

**CHILDREN ON ANANGU
PITJANTJATJARA
YANKUNYTJATJARA
(APY) LANDS
COMMISSION OF INQUIRY**

A REPORT INTO SEXUAL ABUSE

Presented to the South Australian Parliament
by the Hon. E.P. Mullighan QC
Commissioner

Children in State Care and Children on APY Lands

Commission of Inquiry South Australia

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His Excellency Rear Admiral Kevin Scarce AC CSC RANR
Governor of South Australia
Government House
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Your Excellency

In accordance with section 11 of the *Commission of Inquiry (Children in State Care and Children on APY Lands) Act 2004*, I present my report of the Children on APY Lands Commission of Inquiry.

Yours sincerely



The Hon. E.P. Mullighan QC
Commissioner

CONTENTS

Preface	V
Acknowledgments	VII
Terms of Reference	IX
Summary	XI
List of recommendations	XIX
Explanatory note	XXXI
Acronyms	XXXI
About this report	XXXV
Part I The Inquiry	1
Part 2 Child sexual abuse on the Lands	13
Chapter 1 The Law	17
Chapter 2 Nature and extent of child sexual abuse	22
Chapter 3 Allegations	40
Part 3 Government	83
Chapter 1 A brief history and overview	86
Chapter 2 Governance in communities	110
Part 4 Prevention and consequences	115
Chapter 1 Welfare and child protection	120
Chapter 2 Health and well-being	158
Chapter 3 Education	191
Chapter 4 Administration of justice	233

CONTENTS

Appendices	257
-------------------	------------

A – Staff of the Inquiry	258
--------------------------	-----

B – A legislative history of sexual offences	259
----------------------------------------------	-----

C – General and expert witnesses	262
----------------------------------	-----

D – List of written submissions received by the Inquiry	265
---------------------------------------------------------	-----

E – Map of APY Lands	266
----------------------	-----

PREFACE

I see people in mourning - I mourn with them.

I see grief in a whole lot of different acts, feelings and emotions. There is a numbness, a paralysis, a feeling of guilt, no point in anything, is there a future?

I think I am witnessing the demise of a proud people.

Senior Aboriginal woman

I have known for many years that the plight of the Aboriginal people in this country is the greatest social issue in our history and remains so.

The experience of the Inquiry on the Anangu, Pitjantjatjara, Yankunytjatjara lands (the Lands) in the central desert in the north-west of the State gives strong emphasis to that observation.

Prior to the mid-1970s life of Anangu on the Lands was generally healthy, peaceful, safe and content. There was an effective system of social order, law and governance and mutual responsibility. During the 1980s and 1990s, life changed drastically for the people and sadly for the children.

By the turn of the century communities were dysfunctional and abusive. There was widespread violence and alcohol and drug abuse.

Kids don't have dreams and goals. That's a tragedy; no dream is no life.

Teacher on the Lands

This Inquiry has uncovered a sad stream of stories from the Lands. I have heard that sexual abuse of children on the Lands has been widespread throughout the communities for many years. It occurs in the context of destructive and disorganised communities, poor health, poverty, alcohol and other substance abuse, the breakdown of traditional law and authority, generational cycles of abuse and neglect of children, violence, fear and a general powerlessness of many women. In

many ways, conditions on the Lands are comparable to a third world country.

In communities on the Lands, where petrol sniffing has destroyed a generation, and alcohol and drug abuse is prevalent, parents do not know how to care for and protect their children or have become unable to do so. These children are particularly vulnerable to sexual abuse.

The child abuse might be the thing that grabs people's attention as being an horrific thing ... but at the end of the day that's just symptomatic ... of this underlying absolute malaise, where I believe people feel absolutely hopeless.

Teacher on the Lands

Both the Commonwealth Government and the State Government have been aware of serious problems on the Lands since the first report of the then State Coroner, Mr Wayne Chivell, in 2002. Since then there have been investigations and reports and the governments have consulted Anangu and developed plans and strategies to resolve the problems. Some important action has been taken.

There is no quick solution. It will take time, but appropriate plans and strategies must be implemented as a matter of urgency with adequate resources. They must be constantly reviewed and assessed in conjunction with Anangu men and women to achieve an effective response over the next few years.

The first priorities are to make the communities on the Lands safe and to empower Anangu to participate in the solutions.

This report is a first step in identifying the nature and extent of child sexual abuse on the Lands and making recommendations to prevent and respond to it. With little over eight months to investigate and report, it was impossible to gauge the full extent of the problem, but from just this short period of time,

PREFACE

it is clear the scourge of child sexual abuse is widespread, devastating and a national disgrace.

As a matter of priority, State and Commonwealth Governments must continue to work on identifying child sexual abuse, its systemic roots, and identify, revise and implement ways to respond to it.

The Inquiry heard from many senior Anangu men and women, and I greatly respect their courage and honesty. They told me they are worried about the destruction of their culture, the damage of drugs and alcohol, and their shame and devastation about child sexual abuse.

Other wrongs can be righted but the wrong done a child by a sex offender is a wrong that is irreparable.

Senior Aboriginal woman

Realistically, there are no measures that can be implemented to prevent sexual abuse of children on the Lands without addressing fundamental problems that exist for Anangu and their children.

I heard much evidence about underlying socio-economic factors of welfare and child protection, health, education and the administration of justice. These issues are discussed in detail throughout this report, but it is clear that without these key pillars working cohesively, the community cannot effectively provide a safe environment to children on the Lands. All of them must be strengthened to be more effective. Many of the Anangu men and women who spoke to the Inquiry want to participate in the solution. They want their people to be empowered and once again able to raise their children, teach them in their ways and keep them safe. They want the destructive parts of the non-Aboriginal ways removed.

That little children can continue to be damaged physically, sexually and psychologically is devastating. The breakdown of traditional culture, and the powerlessness of senior people, is a sad

story. How children are exposed to dangerous situations, rather than being cared for and adequately protected, is equally disturbing.

A man with vast experience living on the Lands told the Inquiry that there was a 'deteriorating' social fabric and 'graft and corruption is really part of why people think that the law doesn't apply; that it's open slather; it's the law of the jungle here'.

