



## Overview

This section takes the place of what is described today as an Executive Summary. It explains and introduces what there is to be seen, much of which is well known.

This has been a grim undertaking over the past eight months or so. We are determined that some action will follow our report; that governments will respond to the almost daily reporting on the disastrous state of the nation by worthy people from both Aboriginal and mainstream society.

**The Inquiry has always accepted the assertion that sexual assault of children is not acceptable** in Aboriginal culture, any more than it is in European or mainstream society. But there is a major difference between the two branches of society. A breakdown of Aboriginal culture has been noted by many commentators. A number of underlying causes are said to explain the present state of both town and remote communities. Excessive consumption of alcohol is variously described as the cause or result of poverty, unemployment, lack of education, boredom and overcrowded and inadequate housing. The use of other drugs and petrol sniffing can be added to these. Together, they lead to excessive violence. In the worst case scenario it leads to sexual abuse of children.

*HG was born in a remote Barkly community in 1960. In 1972, he was twice anally raped by an older Aboriginal man. He didn't report it because of shame and embarrassment. He never told anyone about it until 2006 when he was seeking release from prison where he had been confined for many years as a dangerous sex offender. In 1980 and 1990, he had attempted to have sex with young girls. In 1993, he anally raped a 10-year-old girl and, in 1997, an eight-year-old boy (ZH). In 2004, ZH anally raped a five-year-old boy in the same community. That little boy complained: "ZH fucked me". Who will ensure that in years to come that little boy will not himself become an offender?*

All Australians should know of the problems. Now is the time to do something about it.

## Our report

The report that follows is written in conventional style. We set out our terms of reference then examine the process undertaken in dealing with the problems thrown up by those terms. We look at what the vast literature on

the topic says and what the statistics tell us, what the experience overseas has been and how this all relates to the Northern Territory. We justify and then record our recommendations. It is all there to be seen and studied.

Some of our readers might say, *we know all that; what's the use of yet another report?*<sup>1</sup> We would say: *Yes, but what has been done?* We know the problems, we know how to fix many of them and the likely monetary cost. (And we pause here to interpose the question: *What is the likely future cost of NOT now attempting to deal with the issues?*). We have an enormous amount of knowledge in this country (at various times we have been described as *the clever country* and *the lucky country* -by our own people, of course) and in the Territory. The money is available. The Australian Government budget surplus last year was billions and billions of dollars. What has been lacking is the political will. We have to stop marching on the spot and work with some real commitment to success to save Australia from an impending disaster. Strong words? Certainly, but they are justified. Just a lot of rhetoric? We don't think so.

Our appointment and terms of reference arose out of allegations of sexual abuse of Aboriginal children. Everything we have learned since convinces us that these are just symptoms of a breakdown of Aboriginal culture and society. There is, in our view, little point in an exercise of band-aiding individual and specific problems as each one achieves an appropriate degree of media and political hype. It has not worked in the past and will not work in the future. We are all left wringing our hands. Look at all that money! Where did it go? The answer is, of course, down the plughole.

1 *Another damned, thick square book! Always scribble, scribble, scribble! Eh, Mr Gibbon* – attributed to Prince William Henry, Duke of Gloucester, 1781 upon being presented with a volume of Edward Gibbon's monumental work, *The Decline and Fall of the Roman Empire*

What is required is a determined, coordinated effort to break the cycle and provide the necessary strength, power and appropriate support and services to local communities, so they can lead themselves out of the malaise: in a word, **empowerment!**

Are there simple fixes? Of course not! Our conservative estimate is that it will take at least 15 years (equivalent to an Aboriginal generation) to make some inroads into the crisis and then hopefully move on from there. Perhaps this is too optimistic (COAG has an as-yet un-commenced 20-year-long plan – to start, if agreed to, in 2009 . It has been talking about it, or something like it, since at least 2000!). The NT Government is also working on its own 20-Year Action Plan. When will it start?

However, we do make some recommendations that are capable of comparatively easy and prompt implementation. Again, they are obvious. We have been struck time and time again over these last six months, by how often the same obvious problems are exposed and the plain responses articulated. That is that everybody knows the problems and the solutions.

