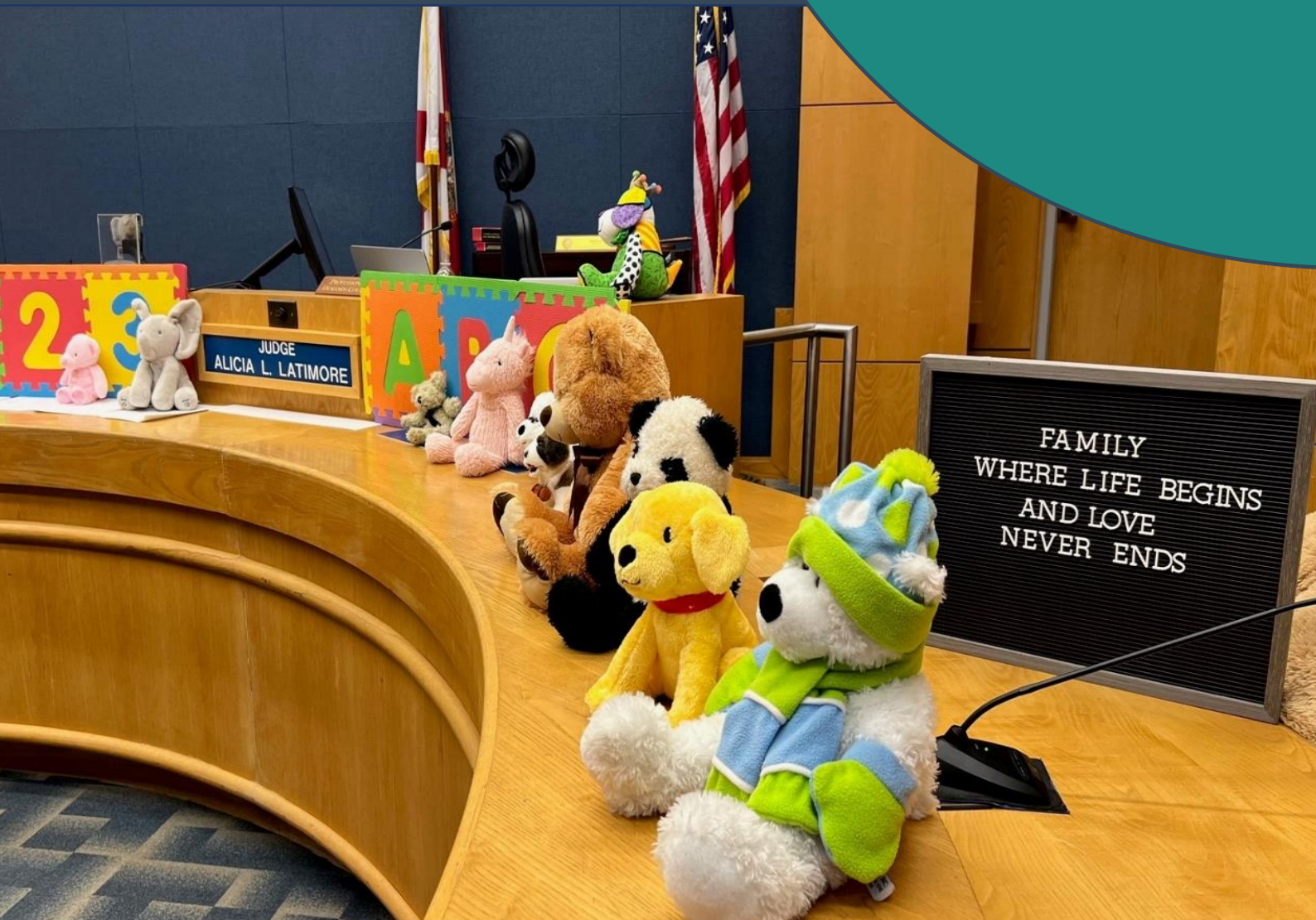




Winston
Churchill Trust

Learn globally, inspire locally.



Churchill Fellowship to investigate innovative court-based approaches to infants in care and protection proceedings.

Report by Matthew Wilson, 2020 Churchill Fellow

Indemnity Clause

I understand that the Churchill Trust may publish this Report, either in hard copy or on the internet or both, and consent to such publication.

I indemnify the Churchill Trust against any loss, costs or damages it may suffer arising out of any claim or proceedings made against the Trust in respect of or arising out of the publication of any Report Submitted to the Trust and which the Trust places on a website for access over the internet.

I also warrant that my Final Report is original and does not infringe the copyright of any person, or contain anything which is, or the incorporation of which into the Final Report is, actionable for defamation, a breach of any privacy law or obligation, breach of confidence, contempt of court, passing-off or contravention of any other private right or of any law.

Signed: Matthew Wilson Date: 24/05/2023

TABLE OF CONTENTS

1. Acknowledgements	4
2. Introduction	5
3. Executive Summary	6
4. Itinerary	10
5. The Case For Innovation	12
6. Experience and Findings	20
6.1 Early Childhood Courts and the Zero to Three Safe Babies Court Team™ Approach	20
6.1.1. The Core Components of the Safe Babies Court Team™ Approach	22
6.1.2 Early Childhood Court Processes and Operations	26
6.1.3 Child-Parent Psychotherapy	29
6.1.4 Visit Coaching	30
6.1.5 ECC Evaluation Outcomes	30
6.2 Strong Starts Court Initiative	31
6.2.1 Strong Starts Court Initiative Outcomes	33
6.3 Los Angeles County Multidisciplinary Assessment Team	34
6.4 Glasgow Infant and Family Team and London Infant and Family Team	35
7. Conclusions	38
8. Recommendations	41
9. Implementation	42
10. Dissemination	43
11. Bibliography	44

1. ACKNOWLEDGEMENTS

I would like to thank the Churchill Trust (Australia) for giving me this amazing opportunity to explore innovative approaches in this field I feel most passionate about. I hope that my findings contribute to much needed innovation in the child protection and children's court contexts, and to changing the life trajectories of some of Australia's most vulnerable children and their families. I also hope that my Churchill Fellowship will inspire future Churchill Fellows with a desire to innovate in this sector.

I would also like to thank the many people throughout the United States and the United Kingdom who were so generous with their time and expertise. From those I didn't get to meet but who were so instrumental in helping me plan my itinerary, to those who gave of their time to meet with me and allowed me to observe their court rooms and operations. Extra thanks to Dr Mike Sherman, Judy Norris and Dr Joy Osofsky – all of whom were particularly generous to me with their time and expertise.

Thank you to my colleagues in the Children's Court of Victoria, and particularly the Family Drug Treatment Court that I am fortunate to manage, and Marram-Ngala Ganbu. The wonderful outcomes of these existing innovations remind me daily of the value of seeking to innovate further. Thank you also to those wonderful colleagues in my past who have, and continue to, inspire my passion for the work we do.

Thank you to Judge Amanda Chambers and Prue Walker who supported me in the earliest days of this Churchill Fellowship journey, and to Peter Lamb for his wisdom and support.

Thank you to my family who instilled in me a love of learning from my earliest years.

Thank you to my wonderful partner Kathryn for supporting me, and for being such a great travelling companion during my Churchill travels.

Thank you to my boys for tolerating dad being away for almost two months. I'm sorry some of the postcards didn't arrive until 3 months after I got back! I hope you see this sometime and are proud of this cool thing dad got to do. (See – I told you it wasn't a holiday!)

I would also like to acknowledge the First Nations¹ families – traditional custodians of the land on which Australia's courts and child protection systems operate. Our institutions and systems have failed your families and communities throughout Australia's colonial history, and the continuing over-representation of your families in these systems highlights the still urgent need for improvement and innovation. I genuinely hope that my findings will contribute to systemic change that much better meets the needs of your families and communities. I believe they can.

- Matthew Wilson

Contact: Matthew.wilson@courts.vic.gov.au or via the Churchill Trust at <https://www.churchilltrust.com.au/fellow/matthew-wilson-vic-2020/>

¹ Throughout this report, 'First Nations' refers to all Aboriginal and Torres Strait Islander people.

2. INTRODUCTION

Child protection jurisdictions throughout Australia are perpetually described as being in a state of crisis. More and more children are reported to Australian child protection authorities each year and increasing numbers of these reports lead to the reported concerns of abuse and neglect being substantiated by those authorities. Each year also sees an incremental rise in the number of Australian children being removed from parental care and entering the out-of-home care system. This is not merely a reflection of population growth, with the rate per thousand of population increasing alongside the number of children in each of these data sets. First Nations children are significantly over-represented in every measure.

When applications alleging the abuse or neglect of children come before Australia's children's courts, the complex, sensitive issues impacting on these children's lives – and the lives of their families, are examined through long-standing, adversarial legal practices aimed at establishing fact. Courts can be intimidating and often hostile environments for these families, leading to poor genuine engagement by families in processes required to identify areas of dysfunction, and the means of their mitigation in the interests of children's safety from harm. Often, cases are protracted, characterised by ongoing disputation as to facts, and continued hostility between parties which precludes meaningful progress on areas of familial need being made. Stability for children is delayed, and developmental harm ensues.

In 2014, the Children's Court of Victoria launched the Family Drug Treatment Court (FDTC), itself an innovation inspired by a Churchill Fellowship undertaken by then Children's Court Magistrate Gregory Levine in 2011. The FDTC brings a non-adversarial, solution focussed approach to some of the most complex familial presentations before the Children's Court of Victoria's Family Division. Findings from two independent evaluations indicate that participants in the FDTC are up to two and half times more likely to achieve reunification with their children than a matched comparison sample of parents engaged in mainstream court processes alone, that reunification is achieved more quickly, and that where reunification is achieved through FDTC participation, those families are 2.2 times less likely to have subsequent report substantiated by child protection. Importantly, the FDTC sees reunification to First Nations parents occur at a slightly higher rate than non-First Nations parents, indicating that solution-focussed approaches can be particularly effective with First Peoples.

As the State-wide Program Manager of the Family Drug Treatment Court, the outcomes it achieves for families and children inspired me to undertake this Churchill Fellowship, focussing on potential innovations targeting the most vulnerable children in the Children's Court's jurisdiction – infants and very young children. If we can replicate the success of the Family Drug Treatment Court with infants and very young children and their families, we have the opportunity to radically alter their all too typical lifelong trajectory of adversity and interrupt the intergenerational patterns of familial dysfunction we all too often see.

I am very grateful to the Winston Churchill Memorial Trust of Australia for giving me this opportunity to visit and observe innovative court-based approaches to infants in care and protection jurisdictions throughout the United States of America and the United Kingdom. It is my hope to achieve support for the pilot of such an innovation in an Australian context.

Key words

Infants, Infant Mental Health, Child Protection, Solution-focussed courts, Children's Court, Family reunification, Permanency and stability, Child-Parent Psychotherapy, Specialist Infant Court

3. EXECUTIVE SUMMARY

Matthew Wilson: 2020 Churchill Fellowship to investigate innovative court-based approaches to infants in care and protection proceedings.

Project Introduction

I was very pleased to be awarded this Churchill Fellowship in 2020 and following two years of COVID-19 related bans on international travel and other associated delays, I undertook my Fellowship travels in October and November 2022, travelling throughout the United States of America and the United Kingdom.

Inspired by the success of the Children's Court of Victoria's Family Drug Treatment Court - one of the very few solution-focussed court approaches operating in an Australian care and protection jurisdiction, I undertook this Churchill Fellowship with a view to establishing how those successes might be replicated for the most vulnerable children in child protection and children's court proceedings – infants and very young children. Not only are infants and very young children the most vulnerable to harm as a result of the familial issues generally presented to care and protection jurisdictions, they are also significantly over-represented in most of those jurisdictions' metrics, from reports received, substantiations of those reports, and entry into out-of-home care. Infants entering out-of-home care have longer placement durations than other-aged children, and where a child enters out-of-home care in infancy, they will spend more of their childhood in care than children who enter out-of-home care at an older age. First Nations children remain over-represented in all of these metrics.

Project Aims

I set out to achieve an understanding of how specialist infant courts operate, what underpins their success in achieving enhanced outcomes for infants, very young children and their families, and how adaptable the concept might be to an Australian care and protection jurisdiction.

Key observations

This Churchill Fellowship provided me with the following key opportunities:

- The opportunity to observe Safe Babies Court Team™ Approach informed Early Childhood Courts (ECCs) in Hawaii and in several jurisdictions throughout Florida, and to meet with judicial officers and the dedicated teams supporting vulnerable children and their families through innovative, caring, court-based interventions and through engaging and expert-informed professional relationships. These solution-focussed courts service children aged 0 to 3 years in out-of-home care, and their families and carers, utilising a structured team approach that embeds both infant mental health and early childhood development expertise into care and protection hearings.

Evaluation outcomes from these Early Childhood Courts indicate that the children they serve achieve permanence at higher rates, and in a shorter period time than a control group, with 87 per cent per cent of children achieving permanency with 12 months. Outcomes also indicate that children leave out-of-home care earlier through ECC involvement than children involved in traditional, adversarial court approaches, and that they are subsequently 5 times less likely to re-enter out-of-home care. No significant differences in outcomes are reported across racial or ethnic diversity. ECCs have also been found to be cost-effective, with 75 per

cent of their funding mitigated in expedited out-of-home care cost avoidance alone. Economic analysis concludes that with lifelong effects of timely permanence and stability for children added to immediate cost benefits, resultant savings exceed program costs.

- The opportunity to meet with Leadership members of New York's Center for Justice Innovation's Strong Start Court Initiative and to observe the operations of the Kings County Family Court in Brooklyn where that jurisdiction's Strong Start Court Initiative sits. The Strong Starts Court Initiative (Strong Starts) is another iteration of a specialist Infant and Toddler Court and operates in the Family Courts of each of New York City's five Boroughs, and in the New York State of Westchester County. Taking a non-adversarial, solution-focused approach to infants and toddlers aged under 4 years who are *either* in out-of-home care or in supervised parental care, Strong Starts similarly brings infant mental health and early childhood developmental expertise into the court room to support children and families, and to inform judicial decision-making.

Key Strong Starts evaluation outcomes include participation seeing a significant reduction in future applications relating to alleged abuse or neglect, with no new applications filed in relation to Strong Starts cases over a follow up period of between six and 54 months, compared with in 12 per cent of comparison cases. Greater parental knowledge of trauma, attachment and early childhood development are also reported as a result of Strong Starts engagement, as are reported efficiencies in the processing of Strong Starts cases through the courts by judicial officers and legal professionals.