I would estimate that in the 35 years ... I've been on the Lands, probably 200 whitefellas have been up there and ripped it off in one way or another. ... this is the graft and corruption, so it suits the power block in the Anangu community and it suits the whitefellas, and that has become the way community business has been run for the last 20 years.

So Anangu now have got this impression ... this is how you do business.

... The way you get resources actually is doing a deal with the next white bloke who comes in, who's got hold of the resources, and it has become a very low-rent game and everyone is playing it.

Long-time resident on the Lands

There is a need to ensure appropriate medical treatment, therapy and counselling of all persons who have been sexually abused as children. Such measures will need to be developed and refined through experience over the years. However, there are some measures that must be implemented without delay.

Early intervention and crisis response are both required to address child sexual abuse on the Lands. They have different functions and outcomes and it is not a matter of preferring one to the other.

The Hon. E.P. Mullighan QC
Commissioner

ACKNOWLEDGMENTS

The extensive work undertaken by the Inquiry in the time allowed has been possible only because of the efforts of the Assistant Commissioners, the Project Manager and the staff appointed specifically for the Inquiry and also staff of the Children in State Care Inquiry.

Ms Angel Williams was the Project Manager throughout the Inquiry and effectively managed its establishment, staff, budget and facilities while at the same time discharging the same responsibilities for the Children in State Care Inquiry.

The Assistant Commissioners, in conjunction with some staff, undertook five field trips to the Lands and received a considerable body of evidence and information from Anangu men and women, the staff of service providers and members of the APY Executive Board and senior staff. The field trips involved extensive travel by motor vehicles to and from the Lands and also within the Lands and often in difficult conditions.

I was only able to attend part of one of the field trips because of my involvement in the Children in State Care Inquiry.

A senior investigator, Mr Linc Gore, attended all of the field trips and undertook extensive investigations of particular allegations of child sexual abuse while on the Lands, in Adelaide, Coober Pedy, and elsewhere. Each field trip was attended by the Assistant Commissioners and at least one researcher, field trip co-ordinator and relevant support staff.

The Aboriginal Affairs and Reconciliation Division (AARD) of the Department of the Premier and Cabinet provided essential assistance to the Inquiry not only with information and introduction to persons and agencies, but also by provision of vehicles and accommodation on the Lands.

The Inquiry received substantial assistance from the Department for Families and Communities and of its Families SA division, the Nganampa Health Council Inc., the Department of Education and Children's Services and the South Australia Police.

It is appropriate to acknowledge the contribution of the media generally, which publicised the Inquiry including locally on the Lands.

The Inquiry received the support of the Government and the Opposition of the Parliament, the Minister for Families and Communities and Aboriginal Affairs and Reconciliation, the Hon. Jay Weatherill, MP and Ms Isobel Redmond the Shadow Attorney-General who has supported the Inquiry on behalf of the Opposition. The Commonwealth Government and the State Government both supported the Inquiry with the provision of facilities and resources.

A psychologist was made available at all times to assist staff of the Inquiry as needed. As no persons made a personal disclosure of sexual abuse to the Inquiry as a child on the Lands, it was not necessary to seek the assistance of counsellors or psychologists for victims. Ms Judith Cross, the Chief Executive of Relationships Australia (SA) was appointed by the Minister to assist the Children in State Care Inquiry when it was established in late 2004 and continued that role for the Children on APY Lands Inquiry, as a person with appropriate qualifications and experience in social work and social administration. Her assistance to the Inquiry is acknowledged.

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TERMS OF REFERENCE

1 Interpretation

In this Schedule—

APY community means a community resident on the APY lands;

APY lands means the lands vested in Anangu Pitjantjatjara Yankunytjatjara under the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*;

child on the APY lands means a child who is a member of an APY community and resident on the APY lands;

sexual abuse means conduct which would, if proven, constitute a sexual offence.

2 Terms of reference

(1) The terms of reference are to inquire into the incidence of sexual abuse of persons who, at the time of the abuse, were children on the APY lands.

(2) The purposes of the inquiry are—

- (a) to select APY communities to form the focus of the inquiry; and
- (b) to examine allegations of sexual abuse of children on the APY lands; and
- (c) to assess and report on the nature and extent of sexual abuse of children on the APY lands; and
- (d) to identify and report on the consequences of the abuse for the APY communities; and
- (e) to report on any measures that should be implemented—
 - (i) to prevent sexual abuse of children on the APY lands; and
 - (ii) to address the identified consequences of the abuse for the APY communities,

(to the extent that these matters are not being addressed through existing programs or initiatives).

- (3) The inquiry is to relate (and only to relate) to sexual abuse occurring before the commencement of this Schedule.
- (4) The inquiry need not (but may, if relevant) relate to a matter that has been the subject of the Review within the meaning of the *Child Protection Review (Powers and Immunities) Act 2002*.
- (5) The inquiry may relate to a matter that has been the subject of the commission of inquiry under section 4.
- (6) The person conducting the inquiry must not purport to make a finding of criminal or civil liability.

SUMMARY

The Children on APY Lands Commission of Inquiry was established on 26 June 2007 during the course of the Children in State Care Commission of Inquiry (CISC Inquiry). A considerable body of evidence was received by the CISC Inquiry of allegations that many Aboriginal children in communities had been sexually abused but those allegations did not come within the terms of reference of the CISC Inquiry because the children were not in State care.

The South Australian Parliament amended the legislation relating to the CISC Inquiry to include sexual abuse of children on the Anangu Pitjantjatjara Yankunytjatjara lands (the Lands) and thereby established the Children on APY Lands Inquiry (the Inquiry). The same Commissioner constituted both commissions which operated contemporaneously.

Two Assistant Commissioners were appointed to assist in the conduct of the Inquiry, Mr Andrew Collett and a senior Aboriginal woman, who has chosen not to be mentioned by name for personal reasons.

The Lands are part of the Western Desert in central Australia and cover 102,360 square kilometres in the far north-west of South Australia in and around the Musgrave Ranges. The population of the Lands varies from time to time but there are about 2,700 Anangu, including about 1,000 children, living in small communities and many homelands. The Lands are owned by Anangu and as a group are referred to as APY, which is a body corporate.

The terms of reference required the Inquiry to examine the incidence of sexual abuse of children on the Lands, the nature and extent of that abuse, and to report as to measures which should be implemented to prevent sexual abuse of the children and to address the consequences for the communities.

