

Peer Review of Martin Jenkins Report

A report prepared for Royal Commission of Inquiry into Abuse in Care



Abuse in Care
Royal Commission of Inquiry

TDB Advisory Limited
L5, Wakefield House
90 The Terrace
P.O. Box 93
Wellington
New Zealand

Email: info@tdb.co.nz

Team members involved:

Phil Barry
phil.barry@tdb.co.nz
021 478 426

Ryan Campbell
ryan.campbell@tdb.co.nz
027 818 5681

Disclaimer:

This report has been prepared by TDB Advisory Ltd (TDB) with care and diligence. The statements and opinions given by TDB in this report are given in good faith and in the belief on reasonable grounds that such statements and opinions are correct and not misleading. However, no responsibility is accepted by TDB or any of its officers, employees, subcontractors or agents for errors or omissions arising out of the preparation of this report, or for any consequences of reliance on its content or for discussions arising out of or associated with its preparation.

Acknowledgements:

TDB wishes to thank those we met with or who assisted us in other ways during the preparation of this report and in particular Nick Hunn (Martin Jenkins) who walked us through the initial draft of the report and relevant spreadsheets; and Glenn Patrick, Doug Gorman and Sarah Carne for their comments and feedback on the draft Martin Jenkins report. The peer review benefited greatly from these people's knowledge and insights, but they bear no responsibility for the final product.

Introduction

The Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions (the Royal Commission or the Commission) is looking into what happened to children, young people and vulnerable adults in care. In particular, the Commission is investigating historical abuse in state and faith-based care. The primary focus of the Inquiry is on the issues and experiences of those in care between the beginning of 1950 until the end of 1999, though the Commission can consider issues and experiences prior to 1950 and after 1999.

Clause 35 of the terms of reference for the Inquiry requires the substantive interim report of the Commission to include an analysis of the size of the cohorts for direct and indirect state care and care in faith-based institutions.

The Royal Commission tasked Martin Jenkins & Associates Ltd (Martin Jenkins) with determining:

1. the numbers of people who were in various settings of state care from 1950 to December 2019;
2. the equivalent number of people placed in the various settings of faith-based care from 1950 to December 2019; and
3. the numbers of people who suffered abuse in state/faith-based, to the extent known.

TDB Advisory Ltd (TDB) has been asked by the Royal Commission to review:

1. the methodology used by Martin Jenkins in its draft report¹ to estimate the size of the cohorts and whether it is fit for purpose given the data that is available; and
2. whether the methodology has been applied correctly by Martin Jenkins when estimating the size of the cohorts.

¹ Martin Jenkins, "Indicative Estimates of the Size of Cohorts and Levels of Abuse in State and Faith-based Care – 1950 to 2019," draft report dated 28 August 2020.

The Martin Jenkins report

The methodologies adopted by Martin Jenkins

Martin Jenkins has used two approaches to estimate the number of people in state and faith-based care and the number of survivors of abuse in care in New Zealand between 1950 and 2019: a top-down and a bottom-up approach.

The top-down approach seeks to determine the total cohort of people to have passed through state and faith-based care and then applies estimated rates of the prevalence of abuse (based on international studies) to determine a range for the number of survivors of abuse between 1950 and 2019.