- The opportunity to meet with Dr Mike Sherman and colleagues in Los Angeles and learn about the Multidisciplinary Assessment Team which provides comprehensive assessments detailing strengths and needs in the domains of mental health, medical health, dental health, development, hearing and language, education, and family and caregiver supports for every child entering out-of-home care and their family in Los Angeles County. These assessments formulate recommendations that inform case planning for and judicial decision making with respect to these children and families, ensuring comprehensive and targeted interventions. Evaluation findings of the MAT process include that where mental health support services were indicated for children entering out-of-home care in Los Angeles County, children were engaged in those services at a rate of 88.1 per cent, where engagement was likely to be earlier due to MAT assessments and recommendations being concluded within 45 days of initial referral.
- The opportunity to meet with members of the Glasgow Infant and Family Team, and the London Infant and Family Team, and having the opportunity to learn of the BeST? trial currently underway and nearing completion. The BeST? trial is a randomised control trial overseen by the University of Glasgow and Kings College, London, and seeks to compare the success of an infant mental health service (the New Orleans Intervention Model (NIM) with 'services as usual' for pre-school aged children entering out-of-home care, to determine which service best meets the needs of that cohort in terms of permanency and stability.

Running since 2011 in Glasgow, and in London since 2017, the BeST? trial is yet to report findings, however evaluation outcomes of the NIMs implementation in its original US jurisdiction indicates that where reunification is achieved, NIM participation sees a more than 50 per cent reduction in repeated abuse or neglect both for the involved child, and for

subsequent siblings. Further evidence suggests that where NIM-graduated infants were followed up several years after being exposed to NIM, mental health measures indicated only a slight difference between those children and children in the general population, regardless of the permanency outcome achieved.

Conclusions

- There is clear value in integrating infant mental health and early childhood development expertise into the court process. In particular, there are clear benefits to children and families from their participation in evidence-based, dyadic interventions such as Child-Parent Psychotherapy which was a feature of each specialist infant court I visited. In Australian child protection jurisdictions, expert understanding of the relationship between infants and their parents, and with alternate caregivers, is rarely achieved and particularly not on a timeline that allows for necessary interventions with respect to that relationship to be identified and implemented early.

When children enter out-of-home care in Australia, it is rare for dyadic relational *treatment* – that is, expertly observed and guided interactive intervention with both the parent or caregiver *and* the child – to occur. Currently, when children residing in out-of-home care have contact with their parents, there is usually little to no professional input aimed at better understanding and improving parent-child relationships into these interactions. Where such an understanding may occur, it tends not to be presented to judicial decision-makers contemporaneously as understanding and relational functioning evolves.

Child-Parent Psychotherapy achieves improved outcomes including lower insecurity, avoidance, anxiety and anger observed in the attachment styles of CPP treated infants and children, higher levels of parental empathy, enhanced satisfaction in parental relationships, and improvements in behavioural problems, traumatic stress symptom, and mental health diagnostic status. It is a valuable tool in both increasing the likelihood of family reunification, and where reunification cannot be achieved, in changing the typically adverse lifetime trajectory of children who grow up in out-of-home care.

- Solution-focussed specialist infant courts are effective in delivering better outcomes for infants, very young children, and their families – particularly in terms of earlier and more sustainable permanency outcomes for children. Where family reunification is achieved through these courts, children exit out-of-home care quicker through these processes than through traditional, unsupported adversarial approaches, and they are less likely to experience further abuse or neglect, leading to a significant reduction in future child protection and children’s court involvement. Where reunification is not achieved, children find stable, permanent alternate care arrangements more quickly. Specialist infant courts in the US are reported to be cost-effective, with 75 per cent of program costs mitigated through out-of-home care cost avoidance alone. The specialist infant court concept is readily adaptable to Australian jurisdictional contexts.

Where specialist infant courts achieve superior outcomes to traditional adversarial approaches, they do so consistently regardless of the cultural background of participants. Through the experience of two existing solution-focussed approaches in the Children’s Court of Victoria in the Family Drug Treatment Court and Marram-Ngala Ganbu, we know that these approaches particularly see better outcomes for First Nations children, their families and their communities than traditional adversarial court processes. In Australia, where First

Nations children, and particularly infants, consistently experience entry into out-of-home care at a far higher rate than non-First Nations children, adopting a solution-focussed approach that is known to be effective for First Nations families would be a significant component of much needed system reform.

- A specialist infant court represents an opportunity to contribute to much needed reform of Australian care and protection jurisdictions which are frequently described as being in crisis. Where our systems fail our very youngest, most vulnerable children and their families, crisis perpetuates itself in an immediate sense, but also intergenerationally. Where we provide early, effective, evidence-based interventions in the lives of infants in care and protection jurisdictions we positively impact on their trajectory across their lifespan. We impact on their current and future engagement with physical and mental health systems, their educational attainment, the likelihood of their future interface with criminal justice systems, and the likelihood of continuing intergenerational cycles of abuse and neglect.

The Yoorrook Justice Commission– the first formal truth-telling process into historical and ongoing injustices experienced by First Peoples in Victoria – is currently hearing from First Peoples who have experienced injustice in the child protection and criminal justice systems and demanding system reform – reform that Victoria’s Premier, Daniel Andrews has subsequently promised. In existing solution-focussed approaches to complex child protection matters before our courts, we know we have a working template of a better, more successful model for both First Nations and non-First Nations children and families. It is time now to allow the benefits of these approaches to be extended to Australia’s most vulnerable children – infants, very young children, and their families.

Recommendations

- The primary recommendation of this Churchill Fellowship is for a Specialist Infant Court to be piloted in an Australian care and protection jurisdiction. Specifically, it is recommended that the Victorian Government fund a pilot to operate within the Family Division of the Children’s Court of Victoria to sit alongside existing solution-focussed approaches that achieve better outcomes for children and families in what is arguably the most innovative children’s court jurisdiction in Australia.
- This report recommends the formation and maintenance of a working group comprising key sector leaders and key stakeholders in a potential future Specialist Infant Court to progress model development. The mapping of existing resources in the community, together with the identification of current and anticipated service gaps is required to inform proposal development.
- This report further recommends extensive and ongoing consultation with First Nations communities to ensure the development of a model and approach that optimally meets the needs of their families and communities, inclusive of a designated First Nations Coordinator to sit alongside a non-First Nations Coordinator, and a First Nations-led and self-determined design process for elements of a model that would address the cultural and community support needs of First Nations participants.

4. ITINERARY



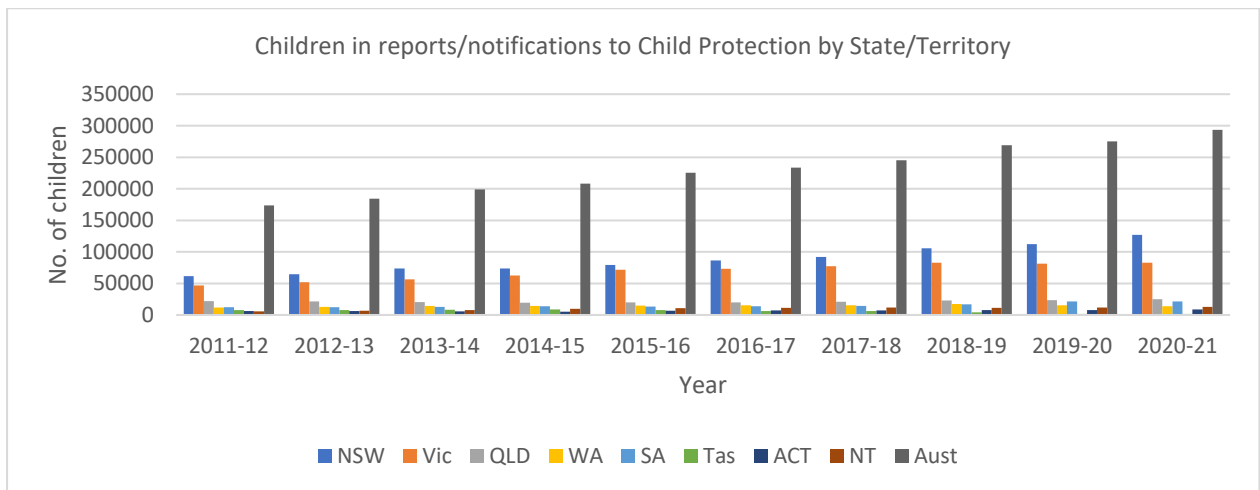
Date	Location	Organisation visited	People I met with
4/10/2022	Honolulu, Hawaii, USA	EPIC 'Ohana, Inc, Hawaii Zero To Three - Ohana Conference	Shauntelle Bohol, Charla Weaver (EPIC 'Ohana Inc) and Susan Kim (Hawaii Zero to Three)
5/10/2022	Honolulu, Hawaii, USA	Hawaii Zero to Three and Waianae Child and Family Service - Family Team Meeting	Susan Kim (Hawaii Zero to Three), Cynthia Kaulili (Waianae Child and Family Service)
5/10/2022	Honolulu, Hawaii, USA	Family Hui Hawaii, Virtual Parent cafe	Natasha Fernandez – Family Programs Specialist
6/10/2022	Kapolei, Hawaii, USA	O'ahu First Circuit Court of Hawaii – Kapolei Judiciary Complex - Early Childhood Court	Judge Jessi LK Hall, Susan Kim (Hawaii Zero to Three Program Manager), Jessie Addison (CASA), Lianne Onishi and Kellie Kersten (Department of Human Services) and members of the ECC team.
13/10/2022	Los Angeles, California, USA	Zero to Three Infant Toddler Court Program, Los Angeles County Department of Mental Health, and Los Angeles County Department of Child and Family Services	Dr Mike Sherman – Infant and Early Childhood Mental Health Clinical Manager (Zero To Three), Dr Jessica Thomas (Staff Psychologist) and Dr Chad Brinderson – Supervising psychologist / MAT Psychologist (Department of Mental Health), and Dr Laura Andrade – Program Manager (Department of Child and Family Services)
19/10/2022	Orlando, Florida, USA	Ninth Circuit Court of Florida. Orange County Court House – Mental Health Court	Judge Alicia L Latimore Lisa Vargas (Problem Solving Court Manager)
19/10/2022	Orlando, Florida,	Ninth Circuit Court of Florida.	Judge Alicia Latimore

	USA	Thomas S Kirk Juvenile Justice Centre - Early Childhood Court	Mario Alchino (ECC Coordinator) and members of the ECC team.
21/10/2022	Virtual, Orlando, Florida, USA	Dr Joy Osofsky, Professor of Pediatrics and Psychiatry, Louisiana State University.	Dr Joy Osofsky, Professor of Pediatrics and Psychiatry, Louisiana State University.
25/10/2022	Fort Lauderdale, Florida, USA	Seventeenth Circuit Court of Florida, Early Childhood Court	Judge Hope Tieman Bristol Trent Baker (ECC Program Director) Tiffany Jackson (ECC Coordinator) and members of the ECC team.
26/10/2022	Fort Lauderdale, Florida, USA	Seventeenth Circuit Court of Florida. Broward County Courthouse	Judge Hope Tieman Bristol. Trent Baker (ECC Program Director) Tiffany Jackson (ECC Coordinator) and members of the ECC team.
26/10/2022	West Palm Beach, Florida, USA	Fifteenth Judicial Circuit Court of Florida, Early Childhood Court.	Judge Kathleen J Kroll Belle Cirius (ECC Coordinator), Mary Quinlan (Chief Deputy Court Administrator, Judy Norris (Zero To Three National Infant Court Program Regional Field Specialist), and members of the ECC team.
27/10/2022	Fort Lauderdale, Florida, USA	Seventeenth Circuit Court of Florida. Broward County Courthouse.	Judge Hope Tieman Bristol, Judge Izquierdo, Judy Norris (Zero To Three National Infant Court Program Regional Field Specialist).
28/10/2022	Virtual, West Palm Beach, Florida, USA	Zero To Three Infant Court Program and the Florida Court Improvement Program.	Judy Norris (Zero To Three National Infant Court Program Regional Field Specialist), and Carrie Troy (Florida Court Improvement Program).
3/11/2022	New York City, New York, USA	Center for Court Innovation – Strong Starts Court Initiative (Manhattan) Steering Committee Meeting	Kate Wurmfield (Director, Family Court Programs), Susan Chinitz (Consultant Psychologist), and members of the Strong Starts Court Initiative Steering Committee.
4/11/2022	New York City, New York, USA	Kings County Family Court, Second Judicial District of New York - Strong Starts Court Initiative (Brooklyn)	Judge Illana Gruebel, Kate Wurmfield (Director, Family Court Programs), Susan Chinitz (Consultant Psychologist), and members of the Strong Starts Court Initiative team.
5/11/2022	Virtual, New York, USA	Dr Joy Osofsky, Professor of Pediatrics and Psychiatry, Louisiana State University.	Dr Joy Osofsky, Professor of Pediatrics and Psychiatry, Louisiana State University.
	Glasgow, Scotland, UK	Glasgow Infant Family Team (GIFT)	Julia Donaldson (Clinical Director, GIFT), Rosie Simpson (GIFT Team Manager), Matt Ford (Director of Partnerships, NSPCC)
15 November 2022	London, England, UK	London Infant Family Team (LIFT)	Judge Carol Atkinson, Nichola Cosgrave (Clinical Director, LIFT), Clare Lamb, Sherma Chares, Diane Emmanus, Siobhan Ray (Social Worker, LIFT) and other members of the LIFT team.

