



6 Children in need of protection

6.1 Introduction

Children who come into contact with the community services department in each State and Territory for protective reasons include children who have been abused or neglected, children who have been abandoned, children for whom there is no adequate provision for their care (for example, the child's parent is ill or in gaol), or because of other particular child-related factors (such as physical or behavioural difficulties or severe emotional problems). These children and their families are provided with, or referred to, a wide range of services. Some of these services are targeted specifically at children who are in need of protection (and their families), while others are available to a wider section of the population and aim at dealing with a broad range of issues or problems. This chapter concentrates primarily on three aspects of child protection services for which the Australian Institute of Health and Welfare currently collects data from each State and Territory:

- child abuse and neglect notifications, investigations and substantiations;
- children on care and protection orders; and
- children in supported out of home overnight care (that is, out of home care where the government makes a financial payment to the caregiver).

In addition, information on adoptions is included in this chapter as an example of a very specific type of service provided by community services departments for children.

Currently there are no national data available on the number of children who are referred to, or access, other services for protective reasons. However, this chapter presents a brief outline of the types of services that a child or family in crisis may use and some of these services are discussed in more detail in Chapter 4.

Community services departments in each State and Territory are responsible for receiving notifications of child abuse and neglect, for the investigation of these notifications and for the consequential action to protect the child (such as the provision of services, or placing the child on a care and protection order or in out of home care). Jurisdictions either provide these services directly, such as the investigation of notifications of child abuse and neglect and the provision of case worker support for families who have come to the attention of the department; or indirectly, through the funding of non-government organisations to provide particular services, such as out of home care. Each jurisdiction has legislation which empowers the community services department to undertake its responsibilities in this area.

In conjunction with State and Territory Governments, the Commonwealth has responsibility in the child protection area as a signatory to the United Nation's Convention on the Rights of the Child and the World Declaration on the Survival, Protection and Development of Children. The Commonwealth's role is largely confined to child abuse

prevention through education and research, although it does directly fund some family support services, contact services and parenting education programs aimed at reducing the incidence of child abuse (see Chapter 4). The Commonwealth also funds the Australian Institute of Family Studies to host the National Child Protection Clearing House which serves as an interchange point for information, research and initiatives supporting work in the field of child abuse and neglect prevention.

The role of the Institute in the child protection area is to collect and collate core data, from each jurisdiction, on child abuse and neglect, children on care and protection orders, children in out of home care, and adoptions, and to analyse and publish these national data annually.

6.2 Child abuse and neglect

The term 'child abuse and neglect' can mean very different things to different people, depending on the context in which it is used. For the purposes of collecting national information, however, 'child abuse and neglect' can generally be defined as occurring when a child has been, is being, or is likely to be subjected to physical, emotional or sexual actions or inactions which have resulted in, or are likely to result in, significant harm or injury to the child. In the main, it refers to situations where there are protective issues for the child because the person believed to be responsible for the abuse or neglect is a parent, family member or some other person with responsibility for care of the child; or where the person responsible for the care of the child is unable or unwilling to protect the child from abuse or neglect. Only incidents of abuse or neglect notified to community services departments are included in the national data collection on child abuse and neglect.¹

Within this general definition, there are some variations across States and Territories, reflecting each jurisdiction's own legislation, policies and practices in relation to child protection and child welfare (Broadbent & Bentley 1997a:3-4):

- Terms such as 'significant harm' or 'substantial risk' are used in some States and Territories, 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. In Western Australia, for example, under their New Directions policy, greater emphasis is placed 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). In New South Wales, on the other hand, notifications of a broader nature, including general concerns for children, as well as notifications where they are reported to have suffered actual harm, are included in the 1995-96 statistics.²

1 The data collection does not include incidents of child abuse and neglect reported to the police or other agencies, unless they are also reported to the community services department. In addition, the incidence of unreported abuse and neglect is not known.

2 It is expected that New South Wales data will conform more closely to the national definition from 1996-97 due to changes in policies and practices in that State (NSW DCS 1997).

- While some jurisdictions only include notifications of abuse or neglect where there are protective concerns for the child, others include any incidents of child abuse or neglect reported to the community services department (that is, they may include reports of assault of a child by someone with no responsibility for the care of the child and where there are no protective concerns for the child).

As a result of these variations, care must be taken in making comparisons across the States and Territories.

The processes of notification, investigation and substantiation

Each community services department undertakes certain procedures when a notification is received (Figure 6.1). It should be noted that while processes are generally similar, they do vary across jurisdictions, reflecting differences in legislation, policies and practices. Family support services may be provided at any point once a notification has been received. A child may also be removed from home at any stage if it is deemed absolutely necessary for his or her protection.

Notification

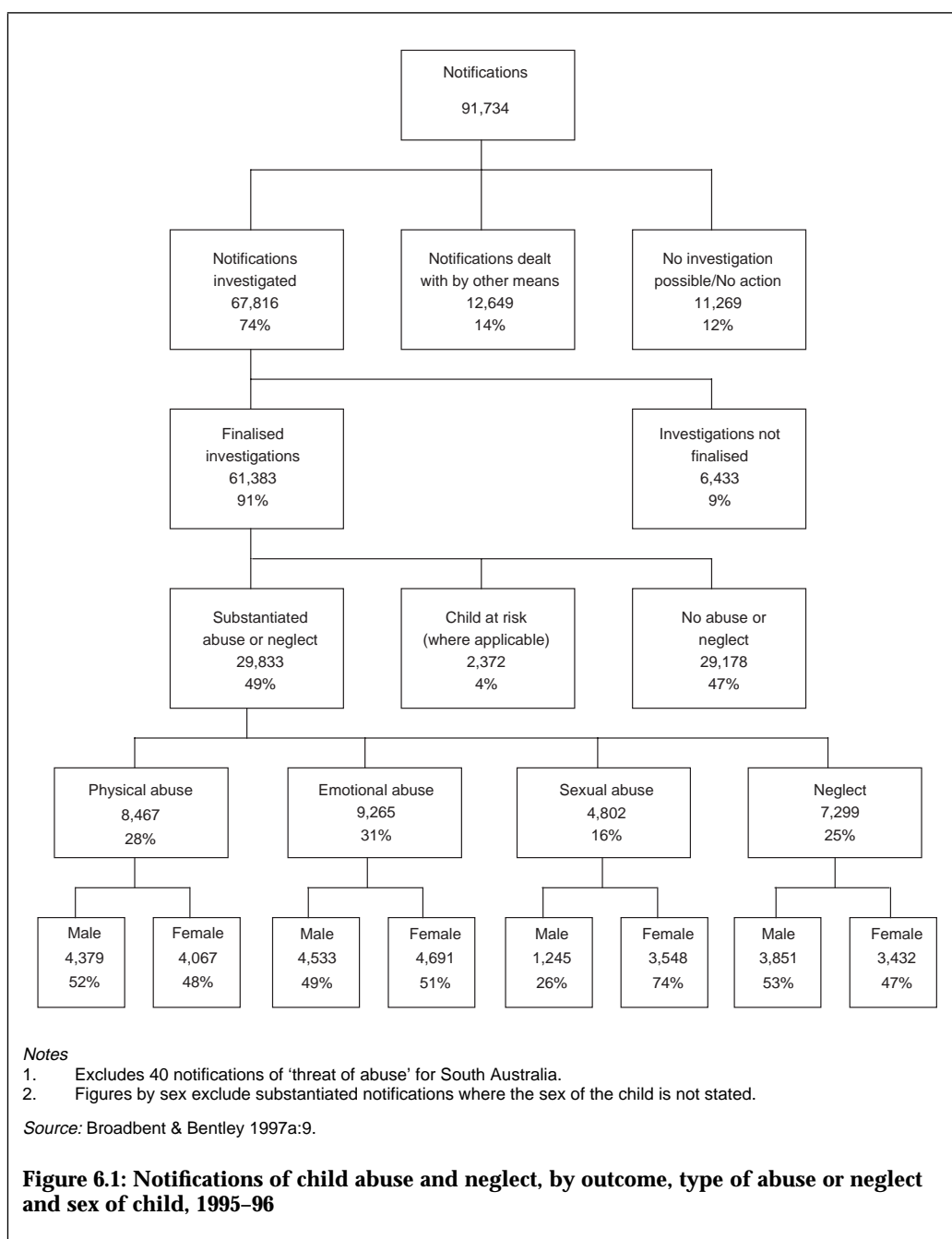
In most jurisdictions, once a notification is received it is assessed to determine whether it requires investigation or should be dealt with by other means (such as referral or the provision of advice), or whether no further protective action is necessary or possible (because there is insufficient information for the department to take any action, because it is obvious that the allegation is mischievous or malicious, or because it is obvious that the child is not in need of care and protection). Even if no further protective action is taken, the notifier may be provided with or referred to some other form of advice or appropriate service.

In 1995–96, a total of 91,734 notifications were received by community services departments. Of these, 74% were investigated, 14% were dealt with by other means and for the remaining 12% there was no investigation or no action possible (Table 6.1; Figure 6.1).

