

Part A: Overview

1. Introduction

Child abuse and neglect is an emotive topic, with accounts of serious individual cases often reaching the press. It is an area of considerable interest to both the government and community and the subject of a large body of research. It is also an area where there is considerable scope for more work to determine the current incidence, the causes and effects (on both children and families) and the most appropriate and effective ways of dealing with child abuse and neglect.

This report, one in a series on child welfare, will inform debate in both the government and community sectors by presenting statistics on child abuse and neglect notified to State and Territory community service departments in the year 1 July 1995 to 30 June 1996. These statistics should not be looked at in isolation, but should be considered in the context of the child welfare policies and processes in each of the States and Territories. The effect of broader factors such as social and family structures, the economy and community values also needs to be taken into account.

2. Background

The protection of children from abuse and neglect is legally the responsibility of the community service departments in each State and Territory. A list of the relevant authorities in each State and Territory is provided at the front of this report under 'Contributing departments'. Each has separate legislation to empower it to undertake its responsibilities in this area (see Appendix 1). State and Territory governments also provide funding for the provision of family services, to assist families at risk and in crisis.

Police also have some responsibility for child protection in each State and Territory. The extent of their responsibility varies, as detailed in Section 5.3, but generally they are involved in all abuse and neglect of a criminal nature (mainly significant sexual or physical abuse or abuse or neglect which results in the death of a child). In some States and Territories there have been protocols or informal arrangements established whereby the police are involved in joint investigations with the community service department.

The Commonwealth's role in child protection is mainly one of education and research. In addition it provides some funding for family support services mainly aimed at the prevention of child abuse and neglect. Section 6 contains more detail on the role of the Commonwealth Government.

The role of the AIHW is to collect and publish national data on child abuse and neglect, children on care and protection orders and adoptions. These collections are funded in large part by contributions from the State and Territory governments.

3. Scope and coverage

3.1 Scope and coverage of data in this report

A number of factors should be taken into consideration when interpreting the information presented on child abuse and neglect in Australia.

This report includes data on notifications of child abuse and neglect made to State and Territory community service departments in the 1995–96 financial year. It also provides data on notifications investigated in 1995–96 where the investigation was finalised by 31 August 1996, finalised investigations of child abuse and neglect which were and were not substantiated, and children who were the subject of finalised investigations and substantiated notifications of abuse and neglect.

Notifications made to other organisations, such as the police or non-government welfare agencies, are only included if these notifications were referred to the community service department. The level of referral varies from State to State, depending on the statutory requirements and policies in each jurisdiction. In general, notifications of child abuse and neglect are referred to the community service department by the police or other organisations if the person believed responsible for the abuse or neglect is the child's guardian or from within the child's family, or where there is concern for the child's protection (for instance, where the parent(s) or guardian(s) are unable or unwilling to protect the child from abuse or neglect by a third party). This is discussed in more detail in Section 8.

In addition, it is widely acknowledged that a proportion of child abuse and neglect is not reported to any agency or department—although the extent of unreported child abuse and neglect is unknown.

The data in this report were sought from State and Territory community service departments according to definitions and counting rules agreed to by the departments and the AIHW. Definitions of terms used in the collection are provided in the glossary at the back of this publication. However, as noted above, each State and Territory has its own legislation regarding child abuse and neglect and these differ somewhat in wording and content. Reporting procedures, policies and practices also vary from State to State, as detailed in Section 8. These differences should be taken into consideration as they affect the comparability of some of the data across jurisdictions. To assist readers, footnotes describing instances where States and Territories could not adhere precisely to definitions and agreed standards have been provided with the tables.

3.2 Changes from previous years

There are considerable changes to the 1995–96 collection of national data on child abuse and neglect compared with previous collections, as outlined below. As a result, care should be taken in comparing data in this publication with data for previous years.

- For 1995–96 data on 'notifications' of abuse and neglect have been published. Previously, data was collected on the number of 'child abuse and neglect cases', which referred to notifications that warranted investigation (that is, a subset of all notifications).
- For this collection, notifications have been broken down into three main categories: notifications that were investigated, notifications that were dealt with by other means (such as through a referral to another agency), and notifications not investigated or dealt with by other means (which includes those where there was no action or investigation possible or necessary). These categories are discussed in more detail in Section 8.