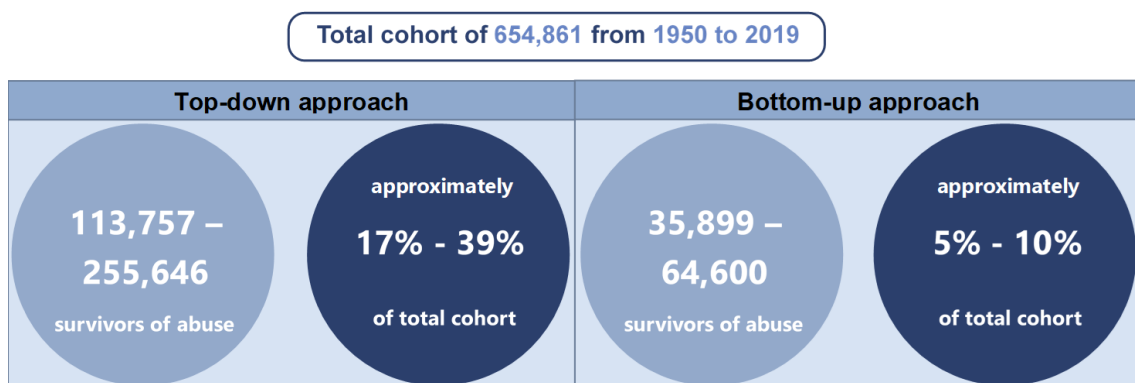
The bottom-up approach began with the number of reported claims of abuse in state and faith-based care from 1950 to 2019 and applies a multiplier (based on unreported crime multipliers from New Zealand and international studies) to account for the unreported cases of abuse that have likely occurred over the period.

Key findings from the Martin Jenkins report

The key findings of the Martin Jenkins report are summarised below:

1. The total number of people to pass through state and faith-based care between 1950 and 2019 was around 655,000.
2. An estimated 17% to 39% of the people to pass through state and faith-based care – around 114,000 to 256,000 people – are survivors of abuse.
3. As a lower bound, the bottom-up approach estimates that at least 5% to 10% of the total cohort – around 36,000 to 65,000 people – have been exposed to abuse in state and faith-based care.
4. The faith-based and social welfare settings probably had the highest prevalence of abuse. The faith-based setting is estimated to have the highest rate, with 33% to 38% of people estimated to have been abused through this setting.

Figure 1: Estimates from the Martin Jenkins report



Peer review by TDB Advisory

The work that Martin Jenkins was asked to undertake by the Commission involved a number of challenges. The challenges in estimating the size of the cohorts and the numbers of people subject to abuse included:

- gaps, overlaps and potentially errors in the historical records of numbers in care and experiences of abuse, with records often not kept or where they were kept the data has over the passage of time sometimes been destroyed or lost;
- differing and changing definitions and cultural norms of what is considered to be abuse at different time periods and between different groups or different institutions at a given period of time;
- small sample sizes in some cases which make it difficult to generalise from;
- overlaps in records, with individual people moving between different institutions which may give rise to double counting of the numbers of people in care and the number of survivors of abuse; and
- data that is more complete for some ethnic and socio-economic groups than others.

Given these challenges there is inevitably a wide range of uncertainty around any estimates of the cohorts and of the numbers of survivors of abuse. Indeed the “true” number of people in care and the number of survivors of abuse over the last seven decades may never be known with any degree of precision.²

1. Are the methodologies fit-for-purpose?

In general, we consider that the two methodologies used by Martin Jenkins (i.e. the top-down and bottom-up approaches described above) are fit-for-purpose. The top-down methodology provides a range for the estimated number of survivors of abuse that in our view is indicative of the possible total number of survivors.

The uncertainties around these estimates however are such that the range based on the top-down approach should be regarded as an indicative range only. It is quite possible that “true” number lies outside (above or below) the range estimated by Martin Jenkins in its top-down approach.

The estimates in the Martin Jenkins report inevitably reflect the assumptions that underlie the estimates. The key assumptions made by Martin Jenkins include:

- that the rates of abuse, as taken from international studies, have been constant over time. This assumption applies to both the top-down and the bottom-up prevalence methodologies;
- that the overlaps of people between the different settings is around 21%, as derived by Martin Jenkins from the Christchurch Health and Development Study; and
- there is no seasonality in the data on numbers of people in the different settings.

² It is worth noting that the Royal Commission into Institutional Responses to Child Sexual Abuse in Australia did not attempt to estimate the number of survivors of abuse.