Investigation

An investigation of child abuse or neglect is the process by which the community services department obtains information about a child who is the subject of a notification. Most States and Territories conduct an initial assessment to determine whether the notification warrants investigation, but do not count these assessments as part of the investigation phase. In the other jurisdictions, however, these initial assessments are counted as ‘investigations’.

In some jurisdictions, a phone call can constitute an investigation, whereas in others the term is used only where there is a face-to-face interview with the child or his or her family. Depending on the circumstances, an investigation may be carried out by the community services department alone, by the police alone or by both organisations. The police are usually involved in investigations of sexual abuse or severe physical abuse or where there appear to have been actions of a criminal nature (Broadbent & Bentley 1997a:6).



When an investigation is completed and an outcome recorded by the department, the investigation is regarded as 'finalised'. Ninety-one per cent of investigations (61,383) of child abuse and neglect notifications to community services departments during 1995-96 were finalised by 31 August 1996.

Table 6.1: Notifications of child abuse and neglect, by type of action, 1995–96

	NSW ^(a)	Vic ^(b)	Qld ^(c)	WA ^(d)	SA ^(e)	Tas ^(f)	ACT	NT	Total
Number									
Investigation finalised	24,663	13,911	11,230	2,656	6,190	1,196	1,043	494	61,383
Investigation not finalised	2,653	368	1,586	124	976	591	135	—	6,433
<i>Total investigations</i>	<i>27,316</i>	<i>14,279</i>	<i>12,816</i>	<i>2,780</i>	<i>7,166</i>	<i>1,787</i>	<i>1,178</i>	<i>494</i>	<i>67,816</i>
Dealt with by other means	..	10,318	1,619	..	..	712	..	..	12,649
No investigation possible/No action	1,614	5,317	927	968	1,729	434	259	21	11,269
Total notifications	28,930	29,914	15,362	3,748	8,895	2,933	1,437	515	91,734
Percentage									
Investigation finalised	85	47	73	71	70	41	73	96	67
Investigation not finalised	9	1	10	3	11	20	9	—	7
<i>Total investigations</i>	<i>94</i>	<i>48</i>	<i>83</i>	<i>74</i>	<i>81</i>	<i>61</i>	<i>82</i>	<i>96</i>	<i>74</i>
Dealt with by other means	..	34	11	..	..	24	..	..	14
No investigation possible/No action	6	18	6	26	19	15	18	4	12
Total notifications	100	100	100	100	100	100	100	100	100

(a) Includes child welfare concerns notified to the NSW Department of Community Services.

(b) 'Notifications investigated' includes only those involving face-to-face contact with the child or family. 'Notifications dealt with by other means' includes those dealt with through initial investigation (i.e. through phone calls, file checks, etc.). 'No action/investigation possible' includes notifications where there are considered to be no immediate issues of risk to the child.

(c) 'Notifications dealt with by other means' includes those classified as 'Protective Advice'.

(d) Under New Directions, which was phased in during 1995–96, only child maltreatment allegations (CMAs) are included as notifications.

(e) The number of notifications has been derived by combining the number of child protection assessments made on individual children which met the criteria for investigation with the number which did not (1,729). Excludes 40 notifications classified as 'threat of abuse'.

(f) 'Dealt with by other means' in Tasmania refers to those notifications that were assessed but not found to warrant a full investigation or where a full investigation was not possible.

Source: Broadbent & Bentley 1997a:18.

While the types of outcomes of a finalised investigation vary across jurisdictions, for the purposes of the national data collection they are categorised as 'substantiated', 'child at risk' or 'unsubstantiated' (no abuse or neglect). Roughly half of all finalised investigations resulted in a substantiation in 1995–96 (Table 6.2; Figure 6.1). A small proportion of finalised investigations resulted in an outcome of 'child at risk'. This category is only used in some jurisdictions to cover situations where abuse or neglect cannot be substantiated, but the department has grounds to suspect that abuse or neglect may have occurred or may be likely to occur and considers that continued departmental involvement is warranted.

Table 6.2: Finalised investigations of child abuse and neglect, by type of outcome, 1995–96

Type of outcome	NSW ^(a)	Vic ^(b)	Qld	WA ^(c)	SA ^(d)	Tas ^(e)	ACT	NT ^(f)	Total
Number									
Substantiated abuse or neglect	14,063	6,663	4,662	1,095	2,415	235	445	255	29,833
Child at risk	..	..	1,778	289	..	191	113	1	2,372
No abuse or neglect	10,600	7,248	4,790	1,272	3,775	770	485	238	29,178
Total finalised investigations	24,663	13,911	11,230	2,656	6,190	1,196	1,043	494	61,383
Percentage									
Substantiated abuse or neglect	57	48	42	41	39	20	43	52	49
Child at risk	..	..	16	11	..	16	11	—	4
No abuse or neglect	43	52	43	48	61	64	47	48	47
Total finalised investigations	100	100	100	100	100	100	100	100	100

- (a) In New South Wales in 1995–96, a notification was substantiated when the information about the notification was confirmed. As such, the number of substantiated notifications includes substantiated general concerns about a child as well as child abuse and neglect.
- (b) Only direct investigations involving contact with a child and/or family are included. Data exclude 10,318 'initial investigations'.
- (c) New Directions was phased in during 1995–96. As a result, Western Australia's figures include a smaller number of notifications with outcomes classified as 'child at risk' than in previous years.
- (d) Figures exclude 40 substantiated notifications classified as 'threat of abuse'.
- (e) The relatively low number of substantiated notifications for Tasmania is partly due to the absence of a common definition of 'substantiated' across regions during the counting period.
- (f) One outcome from a finalised investigation was mis-coded as 'child at risk'.

Source: Broadbent & Bentley 1997a:19.

Substantiation

In general terms, a finalised investigation is classified as 'substantiated' where there is reasonable cause to believe that the child has been, or is being, abused or neglected. There were 29,833 substantiated notifications of child abuse and neglect recorded by community services departments in 1995–96, involving 25,558 children aged 0–17 years.³ Of these children, 33% were aged under 5 years, 29% were aged 5–9 years, 31% were aged 10–14 years and 7% were 15 years of age or older. Just over half of the children were female (Figure 6.1; Table A6.1).

Substantiated abuse and neglect is broken down into the following four categories:

- physical abuse—any non-accidental physical injury inflicted upon a child;
- emotional abuse—any act which results in the child suffering any kind of significant emotional deprivation or trauma;

³ A child may be the subject of more than one substantiated notification during the year.

- sexual abuse—any act which exposes a child to, or involves a child in, sexual processes beyond his or her understanding or contrary to accepted community standards; and
- neglect—any serious omissions or commissions which, within the bounds of cultural tradition, constitute a failure to provide conditions that are essential for the healthy physical and emotional development of a child. This includes ‘failure to thrive’.

It should be noted that many children suffer more than one type of abuse and neglect and it is not always clear what type has occurred. As a result, categorisation according to these four types is somewhat subjective (Goddard 1992; Ney et al. 1994; Tomison 1995). In the national data collection, the type of abuse and neglect is recorded as the one most likely to be the most severe in the short term, or most likely to place a child at risk in the short term, or the most obvious.

In 1995–96, the most common form of substantiated abuse and neglect recorded was emotional abuse (31%). Physical abuse accounted for a further 28% of substantiations, neglect 25%, and sexual abuse, 16% (Figure 6.1). The distribution of substantiated notifications across the four types varied considerably across jurisdictions, depending on the legislation, policies and practices of each State and Territory (Broadbent & Bentley 1997a:20).

The type of abuse and neglect also varied with the age and sex of the child. Substantiations of physical abuse and of neglect were slightly more likely to involve male children than female children, while the reverse was true for emotional abuse. Sexual abuse was much more likely to involve female children (Table A6.1; Figure 6.1).

Substantiations of physical abuse were more likely to involve children aged 10–14 years than younger children. Sexual abuse was most likely to involve female children aged 10–14 years, while for male children the 5–9 age group had the highest number of substantiated sexual abuse notifications. Both neglect and emotional abuse were higher among younger children than older children, with 45% of neglect and 38% of emotional abuse substantiations involving those under 5 years of age (Table A6.1).

Substantiation does not require sufficient evidence for a successful prosecution, and only a small proportion of substantiated notifications result in prosecution of the person believed responsible for the abuse or neglect. For example, a study of Western Australian child protection data for the period 1989–94 indicated that 8% of physical abuse substantiations, 28% of sexual abuse substantiations, 2% of emotional abuse substantiations and 1% of neglect substantiations resulted in prosecution of the person(s) believed responsible (Cant & Downie 1994).

It is also important to note that, in terms of severity and impact on the child, there is a wide range of harm and injury experienced by children who are the subject of a substantiated notification. Severity of injury or harm is one factor taken into account by community services departments in determining possible action after a substantiation. Other factors include the age of the child, the situation and attitude of the family, and the possibility of future abuse or neglect.

