenous children on guardianship orders at 30 June 1996 were highest in Queensland (17.6 per 1,000) and lowest in the Northern Territory (2.0 per 1,000).
- The majority of children on guardianship orders at 30 June 1996 were living in foster care, while children on non-guardianship orders were more likely to be living with parents or relatives. This is consistent with the fact that non-guardianship orders are less interventionist.
- The number of children on guardianship orders in Australia fell by 3% from 8,998 at 30 June 1995 to 8,744 at 30 June 1996. In comparison, 9,309 children were on guardianship orders at 30 June 1991.

Part A: Overview

1. Introduction

This report, the eighteenth in the Australian Institute of Health and Welfare's (AIHW) series on child welfare in Australia, provides data on the number and rate per 1,000 population of children on care and protection orders at 30 June 1996. It examines the types of orders and the age, sex and living arrangements of these children. It also provides data on Indigenous children on care and protection orders, and compares the numbers, characteristics and rates for these children with those for non-Indigenous children on care and protection orders. Data on admissions to and discharges from care and protection orders during 1995-96 are also included in this report.

2. Scope and coverage

This report presents statistics on children placed on orders for care and protection reasons, based on data provided by State and Territory community service departments, for the year ended 30 June 1996. The relevant departments are listed at the front of this publication.

Data are included on children on guardianship and non-guardianship care and protection orders issued through the Children's Court in most States and the Australian Capital Territory, the Youth Court in South Australia and the Family Matters Court in the Northern Territory. The different types of orders are described in more detail in Section 4.

The following guidelines were used by the States and Territories when providing data on children on care and protection orders for 1995-96:

- Orders were counted in the State and Territory in which the order was operative, regardless of where the child was residing.
- Children were only counted once, even if they were on more than one order during the year, or were on more than one order at 30 June 1996. If a child was on more than one order at 30 June 1996, then the child is included under the order that implies the highest level of intervention by the welfare department (that is, guardianship orders imply more intervention than non-guardianship orders).
- Where children were admitted to or discharged from an order on more than one occasion during the year, each order was counted unless the orders were consecutive. Admissions during 1995-96 to consecutive care and protection orders were counted only once, and were classified according to the last order applying before the end of the counting period. Orders were considered to be consecutive if an order was applied within five days of the discharge of a similar order.

It should be noted that the following are **not** included in this data collection for 1995-96:

- children on offence orders, unless they were also on a care and protection order during the year;

- children on interim orders. These children were included in the data collection in previous years;
- care and protection orders relating to children over 18 years of age. Previous collections included data on a small number of persons aged 18 years and over who were on care and protection orders. However, data relating to children discharged from care and protection orders includes children discharged on their eighteenth birthday;
- children on an order granting guardianship to a third party other than the head of the authorised department in each State and Territory—for example, children on 'permanent care orders' in Victoria are excluded from the main tables in this collection for 1995–96, as are orders in South Australia which grant guardianship to a third party other than the Minister of the Department for Family and Community Services (DFCS). However, some data on children on these orders are provided in Section 5;
- children on a care and protection order not issued through the Children's Court in a State or Territory—for example, children on orders granted under the *Family Law Act* in the Family Court of Australia, are excluded from this collection, as are children on administrative orders (for the care and protection of a child) which are arranged through the community services department.¹

These exclusions from the data collection should be taken into consideration when comparing data for 1995–96 with data for previous years and also when comparing across jurisdictions within 1995–96. In particular, numbers of children on orders in some of the smaller States and Territories may be affected by the exclusion of interim orders and orders not issued through a court.

The following should also be noted about the 1995–96 data collection on children on care and protection orders:

- The tables in this report which provide information on the living arrangements of children on care and protection orders at 30 June 1996 do not include data for South Australia or a national total, because South Australia was unable to provide this information. In addition, New South Wales was unable to provide details on the living arrangement of children on supervisory orders.
- New South Wales was unable to provide information on the Aboriginality of children on supervisory orders at 30 June 1996 (884 children), children admitted to supervisory orders during 1995–96 (457 children) or children discharged from supervisory orders during 1995–96 (480 children). These children have been included with non-Indigenous children. As a result, the number and rates of Indigenous children on non-guardianship, and therefore all, care and protection orders are slight underestimates of the actual figures, while the number of non-Indigenous children are overestimates.

3. Background

3.1 Children 'in need of care and protection'

State and Territory legislation provides for action that can be taken if a child is found to be 'in need of care and protection'. The definition of 'in need of care and protection' varies across the States and Territories depending on their legislation, as detailed in Appendix 1. The legislation of some States and Territories includes a wide range of factors that would

¹ Queensland data, however, does include two children who had guardianship orders made in the Family Court.

lead to a child being considered to be in need of care and protection, including truancy and homelessness. In other States, such as Victoria, the legislation relating to the need for care and protection is more narrowly focused (on child abuse and neglect and lack of a suitable caregiver).

For the purposes of this data collection, a child is deemed to be 'in need of care and protection' if:

- the child is being or is likely to be abused or neglected;
- the child has been abandoned;
- adequate provision is not being made for the child's care;
- there is an irretrievable breakdown in the relationship between the child and their parents; or
- there are other particular child-related factors, such as physical or behavioural difficulties or psychiatrically diagnosed emotional problems (for example, if the child is 'uncontrollable', 'in trouble with the police' or 'a threat to parents or siblings').

Where a child is found to be in need of care or protection, the community service department in each State and Territory has the authority to intervene to protect the child. The level of action or intervention ranges from minimal, such as provision of counselling or continued monitoring of the situation, to the removal of the child from the family home. For example, most substantiated notifications of child abuse and neglect are dealt with through either the provision of welfare services, family conferences (to aid reconciliation of the child with the family) or informal placement arrangements (such as placing the child with a relative).

Community service departments have the power to apply to the Children's Court of their respective State or Territory to place a child who is considered to be in need of care and protection on a care and protection order. Recourse to the court is usually as a last resort—for example where supervision and therapy are resisted by the family, where removal of the child to alternate care needs legal authorisation or where other avenues for resolution of the situation are exhausted. Community service departments may also apply for a care and protection order if the child is uncontrollable or a danger to others or him/herself.

The role of the court is concerned with determining or preserving of rights of both child and guardian and authorising the forms of intervention that are to follow.

The child's welfare and interest is to receive paramount consideration, without overlooking the rights of the parents and further potential harm of the child, by unnecessarily imposing forms of intervention. (Blackmore & Horsborough 1989, p. 119)

As stated above, legislation sets the framework in which the community service departments must operate in regard to children in need of care and protection. However, additional factors that may affect the decision of community service workers to apply for a child to be placed on a care and protection order include the policies and practices of the State or Territory at the time, the characteristics of the particular child (such as their age, emotional state, cultural background), the characteristics of the family, previous encounters of the child or family with the community services department, and the location and availability of alternative options (such as less formal placement arrangements with a relative or family support arrangements). Some jurisdictions require that meetings be held with the parties concerned (such as the parents, the child and the community services department) in an attempt to work out a solution without resorting to a court order (for example, Family Care Meetings in South Australia). Also within the legislative framework, the Children's Court must exercise its judgement in determining whether an order should be imposed and the type of order that is most appropriate in the circumstances.

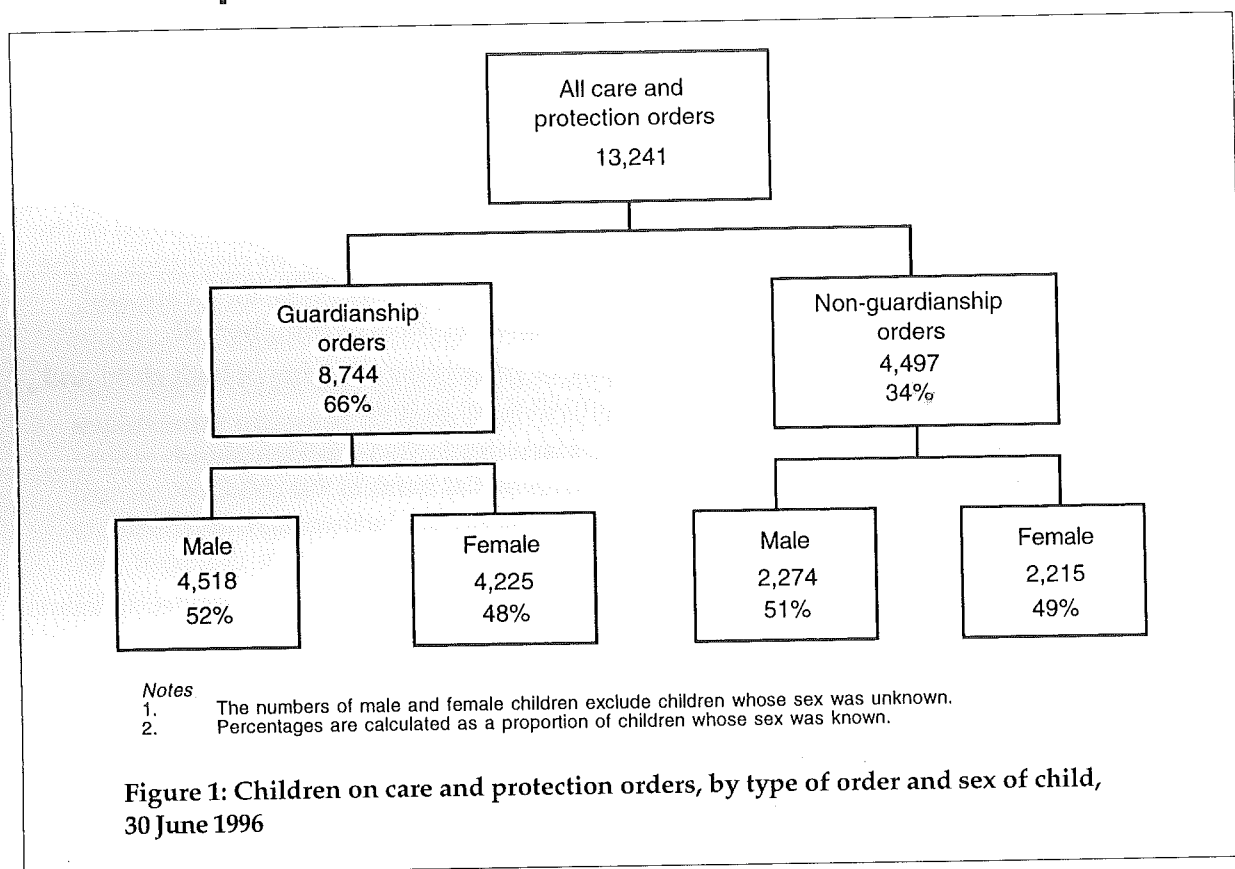
3.2 The Children's Court

Applications for care and protection orders in most States and the Australian Capital Territory are made to the Children's Court by the relevant community service department. In South Australia, applications are made to the Youth Court, and in the Northern Territory to the Family Matters Court. A small number of applications may also be brought before the Family Court or the State or Territory Supreme Court, but these are not included in this data collection.²

In any legal proceedings in the Children's Court, the rights of the child are clearly specified in terms of the relevant State Act, and the child is either directly represented or seen to have their interests represented by the State Department as party to the proceedings. The child's interests are paramount in the Children's Court. There is also an emphasis on family preservation where possible, with the family now being seen as the focus for either intervention or service delivery, and the removal of the child only a last resort. Children's Courts are usually conducted with as little formality and legal technicality and form as the circumstances permit (Blackmore & Horsborough 1989).

A list of the relevant legislation for placing a child on an order is listed in Appendix 2.

4. Description of orders



Under a care and protection order, the State or Territory community service department becomes involved to some extent with a child or family. The involvement may take the form of total responsibility for the welfare of the child (for example, becoming the guardian of the

² See footnote 1.

child), responsibility to oversee the actions of the person or authority caring for the child (for example, ordering the parents to undertake to provide proper care to the child), or responsibility to provide or arrange accommodation or to give consideration to the child's welfare. During 1995-96, 4,123 children in Australia were admitted to care and protection orders and 4,118 children were discharged from care and protection orders. At 30 June 1996 there were 13,241 children on care and protection orders in Australia (Figure 1).

In this collection care and protection orders are defined as either 'guardianship' or 'non-guardianship' orders. It should be noted that the names and types of non-guardianship care and protection orders vary considerably across jurisdictions, with some States and Territories having a far greater range of orders available than have others. For example, Western Australia has no care and protection orders other than guardianship orders, while Victoria has a wide range of orders (including guardianship orders, guardianship to a third party, orders granting custody to the Minister, orders granting custody to a third party, supervisory orders and undertakings). In addition, orders vary across jurisdictions in their purpose, their intent and the maximum length of time for which they can be imposed. These differences should be taken into account when comparing the number and rates of children on care and protection orders across jurisdictions.