5. THE CASE FOR INNOVATION

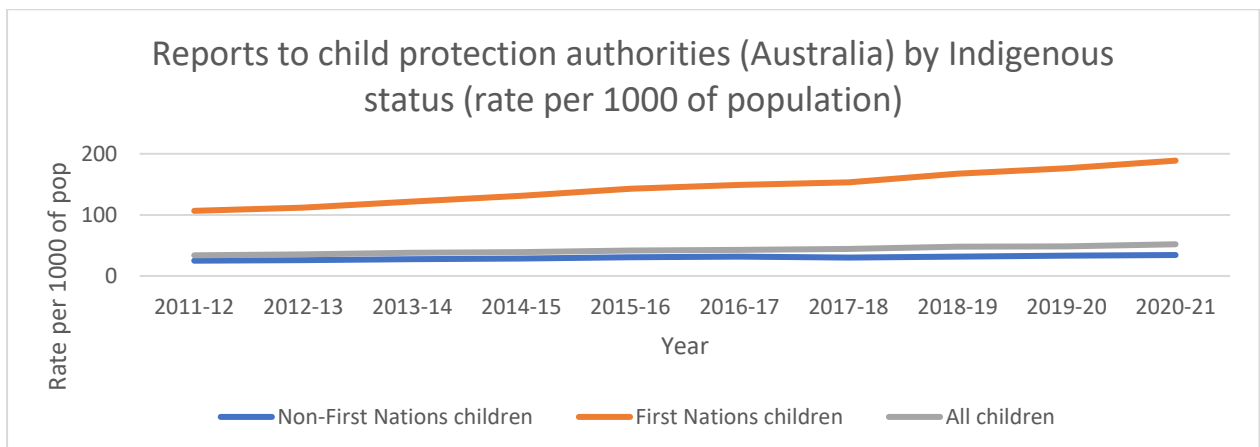
Across each of Australia’s various child protection systems each year, more and more children are coming to the attention of statutory authorities through reports expressing concern about the safety of children due to abuse and neglect. Reports to Australia’s child protection systems have consistently increased annually, with a 69 per cent increase from 2011-12 to almost 300,000 reports in 2020-21.²

Figure 1 - Children in reports/notifications to Child Protection by State/Territory³



First Nations children are significantly overrepresented in reporting data, with rates of reporting with respect to First Nations children across Australia at 188.8 per thousand of population in 2020-21, compared with 34.3 per thousand of population of non-First Nations children (and 51.9 per 1000 of population overall), continuing an ongoing trend of increasing overrepresentation⁴. (Figure 2)

Figure 2 – Children in reports/notifications to Child Protection (Australia) (rate per 1000 of population) by Indigenous status



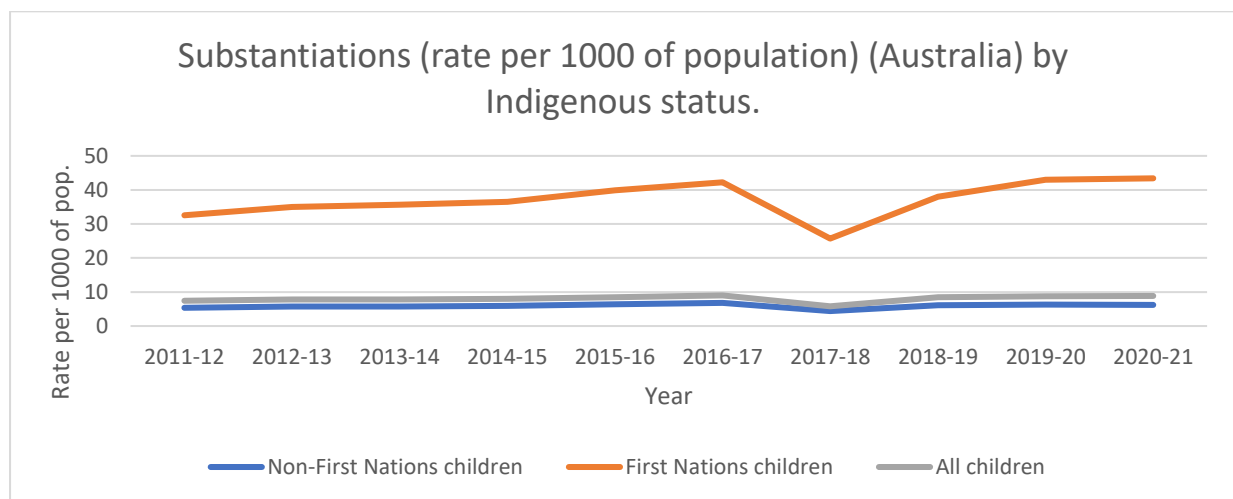
² Australian Government Productivity Commission, Report on Government Services, 2022

³ Australian Government Productivity Commission, Report on Government Services, 2022

⁴ Australian Government Productivity Commission, Report on Government Services, 2022

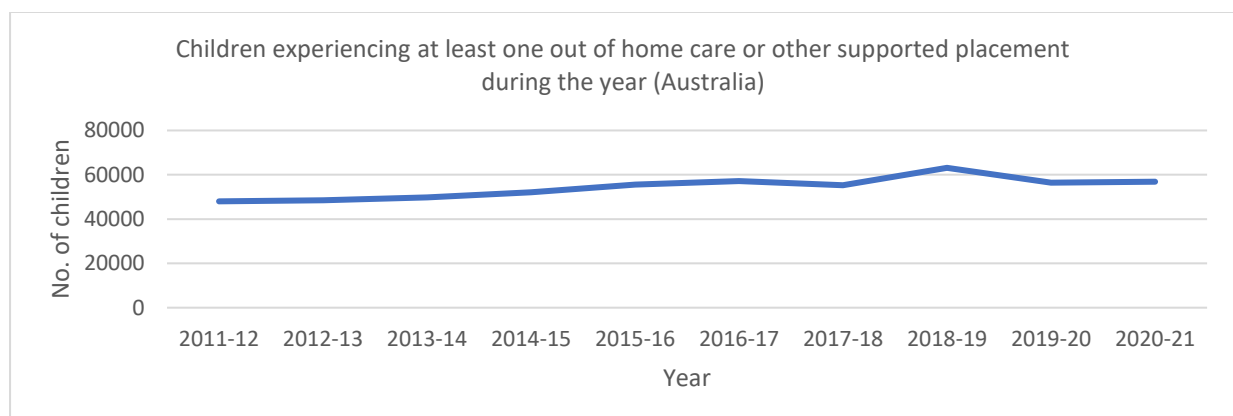
Alongside the growth in annual reports to Australia’s child protection systems, sits an increase in the number of substantiations of those reports, that is, where an investigation concludes that a child has, or is likely to have, suffered harm as a result of abuse and/or neglect. Across Australian jurisdictions, 49,690 substantiations were made in 2020-21, representing that one in 114 of all Australian children aged under 18 years were subject to a substantiated report of abuse or neglect, reflecting a 31.5 per cent increase from 2011-12. For First Nations children, this rate of substantiated abuse or neglect was 43.4 per thousand of population nationally in 2020-21 while it was 6.2 per thousand of population for non-First Nations children, again reflecting a significant over-representation of First Nations children within Australia’s child protection systems.⁵

Figure 3 – Substantiations by Australian Child Protection authorities by Indigenous status



Alongside incrementally increasing numbers of children in reports and substantiation rates, sits a consistently increasing number of Australian children experiencing the trauma and disruption of entry into out of home care or other supported places each year. Figure 4 shows an 18.4 per cent increase in the number of children experiencing at least one out of home care or other supported placement over the 10 years to 2020-21.

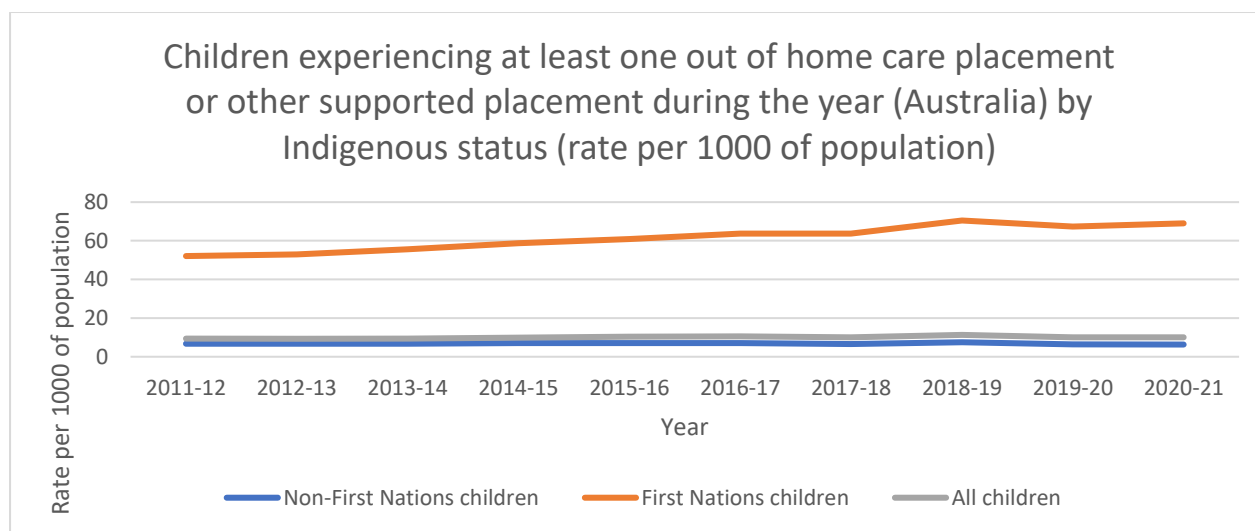
Figure 4 – Children experiencing at least one out of home care or other supported placement during the year.



⁵ Australian Government Productivity Commission, Report on Government Services, 2022

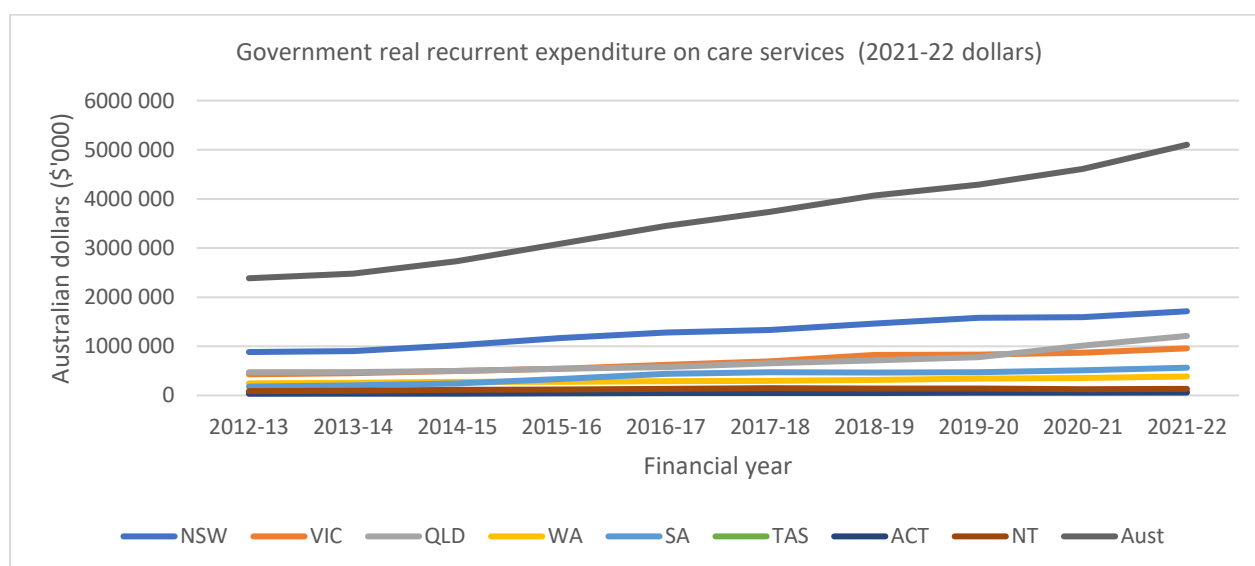
First Nations children experience at least one out of home care placement or other supported placement at a significantly higher rate than non-First Nations children. In 2020-21, First Nations children experienced this trauma and disruption at a rate of 69.1 per thousand of population, compared with 10 per thousand of population for non-First Nations children. Over the ten years to 2020-21, this represents a 32.6 per cent increase in this rate for First Nations children, compared with an 18.9 per cent rate increase for non-First Nations children (Figure 5.)

Figure 5 – Rate (per 1000 of population) of children experiencing at least one out of home care placement during the year (Australia) by Indigenous status.⁶



Unsurprisingly, real recurrent expenditure by every Australian State and Territory on these care services has consistently risen over the 10 years to 2021-22, with a total Australian spend on care services of over 5 billion dollars in the 2021-22 financial year (Figure 6.)

Figure 6 – Government real recurrent expenditure on care services (2021-22 dollars)⁷



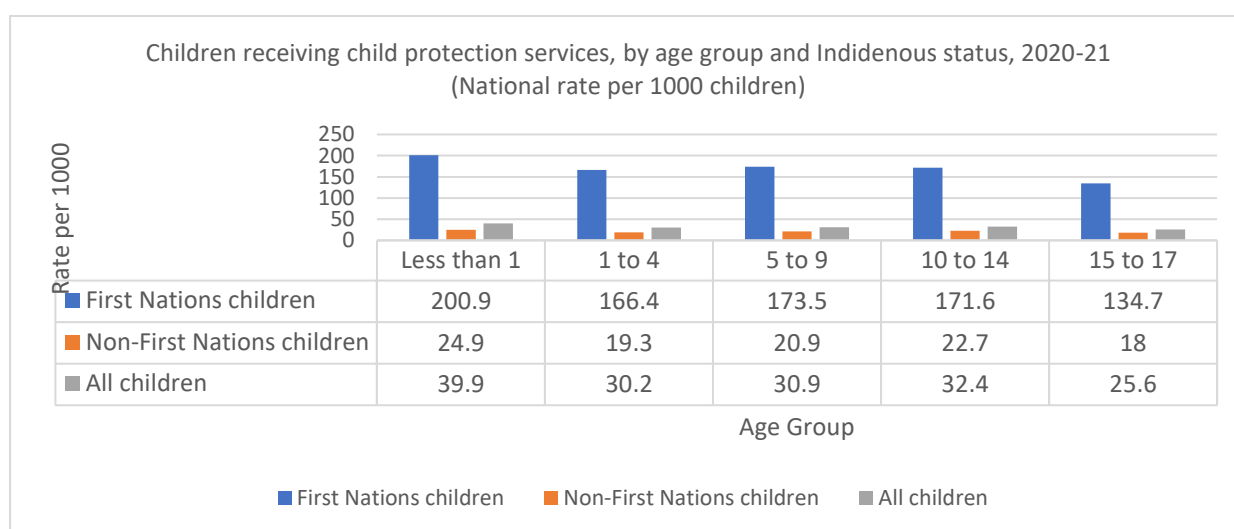
⁶ Australian Government Productivity Commission, Report on Government Services, 2022

⁷ Australian Government Productivity Commission, Report on Government Services, 2022

The over-representation of infants and very young children.