Case planning

Where a notification is substantiated and a need for continued involvement with the family on the part of the community services department is established, a formal case plan is usually developed. The process of case planning (including when it is undertaken, who it involves, and the standards for case plans) varies across jurisdictions. Generally speaking, the aim is to develop a plan for protecting the child from future abuse or neglect and/or for the provision of appropriate services to the child and/or their family. The plan may include decisions to remove the child from the home, place the child on an order and/or to provide some other family service, such as a family preservation program or family group conference.⁴ Case plan development may involve a number of different agencies and people, including the child and parents, if appropriate.

It should be noted that case planning may begin prior to substantiation, and is not restricted only to children who have been the subject of a substantiated notification of abuse and neglect. Any child who has ongoing involvement with the community services department may have a case plan. Case plans are also usually subject to regular review.

Provision of services

In situations where abuse and neglect is substantiated or where there are concerns about the safety and wellbeing of a child, the community services department attempts to work with the family towards positive change through the provision of, or referral to, a wide range of services. Some of these services are targeted specifically at children or the families of children who have been or are at risk of abuse and neglect (e.g. formal case planning, case management, intensive family preservation programs). Many other services are available to a much broader section of the population and aim at dealing with a wide range of issues or problems (e.g. legal aid, counselling, mediation, alcohol and drug rehabilitation programs, child care, marriage and domestic violence counselling, child health clinics, community centres, financial counselling, parental education).

Currently, there are no national data on the number of children or families who access or are referred to a family support service, other than data on children in out of home care. However, Chapter 4 of this report provides an overview of the types of family support services available and includes information on family preservation services which are targeted specifically at families of children who have been abused or neglected.

In the minority of cases where the care and protection of children cannot be assured within the family, the department may apply to the Children's Court (or its equivalent) under the relevant Act to seek to place the child on a care and protection order. In 1995–96 the South Australian department made 140 initial applications to the South

⁴ Family group conferencing is usually undertaken in circumstances where there is a strong risk that the child may be placed on a care and protection order. It is a means of involving the family (including the extended family) in the decision-making process.

Australian Youth Court under the Children's Protection Act; this represented 2% of notifications which met the criteria for investigation during the period (SA DFCS 1997). In Victoria in 1995–96, protection applications as a proportion of total notifications were just under 7% (Vic DHS 1997). Care and protection orders are discussed in detail later in this chapter.

Reporting of child abuse and neglect

Currently, all States and Territories except Western Australia have legislation requiring the compulsory reporting of child abuse and neglect to community services departments.⁵ In most States and Territories, the members of a few designated professions involved with children are mandated 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 types of abuse or neglect which should be reported, and the professions mandated to report, vary across jurisdictions (Broadbent & Bentley 1997a: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.

The number of notifications of child abuse and neglect has risen considerably over the past decade, across all States and Territories (Angus & Hall 1996:41). In 1992–93, there were around 73,000 notifications compared with almost 92,000 in 1995–96 (Broadbent & Bentley 1997a:8–9; SCRCSSP 1995; SCRCSSP 1997). It is not possible to determine whether this increase is indicative of a rise in incidence, or a reflection of changes in policies and practices relating to reporting (including the introduction of mandatory reporting). Other factors which may have contributed include greater public awareness of child abuse and neglect, greater willingness to listen to children, and increased numbers of those families most at risk of becoming the subject of a notification (see Box 6.1). For example, among families with dependent children, the proportion of one-parent families is estimated to have risen from 9% in 1974 to 15% in 1986 and 19% in 1996 (see Chapter 3). It should also be noted that the incidence of unreported child abuse and neglect is not known. Nor is it known whether the incidence of unreported abuse and neglect is changing over time and greater in some areas within Australia than others.

Notifications of child abuse and neglect to community services departments come from a number of different sources, including those groups of people mandated to report. For notifications received during 1995–96 which were investigated and where the investigation was finalised, the most common sources were friends or neighbours (15%), a parent or guardian (14%), school personnel and the police (both 13%) (Broadbent & Bentley 1997a:32).

The outcomes of finalised investigations varied according to the source of the notification, with notifications from the police and the subject child more likely to have an

5 As mandatory reporting was not introduced in the Australian Capital Territory until 1 June 1997, this is not reflected in the 1995–96 data provided in this chapter.

Box 6.1: Factors often associated with substantiated notifications of child abuse and neglect

The following factors have been identified as common to many child abuse and neglect substantiations. The presence of these factors, however, is neither sufficient nor necessary to explain why child abuse and neglect occurs:

- *caregiver factors (e.g. caregiver's psychiatric or physical illness, addiction to drugs or alcohol, financial stress, history of domestic violence or lack of parenting skills, parents who were themselves abused as children, involvement in custody and access disputes);*
- *child factors (e.g. prematurity or a disability that may make the child more demanding or difficult to manage, disturbed behaviour, resentment towards or conflict with caregiver or siblings);*
- *social factors (e.g. social stresses, social isolation, poverty, unemployment, poor housing, cultural expectations and norms); and*
- *lack of access to, or inability to access, support services.*

Sources: Clark 1995; Goddard 1992; Goddard & Hiller 1993; Tomison 1995; Winefield et al. 1993.

outcome of substantiated abuse and neglect than notifications from other sources. While 49% of all finalised investigations in 1995–96 had an outcome of 'substantiated', 63% of those where the notification was made by the police and 62% of those where the notification was made by the subject child resulted in substantiation. Notifications from non-government organisations, hospitals/health centres, medical practitioners and other health workers also had relatively high rates of substantiation. In contrast, low proportions of notifications were substantiated in finalised investigations where the notifier was anonymous or a friend/neighbour (23% and 33%, respectively) (Broadbent & Bentley 1997a:32).

Measuring the incidence of abuse and neglect

It is important to note that the national data on substantiated notifications presented here are not actual measures of the incidence of abuse and neglect in Australia. They do not include reports of abuse and neglect made to agencies other than community services departments (unless these reports are referred to the departments), nor do they include unreported incidents of abuse and neglect. On the other hand, the data do include some substantiated notifications regarding concerns about children's welfare, particularly for New South Wales (Broadbent & Bentley 1997a:13). The statistics on rates of substantiated child abuse and neglect should therefore be interpreted carefully.

In 1995–96, 16.3 children per 1,000 aged 0–16 years were the subject of a notification of abuse and neglect, 11.6 per 1,000 were the subject of a finalised investigation and 5.8 per 1,000 were the subject of a substantiation. The rate for substantiations is slightly below the comparable 1994–95 rate of 6.1, although, prior to 1995–96, rates had been rising each year since 1990–91 (Table A6.2). Overall, the rate of substantiated abuse and neglect for male children in 1995–96 was 5.3, slightly lower than the rate for female children (6.3). The highest rate was for females aged 10–14 years (7.3) and the lowest

rate was for males aged 15–16 years (2.0). The highest rates of physical and sexual abuse were experienced by girls aged 10–14 years (2.2 and 2.3, respectively), while young children of both sexes had the highest rates of emotional abuse and neglect (Table 6.3).

Table 6.3: Rates of children 0–16 years in substantiated notifications of abuse and neglect, per 1,000 children, by sex and age of child, 1995–96

Age of child in years	Physical abuse			Emotional abuse			Sexual abuse			Neglect			Total		
	M	F	P	M	F	P	M	F	P	M	F	P	M	F	P
Rates per 1,000 children 0–16 years															
0–4	1.6	1.3	1.5	2.2	2.3	2.3	0.4	0.8	0.5	2.0	1.9	2.0	6.2	6.3	6.2
5–9	1.9	1.3	1.6	1.7	1.6	1.7	0.8	1.4	1.1	1.3	1.2	1.3	5.6	5.6	5.6
10–14	2.0	2.2	2.1	1.6	1.8	1.7	0.5	2.3	1.4	1.1	0.9	1.0	5.2	7.3	6.2
15–16	0.7	1.8	1.3	0.6	1.0	0.8	0.3	1.6	0.9	0.4	0.5	0.4	2.0	5.0	3.4
Total^(a)	1.7	1.7	1.7	1.7	1.8	1.8	0.5	1.5	1.0	1.4	1.3	1.3	5.3	6.3	5.8

(a) Children whose age was unknown or not stated are included as most of them would be aged 0–16 years.

Notes

1. Rates are calculated by dividing the number of children who were the subject of a substantiation by the estimated resident population (ABS 1996a) in the relevant age cohort at 31 December 1995, multiplied by 1,000.
2. The person columns (P) include children whose sex was unknown or not stated.

Source: Broadbent & Bentley 1997a:29.

Indigenous children

Indigenous children are over-represented in the statistics on child abuse and neglect. At 31 December 1995, Indigenous children made up an estimated 3% of all Australian children aged 0–17 years (ABS 1996b). In 1995–96, however, 8% of children who were the subject of a notification of abuse and neglect, 9% of children in finalised investigations and 10% of children in substantiated notifications were Indigenous. Indigenous children made up 16% of those classified as at risk and 8% of those who were the subject of an unsubstantiated notification (Broadbent & Bentley 1997a:26).