### It's all been said before!

The Inquiry has been unable, within the time available, to read every report and every piece of paper highlighting the problem of alcohol consumption and other “worries” in Aboriginal communities. Late in our enquiries, our attention was drawn to the findings of the Northern Territory Coroner, Mr Greg Cavanagh SM in relation to what we will call the “The Tiwi Four”<sup>2</sup>. This was an Inquest into the deaths of four young Aboriginal people at Nguui in late 1998. Three deaths were found to have resulted from suicides. In the course of the proceedings, Counsel assisting the Coroner, Colin McDonald QC, presented written submissions, which included the following:

- *At the outset it must be said that the public health and safety issues thrown up by this inquest are truly tragic in their proportion and have an urgency which the communities on the Tiwi Islands, the Tiwi Health Inquiry, Government and Government Agencies cannot ignore.*
- *That having been said, the issues are complex and there are no magic solutions and certainly no “quick fix” options which can deal immediately with the gravity of the underlying problems.*

2 Findings in Inquest into four Tiwi Island persons, 24 November 1999 (publication of names suppressed)

- *The evidence in this inquest pointed to very serious underlying problems on the Tiwi Islands, which impact upon public health. The underlying problems need to be considered and proactive measures need to be taken as a matter of urgency. The underlying problems identified in this inquest are:*

- (a) alcohol abuse across the community*
- (b) marijuana abuse*
- (c) violence, especially domestic violence*
- (d) family breakdown*
- (e) a weakening of the traditional and cultural values in modern Australian society*
- (f) lack of employment, opportunity and other advantages enjoyed by many in non-Aboriginal Australia*
- (g) a clash of culture, occasioned by various means, which can lead to a sense of hopelessness and low self-esteem, especially among young men.*

Mr Cavanagh adopted those submissions in his findings and went on:

*A very wise judge said in relation to Aboriginal youth in the Northern Territory:*

*“...in dealing with Aboriginal children one must not overlook the tremendous social problems they face. They are growing up in an environment of confusion. They see many of their people beset with the problems of alcohol; they sense conflict and dilemma when they find the strict but community-based cultural traditions of their people, their customs and philosophies set in competition with the more tempting short-term inducements of our society. In short the young Aboriginal is a child who requires tremendous care and attention, much thought, much consideration”<sup>3</sup>*

These words are just as apt in 1999 in describing youth on the Tiwi Islands as they were in 1977 in describing the youth in and around Alice Springs.

And, dare we say it, in 2007 (30 years later) everywhere in the Territory.

3 *Jabaltjaril v Hammersley* (1977) 15 ALR 94 (NT) Muirhead J, at 98

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## The Vulnerability of Children

The vulnerability of children is a matter that should need little discussion. Children are well known to be more vulnerable during their early years. Societies have always recognised this and taken appropriate steps to protect children from harm and to provide safe havens for their upbringing and development.

It seems hardly necessary that there be any formal statement acknowledging the obvious. However, there are such statements. The need for children to be protected against all forms of exploitation because of their vulnerability and immaturity first appeared in the 1924 League of Nations Declaration of the Rights of the Child. The United Nations Universal Declaration of Human Rights, adopted in 1948, proclaims that childhood is entitled to special care and assistance. The United Nations Declaration of the Rights of the Child (1959) further promotes the need to extend particular care to the child.

The adoption of the United Nations Convention on the Rights of the Child in 1989 provides a clear statement of the rights of, and special treatment for, the child. The preamble of the Convention on the Rights of the Child reiterates the declaration by stating that the child, by reason of his or her physical and mental immaturity, needs special safeguards and care, including appropriate legal protection. The convention also states that in all actions concerning children, the best interests of the child shall be a primary consideration.

Australian society clearly subscribes to these principles, including of course, the Indigenous members of the community. It therefore seems somewhat remarkable that we would allow our children to be victimised and abused to the extent that this Inquiry has been informed.

We have undertaken this Inquiry, accepting that:

- every rational member of our society views the sexual abuse of children with horror
- this applies wherever and whenever it occurs
- every reasonable (and perhaps some unreasonable) means should be found to combat sexual abuse
- the tasks as laid out before us will be supported in principle by the whole Northern Territory community.

## The sexual abuse of Aboriginal children

Child sexual abuse is not a new problem. The sexual exploitation of children – females and males – has occurred throughout history (Tower 1989), yet it was not until the 16th century that the first legislation was enacted (in England), which began the process of legally protecting children from sexual abuse. Boys were protected from forced sodomy and girls under the age of ten years from forcible rape.

In the Northern Territory, governments, health and welfare professionals and others have been aware of sexual abuse of children for some time. The available statistics for sexually transmitted infections (STIs) in children reflect the existence of sexual abuse, notwithstanding what is thought to be a low level of reported incidence. These figures also suggest that the STI problem and child sexual abuse is greater in Aboriginal than non-Aboriginal communities.

