



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON HEALTH, AGEING AND COMMUNITY SERVICES
Ms Bec Cody MLA (Chair), Mrs Vicki Dunne MLA (Deputy Chair)
Ms Caroline Le Couteur MLA

Submission Cover Sheet

Inquiry into Child and Youth Protection Services Information Sharing under the Care and Protection System

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The Committee Secretary,
Standing Committee on Health, Ageing and Community Services,
Legislative Assembly for the ACT,
GPO Box 1020, CANBERRA ACT 2601.

To: LACommitteeHACS@parliament.act.gov.au
Inquiry into Child & Youth Protection Services

From: Canberra Restorative Community Network
Convenor, Canberra Restorative Community Network

Dear Committee Secretary

The Canberra Restorative Community Network offers this submission to the *Standing Committee on Health, Ageing & Community Services* for its *Inquiry into Child & Youth Protection Services*, as part of an on-going commitment to contribute constructively to the reform of child protection practices, processes and policies in the A.C.T.

It draws extensively from research work undertaken by members of the Canberra Restorative Community Network, namely Sharynne Hamilton, Valerie Braithwaite, Deborah Cleland, Ibi Losoncz, Holly Northam, Indigenous Elders, Fiona Tito Wheatland, Nathan Harris and Mary Ivec since 2007. Our relevant research work to your terms of reference are included as attachments as part of this submission. We would welcome an opportunity to appear at a public hearing and to meet with the Standing Committee to address the submission and to discuss any aspects of this submission or our related work.

The submission provides a short background to the Canberra Restorative Community Network, the broader child protection reforms necessary, major concerns - identified in the terms of reference - and what we know needs to happen to see improvements for children and across the child protection system.

Kind regards

Mary Ivec
Convenor, Canberra Restorative Community Network

23 September 2019

I. Background to the Canberra Restorative Community Network

The Canberra Restorative Community Network is a grassroots movement formally launched by the then Attorney-General, Simon Corbell in July 2015. Attorney-General Gordon Ramsay has since strengthened this support. The past four years, has been a time of awareness raising about restorative approaches and relationship building across, and between, civil society, community service providers, academic and government organisations. Reaching into our community of Elders, Indigenous and non-Indigenous, honouring historical relationships and the knowledge of our Elders, we also acknowledge our uniquely positioned land, as that of the Nation's Capital and a true 'meeting place.'

The Canberra Restorative Community network of around 600 has focused on addressing the frustration and dissatisfaction among providers and recipients of services in the ACT and how this might be reversed through strengthening relationships for listening and joint problem solving across the community. Behind these efforts is shared recognition that relationships have been damaged, often by relationally careless processes, resulting in less than optimal outcomes for citizens in our schools, hospitals, prisons etc. This submission is restricted to ways in which the current child protection system has failed to deliver positive outcomes for children through an inability to build trustworthy and respectful relationships with community. This Inquiry must first acknowledge the widespread problems of dysfunctional relationships and distrust that already exist, to the detriment of children.

This submission draws heavily on the concerns of one of our most marginalised groups, families involved with child protection authorities, that have been documented extensive research and consultations conducted over a decade. Most recently, community consultations were requested by the Attorney-General as part of the ACT Law Reform Advisory Council's reference on "Canberra as a Restorative City". This submission is also informed by international restorative community practitioners, who attend our local conferences and workshops, and have enabled our local network to engage with restorative implementation in New Zealand, Canada, USA and the UK. We have learnt from their success stories to challenge our widespread belief that 'nothing works' with 'wicked problems'. These stories have provided supporting evidence for relational and restorative governance in child protection, coronial inquiries and healthcare.

*Relevant to your Inquiry, we wish to share the example of Canberra's sister city - Wellington, New Zealand. Wellington has a population of 490,000 and includes areas of high urban deprivation (Upper Hutt, Lower Hutt, Porirua and Wellington city). In February 2018, in this area alone, the Ministry for Children held **573 restorative Family Group Conferences** and had only **339 children in care**. Most of these children are with wider or extended family. **About 30% of NZ's children in out-of-home care are placed with strangers**. This is in **stark contrast** to Canberra's experience – a population of approximately 400,000 and almost three times as many children in care. The AIHW data shows that there were 939 children in out of home care in the ACT at some point in 2016-2017. An ACT family group conferencing pilot for Indigenous families, which commenced in August 2017, was reported in July 2018 as having 11 families and 21 children having taken part. (see: <https://www.canberratimes.com.au/politics/act/the-program-giving-indigenous-families-more-power-20180711-p4zgrd.html>)*

The difference a restorative approach can make in child protection.