Care and protection orders are made for varying lengths of time and can be reviewed and revoked. In some States and Territories there is a requirement that care and protection orders be reviewed at regular intervals (for example, orders in the Australian Capital Territory are reviewed annually by the Children's Court). While reviews of orders may create a sense of impermanence for the child and other parties involved, this must be balanced by the move to ensure that all efforts are made to return the child to their family and to provide the best quality outcome for children in care. Similarly, while the use of shorter term orders may be beneficial by forcing a review of the situation, they may also provide a sense of anxiety for both the child, their family and the alternative carer. The frequent review of orders can also place an additional burden on the Court and social workers.

Permanent care orders were introduced in Victoria several years ago to provide a sense of permanence for children in those cases where it is clear that they will not be reunited with their family. Permanent care orders are discussed in more detail in Section 5.

4.1 Guardianship orders

Guardianship orders involve the transfer of legal guardianship of a child to an authorised department, with the head of the State or Territory community services department usually becoming the guardian of the child. By their nature these orders involve considerable intervention in the child's life and that of their family, and consequentially are applied only as a last resort.

An order declaring a child to be a ward may not be made unless every alternate option has been explored and excluded. (Blackmore & Horsborough 1989, p. 129)

When the State is made a child's guardian, its obligations are the same as those of a parent in terms of the child's long term welfare. Transfer of guardianship to the State means that the community services department is required to ensure that all the human rights of that child are satisfactorily addressed during the period for which the guardianship order applies. While the aim would be to maximise the involvement of the family and the potential for return of guardianship to the parent, the legal responsibilities in addressing the needs of the child while on the order remain with the child protection service (Smith 1992).

When the State becomes a guardian of the child, the State assumes:

... the role and responsibilities of parenthood through the force of the law. These responsibilities consist not only of the obligation to provide financial and

material support including accommodation, but the advice and concern for the needs and long-term well-being of the young person which parents would otherwise provide. (Shaver & Paxman 1992, pp. 3-4)

Guardianship orders convey to the guardian responsibility for the long-term welfare of the child (for example, regarding the child's education, health, religion, accommodation and financial matters), but not necessarily the right to the daily care and control of the child or the right and responsibility to make decisions concerning the daily care and control of the child. These rights are granted under custody orders. However, guardianship orders in most States and Territories involve the transfer of custody of the child as well as guardianship of the child to the State. For example, in Victoria, a guardianship to the Secretary order grants both custody and guardianship to the Secretary. In New South Wales under a guardianship order, the State becomes custodian to the child as well as guardian. Similarly in Tasmania, the Secretary of the Department of Community and Health Services (DCHS) is both guardian and custodian for all children who are guardians of the State. (The Secretary is also known as the Director of Community Welfare for the purposes of the *Child Welfare Act* 1960.) Guardianship orders can be made for a fixed time (to enable a review of the child's or family's circumstances) or until the child turns 18 years of age.

At 30 June 1996 there were 8,736 children on guardianship orders, two-thirds of all children on care and protection orders at that time (Figure 1).

4.2 Non-guardianship care and protection orders

The remaining one-third of children on care and protection orders at 30 June 1996 were on non-guardianship orders (Figure 1). These orders give the community service department some responsibility for a child's care (usually as a result of a family crisis) or for protection of the child (from abuse or neglect for example). As stated above, the number and types of orders in this category of care and protection orders vary considerably across jurisdictions. The orders also vary considerably in the level of intervention on the part of the community services department in a child's life and that of their family.

Included in this category of care and protection orders are custody orders, supervisory orders and other orders, which are briefly described below.

4.2.1 Custody orders

Custody orders refer to care and protection orders which place children in the custody of a third party, including an agency. These orders usually involve child protection staff (or the person who has been granted custody of the child) addressing the day-to-day requirements of the child while the parent retains guardianship. Under a custody order, the person or agency having custody of the child has the responsibility for the daily care and control of the child and the right and responsibility to make decisions regarding the daily care and control of the child. Custody alone does not bestow any responsibility regarding the long-term welfare of the child.

4.2.2 Supervisory orders

Supervisory orders give the community services department some responsibility for the child's welfare by supervising the level of care provided to the child. A supervisory order does not affect the custody or guardianship of the child.

A supervisory order ... involves no legal responsibilities for actively promoting or addressing the needs of the child other than by supervising the delivery of care by the parents or other care givers. (Smith 1992, p. 180)

4.2.3 'Other' care and protection orders

'Other' care and protection orders include orders that involve little intervention in the child's or child's life or that of their family on the part of the community services department. An example of this type of care and protection order is an 'undertaking' in Victoria. An undertaking is a voluntary order agreed to by the child, the child's parents or the person with whom the child is living. Under this type of order the court may impose conditions that are in the interests, or for the welfare, of the child. The Victorian Department of Human Services (DHS) is not expected to be involved with a child their family during the period of an undertaking (Fanning, Draper & Ardley 1992).

5. Permanent care orders

Permanent care orders, which grant permanent guardianship and custody of a child to a third party, are issued only in Victoria by the Children's Court. Permanent care orders differ from guardianship orders in that DHS ceases to have legal responsibility for the child and does not provide case management for children under these orders.³ In 1995-96 there were 110 permanent care orders issued in Victoria (56 for males and 54 for females) resulting in 330 children on permanent care orders at 30 June 1996. As permanent care orders grant rights and responsibilities which are in some ways similar to those of adoption, detailed data on children on these orders are not included in this publication. However, details on the age and sex of children on permanent care orders are included in the AIHW's forthcoming publication *Adoptions Australia 1995-96*.

South Australia also has an order which grants guardianship of a child to a third party. As with permanent care orders, data on these orders granting guardianship to a third party are not included in this collection because they are different from guardianship orders where the child becomes a guardian of the State.

³ Under permanent care arrangements, however, DHS pays the child's guardian an allowance for the care of the child which is similar to that paid to foster parents.

Part B: Analysis

6. Children on care and protection orders, 1995-96

6.1 Children on all care and protection orders at 30 June 1996

At 30 June 1996 there were 13,241 children on care and protection orders (as defined in this collection) in Australia. Of these children, 8,744 (66%) were on guardianship orders and the remaining 4,497 (34%) were on non-guardianship care and protection orders (Tables 1 and 2 and Figure 1).

Table 1: Children on care and protection orders, by type of order, sex of child and State and Territory, 30 June 1996

Type of order and sex of child	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
	Number								
Guardianship									
Males	1,341	747	1,363	388	441	179	22	37	4,518
Females	1,272	647	1,261	393	430	157	22	43	4,225
Persons (a)	2,614	1,394	2,624	781	871	336	44	80	8,744
Non-guardianship									
Males	1,033	919	115	..	54	43	104	6	2,274
Females	1,022	859	120	..	56	45	99	14	2,215
Persons (a)	2,055	1,786	235	..	110	88	203	20	4,497
Total									
Males	2,374	1,666	1,478	388	495	222	126	43	6,792
Females	2,294	1,506	1,381	393	486	202	121	57	6,440
Persons(a)	4,669	3,180	2,859	781	981	424	247	100	13,241

(a) Includes children on care and protection orders whose sex was unknown.

Table 2: Distribution of children on care and protection orders, by type of order and State and Territory, 30 June 1996

Type of order	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
	Percentage								
Guardianship	56	44	92	100	89	79	18	80	66
Non-guardianship	44	56	8	..	11	21	82	20	34
Total	100	100	100	100	100	100	100	100	100

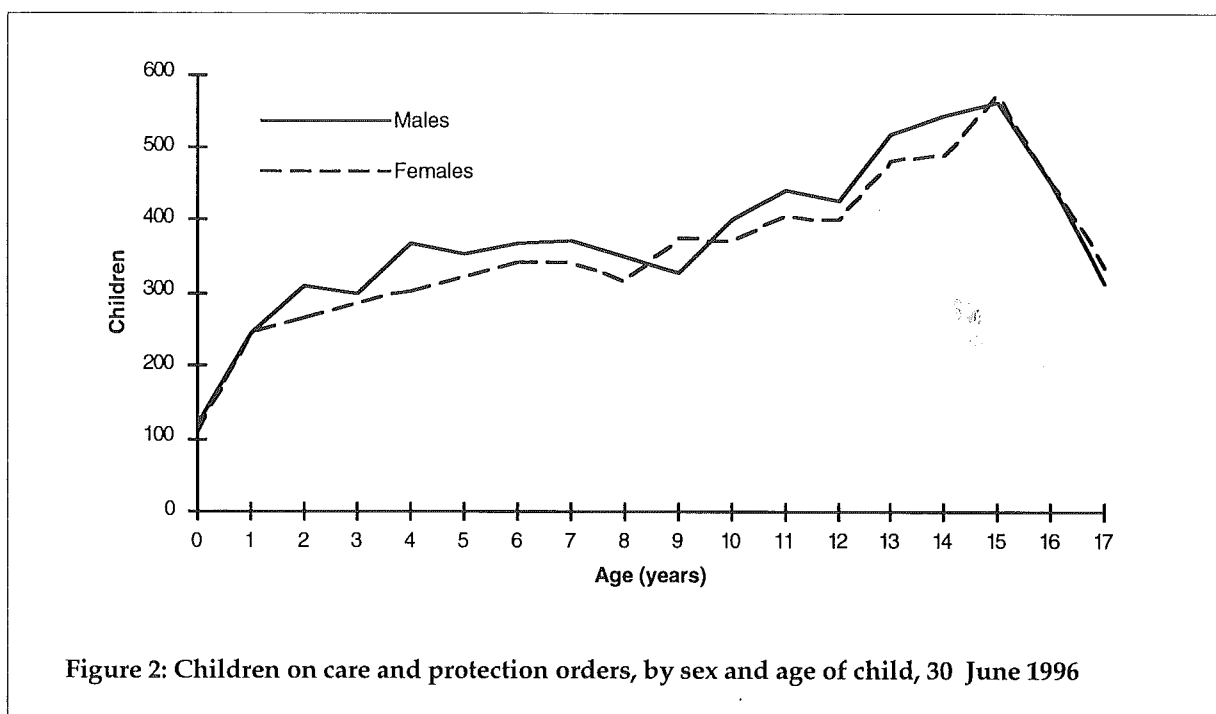
6.1.1 State variations

The number of children on care and protection orders and the proportion of these children on guardianship orders varied considerably across jurisdictions (Tables 1 and 2). This is related to population size, the types and numbers of orders available in each jurisdiction, the policies and practices relating to the placement of children on orders in each jurisdiction, and variations in the alternatives available for children in need of care and protection. For example, all of the 781 children on care and protection orders in Western Australia were on guardianship orders, because this State does not have non-guardianship care and protection orders. Similarly, a high proportion of children on care and protection orders in Queensland and South Australia were on guardianship orders (92% and 89% respectively). In contrast, only 18% of children on care and protection orders in the Australian Capital Territory at 30 June 1996 were on guardianship orders.