The violence and sexual abuse occurring in Northern Territory Aboriginal communities is, as we have said, a reflection of historical, present and continuing social dysfunction. This contention is supported by almost all those with whom the Inquiry has had contact. The origins of such dysfunction are not so clear. Did they commence in 1788 with colonisation (somewhat later in the Territory), and as one of the Inquiry's submissions has suggested, become exacerbated in 1978 with the establishment of the "(failed) political experiment of unicameral self government in the NT"?<sup>4</sup>

The Inquiry is, of course, concerned with the Northern Territory experience. It is not able to correct, or recommend corrections to, 200 years or 100 years of the disempowerment and institutional discrimination to which Aboriginal people have been subjected. Nor is the Inquiry able to right the political and social wrongs that have led to the dysfunction which now exists to a considerable degree in the NT. The best it can hope to achieve is to present meaningful proposals that the government might adopt so that Aboriginal communities themselves, with support, can effectively prevent sexual abuse of their children.

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4 Dan Baschiera, Social Worker, in a private submission to the Inquiry.

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## Taking Responsibility

We resolved early that we would not *sit under every gum tree in the Territory*. Notwithstanding, we have at least figuratively (and sometimes actually) sat under more than a few. We have visited 45 communities, including the major townships, in the Territory. We have seen those communities and talked with their permanent members and those providing services. We believe we have engaged with an excellent cross-section and proportion of the Aboriginal population. We have a strong feeling for their views, problems and aspirations.

Some common words or concepts emerged in the course of our consultations. They were:

- Dialogue
- Empowerment
- Ownership
- Awareness
- Healing
- Reconciliation
- Strong family
- Culture
- Law.

A number of common themes have emerged in the discussions, in the 65 submissions we have received from departments, organisations, communities and individuals, and in the 260 or so meetings we have had with individuals, public servants and non-government organisations. The themes of the meetings are reflected throughout Part I of the report generally.

Those themes can be reduced to a number of key areas to which our recommendations are addressed. They are:

- Alcoholism
- Education
- Poverty
- Housing
- Health
- Substance abuse
- Gambling
- Pornography
- Unemployment
- Responses by government agencies
- Law and justice
- Rehabilitation of offenders.

## Prevention

Vast resources are allocated to the crisis intervention response. It is difficult work for all of the service providers involved. We have thought it desirable to attack the problem from the other end – before it occurs. The object is to prevent the abuse from developing. The pragmatic view we take is that it will require at least a generation for any real benefits to be achieved. Aboriginal community members, despite their expressed abhorrence of sexual abuse of children and the traditional view of its non-acceptability, nevertheless find it difficult to accept responsibility for the bad behaviour of other members. Whether this is a natural reluctance to be a “dobber”, or suspicion of the authorities, is irrelevant (although we do discuss these reasons more fully later). There has to be a turnaround of overt attitude.

## Education

All information gathered leads us to conclude that **education** is the key to solving (or at least, ameliorating) the incidence of child sexual assault in Aboriginal communities. By education, we not only mean that which occurs in schools, but that which occurs in its wider context, i.e. with communication and media. Education must start with the unborn child because we have found that many children are born to teenage mothers and young fathers. Education must clearly explain:

- the importance of education as a means in itself
- that sexual contact between adults and children is NOT normal
- what sexual abuse is
- that attending school is **compulsory**
- that in dealing with children, parents’ responsibilities are paramount i.e. that the parents must TAKE RESPONSIBILITY for their children:
  - attending school
  - being fed
  - wearing clean clothes
  - not wandering the streets unsupervised
  - learning traditional law and culture
  - obeying both Aboriginal and European law.

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These may all appear to be basic propositions, and they are. But the parents of Aboriginal children in many communities are failing to accept and exercise their responsibilities. The word, **abuse**, in communities, in relation to children, may be given its wider meaning of **neglect** in social work terms. The literature convinces us that neglect leads to physical and emotional abuse and then, as we have said, in worst case scenarios, to sexual abuse.

Of course, in conjunction with the need to provide education and persuade parents to take responsibility, it is necessary to provide communities with housing and other infrastructure, coordination of service support, employment and the means to overcome the disastrous scourge of alcoholism. Other social problems, such as substance abuse and gambling also need to be addressed. The disempowerment of Aboriginal men and women requires urgent attention.