The estimates in the Martin Jenkins report are conditional on limitations outside of Martin Jenkins' control. The key limitations of the estimates in the Martin Jenkins report include:

- international studies will not be fully representative of New Zealand's demographics;
- given the lack of suitable data for some settings, the total cohort numbers estimated in the Martin Jenkins report is likely to be understated; and
- the overlap assumption of 21% as applied by Martin Jenkins may not include re-admissions.

We believe these key assumptions and limitations of the estimates could be clearer in the executive summary of the Martin Jenkins report. These issues are discussed in more detail below.

Use of international studies

As noted above, Martin Jenkins bases its estimates of abuse prevalence rates on international studies. A number of different studies are used to provide estimates of abuse prevalence rates for the different subsettings of care (e.g. youth justice, foster care, boarding schools etc.). While these international studies may be the best available source of data for abuse prevalence rates in each subsetting, prevalence rates from other countries will not be truly reflective of New Zealand social and cultural conditions. For example, the international-based prevalence rates will not reflect the disproportionate representation of Māori and Pasifika people in state care.

Overlap between different settings

Martin Jenkins recognizes there has been overlap between the different care settings with individuals moving in and out of the different settings over time. Martin Jenkins applies a 21% reduction factor to the estimated total cohort size to account for these movements so as to avoid the risk of double counting. This percentage was based on information from the Christchurch Health and Development Study (CHDS) that focused on three settings (institutional care, foster care and respite care) and applying it to the four care-settings used by Martin Jenkins (health and disability setting, boarding schools, private homes and other residences).

It is not clear in the Martin Jenkins report whether the CHDS overlap factor is based on only transitioning one-way between different settings or has incorporated the possibility of a person returning to the same care institution (two-way/readmission). This limitation as well as the methodology behind how the overlap constant was determined should be clearly outlined in the report. The constant overlap assumption is an important factor in the top-down approach, as it reduces the cohort size by 21% before the abuse prevalence rates are applied.

Seasonality

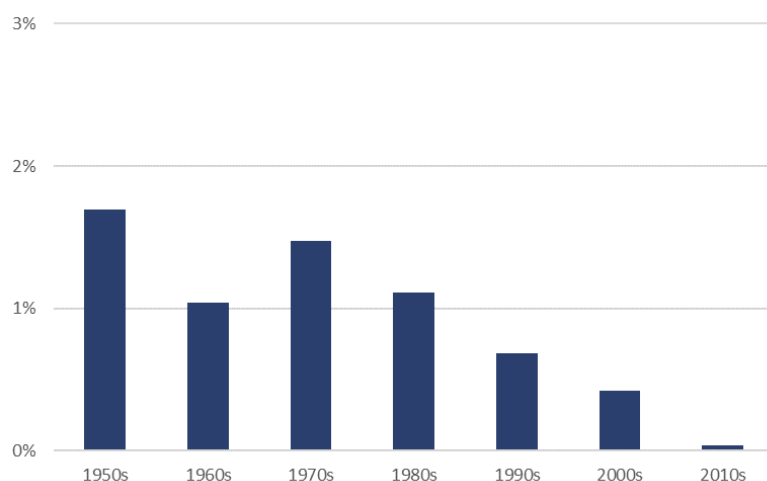
As data is recorded on an annual basis (and presented on a decade basis in the charts and tables) there is a question over whether the cohort data is seasonal in nature. That is, was there a "busy" time of the year for state and faith-based care? Does the timing of data collection materially affect the size of the cohort? The Martin Jenkins report assumes no seasonality so when the data was collected during the year becomes irrelevant.

Assumption of constant rate of abuse over time

An important assumption underlying the top-down estimates of the numbers of survivors of abuse is that the rates of abuse (the prevalence rate) have been constant in the different subsettings over time. This assumption may be reasonable in the absence of a better alternative but it does contrast with the trend in the rate of reported claims of abuse which has trended down over the period of the review.

Figure 2 shows the incidence of reported claims of abuse as a percent of the total estimated numbers in care across all the identified settings. The number of reported claims of abuse is derived from the bottom-up estimates of abuse from the Martin Jenkins report.