In 1989, New Zealand introduced the Children, Young Persons and their Families Act. As part of the Act, all families have a legal entitlement to a restorative family group conference. The use of family-led decision making before the state can take over and before a matter is referred to court, had the effect of halving the institutional care population which continued to decline for a period of time after that. New Zealand has one of the lowest care populations in the developed world (Paul Nixon, Chief Social Worker, New Zealand, July 2018).

I. Broader child protection reforms necessary as part of the current Inquiry

The Canberra Restorative Community Network would like to highlight the work of international child protection expert and regular visitor to Canberra, Paul Nixon, Deputy Chief Executive & Chief Social Worker, Oranga Tamariki, New Zealand 2011-2018.

“If you want to change the outcomes for children, change decision-making practice.”

Within the context of this statement and given the number of concerning issues on child protection in the A.C.T., a review of child protection decisions should be discussed as part of a wide community conversation given the numbers of lives affected. Much more active community engagement is needed, and the wider child protection context must be considered.

We have particular concerns about decision-making in the context of removal of babies at birth, from their mothers, in Canberra hospitals. The A.C.T. practice of removing babies at birth from Indigenous and non-Indigenous mothers, mothers with disabilities and mental illness has been documented in the work undertaken by the ACT Law Reform Advisory Council. Denying any involvement in decision-making by mothers and fathers, their extended families and communities of support, for the care of newborns, flies in the face of numerous government apologies for past forced removals.

As has been seen in Aboriginal families, decisions regarding removal practices have long lasting effects of inter-generational trauma for children, adults and entire communities. This is well documented and does not have to be duplicated here.

The current failure to provide families with an opportunity for family-led decision making, failing to provide them the support they need, be it pre-natal, at birth and throughout the growing years, shows a system focussed not on strengthening and protective of relationships, but one focussed on the severing of bonds through removal from family.

II. Major Concerns

We are deeply concerned about decision-making quality and administration in the current child protection system and the lack of reviewability of many of the significant decisions made in the lives of children and their families. The time is long overdue to address the known and

acknowledged weaknesses and adversarial nature of the “child protection” system that undermines the efforts to explore more restorative approaches.

Over 40 reviews into child protection have occurred nationally since 1997. Many hundreds of recommendations have flowed from these reviews. **Currently there are fourⁱ simultaneous reviews underway of child protection services in the Australian Capital Territory.** This excludes the work undertaken by the Law Reform Advisory Council which focused on child protection and public housing, which was provided as an Evidence paper (in October 2018) and a Final Report to the Attorney-General in November 2018. How these four inquiries all fit together needs to be understood by the Canberra community and taxpayer.

The Canberra Restorative Community Network views this current series of ongoing A.C.T. inquiries as a symptom of continued failure in the practices, processes and policies in A.C.T. statutory child protection. Many outcomes of previous reviews have not been enacted and it appears that top down initiatives have had limited impact. We continue to have the second highest rate of removals in the nation, in a community which prides itself with lower levels of socio-economic deprivation. Since the Prime Minister apologised for the actions of governments in relation to the Stolen Generations over a decade ago, our removal rates of Aboriginal children have increased threefold. Our failure of vision and action has led to around 1 in 10 of our Aboriginal children and young people being in care in the ACT.

III. Child protection as regulation

Extensive research work on child protection by Professor Valerie Braithwaite and her colleagues at the School of Regulation and Global Governance (RegNet) ANU since 2007ⁱⁱ, has shown:

- ◊ Documented evidence (see bibliography at Footnote (ii)) that a significant proportion of child protection staff, do not uphold the rights of children and parents, on a regular basis.
- ◊ A fundamental redesign of the broader system needs to address the continuous inability or unwillingness of government to hold statutory child protection authorities accountable for its actions, allowing a state apparatus to continue to sweep abuse of power and human rights under the carpet.
- ◊ A system that is dangerous for children, parents, families and the wide community based on secrecy and a lack of transparency by statutory authorities, already at the heart historically of the abuse of children and their families.
- ◊ Governments across Australia, across the decades have been shown to have made and continue to make seriously poor decisions based on poor judgement in choosing what's best for children (see evidence from Royal Commissions and Inquiries into child protection, numbering some 40 inquiries into child protection in over 30 years). According to the AIHW, Australia-wide expenditure on child protection now exceeds \$4.3 billion per year.