## The Scourge of Alcoholism

What can we say about alcoholism that has not already been said? It is not a diminishing problem. On the contrary, per capita annual alcohol consumption (converted into pure alcohol) has apparently increased in the six years from 2000-2001 to 2005-2006 from 14.3 litres to 17.3 litres. Territory-wide wholesale sales in the same period have gone from 2.3 to 3.0 million litres. Annual Northern Territory hospital separations for selected acute and chronic alcohol-related conditions have gone from 3490 to 6301. The number of people taken into protective custody annually over the same period has risen from 15,739 to 24,927. In the last year, that represents about 12% of the population and about 68 persons each day (accepting in each case that a large number of them would be repeat offenders).

Figures suggest that the percentage of Australians engaging in risky or high-risk drinking for long-term harm in 2004 was 9.9%. Of the Territory population, however, the figure was 17.1%. Given that a large percentage of the population (26%) is under the age of 15, this is very high at nearly twice the national average - and within a younger population! In 2005-2006, 71% of the total prison receptions were alcohol related (increased from 63% in 2000-2001). These figures are not Aboriginal specific but it would not be unfair or discriminatory to suggest that the vast majority of these numbers emanate from Aboriginal members of the population.

It is a sad indictment on our society that we have been unable to manage and control the intake of alcohol. It is absolutely clear that unless we as Territorians, with government leadership, take on and overcome the abuse of alcohol and the harm it causes to Aboriginal people, then the Aboriginal people and their cultures are likely to disappear within a generation or so.

## The Territory is not alone

The NSW Attorney-General established the Aboriginal Child Sexual Assault Taskforce in July 2004 to examine the incidence of child sexual assault in Aboriginal communities, and to review the effectiveness of government service responses to this issue.<sup>5</sup> The NSW Government's response to the taskforce report provides this short summary of some of the critical findings of the taskforce:

*The report found that child sexual assault is endemic and intergenerational in some Aboriginal communities in NSW, is poorly understood, and is often affected by that particular community's dynamics, such as the community standing of the perpetrators, geographic location, and levels of substance abuse. The taskforce reported that Aboriginal communities perceive government and non-government responses to Aboriginal child sexual assault to be often ineffective, culturally inappropriate or inconsistent in their responsiveness, and were mistrustful of some government services due to historical and present day factors. (NSW Government 2007).*

It could just as accurately have been written about the Northern Territory.

## Scope of the Inquiry

Finally, it should be emphasised that the Inquiry has not spent its time investigating the extent and nature of all cases of alleged sexual abuse in the Territory. As has been the case with previous inquiries in Australian jurisdictions (e.g. NSW Aboriginal Child Sexual Assault Taskforce 2006; Gordon Inquiry 2002), the Inquiry accepts that sexual abuse of Aboriginal children is *common, widespread and grossly under-reported*.

<sup>5</sup> There have been many reports in other States dealing with similar problems and a sample of these are referred to elsewhere in this Report.

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In its submission to the Inquiry, the Crimes Victims Advisory Committee (chaired by Mr Richard Wallace SM) noted:

*No member of CVAC doubts that sexual abuse of Aboriginal children is common, widespread and grossly under-reported. None of us claims a precise grasp of the extent of abuse, but the working experiences of the committee members – whose backgrounds include police work, victims’ support, health services and legal practice in criminal law and crimes compensation – uniformly persuade us that abuse is rife.*

This view mirrors that of most individuals and organisations with whom we have had contact and from whom we have had submissions. In the time available, the Inquiry has preferred to concentrate on what is perceived to be the real task - prevention of sexual abuse, rather than a historical cataloguing and statistical analysis of precise incidents.

## Matters of Finance

The Inquiry is conscious of the limited financial strength of the Northern Territory. A small population with a vast area creates its own problems. With many small and remote communities, the financial ramifications for the Territory are exacerbated. Everyone prioritises. In individual households we must live within our means; so must governments and communities.

Boards of inquiries, commissions, reviews and the like make recommendations that almost invariably require expenditure of funds. They are often viewed as ambit claims. In undertaking this Inquiry, we have carefully considered the issue of finances. We have not costed recommendations individually but are aware that some would be expensive to implement. For instance, we are told that the provision of a home liaison officer for say 50 remote Territory schools would cost about \$7.5 million per year, and this is without the added cost of housing (if applicable) and, perhaps, a car (see recommendation 52(b)). Can we say that this is an essential component of our proposed general strategy? In the context of the competing priorities, probably not.