The reasons for the over-representation of Indigenous children in child protection statistics are complex. Some of the possible contributing factors mentioned in the literature include high rates of poverty and unemployment, poor living conditions for many families, the high incidence of one-parent families, the high incidence of alcoholism and other health problems, greater association with the welfare system (both in the past and in the present), lack of access to or ability to access appropriate support services, and different child-rearing practices among Indigenous peoples (such as allowing children greater autonomy, and children often being cared for by the extended family or others in the community) (Bourke 1993; Choo 1990; D'Souza 1993).

The pattern of substantiated abuse and neglect for Indigenous children differs markedly from that for non-Indigenous children. In 1995–96, 38% of Indigenous children in substantiated notifications were the subject of neglect, compared with 21% of non-Indigenous children. Conversely, the proportion of Indigenous children in substantiated notifications of sexual abuse was lower than for other children (11% compared with 18%) (Broadbent & Bentley 1997a:26).

Overall, the rate of notification of abuse and neglect for Indigenous children was 42.3 per 1,000 children aged 0–16 years, compared with 15.5 for non-Indigenous children.⁶ The rates for finalised investigations were 34.4 for Indigenous children and 10.9 for non-Indigenous children (Broadbent & Bentley 1997a:31). The rate of substantiated abuse and neglect for Indigenous children was 18.0 per 1,000 children, compared with 5.4 for non-Indigenous children (Table 6.4).

Table 6.4: Rates of Indigenous and non-Indigenous children 0–16 years in substantiated notifications of abuse and neglect, per 1,000 children, by sex and age of child, 1995–96

Age of child in years	Physical abuse			Emotional abuse			Sexual abuse			Neglect			Total		
	M	F	P	M	F	P	M	F	P	M	F	P	M	F	P
Rates per 1,000 children 0–16 years															
Indigenous children															
0–4	4.4	3.6	4.1	6.8	6.2	6.5	0.3	1.6	1.0	10.4	10.4	10.4	22.0	21.8	21.9
5–9	5.1	3.4	4.3	3.9	4.2	4.1	0.9	3.6	2.2	6.6	5.6	6.1	16.5	16.8	16.7
10–14	4.7	6.6	5.7	3.3	4.2	3.7	0.3	5.8	3.0	5.3	4.9	5.1	13.7	21.5	17.5
15–16	1.0	5.4	3.2	1.3	2.7	2.0	0.1	1.9	1.0	1.0	1.6	1.3	3.6	11.5	7.5
Total^(a)	4.4	4.5	4.5	4.6	4.8	4.7	0.5	3.4	1.9	7.1	6.8	6.9	16.6	19.5	18.0
Non-Indigenous children															
0–4	1.5	1.2	1.4	2.0	2.1	2.1	0.4	0.7	0.5	1.7	1.6	1.7	5.6	5.7	5.7
5–9	1.8	1.3	1.5	1.6	1.6	1.6	0.8	1.4	1.1	1.2	1.0	1.1	5.3	5.2	5.3
10–14	1.9	2.1	2.0	1.5	1.8	1.6	0.5	2.2	1.3	1.0	0.8	0.9	4.9	6.9	5.9
15–16	0.7	1.8	1.2	0.6	1.0	0.8	0.3	1.6	0.9	0.4	0.5	0.4	1.9	4.8	3.3
Total^(a)	1.6	1.6	1.6	1.6	1.7	1.7	0.5	1.5	1.0	1.2	1.1	1.1	4.9	5.9	5.4

(a) Children whose age was unknown or not stated are included as most of them would be aged 0–16 years.

Notes

1. Rates are calculated by dividing the number of children in substantiated notifications by the estimated resident population of Indigenous children (ABS 1996b) and non-Indigenous children (ABS 1996a, 1996b) in the relevant age cohort at 31 December 1995, multiplied by 1,000.
2. The person columns (P) include children whose sex was unknown or not stated.

Source: Broadbent & Bentley 1997a:31.

The rate of substantiated physical abuse for Indigenous children was 4.5 per 1,000, compared with 4.7 for emotional abuse, 1.9 for sexual abuse and 6.9 for neglect. The comparative rates for other children were 1.6 for physical abuse, 1.7 for emotional abuse, 1.0 for sexual abuse and 1.1 for neglect. The rates varied by age and sex, as shown in Table 6.4.

6 Rates for Indigenous children are indicative only because they are based on ABS experimental projections of Indigenous population.

Family type, and child abuse and neglect substantiations

National data on the type of family in which the child was residing at the time of the abuse or neglect are not available. However, there are 1995–96 data for the family type of children who were the subject of substantiated notifications in Victoria, Queensland, Western Australia, Tasmania, the Australian Capital Territory and the Northern Territory.⁷ Overall, for these States and Territories, 40% of such children were the children of female sole parents, 28% were from two-parent families where both parents are the natural or adoptive parents, 20% were from other two-parent families (such as step-families and blended families), and 6% were the children of male sole parents (Broadbent & Bentley 1997a:58). To put these figures into context, the number of substantiations for children 0–17 years in 1995–96 is compared with the estimated number of children 0–14 years in the population at 30 June 1996 (Table A6.3).

Table 6.5: Substantiated notifications of abuse and neglect, for selected States and Territories,^(a) by sex of child and type of family in which child was residing, 1995–96 (%)

Family type ^(b)	Physical abuse			Emotional abuse			Sexual abuse			Neglect			Total		
	M	F	P	M	F	P	M	F	P	M	F	P	M	F	P
Percentage															
Two parent—natural ^(c)	33	35	34	25	25	25	29	25	26	26	26	26	28	28	28
Two parent—other	27	24	26	18	18	18	22	27	26	14	15	15	20	21	20
Single parent—female	30	32	31	42	40	40	35	32	32	50	51	51	40	39	40
Single parent—male	7	5	6	5	5	5	4	5	5	6	6	6	6	5	6
Other	3	3	3	2	3	3	5	7	7	3	1	2	3	3	3
Not stated	1	1	1	8	8	8	5	4	5	1	1	1	3	3	3
Total	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

(a) For Victoria, Queensland, Western Australia, Tasmania, the Australian Capital Territory and the Northern Territory only.

(b) States and Territories vary as to when they record family of residence of the child. Victoria records it at time of investigation; the Northern Territory and Tasmania at time of abuse; others at time of notification.

(c) Includes families where both parents are natural or both parents are adoptive.

Source: Broadbent & Bentley 1997a:58.

This clearly illustrates that, while children of female sole parents accounted for a relatively large proportion of substantiations, the actual numbers were very small in comparison with the estimated number of children in the population. This finding is

⁷ States and Territories vary as to when they record family of residence of the child. Victoria records it at time of investigation; the Northern Territory and Tasmania at time of abuse; others at time of notification.

similar for children from other family types. The economic and social pressures faced by one-parent families should be considered when interpreting this data (also see Box 6.1). In addition, it is important to note that the parent is not necessarily the person responsible for the abuse or neglect;⁸ nor is the family type recorded here necessarily the one in which the child was living at the time the abuse or neglect occurred.

The proportions of children from different family types varied across the four types of abuse and neglect, with 34% of physical abuse substantiations, 25% of emotional abuse substantiations, 26% of sexual abuse substantiations and 26% of neglect substantiations involving children living with both parents (natural or adoptive). The respective figures for children of female sole parents were 31%, 40%, 32% and 51% (Table 6.5). While only 18% of emotional abuse and 15% of neglect substantiations involved children from 'other' two-parent families, 26% of physical abuse and 26% of sexual abuse substantiations involved children from this family type.

6.3 Children on care and protection orders

When a child has been the subject of substantiated abuse or neglect, or considered for some other reason to be in need of care or protection (see Box 6.2), the community services department in each State and Territory has the authority to intervene to protect the child. Application to the Children's Court (or equivalent) to place the child on a care and protection order is one of the possible actions that may be taken by the department. (Other possible actions have been outlined earlier in this chapter.)

Recourse to the court is usually as a last resort—for example, where supervision and therapy are resisted by the family, where removal of the child to out of home care needs legal authorisation, or where other avenues for resolution of the situation are exhausted. Community services departments may also apply for a care and protection order in circumstances where the child is uncontrollable or a danger to others or him/herself.

The AIHW collects annual data from all States and Territories on children on orders granted for protective reasons by the Children's Court in most States and Territories, by the Youth Court in South Australia, and by the Family Matters Court in the Northern Territory. Data are also collected on the number of children admitted and discharged from protective orders during the year. The data collection currently excludes children on administrative orders, voluntary arrangements and agreements, permanent care orders in Victoria, orders in South Australia granting guardianship to a third party, and interim orders. For the purposes of the 1995–96 national collection, care and protection orders have been classified as either guardianship or non-guardianship orders.

A *guardianship order* involves the transfer of legal guardianship of a child to the head of the community services department in the State or Territory. The State assumes the roles and responsibilities of a parent to the child, which include not only the obligation to provide financial and material support, but also responsibility for the long-term welfare of the child. In most States and Territories, guardianship orders also involve the transfer

8 National data on the relationship to the child of the person believed responsible for the abuse or neglect are not available.