IV. Success Exists

There are many alternative pathways to how the system currently operates. A restorative approach takes a relationship-centred, problem-solving approach through deliberation and dialogue, making use of the skills and insights of families, extended supporters and wider community members.

We know that success exists and that there are Indigenous-led initiatives in Australia which are successfully keeping children out of child protection systems. Work has also been undertaken within our own Restorative Community Network – in our sister city Wellington New Zealand, by Paul Nixon who has 30 years statutory child protection experience, including three senior leadership roles in public child protection services, most recently as Deputy Chief Executive for Oranga Tamariki, and 8 years as New Zealand's Chief Social Worker (2011-2018). Paul's leadership always enabled the numbers of children in care to be reduced with viable safe alternatives being found in the community. Paul works internationally looking at best practice across different jurisdictions including New Zealand, Australia, USA, Canada & the UK.

The Canberra Restorative Community Network members are actively engaging in a range of community discussions and opportunities for a different way forward. The goal is to commence community-based child and family safety approaches to keep babies and children safely at home, in order to reverse the numbers of removals. Local community care networks that support family-led decision making when child safety concerns exist, will mean that the community becomes part of the solution for child and family safety. This will also require greater transparency by the Community Services Directorate about issues of concern, in order for care networks to best support children in their families. These models have been tested and positively evaluated in various settings. Decision-making which has been non-reviewable and lacked accountability, monopolised by the Directorate has been a long standing issue, for which a different solution is long overdue. An accountability relationship by the Directorate to the wider community, is part of Canberra becoming a restorative city.

i

'Review of Child Protection Decisions in the ACT'

<https://www.communityservices.act.gov.au/ocyfs/review-of-child-protection-decisions-in-the-act>

The ACT Legislative Assembly Inquiry into Child & Youth Protection services

https://www.parliament.act.gov.au/in-committees/standing-committees-current-assembly/standing-committee-on-health,_ageing-and-community-services/inquiry-into-child-and-youth-protection-services-new

Interim report on over representation of Aboriginal and Torres Strait Islander

Children: https://www.cmtedd.act.gov.au/open_government/inform/act_government_media_releases/rachel-stephen-smith-mla-media-releases/2018/interim-our-booris,-our-way-report-welcomed

Adoption reform – Dispensing with Consent:

<https://www.communityservices.act.gov.au/ocyfs/children/adoptions/adoption-reform/dispensing-with-consent>

ii BIBLIOGRAPHY

For a full list of studies undertaken at ANU's School of Regulation and Global Governance see <http://www.protectingchildren.org.au/>

These contributions are based on ‘what works’ in child protection, drawing from demonstrated on-the-ground practice, and robust research evidence undertaken since 2006 through the “Community Capacity Building in Child Protection”

<http://www.protectingchildren.org.au/projects>. This began as a joint project between the Community Services Directorate and the School of Regulation and Global Governance (RegNet) and the Australian Catholic University. The work was funded by the Australian Research Council through an industry linkage grant (2006-10). The work has continued through RegNet since the completion of this grant.

Over the past thirteen years this work has been foundational to the deepening of local community partnerships with Indigenous Traditional Owners, with many non-government organisations and many hundreds of research participants who have over the years, given generously of their time, sharing often painful and traumatic experiences – either as children and young people, siblings, parents and grandparents, foster carers and workers – both statutory workers and those in the community sector. All this was in the hope of seeing a system more geared to support children and their families rather than to continue the pattern of child removals, a pattern which has been doubling every ten years. Dr Holly Northam from the University of Canberra is leading Restorative Health Care.

<https://www.canberra.edu.au/research/collaborations/ciri/uc-ciri-projects/restorative-health> which encompasses child protection, particularly as it impacts on Indigenous Australians and the nursing and midwifery professions. The work by the University of Canberra has drawn on restorative and relational practice in health and child protection from New Zealand and Nova Scotia, Canada.

ATTACHMENT 1

Research from the perspective of parents and carers.

Losoncz, Ibolya '*Building safety around children in families from refugee backgrounds*'. *Child Abuse and Neglect* 51 (2016) 416-426.

Abstract

Child and family welfare is a critical issue among newly arrived migrant families in Australia, and humanitarian migrant families are at especially high risk of having child protection authorities intervene and remove children from their care. Drawing on qualitative research with South Sudanese families—one of the fastest growing newly arrived humanitarian migrant communities in Australia—this article demonstrates how shifting toward responsive regulatory practices in child protection can create a safer environment around children in immigrant families.