The Inquiry correctly anticipated that there would be difficulty in obtaining disclosures from persons who had been sexually abused as children, or from children themselves. No such disclosures were made by any person.

Also, the Inquiry anticipated that most of the evidence and information relevant to the terms of reference would be available on the Lands and not in Adelaide.

The Assistant Commissioners undertook five field trips to the Lands visiting all of the main communities, conducting meetings and taking evidence from Anangu men and women, service providers and government staff. The Commissioner could only attend part of one of these trips due to his involvement with the CISC Inquiry. He met with the Chairman and a senior staff member of Nganampa Health Council Inc. (Nganampa), attended a large meeting of Aboriginal education workers at Umuwa, and met with the community council and some residents of one of the communities.

A considerable body of evidence was received during the field trips about the sexual abuse of Anangu children even though there were no direct disclosures made by victims of the abuse.

The approach

During the field trips the Inquiry visited the main communities, including Iwantja (Indulkana), Mimili, Kaltjiti (Fregon), Pukatja (Ernabella), Yunyarinyi (Kenmore Park), Amata, Kalka and Pipalyatjara, on more than one occasion, a number of homelands, and Umuwa which is not a community but the administrative centre of the Lands.

The purpose of the Inquiry was explained to meetings and individuals, and Anangu were asked to encourage people who had been sexually abused as children to contact the Inquiry.

SUMMARY

There were meetings with community councils, women's groups, police, teachers and Anangu health and education workers. One meeting was a bush women's meeting attended by about 100 women. Mr Collett and Mr Linc Gore, a senior investigator, met with senior Anangu men at a secret meeting and the Inquiry met with other senior women.

Also the Inquiry held meetings and took evidence off the Lands at Marla, Alice Springs, Coober Pedy and in Adelaide.

The Inquiry held 147 meetings that involved 246 people. The majority of meetings, 109, were held during the field trips. Four were held at Marla, three in Coober Pedy, and the remainder on the Lands. Fourteen meetings and occasions of taking evidence, were held in Alice Springs. Evidence was taken in Adelaide or meetings held on 23 occasions. The Inquiry received evidence from 70 witnesses.

During the field trips the Inquiry became aware of some women being too frightened to provide information to the Inquiry and of some workers having been intimidated by senior staff in some communities. The Inquiry accepted that there is widespread violence and fear in the communities which prevents disclosure of sexual abuse.

The Inquiry was not prepared to act only upon indirect or anecdotal evidence of the existence of sexual abuse of children. It investigated allegations to ascertain what other evidence existed.

The Inquiry made 109 requests for records from government and non-government organisations and individuals. A little over 70 per cent of the requests were made to government departments or agencies and nearly 30 per cent to private organisations or individuals. Of the requests for government records 48 per cent were made to SA

Police and 38 per cent were made to Families SA.

A total of 346 records were received and kept by the Inquiry.

Also the Inquiry inspected 408 files of Nganampa, which is the provider of primary health care on the Lands, relating to its clients. The Inquiry issued a summons to Nganampa for that purpose because of the confidentiality issue relating to the files.

Even though no direct disclosures were made, the Inquiry received evidence of allegations of sexual abuse of children from other people which enabled investigations to be undertaken, including the examination of records of various agencies.

Sexual abuse of children on the Lands

The Inquiry considered information and evidence of sexual abuse of children in the following categories: reports and studies, general evidence from people living, or who had lived, on the Lands such as teachers, health workers and professionals, members of communities, and staff of Families SA and its predecessors. This evidence indicated widespread sexual abuse of children.

In consequence, the Inquiry gained access to records and files of Families SA, Nganampa, Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council (NPYWC) which provides considerable assistance to families particularly in relation to domestic violence, the Department of Education and Community Services (DECS), SA Police and the Courts Administration Authority.

During the investigation the Inquiry identified the types of evidence which indicated that a person had been, or could have been, sexually abused as a child. They are underage pregnancies, sexually transmitted infections in children and young persons, disclosures of sexual activity by them,

SUMMARY

direct evidence of young girls and boys living together, children and young persons giving sex for petrol, drugs or money, sexualised behaviour in children, and physical injury, particularly to genitalia of children. Each year Nganampa conducts screenings of Anangu for sexually transmitted infections.

In assessing the evidence the Inquiry adopted the standard of whether, in each particular case, it is reasonably possible that the child was sexually abused. Applying that standard the Inquiry found that 141 particular children had been sexually abused on the Lands. The majority of them were girls, 113 cases, and the other 28 involved boys. Of these cases the Inquiry was able to investigate 133 from records and other evidence. The other nine cases involved sexualised behaviour.

These cases indicated 269 allegations of sexual abuse of children. Three occurred during the 1980s, 18 occurred in the 1990s and the remainder were reported since the year 2000. In all, 248 of those allegations involved 119 children. In some cases there were multiple allegations involving a child.

On the basis of all of this evidence and the information, the reports and studies, the general evidence, and the particular cases, the Inquiry concluded that the incidence of sexual abuse of children on the Lands is widespread.

The specific cases identified by the Inquiry were placed into the following categories: extra-familial men abusing girls, extra-familial men abusing boys, extra-familial children abusing children and intra-familial abuse. An abused child rarely fell into only one of these categories.

Some of the sexual abuse involved very young children, well under the age of 10 years. Many children were probably repeatedly abused over some years. Consequently the number of

allegations is not a true indication of the extent of the sexual abuse.

As there were no disclosures by victims of sexual abuse, it has not been possible to establish the full extent of the sexual abuse of children on the Lands, but consideration of all of the evidence led to the conclusion that it is likely to be widespread. It was accepted that there is substantial under-reporting of child sexual abuse.

Also the lack of disclosure by victims prevents a finding of the precise nature of the sexual abuse of children. However, the general evidence and the investigation of the particular cases by the Inquiry, reveals that it involves rape of girls and boys, including very young children, unlawful sexual intercourse of girls and boys, indecent assault and gross indecency involving fondling and masturbation.