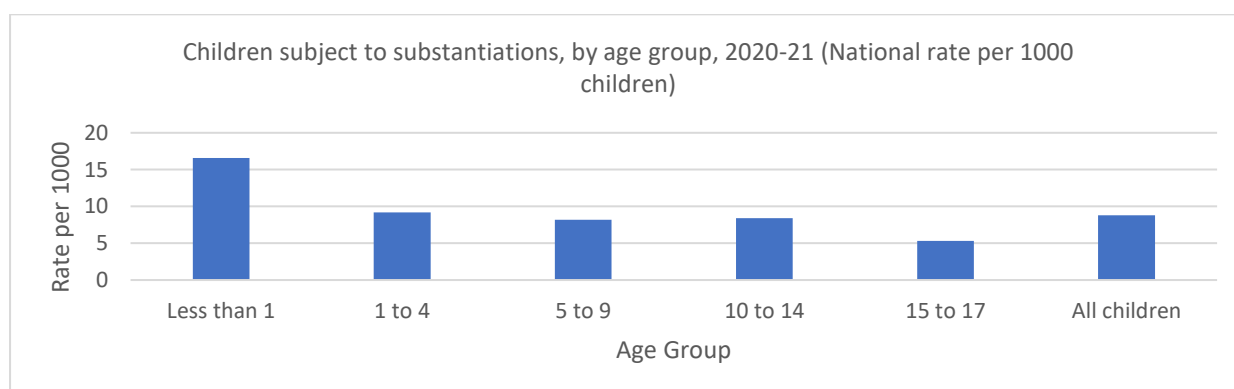
Amidst the ongoing escalation in reports, substantiations, and entry into out of home care sits a significant over-representation of infants and very young children in each category. Consistent with previous years, the Australian Institute of Health and Welfare (AIHW) reports that nationally, infants and very young children had the highest rate of receiving child protection services in 2020-21, when compared with older children. In 2020-21, infants aged under one year received child protection services at a rate of 40 per thousand of population, higher than any other age group. While First Nations children continue to be over-represented within every age group, First Nations infants and very young children also receive child protection services at a higher rate than First Nations children in all other age groups. (Figure 7)⁸

Figure 7 - Children receiving child protection services, by age group and Indigenous status, 2020-21 (rate)



The AIHW report that infants and young children (aged under 4 years) are made the subject of substantiation decisions at a higher rate than older age cohorts, with this being even more significantly the case for infants aged less than one year (Figure 8)⁹

Figure 8 - Children subject to substantiations, by age group, 2020-21 (rate)¹⁰



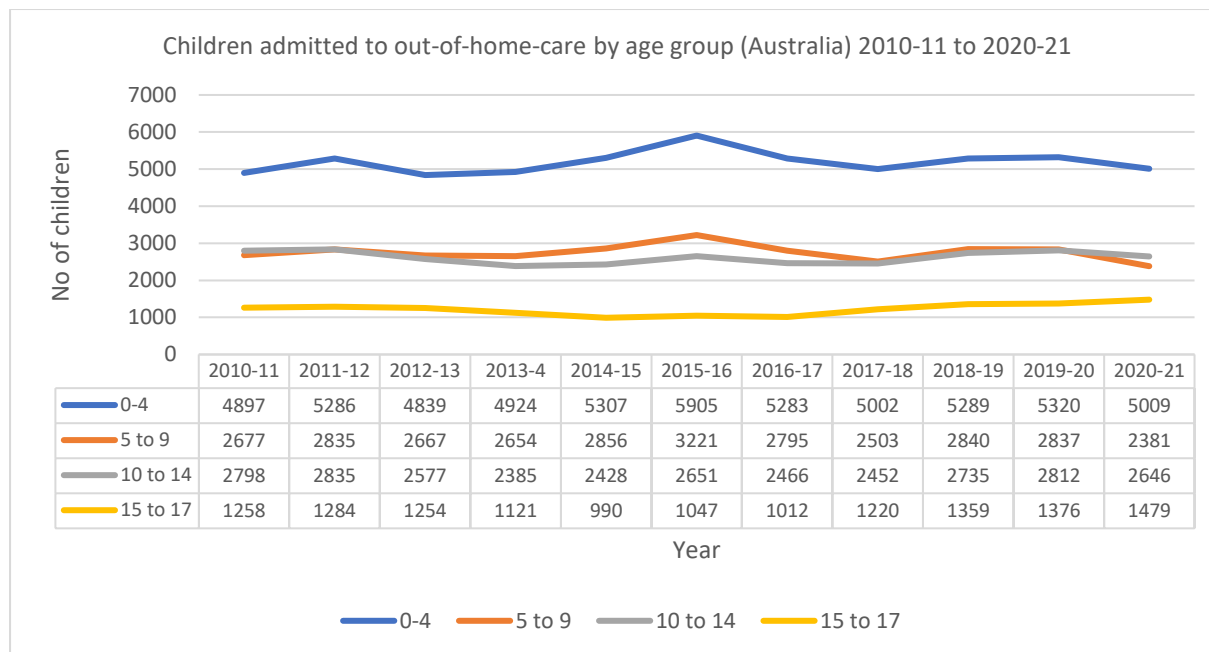
⁸ Australian Institute of Health and Welfare, 2022

⁹ Australian Institute of Health and Welfare, 2022

¹⁰ Australian Institute of Health and Welfare, 2022

As a corollary to the greater prevalence of infants and young children in child protection substantiations, and compounding the plight of this most vulnerable cohort, children aged 0 to 4 years enter out of home care in significantly higher numbers than children or young people in any other age group (Figure 9).¹¹

Figure 9 - Children admitted to out-of-home-care by age group (Australia) 2010-11 to 2020-21.



The AIHW report that, as has been consistent over at least the last 10 years, 2020-21 saw rates of out of home care entry highest for youngest children, and falling as age increase. At the same time, rates of discharge from out-of-home-care were among the lowest for infants and very young children when compared with children in other age groups.¹² National and International literature indicates that of all age cohorts entering out of home care, infants experience the longest placement duration¹³ and that where children enter out of home care in infancy, they will, on average, spend more of their childhood in care than children who first enter care at an older age.¹⁴

The significance of infant and very young children over-representation

The over-representation of infants and very young children in the child protection-related metrics above can be easily understood by reference to infants’ increased vulnerability to harm, and to the consequences of harm, from abuse or neglect than in other aged cohorts. Children aged zero to three years are consistently the largest age cohort among child deaths reviewed by Victoria’s Commission for Children and Young People (CCYP), ranging between 44 per cent and 59.2 per cent of deaths of children known to Victoria’s child protection system over the six years from 2015-16¹⁵, consistent with data from National and International jurisdictions.¹⁶ That infants are entirely dependent on caregivers to have their physical and developmental needs met means that they are more vulnerable to harm when the capacity of their caregivers to meet those needs is compromised,

¹¹ Australian Institute of Health and Welfare, 2022
¹² Australian Institute of Health and Welfare, 2022
¹³ Wulczyn et al (2011), Zhou and Chilvers (2010)
¹⁴ Wulczyn et al (2011)
¹⁵ Commission for Children and Young People, 2015-16 to 2020-21
¹⁶ Australian Institute of Family Studies, 2009

and their physiological fragility sees them more vulnerable to serious harms as a result of acts of omission or commission.

Alongside the immediate harms associated with abuse and neglect, where adverse childhood events such as those that lead to involvement in child protection jurisdictions occur in infancy and early childhood, they can have a significantly deleterious impact on development, leading to life-long disadvantage. The Adverse Childhood Experiences (ACES) study (Felitti et al, 1998) identified dysfunction throughout adulthood in the domains of social, emotional and cognitive impairment, the adoption of ‘health-risk behaviours’, the emergence of disease, disability and ‘social problems’ and early death¹⁷ being influenced by the experience of the types of interpersonal and environmental factors that lead to children’s involvement in child protection jurisdictions. Further, the ACES study identified that the greater the number of adverse childhood experiences experienced in childhood, the greater the number of comorbid adverse outcomes in adulthood¹⁸, highlighting the critical nature of early and high-quality intervention in the lives of infants and young children subjected to those experiences.

Infants’ entry into out of home care can compound the harms associated with the adverse events responsible for that entry. National and International literature indicates that infants in out-of-home care are more likely to experience developmental delays, adverse physical health, and attachment problems, and are more likely to experience adverse longer term outcomes than other children.¹⁹ Chief amongst the impact of exposure to adverse childhood experiences in infancy is the deleterious impact on attachment formation and maintenance – a source of harm that can often be exacerbated by the processes and actions of child protection jurisdictions aimed at protecting children from, or mitigating further, harm. ‘Attachment’ refers to the unique relationship formed between infants and their caregiver/s that is foundational to healthy development, and it is the bedrock of positive infant mental health and adaptive development over the lifespan. Exposure to traumatic harm and to dysfunction and inconsistency in or separation from primary attachment relationships likely to have been experienced by children coming into contact with child protection systems, and particularly by those children entering out-of-home care placements, sees them likely to develop adverse mental health conditions that have lasting negative impacts on psychological and social development across their lifespan.

For First Nations infants and their families, the deleterious impact of involvement in child protection processes, and particularly in relation to entry into out of home care or non-familial living arrangements is significantly compounded by the reality of intergenerational familial trauma associated with racist Australian policies and practices leading to the Stolen Generations, whereby *“subsequent generations continue to suffer the effects of parents and grandparents having been forcibly removed, institutionalised, denied contact with their Aboriginality.”*²⁰ Loss of connection to culture often occurring as a result of removal of First Nations children from parental or familial care sees the concurrent loss of a significant protective factor for the overall wellbeing of First Nations children throughout their lifespan, with the Australian Human Rights and Equal Opportunity Commission’s 1997 National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families ‘Bringing Them Home’ report recording that for the majority of

¹⁷ Felitti et al, 1998, 256

¹⁸ McKelvey et al, 2015

¹⁹ Wulczyn et al (2011), Zhou and Chilvers (2010), Milburn et al (2008)

²⁰ National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, 1997, p154

witnesses to that Inquiry, *“the effects [of removal] have been multiple and profoundly disabling.”*²¹ Rates at which First Nations children experience at least one out of home care placement per year have continued to increase since the release of the ‘Bringing Them Home’ report, with 2020-21 seeing this rate at 69.1 per thousand of population for First Nations children compared with 10 per thousand of population for non-First Nations children

The true significance of infant and very young child over-representation in data related to child protection proceedings does not lie in the higher prevalence of this cohort itself, though that in itself is significant. The greater significance of this over-representation lies in the likely trajectory of adverse outcomes that these most vulnerable children will experience across the range of developmental, social and psychological domains throughout their lifetime unless timely skilled assessment and early intervention targeted at both these children and their familial systems occurs. Critically, assessment and intervention needs to occur on a timeline and in a context that informs decision making amongst child protection and child welfare sector professionals, and by judicial officers in children’s court jurisdictions as early and as comprehensively as possible to minimise the compounding effects of the adversity these most vulnerable children face, and to mitigate against the development of intergenerational trauma and dysfunction.

*The legacy of unhealed adverse childhood experiences is seen every day in [Children’s Courts], as formerly abused or neglected children are now the abusing or neglecting parent. Fortunately, this multigenerational cycle of trauma and maltreatment can be interrupted with a systemic shift towards “therapeutic jurisprudence,” a reframing of the judicial system to promote a more effective approach to altering the trajectory for maltreated children and their families.*²²

Being awarded this 2020 Churchill Fellowship gave me the opportunity to visit and observe innovative approaches throughout the United States of America and the United Kingdom where informed therapeutic assessment and treatment guide decision-making with respect to infants in, or at risk of entering, out-of-home care. I was fortunate to visit a number of jurisdictions throughout the US where specialised Early Childhood Courts are in operation and achieving remarkable outcomes with respect to stability and permanence for children on a timeline commensurate with developmental demands. I was also fortunate to meet with a range of service providers throughout both the US and the UK where comprehensive multi-disciplinary assessment is undertaken at the earliest possible opportunity in infants’ ‘adversity trajectory’, ensuring that welfare and judicial decision makers are optimally informed as to the therapeutic needs of the infants and very young children in their charge. These innovations have real potential to be adopted in Australian child protection jurisdictions, with the promise of revolutionising the experience of infants and their families engaged in court-based child protection proceedings.

²¹ Ibid, p154

²² Florida State University, 2017, 3



Kapolei Court Complex, Kapolei, Hawaii: Home of the District Family Court of the First Circuit (O'ahu) and the Hawaiian Early Childhood Court.

 **17th Judicial Circuit Court of Florida**
October 27, 2022 · 🌐

Today at the 17th Judicial Circuit, the ECC welcomed a visit from Matthew Wilson, the Statewide Program Manager for Family Drug Treatment Court at Australia's Court Services Victoria. Judge Hope Tieman Bristol and ECC Program Director Trent Baker coordinated the visit where Mr. Wilson was able to complete observation for the Churchill Fellowship by examining contemporary practices with children and families in care and protection jurisdictions. The 17th Judicial Circuit applauds Statewide Program Manager Matthew Wilson for his participation in the Churchill Fellowship and for spending time here with us during his visit.



6. EXPERIENCE AND FINDINGS

6.1 Early Childhood Courts and the Zero To Three Safe Babies Court Team™ Approach

Early Childhood Courts had their origin in the 1990's in Miami, Florida, and have since expanded across over one hundred jurisdictions throughout more than thirty-six States in the US. Their genesis lay in Judge Cindy Lederman of Florida's Eleventh Judicial Circuit pioneering the concept of collaborating with an early childhood expert and a child psychologist to better inform the unique needs of infants and their families before the Eleventh Judicial Circuit's child protection jurisdiction, known as Dependency or Juvenile Court.

*"The juvenile court faces many dilemmas including a) how to help an emotionally and intellectually impoverished parent develop the skills needed to stimulate and bond with his or her child while living with deprivation, b) how to help a child and parent achieve such goals and objectives within the barely functioning, underfunded, last-priority child welfare world, c) how to help teach a parent who has never been made to feel safe or nurtured as a child to effectively parent a baby; and d) how to address the issues of cumulative disadvantage within the families in court and achieve positive developmental goals for them and their children."*²³

Judge Lederman, together with Professor Joy Osofsky who provided the infant mental health expertise to the development of the inaugural Early Childhood Court in Miami, writes that whereas judicial officers presiding in Children's Court jurisdictions are well educated in the law, their academic training does not lead to expertise in the science of childhood development, however, by virtue of their position, they must make decisions about children's best interests. "Juvenile court judges work in an environment created and controlled by laws, one that is ill-equipped to change human behaviour and promote healing. In essence, juvenile judges are working in a clinical setting with legal tools."²⁴

As solution-focussed courts, Early Childhood Courts seek to understand and focus remediation attempts on the underlying causes of infants and their families appearing in these specialised dockets. Their focus is on minimising trauma and its impact on child development and infant mental health. They adopt a non-adversarial approach and employ the expertise of multi-disciplinary teams offering individualised, evidence-based treatment approaches to the familial issues and dynamics that have led to their involvement in abuse and neglect proceedings. The underpinning legal theory of Early Childhood Courts, as with all solution-focussed courts is *therapeutic jurisprudence*. Developed in the 1980's in the context of mental health law, therapeutic jurisprudence "explores how insights from other fields-such as psychiatry, psychology, criminology, and social work-are useful to the law and how they can simultaneously be consistent with the due process framework."²⁵ It is "a perspective that regards the law as a social force that produces behaviours and consequences,"²⁶ and simply posits that legal rules, processes, and the behaviours of judicial officers and other professionals operating in legal contexts can produce either therapeutic, anti-therapeutic, or neutral consequences. In Early Childhood Courts, therapeutic jurisprudence manifests itself in less adversarial court events that sees more genuine engagement amongst parties, ensuring more

²³ Lederman and Osofsky (2008), 39.

²⁴ Ibid, 39

²⁵ Wexler (2014), 24

²⁶ Wexler (2000), 125

accurately informed understandings of root problems, and consequently more accurately targeted and effective interventions.



Orange County Courthouse, Orlando, Florida. Courts can be physically and emotionally intimidating for court users. According to principles of therapeutic jurisprudence, such discomfort can promote antitherapeutic outcomes.

From the first Early Childhood Court in Miami, Florida, the US national Zero To Three organisation built on those conceptual origins, and developed the “Safe Babies Court Team™ (SBCT) Approach” which has guided the implementation of Early Childhood Courts, sometimes known as Infant-Toddler Court Teams, across in excess of one hundred jurisdictions throughout more than thirty-six states in the US. SBCT is an approach, as to opposed to a model requiring strict adherence, meaning that individual jurisdictions can adapt the development of their own model to unique jurisdictional conditions. Zero To Three provide training, technical support and guidance across jurisdictions, though do not control how individual jurisdictions’ Early Childhood Courts operate or evolve. Notwithstanding that, Zero To Three describe twelve core components of the Safe Babies Court Team™ Approach, guiding the development of their National Infant-Toddler Court Program.