Box 6.2: Children in need of care and protection

Each State and Territory has its own legislation which defines when a child is considered to be 'in need of care and protection' and this varies across jurisdictions (Broadbent & Bentley 1997b, Appendix 1). For the purposes of the national data collection on children on care and protection orders, a child is deemed to be 'in need of care and protection' if:

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

of custody of the child—that is, the right to daily care and control of the child—to the State. Guardianship orders are the most interventionist of the care and protection orders and are consequentially applied only as a last resort.

Non-guardianship orders include custody orders, supervisory orders and undertakings. These orders give the community services department some responsibility for a child's care (usually as a result of a family crisis) or for protection of the child (for example, from abuse or neglect).

It should be noted that the numbers and types of care and protection orders vary considerably across jurisdictions, as do the alternatives available to community services departments for dealing with children in need of care and protection. For example, Western Australia only has guardianship orders, while other States and Territories also have a range of non-guardianship orders. In addition, some States and Territories use interim and administrative orders to a greater extent than others. As a result, comparisons across jurisdictions in terms of the number and rates of children on care and protection orders should be undertaken carefully (Broadbent & Bentley 1997b:4).

At 30 June 1996, there were 13,241 children on care and protection orders (as defined in the national collection) in Australia. Of these, 8,744 (66%) were on guardianship orders and the remaining 4,497 (34%) were on non-guardianship orders. The proportions of children on care and protection orders who were on guardianship orders varied considerably across jurisdictions, ranging from 100% in Western Australia to 18% in the Australian Capital Territory (Table 6.6).

Just over half of the children on care and protection orders at 30 June 1996 were males (52% of those on guardianship orders and 51% of those on non-guardianship orders). Children on guardianship orders were more likely to be older (24% were 15 years or older), than those on non-guardianship orders (13%). In contrast, 27% of children on non-guardianship orders were under 5 years of age, compared with only 15% of those on guardianship orders (Table A6.4; Figure 6.2).

Table 6.6: Children on care and protection orders, by type of order, 30 June 1996

Type of order	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Guardianship	2,614	1,394	2,624	781	871	336	44	80	8,744
Non-guardianship	2,055	1,786	235	..	110	88	203	20	4,497
Total	4,669	3,180	2,859	781	981	424	247	100	13,241

Source: Broadbent & Bentley 1997b:8.

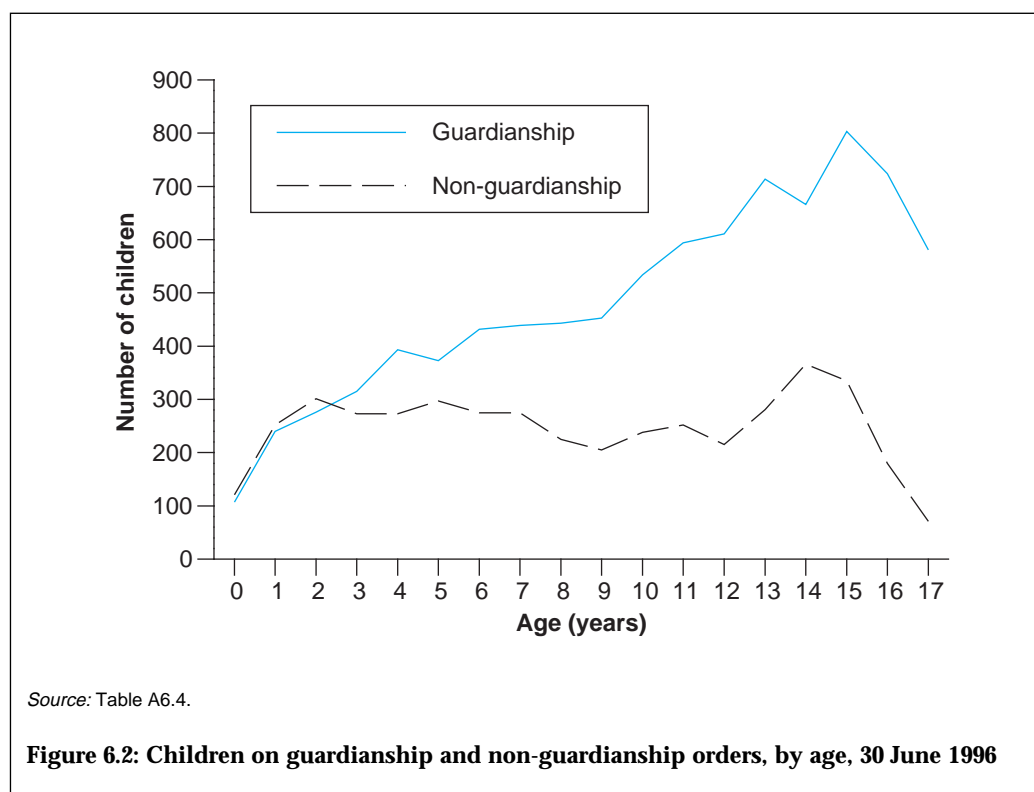


Figure 6.2: Children on guardianship and non-guardianship orders, by age, 30 June 1996

Living arrangements of children on care and protection orders

Children on care and protection orders can live in a variety of situations, including with their parents or relatives, in foster care, in residential facilities, independently or in other adult living arrangements. At 30 June 1996, the majority of children on guardianship orders were living in foster care. The actual proportions, however, varied across jurisdictions because of different policies and practices and the types of living arrangements available. Some jurisdictions, for instance, have more residential facilities than others. The proportions of children on guardianship orders who were living in foster care ranged from 91% in the Australian Capital Territory to 55% in Victoria. Victoria had a relatively large proportion of children on guardianship orders (31%) living in a residential facility, such as a family group home or a residential child care facility (Broadbent & Bentley 1997b:30-33).

In comparison, in the jurisdictions for which data were available, children on non-guardianship care and protection orders were more likely to be living with parents or relatives and less likely to be in foster care than children on guardianship orders.⁹ This is consistent with the fact that non-guardianship orders are less interventionist than guardianship orders (Broadbent & Bentley 1997b:34).

Incidence of children on care and protection orders

At 30 June 1996, there were 2.8 children per 1,000 children aged 0–17 years on care and protection orders. The rates for guardianship and non-guardianship orders were 1.9 and 1.0, respectively. The rates for all children on care and protection orders varied across jurisdictions, ranging from 3.4 in Tasmania to 1.7 in Western Australia. For children on guardianship orders, the rate was highest in Queensland (3.0) and lowest in the Australian Capital Territory (0.6). However, the Australian Capital Territory had the highest rate for children on non-guardianship orders (2.6), while Queensland and South Australia had the lowest (0.3) (Table A6.5). The variations across jurisdictions reflect differences in legislation, policies and practices, such as the number and types of orders that may be used, as well as the alternatives available to placing the child on an order.

Indigenous children

As with child abuse and neglect statistics, Indigenous children are over-represented in the statistics on care and protection orders: 1,951 at 30 June 1996.¹⁰ Indigenous children comprised 15% of children on guardianship orders and 14% of those on non-guardianship orders, compared with 3% of the population aged 0–17 years (Broadbent & Bentley 1997b:12). Examination of the rates per 1,000 population clearly illustrates the level of over-representation: 13.6 Indigenous children on care and protection orders per 1,000 aged 0–17 years (9.2 on guardianship orders and 4.4 on non-guardianship orders).¹¹ The comparative rates for non-Indigenous children were 2.5 per 1,000 on all orders (1.6 on guardianship orders and 0.9 on non-guardianship orders) (Table A6.5).

Admissions to and discharges from care and protection orders

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

Nine per cent of children admitted to, and 10% of children discharged from, care and protection orders were Indigenous (Broadbent & Bentley 1997b:19). The proportion of children admitted to and discharged from orders who were Indigenous was higher for

9 No national data are available on the living arrangements of children on non-guardianship orders because of high proportions in some jurisdictions for whom living arrangements were unknown.

10 This is an underestimate, since there were 884 children on supervisory orders in New South Wales for whom Indigenous status was unknown.

11 Rates for Indigenous children are indicative only because they are based on ABS experimental projections of Indigenous population.

guardianship orders (11% of those admitted and 13% of those discharged) than for non-guardianship orders (7% and 8%, respectively).

6.4 Children in out of home care

Supported out of home care is one of a range of family services provided to families in crisis. This type of service assists and supports children and young people in a variety of care arrangements other than with their parents, such as in foster care, with family/kinship, or in a residential or other placement.

The aim of this kind of service is to support families in crisis, to provide a protective environment for children who have been abused or neglected, to provide respite accommodation for children whose parents are ill or unable to care for them on a temporary basis, or to provide an alternative home for the child because of conflict between the child and carer. The current emphasis in policy and practice is on family reunification, with out of home care seen in many cases as a temporary alternative to assist the family. Placements of children may be voluntary or made in conjunction with a care and protection order issued by a court; for example, the case plan may require that the child be placed on an order and also be placed out of home. Children in long-term placements are often on an order. As with the majority of child welfare services, States and Territories are responsible for funding out of home care. Non-government organisations are widely used, however, to provide services in this area.