Harris, Nathan (2012) *Assessment: When Does it Help and When Does it Hinder? Parents' Experiences of the Assessment Process*. *Child & Family Social Work*, 17(2), 180-191.

Abstract

This paper addresses ongoing concerns about how child protection alienates and confuses many parents. It proposes that a significant reason for this is that statutory agencies have become reliant on 'formalistic assessment'. As a consequence interactions with parents have become dominated by a focus on assessment-compliance. A qualitative study of 40 parents who had recently been investigated in Australia for the first time by child protection is reported. The analysis suggests that many parents find characteristics of assessment processes intrusive and that this undermines engagement. It is concluded that there should be greater debate about the role that assessment plays in child protection practice.

Harris, Nathan & Gosnell, Linda (2012) *From the Perspective of Parents: Interviews Following a Child Protection Investigation*. Regulatory Institutions Network (RegNet) Occasional Paper No. 18. Canberra: Australian National University.

Abstract

This report is based on interviews with 156 parents who had been investigated by a statutory child protection agency following notifications that concerned 219 children. The aim was to understand how parents perceived the investigation, how they felt about what had happened, and how they had responded to it. The report provides a breakdown of the data on parents' perceptions of what child protection workers did and how they went about it, what parents thought about the report that instigated the

investigation, the response of parents' social networks, feelings about being a parent, and expectations of the future.

Ivec, Mary, Braithwaite, Valerie and Harris, Nathan (2012) "Resetting the Relationship" in *Indigenous Child Protection: Public Hope and Private Reality*. Law & Policy, 34(1), 80-103.

Abstract

A qualitative study explored the private realities of forty-five Australian Indigenous parents and carers who had experiences with child protection authorities. Interviews focused on the nature of the relationship between parents and authorities, how these regulatory encounters served to enlist or dissolve cooperation, and how child-focused outcomes could be delivered. The descriptions of encounters with authorities challenged the public hope for reconciliation between government and Indigenous Australians through reports of procedural injustice, failure by the authority to communicate and demonstrate soundness of purpose, and through lack of interest in identity affirmation and relationship building. In spite of these perceptions of integrity failings in how child protection authorities have operated, a positive role was acknowledged for authorities' future involvement, albeit with different strategies from those currently experienced. How this progression might be facilitated by principles of restorative justice and responsive regulation is discussed.

Research from the perspective of community workers and those working alongside child protection authorities.

Hamilton, Sharynne & Braithwaite, Valerie (2014) *Complex Lives, Complex Needs, Complex Service Systems: Community Worker Perspectives on the Needs of Families Involved with ACT Care and Protection Services*. Regulatory institutions Network (RegNet) Occasional Paper 21. Canberra: Australian National University.

Abstract

This paper is the follow-up to a 2011 pilot study, *The needs of parents and family members with children in the care of child protection services in the Australian Capital Territory (ACT): A pilot study*. A quantitative analysis examines the service needs of parents and family members with child protection interventions who are presenting to services in the Australian Capital Territory. A qualitative analysis of interviews with community workers within these services provides a unique insight into the difficulties for parents, family members, and workers. Disproportionately high numbers of Aboriginal and Torres Strait Islander families and families where disabilities were represented in the data. Additionally, families with one parent, those who are socially marginalised, reliant on Centrelink benefits and living in public housing featured disproportionately. Community workers consistently reported arbitrary and inconsistent decision-making by child protection: they believed processes were unfair on families, there was an absence of accountability to the community

for decisions made, and outcomes for families were poor. In addition, community workers also felt stigmatised when attempting to provide advocacy and support for parents. Developing meaningful relationships between all parties is required in order to avoid excessive economic and social costs in the future.

Hamilton, Sharynne (2011) *The needs of parents and family members with children in the care of child protection services in the Australian Capital Territory (ACT): A pilot study*. Canberra: Regulatory Institutions Network.

Abstract

There are no dedicated services to assist parents and family members to navigate the child protection system in the Australian Capital Territory. The best available service that is provided to parents and family members is given most often by community workers within agencies which parents are accessing for other concerns, for example homelessness, or substance misuse. This pilot study examines the capacity of organisations to assist parents and families, in addition to meeting their own service delivery obligations. The findings are first that the needs of these families is complex and diverse. Second, community workers struggle to meet the needs of these families, and struggle particularly with the knowledge and skills required to traverse the legal system. The pilot study signals the need for further work and recommends the ACT government consider a specific advocacy and support service to assist parents with child protection interventions.