6.1.2 Characteristics of children

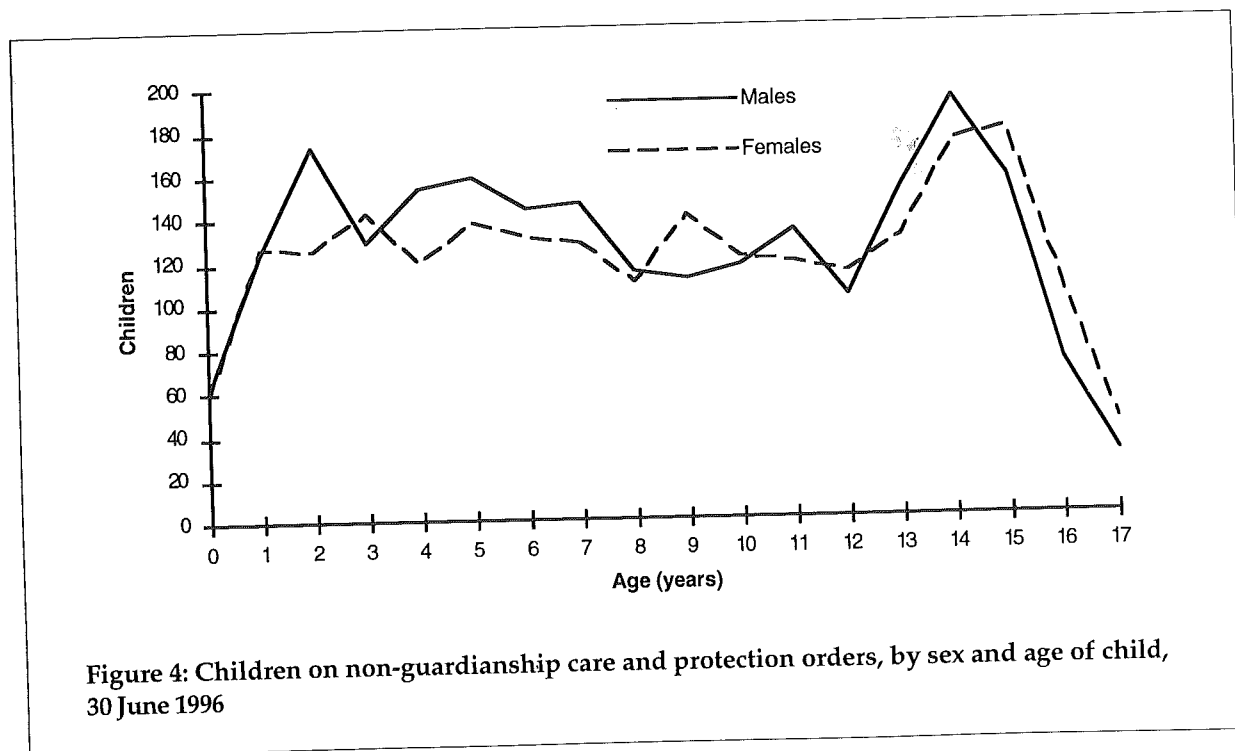
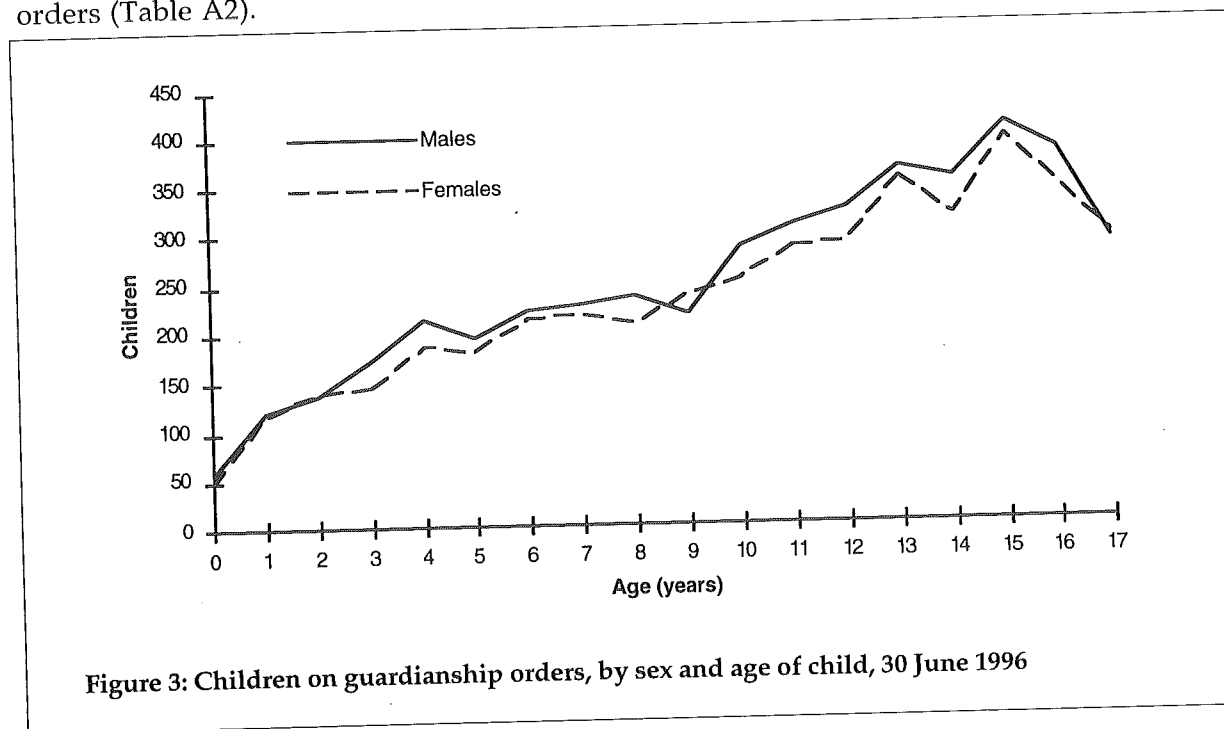
At 30 June 1996, just over half of the children on both guardianship and non-guardianship care and protection orders in Australia were male. This was the case in most jurisdictions (Table 1 and Figure 1).

The numbers of both male and female children on care and protection orders increased gradually from under 1 year of age up to 15 years of age, then fell sharply (Table A1 and Figure 2). This fall reflects the practice in most jurisdictions of placing few children aged 16 or 17 years on an order.



The age pattern for children on guardianship orders is similar to that for all children on orders, reflecting the fact that two-thirds of children on care and protection orders at 30 June 1996 were on guardianship orders. The number of children on guardianship orders increased gradually until 15 years of age and then fell to 17 years of age (Table A1 and Figure 3). In contrast, children on non-guardianship care and protection orders were more evenly distributed across all ages from 1 year old to 15 years old. The number of children on non-guardianship care and protection orders increased sharply to a peak for 14 and 15 year olds, followed by a steep fall in the number of children aged 16 and 17 years (Table A1 and

Figure 4). At 30 June 1996, only 13% of children on non-guardianship care and protection orders at 30 June 1996 were 15 years of age or older, compared with 24% of children on guardianship orders. In contrast, 27% of children on non-guardianship care and protection orders were under 5 years of age compared with only 15% of children on guardianship orders (Table A2).



The age distribution of children on orders varied across jurisdictions, largely as a result of differences in the types of orders and the practices within each State and Territory

(Table A2). While 15% of children on guardianship orders Australia-wide were under 5 years of age, 32% of children on guardianship orders in the Australian Capital Territory were in this age bracket. In contrast, only 6% of children who were on guardianship orders in South Australia and 9% of children on guardianship orders in Tasmania were aged under 5 years. South Australia also had a relatively low proportion of children on non-guardianship care and protection orders who were under 5 years of age (8% compared with 27% Australia-wide) and a relatively high proportion of children on non-guardianship care and protection orders who were 15 years of age or over (35% compared with 13% Australia-wide).

6.1.3 Indigenous children

Indigenous children were overrepresented among children on care and protection orders. At 30 June 1996, 1,951 of the 13,241 children on care and protection orders (15%) were Indigenous children, compared with 3% of the population aged 0–17 years (Tables 3 and 4).⁴ This overrepresentation was evident in all States and Territories, and for both guardianship and non-guardianship care and protection orders.

Table 3: Proportion of children on care and protection orders and the population aged 0–17 years who were Indigenous children, 30 June 1996

Children	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Percentage									
Guardianship	8	4	25	24	14	9	9	54	15
Non-guardianship	21	5	23	..	15	10	10	65	14
Total	14	5	25	24	14	9	10	56	15
Population aged 0–17 years	2	1	4	5	2	4	1	39	3

Note: Children whose Aboriginality was unknown are not counted as Indigenous children.

Of the 1,951 Indigenous children on care and protection orders at 30 June 1996, 1,316 (67%) were on guardianship orders and the remaining 635 (33%) were on non-guardianship care and protection orders (Tables 4 and A3). In all jurisdictions except New South Wales and the Northern Territory, the proportion of children on care and protection orders who were on guardianship orders was very similar for both Indigenous children and non-Indigenous children (Table A3). In New South Wales, only 31% of Indigenous children on care and protection orders were on guardianship orders compared with 60% of non-Indigenous children.⁵ In the Northern Territory, the respective proportions were 77% and 84%.

There was also variation between the two groups of children across age groups, with a higher proportion of both the oldest and youngest Indigenous children on guardianship orders compared with non-Indigenous children. At 30 June 1996, 85% of 15–17 year old Indigenous children on orders were on guardianship orders compared with 77% of non-Indigenous

⁴ It should be noted that the number of Indigenous children on care and protection orders is an underestimate. New South Wales could not provide details on Aboriginality of children on supervisory orders at 30 June 1996 (884 children), and as it is not possible to estimate what proportion of these children are Indigenous children, all 884 children have been included with non-Indigenous children.

⁵ These figures underestimate the difference between the proportion of Indigenous children and other children on guardianship orders in New South Wales (see Footnote 4).

children. Similarly, 59% of 0–4 year old Indigenous children on orders were on guardianship orders compared with 51% of non-Indigenous children on orders (Table 4).

Table 4: Indigenous children and non-Indigenous children on care and protection orders, by type of order and age of child, 30 June 1996

Aboriginality and type of order	Age (years)				Total ^(a)
	0–4	5–9	10–14	15–17	
Number					
Indigenous children					
Guardianship	191	369	457	299	1,316
Non-guardianship	135	218	230	52	635
Total	326	587	687	351	1,951
Non-Indigenous children					
Guardianship	1,152	1,783	2,674	1,814	7,428
Non-guardianship	1,089	1,110	1,129	534	3,862
Total	2,241	2,893	3,803	2,348	11,290
Percentage ^(b)					
Indigenous children					
Guardianship	59	63	67	85	67
Non-guardianship	41	37	33	15	33
Total	100	100	100	100	100
Non-Indigenous children					
Guardianship	51	62	70	77	66
Non-guardianship	49	38	30	23	34
Total	100	100	100	100	100

(a) Includes children on care and protection orders whose age was unknown.

(b) Percentages are calculated as a proportion of children whose age was known.

Note: 884 children on supervisory orders in New South Wales whose Aboriginality was unknown are included with non-Indigenous children.

Male and female Indigenous children were fairly equally represented among the number of children on care and protection orders at 30 June 1996, with a slightly higher number of males than females (983 males and 968 females). Similarly, for non-Indigenous children there was a slightly higher number of males than females on care and protection orders (5,809 males and 5,472 females).⁶

6.1.4 Changes over time

There have been a number of changes to the data collection in 1995–96 which affect the comparability of these data on children on non-guardianship care and protection orders with data from previous years (see Section 2). However, it is possible to examine the number of children on guardianship orders over the past six years because complete national data on children on guardianship orders have been available since June 1991 (Table A4 and Figure 5).

The number of children on guardianship orders in Australia fell by 6% from 9,309 at 30 June 1991 to 8,794 at 30 June 1994, rose by 2% to 8,998 at 30 June 1995, then fell by 3% to 8,744 at 30 June 1996.

⁶ There were an additional nine other children whose sex was not known.

There are several reasons for the overall reduction in the use of guardianship orders, especially since the early 1980s:

In general this reduction has been the combined outcome of changes in values and legal philosophy calling for more restricted and accountable use of legal authority, and a reassertion of the importance of the family as the preferred basis of support for young people. There has been increasing recognition of the rights and freedoms of young people themselves, and at the same time concern that legal intervention can disrupt relationships between parent and child. There has thus been a move towards shorter and more discrete orders, more reluctantly imposed. (Shaver & Paxman 1995, p. 82)

There has been considerable variation across jurisdictions in the number of children on guardianship orders over the past six years, reflecting differences in legislation, policies and practices (Table A4). The number of children on guardianship orders in Victoria, for example, fell by 38% from June 1991 to June 1996, with large falls in numbers in 1994 and 1995. In comparison, the number of children on guardianship orders in Western Australia rose by 25% from June 1994 to June 1996 while the number of children on guardianship orders in Queensland remained fairly stable over the period from June 1991 to June 1996.

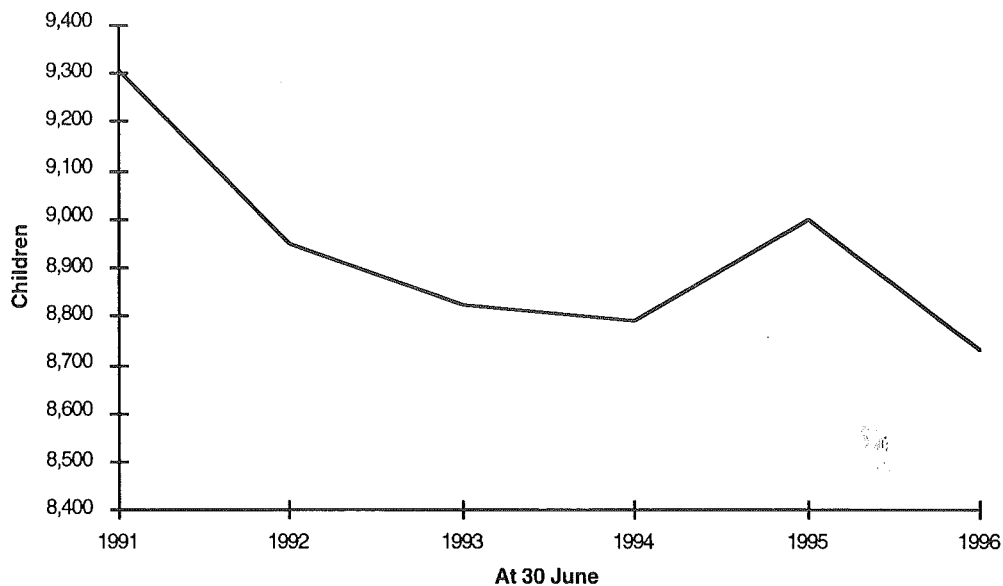


Figure 5: Children on guardianship orders, 30 June 1991 to 30 June 1996

6.2 Rates of children on care and protection orders

A useful way of examining differences in sub-groups of children on care and protection orders is to look at the rates of children on these orders per 1,000 population. At 30 June 1996 there were 2.8 children per 1,000 population aged 0–17 years on orders. The rates for guardianship orders and non-guardianship orders were 1.9 and 1.0 per 1,000 population respectively (Table 5).