Data on children in out of home care at 30 June 1996 and on children who were in at least one out of home placement during the year were collected by the AIHW from each State and Territory community services department for the first time for 1995–96. For this collection, out of home care is defined as out of home overnight care for children and young people under 18 years of age, where the State or Territory makes a financial payment. It includes placements with relatives (other than parents) but does not include placements made in disability services, psychiatric services, juvenile justice facilities or in overnight child care. The data exclude children in unfunded placements and also children who are living with parents where the State makes a financial payment.

Data for Queensland and the Northern Territory include only children in out of home care who were also on a legal order (that is, they exclude those children who were not on a legal order). In addition, children in out of home care who were placed with relatives or kin are excluded from Northern Territory data. As a result, a national figure for children in out of home care cannot be calculated. For these reasons, care should also be taken in comparing numbers and rates across jurisdictions (Tables 6.7 and A6.6). Data on the age and sex of children were not collected for 1995–96 but will be in future years.

Indigenous children

Data on the number of, and rate per 1,000, children in out of home care at 30 June 1996 for each State and Territory, and similar data for children who had at least one placement in out of home care during 1995–96, clearly illustrate the over-representation of Indigenous children in out of home care in all jurisdictions. In New South Wales, for example, 33.2 Indigenous children per 1,000 aged 0–17 years were in out of home care compared with 2.8 per 1,000 non-Indigenous children, and in Victoria the respective

Table 6.7: Children 0–17 years in out of home care: number and rate per 1,000, by Indigenous status and State and Territory, at 30 June 1996

	Number of children			Rate per 1,000 children 0–17 years		
	Indigenous	Non-Indigenous	Total	Indigenous	Non-Indigenous	Total
NSW	1,233	4,204	5,437	33.2	2.8	3.5
Vic	318	3,067	3,385	35.7	2.7	3.0
Qld ^(a)	503	1,607	2,110	13.3	1.9	2.4
WA	379	827	1,206	16.2	1.9	2.6
SA	162	902	1,064	18.9	2.6	3.0
Tas	44	464	508	9.1	3.8	4.0
ACT	25	156	181	27.3	2.0	2.3
NT ^(b)	47	41	88	2.2	1.2	1.6

(a) The Queensland data only include children in out of home care who were also on a care and protection order or remanded in temporary custody awaiting the outcome of an application for a care and protection order. Children in out of home care who were not on a care and protection order are excluded, as are children on an offence order who were in out of home care (32 children at 30 June 1996). As a result, the data for Queensland are not comparable with those of other jurisdictions.

(b) The Northern Territory data do not represent the total population of children in out of home care in that jurisdiction, for the following reasons:

- In the Northern Territory only out of home care where the child was on a legal order is counted. Data on children in out of home care who were not on a legal order are unavailable.
- Placements with relatives or kin where the Territory Health Services makes a financial payment are excluded from the data.

As a result, the data for the Northern Territory are not comparable with those of other States and Territories and should be interpreted carefully.

Note: Rates are calculated by dividing the number of children in out of home care by the estimated resident population of Indigenous children (ABS 1996b) and non-Indigenous children (ABS 1996a, 1996b) in the relevant age cohort at 30 June 1996, multiplied by 1,000.

Source: Data provided to AIHW by State and Territory community services departments.

rates were 35.7 and 2.7 (Table 6.7). The data for the Northern Territory should be interpreted carefully as they do not include children placed with relatives or kin.¹²

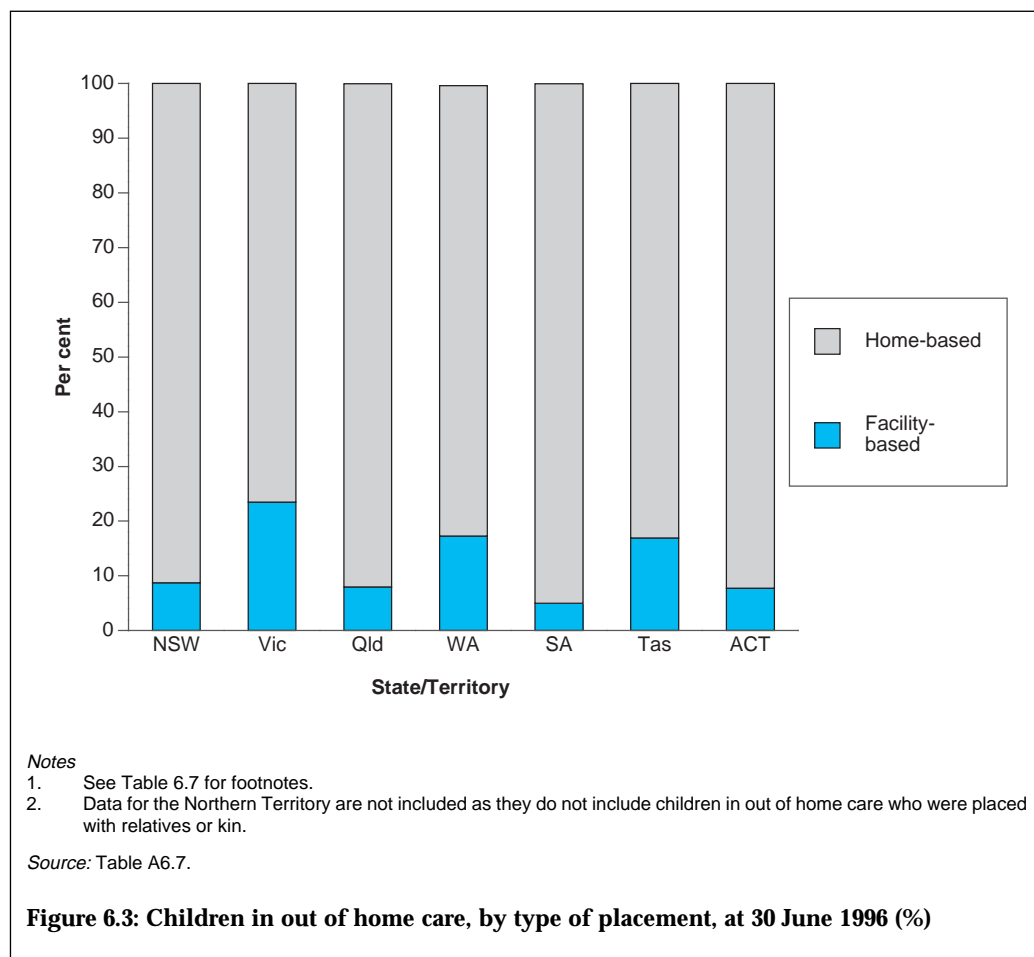
Living arrangements for children in out of home care

Children in out of home care can be placed in a variety of living arrangements or placement types. For the purposes of this collection, these have been divided into two main categories:

- facility-based (residential) building for the purposes of providing placements and involving paid staff. This category covers residential facilities where staff are rostered, or where there is a live-in carer (including family group homes), or where staff are off-site (for example, a lead tenant or supported residence arrangement); or
- home-based care, where placement is in the home of a carer who is reimbursed for expenses incurred in caring for the child. This comprises foster or community care, relative/kinship care where the caregiver is authorised and reimbursed by the State or Territory, and other home-based arrangements (including private board).

¹² Rates for Indigenous children are indicative only because they are based on ABS experimental projections of Indigenous population.

There has been a consistent trend over the past decades to substantially decreased use of facility-based or residential care and increased use of foster care. Most States and Territories have closed or are in the process of closing their larger residential facilities (Bath 1994). The proportion of children in out of home care at 30 June 1996 who were living in facility-based care arrangements varied from 23% in Victoria to 5% in South Australia (Table A6.7; Figure 6.3). Data for Queensland should be interpreted carefully as only children on legal orders are included, and the living arrangements for these children may be different from those of children in out of home care who were not on a legal order. Tasmania and Victoria had relatively high proportions of children placed in residential facilities with a live-in caregiver (17% and 13%, respectively); South Australia had a high proportion in foster/community care (87%); and New South Wales and Tasmania had relatively high proportions placed with relatives or kin (39% and 36%, respectively).



In all States and Territories, children under 12 years of age in out of home care were predominantly in home-based placements. The proportion varied from 100% in the

Australian Capital Territory to 86% in Victoria. In those States and Territories for which data were available, Indigenous children in out of home care were mainly placed with Indigenous caregivers (the proportions varied from 90% in New South Wales, to 67% in South Australia and 68% in Queensland).¹³

Table 6.8: Children 0–17 years in out of home care, by length of time in continuous placement, at 30 June 1996

Time in continuous placement	NSW	Vic ^(a)	Qld ^(b)	WA	SA	Tas	ACT	NT ^(c)
	Number							
Less than 1 month	306	58	152	42	39	59	20	1
1 month – <6 months	742	269	456	148	115	156	56	14
6 months – <1 year	661	324	283	111	91	76	23	10
1 year – <2 years	911	445	345	228	122	87	32	11
2 years or more	2,817	1,186	874	634	644	130	50	52
Not stated/unknown	—	142	—	43	53	—	—	—
Total children	5,437	2,424	2,110	1,206	1,064	508	181	88
	Percentage							
Less than 1 month	6	3	7	4	4	12	11	1
1 month – <6 months	14	12	22	13	11	31	31	16
6 months – <1 year	12	14	13	10	9	15	13	11
1 year – <2 years	17	20	16	20	12	17	18	13
2 years or more	52	52	41	55	64	26	28	59
Total children	100	100	100	100	100	100	100	100

- (a) The Victorian data only include children in out of home care who were on a legal order. Children not on a legal order are excluded.
- (b) The Queensland data only include children who were also on a care and protection order or remanded in temporary custody awaiting the outcome of an application for a care and protection order. Children who were not on a care and protection order are excluded, as are children on an offence order who were in out of home care (32 children at 30 June 1996). As a result, the data for Queensland are not comparable with those of other jurisdictions.
- (c) The Northern Territory data do not represent the total population of children in out of home care in that jurisdiction, for the following reasons:
- In the Northern Territory only out of home care where the child was on a legal order is counted. Data on children who were not on a legal order are unavailable.
 - Placements with relatives or kin where the Territory Health Services makes a financial payment are excluded from the data.
- As a result, the data for the Northern Territory are not comparable with those of other States and Territories and should be interpreted carefully.