- There have also been changes in the data collection as a result of recent changes in policies related to child abuse and neglect. Major changes include:
 - in Tasmania, notifications of neglect made under the *Child Welfare Act 1960* were not included in previous data collections. For 1995–96 data on all notifications of abuse and neglect to the Department of Community and Health Services (DCHS) are included. This is described in more detail in Section 8.1.
 - the number of notifications of child abuse and neglect that were substantiated is considerably lower in Tasmania in 1995–96 than in previous years. This is because of the absence of a common definition of ‘substantiated’ child abuse and neglect across the regions in that State. To rectify this problem Tasmania has recently adopted the national definition for child abuse and neglect.
 - the Western Australian ‘New Directions in Child Protection and Family Support’ policy was piloted in five regions of the State in 1995–96 and introduced State-wide on 1 May 1996. This policy substantially changes the way that Family and Children’s Services (FCS) classifies and deals with notifications of child abuse and neglect. Under ‘New Directions’, notifications of concerns about children are separated from notifications of maltreatment and the two types of notifications are dealt with in different ways. Previously both types of notifications were included as notifications of abuse and neglect (WA FCS 1996). Section 8.1.1 describes the changes in Western Australia in more detail.
- In the 1995–96 data collection, investigations of abuse and neglect notifications received during the year ended 30 June 1996 are counted as ‘finalised’ where the investigation was completed and an outcome recorded by 31 August 1996. In the 1994–95 collection the ‘cut-off date’ to determine finalisation of ‘cases’ investigated was 30 September 1995 (although for South Australia it was 16 August 1995). Prior to 1994–95 the collections included ‘cases’ reported in the financial year and where the investigation was finalised by the following 31 August (mid-August for South Australia).
- Only notifications relating to children under 18 years of age are included for 1995–96. Previously there were a small number of ‘cases’ of child abuse and neglect involving persons aged 18 years and over (referred to as ‘adults’ in the tables) included in the data collection.

4. Defining child abuse and neglect

Child abuse and neglect can be generally defined as occurring when a child has been, is being, or is likely to be, subjected to sexual, emotional or physical actions or inactions which have resulted in, or are likely to result in, significant harm or injury to the child. It refers to situations where there are protective issues for the child because the person believed to be responsible is a parent, family member or some other person with responsibility for care of the child; or where the person with the care of the child is unable or unwilling to protect the child from abuse or neglect.

Assaults of a child by a ‘stranger’ or someone with no responsibility for care of the child and where there are no protective concerns regarding the child are generally dealt with by the police rather than the community service department and are generally not included in the statistics.

Within this general definition or description, there are some variations across States and Territories, reflecting each jurisdiction’s own legislation, policies, and practices relating to child protection and child welfare. Terms such as ‘significant harm’ or ‘substantial risk’ are used in some States while others refer to ‘harm’ or ‘in danger of being harmed’. The boundary of what is included as child abuse and neglect also varies across jurisdictions. For example, Western Australia, under ‘New Directions’, places greater emphasis on the harm experienced by a child rather than on the nature of the act or incident in isolation (with the exception of sexual abuse where the exploitative or inappropriate nature of the act itself is considered to

constitute abuse) (WA FCS 1996). New South Wales includes in their 1995–96 statistics notifications of a broader nature, including general concerns for children as well as notifications where children are reported to have suffered actual harm. However, it is expected that New South Wales data will conform more closely to the national definition in future years.

5. Reporting of child abuse and neglect

5.1 Overview

The number of notifications of child abuse and neglect has risen considerably over the past decade, across all States and Territories (Angus & Hall 1996,¹ p. 40). It is not possible to determine whether this is indicative of a rise in the incidence of child abuse and neglect, or a reflection of changes in policies and practices relating to the reporting of child abuse and neglect (including the introduction of mandatory reporting). Other factors that may have contributed to the increase include the greater public awareness of child abuse and neglect, an increase in the willingness to listen to children and an increase in the numbers of those families most at risk of becoming the subject of a notification (for example, single parent families, families with mental illness or intellectual disability) (Clark 1995a). As a result of these contributing factors, changes over time in the figures for abuse and neglect need to be interpreted carefully.