6.1.1 The core components of the Safe Babies Court Team™ Approach²⁷

1. Judicial Leadership

Judicial authority focussed on infants, toddlers, and their families promotes system collaboration. This leadership position, because of the unique authority in the processing of child welfare cases, is a catalyst for change. The judge and a counterpart in the [child welfare service] convene the initial information meetings with community stakeholders and support building collaboration across the different organizations involved with the family to better support young children.

2. Local Community Coordinator

The community coordinator is a pivotal team leader who facilitates collaboration across the court system, child welfare and other public agencies, and community service providers to transform the standard of care for infants, toddlers, and their families into an evidence-based continuum that recognizes the unique strengths and needs of each family. Each court team community requires a full-time local community coordinator who provides child development expertise to the judge and the court team, and coordinates services and resources for infants and toddlers. Due to the dual role of the community coordinator (case-specific coordination and system-level reform), the court team should adhere to a caseload limit of no more than 20 open cases at one time.

3. Active Court Team focussed on the Big Picture

Each community has a team of key stakeholders devoted to restructuring how the community responds to the needs of maltreated infants and toddlers. The team meets monthly to learn about available services, identify gaps in services, and discuss issues raised by the cases that members of the court team are monitoring. Members can include judges, child welfare agency staff, attorneys, healthcare provider, childcare providers, law enforcement, child/family advocates, and anyone else in the community whose work touches the lives of maltreated infants, toddlers, and families.

4. Targeting Infants and Toddlers in Out-Of-Home Care

The court team focusses on foster care cases involving children younger than 36 months. Children are identified prior to removal, and at the first hearing, the community coordinator reaches out to parents directly or through the parents' attorney to describe the project, provide a package with information, and invite the family to participate. Comprehensive developmental, medical and mental health services are incorporated into the case plan document to ensure that the children's wellbeing is given primary consideration in the resolution of the case. The list of services in the case plan should be available to the judge for inclusion in the judicial orders or incorporated when the judge accepts the CWS's case plan.

5. Valuing Biological Parents

The court team recognises that the parents of young children who enter the CWS have suffered their own history of trauma. As the first goal is to help parents and children reunify, parents should receive comprehensive medical and mental health assessments including evaluation for childhood trauma, prenatal alcohol exposure, substance abuse, and domestic violence.

²⁷ Casanueva et al, (2017), 4-8

6. Placement and Concurrent Planning

To reduce placement changes, the court teams use concurrent planning, a technique that requires the quick identification of, and placement with, caregivers who are willing to become the child's permanent family if reunification becomes possible. These caregivers must see themselves primarily as supports to the birth parents in achieving reunification, and secondarily as a child's forever family should the need arise.

7. The Foster Parent Intervention, Mentors and Extended Family

Foster parents are important members of the court team. Training and support from the child welfare agency is given prior to and while foster parents are engaged with a child and his or her family. Training and support are needed to support foster parents; role, which includes providing loving care for children placed with them, advocating for the children in their homes, and mentoring the biological parents, siblings, and extended family. Extended family members are considered as options for foster care, but not at the detriment to the parents' ability to successfully reunite with their children.

8. Pre-Removal Conferences and Monthly Family Team Meetings

Pre-removal conferences are held prior to the child being placed in foster care. This gathering includes the family, their support system, the case investigator, the foster care case worker, and the community coordinator. It sets a welcoming tone for parents who are frightened and communicates to parents that the goal is reunification. Each month, the family, community coordinator, and a team of service providers, attorneys, and child welfare agency staff hold a family team meeting to review the family's progress and track the referrals made, services received, and barriers encountered. Family team meeting goals are to bring quicker resolution of cases, build trust and communication among those invested in the child's case, and speed access to services.

9. Parent-Child Contact (Visitation)

Independent of the quality of the relationship between a child and her parents, young children are attached to them and separation is painful. The goal of frequent parent-child contact is to provide continuity through regular time together, build a stronger parent-child bond, provide a model for good parenting, and improve the parents' responsiveness to the child's needs. Frequent contact allows the team early in the case to observe whether parents can commit to the process. Research shows frequent parent-child increases the likelihood and speed of reunification, reduces time in out-of-home care, and promotes healthy attachment. The determination of frequency of contact should be made on a case-by-case basis. The court team focuses on increasing parent-child contact by expanding the opportunities (eg doctor's appointments) and locations (eg foster home, birth parents' home). Substitute caregivers are supported by the team to help the child and parents build and maintain a healthy, loving relationship. The SBCT approach considers the assessment of the quality of the parent-child relationship and subsequent creation of an individualized plan for parent-child contact to be critical to provide the amount of interaction that is best for the child. The type of contact may range from light daily supervision with the parent living in the relatives' home, to intensive psychotherapeutic dyadic and individual work for parents overcome by their own trauma history. Each visit should be an opportunity to support parents' strengths and improve the quality of the parent-child relationship by learning nurturing behaviours, reasonable developmental expectations, how to establish safe limits, and how to delight in their child's

discovery and exploration of the world around them. For cases involving parents who have traumatized their children through physical abuse or severe neglect, parent-child contact can further traumatize children. Clinicians with expertise in maltreatment and trauma should be involved in the assessment, parent-child contact plan, and intensive treatment, providing guidance and recommendations to the team about further contact.

10. Continuum of Behavioural Health Services

Children who experience child maltreatment and the subsequent separation from their biological parents may need mental health services. The services plan should be guided by the parent-child relationship assessment, which includes:

- (a) A structure interactional play assessment that measures:
 - i. The parents' ability to provide emotional support, create structure and set limits, and help the child learn
 - ii. The child's ability to show affection, regulate feelings, and respond to learning situations and to adults' requests
- (b) An interview with the adults to assess the internal "working model of the child" including negative perceptions of the child and unrealistically high expectations of the child's developmental capacity and behaviours.

Based on the assessment, the clinician provides recommendations to the team and the court on the types of evidence-based interventions needed by the family, including visit coaching, psychoeducational parent education, and Child-Parent Psychotherapy. Parents also may need mental health and substance abuse treatment services to help them address the underlying mental or emotional concerns. Delivery of EBP's can address underlying trauma and promote healing for infants, toddlers, and their parents, which can in turn strengthen parenting and the parent-child relationship. To meet these needs, each SBCT develops a continuum of mental health services.

11. Training and Technical Assistance

Zero To Three staff and consultants provide training and technical assistance to the court team community on topics such as infant mental health, historical racism and trauma, racial disparities, fetal alcohol spectrum disorders, infant and toddler development, parenting interventions, services available to foster children in the community, trauma, parental substance abuse, domestic violence, mental illness, and poverty. Technical assistance from Zero To Three includes weekly team meetings and individual supervisory calls by the director and other supervisory staff to the local community coordinators. Training also includes participation in the annual Zero To Three conference and cross sites meeting, and access to Zero To Three resources, including videos, book, guides, and reports. The goal of training and technical assistance is to strengthen the professional development; create a shared knowledge base across professionals on issues related to early child development, the impact of trauma, and effective interventions; and support changes in roles and behaviors of the court team during court hearings.

12. Understanding the Impact of Our Work (Evaluation)

Each court team evaluates its work. The approach is focused on bringing key participants into continuous quality improvement (CQI) and evaluation planning. CQI is a process for identifying areas of strength to build on in future work and challenges to address through deliberate action. To evaluate its work, each court team collects information on knowledge enhancement among child welfare professionals, systems change, and outcomes for children and families. Staff provide

support to sites to standardize data collection and analysis, with the goal of helping child welfare agencies and courts measure the impact of their work locally. Measuring results across communities in a consistent way builds the evidence base for the effectiveness of the model, which can promote replication.

Through the Churchill Fellowship, I was fortunate to be able to observe Early Childhood Courts and meet with their presiding Judges, community coordinators and court teams in Kapolei in Hawaii, Orlando, Fort Lauderdale and West Palm Beach in Florida. I was very grateful for the welcome I received in each jurisdiction, and for the generosity of time and expertise I was given by members of the judiciary, parent and child attorneys, ECC community coordinators and members of the various court teams. The jurisdictions I visited were at varying stages of returning “face to face” from having operated in an online context due to the COVID-19 pandemic, and I was fortunate to have the opportunity to make observations and meet with people through both modalities.

NINTH OF FLORIDA Ninth Circuit Court of Florida 1,111 followers 4mo • 🌐

Judge Alicia Latimore and our Problem Solving Court team recently hosted a special visitor to our circuit! Matthew Wilson, the Statewide Program Manager for Family Drug Treatment Court at Australia's Court Services Victoria, traveled to Orlando for the third stage of his Churchill Fellowship where he investigates innovative approaches to infants and their families in care and protection jurisdictions. During his visit, he got to observe both Mental Health Court and Early Childhood Court to find out more about how we operate the two and carry out trauma responsive practices.

And as a token of his appreciation, Matthew left us with a gift: a ceramic long-necked turtle. The long-necked turtle is seen as both a protector and guide by Australia's Aboriginal Yorta Yorta people, and this particular turtle was even created by a Yorta Yorta child.

Thank you for visiting, Matthew!

Each jurisdiction's Early Childhood Court I visited in Hawaii and throughout Florida had subtle differences in how their court operated, though all broadly were in accord with the Zero to Three *Core Components* detailed above. The interface each jurisdiction shared with the national Zero to Three organisation varied, from no current active interface reported in Hawaii, to a stronger current interface in Fort Lauderdale, primarily characterised by ongoing training and technical support. Overwhelmingly, every jurisdiction I visited expressed immense pride in the outcomes their Early Childhood Court were achieving for infants and their families, and particularly when compared with outcomes achieved through traditional adversarial court proceedings.



Judge Jessi LK Hall (third from right) of the District Family Court of the First Circuit (O'ahu), Matt Wilson (author, fourth from right) and members of the Early Childhood Court Team in Kapolei, O'ahu.

6.1.2 Early Childhood Court Processes and Operations

- Eligibility

Beyond screening for age eligibility, most Early Childhood Courts I observed did not have strict eligibility criteria. Simply, the court Juvenile or Dependency Court in which the ECC sits must have established jurisdiction to manage the case. The impact of prior parental criminal convictions on eligibility were invariably considered on a case-by-case basis. The Infant is required to be in out-of-home care and the ability of parents to participate in commitments such as monthly family team meetings and monthly court hearings is required.

- Pre-removal conference

Where possible, pre-removal conferences occur prior to the infant being removed from parental care as a point of entry into the ECC. As stated in the core components of the Safer Babies Court Team™ Approach above, the purpose of these conferences is to set a welcoming tone for parents, to clarify roles and responsibilities, and to establish clarity around objectives (reunification) and goals. Led by the ECC Community Coordinator, these conferences are attended by the parent or parents, the child protection practitioner, existing community and familial supports, and in some instances, the parent's legal representative.

- Assessment

After the court has referred the parent and child to the ECC, an in-depth assessment of the parent, child and the parent-child relationship is undertaken by an infant mental health specialist. Parent-child relationship assessment focusses on the parent's capacity to provide emotional support to the

infant, to set limits and to provide structure, and well as the infant's capacity to respond and regulate their emotions and feelings. These aspects of the initial assessment usually occur in a structured play setting. A second focus of the parent-child assessment involves an interview with the parent to understand their 'working model' of the child, helping the assessor to understand the parent's behaviour towards the child, and needs identification with respect to this. This assessment forms the basis of treatment modality and service engagement recommendations and is provided to the EC judicial officer and to the multidisciplinary court team. The assessment and the recommendations that flow from it are updated regularly and communicated to the Court Team as progress towards treatment goals are re-assessed.

- The Court Team

Comprised of key stakeholders, the ECC Court Team is committed to systems change to better meet the needs of infants and their families involved in child protection proceedings. Meeting on a monthly basis, the purpose of the Court Team is to drive the effectiveness of the ECC by identifying issues and trends observed in ECC families, reviewing program data, identifying service gaps and maintaining a comprehensive awareness of services and supports available to ECC users.

- The Family Team

The Family Team is led by the Community Coordinator and meets monthly. The purpose of the ECC Family Team is to review ECC participant progress, provide observations and make recommendations, as well as deliver treatment and case management. The effect of the Court Team is to build a supportive community around the family to drive goal attainment. Composition includes the parent and the alternative caregiver (eg, foster carer), the ECC Community Coordinator, the infant mental health specialist, legal representatives, the child protection practitioner, and other service providers engaged with the family. Whereas "concurrent planning", that is, planning for the infant's permanence in the event that reunification with the parent is not achieved, is a pivotal aspect of ECC operations, the Family Team meetings also address concurrent plans to ensure that delays to the child's eventual permanence should reunification not occur are minimised. Transparency is key, and the parent's participation in planning for and reviewing progress is pivotal to effective Family Teams. Of the parent's participation in the processes that affect them, the Seventeenth Judicial Circuit Court's ECC staff in Fort Lauderdale were proud to advise me that "we say nothing about them without them".

Notable amongst Family Team attendees (and the monthly Court appearances), were guardian ad litem and peer mentors – the latter also known as Parent Partners. Throughout all the jurisdictions I visited in Hawaii and Florida, guardian ad litem were engaged with ECC participant children, and indeed with all children involved in care and protection jurisdictions. The role of the guardian ad litem is essentially to promote and protect the infant's interests. They do this through attending meetings and appointments relating to the infant's child welfare case, visiting the infant in care, and on occasion attending the parent's contact visits. The guardian ad litem is an objective, impartial person and has the status of a party to proceedings in all Dependency or Juvenile Court proceedings. They are not unique to ECCs. In some jurisdictions, such as Hawaii, guardian ad litem are community volunteers screened and supervised by court-appointed personnel, while in other jurisdictions they are government-employed and often legal or child welfare professionals.

Peer mentors (or Parent Partners) were also engaged in some ECCs I visited. Bringing lived experience of the successful navigation of child protection proceedings, the role of peer mentors in

ECCs is to support parents in understanding processes, help regulate often painful and difficult experiences, and to assist in advocating for the parent’s experience where required.

- Monthly Court appearances

Monthly ECC court hearings are the formally listed court event at which progress towards identified parent and infant goals, treatment and other service engagement, barriers and successes are formerly reported to the Court, and where amendments to existing court orders can be made where warranted. Updates on concurrent planning are also expected, and goals to be accomplished before the next hearing are determined. The mental health clinician providing CPP to Early Childhood Courts is a powerful voice in the courtroom alongside the members of the Family Team present informing the judicial officer of therapeutic progress to inform judicial decision-making that can be contemporaneous to emerging need or development. Informed by the concept of therapeutic jurisprudence, ECC Court hearings are less formal than traditional court events, though all traditional respectful conventions are maintained. The approach is strongly non-adversarial. The court rooms I observed were, in most instances, decorated to become a less austere, more child or family-friendly physical environment. Conversations occur directly between the parent and the judicial officer, though legal representations may also occur through legal representatives for all parties in attendance.



