



SPARK AND CANNON

TRANSCRIPT OF PROCEEDINGS

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THE HONOURABLE TIMOTHY FRANCIS CARMODY SC, Commissioner

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IN THE MATTER OF THE COMMISSIONS INQUIRY ACT 1950
COMMISSIONS OF INQUIRY ORDER (No. 1) 2012
QUEENSLAND CHILD PROTECTION COMMISSION OF INQUIRY

BRISBANE

..DATE 14/08/2012

Continued from 13/08/2012

..DAY 4

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complaints in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

THE COMMISSION COMMENCED AT 10.05 A.M.

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COMMISSIONER: Good morning everyone. Yes, Mr Haddrick?

MR HADDRICK: May it please the commission, Haddrick of counsel assisting.

COMMISSIONER: Mr Hanger, you appear this morning?

MR HANGER: I continue to appear with my learned friend.

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COMMISSIONER: The same appearances as yesterday.

MR HANGER: Yes.

MR HADDRICK: Mr Commissioner, just a bit of housekeeping before we continue with the evidence of Mr Swan. The commission has received a request from what would be the next witness, Ms Linda Apelt, in respect of when she will give her evidence. At her request I'm making an application that we interpose Mr Swan's evidence from 11.30 until 1 o'clock to hear Ms Apelt's evidence and then if there was any further cross-examination of Mr Swan, that will continue after lunch. So from now until 11.30 we continue with Mr Swan's evidence, at 11.30 until 1 o'clock we hear from Ms Apelt and then after lunch we return to Mr Swan if there's any further material, if you're so minded to make that order.

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COMMISSIONER: All right, thank you. Mr Hanger, is that okay?

MR HANGER: Yes.

COMMISSIONER: All right, yes, sorry, Mr Swan, it probably doesn't suit you entirely but that's what we will do, thank you. Mr Hanger?

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MR HANGER: Thank you.

Mr Swan, on your right is exhibit 9 and yesterday you asked to make a correction in paragraph 427. I was advised that the formal exhibit hadn't been corrected so a few minutes ago you made that formal correction by crossing out in paragraph 427 the word "retention" and writing in the word "separation"?---Yes.

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Thank you. Yesterday the commissioner was asking you about definitions of "best interests" and there's no actual definition, but do you seek to draw the commission's attention to section 5B of the Child Protection Act?

---Yes, thanks. So the act outlines that the paramount or most important thing is a child's safety, wellbeing and best interests which is outlined in section 5A. All other principles are then subject to that and the things that need to be taken into consideration are weighed up and balanced in an individual's case to determine the safety,

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wellbeing and best interests. The wording at the beginning of 5B was amended in 2010 to try and make it clearer that the following general principles are ensuring the safety, wellbeing and best interests of a child and a child safety officer in making decisions around a child's best interests needs to have regard to those principles that are outlined within the act. Section 104 also outlines then that the court must have regard to the principles and state the reasons in exercising their judgment.

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COMMISSIONER: Yes, I know. My point was you've got your paramountcy principle and then you've got your supporting principles but none of them tell you what - these are principles, not considerations. They're not competing factors. They're not balancing - I know it's a balancing process but, for example, if you compare this legislation with the Family Law Act, for example, which has the same test, you will see that it tells judges who are obviously senior practitioners, "In determining best interests you shall have regard to this as the primary consideration. You should have regard to this as a secondary consideration," and, you know, you set off one against the other. All I was really wanting to know yesterday was whether you thought something like that might be of assistance to the people in the field who actually have to work out in difficult circumstances what the overall best interests might be, that's all?---Yes, certainly in our training of child safety officers we do, you know, reinforce the best interest and also the principles and child safety officers having regard to those principles in terms of, you know, the right for the child to be protected, the family being the primary responsibility of the caring, et cetera, and going through those principles in terms of reaching their decision but - - -

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It's really difficult, isn't it, because again in the family law context which is what I'm familiar with judges are sometimes overturned because they get the best-interest test wrong and the Full Court says, "No, it should have been this result." Child protection officers don't have that advantage, that additional guidance, do they?---They need to make their case against that in providing the materials to the court, yes.

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MR HANGER: Dare I say the Family Law Act may not be a lot of use either.

COMMISSIONER: No.

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MR HANGER: Now, tied up with this issue of best interests I think you wanted to refer to some English research in 2010, Mr Swan?---Just also it might be worthwhile for the commission of inquiry. There's a report that's been recently released within the UK that analyses the decision-making tools that are available - - -

COMMISSIONER: Of Eileen Munro?---Well, no, it's followed the Eileen Munro report and it's available on the web site

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and it's a systematic review of the models of analysing significant harm and it's utilised the decision-making tools - analysed the decision-making tools that are used around the world and made some judgments about the strengths and the weaknesses of those tools and then really the combination of those tools with the use of professional judgment so it would be - - -

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Do you think the department might take advantage as well? ---We certainly, yes, had a look at it and certainly the structure decision-making tools that we've used and it also references other tools that are also in use and the evidence base of those tools in the development of them.

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MR HANGER: Should we be getting a copy of that for the commission?---It's online so we would only be providing a copy that would be printed from online.

No; no, that's all right. I'm sure that the identification then so that someone can find it?---Yes, certainly I can provide that.

COMMISSIONER: I think we have got it.

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MR HANGER: You have got it.

COMMISSIONER: Yes.

MR HANGER: Thank you.

Now, when we adjourned yesterday, I was asking you about paragraph 3 and frontline staff and the role of the - paragraph 33 - frontline staff and the role of the various people and I think probably the senior practitioners. What do they do?---The senior practitioners are there to provide an advice and assistance to frontline staff in dealing with particular matters and cases and they're a more experienced professional child safety officer that provides that guidance to child safety officers in the field. They also do a review of particular cases and case readings to, you know, look at the decisions that have been taken and any issues in those positions.

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So mentoring the younger people and so on?---Yes.

Then we have team leaders. What do they do? There are a lot of them?---The team leaders are then responsible for the management of particular teams. Each Child Safety Service centre is predominantly set up as a three or four-team centre and that then would determine the number of team leaders that would be in each centre.

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So how many people in a team?---There would generally be up to about seven officers. It's structured in terms of an investigation and assessment team and there would be a team leader responsible for that and that team's then responsible for undertaking all of the investigations into the notifications and then the team leader's responsible

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for approving the outcomes of that investigation and then there would be two or three teams responsible for children on orders so providing ongoing case management for those children who would be on orders within that team. 1

Are the team leaders out on the street working or just supervising from an office?---Their responsibility is for the management of the team but they could go out on investigations with some officers, particularly on the more difficult or complex cases.

Thank you. Can I just return for a moment to the issue of the residential care? We heard some quite large figures referred to there. That's funded by the state, but does the state actually provide the care or is that done privately?---No, the residential care - all residential and child safety is funded by the state but it's delivered by non-government organisations. Those non-government organisations are then responsible for establishing the arrangement and also recruiting staff, the training of those staff and then the delivery of the other care - children in those arrangements. 10

Is that all the churches or it is just private enterprise? ---There's a range of non-government organisations. A large number are church-based organisations, you know, such as UnitingCare Queensland, the Benevolent Society, Act for Kids, Anglicare, Red Cross and there are a small number of for-profit organisations that would also exist. All organisations are there subject to the regulation of care in that they need to be licensed or approved under section 82(1)(f) of the act to provide care. 20

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Of course. They have to be approved to make sure they're up to the requisite standard?---That's right. 1

But private enterprise is in this field of providing homes for the children that are in care?---There are a small number of organisations, yes, that are not for profit organisations.

Yes. They are capitalist organisations for profit?---Yes.

What percentage of your money that goes to the children in care goes to the for profit organisations as distinct from the not for profit organisations?---It would be - I don't know the percentage, but it would be a smaller percentage. By far the majority of residential care would be delivered by the not for profit organisations. 10

COMMISSIONER: Does the chief executive keep an eye on the profit margin?---The funding - the process that we undertake in terms of funding generally is through a tender process and organisations need to submit their tenders for those arrangements for grant funded arrangements and we certainly have a model around what we would anticipate to pay and they would be assessed against those. 20

What about the maintenance of standards? Once they've got a licence does the chief executive check to see the standards are maintained?---The licence needs to be reviewed every three years - or renewed every three years, so there's a further process with an independent audit and a checking of that. As well as that, our child safety officers in the regional area undertake a service visit quarterly to those organisations and they are then making some assessments, ensuring that the standard or the quality of care being provided is meeting the standards of care. 30

Are any of those visits unannounced?---There are, yes, some unannounced visits as part of the process; yes.

MR HANGER: Yesterday you were asked about whether child safety officers know what treatment they're getting in youth detention centres. Can you tell the commission what the child safety officers would know about what's happening in the youth detention centre?---Certainly a child safety officer is responsible for the child who is still on a child protection order. The child safety officer would still be responsible for maintaining contact with that young person, they would still have a case plan that should be developed and recorded within our client management system. If there were any issues that arise within that then the child safety officer could raise those with centre management. The child safety officer then gets more heavily involved when we're looking at the young person transitioning from detention back into the community and would be very heavily involved in that transition process back into the community. 40

That's from a youth detention centre?---Yes, that's right.

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Now, what about from the residential care? Do you say that the child safety officer is heavily involved in transition into private life as well?---Certainly all young people in residential care the child safety officer still has a responsibility to maintain a case plan for that young person. So that case plan is a requirement under the legislation and should be reviewed every six months. Also our child safety officers should be visiting those young people in residential care regularly, at least once a month, in terms of maintaining contact with that young person and liaison with the residential care provider about any matters that might need the department to be involved in and make decisions. Certainly then if a young person is transitioning from the residential to another form of care or exiting child protection because they've turned 18, then throughout the period of planning for that transition the child safety officer would be very involved in planning for that transition.

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Again, sort of building up the picture of the work that you're involved in, if a child in care needs to have a dental check up, how would that kind of thing be arranged? ---Certainly every child in care we commence a child health passport for that records their records, their health records. We call it a child health passport but it's a record of their health needs and what's occurred in relation to that. Certainly the child safety officer would be responsible for working with the provider, whether that be the foster carer or the residential care provider, in terms of determining what needs to occur and then assisting in making the appointments for that young person, or at least knowing that the foster carer has made the appointment and taken the young person to that appointment.

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So that kind of work, the need for non-urgent medical work, falls to the child's safety officer rather than the residential care provider?---If it's ongoing work, yes, that would be the responsibility of the child safety officer.

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COMMISSIONER: When you've got the child safety officer, does he or she get a report from the teachers at the school about attendance and performance?---Certainly we have - every child in care, as we talked about yesterday, has an education support plan. If a child is not attending school, or absent from school for various reasons, the Education Department follow their normal process in relation to reporting absences to the guardian and the child safety officers would be advised of a child who may not be attending school for various reasons. In relation to their performance at school, that is part of then the review of the educational support plans that occur again every six months. Those educational support plans are renewed, and looking at the child's performance and issues is part of that process. That process normally involves the child safety officer, generally the carer, foster carer, and the school involved in a meeting to talk about

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the young person, the issues. Certainly if the young person is of age and able to they would also be able to participate in that.