Circumstances of the abuse

The Inquiry concluded, on the basis of a substantial body of evidence from Anangu, teachers, social workers, and health professionals, that children live in dysfunctional communities where there is considerable violence and fear, drug and alcohol abuse and a sense of hopelessness. There is considerable unemployment and physical and mental health issues among many Anangu. No evidence was received from children on the Lands but it is reasonable to accept that this sense of hopelessness is shared by many of them. What is the purpose of school, they may ask, if there is no prospect of employment and a fulfilling life?

The Inquiry was informed that girls accept that they will be sexually abused. Many do not consent to the sexual activity. It is expected of them. They simply believe that resistance is futile. The abuse occurs in over-crowded houses and elsewhere in communities.

SUMMARY

There is evidence that many Anangu have a sense of powerlessness. Sexual abuse of children has become cyclical. Some people who have been abused as children become abusers.

Also, the Inquiry was informed that in some communities there is an increase in gambling by both adults and adolescent children. Sexual favours are given by young persons for money to acquire drugs or to continue gambling thereby increasing the incidence of sexual abuse.

Consequences of sexual abuse of children on the Lands

The evidence to the CISC Inquiry and to this Inquiry, clearly establishes that there must be a prompt and appropriate therapeutic response to sexual abuse of a child. That response must be provided by suitably trained people such as from the Child Protection Services at the Women's and Children's Hospital and the Flinders Medical Centre, and others who are trained to provide that specialised service. Without such a response it is likely that many sexually abused children will suffer lifelong adverse consequences. There is no reason to conclude that the position is any different for Aboriginal children.

There are serious consequences of child sexual abuse to the communities on the Lands. The ever increasing number of children who have been abused and are suffering adverse consequences, cause serious issues for the communities. It is also likely that the number of perpetrators of sexual abuse is increasing as some victims become perpetrators either immediately or later in life.

There is a serious impact upon the well-being of the communities. If the abused child suffers health

consequences, including mental health issues as the Inquiry accepts is likely, the ever increasing number of victims also has adverse effects on the health and well-being of the communities.

Another consequence is abused children who often deal with their own abuse by engaging in dangerous levels of drug and alcohol use. The Inquiry was informed that although a recent survey indicates a substantial reduction in petrol sniffing by children and young people on the Lands there has been an increase in the use of marijuana which can have adverse health and financial consequences, as it is expensive to acquire.

As the number of members of the communities who are dysfunctional due to sexual abuse and drug and alcohol abuse increases, opportunities for perpetrators of sexual abuse and the exploitation of Anangu by the supply of alcohol and drugs also increases.

These matters exacerbate poverty in the communities. Another consequence is that if the effects of the abuse, and resultant drug and alcohol abuse effectively destroys a generation of children, the long term viability of the communities is at risk.

Prevention

There is an urgent need to implement strategies to prevent sexual abuse of children on the Lands. It is not appropriate to merely react to disclosure or detection of sexual abuse.

Education is essential in the prevention of child sexual abuse on the Lands. The parents, other carers and the children must be educated, and given access to greater education opportunities.

SUMMARY

Government

The Commonwealth Government and the State Government have been aware of circumstances of Anangu on the Lands and the neglect and abuse of children for some years. There have been two inquests by the State Coroner into deaths of Anangu caused mainly by petrol sniffing in 2002 and 2004. In his first report the Coroner described these circumstances:

Poverty, hunger, illness, low education levels, almost total unemployment, boredom and general feelings of hopelessness form the environment in which such self-destructive behaviour takes place.

That such conditions should exist among a group of people defined by race in the 21st century in a developed nation like Australia is a disgrace and should shame us all.

He stated urgent action that was required.

Other investigations were undertaken and reports made which stressed the need for remedial action. In 2004 the Aboriginal Lands Task Force was established by the State Government and produced a strategic plan for the Lands with the six objectives of improved safety, health, program and service co-ordination, increased employment, education and training, and improved housing infrastructure and essential services and governance.

The report of a consultant in 2005 set out in considerable detail the problems which continue to exist on the Lands and made the observation that the living conditions and quality of life for the people needed to be substantially improved which should come from more effective programs and services and enhanced governance and administration. Particular problems were identified and recommendations were made. A Regional Service Co-ordinator and two Service

Co-ordinators were appointed to improve services and collaboration between government and non-government agencies and the quality and effectiveness of governance and administration on the Lands as well as identifying improvements in delivery of services.

In March 2004 the State Government transferred the responsibility for Aboriginal affairs and reconciliation to the Department of the Premier and Cabinet (DPC). The DPC's Aboriginal Affairs and Reconciliation Division (AARD) now co-ordinates the business of State Government on the Lands.

There were other investigations and reports which considered the six strategic objectives of the Aboriginal Lands Task Force and the circumstances of the people and communities on the Lands. In one report by Professor Lowitja O'Donoghue AC CBE and Mr Tim Costello, Chief Executive of World Vision Australia, the observations of the Coroner in his report of the 2002 Inquest were confirmed. They also referred to violence and crime and general fear by people for personal safety. They said:

The overwhelming feeling of despair for the elders is dangerously close to considering the situation quite hopeless.

The Coroner conducted another inquest into the deaths of young Anangu men in 2004. In his report in March 2005 he stated that there was a marked increase in suicidal and self-harming behaviour on the Lands. Petrol sniffing, alcohol and drug abuse, interpersonal violence including domestic and sexual violence and family conflict were among the causes. He found that the conditions on the Lands remained as he described in his report of the 2002 inquest.

In April 2005 the Commonwealth and State Governments established a peak body consisting of representatives of Anangu organisations and

SUMMARY

communities on the Lands, AP Executive and both governments. It is called Tjungungku Kuranyukutu Palyantjaku (TKP). It has a secretariat called Wiru Palyantjaku (WP) consisting of community representatives from the Lands and Anangu service providers, which meets and can take matters to TKP.

The purpose of these bodies is to enable all of the organisations to work and plan together

to provide better outcomes in law and order, health, education, employment and having to create better opportunities for young people.

TKP has proposed a strategic plan which is expressed in great detail and is being considered by Anangu organisations. It is an extensive document and identifies areas in which significant outcomes are required to improve living conditions on the Lands. It sets out priorities of housing, infrastructure and essential services, safety, leadership and management, health and employment, education and training.

It is also important that strategies and priorities have been developed in close consultation with Anangu.