Judge Hope Tieman-Bristol (centre) and members of the Seventeenth Judicial Circuit Court’s Early Childhood Court with the author in Fort Lauderdale, Florida. Note the sign on the courtroom wall on the left that reads “Be nice or leave”!

While progress towards the primary objective of reunification is the primary focus of ECC appearances, the status of concurrent planning is also expected to be canvassed. Judicial demeanour is candid and warm, conveying knowledge of and investment in the experience and progress of family members, while clearly maintaining judicial authority through the communication

of clear expectations and the making of orders. Cultural diversity is recognised and honoured to ensure the operations of the ECC are both culturally competent and safe.

6.1.3 Child-Parent Psychotherapy

A core component of the Zero to Three Safer Babies Court Team™ approach is the engagement of Early Childhood Court participants in a continuum of behavioural health services. This continuum includes a range of interventions, including the Parent-Child Relationship Assessment that occurs upon referral to the ECC. Trauma interventions and engagement in individual parent treatments (eg for adverse mental health, addiction, etc) also sit within this continuum.

The most prominent intervention in each of the jurisdictions I visited was Child Parent Psychotherapy (CPP). Evidence-based, CPP is a relationship-based intervention “designed to repair the behavioural and mental health problems of infants, toddlers, and pre-schoolers whose most intimate relationships are disrupted by experiences of maltreatment, violence, and other forms of trauma that shatter the child’s trust in the safety of attachments.”²⁸ The intervention usually involves weekly sessions for a duration of 20 to 32 weeks, though duration can be extended in response to clinical need. In some ECCs I visited, CPP engagement duration was expected to be 12 months. Unlike many interventions typically employed in child welfare cases, CPP is dyadic in that sessions are attended jointly by the child *and* the parent or primary attachment figure, and its focus is on healing the infant-parent relationship, while developing parental insight and an evolving understanding of the infant’s needs of their parent as they develop.

Core components of Child-Parent Psychotherapy

The founders of the inaugural Early Childhood Court in Miami, in describing child-centred practices for the courtroom and community, identify the following core components of child-parent psychotherapy:²⁹

- *Joint sessions are carried out with the child and parent in the playroom together and are centred on the child’s free play with carefully selected therapeutic toys.*
- *The focus during play is on the child’s trauma experience and on the child-parent interaction, with individual sessions scheduled for the parent as needed to provide parental guidance and help support the parent’s relationship with the child.*
- *During CPP, the work involves helping the parent understand the developmental and emotional meaning of the child’s behaviour to increase parental understanding and empathy.*
- *A focus of the intervention is helping the parent to understand his or her child’s emotions, including those that are “dysregulated” due to exposure to trauma.*
- *An additional focus of the intervention is on maladaptive child behaviours and parenting patterns that are punitive, harsh, or developmentally inappropriate.*
- *CPP fosters joint parent-child activities that promote mutual pleasure and the child’s trust in the parent.*
- *A variety of intervention strategies are used that are individually tailored to the needs of the child and the parent.*

As an evidence-based intervention, empirical evidence as to the effective impact of CPP has been identified by randomised studies consistently pointing to improved outcomes including lower

²⁸ Lieberman et al (2015)

²⁹ Katz et al (2011)

insecurity, avoidance, anxiety and anger observed in the attachment styles of CPP treated infants and children, higher levels of parental empathy, enhanced satisfaction in parental relationships, and improvements in behavioural problems, traumatic stress symptoms, and mental health diagnostic status.³⁰

6.1.4 Visit Coaching

Alongside child-parent psychotherapy on the continuum of behavioural health services that contribute to the efficacy of Early Childhood Courts is ‘visit coaching,’ also known as ‘therapeutic visitation.’ While the Safe Babies Court Team™ Approach advocates for high frequency contact visits between parents and infants where safe and appropriate, it also advocates for at least some of those contacts to be guided through visit coaching which aims to make contact a ‘positive and educational experience, maximizing the parents’ development of strong parenting skills in a realistic environment while strengthening the child-parent bond.’³¹ Formal visit coaching sees trained ‘visit coaches’ supporting parents to prepare for visits, and offer guidance and support both during and after visits.

6.1.5 ECC Evaluation outcomes

With Early Childhood Courts and the Safe Babies Court Team™ Approach having undergone a number of evaluations³², findings indicate that Early Childhood Courts achieve permanency for children at higher rates, and in a shorter period of time than control groups. American Institutes for Research’s 2020 evaluation identified that children involved with ECCs exit out-of-home care on average 4 months sooner than children involved in traditional court process alone, and that where ECCs implement the Safe Babies Court Team™ Approach in full, children involved were 5 times less likely to re-enter out-of-home care than the control cases. Reduction in the time ECC infants spend in out-of-home care was a common theme across the various evaluations, with a 2009 mixed methods evaluation identifying that ECC involvement saw children leave foster care nearly three times faster than the comparison sample.

An evaluation undertaken by the Quality Improvement Centre for Research-Based Infant Toddler Courts in 2017 identified that amongst closed ECC cases, 87 per cent of children reached permanency within 12 months, with no significant difference in permanency outcomes across race or ethnicity. The study found that parental ACE scores (Adverse Childhood Experiences) had a determinant effect on permanency outcomes, with reunification more likely where parental ACE scores were lower.

A 2009 evaluation by James Bell Associates across multiple ECC locations found that 99.05 per cent of children involved with an ECC were protected from further maltreatment, with no report of substantiated maltreatment being made within 6 months from the initial report. This evaluation found that 95 per cent of closed ECC cases achieved permanency, 97 per cent saw children receive needed services to meet identified needs – particularly relating to routine paediatric care, and that where reunification occurred through ECC engagement, 59 per cent were reunified within 12 months from the date of the case opening, 37 per cent within between 12 and 18 months, and 5 per cent within between 18 and 24 months of case opening. Favourable outcomes in terms of placement stability prior to permanency being achieved were also identified.

³⁰ Lieberman et al (2015)

³¹ Florida State University (2017) 18

³² Faria et al. (2020), Casanueva et al, (2017), Foster and McCombs-Thornton (2015), McCombs-Thornton (2011), James Bell Associates (2009)

Finally, a cost benefit analysis of Zero to Three informed ECCs in 2015 determined that on a per child basis, 75 per cent of ECC costs were mitigated by out-of-home care cost avoidance alone, referencing expedited permanency outcomes for children benefitting from ECC engagement. This study noted a greater cost benefit would flow from ECC engagement with longer term outcomes associated with greater, relatively low cost, service engagement such as developmental screening, dental services and health care visits occurring for families engaged with ECC than those who were not. Benefits of infant mental health engagement, together with the developmental stability afforded by expedited permanence were also identified as longer-term economic benefits, with this analysis stating that if this stability led to just a 3 per cent increase in the likelihood of high school graduation by ECC children, then “the resulting savings would more than cover the costs of this program.”

6.2 Strong Starts Court Initiative

The Strong Starts Court Initiative represents a different iteration of Early Childhood Courts to those underpinned by the Zero To Three Safe Babies Court Team™ Approach. Auspiced by New York’s Center for Justice Innovation (formerly known as the Center for Court Innovation), the Strong Starts Court Initiative operates the Family Court in each of New York City’s five Boroughs, and in the New York State County of Westchester County. As a part of Churchill Fellowship travels, I was fortunate to attend the Center for Justice Innovation in Manhattan to meet with key Strong Starts leadership and attend the Steering Committee meeting of the newly established Strong Starts program in Manhattan. I was also fortunate to visit the Kings County Family Court where Brooklyn’s iteration of Strong Starts is located.

Launching in 2015 in the Bronx Family Court, the Strong Starts Court Initiative had four primary goals:³³

1. To develop a specialised court approach and increase the family court’s capacity to bring positive changes to children ages three years and younger and their families involved in child abuse and neglect cases in the Bronx Family Court;
2. To assess and understand the needs of court-involved infants and their families;
3. To enhance delivery of targeted services for court-involved infants and their families; and
4. To reunite court-involved infants and families.

Like the Safe Babies Court Team™ Approach- informed ECCs, the Strong Starts Court Initiative is trauma-informed and brings infant mental health and child development expertise to the courtroom in care and protection jurisdictions. Critically however, Strong Starts differ from other ECCs in they can be referred cases where children still reside in parental care in addition to cases where children reside in out-of-home care. Where children remain in parental care, the focus of Strong Starts is on maintaining that arrangement, while working on increasing safety and enhancing family functioning. Where children are in out-of-home care, Strong Starts focus is on achieving safe, stable reunification, or alternate permanency where reunification cannot occur. To be eligible for referral, children must be aged under 4 years, and the family must not have prior child protection involvement.

³³ Hahn (2016) iv



Kings County Supreme and Family Court in Brooklyn, New York – home of the Brooklyn Strong Starts Court Initiative.

The Strong Starts model sees a clinically trained coordinator embedded in each court providing comprehensive assessment, referrals and direct support to families and foster carers, and playing an educative role to judges and attorneys, particularly in relation to infant mental health, child development and available resources. The model utilises a dedicated judicial officer as the Safe Babies Court Team™ Approach informed ECCs do, though is less prescriptive with respect to operational processes. Monthly court hearings are inherent to the model, and these are preceded each month by a ‘clinical conference’ led by the Strong Starts Coordinator, and involving family members, child protection practitioners, other support services, and legal representatives to discuss case progress and identify actions to mitigate barriers to progress. A report is then provided to the judge by the Strong Starts Coordinator, advising on conclusions from the clinical conference. The Strong Starts Court Initiative is driven by the pursuit of procedural justice, ensuring court users understand the proceedings they are involved in, feel respected by them, and have the opportunity to have their voice heard and their experience acknowledged.

As with the Safe Baby Court Team™ Approach- informed ECCs, participants in the Strong Starts Court Initiative are engaged in a range of behavioural health services, with interventions tailored to presenting issues. Child-Parent Psychotherapy is one intervention employed, however is not as central to the model as it is to the Safe Babies Court Team™ Approach, with clinically trained Strong Starts Coordinators able to identify and employ alternate treatment modalities where indicated.

6.2.1 Strong Starts Court Initiative Outcomes

The Center for Justice Innovation contends that the Strong Starts Court Initiative improves the ability of New York’s Family Court to achieve positive changes to participating infants and their families. A 2016 process evaluation of the initiative found improved experience of the Family Court and its proceedings with participants reporting feeling more respected and involved compared with traditional approaches and reporting improved life circumstances as a consequence of their involvement in the initiative, as a result of their engagement with the Strong Starts Coordinator.³⁴

A subsequent 2021 mixed methods evaluation of the Strong Starts Court Initiative³⁵ found that participation in Strong Starts sees a reduction in future applications relating to abuse or neglect, citing that in a follow up period of between six and 54 months, no new applications were filed in relation to Strong Starts cases compared with new applications filed in 12 per cent of comparison cases. This evaluation also concluded that the time to case resolution was shorter than traditional court proceedings where the child’s final placement was not with a parent, though longer when reunification to a parent was the final outcome – presumably due to the time-lapse associated with optimised service engagement. As a result of Strong Starts participation, parents and carers reported greater knowledge of early childhood development, trauma and attachment, and improved relationships between caregivers and children. Lawyers and Judges involved with Strong Starts reported efficiency gains in the processing of Strong Starts cases, and enhanced understandings of early childhood mental health and resourcing and support availability.



Matt Wilson with members of the Strong Starts Court Initiative team in Brooklyn, New York.

³⁴ Hahn (2016)

³⁵ Sharlein (2021)

6.3 Los Angeles County Multidisciplinary Assessment Team

My Churchill Fellowship allowed me to visit Los Angeles to learn about the Multidisciplinary Assessment Team which, while not embedded within a court setting itself, works to inform Los Angeles' courts working in a care and protection jurisdiction as to the strengths and needs of children and their families in cases where children are newly entering out-of-home care.

Initially piloted in 2004, the Los Angeles County Multidisciplinary Assessment Team (MAT) is one component of the Coordinated Services Action Team (CSAT) to whom all children newly subject to removal from parental care are referred for assessment of their strengths and needs. MAT was originally piloted with the specific goals of:³⁶

1. Timely comprehensive, and strength-based assessments of detained children and their families [where 'detention' refers to the child's removal from parental care]
2. Early diagnostic awareness of critical medical conditions leading to early intervention and consistent management of such conditions
3. Increased cooperation between families, caregivers, providers of service, and the Department of Children and Family Services (DCFS).
4. Appropriate team placement decisions for children.

For children of all ages entering out-of-home care and their family, MAT assesses strengths and needs in the domains of mental health, medical health, dental health, development, hearing and language, education, and family and caregiver supports.³⁷ These assessments are required to be completed within 60 days of a child entering out-of-home care. A Summary of Findings (SOF) is produced and shared with children and family members, the child protection authority (Department of Child and Family Services) and other service providers, to inform the development of a mutually agreed plan for treatment that notionally then becomes the foundation for case planning and judicial decision-making.