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What are the figures showing, that they're all going to school and doing pretty well?---No, the figures are showing certainly that the children in care are probably performing not as well as the general population in terms of their educational outcomes and there are a certain group of young people which I terms as with extreme or complex needs, very, you know, violent behaviour or other issues, that may be suspended or excluded from school at various stages and we would work with the Education Department to try and ensure that those young people are involved in alternative education opportunities within the schooling environment.

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Is that sort of behaviour just seen as an occupational hazard or are there attempts made to find out why these things are happening and remedy them?---Certainly all young people that - we have what we call the evolve teams which are teams that are in disability services or within Queensland Mental Health that young children in care may be referred to and access the services and those teams would undertake an assessment, develop a positive behaviour support plan, work with the child safety officer and the carer and in some cases the school environment around a range of strategies that might be useful in managing behaviours or de-escalating it.

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What's the level of experience with those plans and those strategies? Are they working, are they not working? ---Certainly we've done an evaluation of the evolved services and certainly it is showing that the evolved services do have an impact in terms of de-escalating behaviour, some stability in placement, some better participation within schooling for those young people that would be involved with those services.

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MR HANGER: Mr Swan, there must be young people who are in effect uncontrollable, perhaps autistic, perhaps people with Asperger's and other problems. What can you do with them?---Yes, young people - the range of young people that are in care, you know, vary from those with moderate needs to very extreme and very complex or extreme needs. I've provided a couple of examples of some complex young people that are currently in care in attachment 12E and so one of those examples, example 2, talks about a 13-year-old young boy with a child protection history since 2000, some very significant - including father's sexual abuse of siblings, inappropriate physical discipline, neglect of the child's needs, parental drug and alcohol use, lack of boundaries for behaviours and the child's own marijuana use at that age.

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What age?---13. The child was described as having low cognitive functioning, intellectual impairment, drug induced psychosis, oppositional defiance disorder and psychotic behaviour, observed to be eating children's sores and defecating himself in public, engaged in high risk activities such as sniffing of paint and petrol and continued marijuana use and very aggressive behaviours, et cetera. So this young person, again, certainly in the placement we'd be looking at what additional support we could provide to the young person and to the care arrangement in terms of working with that young person and the care providers around a range of strategies to try and reduce those behaviours. That young person since entering their previous arrangements has begun to stabilise to the point where they're no longer requiring anti-psychotic medication, which is a good sign for that young person. So our child safety officers are dealing with these very complex young people every day and they are - - -

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That's what I'm trying to get from you?---Yes.

I mean, it's terribly, terribly difficult for some people? ---Yes, our child safety officers do a great job on the frontline. It's a very difficult job. They're dealing with parents on a day-to-day basis. Some parents, obviously, we talked about yesterday, the range of behaviours, child safety officers can often be assaulted or risk of assaulting or often death threats or stalking from parents and also dealing with children or young people that have been severely abused or traumatised in their parents' care and working with these children and young people, working through those complex issues in managing behaviour.

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MR HANGER: You say working through these complex issues, Mr Carmody asked you how these systems are going, the education is going, you may not be qualified to answer this, but answer it if you can, what chance do you have of that person there going into the community holding a job and leading a productive life free of crime?---It's certainly the goal that we would - - -

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That's not what I asked you?--- - - - be working for, but it is a very difficult job in working with these young people. The long term - I suppose the long term directions of these young people - many young people could be, you know, heading into youth detention or the detention centre or significant issues, but certainly the goal that we try and work with is to try and prevent that.

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Obviously that what you aim for. I just wondered what your chances of success were with these very difficult ones. All right. Let me change the subject. Yesterday you, I think, expressed a desire for a filtering system to save so much time of your department being taken up with matters that don't go anywhere and I think you mentioned it took four hours to do a family concern report. Is that right? ---To receive the - yes.

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Tell us about that. Where does the four hours come from? 1
---When we receive a phone call from a concerned member of
the community, then our process would be to, first of all,
start to receive the information that they have concerns.
We would be accessing our client management system to look
if we can locate that child or young person or family
within our client management system to see if we've had
previous matters reported. We need to - on first
information provided, it may not be a significant issue,
but our child safety officers are skilled in terms of a
range of questioning to try and ensure that they get enough 10
information from the concerned person that they can make an
informed decision then around whether or not the matter
would then be recorded as a notification or recorded as a
child concern report. So there's quite a bit of
information gathering. They could - before they make
their decision, they could also contact some other members.
They could contact the school or they could contact other
known people to try and gather some further information to
inform the decision-making. That's all then recorded
within the integrated client management system and then
forwarded to the team leader who would then review the
information that's been provided, the decision-making
applied by the officer and confirm or otherwise the 20
decision to make a child concern report or a notification.

All right. The estimate is it takes four hours of
somebody's time to get to the level of making a child
concern report?---That's correct.

So if there was a filtration process stopping matters
coming to you which don't even justify a child concern
report, it would be much appreciated?---Certainly that's
what's occurred in both New South Wales and Victoria in
terms of particularly the professional notifiers in terms
of making some filtering process and pre-decision. 30

I suppose children at times go under different names
because they may be living with different parents and so
on, is that an issue?---Certainly in terms of, yes,
children and parents go under a number of names and aliases
and certainly that's one of our issues in terms of trying
to ensure that we can search to ensure that there are other
matters that may have been reported or other notified
concerns that may have been reported previously.

I take it there are issues in relation to the identity of a
child in the police system, the education system and your
system?---Certainly the systems that we have are not able
to talk to each other so that we don't know whether that's
the same person and we would need to be going through our
client management system to ensure that we are recording
the information against the right person. 40

So does that make the idea floated by the commissioner
yesterday of a unique identifier number given to a child
who comes to your notice attractive and would it be a good
idea if that unique identifier was common to police

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education and your system and any other relevant system, I suppose?---I think it would - certainly when information is reported, it would certainly make it easier if we're able to easily identify that young person through some form of unique identifier, but that would require quite significant IT changes and investigations to be able to do that.

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We shouldn't start talking about IT in the current climate because I take it you don't have access to police computers?---No.

And police don't have access to your computers?---No. Police do - if they need to, we run an after hours' service so police do quite often use that service and ring that service if they're seeking information about what may have been, you know, previous matters reported to child safety.

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They could find out by phoning - they could find out what's the previous history of a particular child or a particular family?---Yes. Yes.

What about the Education Department? Do your computers and the Education Department's talk to each other? For example, do you know where each of the children that are in care go to school?---We would have that recorded within our system. Certainly part of our recording within the notes would be certainly the school attendance and the school that that young person would be talking to, but it's not an automatic matching between the Department of Education and Child Safety Services.

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All right. Can I go on to the issue of court appearances. From what I can see - - -

COMMISSIONER: Just before you do that, Mr Hanger - - -

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MR HANGER: Yes, yes.

COMMISSIONER: - - - could I ask a couple of questions.

The identifier would be a particular problem with the mobile families, wouldn't it, those that move - - -?---They certainly are. It certainly is one of the issues in terms of ensuring that you've identified the right family and certainly many of our families are very mobile and so the ability to be able to ensure that we know it's the right family and anything that could assist would help.

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So it's hard enough for you to keep track of the family and the children in it. It must be even harder to do it if you're an interstate agency if your counterpart is in New South Wales or Victoria?---Yes. Certainly we do have to make inquiries interstate from time to time about particular families or pass information on where we know a family may have moved interstate.

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How do you know that? Is that just a chance discovery or is there some system in place to track families through the country and say, "Well, you've got family X coming into New South Wales. Here are our files"?---No; no, certainly not. If it was in our process of receiving information or investigation that we did receive information that a family had moved to a certain location in New South Wales, then we would ring New South Wales to let them know that the matter hasn't been completed here.

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There would be some families who just come to notice, but what about those children who are in care or subject to long-term orders? You would know when their families sort of disappeared all of a sudden, wouldn't you?---We generally know where the family might be because we would be encouraging contact with their family, whether that be face-to-face contact or through the telephone. We would generally know where their families would be and have that recorded.

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So the ones with the highest needs you would know. The ones with the highest needs - you would know their movements generally speaking, wouldn't you?---We would know where they might be reported from time to time to Child Safety Services.

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But you only know if you get a report. You don't know from your own experience boy X's family hasn't had contact with him for two or three months. Maybe they have moved interstate?---Sorry, if the child was in care and might be on a long-term order, certainly we would know the family and where they would be and maintaining contact. There are some families though that we may not know where they might be at different points in time. If the family - if the child was not in care, then we wouldn't know the movement of a family.

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I'm supposing - correct me if I'm wrong, but if you have one child in a family in care or under long-term orders, the chances of siblings being in a similar position would be quite high. Is that your experience?---Generally, although there might be, for example, a child in care who might be a younger sibling and there might be older teenage siblings in their teenage years and because of the matter that's reported, the investigation and the outcome might be that really they have concerns for the younger sibling and at this point in time because of the parental issues that the older teenage siblings would still be safe.

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Yes, so would the concerns generally be safety rather than neglect in that situation?---It could be around, yes, safety or parenting of a young baby, for instance, that would raise concerns.

What about in the case of older siblings? Is there any sort of early intervention-preventative approach taken to stop younger siblings of a child in care or long-term order also entering or re-entering the system?---Sorry, I'm not

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100 per cent - - -

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Say you have got a family of four?---Yes.

One of them is under a long-term order or in out-of-home care?---Yes.

And he or she is the eldest in the family. Does the department do anything to make sure the other three kids don't enter the system?---We'd be certainly offering referral to a family support service if the family was then prepared to engage with that family support service.

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Is that what it is, it's a voluntary engagement?---It's, yes, a voluntary engagement.

Right, but I suppose a lot of the parents - the parents of the sibling in care or in out-of-home care are partly responsible for them being there in the first place so they're not likely to be taking advantage voluntarily of some program that might assist the younger siblings, are they, as a matter of reality?---If we have a child in care on a shorter-term order where we're working with reunification, then we can certainly work with that family and as part of the case plan require that family to undertake certain things which could be - require them to participate in a family support service or financial counselling or could be within a drug or alcohol service and their participation in that would then further inform the decision that our child safety officers would make about reunification.

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Do you have any figures on the numbers of children from the same family being part of the system at particular stages or ages?---We certainly would be able to have information about siblings in care. I'm not sure - I'd have to check on whether we had information about families where there would be siblings in care and siblings not in care.

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Yes, but, I mean, do you track it historically and say, "This family had one sibling in care in 1990 and they had another one in care in 1995 and then another one in 1997"? ---Certainly in relation to a particular family we would have records in relation to that family which would know the siblings, whether they were in care, the different periods of time that they may have been in care at the various stages, yes.

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All right. So you keep those records?---Yes.

What do you do with them from a preventative or early intervention point of view?---In the south-east that we talked about before in the Helping Out Families trial certainly if those families are reported again to Child Safety Services, then we would certainly be referring them out to the non-government organisations for those services to try and engage with them to seek their consent to it to engage in a support service. If the family has not been

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reported to us at this particular time and we haven't got any involvement with that particular family at this point in time, then there wouldn't be any action being taken with that family. 1

All right. By the same token those parents of those children that we're talking about in the example have some presenting symptoms that might be multiple that they need to deal with because those problems are interfering with their parenting. What do we do about them seeking help for themselves to address those problems?---Certainly the non-government organisations that would be providing those services, depending on whether the family - whether they're, you know, involved in an early-years centre at a school or whether they're involved, you know, in a neighbourhood centre or something like, then those services would have a responsibility to try and assist the family and refer them to other services. 10

So everyone is trying their best, but it's a bit - you can take a horse to water, can't you? You can take a horse to water. You can't make the horse drink?---You can't.