Ivec, M, Braithwaite, V & Reinhart, M (2011) *A National Survey on Perceptions of How Child Protection Authorities Work 2010: The Perspective of Third Parties - Preliminary Findings*. Regulatory Institutions Network (RegNet) Occasional Paper 16. Canberra: Australian National University.

Abstract

This report is based on a survey of 427 people from all Australian states and territories who logged on to an ANU web survey and answered 217 questions about the way in which child protection systems across Australia are operating. The focus of the survey was on government child protection agencies – how well is government doing in overseeing the child protection system and how well does government work with third parties (including other government agencies such as police) to ensure that children are being cared for. The results reflect systematic criticism with the way in which child protection agencies are connecting to others who occupy professional roles, to families and to carers. Yet there is no evidence that those responding to the survey did not share the same belief that child protection agencies had very important work to do. They simply believed that child protection agencies needed a different way of doing things and needed to work more with other agencies and groups who could offer assistance.

Research from the perspective of children.

Bower, C, Watkins, RE, Mutch, RC, Marriott, R, Freeman, J, Kippin, NR, Safe, B, Pestell, C, Cheung, CSC, Shield, H, Tarrant, L, Springall, A, Taylor, J, Walker, N, Argiro, E, Leitao, S, Hamilton, S, Condon, C, Passmore, HM & Giglia, R (2018) *Fetal Alcohol Spectrum Disorder and Youth Justice: A Prevalence Study among Young People Sentenced to Detention in Western Australia*. BMJ Open, 8, e019605. doi:10.1136/bmjopen-2017-019605.

Abstract

This study aims to estimate the prevalence of fetal alcohol spectrum disorder (FASD) among young people in youth detention in Australia. It used a multidisciplinary assessment according to the Australian Guide to the Diagnosis of FASD to assess all young people aged 10 years - 17 years 11 months and sentenced to detention in the only youth detention centre in Western Australia. The study period was from May 2015 to December 2016. Neurodevelopmental impairments due to FASD can predispose young people to engagement with the law. The study found high prevalence of FASD and severe neurodevelopmental impairment, the majority of which had not been previously identified. The findings highlight the vulnerability of young people, particularly Aboriginal youth, within the justice system and their significant need for improved diagnosis.

Gal, Tali (2011) *Child Victims and Restorative Justice: A Needs-Rights Model*. New York: Oxford University Press.

About this book:

Children are the group most likely to be victimized yet least likely to report the crimes against them. Because of their unique vulnerability, an elaborate set of protections tries to secure their safety at home, in school, and in the community, yet they often experience further trauma inside the very criminal justice system designed to punish those who harm them. Such a system can leave child victims without emotional healing and a sense of justice because it does not consider the full scope of their wishes, interests, and rights. This failure can be attributed to the system's tendency to view children as objects of protection instead of legitimate rights-holders.

Here, using a nuanced, multi-dimensional theory of children's interrelated rights and needs vis a vis victimization, Tali Gal presents an innovative restorative justice model for repairing harms and rebuilding relationships in the wake of crimes against children. It validates empirically documented children's needs- such as telling their stories, asking questions, and a sense of autonomy and control over the proceedings - and holds their associated and often-overlooked rights - such as rehabilitation and their overarching best interests - paramount. The rich theoretical underpinnings of the book are vividly illustrated by examples of successful restorative justice programs involving children (including the highly controversial inclusion of child victims of sexual assault). In addition, a set of eight heuristics provides a convenient reference for restorative

justice programs to ensure that they safeguard the full range of child victims' needs and rights at all times.

Bessell, Sharon & Gal, Tali (2009) *Forming Partnerships: The Human Rights of Children in Need of Care and Protection*. The International Journal of Children's Rights, 17, 283-298.

Abstract

The authors propose a model for engaging children in child protection which recognizes their needs, human rights and citizenship. In the conclusion to their paper, the authors propose that this approach would afford children dignity, respect and give them some control over their lives. They argue that recognizing children as citizens gives status to their claims for human rights and meeting of basic needs. Furthermore, they through recognizing children's citizenship, due respect is given to the responsibilities and roles that many children shoulder, but which are often ignored or undervalued, including for the care of family members. Finally, the authors conclude: "we have sought to synthesise children's human rights, basic needs and citizenship into the concept of partnership ... Partnership with children is a means of redefining the relationship between children and those who hold power over them (most and usually all adults with whom they come into contact in the care and protection system). Partnership may provide a means of developing genuinely child-inclusive approaches to care and protection, that value children's views and experiences and engage with children on their own rather than on adults terms" (p. 296).