Table 5: Children on care and protection orders per 1,000 children aged 0–17 years, by type of order, sex of child and State and Territory, 30 June 1996

Type of order and sex of child	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Rate per 1,000 children									
Guardianship									
Males	1.7	1.3	3.0	1.6	2.4	2.8	0.5	1.3	1.9
Females	1.7	1.2	3.0	1.7	2.5	2.5	0.6	1.6	1.9
Persons ^(a)	1.7	1.2	3.0	1.7	2.4	2.7	0.6	1.4	1.9
Non-guardianship									
Males	1.3	1.6	0.3	..	0.3	0.7	2.6	0.2	1.0
Females	1.3	1.6	0.3	..	0.3	0.7	2.6	0.5	1.0
Persons ^(a)	1.3	1.6	0.3	..	0.3	0.7	2.6	0.4	1.0
Total									
Males	3.0	2.9	3.3	1.6	2.7	3.4	3.1	1.5	2.8
Females	3.0	2.7	3.2	1.7	2.8	3.3	3.1	2.1	2.8
Persons ^(a)	3.0	2.8	3.3	1.7	2.7	3.4	3.1	1.8	2.8

(a) Includes children on care and protection orders whose sex was unknown.

6.2.1 Rates by State and Territory

The number of children on care and protection orders at 30 June 1996 ranged from 3.4 per 1,000 population aged 0–17 years in Tasmania to 1.7 per 1,000 in Western Australia (Table 5). The number of children on guardianship orders per 1,000 population was highest in Queensland (3.0) and lowest in the Australian Capital Territory (0.6). However, the Australian Capital Territory had the highest rate for children on non-guardianship care and protection orders (2.6 per 1,000) while Queensland and South Australia had the lowest (0.3 per 1,000).

6.2.2 Rates by sex and age

At 30 June 1996 the rates of male and female children on guardianship and non-guardianship care and protection orders per 1,000 population aged 0–17 years were the same or very similar in all States and Territories, except the Northern Territory where the rates for females were slightly above those of males (Table 5).

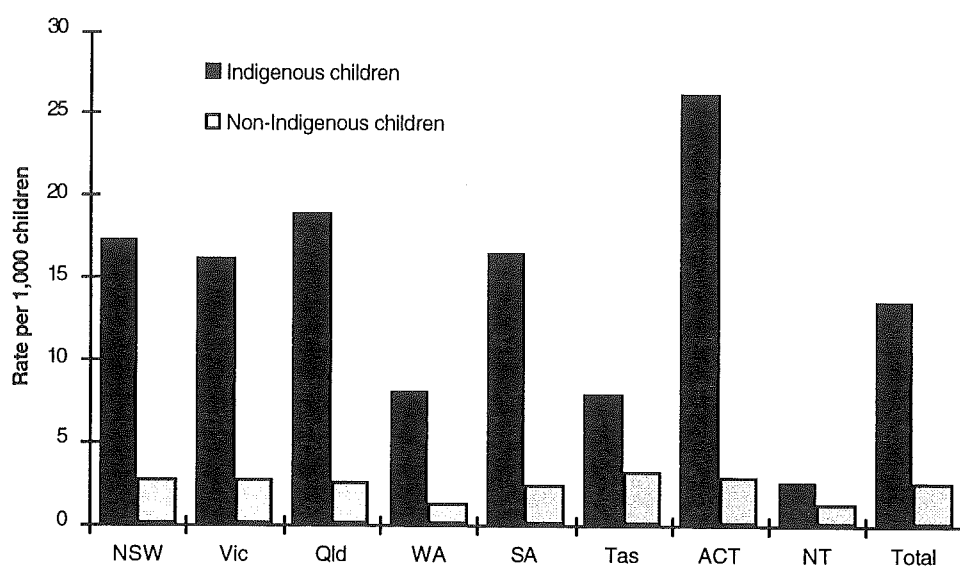
The rate of children on care and protection orders per 1,000 population at 30 June 1996 was higher for older children—3.5 per 1,000 for children aged 15–17 years and 3.5 per 1,000 for children aged 10–14 years compared with 2.0 for children aged 0–4 years and 2.7 for children aged 5–9 years (Table A5). This reflects differences in the rates of children on guardianship orders, with the rates for children on non-guardianship orders being fairly similar across the age groups. The rates for children on guardianship orders at 30 June 1996 increased with age from 1.0 per 1,000 children aged 0–4 years to 2.8 per 1,000 children aged 15–17 years.

The rates of children on care and protection orders per 1,000 children in each age group varied considerably across the States and Territories (Table A5). In Queensland, South Australia and Tasmania the rates of children on care and protection orders were much higher for older children than for younger children. The rates in the other States and Territories were more similar across the age groups (Table A5).

Within each age group there was little difference in the rates of children on guardianship or non-guardianship care and protection orders by sex (Table A6).

6.2.3 Rates for Indigenous children

As stated previously, Indigenous children are overrepresented among children on care and protection orders. Examination of the number of children on care and protection orders per 1,000 population clearly illustrates the level of overrepresentation (Table 6 and Figure 6). At 30 June 1996 there were 13.6 Indigenous children on care and protection orders per 1,000 population aged 0–17 years (9.2 per 1,000 on guardianship orders and 4.4 per 1,000 on non-guardianship orders). The comparative rates for non-Indigenous children were 2.5 per 1,000 on all orders, 1.6 per 1,000 on guardianship orders and 0.9 per 1,000 on non-guardianship orders (Tables 6 and 7 and Figure 6).



Notes

1. Children whose Aboriginality was unknown are included with non-Indigenous children.
2. Rates for the Australian Capital Territory should be interpreted carefully given its small Indigenous population.

Figure 6: Children on care and protection orders per 1,000 children aged 0–17 years, by Aboriginality and State and Territory, 30 June 1996

Table 6: Indigenous children on care and protection orders per 1,000 children aged 0–17 years, by type of order, sex of child and State and Territory, 30 June 1996

Type of order and sex of child	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Rate per 1,000 children									
Guardianship									
Males	5.1	6.4	17.7	8.1	13.9	5.2	2.2	2.0	9.0
Females	5.7	7.5	17.3	8.0	15.5	6.8	6.6	2.0	9.3
Persons ^(a)	5.4	7.0	17.6	8.0	14.7	6.0	4.4	2.0	9.2
Non-guardianship^(b)									
Males	11.3	10.6	1.4	..	2.1	1.6	21.7	0.4	4.3
Females	12.4	7.8	1.5	..	1.7	2.1	22.0	0.7	4.5
Persons ^(a)	11.9	9.2	1.4	..	1.9	1.9	21.8	0.6	4.4
Total^(b)									
Males	16.4	17.0	19.1	8.1	16.0	6.8	23.9	2.4	13.4
Females	18.1	15.3	18.8	8.0	17.1	8.9	28.6	2.7	13.8
Persons ^(a)	17.3	16.2	19.0	8.0	16.6	7.8	26.2	2.6	13.6

(a) Includes children on care and protection orders whose sex was unknown.

(b) Excludes 884 children on supervisory orders in New South Wales whose Aboriginality was unknown.

Note: Rates for the Australian Capital Territory should be interpreted carefully given its small Indigenous population.

Table 7: Non-Indigenous^(a) children on care and protection orders per 1,000 children aged 0–17 years, by type of order, sex of child and State and Territory, 30 June 1996

Type of order and sex of child	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Rate per 1,000 children									
Guardianship									
Males	1.6	1.2	2.4	1.3	2.1	2.7	0.5	0.8	1.7
Females	1.6	1.1	2.3	1.4	2.1	2.4	0.5	1.3	1.6
Persons ^(b)	1.6	1.2	2.3	1.3	2.1	2.5	0.5	1.1	1.6
Non-guardianship									
Males	1.0	1.5	0.2	..	0.3	0.6	2.3	0.1	0.8
Females	1.1	1.5	0.2	..	0.3	0.7	2.3	0.4	0.9
Persons ^(b)	1.1	1.5	0.2	..	0.3	0.7	2.3	0.2	0.9
Total									
Males	2.6	2.8	2.6	1.3	2.4	3.3	2.9	0.9	2.5
Females	2.6	2.6	2.5	1.4	2.4	3.0	2.8	1.6	2.5
Persons ^(b)	2.6	2.7	2.5	1.3	2.4	3.2	2.8	1.3	2.5

(a) Children who are not Indigenous or whose Aboriginality was unknown.

(b) Includes children on care and protection orders whose sex was unknown.

The rate of Indigenous children on care and protection orders at 30 June 1996 was highest in the Australian Capital Territory (26.2 per 1,000) (Table 6). However, the relatively small size of the Indigenous population in the Australian Capital Territory should be taken into consideration when interpreting these rates. The Northern Territory had the lowest rate of Indigenous children on care and protection orders (2.6 per 1,000). The rate for Indigenous children on guardianship orders ranged from 17.6 per 1,000 in Queensland to 2.0 per 1,000 in the Northern Territory. The rate for Indigenous children on non-guardianship care and protection orders was highest in the Australian Capital Territory (21.8 per 1,000) and, once again, lowest in the Northern Territory (0.6 per 1,000). As with non-Indigenous children, the rates in most jurisdictions for Indigenous children did not differ greatly between males and females (Tables 5, 6 and 7).

For Indigenous children, the age range for which the rate of children on care and protection orders per 1,000 population at 30 June 1996 was highest was 10–14 years (18.7 per 1,000) (Tables A7 and A8). In contrast, for non-Indigenous children the rate was highest for children aged 15–17 years (3.2 per 1,000) (Tables A9 and A10). The rate for guardianship orders for both Indigenous and non-Indigenous children was highest for children aged 15–17 years (15.4 per 1,000 and 2.4 per 1,000 respectively) and lowest for children aged 0–4 years (4.2 per 1,000 and 0.9 per 1,000 respectively). While the rate for Indigenous children on non-guardianship care and protection orders ranged from 2.7 per 1,000 for children aged 15–17 years to 6.3 per 1,000 for children aged 10–14 years, the rate for non-Indigenous children on non-guardianship care and protection orders varied little across the age groups (Tables A7–A10).

There was very little difference in rates for males and females across age groups for both Indigenous children and non-Indigenous children (Tables A8 and A10). The only group for whom there were any major differences in rates on care and protection orders were Indigenous children aged 15–17 years, where females had a somewhat higher rate than males (19.6 per 1,000 for females compared with 16.5 per 1,000 for males) (Table A8).

6.3 Living arrangements of children on care and protection orders at 30 June 1996

Children on care and protection orders can live in a variety of arrangements, including with their parents or relatives, in foster care, in residential facilities, independently or in other adult living arrangements (see Appendix 5 for detailed definitions of these categories). Data on the living arrangements of children on all care and protection orders in South Australia and of children on supervisory orders in New South Wales at 30 June 1996 were unavailable. As a result, children on care and protection orders in South Australia are excluded from the tables and discussion in the following Section. In addition, national totals on living arrangements could not be calculated and are not provided in the tables.

The living arrangements for children on 'all' care and protection orders at 30 June 1996 are given in Table A11. These data indicate that the majority of children on care and protection orders in the jurisdictions for which data were available were living in foster care or with parents or relatives. However, because this includes children on both guardianship and non-guardianship care and protection orders, who have very different living arrangements, it is more useful to examine separately the living arrangements for children on the two types of orders.

6.3.1 Living arrangements of children on guardianship orders

The majority of children on guardianship orders at 30 June 1996 were living in foster care (Table A12). However, there were considerable variations across States and Territories as a result of different policies and practices, and the types of living arrangements available (for

example, some States have more residential facilities than others). The proportion of children on guardianship orders who were living in foster care at 30 June 1996 ranged from 55% in Victoria to 91% in the Australian Capital Territory. Victoria also had a relatively large proportion of children on guardianship orders living in a residential facility, such as a family group home or a residential child care facility (31%).

The living arrangements for Indigenous children on guardianship orders were somewhat different from those of non-Indigenous children on guardianship orders, although these figures should be interpreted carefully given the small numbers of children involved in Tasmania, the Australian Capital Territory and the Northern Territory (Tables A13 and A14). Only New South Wales, Victoria, Queensland and Western Australia had large enough numbers of Indigenous children on guardianship orders to allow reasonable comparisons. In those four States, Indigenous children on guardianship orders were more likely to be living with parents or relatives than were non-Indigenous children on guardianship orders. At 30 June 1996, there were lower proportions of Indigenous children than of non-Indigenous children on guardianship orders living in residential facilities in Victoria, Queensland and, to a lesser extent, Western Australia.

6.3.2 Living arrangements of children on non-guardianship care and protection orders

Comparisons across jurisdictions of the living arrangements of children on non-guardianship care and protection orders at 30 June 1996 should be undertaken carefully, given the high proportions of children in New South Wales (42%) and the Australian Capital Territory (18%) whose living arrangements were unknown and the relatively small number of children on these orders in the Northern Territory (20 children) (Table A15).