It is essential that action be taken on this plan, in some respects urgently and otherwise without undue delay. It must not be put aside. It addresses in considerable detail many of the problems and issues which were raised during the Inquiry, and what is required to resolve them, in particular the need to address the lack of safety, adequate health and welfare services, and improvement in education for children.

Apart from the substantial reduction in petrol sniffing on the Lands, the matters addressed by TKP have been mentioned in most of the reports following investigations since 2002.

Some action has been taken by the State

Government. A senior social worker has been placed at Amata and Iwantja (Indulkana) and another is to be placed at Kaltjiti (Fregon). They are to be linked with schools. Youth activities have been established to help divert young persons from substance abuse. Youth workers are employed in some of the communities and recognised training is available for them. A substance abuse facility is being established at Amata. A family homemaker service is to be provided. Family centres have been established in five communities with others planned. Case management and respite services are being established for people with disability. A service is undertaking intensive intervention and positive behaviour training for people with violent and anti-social behaviour at Amata and Pukatja (Ernabella) and is to be extended to all communities. Home and community care services are provided to persons with disability and their carers.

Amendments have been made to the *APY Land Rights Act* to improve governance of the Lands and to provide substantial penalties for the sale or supply of a regulated substance and forfeiture of any motor vehicle used in commission of such an offence. At present the only regulated substance is petrol but the general law applies to illegal drugs. Strategies are being developed to improve the management of people at risk of suicide and the extent of psychiatric services has been improved.

The Commonwealth Government has provided \$25 million as a funding package for housing and the State Government has introduced other particular services through DFC.

While these initiatives are of considerable importance and value, fundamental problems on the Lands remain and will require significant resources and determination by the various government and non-government agencies

SUMMARY

involved in welfare and child protection, health, education and administration of justice to make the Lands safe and create the circumstances in which the incidence of child sexual abuse will diminish.

Governance in the communities

The Inquiry received evidence of dysfunction and corruption in some of the communities including councils and administration. The State Government appointed a consultant to investigate the problem. Recommendations have been made as to four possible options to resolve the problems. It is not within the terms of reference of the Inquiry to consider which of the options should be accepted, however they all appear appropriate. The State Government will decide which of them to adopt.

At present the corruption which has been identified has adverse consequences for communities, not only in the financial sense, but also as to the social well-being of the community. One person told the Inquiry:

I think graft and corruption is really part of why people think that the law doesn't apply; that it's open slather; it's the law of the jungle here. I think that flows on to their social behaviour, that in turn flows on to the things you are investigating.

Measures that should be implemented

The safety of Anangu in the communities is of critical importance. Until the people are safe from violence and intimidation there can be no effective measure to reduce the incidence of child sexual abuse and to protect and assist people who have been sexually abused as children.

What is required is a permanent police presence in the communities? At present there are eight sworn police officers resident on the Lands but they do

not live in communities. They are placed at Murputja and Umuwa and are a considerable distance from the communities. It is often difficult to contact them after hours, and telephone calls are often directed to SA Police at Port Augusta.

Anangu want a permanent police presence in the communities. The Commonwealth Government has agreed to fund the building of two police stations with residential facilities at Amata and Pukatja (Ernabella) but construction has been delayed. There should be a permanent police presence in all of the major communities.

There must be additional resources for DFC and Families SA. The emphasis in child protection should include prevention of child sexual abuse and not merely reaction to it. Many of the strategies and options identified in the TKP action plan, if implemented and co-ordinated effectively, will assist in the prevention of abuse of children. They must constantly be kept under review and expanded as new strategies are identified.

It is fundamental to the success of any measure to prevent sexual abuse of children on the Lands that Anangu, particularly the women, be consulted and assisted so that they are empowered to make decisions about their children and keep them safe. No strategy or program can achieve the ultimate goal of eliminating or even reducing child sexual abuse without Anangu having a real sense of hope and relevance.

Measures to adequately respond to disclosure of sexual abuse of children on the Lands must be improved substantially. Families SA must have adequate resources to respond appropriately to mandatory notifications of suspicions of sexual abuse of children. The present system of the use of the Child Abuse Report Line or Yaitja Tirramangkotti in Adelaide and referral to the

SUMMARY

Coober Pedy District Centre, is not as effective as circumstances require. There are delays in notifiers making contact to report their suspicions and often substantial delay in action by Families SA. Some notifiers are discouraged. Experienced child protection staff of Families SA should be resident on the Lands so that notifications could be made directly to them. They would be able to make assessments in consultation with Families SA staff off the Lands and with health and education workers on the Lands and SA Police. Response would then be prompt and more likely to be effective. The response should involve all of the services which are required to assist and protect the child.

In this way a multi-agency approach should also assist in the detection, apprehension and prosecution of offenders which will improve the safety in the communities and the protection of other children.

Adequate resources must be provided for the primary health care of Anangu on the Lands and for the treatment of people, including children, who have mental health issues. Many people who were sexually abused as children require mental health services and counselling from time to time during their lives. Their good health and well-being is essential to limit the adverse consequences to communities from sexual abuse of children.

Employment opportunities for Anangu must be substantially increased. They should be trained to undertake essential work in communities including in relation to housing and services. Children should be able to see that there is a purpose in education.

The Inquiry was informed that sexual abuse of children, and sexual relations outside permanent relationships, is contrary to Anangu tradition and culture. Education of adults and children about

sexual activity of children and its implications in both Anangu culture and the prevailing criminal law, should be widely available. This education should be available in Family Centres and in schools. Education in schools need not be restricted to children. Adults should be included and it should be part of community activities. Programs should be designed after consultation with adults and the views of elders and other persons with cultural authority should be obtained and respected.

The problems on the Lands cannot be solved overnight. It will take time to find and implement solutions, but unnecessary delay must be avoided. Anangu must be empowered and resourced so that they provide the solutions.

LIST OF RECOMMENDATIONS

For a discussion of recommendation 1, see Part III Chapter 2 'Governance in communities'.

Recommendation 1

That any change to governance of communities on the Lands be implemented promptly so as to reduce the extent of dysfunction and possible corruption in the communities.

That the nature of any change should have regard to the empowerment of Anangu and enhancing confidence in disclosing child sexual abuse and implementing measures to prevent the abuse and address its consequences.

For a discussion of recommendations 2-14, see Part IV Chapter 1 'Welfare and child protection'.