Research on the child protection system: authorities, technologies and approaches.

Braithwaite, Valerie (2018) *Trust and Governance: 5 Insights from Psychology*. The Power to Persuade.

Abstract

This blog post sets out five insights that the field of psychology can teach us about trust and governance. These insights help us understand how to build trusting relationships between individuals, communities, and child protection institutions.

Hamilton, Sharynne & Braithwaite, Valerie (2014) *Parents and Family Members Matter: A Charter of Rights and Responsibilities for Parents and Family Members with Children in the Care of Child Protection Services in Australia*. Regulatory Institutions Network (RegNet) Occasional Paper No. 22. Canberra: Australian National University.

Abstract

There is little understanding of parental rights and responsibilities with child protection interventions in Australia. Arguably understanding is poor on both sides of the fence, among families on the one hand, and among authorities on the other who intrude on family life. This paper is a guide to assist in building this mutual understanding of rights and obligations. It is hoped that this Charter of Rights and Responsibilities will also help develop more collaborative relationships for all involved with child protection systems in Australia. The Charter aims to set out principles which encourage respectful relationships, increase transparency and accountability for all parties.

Braithwaite, Valerie, Harris, Nathan, Hamilton, Sharynne, Ivec, Mary & Gosnell, Linda (2014) *Back to the Future*. Advance: Essays, Opinions and Ideas on Public Policy (Winter edition), 41-42. Crawford School of Public Policy, ANU.

Abstract

A failure to learn from past mistakes in child protection policy means we risk repeating them. Child protection agencies currently have too few friends and too little influence to bring improvements in the lives of children.

Ivec, Mary (2013) *A Necessary Engagement: An International Review of Parent and Family Engagement in Child Protection*. Social Action and Research Centre, Anglicare Tasmania.

Abstract

This report provides a review of international and national models of engagement, support and advocacy for parents who have contact with child protection systems. How statutory child protection systems engage with parents ultimately affects the outcomes for children, including safety, permanency and wellbeing. While social work practices that emphasise people's self-determination and strengths are recognised as fundamental to eliciting change in parents when care standards have faltered, there is widespread acknowledgment of the struggle child protection authorities have to meaningfully engage parents and families. This paper canvasses new initiatives and new ideas that could be trialed here in Australia.

Harris, Nathan (2011) *Does Responsive Regulation Offer an Alternative? Questioning the Role of Formalistic Assessment in Child Protection Investigations*. British Journal of Social Work, 41(7), 1383 – 1403.

Abstract

The interface between parents and child protection agencies has long been a cause of concern. This paper examines the challenge that the child protection system faces from the perspective of responsive regulation theory (Braithwaite, 2002). The analysis suggests that management of compliance, though rarely discussed in the literature, has

a significant impact on investigations. An emphasis on assessment, especially formal risk-assessment, places an emphasis on a particular type of compliance: "assessment compliance". Research on the experiences of parents suggests that over-emphasis on assessment compliance has a number of disadvantages: it risks alienating families, it focuses attention on a questionable indicator of parents' willingness to make changes, increases the degree of coercion used in interventions, and disempowers families and their communities. It is argued that formalistic use of assessment undermines the effectiveness of investigations because managing compliance within assessment procedures comes to dominate the response of workers. More families could be successfully engaged if the principles of responsive regulation were applied to assessment within investigation processes. A family engagement pyramid, based on responsive regulation theory, is proposed as one way of achieving this.

McArthur, Morag, Braithwaite, Valerie, Winkworth, Gail, Wilson, Fran, Conroy, Stella, Thomson, Bronwyn, Ivec, Mary, Harris, Nathan & Reinhart, Monika (2011) *How Relevant is the Role of Values in Child Protection Practice? A National Survey of Statutory Child Protection Staff 2009: Preliminary Findings*. Regulatory Institutions Network (RegNet) Occasional Paper 17. Canberra: Australian National University.

Abstract

A survey of those working in Australian statutory child protection authorities was undertaken by the Australian Catholic University and the Australian National University as part of the Community Capacity Building in Child Protection Projects. The purpose of the project was to explore new ways for supporting families and young people so that they can develop the skills, confidence and resources they need to flourish without continuing intervention from the state. This report is based on survey responses from 859 public service employees working in a statutory child protection context in eight offices in Australia's states and territories. We know little about how well the expression of values that are embedded in professional codes of conduct mesh with the expression of organizational values through rules and procedures. This survey explores this issue through asking those employed in statutory child protection agencies what they think of their organization's values, how they describe their own values, professionally and personally, and how they practice their values in their day to day work.