However, it is clear from the data that children on non-guardianship care and protection orders were more likely to be living with parents or relatives and less likely to be in foster care than were children on guardianship orders. This is consistent with the fact that non-guardianship care and protection orders include orders such as supervisory orders and undertakings and are less interventionist than are guardianship orders (see Section 4).

6.4 Children admitted to and discharged from care and protection orders during 1995-96

6.4.1 Children admitted and discharged during 1995-96

During 1995-96, 4,123 children were admitted to care and protection orders in Australia, while 4,118 children were discharged from orders (Table 8). For guardianship orders there were 1,557 children admitted and 1,877 children discharged, while 2,566 children were admitted to non-guardianship care and protection orders and 2,241 children were discharged from non-guardianship care and protection orders.

Table 8: Children admitted to and discharged from care and protection orders during 1995–96, by type of order and State and Territory

Type of order	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Number									
Guardianship									
Children admitted	489	317	430	151	69	55	11	35	1,557
Children discharged	617	430	469	93	169	48	6	45	1,877
Non-guardianship									
Children admitted	729	1,516	89	..	21	24	154	33	2,566
Children discharged	689	1,292	143	..	34	5	44	34	2,241
Total									
Children admitted	1,218	1,833	519	151	90	79	165	68	4,123
Children discharged	1,306	1,722	612	93	203	53	50	79	4,118

Of those children admitted to and discharged from care and protection orders during 1995–96, 9% and 10% respectively were Indigenous children (Table 9). The proportion of children admitted and discharged from orders who were Indigenous children was higher for guardianship orders (11% of those admitted and 13% of those discharged) than for non-guardianship care and protection orders (7% and 8% respectively).

Table 9: Indigenous children admitted to and discharged from care and protection orders during 1995–96, by type of order and State and Territory

Type of order	NSW ^(a)	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Number									
Guardianship									
Children admitted	19	24	86	30	10	2	–	10	177
Children discharged	34	20	128	20	23	6	1	21	253
Non-guardianship									
Children admitted	65	68	17	..	1	4	20	17	188
Children discharged	64	59	36	..	–	–	4	11	170
Total									
Children admitted	84	92	103	30	11	6	20	27	365
Children discharged	98	79	164	20	23	6	5	32	423

(a) Excludes 457 children admitted to and 480 children discharged from supervisory orders in New South Wales during 1995–96 whose Aboriginality was unknown.

During 1995–96, 38% of the children admitted to care and protection orders were 0–4 years old, 25% were 5–9 years old and 31% were 10–14 years old. Only 6% were 15 years or older (Table A16). There was little difference in the age distribution of children admitted to guardianship orders and children admitted to non-guardianship care and protection orders. Children who were discharged from guardianship orders during 1995–96 were more likely to be older than those discharged from non-guardianship care and protection orders. Of those children discharged from guardianship orders, 37% were 15 years or older, compared with only 13% of those discharged from non-guardianship care and protection orders.

(Table A16). This is a result of the relatively large number of children discharged from guardianship orders on reaching the age of 18 years.

6.4.2 Time series for children admitted to guardianship orders

In some States and Territories data on the number of children admitted to guardianship orders have been collected since 1978-79 (Table A17). While a considerable amount of data was missing from the time series (precluding the calculation of a national figure over the years), it can be seen that the number of children admitted in 1995-96 was generally well below the number admitted in the early 1980s. The number admitted to guardianship orders fell in all jurisdictions for which data is available. In New South Wales the number of children admitted in 1995-96 was 21% below the peak number in 1981-82; the number admitted in Queensland was 55% below the peak number in 1980-81; and the number admitted in Western Australia was 47% below the peak in 1981-82. The number of children admitted to guardianship orders in South Australia in 1995-96 (69 children) was well below the peak of 498 children admitted in 1987-88 (Table A17).

7. Detailed tables

These are referred to in the text as Table A1 to Table A17.

7.1 Children on care and protection orders at 30 June 1996

Table A1: Children on care and protection orders, by age and sex of child and type of order, 30 June 1996

	Age of child (years)																		Total ^(b)
Sex of child	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	
Guardianship																			
Male	57	122	138	173	214	194	224	227	235	218	286	309	325	365	352	409	381	287	4,518
Female	50	118	140	147	184	182	211	217	208	236	253	288	287	351	315	396	345	294	4,225
Persons ^(a)	107	240	278	320	398	376	435	444	443	454	539	597	612	716	667	806	726	581	8,744
Non-guardianship																			
Male	62	124	174	129	155	159	145	147	115	111	117	133	102	152	193	156	72	28	2,274
Female	59	128	127	143	120	138	133	128	109	141	122	119	114	130	175	179	107	43	2,215
Persons ^(a)	121	253	302	273	275	297	279	275	225	252	239	253	217	282	368	335	180	71	4,497
Total																			
Male	119	246	312	302	369	353	369	374	350	329	403	442	427	517	545	565	453	315	6,792
Female	109	246	267	290	304	320	344	345	317	377	375	407	401	481	490	575	452	337	6,440
Persons ^(a)	228	493	580	593	673	673	714	719	668	706	778	850	829	998	1,035	1,141	906	652	13,241

(a) Includes children whose sex was unknown.

(b) Includes children whose age was unknown.

Table A2: Children on care and protection orders, by type of order, age of child and State and Territory, 30 June 1996

Type of order and age of child (years)	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Number									
Guardianship									
0-4	505	211	364	149	52	30	14	18	1,343
5-9	606	325	609	258	233	86	12	23	2,152
10-14	888	506	996	249	329	129	12	22	3,131
15-17	615	352	655	120	257	91	6	17	2,113
<i>Persons^(a)</i>	2,614	1,394	2,624	781	871	336	44	80	8,744
Non-guardianship									
0-4	472	572	81	..	9	31	54	5	1,224
5-9	674	472	71	..	21	27	56	7	1,328
10-14	680	499	59	..	41	16	58	6	1,359
15-17	229	243	24	..	39	14	35	2	586
<i>Persons^(a)</i>	2,055	1,786	235	..	110	88	203	20	4,497
Total									
0-4	977	783	445	149	61	61	68	23	2,567
5-9	1,280	797	680	258	254	113	68	30	3,480
10-14	1,568	1,005	1,055	249	370	145	70	28	4,490
15-17	844	595	679	120	296	105	41	19	2,699
<i>Persons^(a)</i>	4,669	3,180	2,859	781	981	424	247	100	13,241
Percentage									
Guardianship									
0-4	19	15	14	19	6	9	32	23	15
5-9	23	23	23	33	27	26	27	29	25
10-14	34	36	38	32	38	38	27	28	36
15-17	24	25	25	15	30	27	14	21	24
<i>Persons^(a)</i>	100	100	100	100	100	100	100	100	100
Non-guardianship									
0-4	23	32	34	..	8	35	27	25	27
5-9	33	26	30	..	19	31	28	35	30
10-14	33	28	25	..	37	18	29	30	30
15-17	11	14	10	..	35	16	17	10	13
<i>Persons^(a)</i>	100	100	100	..	100	100	100	100	100
Total									
0-4	21	25	16	19	6	14	28	23	19
5-9	27	25	24	33	26	27	28	30	26
10-14	34	32	37	32	38	34	28	28	34
15-17	18	19	24	15	30	25	17	19	20
<i>Persons^(a)</i>	100	100	100	100	100	100	100	100	100

(a) Includes children on care and protection orders whose age was unknown.

Table A3: Indigenous children and non-Indigenous children on care and protection orders, by type of order and State and Territory, 30 June 1996

Type of order	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Number									
Indigenous children									
Guardianship	201	62	663	188	126	29	4	43	1,316
Non-guardianship ^(a)	441	82	54	..	16	9	20	13	635
Total^(a)	642	144	717	188	142	38	24	56	1,951
Non-Indigenous children									
Guardianship	2,413	1,332	1,961	593	745	307	40	37	7,428
Non-guardianship	1,614	1,704	181	..	94	79	183	7	3,862
Total	4,027	3,036	2,142	593	839	386	223	44	11,290
Percentage									
Indigenous children									
Guardianship	31	43	92	100	89	76	17	77	67
Non-guardianship ^(a)	69	57	8	..	11	24	83	23	33
Total^(a)	100	100	100	100	100	100	100	100	100
Non-Indigenous children									
Guardianship	60	44	92	100	89	80	18	84	66
Non-guardianship	40	56	8	..	11	20	82	16	34
Total	100	100	100	100	100	100	100	100	100

(a) Excludes 884 children on supervisory orders in New South Wales whose Aboriginality was unknown. These are included with non-Indigenous children.

Table A4: Children on guardianship orders, by State and Territory, 30 June 1991 to 30 June 1996

At 30 June	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Number									
1991	2,174	2,238	2,706	706	995	373	29	88	9,309
1992	2,087	2,039	2,611	629	1,073	387	34	92	8,952
1993	2,149	1,927	2,641	623	1,009	357	31	87	8,824
1994	2,296	1,685	2,610	661	1,050	347	26	119	8,794
1995	2,659	1,506	2,656	711	998	322	35	111	8,998
1996	2,614	1,394	2,624	781	871	336	44	80	8,744

7.2 Rates of children on care and protection orders at 30 June 1996

Table A5: Children on care and protection orders per 1,000 children, by type of order, age of child and State and Territory, 30 June 1996

Type of order and age of child (years)	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Rate per 1,000 children									
Guardianship									
0-4	1.1	0.7	1.5	1.2	0.5	0.9	0.6	1.0	1.0
5-9	1.4	1.0	2.5	2.0	2.3	2.5	0.5	1.4	1.7
10-14	2.1	1.6	4.0	1.9	3.2	3.5	0.6	1.5	2.4
15-17	2.4	1.9	4.5	1.6	4.4	4.3	0.4	2.1	2.8
<i>Persons^(a)</i>	<i>1.7</i>	<i>1.2</i>	<i>3.0</i>	<i>1.7</i>	<i>2.4</i>	<i>2.7</i>	<i>0.6</i>	<i>1.4</i>	<i>1.9</i>
Non-guardianship									
0-4	1.1	1.8	0.3	..	0.1	0.9	2.4	0.3	0.9
5-9	1.5	1.5	0.3	..	0.2	0.8	2.5	0.4	1.0
10-14	1.6	1.6	0.2	..	0.4	0.4	2.7	0.4	1.0
15-17	0.9	1.3	0.2	..	0.7	0.7	2.6	0.3	0.8
<i>Persons^(a)</i>	<i>1.3</i>	<i>1.6</i>	<i>0.3</i>	<i>..</i>	<i>0.3</i>	<i>0.7</i>	<i>2.6</i>	<i>0.4</i>	<i>1.0</i>
Total									
0-4	2.2	2.5	1.8	1.2	0.6	1.8	3.1	1.3	2.0
5-9	2.9	2.5	2.8	2.0	2.5	3.2	3.1	1.9	2.7
10-14	3.6	3.2	4.2	1.9	3.6	4.0	3.2	1.9	3.5
15-17	3.3	3.2	4.6	1.6	5.1	5.0	3.1	2.4	3.5
<i>Persons^(a)</i>	<i>3.0</i>	<i>2.8</i>	<i>3.3</i>	<i>1.7</i>	<i>2.7</i>	<i>3.4</i>	<i>3.1</i>	<i>1.8</i>	<i>2.8</i>

(a) Includes children on care and protection orders whose age was unknown.

Table A6: Children on care and protection orders per 1,000 children, by sex and age of child, 30 June 1996

Type of order and age of child (years)	Males	Females	Total ^(a)
Rate per 1,000 children			
Guardianship			
0-4	1.1	1.0	1.0
5-9	1.6	1.7	1.7
10-14	2.5	2.4	2.4
15-17	2.7	2.8	2.8
Persons ^(b)	1.9	1.9	1.9
Non-guardianship			
0-4	1.0	0.9	0.9
5-9	1.0	1.0	1.0
10-14	1.0	1.0	1.0
15-17	0.7	0.9	0.8
Persons ^(b)	1.0	1.0	1.0
Total			
0-4	2.0	1.9	2.0
5-9	2.7	2.7	2.7
10-14	3.5	3.4	3.5
15-17	3.4	3.7	3.5
Persons ^(b)	2.8	2.8	2.8

(a) Includes children on care and protection orders whose sex was unknown.

(b) Includes children on care and protection orders whose age was unknown.