Recommendation 2

That initiatives related to salary and conditions of Families SA staff on the Lands be frequently reviewed to ensure that Families SA is able to attract and retain appropriate professional staff to implement its strategies and programs dealing with child sexual abuse on the Lands.

Recommendation 3

That the programs of Families SA to prevent child sexual abuse on the Lands continue to receive sufficient funding and, where possible, those programs be expanded.

That there be regular monitoring on the effectiveness of such programs and a regular review to determine if, and how, they may be improved or better co-ordinated to reduce the incidence of child sexual abuse on the Lands.

Recommendation 4

That e-notification technology be further developed to allow mandatory notifiers on the Lands to fulfill their statutory obligations other than by use of the telephone.

That Families SA child protection staff be placed on the Lands to receive, assess, and respond promptly to mandatory reports concerning Anangu children as is discussed and recommended in Part IV Chapter 3.

LIST OF RECOMMENDATIONS

Recommendation 5

That the initiative to place social workers on the Lands be expanded from the proposed three to at least six and some of them to be female.

That each of the six social workers be aligned to one school, so that each of the six major schools on the Lands has one dedicated social worker involved in early prevention strategies/training to help prevent child sexual abuse and to minimise its effects in the communities.

Recommendation 6

That Nganampa and the State Government reach agreement to ensure that Nganampa provides to Families SA all information about a child who is the subject of a mandatory notification pursuant to the *Children's Protection Act* to enable Families SA to discharge its function under that Act.

That if such agreement is not possible the State Government consider legislation to achieve that objective.

Recommendation 7

That CAMHS and Families SA review the protocols that govern their working relationship with a view to providing better assistance to children who have been, or may have been, sexually abused on the Lands.

Recommendation 8

That the necessary long-term funding be provided to allow Families SA to provide the required therapeutic services to children and young people on the Lands who have been sexually abused.

Recommendation 9

That the staff of the Children's Protection Services at the Women's and Children's Hospital be increased to enable timely and effective investigation of allegations of sexual abuse of young children on the Lands.

That resources be provided to enable the training of sufficient Aboriginal medical practitioners, psychologists and social workers to undertake forensic assessments of Anangu children alleged to have been sexually abused.

LIST OF RECOMMENDATIONS

Recommendation 10

That a review to evaluate the effectiveness of a 'multi-disciplinary' team approach involving Families SA and other service providers on the Lands to disclose and detect child sexual abuse be undertaken by an independent consultant after such teams have been in place for 12 months.

Recommendation 11

That adequate treatment and services, accommodation, supervision, and support for children removed from the Lands to Adelaide for child protection reasons and their parents or carers, be established and provided.

Recommendation 12

That Families SA and NPY Women's Council establish closer co-operation and develop an understanding as to the role which the Council is to play in supporting children who have been sexually abused, or are identified as at risk from sexual abuse.

That DFC develop relationships with elder men in the communities to exercise their cultural authority in condemning the sexual abuse of children on the Lands.

That DFC increase funding to NPY Women's Council to enable increased support and advocacy for children who have been sexually abused.

Recommendation 13

That as a matter of urgency the housing construction program, with the assistance of Commonwealth Government funds, begins as soon as possible to construct houses that are appropriately designed for Anangu families and for houses to be built to be used by appropriate personnel of service providers on the Lands.

Recommendation 14

That sufficient funds are provided to DFC to ensure that adequate temporary or permanent accommodation can be provided to Aboriginal people seeking medical, therapeutic and respite care who have left the Lands on account of child sexual abuse.

LIST OF RECOMMENDATIONS

For a discussion of recommendations 15-24, see Part IV Chapter 2 'Health and well-being'.

Recommendation 15

That Nganampa receive increased funding so that the number of general medical practitioners based on the Lands can meet the professionally accepted ratio of doctors to patients.

That the increased funding to Nganampa enables medical practitioners and nurses to receive salary and financial incentives sufficient to recruit such staff and retain them in service on the Lands.

Recommendation 16

That there be a substantial increase in services on the Lands for persons with mental health issues and for persons who have been sexually abused as children who require therapeutic services.

Recommendation 17

That the protocols of the Drug Rehabilitation Centre at Amata be altered to allow children access to the drug and rehabilitation program.

That the Drug Rehabilitation Centre at Amata be adequately funded in the long-term so as to allow appropriate services for children who require rehabilitation.

Recommendation 18

That in the case of babies born to children resident on the Lands, the payment of the Baby Bonus be given in instalments.

That in the case of a baby being removed from the mother, who is a child resident on the Lands, the balance of the Baby Bonus payment unpaid at the time of removal follow the baby and be paid to the person or persons who provide the care for the baby.

That the State and Commonwealth Governments consider whether these arrangements can be implemented.

LIST OF RECOMMENDATIONS

Recommendation **19**

That every positive result of a screening test for a sexually transmitted infection of a child on the Lands should be immediately notified to Families SA even if the person reviewing the result has not formed the relevant suspicion under section 11 of the *Children's Protection Act*.

That every such result also be immediately notified to the Department of Health.

That upon receipt of such a notification Families SA assess whether there is evidence that the child may have been sexually abused and refer the matter to the Child Protection Services of the Women's and Children's Hospital for assessment, investigation and, if required, appropriate therapy.

That the Child Protection Services of the Women's and Children's Hospital be adequately funded for that role.

If there is evidence that the child has been sexually abused Families SA must take whatever action is in the best interests of the child which may include referring the matter to SCIB of SA Police and informing Nganampa of what decisions have been made.

Recommendation **20**

That Nganampa develop its own guidelines and procedures to ensure that all indicators of child sexual abuse are reported to Families SA.

That all Nganampa health workers receive regular training regarding their South Australian mandatory reporting obligations.

Recommendation **21**

That section 11 of the Children's Protection Act be amended to provide that it is an offence to prevent, obstruct or interfere with a person discharging or attempting to discharge the obligation of mandatory reporting pursuant to section 11(1) of that Act.

Recommendation **22**

That Families SA be adequately resourced to respond effectively and in a timely manner to all mandatory reports from the Lands.

LIST OF RECOMMENDATIONS

Recommendation 23

That Nganampa, DECS, Families SA and SA Police establish appropriate protocols, policies and guidelines for the management of disclosure, or detection of child sexual abuse, including what information is to be provided to the family and carers of the child and by whom.