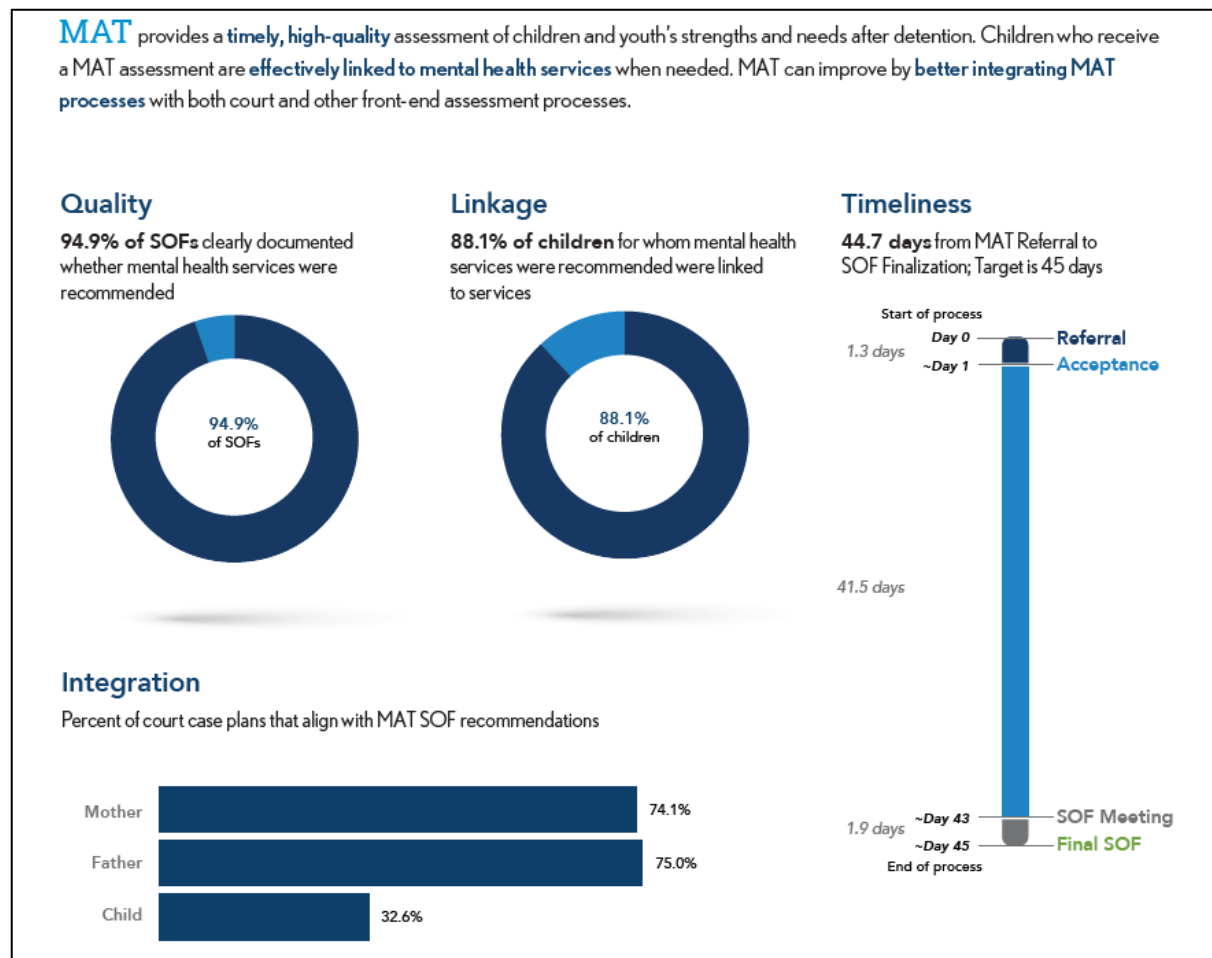
While MAT is not an innovation focussed exclusively on infants, it nevertheless paves the way for the rapid and comprehensive identification of strengths and needs to guide treatment and recovery when infants do enter out-of-home care. This rapid, comprehensive identification being critical to early and accurate goal clarity and, consequently, the engagement of all parties in taking meaningful steps to recovery and reparation such that reunification or alternate permanency for children is more likely to be achieved within optimal developmental timelines. A 2022 evaluation of the MAT process found that Summary of Findings are finalised on average 44.7 days from the point of referral, with 81.8 per cent of SOFs finalised on or before the family's listed court event. SOF recommendations were found to align with case plans for mothers 74.1 per cent of the time, 75 per cent for fathers, but unfortunately in only 32.6 per cent of case plans for children, suggesting that MAT processes are not yet as fully integrated with decision-making for children as they ought to be. Pleasingly though, where mental health services for children were recommended by the SOF, 88.1 per cent of those children were found to subsequently be linked to services.³⁸

³⁶ California Institute for Behavioural Health Solutions (2022) 1

³⁷ Ibid

³⁸ Ibid

MAT Process evaluation outcomes³⁹



6.4 Glasgow Infant and Family Team and London Infant and Family Team

As the final stage of my Churchill Fellowship, I was fortunate to visit the United Kingdom where I had the opportunity to meet with both the Glasgow Infant and Family Team (GIFT) and the London Infant and Family Team (LIFT). GIFT and LIFT are two of three teams (the third being Glasgow's Family Assessment and Contact Service (FACS)) participating in 'BeST?'- a randomised controlled trial that commenced in December 2011 and was due to report during 2021. I visited GIFT and LIFT in the hope of reporting BeST? trial findings in this report, however trial reporting has been delayed, presumably due to impacts of the COVID-19 pandemic. The BeST? trial seeks to compare an infant mental health service with 'services as usual' for pre-school aged children entering out-of-home care, to determine which service best meets the needs of that cohort.

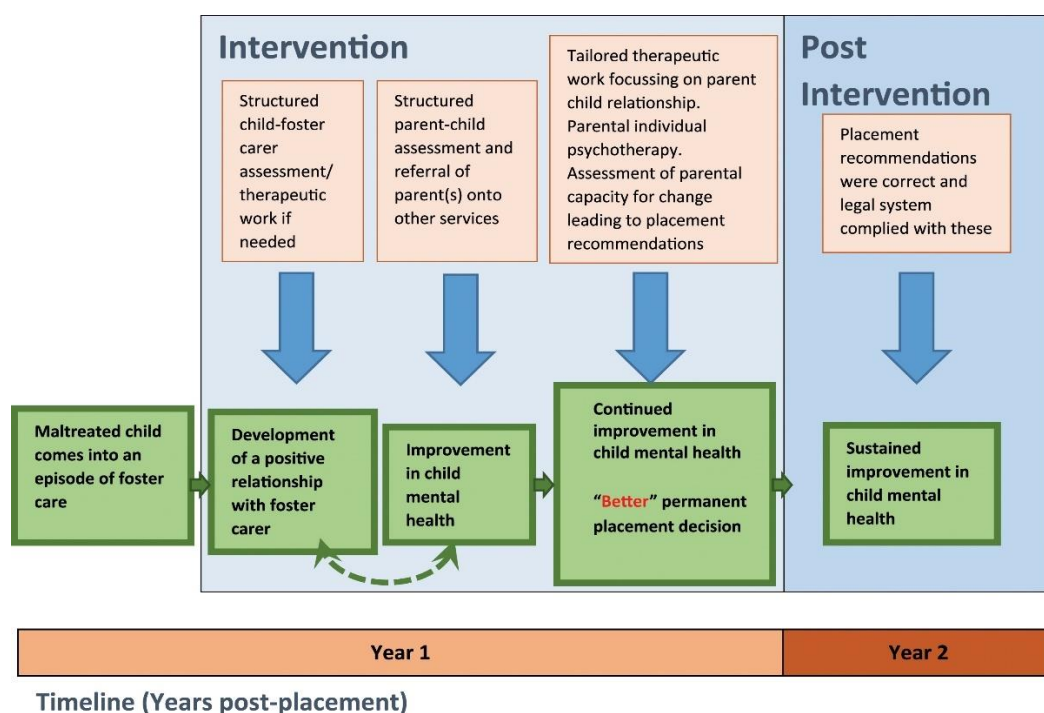
The infant mental health response the BeST? trial compares with 'services as usual' is the New Orleans Intervention Model (NIM). Founded in attachment theory, the NIM is an evidence-based mental health assessment and treatment model, first developed in 1998 in Louisiana, USA. Targeting children aged 0-5 years who have been removed from parental care due to concerns of abuse or neglect, it aims to improve the long-term mental health and placement stability of those

³⁹ Ibid

children. NIM sees assessment and treatment interventions delivered to both the child and the child’s biological parent/s and to the child’s alternate caregivers. It does not maintain a reunification focus, but rather aims to enhance placement stability, through improved mental health, regardless of where the child finds permanency at the conclusion of care and protection proceedings.

The NIM logic sees assessment and treatment delivered in a structured way by a dedicated multidisciplinary team comprising psychiatric, psychological and social work professionals, and is contrasted with ‘services as usual’ which sees assessment undertaken by local statutory authorities, followed by referral to external clinical or support services that usually occur in an unstructured or uncoordinated fashion. The purpose of the BeST? trial is to determine whether NIM or ‘services as usual’ leads to better and more timely decision-making by care and protection legal systems, in addition to which best provides for the child’s stability.

New Orleans Intervention Model logic⁴⁰



Supported by the University of Glasgow and King’s College, London, the BeST? trial services two local child protection authorities in Glasgow – Glasgow and Renfrewshire, and five local child protection in London – Barking and Dagenham, Bromley, Croydon, and Sutton and Tower Hamlets. Every child under the age of 5 years entering out-of-home care through the intervention of those authorities is eligible for the trial (provided parents are available to participate) and following consent being obtained, children and their families are randomly assigned to either the NIM intervention or the ‘services as usual’ stream. Interventions included in the NIM include:

- structured attachment-based interview with both actual and potential caregivers;
- structured interviews, self-report measures and observations, including the Working Model of the Child Interview (Zeanah and Benot, 1995), the Crowell Procedure (Crowell et al, 1998),

⁴⁰ Kainth et al (2022)

Child Behaviour Checklist (Achenbach and Rescorla, 2000) and Ages and Stages Questionnaire (Squires et al., 1997.)

- Informed by the above, interventions are then individually tailored for each family, with those interventions comprising of relationship-based therapeutic modalities including Circle of Security (Powell et al., 2009), Child Parent Psychotherapy (Lieberman et al, 2006) and Video Interactive Guidance (Silhanova et al., 2011), in addition to other support services as required including those relating to family violence substance misuse, or adverse mental health.

The NIM is then charged with providing advice to the relevant court or decision-making tribunal recommending reunification or alternate permanency for the child.

While the BeST? trial is yet to report findings, evaluation outcomes of NIM operations in New Orleans, Louisiana⁴¹ demonstrate that the model sees an increased rate of adoption as opposed to reunification, perhaps due to that specific jurisdictional context. Importantly, data indicates that where reunification is achieved, NIM participation sees a more than 50 per cent reduction in repeated abuse or neglect both for the involved-child, and for subsequent siblings. Further evidence suggests that where NIM-graduated infants were followed up several years after being exposed to NIM, mental health measures indicated only a slight difference between those children and children in the general population, regardless of the permanency outcome achieved.



The author with Judge Carol Atkinson, Designated Family Judge for East London, and members of the London Infant and Family Team.

⁴¹ Zeanah et al (2001)

7. CONCLUSIONS

In undertaking this Churchill Fellowship, I set out to achieve an understanding of how solution-focused specialist infant courts operate, what underpins their success in achieving enhanced outcomes for infants, very young children and their families, and how adaptable the concept might be to an Australian care and protection jurisdiction. My conclusions fall broadly into three interconnected observations – the value of the integration of infant mental health and early childhood development expertise into the court process, the efficacy of solution focussed specialist infant courts in delivering better outcomes for infant and their families, and the opportunity these courts have to contribute to much needed reform in Australian care and protection jurisdictions.

The value of integrating infant mental health and early childhood development expertise into the court process

There is a clear positive correlation between case planning and judicial decision-making being informed by infant mental health and developmental expertise, and outcomes that are consistent with the best interests of infants and their families. At the very least, where comprehensive assessments of familial needs and strengths occur early in proceedings, infants and families are more likely to be engaged with services and supports required to enhance wellbeing and functioning, leading to earlier stability and permanence for children. Where these assessments and the interventions that flow from them are *coordinated* not only with each other, but also with case planning processes and judicial determinations as they evolve, families are more likely to engage meaningfully with them, and with these necessary administrative processes. Enhanced engagement inevitably leads to improved family functioning and, consequently, higher rates of family reunification.

Specifically, there are clear benefits to children and families from their participation in evidence-based, dyadic interventions such as Child-Parent Psychotherapy (CPP). In Australian child protection jurisdictions, expert understanding of the relationship between infants and their parents, and with alternate caregivers is rarely achieved – and even more rarely, achieved on a timeline that allows for necessary interventions with respect to that relationship to be identified and implemented early. When children enter out-of-home care, it is even more rare for dyadic relational *treatment* – that is, expertly observed and guided interactive intervention with both the parent or caregiver *and* the child – to occur. Currently, when children residing in out-of-home care have contact with their parents, there is usually little to no professional input aimed at better understanding and improving parent-child relationships into these interactions. These contacts may be supervised, but generally only from a safety perspective. Critically, where such a relational understanding may occur, it tends not to be presented to judicial decision-makers contemporaneously as understanding and relational functioning evolves.

Child-Parent Psychotherapy achieves improved outcomes including lower insecurity, avoidance, anxiety and anger observed in the attachment styles of CPP treated infants and children, higher levels of parental empathy, enhanced satisfaction in parental relationships, and improvements in behavioural problems, traumatic stress symptom, and mental health diagnostic status. It is a valuable tool in both increasing the likelihood of familial reunification, and where reunification cannot be achieved, in changing the lifetime trajectory of children who grow up in out-of-home care.

The efficacy of solution-focussed specialist infant courts in delivering better outcomes for infants, very young children, and their families

Where Specialist Infant Courts exist, they report improved outcomes in terms of earlier and more sustainable permanency outcomes for children. Where reunification is achieved, children spend less time in out-of-home care through these processes than through traditional, unsupported adversarial approaches, and they are less likely to experience further abuse or neglect, leading to a significant reduction in future child protection and children's court involvement. Where reunification is not achieved, children find stable, permanent alternate care arrangements more quickly. Parent participants in specialist infant courts report greater understanding of early childhood development, attachment and trauma, and identify improved relationships and general life circumstances as a result of their participation. Legal professionals and judicial officers report greater understanding of their work, and efficiency gains in the passage of cases through the court. Specialist infant courts are cost-effective, with 75 per cent of program costs mitigated through out-of-home care cost avoidance alone.

Consistent with the experience of the Children's Court of Victoria's Family Drug Treatment Court and Marram-Ngala Ganbu (the court's specialist Koori Family Hearing Day), solution-focussed approaches in care and protection jurisdictions enhance the participation of marginalised and socially-excluded parents and family members, and achieve better outcomes particularly for First Nations families for whom child protection involvement and children's court proceedings can be particularly traumatic and ineffective. Where specialist infant courts achieve superior outcomes to traditional adversarial approaches, they do so consistently regardless of the cultural background of participants. In Australia, where First Nations children, and particularly infants, consistently experience entry into out-of-home care at a far higher rate than non-First Nations children, adopting a solution-focussed approach that is known to be effective for First Nations families would be a significant component of much needed system reform.

The opportunity to contribute to much needed reform of Australian care and protection jurisdictions

Australian child protection systems are frequently described as being in crisis and where our systems fail our very youngest, most vulnerable children and their families, crisis perpetuates itself in an immediate sense, but also intergenerationally. Where we provide early, effective, evidence-based interventions in the lives of infants in care and protection jurisdictions we positively impact on their trajectory across their lifespan. We impact on their current and future engagement with physical and mental health systems, their educational attainment, the likelihood of their future interface with criminal justice systems, and the likelihood of continuing intergenerational cycles of abuse and neglect.

As I write these conclusions, the Yoorook Justice Commission – the first formal truth-telling process into historical and ongoing injustices experienced by First Peoples in Victoria – is hearing from First Peoples who have experienced injustice in the child protection and criminal justice systems. Hearing firsthand accounts of our history of repeatedly failing First Nations families and communities is heartbreaking, however through truth-telling will come opportunity for reform. As a result of the Yoorook Justice Commission's work to date, the Premier of Victoria has already committed to much needed major reform and system re-design of Victoria's child protection sector's response to First Nations families. The Yoorook Justice Commission extends a righteous demand to do better.

In existing solution-focussed approaches to complex child protection matters before our courts, we know we have a working template of a better, more successful model for First Nations and non-First

Nations children and families. It is time now to allow the benefits of these approaches to be extended to Australia’s most vulnerable children – infants, very young children and their families.



The Broadmeadows Children’s Court – one location where existing solution-focused innovations are achieving superior outcomes for Victorian children and families involved with child protection and the Children’s Court of Victoria.