Braithwaite, Valerie, Harris, Nathan & Ivec, Mary (2009) *Seeking to Clarify Child Protection's Regulatory Principles*. Communities, Children and Families Australia, 4(1), 5-21.

This is the lead article for a special issue which examines the possibilities of using responsive regulation in the field of child protection. Respondents to the article included Gale Burford, Judy Cashmore, Marie Connolly, Paul Delfabbro, Maria Harries, Karen Healy, Nigel Parton and Dorothy Scott. An editorial for the issue was written by Morag McArthur and Gail Winkworth.

Abstract

Child protection systems are expected to scrutinize the care offered to children and to coordinate the provision of improved quality of care. They are under stress in many developed countries with burgeoning caseloads and a mixture of positive and negative outcomes. Because child protection systems seek to change the course of parenting, they can be thought of as highly formalised regulatory systems that cut across one of our most entrenched informal systems, how parents raise children. This paper asks whether the stress experienced by child protection workers, support agencies and families alike is associated in part with failures to satisfactorily address three basic regulatory principles: identifying the purposes of the intervention; justifying the intervention in a way that is respectful of broader principles of democratic governance; and understanding how the informal regulatory system intersects with the formal child protection system. Child protection interventions are plagued by multiple purposes that are not necessarily compatible; non-transparent processes; and high risk of counter-productive outcomes.

Harris, Nathan, Braithwaite, Valerie & Ivec, Mary (2009) *Rejoinder: A Responsive Approach to Child Protection*. *Communities, Children and Families Australia*, 4(1), 69-75.

Abstract

This article sets out how responsive regulation and family group conferencing might be used together to overcome some of the problems discussed in the special issue. The responsive pyramid and family group conferencing offer practical initiatives for making child protection systems more responsive. They enable much greater involvement of immediate and extended communities in making decisions and helping families overcome problems. They also provide the opportunity for much greater openness in the decisions that are made, and in doing so enhance the quality of procedural justice. However, there are significant challenges to transforming current practices. Research shows that current investigatory practices often alienate and anger families, which undermines the potential for the kinds of engagement envisaged at the bottom of the pyramid. Mandatory reporting and risk assessment also pose difficulties for how to more successfully involve families and communities in problem resolution. It seems to us that moving forward requires an ongoing conversation about the principles underlying child protection systems. Contributors to the special issue warn of becoming side-tracked on clarity instead of engaging with complexity, and focusing on the protection of the child and ignoring contextual factors. We think it is time for a more fundamental debate that acknowledges the very real limits of coercive intervention, recognises the capacities that families and communities have, and identifies the most productive ways to help children.

Harris, Nathan & Wood, Jennifer (2008) *Governing Beyond Command and Control: A Responsive and Nodal Approach to Child Protection*. In Mathieu Deflem (ed), *Surveillance*

and Governance: Crime Control and Beyond, Sociology of Crime, Law and Deviance. Bingley: Emerald Group Publishing.

Abstract

This chapter argues for the need to re-imagine the governance of security in ways designed to build and enroll the capacities of different actors. The authors draw on regulatory theory and the ideas developed in the areas of 'responsive regulation' and 'nodal governance' to explore the opportunities for, and the challenges associated with, designing governance institutions and processes that serve to de-centre hierarchy, command and interventionism as essential rationalities and practices. Its empirical focus is on the case of child protection, where the authors argue for the importance of nurturing the capacities of families and communities to govern both beyond and in tandem with hierarchical modalities. It is hoped that the theoretical issues raised and the agenda articulated can be engaged with across a variety of empirical domains.

Harris, Nathan (2008). *Family Group Conferencing in Australia 15 Years On*. Child Abuse Prevention Issues, 27, 1-19.

Abstract

This paper on family group conferencing in child protection is part of the National Child Protection Clearinghouse Issues series (no. 27, 2008). The paper examines the way conferencing has been implemented in Australia and argues that so far this has been done "...in ways that fall short of the systematic empowerment of families that is envisaged in the New Zealand model". Despite the limited use of conferencing in Australia, important innovations can be found across states and territories.

Harris, Nathan (2007) *Mapping the Adoption of Family Group Conferencing in Australian States and Territories*. Adelaide: Australian Centre for Child Protection.