Recommendation 24

That Nganampa develop policies and guidelines that address mandatory reporting of any activity that may indicate sexual activity of children, including STIs, requests for contraception, injuries, as well as underage pregnancy.

For a discussion of recommendations 25-35, see Part IV Chapter 3 'Education'.

Recommendation 25

That as a matter of urgency DECS continue to assess ways and means of ensuring that all children on the Lands of compulsory school age attend school and that adequate resources are provided for that assessment.

That DECS and DFC with the support of Anangu leaders in communities engage parents and carers as well as children, in activities to enable the provision of information to the communities about the value and importance of school for children including as a way of reducing the incidence of child sexual abuse.

Recommendation 26

That DECS assess extending the school curriculum on the Lands to include increased study of information technology and appropriate computer based courses which can be accessed by children and young persons on the Lands to develop computer skills.

That consideration of the teaching of numeracy and literacy in a manner suitable to Anangu children continue to be assessed and implemented.

That DECS assess whether appropriate pre-vocational training for trade, home and family management skills should be introduced into the curriculum of the schools on the Lands.

That the principals and teachers at the schools on the Lands consult with senior Anangu and consider whether traditional Anangu skills and law should be introduced into the curriculum.

That adequate resources be provided to DECS for all of these purposes.

LIST OF RECOMMENDATIONS

Recommendation 27

That priority be given to remedial teaching at schools on the Lands for Anangu who have missed education as children.

That the benchmark testing of years 3, 5, 7 and 9 be monitored closely and that sufficient funding be provided to achieve the goal of bringing the results of children on the Lands up to the respective averages of mainstream South Australian schools.

That making education more relevant to Anangu students, and recognising the importance of Anangu culture continue to be assessed.

Recommendation 28

That there be regular meetings of all staff of Nganampa, DFC including Families SA, DECS and SA Police working on the Lands to receive continuing education about child care and protection, to discuss the needs and problems of sexually abused children and the problems encountered by those service providers.

That such meetings should be held at least three times each year.

That they be initiated and managed by AARD rather than any one of the particular agencies.

Recommendation 29

That a program to educate members of the communities on the Lands as to what is inappropriate sexual conduct, and its consequences, and the supports which are available for victims of sexual abuse (including children) be designed and implemented.

Recommendation 30

That more resources be focused on education measures to better advise children, their parents and carers and the community on appropriate sexual behaviours, the law and their rights.

Recommendation 31

That meetings with men and boys in communities with male Anangu elders and men from the agencies on the Lands regarding sexual conduct of men involving children and the consequences of such conduct be held without delay.

That such meetings be co-ordinated and managed by AARD.

LIST OF RECOMMENDATIONS

Recommendation 32

That strategies to restrict access to pornographic material, by children in particular, be investigated.

That there be a community education campaign on the dangers of exposing children to pornography.

Recommendation 33

That AARD, with the assistance of DFC, establish safe houses for Anangu, particularly children who need short-term sanctuary from abuse, after consultation with Anangu leaders in communities, Families SA, Nganampa, DECS staff and SA Police.

That the State Government adequately resource the safe houses with suitable staff, services and facilities.

Recommendation 34

That Families SA place two social workers on the Lands to respond to mandatory notifications of suspected sexual abuse of Anangu children on the Lands.

That Families SA review any policy about whether mandatory notifiers should be informed of the action which is taken following the making of the report.

Recommendation 35

That appropriate health, mentoring and counselling services be established for teaching and other education staff resident on the Lands.

That DECS arrange and resource adequate respite for teachers and other school staff resident on the Lands.

That principals of the schools on the Lands consider and report to DECS as to what is needed to enhance recruitment of teaching staff and retention rates.

LIST OF RECOMMENDATIONS

For a discussion of recommendations 36 – 46, see Part IV Chapter 4 'Administration of justice'.

Recommendation 36

That there be night patrols in each community on the Lands, initially in the presence of sworn police.

That people with cultural authority, sworn police and community professionals and residents assist in the training of people to participate in the patrols as is appropriate.

Recommendation 37

That a process of restorative justice for the resolution of disputes in communities on the Lands be developed, implemented and periodically assessed.

Recommendation 38

That all allegations of sexual abuse of children on the Lands, including the names and identifying particulars of alleged victims and perpetrators, the date, place and nature of the alleged abuse, any corroborating or confirming evidence and action taken, be accurately recorded.

That all such information be provided to the Sexual Crime Investigation Branch of SA Police.

Recommendation 39

That fully operational police stations with an adequate number of personnel be established at all of the main communities on the Lands, namely Pipalyatjara or Kalka, Amata, Pukatja (Ernabella), Kaltjiti (Fregon), Mimili and Iwantja (Indulkana).

In the alternative that police stations be established at Amata, Pukatja and either Mimili or Iwantja.

That the police stations be established as a matter of urgency.

That the safety of communities where there is not a police station with a permanent police presence be kept under review and such police stations be established as is required to maintain safety in the communities.

LIST OF RECOMMENDATIONS

Recommendation 40

That at least four sworn police officers be placed in each of the new police stations to be established on the Lands.

That the police officers be selected not only because of experience and ability but also because of suitability of personality and attitude.

That all police officers positioned in the permanent placements on the Lands, or otherwise working on the Lands, undertake cultural training specifically designed to facilitate their working with Anangu.

Recommendation 41

That whenever possible all allegations of child sexual abuse on the Lands be investigated by the Victim Management Service, Child Exploitation Investigation Service and Paedophile Task Force of SA Police, or the Far Northern Local Service Areas.

That members of SA Police required to investigate such allegations receive appropriate training regarding cultural, language and other communication matters concerning Anangu and sexual matters, and suitable techniques of investigation.

Recommendation 42

That a training program for interpreters be developed by an established tertiary education organisation for Anangu and other persons with knowledge of Pitjantjatjara, Yankunytjatjara, Ngaanyantjarra and other languages used on the Lands as a matter of urgency.

That people undertaking the training also receive information about features of the child protection and the criminal justice system which are relevant to the role of interpreters.

That interpreters also be available to Families SA, DECS, Nganampa, ALRM and CRJ in the management and implementation of restorative justice on the Lands.

