

Submission by  
Mr Geoffrey Grantham

The Minister for Mental Health, Women's Affairs &  
Community Services,  
2/1020 Doncaster Road,  
Doncaster East 3109

4th February 2011

Dear Minister,

**NEW ENQUIRY ON THE ROLE OF THE DEPARTMENT OF HUMAN SERVICES**

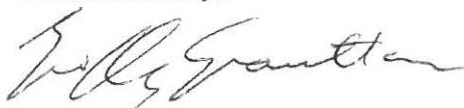
Here is a scenario to consider:

A child becomes threatening, uncontrollable, aggressive and violent when an attempt is made to stop the use of violent computer games. This past time regularly continued for in excess of 10 hours a day detaching the child from reality. The child violently insists on their perceived right to play these games and leaves the home. DHS, the police and the child's own Doctors become involved. All parties wait for DHS to decide if some form of court sanction is to be sought. The child's parents/ carers options to obtain an intervention orders are limited without the support of DHS, the Police and the child's own Doctors

The child is returned to the parents/ carers after agreeing to rules that cannot be enforced. The Child is encouraged to pursue temper tantrum tactics in the future to escape controls, discipline, and restraint. The philosophical approach of DHS is not to oppose the rights of the child, and generally to protect the child against the home restraints the child opposes. An intervention order requiring the child to comply with agreed conditions, take medication, attend anger management counselling, engage in on going interactive activities with others, cease playing the computer games, and provide the parents/ carers protection from further abuse and threats, is not contemplated by DHS. It appears such an imposition would only be sought as a last resort, perhaps only after injury to the parents/ carers. It would probably also require the parents/carers to refuse to accept the return of the child before DHS would apply for such an order. This is something most parents/carers would find hard to do.

The continuing problem with the operation of the Department of Human Services is their over indulgent attitude toward children. The disastrous results of such policies are well known. I am attaching some extracts from the Auditor General's Report No.43 June 1996 Protecting Victoria's children Part 7. I have highlighted a few portions for you to note. Also attached is an edited portion of an article written at time when the upbringing of children was better managed than today, and when the risk of over indulgence was better understood. I hope this and the matters raised in this letter may result in improved outcomes for the management of dysfunctional children

Yours faithfully,



## OVER-INDULGENCE

This is the one point of all on which you have most need to be on your guard. It is natural to be tender and affectionate toward your own flesh and blood, and it is the excess of this very tenderness and affection which you have to fear. Take heed that it does not make you blind to your children's faults, and deaf to all advice about them. Take heed lest it make you overlook bad conduct, rather than have the pain of inflicting punishment and correction. I cannot help remarking that there is hardly any subject about which people seem so tenacious as they are about their children. I have sometimes been perfectly astonished at the slowness of sensible parents to allow that their children are in fault, or deserve blame. There are not a few persons to whom I would rather speak about their own failings, than to tell them their children had done anything wrong.

I know well that punishment and correction are disagreeable things. Nothing is more unpleasant than giving pain to those we love, and calling forth their tears. But so long as hearts are what hearts are, it is vain to suppose, as a general rule that children can ever be brought up without correction. It is painful to see how much corruption and evil there is in a young child's heart and how soon it begins to bear fruit. Violent tempers, self will, pride, envy, sullenness, passion, idleness, selfishness, deceit, cunning, falsehood, hypocrisy, a terrible aptness to learn what is bad, a painful slowness to learn what is good, a readiness to pretend anything in order to gain their own ends, - all these things, or some of them you must be prepared to see, even in your own flesh and blood. In little ways they will creep out at a very early age; it is almost startling to observe how naturally they seem to spring up. Children require no schooling to learn to do wrong.

Spoiling is a very expressive word, and sadly full of meaning. Now it is the shortest way to spoil children to let them have their own way, - to allow them to do wrong and not to punish them for it. Believe me; you must not do it, whatever pain it may cost you unless you wish to ruin your children's lives. Depend upon it; there is no surer road to unhappiness than always having our own way. To have our wills checked and denied is a good thing; it makes us value enjoyments when they come. To be indulged perpetually is the way to be made selfish; and selfish people and spoiled children, believe me, are seldom happy.