Figure 2: Reported claims of abuse (% of total estimated cohort), 1950 - 2019



Note: The number of claims reflect when the alleged abuse occurred, not when the claim is made.

There is no doubt that the number of reported claims of abuse far underestimates the number of actual cases of abuse. Further, there is likely to be a significant lag in many if not most cases between when abuse occurs and when it is reported. This lag will explain at least in part the downward trend in the most recent decades.

Nevertheless, by assuming a constant abuse prevalence rate when the number of reported cases has trended down, Martin Jenkins has implicitly assumed the rate of under-reporting of incidents has increased over time. We are not aware of evidence to support this implicit assumption.

Top-down estimates may understate the true number

The Martin Jenkins report states (p. 4) that, given the lack of suitable data for some settings, the estimate of the total number of people who passed through care is likely to be understated. If this is the case, it will affect the estimates of the number of survivors of abuse, given the top-down methodology implemented by Martin Jenkins. It does not invalidate the methodology, but the report could inform the reader more clearly that the top-down estimates of the range of the number of survivors may underestimate the number of people who suffered abuse in New Zealand in state/faith-based care over the period under review.

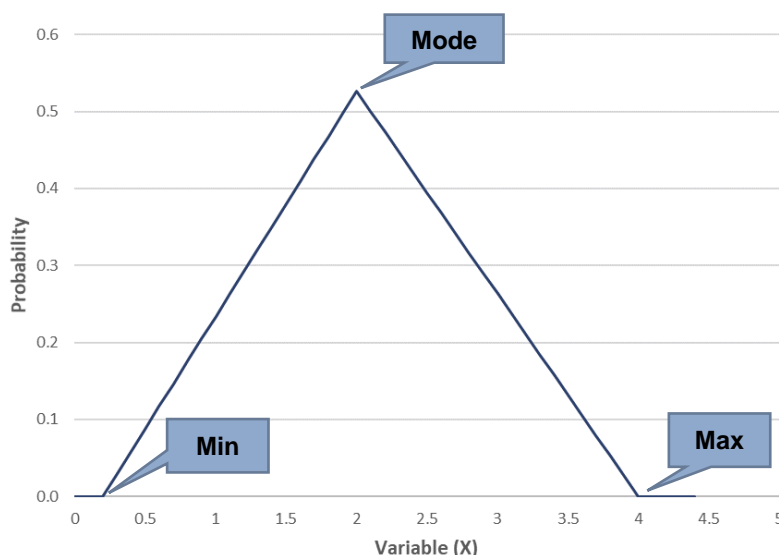
A possible alternative methodology

One alternative methodology for estimating the numbers who went through state/faith-based care and the number of survivors of abuse that the Commission may wish to consider as it moves to the next phase of its review is the Delphi method. The Delphi method may be particularly relevant to the Commission's review as it is specifically designed to be used in situations where data is scarce or not particularly reliable. The Delphi method involves surveying experts or others in the particular field for their views on a particular question. For example, the Delphi method could be used to estimate the proportion of people in care who were subject to abuse through survey of experts in the field or a survey of those who went through state/faith-based care.

Participants in a Delphi survey remain anonymous with face-to-face panel/group discussions being avoided. This setting prevents one participant from having a dominating presence and thereby limiting the input from other participants. The survey questions are structured to provide concise and clear answers that are then collected to identify both common and conflicting viewpoints. If consensus is not reached, the process can be iterated until a general consensus is reached (a convergence of opinions amongst experts or others). The iterative step in this methodology can permit participants to comment on the responses of others, the progress of the panel as a whole, and/or to revise their own forecasts and opinions in real time.

Depending on how the survey is structured, the Delphi method can provide quantitative information. This information could be used to fill in gaps in the data. For example, experts could be asked their estimate of the range (maximum and minimum) and “best guess” (modal value) for the proportion of people in care that were abused. Or people could be simply asked to estimate the upper and lower ends of the range and the mode can be inferred. These range and modal points are illustrated by the triangular distribution displayed in Figure 3 below.