Okay. So when we see this pattern, obviously the horses are always drinking. What incentives are there in place to get them to drink to help themselves help their children? ---Certainly from Child Safety if the family is being re-reported to Child Safety Services, then we could look at - depending on what's been reported, we could look at interventions with parental agreement to try and work with that family more intensively. We could look at opening a support service case that could work with that family, but again at that point in time they would've been reported to Child Safety Services. 20

Yes, so they are already in the system?---Mm. 30

When you say you could do it, is your experience that it is done?---Certainly in terms of numbers of children that we have on interventions with parental agreement has increased over the last number of years where we would be, you know, working intensively with those families to support them to care for their children at home.

All right, thank you. Yes, sorry?

MR HANGER: No, not at all. 40

Just following on there, to your knowledge, do the Queensland Police and the Health Department and any other relevant organisation that reports to you have a different level of concern before they report to your department? ---Yes, that was one of the issues we looked at late last year, early this year. Health is the only department where the definition is within the Health Act, I think section 76 of the Health Act.

Tell us about the levels that cause each of these 50

departments to report abuse to you?---Yes, the police service - the reporting is contained with the policies of police.

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What's the effect of them though?---The effect of police is that they report all matters in relation to domestic and family violence and - - -

If a child is present during the domestic violence?---Not always, no, because there might be a child that could be residing within that household that may not have been present at that time.

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So I suppose it would be right to say they report at the lowest level of concern?---It's certainly a different level of concern, yes.

Those are my words, not yours?---Yes, and - - -

COMMISSIONER: I suppose the thing is - I mean, I can see your point. They report to you. You have got to do something about it. Someone has passed you the ball. You can't be left with the ball when the music stops, but it's not a bad idea in a way, is it, because it is a driver of one of the things you need to be looking at from a preventative point of view, isn't it?---It's really what has then led to the large numbers of reports to Child Safety which has led to then what we were talking about yesterday in terms of the increase in the number of children that are known to Child Safety Services. What the research shows is that the families are more likely to engage in services and receive services if it's in a non-stigmatised way and not attached to a formal department. So if the families were referred directly to a non-government organisation and the non-government organisation was able to have that interaction with the family, then those families are more likely to engage with that service and participate in the services that are being provided rather than when it's come through a statutory report.

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I can see that?---Yes.

But can't you have your cake and eat it too? Can't you get the report of the information and say, "That's handy information to have. We'll keep an eye on that and see if that develops into something worse that needs protection intervention, even early or preventative intervention, but as for doing something about the particular problem we'll refer that on to a non-threatening non-government agency, but we'll keep the information and we'll use it as intelligence for preventative and early intervention"?---It has, I suppose, then other implications in terms of then - the numbers of children known to the department then has issues then in relation to the child death review process so - the child death review process is then triggered by a child known to the department in the last three years so anybody that may have been reported - and it could have

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been one report. That's different to other jurisdictions where in some other jurisdictions that review process only occurs if the child's known in the last 12 months but - - -

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I see that problem too?---Yes.

But can't you just define - look, instead of throwing the baby out with the bath water, can't you still get the information and use it advantageously but then with the deaths review system say, "Well, okay, it doesn't include all children known because we know a lot of kids and we know them for pretty good reason actually," but that doesn't mean to say that you should do a death review in each case. Let's increase the bar on what you do death reviews on rather than stop hearing information that might actually help kids?---Certainly in terms of again looking at the comparisons between the system in Queensland and New South Wales and Victoria - certainly the Wood Inquiry in New South Wales made some recommendation directions around what was the increasing numbers of reports and, you know, whether or not they all needed to be recorded within a Child Safety Service system and certainly in Victoria where they've got a system in place to reduce the numbers of reports and get more families into early intervention and prevention services at an earlier point in time rather than - - -

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But they are really different systems now, aren't they?
---Yes.

They're nothing like the system we have got here. They do have truly whole-of-government early intervention preventative model like the UK and this is only fairly recent in the last 10 years. Is that right?---In?

The UK and New South Wales. Victoria was 2012?---Victoria was the inquiry but they've had a much stronger focus on secondary services for a long period of time.

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It's making even more revolutionary changes to that system, isn't it?---Mm.

So we have got to look at what we have got. The way I see it is we have got two options here. We can either invent a new wheel or we can fix the one we have got. New South Wales, Victoria and the UK decided to fix the wheel, but that was their brief. Their terms of reference have asked them to come up with the best looking wheel for the wellbeing of children; not child protection but the wellbeing of children. Now, what we're looking at here for the moment is the current system as it works here and what I'm asking you is: isn't the information the police give you, even though 85 per cent of it may not reach the threshold for your intervention, still useful to you or to government? See, you look at government as, "Well, it's a cost to government"; doesn't care whether it comes out of disability or prevention. It's still a cost to government. It's the same as information, isn't it? It's all good for

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government. Shouldn't we just be giving it on to the right people who can do something with it even if you can't? ---It depends on the level of those matters that are being provided. Many of them are really around either parental conflict or parental capacity to, you know, care for their kids and whether or not that needed to be reported to Child Safety and recorded within a database - - -

Domestic violence is more than parental conflict, isn't it? ---Most certainly the domestic violence matters are at the moment, yes, all reported to Child Safety Services.

But they're not just conflict between parents. It's violence between them?---Yes.

So isn't that something you would want to know if you were acting preventively; not necessarily as a child safety person but as a government agency, whether it's a universal one or a secondary one, you would want to know that sort of information of who's having trouble with family violence in their homes?---It's information - - -

Especially homes that contain kids?---Certainly if the families are then referred to the non-government organisations or they seek help themselves through those non-government organisations, then those services work with the families, you know, around those issues.

All right, but they don't go. Let's assume they don't go. Let's just deal with the ones that don't go. They don't help themselves because they have got no insight about their problems and it doesn't matter how many times you bring it to their attention, they still won't. What incentives are there in the system to get them to go because they're not going to go of their - because they can see the benefit it. They're going to go for some other reason. What are the other reasons we can give them to go?---Unfortunately the reason that we - what we've had at the moment is the stick around child protection which is what, you know, is probably not the best stick to have in terms of removal of their child so there does need to be a way in which the families can be encouraged in a way to engage with those services and certainly the research shows that if you're referred through a child protection agency, you're less likely to want to engage in those services or agree to engage in those services.

Sometimes you need a stick even if it's not a child protection stick, don't you?---It could be, yes.

So what other stick would you design?---I haven't done any work in that area.

Someone might have to?---Yes.

MR HANGER: So we're dealing with the level at which police report, and what about education?---Education's guided by a policy that they have as well.

I mean, we can get hold of these policies, but I'm trying to get an overview. Just tell us what the policy is?
---Education, I think, probably errs on the side of reporting rather than not reporting.

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Right. Again, come back to answering my question as best you can because we can look at the policy, if necessary, but you know when do they report? Do they report because Billy didn't bring his lunch? Do they report because Billy didn't bring his lunch 50 times in a row? Tell me more? ---The process within education really is that the teachers, et cetera, make a referral to a principal and a principal generally would make a decision on whether to report to Child Safety Services.

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When does the - give me examples of when a principal might report?---An example: it could be that there might be continued absences from a school and that the child is not attending school and that there might be continued absences from school for that particular person.

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COMMISSIONER: I thought teachers had to direct report that?---Sorry?

I thought teachers had to direct report in the last month or so?---Direct report?

Yes. They don't go through the principals any more. They have to do it directly themselves, if they have a reasonable suspicion?---Is that the recent changes to the legislation in Queensland around reporting of sexual abuse?

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Well, that's hard, is it?---There were some recent changes to the legislation in Queensland that required teachers to report matters to the police in relation to what they considered to be - I can't remember the exact terminology within the legislation, but it's where there might have been sexual activity between young people that they are required to report that to the police. It's not a requirement to report to Child Safety Services.

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MR HADDRICK: We might just try and get that information for you, commissioner.

COMMISSIONER: Yes. Ms Martin?

MR HANGER: Mrs Martin, who used to work in this area, tells me that there is legislation that teachers are mandated reporters recently under that Education (General Provisions) Act, but in fact I think teachers are probably still doing it in the old fashion through their principals.

COMMISSIONER: Yes.

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MR HANGER: There will be more about that from education.

COMMISSIONER: Yes, sure. All right. Thank you. That accords with my recollection of it.

I suppose one of the things we've got to look at is something I raised with you yesterday, Mr Swan, that you raised in your statement about at least post the CMC report, the child protection, child safety has become more

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defensive. Every time there's a horror story in the media, everyone gets more defensive. They don't want to be the one standing when the music stops so what happens is everyone does it by the book, which may or may not accord with the best interests solution and all the other agencies do it by the book, too. So police pass their reports on to you. It's off their desk. It's on to yours. Education does it, health does it. You're the one holding the bag or all these complaints and if something blows up, you're the one who's going to have to answer for it. Is there a sense of that?---There's certainly a sense of probably a scrutinisation of child safety officers' work and that the decisions that they make are, you know, very, very significant decisions and the concern is always around the fact that, you know, "Are you making the right decision and is it safer to remove the child or can we work with the child in that family environment?"

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The difference might be, "Are you making the right decision for the child in the sense that have you assessed risk as acceptable or unacceptable, what if you're wrong, and you know it becomes another horror story? What sort of support am I going to get? Am I the one who's going to be blamed; better safe than sorry and I'll remove, even though if arguably the best interests solution is to take the risk and leave the child at home"?---Certainly, there has been a lot of focus on the child safety officer work and certainly in the previous processes for the child death review, certainly staff felt that it was a very, very punitive process and we believe that that did have an impact on staff in terms of their decision-making and, as I said yesterday, we did work with the commission to try and turn that around to be more of a focus on learnings from that rather than a punitive process around the decision-making.

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I suppose you can give moral support to your staff. Can't you just sort of say to them, "Listen, everyone knows you're making very hard judgment calls all the time. You're doing the best you can. It's not going to be 100 per cent right, but if you can get it right, you know, 100 per cent of 80 per cent of the time or 60 per cent of the time it's as good as people can reasonably expect, you know, have faith in yourself, have confidence that you - mightn't we get that sort of support?---We certainly do provide that support to staff in terms of, you know, making appropriate decisions and utilising their professional judgment within those decisions, which is a key focus of our work with staff, but unfortunately whenever a significant incident does occur and there's an analysis of that significant incident and it does go back and look at the information and what you did and the decisions that you made, those decisions are then under scrutiny.

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But if they're made honestly and professionally and reasonably - see, no-one in this world gets in trouble for not being negligent or for being reasonable, but wrong. Right? It may not look sometimes like that in the newspapers when you read it - - - ?---Yes.

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- - - but isn't the department sort of responsible for when the finger is pointed at one of their people who has done their best and no-one could do a better job in the same circumstances go into bat for them publicly?---We certainly do go in and support our staff and try and support them as much as possible.