LIST OF RECOMMENDATIONS

Recommendation 43

That a liaison person be appointed in each case to assist alleged victims and witnesses with police and court processes, independent of police or prosecution.

That the NPY Women's Council be requested to make the appointment and that all reasonable costs should be paid by the State Government.

Recommendation 44

That the *Children's Protection Act* or regulations be amended to add a function of the Guardian for Children and Young People to act as an advocate of an Anangu child or young person who is not in State care but is the subject of a Family Care Meeting Agreement and who has made a disclosure of sexual abuse.

That in accordance with section 52B of the Act, the Guardian be provided with sufficient staff and resources to carry out this function.

Recommendation 45

That during the next 12 months the State Government consult with the Courts Administration Authority and interested agencies, to establish what services and facilities are required to enable the courts to operate effectively and efficiently on the Lands and that all reasonable resources be provided for that purpose to enhance safety on the Lands.

That court facilities are not established as part of police stations on the Lands.

Recommendation 46

That a corrections facility be established on the Lands for prisoners on remand on a short-term basis.

That prisoners on remand for longer than short-term be removed from the Lands to the corrections facility at Port Augusta or elsewhere, as determined in the usual way by the Department for Corrections.

That the State Government arrange air travel for the removal of prisoners from the Lands and their return for court appearances.

Explanatory note

Reference is made to 'Anangu' throughout this report. 'Anangu' means a person who is:

- a member of the Pitjantjatjara, Yankunytjatjara or Ngaanyantjarra people, and
- a traditional owner of the APY Lands or part of them.

Reference is made in this report to AP Executive Board and APY Executive Board and to AP and APY. Pursuant to the *Pitjantjatjara Land Rights Act 1981* Anangu Pitjantjatjara was the body corporate of Anangu constituted under that name and the Executive Board was established. The people were defined as meaning Anangu Pitjantjatjara.

The Act was amended by Act number 52 of 2005 which came into operation on 27 October 2005 and changed name to Anangu Pitjantjatjara Yankunytjatjara (APY). The name of the Executive Board was changed accordingly. Before the amendment the governing body of the Lands was known as AP and thereafter, APY.

ACRONYMS

AARD	Aboriginal Affairs and Reconciliation Division of the Department of the Premier and Cabinet
ACPP	Aboriginal Child Placement Principle
AES	Anangu Education Services
AEW	Aboriginal/Anangu Education Workers
AFP	Aboriginal Family Practitioner
AHW	Aboriginal Health Worker
ALRM	Aboriginal Legal Rights Movement Inc.
AL Task Force	Aboriginal Lands Task Force
AnTEP	Anangu Tertiary Education Program
APAPDC	Australian Principals Associations Professional Development Council
APLIICC	Anangu Pitlands Inter-Government Inter-Agency Collaboration Committee
APY	Anangu Pitjantjatjara Yankunytjatjara
ATSIC	Aboriginal and Torres Strait Islander Commission
CAMHS	Child and Adolescent Mental Health Services
CARL	Child Abuse Report Line
CARPA	Central Australian Rural Practitioners Association
CEIS	Child Exploitation Investigation Service

ACRONYMS

CDEP	Commonwealth Development Employment Program
CIB	Criminal Investigation Branch
CIS	Client Information System
CISC	Children in State Care
COAG	Council of Australian Governments
CP Act	Children's Protection Act
CPC	Child Parent Centre
CPS	Child Protection Services
CRJ	Centre for Restorative Justice
CSA	Child Sexual Abuse
DAARE	Department of Aboriginal Affairs and Reconciliation
DASSA	Drug and Alcohol Services South Australia
DECS	Department of Education and Children's Services
DFC	Department for Families and Communities
DPC	Department of the Premier and Cabinet
DPP	Director of Public Prosecutions
FAYS	Families and Youth Services
FMC	Flinders Medical Centre
FVPLS	Family Violence Legal Protection Service
GCYP	Guardian for Children and Young People
GP	General Practitioner
HACC	Home and Community Care
ICT	Information and Communication Technology
ITC	Interpreting and Translating Centre
JIS	Justice Information System
MSO	Municipal Service Officer
MSOAP	Medical Specialist Outreach Assistance Program
NPYWC	Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council
OAH	Office of Aboriginal Housing
OARS	Offenders Aid and Rehabilitation Services

ACRONYMS

ORATSIC	Office of the Registrar of Aboriginal and Torres Strait Islander Corporation
PSTF	Petrol Sniffing Task Force
PTF	Paedophile Task Force
PY	Pitjantjatjara Yankunytjatjara
PYEC	Pitjantjatjara Yankunytjatjara Education Committee
RJ	Restorative Justice
RRMHS	Rural and Remote Mental Health Service
SA	South Australia
SACE	South Australian Certificate of Education
SANFL	South Australian National Football League
SAPOL	South Australia Police
SCIB	Sexual Crime Investigation Branch
SMART	Strategies for Managing Abuse Related Trauma
STD	Sexually transmitted disease
STI	Sexually transmitted infection
TAFE	Tertiary and Further Education
TKP	Tjungungku Kuranyukutu Palyantjaku
WCH	Women's and Children's Hospital
WP	Wira Palyantjaku, the Secretariat of TKP
VMS	Victim Management Service
YT	Yaitja Tirramangkotti

ABOUT THIS REPORT

This report is in four parts.

Part I The Inquiry, deals with the establishment of the Inquiry and its approach to obtaining evidence and information relevant to the terms of reference to the Inquiry, including a general description of the Anangu Pitjantjatjara Yankunytjatjara Lands (the Lands) and their communities.

Part II Child sexual abuse on the Lands, provides details of the nature and extent of child sexual abuse on the Lands through the presentation of individual summaries of more than 120 cases of child sexual abuse investigated by the Inquiry.

Part III Government action – a brief history and overview, describes briefly the history of State and Commonwealth Government action and initiatives.

Part IV Response, discusses the government resources, both State and Commonwealth, which are being applied to the Lands. Those government resources can be divided into four broad groupings: welfare/child protection, health, education and the administration of justice. The Inquiry decided to discuss the consequences of child sexual abuse and measures to prevent it under those four broad topics. The Inquiry's recommendations were framed after wide consultation, including five field trips, and a consideration of the evidence and submissions received.