Source: Data provided to the AIHW by State and Territory community services departments.

¹³ Unpublished data provided to the Institute by State and Territory community services departments. Data on the placement of Indigenous children were not available for Tasmania, the Australian Capital Territory and the Northern Territory.

Length of time in placement

Data on the length of time that children in out of home care at 30 June 1996 had been continuously in placement were also collected.¹⁴ In most States and Territories, over half of the children had been in placement continuously for 2 or more years. This varied across the States and Territories, however, with children in Tasmania and the Australian Capital Territory more likely to have been in out of home care for a shorter period of time than children elsewhere (Table 6.8, page 209).

6.5 Adoptions

Adoption can also be viewed as a service provided by community services departments for children, as it is essentially a process of identifying people who will permanently care for children (that is, the focus is on the wellbeing of the child). Once an adoption order is granted, the adopted child becomes the child of the adoptive parents, as if he or she had been born to them. The adoption order severs the legal relationship between the biological parents and the child and the child legally becomes the child of his/her adoptive parent(s) (Boss 1992). A new birth certificate is issued to the child bearing the names of his/her adoptive parent(s) as the natural parent(s) and the new name of the child, where a change has occurred.

Prior to the 1970s, adoption was seen as a convenient solution to the problems of unwanted births and infertility (English 1990; Powell 1995). The focus has since shifted, with the welfare of the child being seen as paramount and adoption viewed as a means of providing children with the opportunity to be raised in a family environment where this might not otherwise have been the case.

Adoptions can be divided into the following categories:

- adoption of Australian-born children by non-relatives;
- adoption of overseas-born children by non-relatives;
- adoption of Australian-born children by relatives (including step-parents); and
- adoption of overseas-born children by relatives.

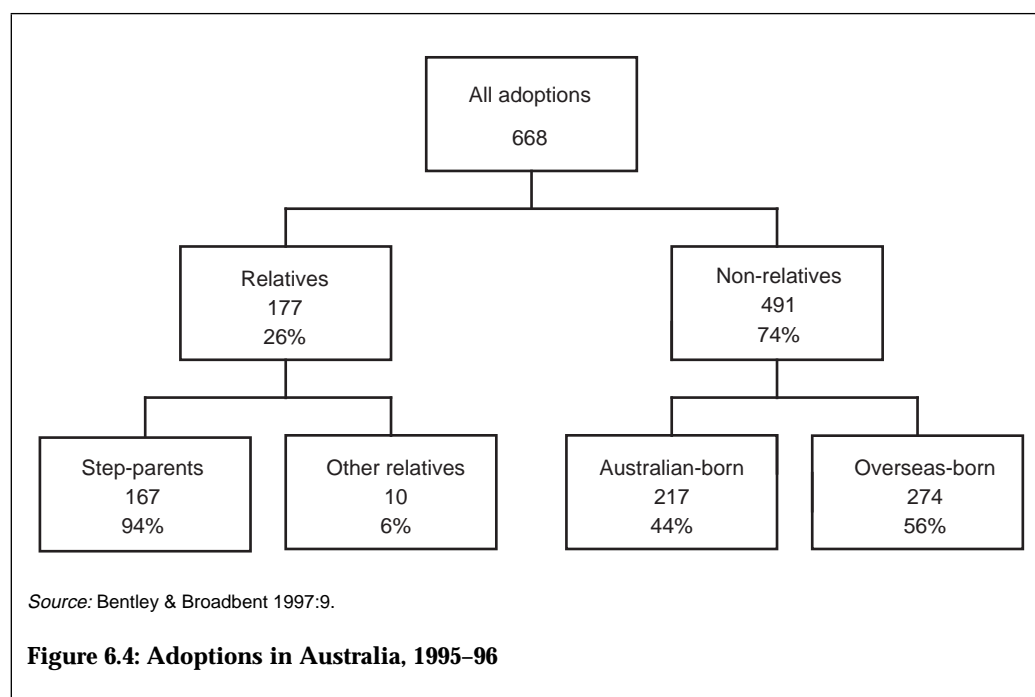
Adoptions in the first three categories are regulated by legislation in each State and Territory; data on these are collected annually by the AIHW from State and Territory community services departments. The adoption of overseas children by relatives is primarily regulated by the *Immigration Act 1946*; data on this category are excluded from the collection.

The changing face of adoption

The number of adoptions in Australia has declined considerably over the past 25 years, from 9,798 in 1971–72 to only 668 in 1995–96 (excluding adoptions of overseas children by relatives) (Table A6.8). Roughly three-quarters of the 1995–96 adoptions were by

¹⁴ A return home of 7 days or more is considered to break the continuity of a placement. Where the child returns home for less than 7 days and then returns to the former placement or to another placement, this is considered to be a 'continuous placement'. A change in placement, or holidays, does not break the continuity of placement.

non-relatives and the remaining one-quarter by relatives. Of the 491 adoptions by non-relatives, 56% were of overseas-born children and 44% of Australian-born children. Almost all of the 177 adoptions by relatives were adoptions by step-parents (Figure 6.4). Of the overseas-born children adopted during 1995–96, the highest proportion (94 or 34%) were born in South Korea and the second highest proportion (40 or 15%) in Colombia (Bentley & Broadbent 1997:16).

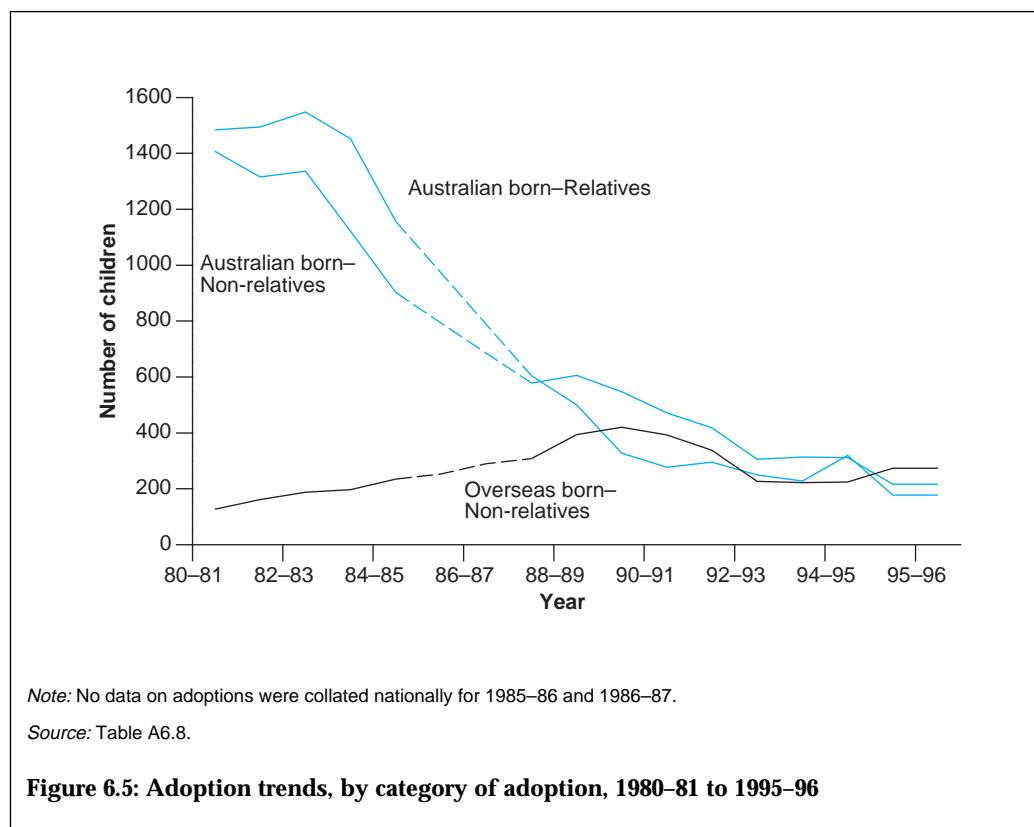


One dominant feature of adoption in Australia over the past 25 years has been the decline in the number of adoptions of Australian-born children, resulting from several factors:

- effective birth control, leading to a drop in unplanned pregnancies;
- where unplanned pregnancies occur, the provision of income support for sole parents and changed community attitudes to single parenthood;
- development of, and increased accessibility to, alternative reproductive technology such as in-vitro fertilisation (IVF);
- changes to legislation relating to adoption by relatives, particularly step-parents (making it more difficult for step-parents to adopt); and
- the introduction of alternative legal orders that transfer guardianship and custody of a child to a person other than the parent, for example permanent care orders in Victoria and guardianship orders to a third party in some other States and Territories.