Additionally, as stated earlier, this data collection includes only notifications of child abuse and neglect to State and Territory welfare agencies. The proportion of occurrences of child abuse and neglect which are not reported and, for instance, whether this is changing over time and greater in some areas within Australia than others, is unknown.

Recent research indicates that the likelihood of reporting may depend on the type of abuse and the child's situation. Adult respondents may be more likely to report severe sexual and physical abuse to the authorities than severe emotional abuse and neglect. Older children may be less likely to approach authorities, being more aware of the consequences for themselves and their families. In addition, it has been suggested that incidences of abuse involving children with disabilities may be less likely to be reported to child welfare or law enforcement authorities (Cashmore & Castell-McGregor 1996). There are also indications that child abuse is often not reported in country areas because of factors such as the closeness of the community, associated difficulties for workers in the areas and a widespread lack of resources (Select Committee of the Legislative Council 1991).

The extent of over- or under-reporting of abuse and neglect of Aboriginal and Torres Strait Islander children is difficult to determine. A relatively high proportion of abuse and neglect may be reported to State and Territory community service departments because Aboriginal and Torres Strait Islander people are more likely to be in the welfare system already and therefore more 'visible'. There is also the possibility that Aboriginal and Torres Strait Islander children are over-reported because of cultural differences in parenting practices. On the other hand, there may be under-reporting because of distrust of the community service department and the equating of 'welfare' with the removal of children.

A large proportion of child abuse and neglect notifications are made by relatives (including parents), friends and neighbours, while a relatively small proportion are made by the subject child. Other organisations, including the police and non-government welfare agencies, may also report if they have concerns for the child, or in some cases are mandated to do so. Section 9.7 provides data on the source of notifications in 1995–96.

¹ It should be noted that the data in Angus & Hall refer to 'child abuse and neglect cases', that is, notifications warranting investigation.

5.2 Mandatory reporting

All States and Territories except Western Australia and the Australian Capital Territory have legislation requiring compulsory reporting of child abuse and neglect. In most States and Territories the members of a few designated professions involved with children are required to report, although in the Northern Territory anyone who has reason to believe that a child may be abused or neglected must report to the appropriate authority. While Western Australia does not have mandatory reporting it does have protocols in place. The Australian Capital Territory is to introduce mandatory reporting on 1 June 1997. Details regarding the mandatory reporting requirements in each State and Territory are set out in Appendix 2.

In addition to requirements under State and Territory legislation, Family Court staff are also required under the *Family Law Act 1975* to report all suspected cases of child abuse.

5.2.1 The pros and cons of mandatory reporting

There is some controversy surrounding mandatory reporting, and whether or not it has a positive impact in reducing child abuse and neglect. Those in favour argue that it provides a clear statement by society on the existence of child abuse, its unacceptability and the need to protect children (Swain 1995).

Mandatory reporting sends a strong symbolic message that child abuse will not be tolerated. It also resolves the conflict some people, particularly medical professionals, may have about disclosing information given in confidence. (Human Rights and Equal Opportunity Commission & Australian Law Reform Commission 1996, p. 67)

The effect of the introduction of mandatory reporting on notifications of child abuse and neglect can be seen from the Victorian experience. The staged introduction of mandatory reporting in Victoria over 1993 and 1994 resulted in a significant increase in notifications of child abuse and neglect in that State, not only from those that were specifically mandated. Notifications from doctors, nurses and police increased by 65% in 1993–94 from the previous year, and a further 6% in 1994–95. Notifications from teachers and principals increased by 41% and 64% respectively over these periods, while notifications from non-mandated groups (including family and non-mandated professional groups) increased by 30% and 18% respectively (Angus & Hall 1996).