Parents, I beseech you, for your children's sake, beware of over-indulgence. I call on you to remember, it is your first duty to consult their real interests, and not their fancies and likings; - to train them, not to humour them;- to profit, not merely to please. To pet and pamper and indulge your child, as if this world was all he had to look to, and this life the only season for happiness- to do this is not true love, but cruelty. It is treating him like some beast of the earth, which has but one world to look to, and nothing after death. You must not give way to every wish and caprice of your child's mind, however much you may love him. You must not let him suppose his will is to be everything, and that he has only to desire a thing and it will be done. Do not, I pray you, make your children idols, lest God should take them away, and break your idol, just to convince you of your folly.

Learn to say "No" to your children. Show them that you are able to refuse whatever you think is not fit for them. Show them that you are ready to punish disobedience, and that when you speak of punishment, you are not only ready to threaten, but also to perform. Do not threaten too much. Words of blame should never be used without real

reason. Threatened folks and threatened faults, live long. Punish seldom, but really and in good earnest, - frequent and slight punishment is a wretched system indeed. No general rule can be laid down as to the best way to punish a child. The characters of children are so exceedingly different, and what would be a severe punishment to one child, would be no punishment at all to another. I only beg to enter my decided protest against the modern notion that no child ought ever to be disciplined. Doubtless some parents use correction far too much, and far too violently; but many others, I fear, use it far too little. Beware of letting small faults pass unnoticed under the idea, "it is a little one." There are no little things in training children; all are important. Little weeds need plucking up as soon as any. Leave them alone, and they will soon be great.

Fathers and Mothers, you may take your children, to the best of schools, and fill them with head knowledge;- but if there is no regular training at home, I tell you plainly, I fear it will go hard in the end with your children. Home is the place where habits are formed;- home is the place where the foundations of character are laid;- home gives the bias to the tastes, and likings, and opinions. Fathers and Mothers, I charge you solemnly take every pains to train your children in the way they should go. I charge you not merely for the sake of your children; I charge you for the sake of your own future comfort and peace. Truly it is in your interest so to do. Truly your own happiness in great measure depends upon it. Children have ever been the bow from which the sharpest arrows have pierced man's heart. Children have mixed the bitterest cups that man has ever had to drink. Children have caused the saddest tears that man has ever had to shed. There are no sorrows on earth like those which children have brought upon their parents. Oh! take heed, lest your own neglect should lay up misery for you in your old age. Take heed, lest you weep under the ill-treatment of a thankless child, in the days when your eye is dim, and your natural force abated.

Parents, determine to make your children obey you, though it may cost you much trouble, and cost them many tears. Let there be no questioning, and reasoning, and disputing, and delaying, and answering again. When you give a command, let them see plainly that you will have it done. Obedience is the only reality. It is faith visible, faith acting, and faith incarnate. It ought to be the mark of well trained children, that they do whatsoever their parents command them.

If you would deal wisely with your child, you must not leave them to the guidance of their own will. Think for them, judge for them, act for them, just as you would for one weak and blind; but for pity's sake, give them not up to their own wayward tastes and inclinations. It must not be their likings and wishes that are consulted. They know not yet what is good for them. You do not let them decide what they shall eat, and what they shall drink, and how they shall be clothed. Be consistent, and deal with their minds in like manner. Train them in the way that is right, and not in the way that they fancy. Self will is almost the first thing that appears in a child's mind and it is the duty of parents to resist it.

Parents, do you wish to see your children happy? Take care then, that you train them to obey when they are spoken to, - to do as they are bid. Believe me, we are not made for entire independence, - we are not fit for it. Teach your children to obey while young, or else they will be fretting against authority all their lives long, and will wear themselves out with the vain idea of being independent of control.

Reader this hint is only too much needed. You will see many in this day who allow their children to choose and think for themselves long before they are able, and even

make excuses for their disobedience, as if it were a thing not to be blamed. To my eyes, a parent always yielding, and a child always having its own way, are a most painful sight;- painful, because I see authority undermined and the order of things inverted and turned upside down;- painful, because I feel sure the consequence to that child's character in the end will be self will, pride, and self- conceit. You must not wonder that men refuse to obey Authority in their lives, if you allow them, when children, to disobey their parents.