There are more prospective adoptive parents in Australia than there are Australian-born children available for adoption. This has resulted in increased numbers of adoptions of

overseas children by Australian families. While the number of adoptions of Australian-born children has fallen steadily over the past 25 years, the number of adoptions of overseas-born children increased to 1989–90, then fell to 1993–94, before rising again in 1994–95 and 1995–96 (Bentley & Broadbent 1997:14). In 1995–96, for the first time, the number of overseas-born children adopted by non-relatives was greater than the number of Australian-born children adopted by non-relatives (Figure 6.5).



Access to information

Adoption law in Australia has also undergone significant change in the past decade, particularly in the area of access to information. Currently, all States and Territories have legislation that grants rights to information to adopted people over 18 years old, their birth parents and other birth relatives. However, the extent of these rights and of the protection of the privacy of all parties varies among States and Territories.

In an attempt to achieve a balance between the right to information and the right to privacy, most States and Territories have limited the right to information by requiring the consent of the person identified, or by giving that person the opportunity to apply for an information veto or a contact veto. In the case of an information veto, in some States and Territories, a party to an adoption can make an application requesting that identifying information not be released to the other party to the adoption. A contact

veto can be lodged when a person does not wish to be contacted by the other party to the adoption. A contact veto is legally binding and, if a person receives identifying information and goes on to contact the other party, legal action can be taken. A contact veto can, however, be lifted by the person who lodged it. In some States and Territories, vetoes have a limited life and new applications need to be lodged for them to continue.

All States and Territories have established adoption information services, information and contact registers or similar systems. In Victoria, South Australia, Tasmania and the Northern Territory, people requesting information must attend an interview with an approved counsellor before the information can be released. The purpose of counselling is to ensure that the rights of all parties involved are fully understood and that people are made aware of some of the issues that may arise in the search and reunion process. In Western Australia, a person wishing to access identifying information is not required to be interviewed by an approved counsellor. However, an interview is required if a person wishes to lodge an information veto (Bentley & Broadbent 1997:7–8). A review of Western Australian legislation is currently being undertaken.

In 1995–96 there were 5,567 applications made for adoption information, 11% below the number recorded in the previous year. The majority of requests were lodged by adopted people. In the same period, 204 contact vetoes were lodged (58% by adopted persons, a further 24% by birth parents and the remainder by adoptive parents and other birth relatives), and 222 identifying information vetoes were lodged (59% by adopted persons, 30% by birth parents and 11% by adoptive parents) (Bentley & Broadbent 1997:19–20).

6.6 Data development

The current national data on child protection come from the administrative databases of the community services department in each State and Territory. As a result, the data tend to reflect the processes and practices in each jurisdiction, rather than provide a national measure of the incidence of child abuse or the number of children in need of protection. However, considerable work is now being undertaken by the States and Territories and the AIHW to refine and clarify the scope of the collections and the definitions of items collected. The aim of this is to facilitate the collection of data that are more comparable across jurisdictions, particularly in the key areas of notifications, investigations, substantiations, and care and protection orders. Work is also being undertaken to extend the out of home care data collection and to develop linkages between the different national collections—for example, by collecting data on the number of children who have been the subject of substantiated abuse or neglect and who are subsequently placed on a care and protection order.

The feasibility of collecting data on a regional basis is also being explored. Data on child abuse and neglect, children on care and protection orders, and children in out of home care, disaggregated by region within each State and Territory, could be matched with other economic and social indicators to provide a much better understanding of the factors involved in child protection issues. Similarly, data on the income of the child's family and the source of notification for Indigenous children would be useful data items to collect in the future. This information would add to our understanding of families

who come into contact with community services departments because their children are seen to be in need of protection.

Currently, there are no comparable data on the cost of child protection services across jurisdictions. Some estimates are available from a study undertaken on behalf of the Victorian Department of Human Services in 1993–94, but these relate to only three States and what are included as child protection services is very limited (Vic DHS 1996). The costs were estimated for 'core' child protection services only; that is, the receipt of child abuse and neglect notifications, the investigation of these reports, actions taken to secure the safety of the child, applications to courts for protection orders or variations of orders, and ongoing case management of a situation where abuse has occurred. The cost estimates, however, do not include the range of services provided by community services departments, local governments and non-government agencies. These services (such as out of home care services and many of the counselling, mediation and parent education services) are necessary supports to core child protection services but are provided to a wider group of clients.

6.7 Summary

Children who come into contact with the community services department in each State and Territory for protective reasons (and their families) are provided with, or referred to, a wide range of services. Some of these services are targeted specifically at children who are in need of protection (and their families), while others are available to a wider section of the population and aim at dealing with a broad range of issues or problems. The main focus of this chapter has been on three aspects of child protection services for which the AIHW currently collects data from each State and Territory—child abuse and neglect, children on care and protection orders, and children in out of home care. Some of the other services which may be provided to children and families in crisis are outlined in Chapter 4 and Chapter 7.

State and Territory community services departments are primarily responsible for receiving notifications of child abuse and neglect, for investigating these notifications (in conjunction with the police in some circumstances) and for the protection of the children from further abuse and neglect. In 1995–96 there were 91,734 notifications recorded by community services departments, of which 29,833 (33%) were substantiated. The number of substantiations was 3% lower than in 1994–95, due at least in part to changes in legislation, policies and practices in some jurisdictions. In 1995–96, 28% of substantiated notifications were classified as physical abuse, 31% as emotional abuse, 16% as sexual abuse and the remaining 25% as neglect.

It is important to note that these statistics are not measures of the incidence of abuse and neglect in the community, as they exclude notifications made to other agencies (unless referred on), and the incidence of unreported child abuse and neglect is not known. It should also be noted that the figures on notifications and substantiations include some general concerns about children's welfare.

Protection of the child may involve the provision of a range of services to the child or family. As a last resort, the community services department may apply to the Children's Court (or equivalent) in their jurisdiction to have the child placed on a care and

protection order. A child may also be placed on a care and protection order if he or she has been abandoned, adequate provision is not being made for his or her care, there is irretrievable breakdown in the relationship between the child and his or her parents, or the child is uncontrollable or a threat to parents or siblings.

At 30 June 1996 there were 13,241 children on care and protection orders in Australia, two-thirds of whom were on guardianship orders and the other third on non-guardianship orders (which include custody and supervisory orders). The majority of children on guardianship orders at 30 June 1996 were living in foster care, while those on non-guardianship orders were more likely to be living with parents or relatives.

Children may be placed in out of home care in conjunction with a care and protection order, as part of the case plan for the child, or they may be placed voluntarily. Out of home care is out of home overnight care for children where the State or Territory makes a financial payment and includes foster care, family/kinship placements and residential care. Out of home care is provided not only to children who are in need of care and protection but also to support families in crisis, to provide respite accommodation for children whose parents are unable to care for them on a temporary basis, and/or to provide an alternative living arrangement for a child until he or she can return home. Data collected from each jurisdiction on children in out of home care at 30 June 1996 indicate that most of these children, particularly younger children, were living in home-based placements (such as foster care or with relatives or kin), rather than in residential facilities. In most States and Territories, over half of the children in out of home care at 30 June 1996 had been in placement continuously for 2 years or more (although not necessarily in the same place of residence or placement type).

Indigenous children are over-represented in child protection statistics in all jurisdictions. Nationally, the rate of substantiated abuse and neglect in 1995–96 for Indigenous children was 18.0 per 1,000 children aged 0–16 years, compared with 5.4 for non-Indigenous children. Indigenous children were particularly over-represented in the statistics for neglect. Similarly, at 30 June 1996, the rate for Indigenous children on care and protection orders was 13.4 per 1,000 children aged 0–17 years, compared with 2.5 for other children. While national data are not available, statistics indicate that Indigenous children are far more likely to be in out of home care than other children. In New South Wales, for example, at 30 June 1996, the rate for Indigenous children in out of home care was 33.2 per 1,000 children aged 0–17 years compared with 2.8 for other children, and in Victoria 35.7 compared with 2.7.

Data on adoptions have also been included in this chapter as a specific service provided to children and families by community services departments. The number of adoptions in Australia has fallen considerably over the past 20–30 years, with only 668 children adopted in 1995–96 compared with 9,798 in 1971–72. In 1995–96, for the first time, the number of overseas-born children adopted by non-relatives was greater than the number of Australian-born children adopted by non-relatives. Adoption law, particularly concerning access to information, has also undergone significant change in the past decade.

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