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Do they feel as supported as possible?---It probably would depend on the situation from time to time and the focus that's put on the particular incident or situation.

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But do you have a media department - - - ?---Yes.

- - - that can ring up the Courier Mail and say, "Listen, the slant on that was sort of slightly wrong and the headline was a bit misleading," or anything?---We do have a media department, yes.

MR HANGER: I mislead you before. Sexual abuse is mandated reporting, but not - - -

COMMISSIONER: Not generally is?---No, that's police.

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Is it to police or to the department?---I think it's to police not to Child Safety.

That's interesting.

MR HADDRICK: We're obtaining a copy of the legislation that might be of use to the commission shortly.

MR HANGER: Can we come back to it?

COMMISSIONER: Yes.

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MR HANGER: It's actually in the statement of - - -

COMMISSIONER: You might have been partly responsible for the legislation. Why is it to police?---Certainly, when that legislation was going through, it was certainly in relation to activities and our belief was that those matters didn't need to be all reported to Child Safety Services. So, for example, it could have been an incident where there was a sexual relationship between two consenting teenagers who were under age and that those teenagers had parents who were willing or able to protect them and it was an issue then about whether or not it was a matter that needed to be reported to the police in relation to a criminal activity rather than a child safety matter.

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But they might coincide at some stage?---Well, it could do, but that was - - -

That sounds like - - - ?---No. That was the judgment and in school where you've got two teenagers that might be in a consensual sexual relationship, then it's not necessarily the fact that you don't have a parent who's able to care or

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protect those young people and there was a distinction being made between whether or not it should have been a report to Child Safety Services.

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All right. They don't need protection, but they need criminal action taken?---Well, that was the - I think it was the intent of the act and the issue that was being raised in the legislation.

So what happens now under that regime, teachers report this to the police. The police don't report it to you, but what the police do is report all domestic violence cases to you?---Police report all domestic violence cases to us. Yes.

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MR HANGER: Can I then change the subject now and go on to the issue of court appearances. You deal with this in paragraphs 187 and 189. A lot of matters seem to be adjourned and I think in your evidence you talked about a massive amount of time of your frontline workers being taken up with court appearances. Adjournments must: (a) cause a lot of anxiety to your staff - and to the other party, of course, and to your staff; and (b) waste a lot of money, one would imagine, paying lawyers or staff. Is there a way of avoiding adjournments?---Yes, certainly we talked about yesterday there are a number of points within the act that are required to be undertaken before we can appropriately get an order made. Some of those refer to having to have a family group meeting convened and completed and a case plan completed and there are quite often delays in being able to have those family group meetings or the case plan. I suppose an issue is whether or not those matters needed to occur before a court order can be made which is really about, you know, whether or not a child has been abused or significantly harmed or at significant risk of harm, which is the matter in which the court makes a decision. The other matters that I do hear from staff from time to time is that across the state these matters are raised - taken to the various Magistrate's Court and the magistrates, you know, not only have child protection business but a range of business before them. There's only one specialist Children's Court within Queensland which has got a further trial at the moment about the participation of children in the court process, but certainly staff - I hear from staff that the variation across the state can have an impact on getting court orders.

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You mean the variation on the standard of the magistrates, to put it bluntly?---Certainly, in terms of - a variation in terms of the expectations on the department and the materials to be provided by the department, I think, which is then the difference in the magistrates.

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COMMISSIONER: Mr Swan, section 51YA of the Child Protection Act says that, "Anything said or done" - it's only a short one, I'll be able to summarise it enough, I think, for the question - "isn't admissible in criminal

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proceedings," but it doesn't say anything about protection proceedings?---Is that within the family group meeting?

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Yes?---Yes. Within the family group meeting. That was an amendment that was made to try and - yes, to try and have parents participate within the family - - -

Without fear of - - - ?---Without fear, yes.

But what about the admissibility in protection proceedings? Wouldn't they fear that as well?---In protection proceedings before the court?

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Yes. Like, it's limited to criminal proceedings - is the protection proceeding a criminal proceeding?---It's not a criminal proceeding but - - -

No. So what they say and do in a meeting would be admissible in the protection proceedings, but not to prosecute them, for example?---Certainly. It was really trying to get parents to participate freely within the family group meeting to be able to provide, you know, a range of information about them and their selves and other family members to try and work through what would be the best arrangement for the care and placement of that young person within care into the future.

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Is it better since the amendment; more participation rates? ---I'd have to go back to the regional offices and get some information for you on that.

I mean, I guess that's the whole point, isn't it? Don't we need to - we make a change because we think it's going to help - check to see if it actually did that?---It was certainly information that was being raised by our officers and others in the process of the family group meetings that was an issue that was impacting on participation in those family group meetings and able to be able to work through an appropriate plan.

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So good practice would suggest that once you do it because you think it's going to improve, you check to see what level of improvement it's actually had?---We can certainly go back and get information from our regional offices on the impact of that.

Okay. That was helpful. Thank you.

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MR HANGER: You might make a note of that. Tell me, these family group meetings, I referred to them yesterday as like mediations, but are they chaired by qualified people?---We have a number of family group meeting conveners across the state in every Child Safety Service centre yes.

Are they qualified?---Yes.

What's their qualification?---Their qualification is the same as the child safety officers.

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A degree of some kind?---Yes.

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And any training in chairing family group meetings or just experience?---There was experience. There's some processes within the manual and there would be work undertaken with those officers around familiarity with that and the processes.

All right. I want to - - -

COMMISSIONER: Sorry. I thought you have two types of conveners. You have one that - and the chief executive is responsible for picking the convener, isn't he or she? ---Sorry?

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The chief executive is responsible for picking the convenor?---For the recruitment of staff.

Yes, but technically it's the chief executive that convenes the family group meeting?---The family group meeting.

Is that right?---It's a responsibility under the legislation.

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That's right. But she can outsource it to a private convener if she wants to. Right? Is that the preferred way of doing it at the moment?---The preferred way of doing it at the moment is that we have a family group meeting convener in most Child Safety Service centres around the state who's responsible for convening those meetings.

I see. So section 51I(2) simply says, "The chief executive may have a person convene a family group meeting as a private convener only if satisfied the person is appropriately qualified." I think I've sent an information notice to you asking about this. Are you saying "appropriately qualified" in practice means they've got to have some sort of degree?---That would be our requirement of the department. At the moment we use all internal staff for the conducting of family group meetings who would be qualified.

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So the only private convener is that the chief executive appoints internally?---We could. If we wanted to or needed to, we could engage a private person to undertake those meetings as well.

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I know you could, but do you?---It's not general practice.

Looking at the point of these and looking at the point of the immunity given under 51YA, why wouldn't you send it outside the welfare to someone who is seen by the participants as not actually being part of the system as an incentive for them to participate?---Well, it could do. Part of the process through that family group meeting is also to look at the issues in relation to the future placement of the child, which is a statutory decision, and

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developing a case plan for the child so therefore some of the other issues that need to be worked through in terms of where the child may be going to school placement. Some of those other factors are all part of the case plan.

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Do you think the underlying purpose and function of the group meeting might be better served by having someone seen by the participants as impartial?---It could be one way of looking at it, but certainly - - -

Well, let's find out from the people who participate. Why don't we ask them - - - ?---Certainly the family - - -

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- - - what would make them come to more of them?
---Certainly the family group meeting convener that's employed within the department is not the case worker responsible for the ongoing case - - -

No. They probably left the best next door.

MR HADDRICK: Mr Commissioner, I'm just mindful that Mr Swan has been in the witness box for about an hour and a half now. Would it be a convenient time to perhaps take a 10-minute break?

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COMMISSIONER: Sure.

WITNESS WITHDREW

THE COMMISSION ADJOURNED AT 11.14 AM

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THE COMMISSION RESUMED AT 11.27 AM

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MS MCMILLAN: Commissioner, with your leave I propose to call Ms Apelt. Ms Apelt is a former director-general of the department and has provided a statement. So I call Ms Apelt.

APELT, LINDA ANN affirmed:

COMMISSIONER: Thanks, Ms Apelt. Thank you for coming?
---Thank you.

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MS MCMILLAN: Yes, thank you, commissioner.

Ms Apelt, you have prepared a statement some five pages long which you signed on 11 August. Correct?---Correct.

All right. Could you just identify this document. Is that a copy of your statement that you signed?---That's a copy of the statement that I signed.

Do you have a copy with you today?---Yes, I do.

I tender that, Mr Commissioner. That's a copy. Could I just ask that you make a non-publication order in relation to the address on the front page - address and contact details, I'm reminded.

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COMMISSIONER: All right. Ms Apelt's statement will be exhibit 14 and I direct that the address and contact details in exhibit 14 not be published unless and until further order.

ADMITTED AND MARKED: "EXHIBIT 14"

MS MCMILLAN: Yes, thank you, Mr Commissioner.

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Just in relation to that statement, it has, "Officer taking statement," my name. That's incorrect, isn't it? I didn't take that statement?---Correct.

Yes, thank you. Could you indicate to the commission who took that statement?---This statement has been developed subsequent to an informal oral discussion with yourself and other officers.

Yes?---I received a summary of that discussion that was put together by somebody unknown to myself. I subsequently crafted the submission based on what I believed to be pertinent to the terms of reference for this inquiry.

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Would you have a look at this document, please? Is that a copy of the draft forwarded to you from the commission?
---Yes.

I tender that, Mr Commissioner.

COMMISSIONER: The draft witness statement will be

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exhibit 15.

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ADMITTED AND MARKED: "EXHIBIT 15"

COMMISSIONER: Could I have a look at exhibit 14? They've both got the Child Protection Commission of Inquiry letterhead. Is that how the statements are taken? Are there other people who craft their own statements and put it on our letterhead?

MS MCMILLAN: Not that I've seen, Mr Commissioner. I have to say, we've only seen a couple, but, for instance, you'll note Mr Swan's statement - I don't have it right in front of me - in fact, yes, it does as well, but that was obviously not prepared - that was prepared on behalf of my learned friend Mr Hanger's client.

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COMMISSIONER: Yes. It just might be misleading to people accessing exhibits if they see Queensland Child Protection Commission of Inquiry on the front of the statements. The natural inference would be that it's been prepared by commission staff. I don't think that impression should be falsely given.

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MS MCMILLAN: Yes, Mr Commissioner. I apologise for not picking that up. With respect, that would seem an obvious inference, so that perhaps I'd just suggest that both those statements, that and Mr Swan's, be amended so as to remove that letterhead from the exhibits.

COMMISSIONER: All right. As long as people accessing it understand that. Thank you.

MS MCMILLAN: Ms Apelt - - -

COMMISSIONER: I think it's important that people know what statements are prepared by the commission and what statements are prepared by the department, for example, or a non-government organisation, because, you know, obviously weight is given to statements according to the interest that they reflect.

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MS MCMILLAN: Yes, and probably even later on in the hearings it will become even more important for it to be clear who has prepared these statements.

COMMISSIONER: Yes.

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MS MCMILLAN: Could I also show you this, Ms Apelt? Is it correct that you received a compact disc of the transcript - sorry, a recording of the interview on 3 August?---That's correct.

That's the compact disc you received?---Correct.

I tender that, thank you, Mr Commissioner.