Those against mandatory reporting argue that it increases the risk of unnecessary intrusion into families where reports may be of a trivial or frivolous nature and that this places increased pressure on the welfare system at the reporting end, taking resources away from those cases where assistance is obviously needed. There is also a concern that mandatory reporting may prevent people in crisis from seeking help from mandated professionals, for fear that this may result in a notification to the community service department.

Criticisms of mandatory reporting remain. Abusers may be less likely to seek help for themselves or the child. Mandatory reporting may deny children a voice in whether to report abuse and the action to be taken in relation to disclosure of abuse or neglect. This criticism is particularly relevant to older children. (Human Rights and Equal Opportunity Commission & Australian Law Reform Commission 1996, p. 68)

In relation to Aboriginal and Torres Strait Islander people, concern has been expressed that mandatory reporting may be ineffective:

...the system of mandatory reporting is of dubious usefulness in the Aboriginal community given the existing suspicion and disapproval of most forms of state intervention in family and community life. In areas of Australia where there is mandatory reporting, Aboriginal Child Care Agencies (ACCA) and community members may not report if there is a suspicion of abuse or neglect for fear of activating the state system, preferring instead to deal with such instances on an informal basis first...This is not to say that the best interests of the children are ignored but rather that they would choose to use their own systems, especially where their children are concerned. (D'Souza 1993, p. 43)

5.3 Role of the police

Generally speaking, State and Territory community service departments are responsible for the investigation of child abuse and neglect where the person believed responsible is a parent, guardian or someone within the household, or where the person believed responsible is someone outside the household but the parents or guardians are unwilling or unable to protect the child.

In all States and Territories the police have the responsibility to investigate child abuse and neglect of a criminal nature (defined under the State or Territory criminal Acts). This usually occurs in incidences that involve sexual abuse or physical abuse of a significant nature, or the death of a child. The police are either notified directly or by the community service department. The police are also involved, in varying degrees (depending on the legislation and practices within each jurisdiction) in other incidences of child abuse and neglect. The police and the community service department may conduct joint investigations, with the department pursuing the child protection issues and the police the criminal investigation.

Some States have developed a formal team approach to the investigation of abuse and neglect, for example:

- New South Wales is trialing the co-location of Department of Community Services (DCS) workers and members of the police, whereby staff from each section operate as a cohesive unit in Joint Investigative Teams (JIT).
- In Victoria, a protocol exists between the Victorian Department of Human Services (DHS) and the Victorian Police. Under this protocol, each agency must inform the other when grounds exist (based on a notification) for believing that a child has been sexually assaulted or has incurred significant physical harm. The protocol requires that joint interviews be arranged.
- Queensland has Suspected Child Abuse and Neglect (SCAN) Teams which comprise representatives from the Department of Family Youth and Community Care (DFYCC), the police and an authorised medical officer. Where the abuse of a child within the family may involve criminal actions, investigations are undertaken jointly by officers of the department and the police.
- In South Australia, where warranted, joint investigations of abuse and neglect are conducted by workers from the Department for Family and Community Services (DFCS) and the police.
- In Western Australia, in order to ensure efficient referral of child abuse and neglect notifications to the community service department where this is required, reciprocal policies and procedures are negotiated with key agencies that deal with children and families (such as the police, children's hospitals, schools and prisons).
- In Tasmania, a formal protocol exists between Tasmania Police and DCHS to deal with child abuse and neglect matters. Joint investigations can be carried out, with Tasmania Police dealing with the criminal aspects and DCHS dealing with the abuse or neglect aspects. Within Tasmania Police there are dedicated child protection officers. Police also have membership on the Child Protection Board and Multi-disciplinary Assessment Committees.
- In the Australian Capital Territory the community service department involves the Australian Federal Police early in the investigation (often at initial contact) where it appears that the abuse or neglect is of a criminal nature.
- In the Northern Territory there is a protocol between Territory Health Services and the police whereby, if abuse of a child within the family involves criminal actions, joint investigations are undertaken.

The police in all States and Territories also have a role in providing assistance to protective workers where they may be under threat of physical violence (for instance, in a violent domestic situation).