Table A7: Indigenous children on care and protection orders per 1,000 children, by type of order, age of child and State and Territory, 30 June 1996

Type of order and age of child (years)	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Rate per 1,000									
Guardianship									
0-4	2.5	6.7	7.1	4.8	2.3	1.4	—	1.8	4.2
5-9	4.1	7.9	17.0	9.0	14.8	3.7	11.1	1.9	8.8
10-14	7.4	7.4	26.0	9.6	17.5	7.8	—	2.1	12.4
15-17	11.4	4.5	26.7	10.9	37.4	15.8	8.6	2.3	15.4
Persons ^(b)	5.4	7.0	17.6	8.0	14.7	6.0	4.4	2.0	9.2
Non-guardianship^(a)									
0-4	6.3	9.4	1.6	..	0.8	2.1	18.1	0.6	3.0
5-9	13.9	9.8	1.7	..	0.8	3.7	29.5	0.9	5.2
10-14	19.2	9.3	1.1	..	3.8	0.8	19.8	0.5	6.3
15-17	6.6	7.1	1.1	..	2.7	—	17.2	0.0	2.7
Persons ^(b)	11.9	9.2	1.4	..	1.9	1.9	21.8	0.6	4.4
Total^(a)									
0-4	8.7	16.1	8.7	4.8	3.1	3.5	18.1	2.4	7.2
5-9	18.0	17.7	18.7	9.0	15.6	7.4	40.6	2.8	14.0
10-14	26.6	16.7	27.2	9.6	21.3	8.6	19.8	2.6	18.7
15-17	18.1	11.6	27.8	10.9	40.0	15.8	25.9	2.3	18.0
Persons ^(b)	17.3	16.2	19.0	8.0	16.6	7.8	26.2	2.6	13.6

(a) Excludes 884 children on supervisory orders in New South Wales whose Aboriginality was unknown.

(b) Includes children on care and protection orders whose age was unknown.

Table A8: Indigenous children on care and protection orders per 1,000 children, by type of order, sex and age of child, 30 June 1996

Type of order and age of child (years)	Males	Females	Total ^(a)
Rate per 1,000 children			
Guardianship			
0-4	4.1	4.3	4.2
5-9	8.8	8.9	8.8
10-14	12.6	12.3	12.4
15-17	14.4	16.3	15.4
Persons ^(b)	9.0	9.3	9.2
Non-guardianship^(c)			
0-4	3.3	2.7	3.0
5-9	5.0	5.5	5.2
10-14	6.1	6.4	6.3
15-17	2.1	3.3	2.7
Persons ^(b)	4.3	4.5	4.4
Total^(c)			
0-4	7.4	6.9	7.2
5-9	13.7	14.3	14.0
10-14	18.7	18.7	18.7
15-17	16.5	19.6	18.0
Persons ^(b)	13.4	13.8	13.6

(a) Includes children on care and protection orders whose sex was unknown.

(b) Includes children on care and protection orders whose age was unknown.

(c) Excludes 884 children on supervisory orders in New South Wales whose Aboriginality was unknown.

Table A9: Non-Indigenous children^(a) on care and protection orders per 1,000 children, by type of order, age of child and State and Territory, 30 June 1996

Type of order and age of child (years)	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Rate per 1,000 children									
Guardianship									
0-4	1.1	0.6	1.2	0.9	0.5	0.9	0.6	0.6	0.9
5-9	1.3	1.0	1.8	1.6	2.0	2.4	0.4	1.1	1.4
10-14	1.9	1.6	3.1	1.5	2.9	3.4	0.6	1.1	2.1
15-17	2.2	1.9	3.6	1.2	3.7	3.9	0.4	2.0	2.4
<i>Persons^(b)</i>	<i>1.6</i>	<i>1.2</i>	<i>2.3</i>	<i>1.3</i>	<i>2.1</i>	<i>2.5</i>	<i>0.5</i>	<i>1.1</i>	<i>1.6</i>
Non-guardianship									
0-4	0.9	1.7	0.3	..	0.1	0.9	2.2	0.1	0.9
5-9	1.2	1.4	0.2	..	0.2	0.7	2.2	0.1	0.9
10-14	1.2	1.6	0.2	..	0.3	0.4	2.5	0.3	0.9
15-17	0.8	1.3	0.1	..	0.6	0.7	2.5	0.4	0.7
<i>Persons^(b)</i>	<i>1.1</i>	<i>1.5</i>	<i>0.2</i>	<i>..</i>	<i>0.3</i>	<i>0.7</i>	<i>2.3</i>	<i>0.2</i>	<i>0.9</i>
Total									
0-4	2.0	2.3	1.5	0.9	0.6	1.7	2.9	0.6	1.8
5-9	2.5	2.4	2.1	1.6	2.2	3.1	2.6	1.2	2.3
10-14	3.1	3.1	3.3	1.5	3.2	3.8	3.0	1.4	3.0
15-17	3.0	3.1	3.8	1.2	4.4	4.6	2.9	2.4	3.2
<i>Persons^(b)</i>	<i>2.6</i>	<i>2.7</i>	<i>2.5</i>	<i>1.3</i>	<i>2.4</i>	<i>3.2</i>	<i>2.8</i>	<i>1.3</i>	<i>2.5</i>

(a) Children who are not Indigenous or whose Aboriginality was unknown.

(b) Includes children on care and protection orders whose age was unknown.

Table A10: Non-Indigenous children^(a) on care and protection orders per 1,000 children by, sex and age of child, 30 June 1996

Type of order and age of child (years)	Males	Females	Total ^(b)
Rate per 1,000 children			
Guardianship			
0-4	0.9	0.9	0.9
5-9	1.4	1.4	1.4
10-14	2.2	2.1	2.1
15-17	2.4	2.4	2.4
<i>Persons^(c)</i>	1.7	1.6	1.6
Non-guardianship			
0-4	0.9	0.8	0.9
5-9	0.9	0.9	0.9
10-14	0.9	0.9	0.9
15-17	0.6	0.8	0.7
<i>Persons^(c)</i>	0.8	0.9	0.9
Total			
0-4	1.8	1.7	1.8
5-9	2.3	2.3	2.3
10-14	3.1	2.9	3.0
15-17	3.0	3.3	3.2
Persons^(c)	2.5	2.5	2.5

- (a) Children who are not Indigenous or whose Aboriginality was unknown.
(b) Includes children on care and protection orders whose sex was unknown.
(c) Includes children on care and protection orders whose age was unknown.

7.3 Living arrangements of children on care and protection orders at 30 June 1996

Table A11: Children on care and protection orders, by living arrangements and State and Territory, 30 June 1996

Living arrangements	NSW	Vic	Qld	WA	Tas	ACT	NT
	Number						
Living with parent(s) or relative(s)	1,156	1,030	640	132	124	42	20
Foster care	1,946	1,270	1,770	556	204	148	56
Residential facility:							
– residential child care facility	132	354	103	27	39	11	1
– family group home	44	357	67	12	25	–	12
– other residential care	–	14	17	17	1	3	3
– corrective establishment	–	5	18	2	–	1	–
– <i>total residential facility</i>	176	730	205	58	65	15	16
Other adult living arrangement	289	43	88	8	–	–	2
Living independently	150	55	119	19	31	6	5
Other/unknown	952	52	37	8	–	36	1
Total	4,669	3,180	2,859	781	424	247	100
	Percentage						
Living with parent(s) or relative(s)	25	32	22	17	29	17	20
Foster care	42	40	62	71	48	60	56
Residential facility:							
– residential child care facility	3	11	4	3	9	4	1
– family group home	1	11	2	2	6	–	12
– other residential care	–	–	1	2	–	1	3
– corrective establishment	–	–	1	–	–	–	–
– <i>total residential facility</i>	4	23	7	7	15	6	16
Other adult living arrangement	6	1	3	1	–	–	2
Living independently	3	2	4	2	7	2	5
Other/unknown ^(a)	20	2	1	1	–	15	1
Total	100	100	100	100	100	100	100

(a) Care should be taken in interpreting this table given the large proportion of children on care and protection orders in New South Wales and the Australian Capital Territory whose living arrangements were 'Other/unknown'.

Note: South Australia was unable to provide details of the living arrangements of children on care and protection orders.

Table A12: Children on guardianship orders, by living arrangements and State and Territory, 30 June 1996

Living arrangements	NSW	Vic	Qld	WA	Tas	ACT	NT
	Number						
Living with parent(s) or relative(s)	309	106	436	132	43	2	14
Foster care	1,721	768	1,748	556	200	40	47
Residential facility:							
– residential child care facility	122	177	102	27	39	1	1
– family group home	44	257	67	12	23	–	9
– other residential care	–	3	16	17	1	–	3
– corrective establishment	–	2	18	2	–	–	–
– <i>total residential facility</i>	166	439	203	58	63	1	13
Other adult living arrangement	182	31	83	8	–	–	2
Living independently	144	38	117	19	30	1	3
Other/unknown	92	12	37	8	–	–	1
Total	2,614	1,394	2,624	781	336	44	80
	Percentage						
Living with parent(s) or relative(s)	12	8	17	17	13	5	18
Foster care	66	55	67	71	60	91	59
Residential facility:							
– residential child care facility	5	13	4	3	12	2	1
– family group home	2	18	3	2	7	–	11
– other residential care	–	–	1	2	–	–	4
– corrective establishment	–	–	1	–	–	–	–
– <i>total residential facility</i>	6	31	8	7	19	2	16
Other adult living arrangement	7	2	3	1	–	–	3
Living independently	6	3	4	2	9	2	4
Other/unknown	4	1	1	1	–	–	1
Total	100	100	100	100	100	100	100

Note: South Australia was unable to provide details of the living arrangements of children on care and protection orders.

Table A13: Indigenous children on guardianship orders, by living arrangements and State and Territory, 30 June 1996

Living arrangements	NSW	Vic	Qld	WA	Tas	ACT	NT
	Number						
Living with parent(s) or relative(s)	35	19	136	47	1	—	7
Foster care	115	32	454	115	13	3	27
Residential facility:							
— residential child care facility	4	5	8	1	10	1	1
— family group home	11	5	8	10	—	—	6
— other residential care	—	—	5	6	—	—	2
— corrective establishment	—	1	8	2	—	—	—
— <i>total residential facility</i>	15	11	29	19	10	1	9
Other adult living arrangement	20	—	22	4	—	—	—
Living independently	7	—	16	3	5	—	—
Other/unknown	9	—	6	—	—	—	—
Total	201	62	663	188	29	4	43
	Percentage						
Living with parent(s) or relative(s)	17	31	21	25	3	—	16
Foster care	57	52	68	61	45	75	63
Residential facility:							
— residential child care facility	2	8	1	1	34	25	2
— family group home	5	8	1	5	—	—	14
— other residential care	—	—	1	3	—	—	5
— corrective establishment	—	2	1	1	—	—	—
— <i>total residential facility</i>	7	18	4	10	34	25	21
Other adult living arrangement	10	—	3	2	—	—	—
Living independently	3	—	2	2	17	—	—
Other/unknown	4	—	1	—	—	—	—
Total	100	100	100	100	100	100	100

Note: South Australia was unable to provide details of the living arrangements of children on care and protection orders.

Table A14: Non-Indigenous children^(a) on guardianship orders, by living arrangements and State and Territory, 30 June 1996

Living arrangements	NSW	Vic	Qld	WA	Tas	ACT	NT
	Number						
Living with parent(s) or relative(s)	274	87	300	85	42	2	7
Foster care	1,606	736	1,294	441	187	37	20
Residential facility:							
– residential child care facility	118	172	94	26	29	–	–
– family group home	33	252	59	2	23	–	3
– other residential care	–	3	11	11	1	–	1
– corrective establishment	–	1	10	–	–	–	–
– <i>total residential facility</i>	151	428	174	39	53	–	4
Other adult living arrangement	162	31	61	4	–	–	2
Living independently	137	38	101	16	25	1	3
Other/unknown	83	12	31	8	–	–	1
Total	2,413	1,332	1,961	593	307	40	37
	Percentage						
Living with parent(s) or relative(s)	11	7	15	14	14	5	19
Foster care	67	55	66	74	61	93	54
Residential facility:							
– residential child care facility	5	13	5	4	9	–	–
– family group home	1	19	3	–	7	–	8
– other residential care	–	–	1	2	–	–	3
– corrective establishment	–	–	1	–	–	–	–
– <i>total residential facility</i>	6	32	9	7	17	–	11
Other adult living arrangement	7	2	3	1	–	–	5
Living independently	6	3	5	3	8	3	8
Other/unknown	3	1	2	1	–	–	3
Total	100	100	100	100	100	100	100

(a) Children who are not Indigenous or whose Aboriginality was unknown.

Note: South Australia was unable to provide details of the living arrangements of children on care and protection orders.

Table A15: Children on non-guardianship care and protection orders^(a), by living arrangements and State and Territory, 30 June 1996

Living arrangements	NSW	Vic	Qld	Tas	ACT	NT
	Number					
Living with parent(s) or relative(s)	847	924	204	81	40	6
Foster care	225	502	22	4	108	9
Residential facility:						
– residential child care facility	10	177	1	–	11	–
– family group home	–	100	–	2	–	3
– other residential care	–	11	1	–	2	–
– corrective establishment	–	3	–	–	1	–
– total residential facility	10	291	2	2	14	3
Other adult living arrangement	107	12	5	–	–	–
Living independently	6	17	2	1	5	2
Other/unknown	860	40	–	–	36	–
Total	2,055	1,786	235	88	203	20
	Percentage					
Living with parent(s) or relative(s)	41	52	87	92	20	30
Foster care	11	28	9	5	53	45
Residential facility:						
– residential child care facility	–	10	–	–	5	–
– family group home	–	6	–	2	–	15
– other residential care	–	1	–	–	1	–
– corrective establishment	–	–	–	–	–	–
– total residential facility	–	16	1	2	7	15
Other adult living arrangement	5	1	2	–	–	–
Living independently	–	1	1	1	2	10
Other/unknown	42	2	–	–	18	–
Total	100	100	100	100	100	100

(a) Care should be taken in interpreting this table given the large proportion of children on non-guardianship care and protection orders in New South Wales and the Australian Capital Territory whose living arrangements were 'Other/unknown'.