COMMISSIONER: So the draft prepared by commission staff

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was 12 pages and the one that's tendered as exhibit 14 is five pages. 1

MS MCMILLAN: Yes, Mr Commissioner.

MR HANGER: I wonder if there are copies of that available?

MS MCMILLAN: Both statements?

MR HANGER: Both the disc and the statement, because I haven't seen them. Doesn't matter. We'll get them later. 10

MS MCMILLAN: Yes.

COMMISSIONER: Yes. Do I understand exhibit 15 was compiled by reference to exhibit - to the CD, which is exhibit 16?

MS MCMILLAN: Yes, that's so, commissioner.

COMMISSIONER: All right.

ADMITTED AND MARKED: "EXHIBIT 16" 20

MS MCMILLAN: We're just handing out copies. I apologise, it should have happened earlier. Mr Commissioner, I just hand up as an aide-memoire a transcript of that interview.

COMMISSIONER: All right. Well, that will be part of exhibit 16.

MS MCMILLAN: Thank you. I won't tender that because Ms Apelt hasn't been given the opportunity to peruse it fully to satisfy herself about that. 30

COMMISSIONER: The exhibit will be the CD and the transcript will be an aide if needed to - - -

MS MCMILLAN: Thank you. Ms Apelt, at that interview was myself, Mr Aaron Simpson, who I understand is another counsel assisting, yourself, Mr Healy. He is an employee of the department. Correct?---Correct.

Mr Selfridge, who is junior counsel for the Crown Solicitor. Correct?---Correct.

And Mr Solomon Rowland who you understand also to be in the employ of the Crown Solicitor?---Correct. 40

Right, thank you.

COMMISSIONER: What's Mr Healy's position with the department?

MS MCMILLAN: Do you understand what position he holds within the department?---Mr Healy is the general counsel for legal services with the current Department of 50

Communities, Child Safety and Disability.

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COMMISSIONER: So no shortage of lawyers at the interview?
---No.

MS MCMILLAN: Ms Apelt, you have a copy of your statement which you signed with you?---I do.

Thank you. Now, can I just ask you, in terms of your tenure at the department, you say that you were director-general of the Department of Housing from 1998 to 2004, director-general of the Department of Communities and Disability Services from 2004 to 2009, Department of Communities from March 2009 to March 2012, when you had direct responsibility for Child Safety Services. So prior to 2009 Child Safety was a separate government department?
---Correct.

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So, Ms Apelt, can I just ask you firstly some issues arising. I think you've referred in your statement to it being a super department?---That was the terminology that was commonly used at that time.

In terms of that department, firstly, did you see that there had been any advantages to there being a stand-alone child safety department?---Clearly from the chronology of my involvement with child safety my involvement was when child safety became part of the larger amalgamated Department of Communities, but on reflection, as I point out in my statement, the time that child safety was a separate government department it provided an opportunity to provide a concentrated attention to tightening up the statutory element of the overall system, and we've seen evidence of that through the implementation of recommendations from the CMC inquiry. That actually recommended a separate government department. It also provided an opportunity to really sharpen up the policies and procedures around the statutory system. So I think we see the legacies of that more acute attention to the legislation from a statutory point of view today, however I also saw advantages when child safety became part of an amalgam, if you like, of related services, in that there was more of an opportunity to implement beliefs around the importance of intervening in stressed family lives early in order to prevent crisis and therefore help prevent so many children and families coming to the attention of the statutory system.

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So is this perhaps a correct way to phrase it, that prior to 2009 there had been an emphasis, from what you indicate, of refining, and I think you used the word "sharpening", of the service delivery located around child safety within that department?---It was a focus on implementing the recommendations of the CMC inquiry, which were primarily about sharpening up the policies, procedures, the legislation, the reporting and care standards for children who were in the care of the state. It also had recommendations in relation to supporting the ongoing

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investment in early intervention and prevention family support services which were primarily invested in other agencies such as the Department of Communities at that time, disability services and also the universal services of health and education.

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COMMISSIONER: So are they linked up in any way so that you can - so that the tertiary intervention function was informed by and assisted by and could tell that it was being both of those things through the provision of better universal and secondary services?---There were concerted efforts from a whole of government point of view among chief executive officers or directors-general at the time and also senior officers who were child safety officers in the various government departments who were part of a network to ensure that the implementation of the recommendations by the CMC were implemented from a whole of government connected, integrated point of view as opposed to separate solo'd approach. However, I do believe that that was an evolutionary process, because there was lots of work that needed to be undertaken with information sharing, having information systems, standards, policies that connected and articulated with each other so that at the end of the day it wasn't just the child safety department but the whole of government acting in the interests of children.

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By March 2012 when you left what stage in the evolutionary process had been reached, do you think?---I think if you peruse the annual reports during that three-year period you will see from the investment pattern but also the performance measures that there was a ramping up of efforts in investment in community based, non-stigmatised family support initiatives, particularly for indigenous communities, particularly for families with children with autism and other significant disabilities, also particularly in geographical areas of the state where the needs based research was indicating that these were particular hot spots for families in stress and therefore reports and notifications to the child safety system. So my observations at the time and certainly the priorities at the time was driving a strong, increasing investment in that community based early intervention and prevention and then culminating, I think, with the Helping Out Families initiative which we've heard about, which needs to be looked at in a broader context. It's not the only early intervention and prevention initiative that was in place but it was a step forward for connecting, get a better connect between the role of the statutory system and the role of the community based system and universal services in health, education and police. So the annual reports show that there has been a significant investment in a whole range of family support services, but I think it's important to recognise that the pattern of reports or escalating reports to the child safety system over time is not because the child safety system is not working, it's a reflection of what's going on in our communities, particularly given that indigenous communities in

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Australia, in Queensland, continue to be some of the most marginalised, disadvantaged groups in Australia. So it's no surprise that we have such a disproportionate number of reports of indigenous children to the child safety arrangements.

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From the child protection or child safety viewpoint obviously it's a reactive agency. It's not responsible for the number of notifications it gets. It has to deal with those that it gets. The number of notifications is driven by those other factors, not accessing universal services, not having access to targeted services, or for some other reason. You can't control that and it's hard for anyone to control in isolation, which is why I presume you've had the whole of government approach, so that they are all linked in together, targeting the demand side of your equation to reduce notifications by increasing resilience of families, decreasing stress and having homes and safer environments for children?---Correct.

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That was the - - -?---Correct. The child safety system is one - - -

Cog?---It's one cog in a broader system. I talk in my report, and it's documented well in the annual reports and in other documentation, about a philosophy of no wrong door, you know, and one of the fantastic examples of no wrong door working is where young parents might find themselves homeless and therefore at risk of their children not being able to be cared for. By being able to find affordable, safe, stable accommodation to stabilise a young mother's life, for example, increased her opportunities of getting employment and therefore caring for her children and remaining the legal guardian for her children. Without that connection, well, then obviously the odds of a child becoming - and the mother becoming part of the statutory intervention system are much higher.

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Yes. So you could have a very highly functional child protection tertiary intervention based system within a dysfunctional whole of government system, couldn't you? ---You could. You could, and that is the risk, I think, of focusing on the child protection system as an entity unto itself. It is one cog that needs to inform the rest of the system and be informed by what's going on out there.

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No, that's what I was going to ask you. That's what I'm particularly interested. Now, the outcomes were obviously the right outcomes that were being sought. Are they the same outcomes that are being delivered by the entire system?---As I mentioned earlier, this has been an evolutionary process and I also say in my submission that initiatives such as Helping Out Families which are actually based on very solid evidence with reasonable assumptions of what will assist families to be better families. If we were able to have such interventions on a broader scale, I believe it's reasonable to assume that we would have the child safety system doing the job that it's set up to do which is the reactive crisis intervention for children that meet a very high threshold of needing the care and protection of the state.

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So the way you see it is a proper functioning child protection service is really fire-fighting or rescue? ---Yes, it should have a very clear - it has a very clearly defined role in statute. However, in practice that role becomes a catchall for reports from the universal services and the community when people feel that if they report it to Child Safety, something will be done and, as we know from the demographics and the statistics, that's not necessarily the case because it's not the role of that entity.

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That was rather my point I sought with Mr Swan yesterday. He seemed to say, "Okay. The demarcation has been overstepped that may be because the universal departments are defensive, risk averse, mindful of bad press so they pass it over to us but it's still a cost to government so may as well do it"?---Yes, I think the cost to government is a cost to government. It all comes out of consolidated revenue at a point so that's an administrative issue. However, the system, I have no doubt, would benefit through - and this is work that had begun and, I assume, is continuing of supporting police, health workers, education workers to be more confident in their decision-making, their professional judgments. They are just as professionally qualified in many ways as a child safety officer to make a determination about whether or not this child meets the threshold of harm that that's the role of the state to intervene, or is this an area we believe with the right kind of support, whether it be mental health support, homelessness support, that there could be more effective targeting of resources at that local early community level?

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Do you think the threshold is too high or too low or what? ---I think the threshold is right. The threshold has been well tested. It's been benchmarked internationally. It articulates with the national standard for child protection which has national oversight by people who are experts in the field. I have no reason to believe that the threshold is not right.

All right. Now, just looking at the demand side for the

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moment, obviously that's the side you need to focus on? 1
---Yes.

Because if you bring demand for child protection services down, you should be able to meet the demand more cost effectively than if you've got a high level of demand for out-of-home care. That's what you want to do, isn't it? You want to reduce the number of kids who for their own safety have to go into out-of-home care for longer periods?---That's one of the indicators. The other indicator that we want to do is to reduce the number of children and families that are being referred to a statutory instrument that don't need to go there and do not benefit from going there. 10

That's what I mean. If you reduce the notifications that you get, then that's less work you have to do?---It's less work. That's not necessarily to the role of the statutory system. That will not necessarily reduce the number of children in out-of-home care because the statutory system is still placing priority on the relevant reports, notifications that come to its attention. It's the need to sift and sort and better target the lower-level concerns such as the child that comes to school consistently without their lunch. There is the ability of professionals at a local level to do the kind of investigations and support and judgment-making in a more timely targeted, non-stigmatised way than reporting it into statutory offices. 20

And giving you the job to do and spending your money on it when they should be spending their budget allocation on it? ---Correct.

Yes?---Correct. It's a more transparent way of identifying where the emphases should be in resource allocation. 30

In fact the figures would support what you say because notifications have actually dropped but the number of out-of-home care placements have increased over the same period?---Yes, and there's nothing to - and that may or may not be a necessary thing, I think, you know, because the child statutory system is still bound and dedicated to placing priority on those children that meet the threshold of harm that would suggest out-of-home care is the best placement.

So on your theory it should reduce notifications because that means it's not costing the protection-focused agency time and money to do needless work or that can be done effectively at a lower level much quicker and much earlier?---Yes. 40

And you also need to attack the notifications level through the universal services so that there are less concerns about children generally in the community and that's your preventative and your earliest intervention option? ---Correct.

But that's not the job of protection?---No, protection, you know, on the continuum of harm is really when this is really serious and a child needs to be taken into the care or guardianship of the state. 1

You're an agency of last resort?---Absolutely.

That's what I say. The system itself needs to work on the prevention and early intervention aspects?---There needs to be a connect between the statutory end and all of the resourcing that goes into supporting families to be resilient, good families. 10

Short of legislating for good parents we're stuck with the parents we have got?---Mm'hm.