However, in terms of the national economy (and this is a national problem), the following recent comments of the Prime Minister are worthy of note –

- *Our \$1 trillion economy is, in real terms, more than 40% larger than what it was 10 years ago. Economic reform has seen the average standard of living in Australia rise to surpass all of the G-7 countries, with the exception of the United States.*
- *Our economy, my friends, is not a bunch of abstract statistics. It governs every Australian’s ability to handle the pressures of daily life and to give their children a better life. We have come a long way in 11 years, but we still have a distance to travel. Our goal is to build even greater prosperity and opportunity. We want Australia to be the best country in the world to live, to work, to start a business and most importantly of all, to raise a family.*
- *Building Australia’s prosperity does not work like that – the short term fix or the quick hit – it requires a long-term focus, a commitment to continued economic reform and a philosophy that supports and nurtures individual enterprise.*
- *Lifting education standards and building Australia’s skills base is another critical part of the COAG Reform Agenda. Through our Skills for the Future package last year, the Commonwealth Government initiated the largest single investment in this agenda - \$837 million over five years to raise the skills of Australia’s adult workforce. In April (2007), I hope the Commonwealth and the states can also agree on practical ways of supporting higher literacy and numeracy standards in our schools (Howard 2007).*

What we have attempted to do in this final part of this Overview is nominate a set of priorities through which matters would be managed. However, it must be said again that the problems that we – and anyone else who has investigated or even visited Aboriginal communities – have encountered are so fundamental that nothing short of a massive reform effort, coupled with a long-term injection of funds, can hope to turn them around.

In Australian Government terms, the money is clearly available. What is required is committed long-term funding. So the question we pose for the Northern Territory Government and Australian Government (the latter holding the bigger chequebook) is what will it take to make you, on behalf of the people of the Territory and Australia, realise the national shame and racial disorder existing in this lucky country and what will you do about it?

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## Conclusion

We are utterly convinced that education (that properly addresses the needs of the local community) provides the path to success. We have been dismayed at the miserable school attendance rates for Aboriginal children and the apparent complacency here (and elsewhere in Australia) with that situation.

We are further persuaded that unless alcoholism is conquered, there is little point in attending to any of the other worthwhile proposals in this report. It is a priority!

The recommendations proposed in this report do not spring from “rocket science”. They are basic concepts and proposals. Nothing is novel or unexpected. Commentators have been calling out for them with increasing vigour in recent weeks and months.

This leads to our first recommendations. The government must lead. There is an opportunity to start something which can have a hugely positive impact on the whole of Australia <sup>6</sup>

## A commitment to success

In traditional Aboriginal society (and this probably is consistent with all cultural groups in the world), old people and children were the most important members of the community - the old people for what they learned through their life and the children because they would carry on the law, the religion, the beliefs and the culture. The role and responsibility of all other members of the community was to look after the older people and the children.<sup>7</sup>

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6 *Until one is committed, there is hesitancy, the chance to draw back, always ineffectiveness. Concerning all acts of initiative (and creation) there is one elementary truth, the ignorance of which kills countless ideas and splendid plans: That the moment one definitely commits oneself, then Providence moves too. All sorts of things occur to help one that would never otherwise have occurred. A whole stream of events issues from the decision, raising in one's favour all manner of unforeseen incidents and meetings and material assistance, which no man could have dreamed would have come his way. I have learned a deep respect for one of Goethe's couplets : "Whatever you can do, or dream you can, begin it. Boldness has genius, power and magic in it"* Quotation from **The Scottish Himalayan Expedition**, by W.H. Murray, Pub. J.M. Dent & Sons, Ltd., 1951

7 Tex Skuthorpe, Noonghaburra man from Gooedooga NSW, from the “Children are Sacred” community education poster, NAPCAN

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## **Note: Cessation of the Inquiry**

At the conclusion of this process, the Board of Inquiry will cease to exist. All records, including confidential papers and submissions, will be archived with special access caveats to protect the confidential nature of many of the documents. Further correspondence regarding the Inquiry may be directed to:

Department of the Chief Minister  
Office of Indigenous Policy  
GPO Box 4396  
DARWIN NT 0801



## Organisation of this Report

The Inquiry decided to frame its report as two complementary sections, so as to increase the report's accessibility.

**Part I** deals (in simple terms) with what the Inquiry has found through consultations and formal submissions. It incorporates the Inquiry's recommendations for action to address the issue of child sexual abuse in Aboriginal communities in the NT and, more broadly, the issue of child sexual abuse for all Territory children and young people.

**Part II** provides a detailed assessment of child sexual abuse and related issues – derived from published sources and literature reviews.

The Inquiry's recommendations have been informed by its community consultations, submissions received and forums held, and an assessment of the information which is presented as Part II of the report.<sup>8</sup>

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<sup>8</sup> The Harvard referencing system has been adopted for this Report (literature is cited in the body of the text with full citations provided in the References section)..Sentencing remarks, case notes and other remarks are provided as footnotes.