□ **RESPONSE** provided by Secretary, Department of Human Services

*The Department is concerned at the nature of audit's survey and the reporting in this part of its findings. While audit surveyed the views of staff in the 24 CPS Offices, no comparable survey was conducted in relation to the views of DHS staff. To the Department's knowledge, the DHS perspective represented in the Report is based on informal discussions with DHS staff in only 2 of the 9 DHS regions.*

*The Department is committed to working closely with Victoria Police and has been the instigator of many strategies statewide and regionally to improve working relationships and effectiveness. These include;*

- development and review of protocols;*
- central and regional liaison;*
- joint training;*
- support for Operation "Paradox";*
- involvement in Video Audio Taping of Evidence Project (VATE).*

**NEED FOR AN INTEGRATED APPROACH  
TO DEALING WITH ADOLESCENTS AND YOUNG PERSONS IN CARE**

**7.45** Another area of concern expressed by CPS relates to adolescents and young persons in the care of DHS under Guardianship or Custody Orders, who frequent the streets of Melbourne and inner suburbs during the night. The Salvation Army's CrossRoads Program stated in 1995, that around 70 per cent of the children they dealt with on the streets of Melbourne were either currently on Protection Orders or had previous involvement with DHS. The report indicated that these children had often absconded from medium or short-term departmental placements and accommodation units.

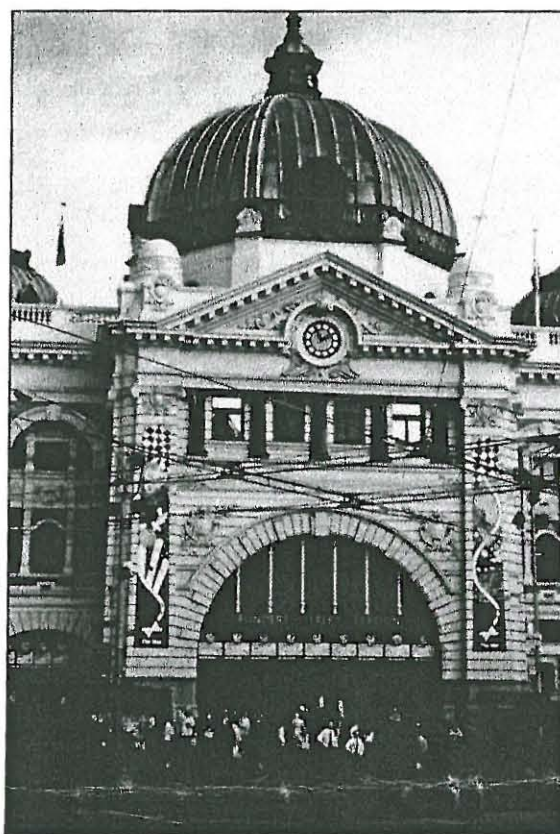
**7.46** The 1992 protocol between DHS and Victoria Police provides "inter alia" that:

- If a child/adolescent is likely to contact its placement within 48 hours and is not at an unacceptable level of risk, then a "Missing Persons" report is not necessary;
- Where a Missing Persons report is made to Victoria Police and the child is located, Victoria Police have no legal powers to apprehend, detain or return the child/adolescent to their placement in the absence of a search warrant. Police are only empowered to inform the protective worker as to the whereabouts of the child and to encourage the child to return to its placement. If the child/adolescent refuses to return to its placement or to stay with the police officer, Victoria Police have no further authority to retain the child; and
- A warrant authorising Victoria Police to apprehend and return a missing person will only be initiated by DHS when the child is deemed by Victoria Police to be at immediate risk of substantial harm, and apprehension is the only option.

**7.47** The crucial point is what constitutes a risk of significant harm. Bad behaviour, such as being intoxicated from alcohol or other substance abuse, on the part of the child who has absconded does not in itself necessarily constitute grounds for apprehension on the basis of immediate and substantial risk of harm.



7.48 Under the legislation, the Secretary of DHS has, in respect of a child under the guardianship of the Secretary, the same rights, powers, duties, obligations and responsibilities as a natural parent of the child would have. During the course of the audit, several natural parents of children under Protection Orders drew the attention of audit to the above legislative responsibility, in that they were concerned that their children's behaviour had become noticeably worse as a consequence of what they saw as a freedom to frequent the streets of Melbourne. The argument was along the lines of whether a responsible parent would allow such actions to occur, and if so, what would be the police reaction?



Melbourne's busy Flinders Street Station - a place often frequented by young people, including children in care.

7.49 Audit acknowledges that it is never the intention of the Secretary to allow actions to happen that could lead to significant harm occurring to a child in the care of DHS. The issue is whether reasonable steps have been taken to prevent the likelihood of harm occurring and it is on this issue that Victoria Police concerns can arise.