Notes

1. South Australia was unable to provide details of the living arrangements of children on care and protection orders.
2. Western Australia only has guardianship orders and, therefore, is not included in this table.

7.4 Children admitted and discharged from care and protection orders during 1995–96

Table A16: Children admitted to and discharged from care and protection orders during 1995–96

Type of order	Age (years)				Total ^(b)
	0–4	5–9	10–14	15–17 ^(a)	
Number					
Children admitted					
Guardianship	597	365	503	92	1,557
Non-guardianship	958	686	765	155	2,566
Total	1,555	1,051	1,268	247	4,123
Children discharged					
Guardianship	465	336	373	702	1,877
Non-guardianship	756	584	614	284	2,241
Total	1,221	920	987	986	4,118
Percentage ^(c)					
Children admitted					
Guardianship	38	23	32	6	100
Non-guardianship	37	27	30	6	100
Total	38	25	31	6	100
Children discharged					
Guardianship	25	18	20	37	100
Non-guardianship	34	26	27	13	100
Total	30	22	24	24	100

(a) Includes children who were aged 18 years at the time of discharge.

(b) Includes children whose age was unknown.

(c) Calculated as a proportion of children whose age was known.

Table A17: Children admitted to guardianship orders during the year, by State and Territory, 1978-79 to 1995-96

Year	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
Number								
1978-79	586	n.a.	677	98	263	n.a.	n.a.	26
1979-80	546	n.a.	680	59	297	n.a.	n.a.	14
1980-81	596	n.a.	957	249	351	n.a.	n.a.	27
1981-82	619	n.a.	892	287	313	n.a.	n.a.	54
1982-83	517	n.a.	664	198	399	n.a.	n.a.	93
1983-84	462	n.a.	723	169	427	n.a.	n.a.	101
1984-85	386	n.a.	817	142	309	n.a.	n.a.	83
1985-86	378	n.a.	830	196	472	n.a.	n.a.	64
1986-87	n.a.	n.a.	718	n.a.	n.a.	n.a.	n.a.	n.a.
1987-88	253	n.a.	547	151	498	n.a.	n.a.	52
1988-89	213	n.a.	551	115	380	n.a.	n.a.	46
1989-90	245	n.a.	454	129	261	n.a.	n.a.	51
1990-91	365	419	387	159	346	74	n.a.	20
1991-92	377	341	354	105	278	78	n.a.	36
1992-93	437	n.a.	371	120	217	44	n.a.	39
1993-94	524	n.a.	412	155	158	37	n.a.	66
1994-95	337	425	430	189	122	48	n.a.	n.a.
1995-96	489	317	430	151	69	55	11	35

Source: Angus, Dunn & Moyle 1996; Angus & Golley 1995; Zabar & Angus 1995

Appendix 1

Legislative definition of 'in need of care and protection'

For a child to be placed under an order, a court needs to determine whether the child is in need of care and/or protection. Each State and Territory has legislation defining 'in need of care and protection'.

New South Wales

In New South Wales, a child is defined under Section 10, Subsection (1) in the *Children (Care and Protection) Act 1987* as being in need of care if:

- (a) adequate provision is not being made, or is not likely to be made, for the child's care;
- (b) the child is being, or is likely to be, abused; or
- (c) there is a substantial and presently irretrievable breakdown in the relationship between the child and one or more of the child's parents.

Section 10, Subsection (2) of the Act also states that a child who is residing in a non-Government children's home is in need of care if (without limiting the generality of Subsection [1]):

- (a) the child has been residing in the home for a period of 12 months or more; and
- (b) there has been no substantial contact during that period between the child and:
 - (i) any of the child's parents; or
 - (ii) any person in whose care the child was immediately before the child began residing in the home.

Section 10, Subsection (3) of the Act also states that a child is in need of care if (without limiting the generality of subsection [1]):

- (a) the child is under the age of 6 months; and
- (b) the child is in the care of a person who is fostering the child in contravention of Section 42 (which deals with unauthorised fostering); and
- (c) it appears that the person may continue to foster the child in contravention of that section.

Victoria

In Victoria, the *Children and Young Persons Act 1989* states that a child is in need of protection if any of the following grounds exist:

- (a) the child has been abandoned and after reasonable inquiries the parent(s) cannot be found, and no other suitable person can be found who is willing and able to care for the child;

- (b) the child's parent(s) are dead or incapacitated and there is no other suitable person willing and able to care for the child;
- (c) the child has suffered, or is likely to suffer, significant harm as a result of physical injury or sexual abuse, and the child's parent(s) have not protected, or are unlikely to protect, the child from harm of that type;
- (d) the child has suffered, or is likely to suffer, emotional or psychological harm of such kind that the child's emotional or intellectual development is, or is likely to be, significantly damaged and the child's parent(s) have not protected, or are unlikely to protect, the child from harm of that type;
- (e) the child's physical development or health has been, or is likely to be, significantly harmed and the child's parent(s) have not provided, arranged or allowed the provision of, or are unlikely to provide, arrange, or allow the provision of, basic care or effective medical, surgical or other remedial care.

Queensland

In Queensland, Section 46 of the *Children's Services Act 1965* states that a child will be deemed to be in need of care and protection if:

- (a) not having a parent or guardian who exercises proper care of and guardianship over him, he is:
 - (i) neglected; or
 - (ii) exposed to physical or moral danger; or
 - (iii) falling in with bad associates; or
 - (iv) likely to fall into a life of vice or crime;
- (b) he is in the custody of a person who is unfit by reason of his conduct and habits to have custody of the child;
- (c) he is a person in relation to whom any of the offences mentioned in Part VIII of the Act has been committed;
- (d) he is a member of the same household as:
 - (i) a child in relation to whom an offence mentioned in Part VIII of the Act has been committed; or
 - (ii) a person who has been convicted of such an offence in relation to a child;
 and appears to be in danger of the commission upon him or in relation to him of a similar offence;
- (e) he is a member of a household of which a member has been convicted of an offence under Sections 222 or 223 of 'The Criminal Code';
- (f) he begs or gathers alms, whether or not accompanied with the pretext of a sale or otherwise, or he is in or adjacent to a public place for the purposes of so begging or gathering alms;
- (g) he is found apparently abandoned, or loitering or sleeping in a public place, and has no visible lawful means of support or no settled place of abode;
- (h) he carries on street trading that is not authorised by Section 113 of the Act;
- (i) he takes part in any public exhibition or performance of a type referred to in the Act without a permit;

- (j) not being a child or ward of the licensee, he is, without lawful excuse, in a betting shop or billiard room, or the bar-room, billiard room or beer garden of any licensed premises;
- (k) he is served with intoxicating liquor in any of the premises mentioned in the preceding paragraph;
- (l) being in the care of a person other than a parent, relative or guardian of such child, he is apparently deserted by his parent or guardian;
- (m) being under the school leaving age as provided for from time to time by law, he is regularly absent from school without reasonable and adequate excuse;
- (n) being under such an age that he is not criminally responsible for any act notwithstanding that, at the time of doing the act, he had the capacity to know that he ought not to do the act, he does an act which would itself or with other elements constitute an offence on his part if he were of or over that age and had the aforesaid capacity;
- (o) he is for any other reason in need of care and such care cannot be adequately provided by the giving of assistance under Part V of the Act.

Section 47 of the Children's Services Act states that an application may be made to the Director to admit any child to his care and protection by any of the following persons:

- (a) a parent of such a child;
- (b) a guardian of such a child;
- (c) a relative of such a child;
- (d) a person of good repute.

Section 49 of the Children's Services Act authorises an officer of the Department of Families, Youth and Community Care or a police officer to take a child into custody for the purpose of making an application to the Children's Court for an order to have the child admitted to the care and protection of the Director-General.

Western Australia

In Western Australia, a 'child in need of care and protection' is defined in the *Child Welfare Act 1947* to include a child who:

- (a) has no sufficient means of subsistence apparent to the court and whose near relatives are, in the opinion of the court, in indigent circumstances or are otherwise unable or unwilling to support the child, or are dead, or are unknown, or cannot be found, or are out of the jurisdiction, or are in the custody of the law;
- (b) has been placed in a subsidised facility and whose near relatives have not contributed regularly towards the maintenance of the child;
- (c) associates or dwells with any person who has been convicted of vagrancy, or is known to the police as of bad repute, or who has been or is reputed to be a thief or habitually under the influence of alcohol or drugs;
- (d) is under the guardianship or in the custody of a person whom the court considers is unfit to have that guardianship or custody;
- (e) is not being maintained properly or at all by a near relative, or is deserted;
- (f) is found in a place where any drug or prohibited plant is used and is in the opinion of the court in need of care and protection by reason thereof;
- (g) being under the age of 14 years is employed or engaged in any circus, travelling show, acrobatic entertainment, or exhibition by which his life, health, welfare or safety is likely to be lost, prejudiced or endangered;

- (h) is unlawfully engaged in street trading;
- (i) is ill treated, or suffers injuries apparently resulting from ill-treatment;
- (j) lives under conditions which indicate that the child is lapsing or likely to lapse into a career of vice or crime; or
- (k) is living under such conditions, or is found in such circumstances, or behaves in such a manner, as to indicate that the mental, physical or moral welfare of the child is likely to be in jeopardy.

South Australia

In South Australia, under the *Children's Protection Act 1993*, an application may be made to the Youth Court when the Minister is of the opinion that;

- (a) the child is at risk and an order should be made to secure the child's care and protection; or
- (b) disruption of existing arrangements for the child would be likely to cause the child psychological injury and it would be in the best interest of the child for the arrangement to be the subject of a care and protection order.

For the purposes of the Act, a child is at risk if:

- (a) the child has been, or is being, abused or neglected; or
- (b) a person with whom the child resides (whether a guardian of the child or not):
 - (i) has threatened to kill or injure the child and there is a reasonable likelihood of the threat being carried out; or
 - (ii) has killed, abused or neglected some other child or children and there is a reasonable likelihood of the child in question being killed, abused or neglected by that person; or
- (c) the guardians of the child:
 - (i) are unable to maintain the child, or are unable to exercise adequate supervision and control over the child; or
 - (ii) are unwilling to maintain the child, or are unwilling to exercise adequate supervision and control over the child; or
 - (iii) are dead, have abandoned the child, or cannot, after reasonable inquiry, be found; or
- (d) the child is of compulsory school age but has been persistently absent from school without satisfactory explanation of the absence; or
- (e) the child is under 15 years of age and of no fixed address.

Part 5 of the *Children's Protection Act* also states that Family Care Meetings should be convened in respect of the child if the Minister believes that a child is at risk and that arrangements should be made to secure the child's care and protection. The Minister cannot make an application for an order granting custody of the child or placing the child under guardianship before a family care meeting has been held unless satisfied that:

- (a) it has not been possible to hold a meeting despite reasonable endeavours to do so; or
- (b) an order should be made without delay; or
- (c) the guardians of the child consent to the making of the application; or
- (d) there is another good reason to do so.

The Department will only consider taking court action for a care and protection order when no other intervention can safely protect a child who is at risk by definition of the Act. There are powers which the Youth Court may exercise when it finds that a child is in need of care and protection.

Orders tend to be no longer than 12 months although a second or subsequent order can be granted to complete a reunification process. The child may then be placed under the guardianship of the Minister, or such other person or persons the Court thinks appropriate, until 18 years of age.

Tasmania

In Tasmania, there are two Acts that define abuse and neglect.

The *Child Welfare Act 1960* describes various circumstances in which a child may be in need of care and protection, including neglect or being beyond the care or control of the parent with whom they are living:

A neglected child is a child:

- (a) who, having no parent or guardian, or having a parent or guardian unfit to exercise care and guardianship or not exercising proper care and guardianship, is in need of care and protection, to secure that they are properly cared for or that they are prevented from falling into bad associations or from being exposed to moral danger;
- (b) who is beyond the control of the parents or guardians with whom they are living;
- (c) who associates or lives with a person who is, or is reputed to be, an habitual thief, or a drunkard, or a prostitute or with a person who has no apparent lawful means of support;
- (d) who is found wandering without any settled place of abode, or without visible means of subsistence, or begging or receiving alms, or loitering for the purpose of so begging or receiving alms;
- (e) who is found in a brothel or a place reputed to be used as a brothel or in a place where opium or any preparation thereof is smoked;
- (f) who, being a female, solicits, importunes, or accosts any person for immoral purposes;
- (g) who, being a child who has not attained the age of 16 years in respect of whom there have been at least two convictions under Section 9 of the *Education Act 1932* does not, without lawful excuse, attend school regularly;
- (h) who dwells with, or in the same house as, a person suffering from venereal disease or from tuberculosis in conditions that are dangerous to his health.