And we have to do the best we can with them?---Yes.

It seems to me then that the legislation might need a little bit of tweaking in the sense that, as I pointed out to Mr Swan yesterday, protection includes care?---Mm'hm.

There seems to a conflict there, except to the extent that "neglected" means you're not getting care, but you're not there to ensure they are getting care. You're there to ensure that if they are neglected and it's brought to your attention, you act. The second thing is that in the paramountcy principle provision it talks about the safety and wellbeing of a child?---Yes. 20

What can you do about wellbeing?---The Child Safety element has - part of the system has a very important role to inform issues that are coming to their attention so that the health arena, the justice arena, the education arena, plus the neighbourhood centres - you know, all of those services that you'll see from the annual reports that are funded annually working away with families in non-stigmatised ways - they need to be informed about issues that are contributing to children coming to the attention of the statutory arrangement. 30

So that's not a bad reason for, say, the child - even if you rebadged it, the Child Safety Services section, being the recipient of all the information and being the gatekeeper, would say, "Well, you need this information. You need that. You need that. Everyone has got it and we're all plugged into the same system. We operate differently but we're integrated in the sense that what information I need from you I get and I know I'm getting it because I can check by plugging into your system and information you need from me to do your job you're getting and I know you're getting it because I'm giving it to you and you can check to see that you're getting everything you need from me." Is that how it works?---Exactly, so the integrated client-management system which is a very sophisticated information system developed over a period of time enables those people who have an interest in the child to get access to relevant history about the child to inform 40

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their part in supporting the child and their family and Helping Out Families has been structured to take advantage of that repository of information which acts in the interests of the child but also obviously protects the rights of a child.

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I'm sorry I'm taking up so much time, but while it is in head I may as well?---Yes.

If I'm your New South Wales counterpart, can I plug into that system as well?---Certainly when I had responsibility, that wasn't the case but it was possible to share the information.

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All right. The Helping Out Families project - again it seems to me it's great that it's there but it has taken till 2010 in the evolutionary process to get there when at least as early as the Ford report everyone was saying prevention and early intervention?---Mm'hm.

Now, I know you say the front end is for somebody else to do, but we do know that helping families does have a prevention, early intervention focus. That's what Mr Swan told me anyway?---Correct.

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So we know even with the child protection system there can be some preventative and targeted intervention focus that wasn't there before?---Since Ford the emphasis on early intervention and prevention has been consistent and if you study annual reports and budget allocations since that time, you will note that that emphasis has continued and certainly in the three annual reports that I had responsibility for, for child safety I realised the emphasised the importance of continuing to build a strong system around early intervention and prevention. So the Ford Inquiry was - that wasn't the first time that - - -

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No?---It's a basic principle in community and human services that that's - you know, it's a mandated base principle.

But did give you a spike in your budget specifically? ---Absolutely; it helped enormously and since then, you know, we've seen how that budget has increased. However, as I point out in my submission, unless we change the pattern of investment to have a better connect between the statutory end and where the bulk of the activity is which is in the early support prevention end, we're going to see all of the relevant, plus irrelevant reports coming into the statutory end and it's just unsustainable.

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Okay. I said at the start of this we wanted to be solutions based?---Yes.

So I see the problem, and what is your solution for it? ---So my solution is to make sure that we resource the system that reflects the situation, if you like, that we're faced with. The statutory has a discrete, dedicated,

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well-defined role. Let the statutory system do what it's designed and set up to do. Make sure, however, that it's well connected with the family support system that is there to support families to be able to do the job that the act assumes and our society assumes that families are there for.

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How do you better connect that system?---The better connection is to make sure that our key people that are making reports, people that are dealing with families and children on a day-to-day basis, have the tools, the confidence, the legislative support to be able to make professional judgments, and they're already doing this; you know, you'll take to nurses and doctors out there. They're already making professional judgments. However, we would like more to have the confidence to be able to do that and also have the option of being able to in a non-stigmatised, localised way connect people in with the right supports at the right time. That happens variably at the moment.

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How do you make it happen evenly across?---I point out in my submission that I think there's no way other than to have some sort of a hump-funding approach like the Helping Out Families in the hotspot areas and then it would be reasonable to assume that you could then make savings in what it's costing in the statutory end to deal with business. It's strictly not their business at the moment over time.

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Are you saying that the Helping Out Families program is really a cost to protection that could be borne by somebody else because it's not really within the remit of the legislation to Child Safety Services?---In practice that's how it happens at the moment in that health, education, police - you know, it comes from the various budget items within government as an adjunct to what happens in the statutory system. I think that it's important also to recognise that a place-based approach is very, very significant here because what we've got going in the south-east corner has been tailor-made to suit the demographics and the context of that situation. If you take Palm Island, for example, and - you know, you'd be aware Palm Island has a fraught history particularly when it comes to Child Safety matters. The Palm Island Community Co was established on Palm Island in response to a lot of money going into supporting families and children but not much coming out the other end for a whole range of reasons. However, since the Palm Island Community Co has been established since about 2004 - and now I think it has a budget of round about \$5,000,000 - we are seeing children being able to be looked after on the island by and large by people who are employed by the company with real jobs often for the first time in their lives, access to real training and development and tertiary education, as well as combined with their life experience to be able to deliver an integrated service to children and families on Palm Island. We've got the service now that delivers a safe house, a safe haven for children, maternal and child welfare.

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They're about to have that service, Early Years Centre, an integrated service, for such a small community but a very significant community and to me that's an excellent example of where it's possible to not necessarily put in more money but to use the resources that are there but tailor-make it to suit the local situation. 1

But not necessarily administered by child protection?---No.

You get the benefit of it if it works, but you don't have to be responsible for - - -?---No, there's a relationship between the Palm Island Community Co and Child Safety obviously in that, you know, there are statutory referrals to the safe house, but the Palm Island Community Co is locally based. It employs mainly Palm Island people. It has a professional board, a very experienced indigenous CEO in Rachel Atkinson and there's absolutely no doubt that children on Palm Island now are better cared for than being picked up in a helicopter in the middle of the night and taken to some strange place somewhere else within Queensland. 10

Okay. Now, I want to move from the notification end because we know that reducing notifications doesn't necessarily reduce tertiary interventions or the out-of-home care population. So what do we do about that? How do we reduce tertiary interventions and out-of-home care long-term orders?---It's probably more of what's considered to be tried and true practice now and that is working intensively, and sometimes this is very intensively with families to be able to change behaviour and change living circumstances in order to be able to continue to care for their children or we continue to support and strengthen other placement options such as placement with family remembers, kin. You mentioned adoptions yesterday. I note from the annual reports that there are still a small number of adoptions of children to kin and relatives. 20 30

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That's a fraught issue, though, particularly as children get older and with multiple sibling arrangements. Increasing support for foster carers, it's an out-of-home care arrangement, but foster care remains a very, very important part of being able to provide sometimes very short term out-of-home care arrangements for children until they can go back to the family situation.

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I would have thought the expectation would be that with the cessation of overseas adoptions that you would have seen an increase in interest in fostering younger children from infancy giving rise to the potential for adoption further down the track. Is that the experience?---Certainly, the demand for adoption far exceeds supply. I note from the most recent annual report that we did facilitate some adoptions of children with very significant disabilities to families who were looking to adopt. I think we need to realise the context here. These children often have very, very significant issues.

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Is there a point where repeated attempts where you have to admit - - - ?---Yes.

- - - failure with repeated attempts of reunification? Where is that point?---If it was a linear decision, you could say where that point is. Often adolescent children don't want to be adopted.

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And people don't really want to adopt older children?---No, no. Many of the babies that come into our care have significant issues.

You mean disabilities as well as - - - ?---Disabilities.

- - - well as deprivations?---Yes, yes, and also parents continue to exercise a right over their child so - - -

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Because?---Because they're still the parents of that child.

But they're neglectful parents or dangerous parents? ---Maybe not forever.

Okay. Well, that - - - ?---So, you know, sometimes if there's an acute episode of a mental illness, for example, and a child comes into care, the mother or the father get better, they have a right - and demonstrate they're willing and able to care for their child, they have parental rights.

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Or I suppose one relationship, parental relationship breaks up and another better one develops with a different spouse?---Yes and, you know, we don't often have a crystal ball to be able to predict that.

Okay. But we're running a statutory system so we have to make decisions as best we can and - - - ?---Yes.

- - - and linear might be the only way?---It is one way

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when it fits the circumstance.

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All right?---And that certainly, in my experience, was part of the consideration of placement options for children.

I suppose the practical difficulty is if you've got eager foster parents to adopt an infant, you can't leave it too late to make the decision because by that time they will have - they got too old to be - - - ?---Well, that is a circumstance that occurs. There are long term guardianship arrangements out there with foster carers that are very, very happy and productive, where the young people maintain healthy relationships with their biological family, but for various circumstances remain with the fostering arrangement.

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And the parental responsibilities are kept by the natural parents not by the foster parents or is there a compromise? ---It becomes a - like, it's a case-by-case arrangement depending on the circumstance, but there's a shared understanding about decision-making for that child.

Okay. We still have to confront the real problem that we seem to have and that's escalating out-of-home care requirements, especially in the indigenous community. 40 per cent of our out-of-home care needs are demanded by the indigenous at the moment and they seem to be increasing and they seem to be staying there longer in out-of-home care - - - ?---Yes.

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- - - and we know that that's very costly to government? ---Yes.

The ideal assumption - the social assumption is that really this is a job that parents should be doing and if they can't do it right now, they need to be put in a position where they can as quickly as possible for everybody's interests?---Yes.

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But how do we do that?---I don't think you'd get any disagreement about that. If you look at the initiatives around closing the gap of disadvantaged for indigenous communities, increasing resource allocation in Cape York Welfare Reform, Families Responsibility Commission, alcohol management reforms, mental health reforms, education reforms, health reforms, you know, there's an enormous amount of attention to close the gap of disadvantage for indigenous communities so that people are better placed to care for their children and are - - -

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And they're for pre-emptive and early intervention, but they're not working because we're getting an increase in numbers in out-of-home care, so where's the disconnect because everyone accepts prevention, early intervention is the best way to go and you should - - - ?---Yes.

It's part of the - and hard to measure, but it's still the right policy, so why are we still - and given that you say

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that they exist in the indigenous communities with programs for this, we've got programs against family violence. We've got it against alcoholism and drug use, mental health. We've got homelessness - we're addressing on various fronts. So we're doing all the preventative work, but still we're getting increased indigenous children and other children in the out-of-home care environment?---Yes. 1

Why?---So, I mean, sadly on every indicator of disadvantage, indigenous people in Australia still fare worse. 10

No matter how much we throw at them?---Well, that's a vexed issue because I have to say in the education arena in Queensland, Queensland has made huge strides in getting indigenous children through the education system and into tertiary education. That takes a long time. I don't know anyone anywhere who's come up with the magic bullet to close that gap faster than we're managing to do at the moment. It's a question much bigger than the child safety system.