Abstract

This report published through the Australian Centre for Child Protection examines the adoption of family group conferencing in Australian States and Territories (2007). The report focuses on the way in which conferencing, as a New Zealand innovation, has been implemented or trialled in Australian jurisdictions. It is argued that the theory of responsive regulation provides a useful way of understanding the way in which governments use innovations like conferencing to engage families in making changes.

Related publications

Braithwaite, John (2004) *Families and the Republic*. Journal of Sociology and Social Welfare, XXX1(1), 199-2.

Abstract

Restorative and responsive justice can be a strategy of social work practice that builds democracy bottom-up by seeing families as building blocks of democracy and founts of democratic sentiment. At the same time, because families are the sites of the worst kinds of tyranny and the worst kinds of neglect, a rule of law is needed that imposes public human rights obligations on families. The republican ideal is that this rule of law that constrains people in families should come from the people. Restorative and responsive justice has a strategy for the justice of the people to bubble up into the justice of the law and for the justice of the law to filter down into the justice of the people. The role of the social worker is to be a bridge across which both those democratic impulses are enabled to flow. The empowering side of the social work role fits the first side of the duality where the will of families bubbles up; the coercive side of the social work role fits the second where the justice of the law filters down.

Braithwaite, John (2004) *Emancipation and Hope*. The Annals of the American Academy of Political and Social Science, 592, 79-99.

Abstract

This article concludes that the best way to trigger the reciprocal relationship between hope and emancipation is to innovate with institutions that jointly build hope and emancipation. Handouts to the poor without nurturing optimism to empower themselves to solve their own problems are not the solution. Neither is a psychologism that builds hope without concrete support and the flow of resources needed for structural change. Cognitive change in how people imagine a better world, micro-institutional change (illustrated here with the “Emancipation Conference”), and macro-structural change must be strategically integrated for emancipatory politics to be credible.

The Emancipation Conference is an opportunity for children who are leaving state care to embark on the next stage of life to enlist support from those who they care for and who care for them. The circle of support extends beyond family and friends to include members of the community who may provide access to jobs, housing, training and resources that are needed by a young person entering adulthood and striving for independence.

Harris, Nathan (2003) *Evaluating the practice of restorative justice: the case of family group conferencing*. In Lode Walgrave (ed), *Repositioning Restorative Justice*. Cullompton: Willan Publishing.

Abstract

Despite the fact that restorative justice has become a popular alternative to traditional justice routes, scant empirical research has examined the dynamics of restorative

interventions to explain how and why they are effective. As such, this article offers a starting point for evaluations of restorative practices by identifying four main goals of the restorative practice of family group conferencing. Conferences as a restorative justice technique became popular in New Zealand and rapidly spread around the world. Conferencing involves convening a meeting of people who have been affected by an offense; usually the victim and their supporters, the offender and their supporters, and a facilitator. Although the specific process varies, generally the offender explains what occurred, the victim tells their side of the story, and the supporters of the victim and the offender discuss the consequences of the offense, after which a formal agreement is entered into that includes a plan to resolve outstanding issues.

The author proposes that there are four main procedural aims of the practice of conferencing: empowerment, restoration, reintegration, and emotional resolution. Conferencing aims to empower all those affected by an offense by giving them voice and allowing them to be part of the resolution of the offense. Restoration is the attempt to repair the harm created by an offense. Reintegration is based on reintegrative shaming theory which posits that a critical factor in explaining the effectiveness of criminal justice interventions is how disapproval of offending is expressed. Reintegrative shaming attempts to reduce recidivism by distinguishing between the offender and the offense and resolving the conflict through forgiveness. Finally, emotional resolution is the process of addressing the emotional issues that result from an offence.

After these four procedural aims are discussed, the author proposes a model for the evaluation of restorative practices. The procedural aims of conferencing were identified as a standard against which to measure conferencing practices. Thus, evaluations of restorative interventions should use the four procedural aims as criteria, with the addition of two more criteria: (1) respect for procedural and human rights and (2) achievement of a satisfactory outcome. Evaluations of restorative practices should help clarify the important components of restorative justice.

Braithwaite, John (2001) *Youth Development Circles*. Oxford Review of Education, 27(2), 239-252.

Abstract

Restorative justice circles or conferences have shown considerable promise in the criminal justice system as a more decent and effective way of dealing with youthful law breaking than punishment. The social movement of restorative justice has a distinctive analysis of the crisis of community and the possibility of community in late modernity. This paper raises the question of whether this approach might fruitfully be applied to the holistic development of the learning potential of the young and the whole range of problems young people encounter – drug abuse, unemployment, homelessness, suicide, among others – in the transition from work to school.