Proper care and guardianship shall be deemed not to be exercised in respect of the child if they are not provided with necessary food, lodging, clothing, medical aid, or nursing, or if they are neglected, ill-treated or exposed by their parent or guardian

Under the *Child Protection Act 1974* a child may be placed under a child protection order if it appears to a magistrate that the child may have suffered abuse or that there may be a substantial risk that the child will suffer abuse. Under the *Child Protection Amendment Act 1986*, a magistrate who is not in a position to decide whether there may be a substantial risk that the child may suffer abuse can make a temporary child protection order. A child is taken to suffer abuse if:

- (a) whether by act or omission, intentionally or by default, any person:
 - (i) inflicts on the child a physical injury causing temporary or permanent disfigurement or serious pain; or by any means subjects the child to an

- impairment, either temporary or permanent, of a bodily function or of the normal reserve or flexibility of a bodily function (for example, by administering drugs or alcohol); or
- (ii) neglects, or interferes with the physical, nutritional, mental or emotional wellbeing of the child to such an extent that the child suffers, or is likely to suffer, psychological damage or impairment; or the emotional or intellectual development of the child is, or is likely to be endangered; or the child fails to grow at a rate that would otherwise be regarded as normal for that child;
- (b) any person causes the child to engage in, or be subjected to, sexual activity; or
- (c) the child is, with or without the consent of the child or of the parent, guardian or other person having the custody, care or control of the child, engaged in, or subjected to, sexual activity that is solely or principally for the sexual gratification of any other person; or is in whole or in part the subject of, or included among the matters portrayed in, any printed matter, photograph, recording, film, video tape, exhibition, or entertainment; or is in any other manner exploited.

Until recently, each Act was administered by a separate team within the Department of Community and Health Services. Tasmania has now established 'Intake and Assessment' teams that will administer both Acts, thereby eliminating the 'artificial divide' between abuse and neglect responses that has developed over recent years.

Australian Capital Territory

In the Australian Capital Territory the *Children's Services Act 1986* states that a child is in need of care and protection if:

- (a) the child has been physically injured (other than by accident) or has been sexually abused by one of the child's parents or by a member of the household, or there is a likelihood that the child will suffer such physical injury or sexual abuse;
- (b) the child has been physically injured (other than by accident) or has been sexually abused by a person other than a parent or by a member of the household and there is a likelihood that the child will so suffer such physical injury or sexual abuse and the parents are unable or unwilling to protect the child from the injury or abuse;
- (c) by reason of the circumstances in which the child is living, has lived or is reasonably likely to live, or in which the child is found, the health of the child has been, or is likely to be, impaired, or the child has suffered, or is likely to suffer, psychological damage of such a kind that their emotional or intellectual development is, or will be, endangered.
- (d) the child is engaged in behaviour that is, or is likely to be, harmful and the parents or guardians are unable or unwilling to prevent the child from engaging in that behaviour;
- (e) there is no appropriate person to care for the child because the child has been abandoned; the child's parents or guardians cannot, after reasonable enquiries have been made, be found; or the child's parents are dead and the child has no guardians;
- (f) there is serious incompatibility between the child and one of his or her parents or guardians; or

- (g) the child is required by law to attend school and is persistently failing to do so and the failure is, or is likely to be, harmful to the child.

The Act states that in the application of the Act, an authorised person, the Community Advocate or the Court shall have regard to the degree of injury, abuse, impairment, likelihood, incompatibility or failure and shall disregard any of those things that, in the circumstances, appears to be not sufficiently serious or substantial to justify action.

Northern Territory

In the Northern Territory, Section 4(2) of the *Community Welfare Act 1983* states that a child is in need of care where:

- (a) the parents, guardian/person having the custody have abandoned the child and cannot, after reasonable inquiry, be found;
- (b) the parents, guardian/person having the custody is unwilling or unable to maintain the child;
- (c) the child has suffered maltreatment; or
- (d) the child is not subject to effective control and is engaging in conduct which constitutes a serious danger to their health or safety; or
- (e) being excused from criminal responsibility under section 38 of the Criminal Code (being under 10 years of age), the child has persistently engaged in conduct which is so harmful or potentially harmful to the general welfare of the community, measured by commonly accepted community standards, as to warrant action under this Act for the maintenance of those standards.

For the purpose of the *Community Welfare Act 1983* a child shall be taken to have suffered maltreatment where they have suffered or are at substantial risk of suffering:

- (a) a physical injury causing temporary or permanent disfigurement or serious pain or impairment of a bodily function or the normal reserve or flexibility of a bodily function, inflicted or allowed to be inflicted by a parent, guardian or person having the custody of the child, or where there is substantial risk of the child suffering such an injury or impairment;
- (b) serious emotional or intellectual impairment evident by severe psychological or social malfunctioning measured by the commonly accepted standards of the community to which the child belongs, whether a result of physical surroundings, nutritional or other deprivation, or the emotional or social environment in which the child is living, or where there is a substantial risk that such surroundings, deprivation or environment will cause such emotional or intellectual impairment;
- (c) serious physical impairment evidenced by severe bodily malfunctioning, whether a result of the child's physical surroundings, nutritional or other deprivation, or the emotional or social environment in which the child is living, or where there is a substantial risk that such surroundings, deprivation or environment will cause such impairment; or
- (d) sexual abuse or exploitation, and the child's parents, guardians or persons having custody of the child are unable or unwilling to protect the child from such abuse or exploitation.

Appendix 2

Related legislation

The following legislation relates to child protection in Australia.

Commonwealth

Family Law Act 1975

New South Wales

Children (Care and Protection) Act 1987

Victoria

Children and Young Persons Act 1989

Queensland

Children's Services Act 1965

Western Australia

Child Welfare Act 1947

Community Services Act 1972

South Australia

Family and Community Services Act 1972

Children's Protection Act 1993

The Young Offender's Act 1993

Tasmania

Child Welfare Act 1960

Child Protection Act 1974

Child Protection Amendments Act 1986, 1987 and 1991

Australian Capital Territory

Children's Services Act 1986

Northern Territory

Community Welfare Act 1983

Appendix 3

Abbreviations

ABS	Australian Bureau of Statistics
AIHW	Australian Institute of Health and Welfare
AGPS	Australian Government Publishing Service
DCHS	Department of Community and Health Services (Tasmania)
DFCS	Department for Family and Community Services (South Australia)
DHS	Department of Human Services (Victoria)

Appendix 4

Glossary

Age

The age of a person in completed years. The tables containing information on type of living arrangements show age at 30 June; tables containing admissions or discharges information show age at the time of admission or discharge.

Child

As a person under the age of 18 years.

Indigenous

A person of Aboriginal or Torres Strait Island descent who identifies as an Aboriginal or Torres Strait Islander and is accepted as such by the community with which they are associated.

Living arrangements

The type of care in which the child is placed. The categories are:

Living with parent or other relative

A child who lives with a parent or other relative when living with one or both natural or adoptive parents, or with any adult relative who does not receive a regular allowance for care of the child.

Foster care

Care of a child who is living apart from their natural or adoptive parents in a private household, by one or more adults who act as substitute parents. The substitute parents, generally called 'foster parents' are paid a regular allowance for the child's support by a government authority or non-government organisation. 'Foster parents' are chosen from a list of persons registered, licensed or approved as foster parents by an authorised department or non-government organisation. The authorised department or non-government organisation provides continuing supervision or support while the child remains in the care of 'foster parents'.

Residential child care facilities

Residential establishments, other than 'family group homes', with a main activity of providing substitute care (accommodation, meals and some personal care, protection or control) to children. Included in this category are:

- establishments for children with disabilities and establishments for children with serious behavioural problems;

- juvenile hostels—residential child care establishments, mainly for children aged 15 years and over who may have left school, which provide full board and some personal care, protection, control, corrective treatment or detention (for example, youth refuges and child care hostels used as 'half-way houses' for children released from a corrective institution);
- campus homes—residential child care establishments consisting of two or more dwellings that do not share cooking or eating facilities, with some form of on-site centralised administration or control; and
- other homes for children—any other residential child care establishments that are mainly for children aged under 15 years, and that consist of either single dwellings that are not 'family group homes', or two or more dwellings that share cooking or eating facilities.

Family group homes

Residential child care single dwelling establishments which have as their main purpose the provision of substitute care to children. They are typically run like family homes and have a limited number of children who eat together as a family group and are cared for around-the-clock by resident substitute parents.

Other residential care

'Other residential care' establishments are establishments where the main function is the provision of either medical, education or other non-welfare care for adults and/or children, or other residential care for adults, comprising:

- hospitals or nursing homes—establishments mainly engaged in providing hospital facilities such as diagnostic medical or surgical services and continuous in-patient nursing care, psychiatric or mental hospitals, or nursing or convalescent home facilities;
- boarding schools—establishments mainly engaged in providing pre-school, primary or secondary education where the children attending the establishments live at the school; and
- residential adult care establishments—establishments mainly engaged in providing accommodation and some care or support (other than medical or nursing care) to adults with special needs, such as aged or handicapped adults, adults released from prison, or women in distress.

Corrective establishments

Residential or penal establishments which have as one of their major aims the secure detention of residents. Persons on care and protection orders shown in this publication may be in a corrective establishment because they are also subject to an offence order. This category includes:

- juvenile corrective institutions—residential establishments mainly for child offenders or children on remand for alleged offences which emphasise the provision of secure detention;
- youth training centres—residential establishments which provide care, treatment and custody for children under the guardianship of the State and for young people sentenced to serve periods of detention; and
- prisons—penal establishments mainly for adult detention, including prison farms and adult remand centres.

Other adult living arrangements

Living with an adult (other than a parent, relative or foster parent) who has accepted responsibility for the child. Persons placed in the custody of employer or landlord, of prospective adoptive parents who do not receive a regular allowance for care of the child, or of authorities of an Aboriginal reserve or mission are included in this category.

Living independently

Living independently when living apart from parents, other adult relative, or other adult who has accepted responsibility for care or supervision of the child—for instance, when living as a private boarder, in rental accommodation, boarding house or refuge, private hotel or hostel for adults.

Other/unknown

Any living arrangements not elsewhere included, or not known. This category also includes a child's unauthorised absence, which is defined as absence from official living arrangements at the time of counting without the permission of the appropriate authorities (except where no specific permission is required).

Orders issued for care and protection reasons

Legal orders issued in respect of an individual person deemed to be in need of care and/or protection.

Persons subject to orders

Any person for whom the authorised department has a responsibility as a result of some formal legal order. This responsibility may be in the form of guardianship or some other form of supervisory responsibility for the welfare of a person.

A legal order is any lawful direction which directly involves an authorised department with a person over and above what is generally considered normal for most persons, or which has an assumption that the authorised department will have carriage of the order (or a substantial part of it). The involvement might take the form of total responsibility for the welfare of the child (for example, guardianship); responsibility to oversee the actions of the person or authority caring for the child; or responsibility to provide or arrange accommodation or to report or give consideration to the person's welfare. Depending on the State or Territory regulation under which the order is issued, the order can be from a Court, Children's Panel, Minister of the Crown, authorised welfare department officer (for example, Director) or similar tribunal or officer.

Regular allowance

A payment of a set amount of money on a regular basis to substitute parents for the care of a child. This allowance is paid to a person or persons providing foster care by a government department or non-government organisation.

Residential care

Provision of accommodation in a residential establishment.

Substitute care

Provision of care for a child by persons other than the child's natural or adoptive parents, who act as substitute parents. This category includes foster care and residential care.

Type of living arrangements

Type of living arrangements in which persons spent the night of 30 June 1996 (except those on authorised absence or outing who are shown against their usual type of living arrangements).

Under guardianship of State or Territory welfare department

A person whose legal guardian is the Minister, Director or other official of an authorised department, whereby the guardianship is conferred under legislation other than legislation controlling the adoption of children or the *Immigration (Guardianship of Children) Act 1956*. In some States, persons come under the legal guardianship of the State because they are on offence orders. These are excluded from this collection.

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CHILD WELFARE SERIES

A child may be found 'in need of care and protection' when they have been abused or neglected or abandoned by their caregiver, when there is an irretrievable breakdown in the relationship between the parent(s) and the child, or when the child is considered a threat to themselves or others. Where other assistance fails to resolve the problem, these children may be placed on a care and protection order.

Children on Care and Protection Orders Australia 1995-96 presents, for each State and Territory, statistics on children placed on guardianship and non-guardianship care and protection orders at 30 June 1996, and children admitted to and discharged from these orders during 1995-96. Information on the age, sex and Aboriginality of the child are included, as well as details on the living arrangements of the child while on an order.