So maybe it's got to get worse before it gets better or maybe the theory that prevention and early intervention actually doesn't get practical expression?---I think it's reasonable to assume that on an individual basis when there's signs of stress, that getting in earlier with appropriately targeted services, you've got a better chance of a better outcome, but that's not the panacea for the whole of the cohort or cohorts, if you like, that we are concerned about. 20

So they might be keeping the out-of-home care and the long term orders down to 8000 instead of 10 or 15 thousand? ---Exactly, exactly and, look, you know, I have seen examples and I'm sure other people here have, too, of where people do turn their lives around with support; they absolutely do. As we sit here, there are people out there that are getting on track with great support from community based organisations and, you know, all of the systems that are out there, but unfortunately there is this group of people who either that's not enough or are just falling through the cracks. 30

Or they've got an impervious mental illness or some other disability - - - ?---Yes.

- - - that isn't touched by any human program?---Exactly and for that group of people, the safety net, if you like, is a statutory system that has been set up to ensure that children that come into that system are safe and well cared for and the Children's Commission reports since 2006 show that the reforms do make children so that they do feel safe in the statutory system. 40

So there must be some kids who at reaching majority at 18 stay in the system, but not child protection system, but go to another part of the system?---Yes; into the disability 50

system, primarily, and I think this is an important area. It's an area that I have had an expressed view on and really was pushing work on, that there are a cohort of children with disability that do find their way into the child protection system who have parents who are willing, but for any reasonable parent to be able to continue to care for that child within the family home is not going to happen and so by default the child becomes part of a statutory protection system which really they need to be part of or counted as part of the disability support system and there was some work, legislative work, policy work poised to enable that to occur.

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And probably might unpoise it and see if we could use it? ---It's not a huge cohort, but it's a group of people who have absolutely dedicated, caring parents, but it's unreasonable to continue to care for that child within the family home.

But, again, your point is that, "Okay. They can't be cared for in the family home, but you can't just park them in the protection system because it's not designed to meet their needs"?---No. It's designed to meet the needs of children who don't have caring, loving, able parents.

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So on the basis prevention and early intervention, they should go into the disability system even earlier than they do; don't wait till they're 18?---That's my view.

Okay. The final question I have for you at the moment is how do you convince people - and I know there's no magic bullet to this one - how do you convince the funders of systems, people who pay their taxes and who have expectations, not unreasonably, but the money they provide is well spent, well directed? It's directed to the right people who need it the most at the right time and that's what they expect government to do on their behalf. How do you convince them to say, "Well, look, I know 8000 is a lot and I know it's ever increasing, but if we didn't do the prevention and early intervention, you would be funding a lot more. It would be a lot worse"?---Yes.

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How do you - so just because it's not visible, it's still measurable and we know it works, but we just can't draw you a picture of it?---Well, look, in order to communicate an issue like this to, I guess, masses you do need to measure. You do need to be able to demonstrate numerics as well as qualitative measures about what it means for neighbourhoods, communities, society at large, that is possible, and there's - - -

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Is it being done at the moment by government?---It is. There's a large number of measures, if you like, and in fact there's a demographic unit that used to be in the Department of Communities that used to do some amazing modelling to illustrate that a dollar spent here is \$10 spent there with various intervention programs, which help to inform the resourcing around Helping Out Families, the

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Logan, Beenleigh, Young Persons' Project, but it's always - because when you look at the community and health services sector, no matter where you look, budgets are stretched, you know, the demand far exceeds supply no matter where you look and so it's always a priority setting exercise as to, you know, what we see is the most attention at a point in time, but I've no doubt that successive investments in community based services and an emphasis on getting people to work in an integrated connected, no wrong door framework delivers much better outcomes for people, but it's still, you know, the tip of the iceberg, if you like, in terms of the numbers we're talking about.

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Actually, I do have one more question for you. You know in the UK and New South Wales and Victoria and other places, the trend is towards, you know, what they call the Integrated Whole - they've got different names for it, but it's sort of the same thing that you have one area that provides - that instead of having an area that looks after child protection, one that looks after education, health, homes, things like that, you have this overarching system of policies and services that's focused on: what does this particular child need at this particular time in their lives, and then provide it and so that it's needs based and it's universal, preventive, early intervention and that's supposed to reduce demand on the protected - - - ?---Yes.

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- - - the small area of child protection that's needed?
---Yes.

What do you think about that as a theory?---I think it makes sense. It makes basic sense, you know. You think of a small child having multiple people coming in and out of their lives or families having multiple people coming out of their lives, you know, contributing to one bit of the need.

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Yes?---It makes sense to have, you know, a case manager, if you like - you know, a case manager - - -

For life?---I beg your pardon?

For life?---For life. Yes. I wouldn't mind - yes.

Yes?---You need a case manager - - -

A coach for life?--- - - - a life manager that helps to plug in, as I think you were referring to earlier - plug in all the bits that are required at a point in time because the other traditional way of doing this business is you would have many entities coming in and out of people's lives at different points in time in a disconnected way and, you know, I think it's reasonable to assume that that's not going to get as good results.

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I think in West Germany they do actually have a case worker for life for a family?---All right. Okay.

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A family coach, if you like, that deals with all aspects of the family from - - - ?---Yes. 1

- - - crime through to early maternal welfare?---Yes. I can see some merits in that.

Okay. Of course, that's very transformative. That's not fixing the wheel. That's making a whole new one and the difference between England and here is that it's a unitary government that's done at a local level by their local councils?---Yes. 10

It's not a federation of six states and two territories that live in a dysfunctional, you know, patchy structured framework?---Yes. Commissioner, if I can add one thing, the implementation of early year centres throughout the nation with a philosophy that the early year centres are not just about early education but also about connecting and supporting parents to be good parents or be better parents or connecting with the health system in a locally, non-stigmatised way, I believe that those early year centres could be developed in a way that they do actually outreach and connect with people who ordinarily wouldn't be connecting with an early years' arrangement where you do have the local maternal health workers, et cetera, that can connect in with young mothers who are obviously struggling and who probably wouldn't voluntarily turn up to early year centres for their children, but I believe that they could be structured in the way that they're non-stigmatised, that outreach and embrace people who are otherwise very vulnerable. 20

Are we putting too much emphasis in our workforce, the front liners, on the qualification by degree rather than qualification by life experience?---You need both. You need both. 30

Do they have both at the moment?---I believe so. I've met with a lot of child protection workers, foster carers who are workers out there, too. Because of the seriousness of what we're dealing with, the seriousness of the judgments about children's lives and the rights and otherwise of families, you do need astute professional judgment, tempered with life experience. You won't always get that in the 22-year-old graduate, but that's why the system has been set up to have graduate supported with senior practitioners, team leaders, people who have got some experience under their belt as well as what would be the ability to make professional judgments about statutes, about policies, about what does the statute mean by wellbeing; what is the decision-making framework that says, "This is the threshold." You can't put everything in a manual. 40

No?---But if you have the professional judgment married with some life experience, I think that's as good as it gets.

Yes, because you've got to balance rules with discretion?
---Yes.

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And rules should guide sound discretion making?---That's right.

So are you saying it's not - we're not getting increased tertiary interventions and increased out of home care needs because of a bureaucratic "better safe than sorry" attitude but simply because the professional judgments - the calls are being made correctly about all those children who actually need to be removed from home and put in long-term out of home care arrangements?---My observation is that the weight is on the professional judgment-making process, however I believe that as Mr Swan was saying earlier, there is such a scrutiny on decision-making of often very young authorised officers that, you know, faced with a grey decision I could empathise with officers going to the risk averse end rather than let's suck it and see for a little longer end, because the consequences of getting it wrong are terrible.

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But I suppose it works both ways, because getting it wrong might be leaving a child in an unsafe home, but it might be just as wrong sometimes to take the wrong child out of the home that was safe enough and putting them into out of home care which does more overall damage than good?---That's right, and these are the dilemmas that our authorised officers face every day.

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It's interesting to see the Child Protection Act. It's got, I don't know, one overarching principle and about 20 supporting principles?---Yes.

Just taking your point about you can't be rule bound because it affects discretion, but the police manual is much the same. You know, it tells you how to react in every situation, only it can't cover every situation, and when you come across one that's not in the rule book you don't quite know what to do because you've lost the skill?
---Yes.

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So is there enough training about sound discretionary decision-making, being confident in the decision you've made, you'll be supported even if on one view, the media view, it's wrong, or - on the same body of evidence in this realm you can have two reverse opinions by honest and informed minds, neither of which are totally right or completely wrong. So do you teach your staff that?
---Certainly that has been a strong theme in training, but I think a very important part of the training and development for child protection officers has been the work that - people who have been previous children in care, the historical abuse network, peer leaders, have had a very important role in helping to inform child protection workers about their work, and you don't get much more life experienced people than this group of people. They take their work very seriously and they have the advice that you

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don't get in the rule book, that you don't get elsewhere, but it's experiential advice to help child protection workers see their work from the eyes of the child and what it means if judgments go either way.

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What about the point I made with Mr Swan yesterday, you know, the emphasis on having a tertiary degree even in criminology to be a child protection officer. I didn't quite understand that one?---Yes.

But leaving it aside for the moment, don't you exclude from that people who have been good parents and are now available? They've already brought up their own kids well, now they're available to help other parents who aren't doing quite so well to do the same. Wouldn't you like to use them?---They are certainly used. That's our foster care network, and in addition to that there's a role for child support officers, child safety support officers, which by and large is an opportunity for people to come into the child safety area mid career or, you know, after they've parented their own children to a certain stage, but an opportunity also to strengthen what they've gained intuitively through accumulated experience; we might call commonsense, with the confidence of being able to also see the complexity of the issues that they might not otherwise be conscious of.

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And support the people - the 22-year-old social worker with a degree?---Yes.

But the problem is they will never get to make a statutory decision, will they?---Well, they have the opportunity to progress to a point where they can.

Well, without a degree they will never get the chance? ---Well, that's fair enough, yes.

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What about their career path? They come in as a child support - you know, in a support role?---Yes.

They don't want to go back to university and get a degree. They don't really need to do the work. They arguably may not even need it to make that safe statutory decision. Are they stuck in the support system forever?---My experience has been that this group of officers that come in are hungry to learn and hungry to progress. They love it. They love the work. I've been to lots of award sessions with by and large mature age women and their whole world has blossomed through the opportunity to engage in some higher learning which starts off at a certificate base and then they're supported by the department to progress to further learning and formal qualifications if they want. For those people to get recognition for what they know and what they've learned is due recognition and to have a degree, often the first person in their family to have that degree, is a really big deal, really important. But it's not for everybody. Some people, the certificate level is fine, and often people don't necessarily want the

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responsibility of being the authorised officer, because that is a very big responsibility. 1

So when you left would you say the department wasn't experiencing any difficulty in recruiting and retaining appropriately qualified staff?---As I say in my submission, even though the separation rates for child safety officers had decreased from 30 per cent-odd to 15 per cent it remained a challenge. Not everybody wakes up and says, "I'm going to go out and be a child protection officer." Not every parent encourages their child to be a child protection officer because of - it's not an easy job. 10
There are easier jobs out there for a 22-year-old graduate, however for those officers that do pursue this career, some of them - you know, I have enormous regard for the work they do.