8. RECOMMENDATIONS

1. The primary recommendation of this Churchill Fellowship is for a Specialist Infant Court to be piloted in an Australian care and protection jurisdiction. Specifically, it is recommended that the Victorian Government fund a pilot to operate within the Family Division of the Children's Court of Victoria.

Arguably already Australia's most innovative Children's Court jurisdiction, the Children's Court of Victoria has significant expertise in the successful operation of evidence-based, solution-focussed approaches that achieve better results for children and families than traditional adversarial approaches, through both the Family Drug Treatment Court, and Marram-Ngala Ganbu. Locating a Specialist Infant Court alongside these existing evidence-based innovations would allow for shared subject matter expertise, and further position the Children's Court of Victoria and the Victorian Government's responses to the plight of Victoria's most vulnerable children and families, as the most progressive of any Australia's care and protection jurisdictions.

2. This report recommends the formation and maintenance of a working group comprising likely and possible key sector leaders and key stakeholders in a potential future Specialist Infant Court to progress model development. The mapping of existing resources in the community, together with the identification of current and anticipated service gaps is required to inform proposal development.
3. This report strongly recommends that in-depth, ongoing consultation with the First Nations communities will be essential to the development of a model and approach that meets the needs of their families and communities. It is recommended that the design of the elements of a Specialist Infant Court model that address the cultural and community support needs of First Nations participants adopts a First Nations led and self-determined process.
4. This report recommends that in the modelling of a Specialist Infant Court for an Australian context, a designated First Nations Coordinator role ought to sit alongside a Non-First Nations Coordinator role. Sector coordination and service engagement for First Nations families participating in a Specialist Infant Court would likely entail a different composition of Court Team and Family Team members to non-First Nations participants. Further, for a Specialist Infant Court to be experienced as culturally safe and competent by First Nations participants, its coordination will most appropriately be led by a First Nations professional.

9. IMPLEMENTATION

Short-Term: Consultation, program logic, and model-development

My Churchill travels together with this report, represent the beginning of an exploratory phase of implementation. Having established the operations and evaluated outcomes of Early Childhood Courts overseas, the critical tasks of developing a contextualised program logic and consequently a model adapted to an Australian jurisdictional context can now commence. I am fortunate to be a member of an already established working group of cross-sectoral ‘thought leaders’ focussed on a potential Specialist Infant Court who are now well positioned to commence this work in the short term. The development of a comprehensive program logic will guide an expanded composition of this working group as modelling progresses.

Critically, any design of the elements of a Specialist Infant Court model that addresses the cultural and community support needs of First Nations participants needs to adopt a First Nations led and self-determined process. In the short term, I will disseminate my findings widely amongst First Nations sector leaders and organisations and seek consultation on this development.

Building awareness will continue over the short and medium terms through dissemination of this report, meetings and discussions, and through relevant conference opportunities as they present.

Medium-Term: Identifying and developing system capacity, building awareness, and Piloting Initial Implementation

Medium-term implementation goals focus on scoping and developing system capacity and seeking both authorisation and funding for the implementation of a pilot Specialist Infant Court and its subsequent evaluation.

A comprehensive program logic developed in the short term will identify required inputs and resources, and scoping system capacity allows for the identification of how, and through what collaborations, these inputs and resources can be sourced.

When modelling inclusive of the identification of inputs and resources is complete, a proposal can be presented to the Children’s Court of Victoria’s executive group for consideration of support for a pilot. With the Children’s Court of Victoria’s support, funding would be sought through the development of a business case to the Victorian Government.

Long-Term: Evaluation, Ongoing funding and expansion

Long-term implementation goals focus on pilot evaluation and the integration of evaluation outcomes into ongoing program evolution, before seeking expansion of an evidence-based Specialist Infant Court.

10. DISSEMINATION

I welcome the obligation to disseminate the findings of this report. I propose to disseminate my findings in this report in the following ways:

- Through the Churchill Trust for publication
- Through providing this report to the Victorian Premier, Attorney General and Minister for Child Protection and Family Services, and through seeking to meet with them or their representatives
- Through providing this report to the Principal Commissioner and the Commissioner for Aboriginal Children and Young People, Victorian Commission for Children and Young People and through seeking to meet with them.
- Through providing this report to the Yoorrook Justice Commission
- Through providing this report to Child Protection leadership in the Victoria's Department of Families, Fairness and Housing and seeking opportunities to discuss.
- Through providing this report to the President of the World Association for Infant Mental Health, the Chair of the Australian Association for Infant Mental Health
- Through providing this report to the CEO of the Victorian Aboriginal Child Care Association and through seeking to meet with her or her representatives.
- Through report dissemination to and ongoing engagement with senior sector leaders representing potential or likely key stakeholders of a potential future Specialist Infant Court.
- Through providing this report to the President and judiciary of the Children's Court of Victoria and pursuing opportunities to discuss.
- Through providing this report to the Executive and Senior Leadership of the Children's Court of Victoria
- Through providing this report to the Centre For Excellence in Child and Family Welfare
- Through providing this report to Australia's National Children's Commissioner
- Through providing this report to the RMIT Centre for Innovative Justice
- Through providing this report to the Australian Institute of Family Studies
- Through providing this report to Victoria Legal Aid, the Child Protection Litigation Office, and to Private Practitioners working in the Children's Court of Victoria jurisdiction
- Through conference presentations in the Child Welfare, Justice, and Infant Mental Health domains
- Through ongoing engagement with peers and colleagues through formal and informal opportunities
- Through media opportunities should they present.

11. BIBLIOGRAPHY

Achenbach, T. M., & Rescorla, L. A. (2000). *Manual for the ASEBA preschool forms and profiles* (Vol. 30). University of Vermont, Research Center for Children.

Australian Government Productivity Commission (2022), *Report on Government Services*, Retrieved from <https://www.pc.gov.au/ongoing/report-on-government-services/2022/community-services/child-protection>

Australian Institute of Family Studies (2009). A Stitch in Time Saves Nine: Preventing and responding to the abuse and neglect of infants. *Child Abuse Prevention*, Issues No.30, 2009.

Australian Institute of Health and Welfare (2022), *Child Protection Australia 2020-21*. Retrieved from <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2020-21/contents/about>

Australian Institute of Health and Welfare (2021) *Child Protection Australia 2019-20*. Retrieved from <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2019-20/summary>

Australian Institute of Health and Welfare (2020) *Child Protection Australia 2018-19*. Retrieved from <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2018-19/summary>

Australian Institute of Health and Welfare (2019) *Child Protection Australia 2017-18*. Retrieved from <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2017-18/contents/summary>

Australian Institute of Health and Welfare (2018) *Child Protection Australia 2016-17*. Retrieved from <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2016-17/contents/summary>

Australian Institute of Health and Welfare (2017) *Child Protection Australia 2015-16*. Retrieved from <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2015-16/summary>

Australian Institute of Health and Welfare (2016) *Child Protection Australia 2014-15*. Retrieved from <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2014-15/summary>

Australian Institute of Health and Welfare (2015) *Child Protection Australia 2013-14*. Retrieved from <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2013-14/summary>

Australian Institute of Health and Welfare (2014) *Child Protection Australia 2012-13*. Retrieved from <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2012-13/summary>

Australian Institute of Health and Welfare (2013) *Child Protection Australia 2011-12*. Retrieved from <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2011-12/summary>

California Institute for Behavioral Health Solutions (2022) *Los Angeles County Multidisciplinary Assessment Team Process: Evaluation Report*. Sacramento: California Institute for Behavioral Health Solutions.

Casanueva, C., Harris, S., Carr, C., Burfeind, C. and Smith, K. (2017) *Final Evaluation Report of the Quality Improvement Center for Research-Based Infant-Toddler Court Teams*, September 2017, RTI International.

Commission for Children and Young People (2021), *Annual Report 2020-21*, Melbourne: Commission for Children and Young People. Retrieved from <https://ccyp.vic.gov.au/assets/corporate-documents/Annual-report-2020-21.pdf>

Commission for Children and Young People (2020), *Annual Report 2019-20*, Melbourne: Commission for Children and Young People. Retrieved from <https://ccyp.vic.gov.au/assets/corporate-documents/CCYP-Annual-Report-2019-20.pdf>

Commission for Children and Young People (2019), *Annual Report 2018-19*, Melbourne: Commission for Children and Young People. Retrieved from <https://ccyp.vic.gov.au/assets/corporate-documents/CCYP-Annual-Report-2018-19-WEB.pdf>

Commission for Children and Young People (2018), *Annual Report 2017-18*, Melbourne: Commission for Children and Young People. Retrieved from <https://ccyp.vic.gov.au/assets/corporate-documents/CCYP-AR-2018-P6-FINAL-web.pdf>

Commission for Children and Young People (2017). *Annual Report 2016-17*, Melbourne: Commission for Children and Young People. Retrieved from <https://ccyp.vic.gov.au/assets/corporate-documents/CCYP-Annual-Report-2016-17.pdf>

Commission for Children and Young People (2016). *Annual Report 2015-16*, Melbourne: Commission for Children and Young People. Retrieved from <https://ccyp.vic.gov.au/assets/corporate-documents/CCYP-annual-report-2015-16.pdf>

Crowell, J. A., Feldman, S. S., & Ginsberg, N. (1988). Assessment of mother-child interaction in preschoolers with behavior problems. *Journal of the American Academy of Child and Adolescent Psychiatry*, 27(3), 303–311.

Faria, A., Bowdon, J., Conway-Turner, J., Pam, J., Ryznar, T., Michaelson, L., Derrington, T. and Walston, J. (2020) *The Safe Babies Court Team Evaluation: Changing the Trajectories of Children in Foster Care*. American Institutes for Research, Washington, DC.

Felitti VJ, Anda RF, Nordenberg D, Williamson DF, Spitz AM, Edwards V, Koss MP, Marks JS. (1998). Relationship of childhood abuse and household dysfunction to many of the leading causes of death in adults. The Adverse Childhood Experiences Study. *Am J Prev Med*. 1998;14:245–258

Florida State University Center for Prevention and Early Intervention (2017). *Florida's Early Childhood Court: Improving outcomes for infants and toddlers in Florida's dependency court*. Florida State University: 2017.

Foster, E.M. and McCombs-Thornton, K.L. (2015), Investing in Our Most Vulnerable: A Cost Analysis of the Zero TO THREE Safe Babies Court Teams initiative, June 20, 2012. Retrieved from: <https://acestoohigh.files.wordpress.com/2015/02/economicsforpublicgood.pdf>

Hahn, J.W. (2016). *Meeting the Needs of Infants in Child Abuse and Neglect Cases: A process Evaluation of the Strong Starts Court Initiative*. New York: Center for Court Innovation.

James Bell Associates (2009) *Evaluation of the Court Teams for Maltreated Infants and Toddlers: Executive Summary*. James Bell Associates, Arlington.

Kainth, G., Turner, F., Crawford, K., Watson, N., Dundas, R. and Minnis, H. (2022). Process evaluation protocol for the BeST? Services trial. *Developmental Child Welfare*, 2022, Vol 4, Issue 1, 56-72.

Katz, L.F. Lederman, C.S., Osofsky, J.D. (2011). *Child-Centred Practices for the Courtroom and Community: A guide to working effectively with young children and their families in the child welfare system*. Baltimore: Paul H Brooks Publishing Co.

Lederman, J.C. and Osofsky, J.D. (2008) A Judicial-Mental Health Partnership To Heal Young Children in Juvenile Court. *Infant Mental Health Journal*, 2008, 29(1), 36-47

Lieberman, A.F., Ippen, C.G., and Van Horn, P. (2015). *Don't Hit My Mommy! A manual for child-parent psychotherapy with young children exposed to violence and other trauma*. Second Edition, Washington DC, Zero To Three.

Lieberman, A. F., Ippen, C. G., & Van Horn, P. (2006). Child-parent psychotherapy: 6-month follow-up of a randomized controlled trial. *Journal of the American Academy of Child and Adolescent Psychiatry*, 45(8), 913–918.

McCombs-Thornton, K. L. (2011). *Fostering a Permanent Home: A Mixed Methods Evaluation of the ZERO TO THREE Court Teams for Maltreated Infants and Toddlers Initiative* (Doctoral dissertation, The University of North Carolina at Chapel Hill).

McKelvey, L.M., Whiteside-Mansell, L., Conners-Burrow, N.A., Swindle, T., Fitzgerald, S. (2015) Assessing adverse experiences from infancy through early childhood in home visiting programs. *Child Abuse and Neglect*; 2016;51 295-302

Milburn, N.L., Lynch, M. and Jackson, J. (2008) Early Identification of Mental Health Needs for Children in Care: A Therapeutic Assessment Programme for Statutory Clients of Child Protection. *Clinical Child Psychology and Psychiatry* 2008, 13 (1), 31-47

National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families (Australia). (1997). *Bringing them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families*. Sydney: Human Rights and Equal Opportunity Commission,

Powell, B, Cooper, G, Hoffman, K, & Marvin, R.S. (2009). *Circle of Security*. In C.H. Zeanah (Ed.), *Handbook of Infant Mental Health* (pp. 450–467). The Guildford Press

Sharlein, J. (2021) *Helping the Youngest Start Life Strong: A mixed methods evaluation of the Strong Starts Court Initiative*. New York: Center for Court Innovation.

Silhanova, K., Cave, R., Fukkink, R., Sancho, M., Doria, M., Bristow, J., & Trevarthen, C. (2011). *Video interaction guidance: A relationship-based intervention to promote attunement, empathy and wellbeing*. Jessica Kingsley Publishers.

Squires, J., Bricker, D., & Potter, L. J. J. o. p. p. (1997). Revision of a parent-completed developmental screening tool: Ages and Stages Questionnaires. *Journal of Pediatric Psychology*, 22(3). 313–328.

Wexler, D.B. (2000) Therapeutic Jurisprudence: An Overview. *Thomas M.Cooley Law Review*, Vol 17, 125-134

Wexler, D.B. (2014) Two Decades of Therapeutic Jurisprudence." *Touro Law review*, Vol 24:1, Article 4.

Wulczyn F., Ernst, M. and Fisher, P. (2011) *Who are the Infants in Out-of-Home Care? An Epidemiological and Developmental Snapshot*. Chicago: Chapin Hall, University of Chicago.

Zeanah, C. H., Larrieu, J. A., Heller, S. S., Valliere, J., Hinshaw-Fuselier, S., Aoki, Y., & Drilling, M. (2001). Evaluation of a preventive intervention for maltreated infants and toddlers in foster care. *Journal of the American Academy of Child and Adolescent Psychiatry*, 2001, 40(2).

Zeanah, C., & Benoit, D. (1995). Clinical applications of a parent perception interview in infant mental health. *Child and Adolescent Psychiatric Clinics of North America*, 4(3), 539–554.

Zhou, A.Z. and Chilvers, M. (2008) Infants in Australian Out-Of-Home-Care. *British Journal of Social Work*, 2010, 40, 26-43