**7.50** The reality of the situation, as observed by audit during a night at St Kilda, is that a significant proportion of the "street kids" are not homeless in that they are under the protection of the State and have accommodation they could go to. The police, particularly CPS, who may feel strongly about the potential exposure of these children, who can be as young as 10, and adolescents to criminal activities, substance abuse, prostitution and paedophiles, are largely ineffective in attempting to address these potential problems. In addition, DHS is also restricted in that:

- Although the Secretary has power under the legislation to detain without a warrant a child under a Guardianship or Custody Order, in practice this provision is ineffective if the child refuses to return to their placement as:
  - DHS cannot use physical force to apprehend a child; and
  - DHS does not have the power to forcefully enter any premises where it believes a child to be residing.
- Warrants of apprehension of missing children can only be executed by Victoria Police, a process which in effect is using essentially a criminal mechanism to apprehend children who can be in the care of the State, and who have not committed criminal offences. This aspect can also contribute to police officers being reluctant to be involved in this process, which they see as a welfare responsibility, as compared with undertaking a policing role; and
- The issue of a warrant of apprehension is a very serious matter and when applying to the Court, DHS must be able to convince a Magistrate or bail justice that the situation warrants police action. Consequently, warrants are not issued unless a young person is unlikely to return to their accommodation within a few days and strong evidence of risk of substantial harm exists.

**7.51** Under the legislation Victoria Police can apply for a search warrant where the child is absent without lawful authority from its placement while under an Interim Accommodation Order. However, the mechanics of this process can mean that it will take in excess of 2 hours to arrange the warrant. As Victoria Police have no authority to detain the child in the interim period, and this fact is widely known on the streets, the child can go into hiding. Police rarely initiate warrants in their own right.

**7.52** Young persons under Protection Orders who frequent the streets at night appear to audit to be fully aware of the legal limitations of Victoria Police actions and their "rights" as children, and can exploit this situation. Further discussion on this issue is contained in Part 8 of this Report.

**7.53** It is acknowledged by audit that DHS has several initiatives in place in an attempt to address this problem, such as introducing a specialist team of youth workers known as "The Streetwork Outreach Service" to liaise with these children on the streets, and arrange to transport them back to their accommodation where possible. Unfortunately, many of these children reappear on further nights as there is limited capability of restraining them from leaving their accommodation at will. The Department has also introduced "Intensive Youth Support Service" which targets problem adolescents and actively works with them in an attempt to address their needs.



7.54 Both agencies obviously must work within the constraints of legislation and any attempt to force young people, even though they may be in the care of the State, to adhere to rigid rules and restrictions on freedom can be very difficult, unless Victoria sought to impose curfews on adolescents congregating late at night as occurs in some overseas countries and was under consideration in Western Australia. Irrespective of any limitations on action arising from the legislation, audit considers that a solution to this problem will require an integrated approach between Victoria Police and DHS in developing strategies to deal with children in care frequenting streets.

□ *RESPONSE provided by Secretary, Department of Human Services*

*Victoria Police are protective interveners under the Children and Young Persons Act 1989 and have the power to investigate suspected protective concerns and to take appropriate action to reduce unacceptable risk factors. These powers are in addition to criminal investigation powers, and enable Police to act in situations where a young person may be at risk.*

□ *RESPONSE provided by Chief Commissioner, Victoria Police*

*The issues raised in the audit reflect the philosophical differences which continue to exist between the 2 agencies on protective issues concerning adolescents, and whether it is appropriate and useful for police to take protective action. Joint training will help each agency to understand the decision making process and policies of the other, and police are instructed to initiate protective action when circumstances dictate. Police remain concerned about DHS policies and standards of care regarding adolescents (especially "street kids" under their care).*

## VALUE OF JOINT TRAINING

7.55 In order to enhance training for what in many respects can be overlapping responsibilities, a number of CPS have actively pursued joint training with DHS protective workers, although the extent to which this occurs depends on operational requirements of Victoria Police as well as the availability of staff from both agencies. Other training initiatives have included interchanges of staff between DHS and CPS and joint attendances at seminars on child protection issues and related subjects. Audit also found that certain regions of DHS had initiated joint training. One DHS region developed a joint seminar in mid-1995 specifically directed towards improving the working relations between Victoria Police and protective services within the region.

7.56 The above initiatives can be of substantial benefit, not only to the participants in breaking down professional barriers, but to enhancing child protection generally. Unfortunately, such initiatives are not common in all regions and Victoria Police districts and largely depend upon management attitudes both centrally and locally in both agencies, as well as operational requirements and training resources. Procrastination is common in that while the benefits can be agreed upon, actually setting a mutually acceptable date can be a major obstacle.