Figure 3: Example of triangular distribution



Such a triangular distribution can be used as an indicative description of a statistical population where there is scarce data. It is based on a knowledge of the minimum and maximum and an intuitive guess as to the most commonly occurring value.

There are limitations to the Delphi approach. In particular, experts in the sector may see mainly the problem cases and therefore may unavoidably form a biased perspective. Nevertheless, the Delphi method has the advantage of drawing on the local knowledge of those who are experts or who have been closely involved in the field, and may be a useful supplement to the two methodologies used by Martin Jenkins.

2. Has the methodology been applied correctly?

TDB has reviewed at a high-level the application by Martin Jenkins of its stated methodologies. We conclude that, taking into account the large gaps in the data and the time constraints Martin Jenkins operated under, Martin Jenkins has applied its methodologies correctly.

As part of our review, TDB has conducted a high-level (i.e. not comprehensive) audit of the faith-based and social welfare spreadsheets used by Martin Jenkins in its analysis. A few errors were found in the spreadsheets and Martin Jenkins has been advised of the errors. TDB has been advised by Martin Jenkins that the errors were not material to the final conclusions in the Martin Jenkins report.

Noticeable gaps or errors in data

As noted above, there are major gaps in the data on the numbers in care in the different settings. While major gaps are inevitable, it is possible that with further time and effort some of the gaps may be able to be filled.

We understand the Royal Commission issued Section 20 notices to four central government agencies (Ministry of Education, Ministry of Health, Ministry of Social Development and Oranga Tamariki) and to the legal representatives of four faith-based institutions (the Catholic Church, Anglican Church,

Presbyterian Church and the Salvation Army). We understand the agencies largely responded by providing the Commission with the information they held at the time. We recognize that the notices were issued at a time of national emergency from COVID-19 and that with more time a fuller response may be possible. In our view, there would be merit in the Commission following up its initial request and directly approaching the individual care-providing institutions where there are major gaps in the data to see if those organisations have the necessary information.

For example, Martin Jenkins states on page 3 of its report that no information was available for the numbers in care in health camps. A direct approach to the successor health camps organisation (Stand for Children) may reveal that substantial information is available on the number of children who passed through that setting, at least in recent decades. Similarly, another area where there are major gaps in the data is state-based boarding schools, where Martin Jenkins reports that almost no data is available prior to 2000. Martin Jenkins therefore had to estimate most of that cohort between 1950 and 1998 by extrapolation (p. 28). It is not obvious to us from the Martin Jenkins report that efforts have been made yet to obtain information from the schools directly. Some schools may no longer exist and some may exist but no longer offer boarding schools. Nevertheless, there are a limited number of such schools and a direct approach could well yield some result.

Conclusions

In our view, given the constraints it has had to operate within, Martin Jenkins has provided a commendable report that provides the Royal Commission with a useful reference point as the Inquiry progresses.

Based on our review of the Martin Jenkins report, TDB has reached the following conclusions:

- The Martin Jenkins report provides two different methodologies for estimating the number of survivors in state and faith-based care, referred to as the top-down and bottom-up methods. Both methodologies are reasonable and sound in principle, but the lack of sufficient data has impacted the level of confidence that can be had in the results. An additional methodology, the Delphi approach could be a useful supplement to the approaches used by Martin Jenkins.
- The lack of demographic information has meant no conclusions could be made by Martin Jenkins about the proportion of survivors of abuse of Māori or Pacific descent. This has resulted in the demographic issue being removed from the scope of the report.
- Given the large gaps in the data, Martin Jenkins has had to rely on extrapolations and interpolations to estimate the size of the total cohort. The methodologies applied by Martin Jenkins have highlighted the gaps in the data. This will assist the Royal Commission as it determines its priorities for the next phase of the Inquiry.
- Given the major gaps in the available data, it may be useful for the Royal Commission to approach major care-providers directly to see if they hold additional information that is relevant to the review.