Any ideas about how to increase the foster carer numbers? ---You might be aware that we've had significant campaigns over time and I think it was in 09-10 we recruited an additional 540-odd and our target was 500, however becoming a foster carer is not an easy job, once again. People receive an allowance to do the work. They're, you know, by and large taking on responsibility for other people's children who are often severely damaged, require more than the usual parenting skills to be able to care for those children in your own home, often with your other biological children as well. So I think the best way to encourage more people to be foster carers is for us to continue, or for the government to continue, the level of support for foster carers. The peak body does fantastic work, Foster Care Queensland, in supporting foster carers, but the experience that we've had here in Queensland mirrors experience elsewhere. Taking on the role of foster carer is a very, very serious role to take on and fortunately, by and large, people who become foster carers do an amazing job, but it's not something for everyone. 20
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Would you agree that demand is outstripping supply?
---Absolutely, yes.

So how do we arrest that, given that if we don't they will have to find alternatives that may not be as beneficial for the child than say foster care?---Yes. Look, once again, it just gets back to if we can support families to maintain responsibility for their children as early and as long as possible it's reasonable to assume that's going to take some of the edge off the demand. 40

Off the demand for out of home care and therefore the demand for foster carers?---In home support and - well, foster care is a form, obviously, of out of home care, but - - -

That's what I mean. We'll need fewer of them if we haven't got as many in need of out of home care?---Yes.

Okay, thanks. Back to you, finally.

MS MCMILLAN: Just before I continue with Ms Apelt, I know she has a personal commitment for the rest of the day. With your leave, and I've just mentioned it briefly to most of those at the bar table, I propose that she be excused for today at lunchtime and Mr Swan finish his evidence this afternoon, because it would obviously be desirable for Mr Swan to be able to finish it, and ask that Ms Apelt come back Thursday, because I think I will be some time with her. So if that's amenable to you, Mr Commissioner, that's what I propose.

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COMMISSIONER: It's fine by me. Does that suit your timetable?---Yes. No, I do appreciate that consideration, thank you.

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Okay, well, we'll send you down at lunchtime?---Yes, I'll continue till then.

Yes, thanks, all right.

MS MCMILLAN: Thank you. Ms Apelt, just - - -

COMMISSIONER: Do you want to do that now? Would that be more helpful if we did it now and got - is Mr Swan still around?

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MR SWAN: Yes.

COMMISSIONER: Yes.

MS MCMILLAN: He hasn't run very far.

COMMISSIONER: Would that suit you better?---Look, I'm happy - yes, look, I've got, you know, an hour or so, so I'm - - -

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MS MCMILLAN: I'm happy for her to be excused now, because I'll be some time, so it might be better if I start and finish in one tranche.

COMMISSIONER: Everyone else happy with that?

MR HANGER: Yes.

COMMISSIONER: Mr Swan, are you happy with that? Excellent. All right, that's what we'll do. Thanks very much, Ms Apelt.

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MS MCMILLAN: Thank you---Thank you.

WITNESS WITHDREW

MS MCMILLAN: Just before we continue, I think it timely if I now tender the exhibits with an index. These were documents, statistical information, relating to the evidence of Mr Swan. If I could hand those up, together with the 2011-2015 strategic plan which I understand was

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cross-examined on this morning. 1

COMMISSIONER: Yes, for the exhibits on the index, tables and figures, will be exhibit 17, thank you.

ADMITTED AND MARKED: "EXHIBIT 17"

COMMISSIONER: The 2011-2015 Department of Communities Strategic Plan will be exhibit 18, thank you.

ADMITTED AND MARKED: "EXHIBIT 18" 10

MS MCMILLAN: Thank you.

MR HANGER: I'm not sure that's right. I'd make those 16 and 17. Is there one I've missed?

COMMISSIONER: Yes, you missed the CD, Mr Hanger.

MR HANGER: A CV?

COMMISSIONER: A CD.

MR HANGER: A CD. 20

COMMISSIONER: It's a disc.

MR HANGER: I did miss it too. Thank you.

COMMISSIONER: Electronic advancement in recent years.

SWAN, BRADLEY called:

MR HANGER: Just a few more questions. Yesterday the commissioner raised with you the issue of adoption and you also heard him raise it a few minutes ago with Ms Apelt. Now, for a start, this coloured chart we have permits adoption in figure 3. It's an option available. Have there been any adoptions which you know of?---Not that I'm aware of. 30

COMMISSIONER: What, ever?---If I went back in the data we would certainly find some, but I personally have not been aware of any that have been made from the child protection system in the period that I've been here, but I could - - -

Which covers how many years?---Sorry? 40

Which covers how many years that you - - -?---About three years, but I could go back within the system and check whether or not there have been any.

I think it would be worthwhile, if you don't mind, Mr Swan, because that's an issue?---Yes. I'm certainly happy to.

MR HANGER: All right. Again, we can take that one on notice. You will be back some time. Now, I would like you

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to comment on what was put to you yesterday under an English system whereby - along these lines. If a parent hadn't bothered to have any access to their child while in care for a period of two years or some other period of time consideration should be given to adopting it to foster parents, obviously if the foster parents would like that course of action. Could I ask you to comment on that proposition?---It certainly would be one of the matters that we could look at for adoption and that would be possible if foster parents were willing. It would also need the requirement of a re-look at the legislation for adoption in Queensland, which even though the parents may not have had contact, the current legislation does require for parents to give consent to the adoption or for the court to make a decision in relation to dispensation of that consent.

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Well, I doubt whether anyone would suggest that adoption should be taken lightly. It probably - I would imagine, not without a court order, but with a court order, in the right circumstances, is it a problem?---No, and it should certainly be part of practice that should be looked at.

COMMISSIONER: Given that you've got an increasing number of people who want to adopt and they can't adopt from overseas, you might have - it might be a developing - - -? ---Yes. The families that are - my understanding is that the families that are interested in adoption are not generally interested in becoming foster carers, because in the early part of being a foster carer there's no guarantee that the child that you might receive in an out of home care placement will be in a position that you will be able to adopt that child.

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Yes, I know?---Yes.

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I'm not suggesting that you've got to be a foster carer first and then an adoptive parent?---Yes.

I mean, I'm just saying that you need to look at - you'll have - it's just another alternative to out of home care - obviously more permanent than fostering and they don't have to be the same people?---Yes.

The only problem with the UK system, I think, that they experienced was they had lineal - like, an arbitrary 12-month, five-year, three-year period of no contact, no parental contact - you know, I think they called it relinquishment, and then the parents would pop up just before the deadline and you had to start all over again.

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MR HANGER: Yes. Well, you'd have to design a system.

COMMISSIONER: Yes.

MR HANGER: I think you'll find British Columbia does it a lot.

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COMMISSIONER: Right. I didn't know that, Mr Hanger. 1

MR HANGER: Well, I'm pleased that there's something that I've been able to bring to your attention.

I imagine with Australia with issues of stolen generations there might be some reservations?---It certainly is one of the factors that are taken into account, and certainly the history within Australia in terms of the forced adoptions that occurred in the past certainly would have an impact on looking at that in terms of the arrangements that would need to be put in place. 10

And a very proper and significant matter that's got to be thought about?---That's right.

But I wonder how practical this idea is?---I mean, we've heard a lot of the children in care are disabled and obviously it takes a limited class of people that would be prepared to adopt a disabled child, I imagine. You're nodding. You agree with that?---Yes.

Yes, and the other thing is this, that of course when people adopt they probably want a very young child, and I wonder how young they might be if you are going to say to the parents, "Well, improve your game or your child might be up for adoption"?---Yes, we do have some very young children come into care, unfortunately, and certainly those children are the ones that are - really the consideration of adoption as a permanent option is looked at more seriously depending on the circumstances of the parents and their willingness to engage. There was a small - there was an emphasis on adoption within New South Wales a couple of years ago where they did put a concerted effort into looking at adoption for young children in care and it did result in a small number of adoptions but also adoptions of children predominantly with disabilities. 20 30

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So you haven't come across a case where people have voluntarily said, "Look, I'd like to adopt my child out. I'd like to continue on drugs," or whatever it is, "I want to adopt the child out"?---There are certainly families still within Queensland who voluntarily decide to adopt their child. There are a small number of adoptions in the country - adoptions within Queensland but not within the child protection system.

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Not in care, all right. Now, can I deal with this enormous increase in the figures of children in long-term care? I just wondered - you know, you were asked yesterday about why there's a great increase and some may be a perfectly legitimate thing, but are there other reasons that these figures seem to go up so astronomically?---Certainly, as has been emphasised, the numbers of reports and the numbers of then unfortunately children entering in care has increased, you know, significantly since the CMC report so definitely there are increasing numbers of matters reported and then matters being referred to the department has had an impact on the numbers of children in out-of-home care, but also in relation to then to children on long-term orders - - -

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Yes, that's what I'm interested in?---Once a child is - and the court agrees for a long-term order, a child protection order, then that child is in care for - could be a very long period of time, particularly if they're a young child entering care. So that long-term order is in place for a long period of time so, as you get more children entering care and particularly more going onto long-term orders, then it's the long-term orders that would increase within the system rather than the short-term orders where the focus is always on trying to work on reunification of the child home.

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So in simply times, if you got 10 this year and another five the following year, that means you've got 15 the next year?---That's right.

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And another five the following year means you've got 20 and so on?---That's right, generally until those young people turn 18 or whether they have a parent that may come back in that would want to work with the department and resume care.

So for how long have we been dealing with a section such as section 61 or its predecessor of the act which is the long-term protection order? How long have we had the long-term protection orders? Has it been forever or not? ---I think it's certainly been a feature the child protection system for quite some period. I don't know the exact dates.

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And once the child is in care or in long-term care, which is beyond the two years, it's in long-term care until 18 then?---Generally until 18, yes.

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Is that a good idea? Is that practical? Why don't we say a five-year term or something like that?---Generally in terms of looking at the child it's about the permanency and stability for that young person and trying to place that child in a long-term relationship, particularly if we can with a foster care that would maintain a long-term relationship with that young person in the best interests and in the interests of the stability and permanency for that young person.

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I understand that. So in a way that means that once you get beyond the two-year mark and the child has not been reunited, it's really not going to happen?---Generally that would be the circumstances, that it would be unlikely that it would happen.

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COMMISSIONER: Do we know what proportion of out-of-home care are on long-term orders?---I did have the figures in here.

MR HANGER: It's paragraph 107 Mr Selfridge tells me? ---Yes, I'm just referring to attachment 4 of the child protection statistics in terms of long-term protection orders. There were 8456 protective orders as at 30 June 2011 and 4300 of those were long-term orders.

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COMMISSIONER: So half?---Approximately, I think. Sorry, Mr Hanger, the section that you referred to?

MR HANGER: Mr Selfridge told me paragraph 107.

COMMISSIONER: Just while we're on that, somebody else who is in - the Children's Commission statement says that there were 7000 in out-of-home care which represents a better than national average of seven in every 1000. Is that right? Are they the right figures you gave me yesterday? ---There are a couple of different terms that are used. There are children that are on protection orders and then there are children living away from home and so that living away from home is different to the number of children on protection orders.

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But out-of-home care - if we use that as a constant, what figure would you have got?---Out-of-home care is a subset of those living away from home and it's a national measure that's used for consistency in reporting.

I thought it was about the same number as protection orders, 8300 or something?---I was just seeing if I had the figures here in terms of out-of-home care. So as at 30 June, yes, the number in out-of-home care, according to the national reporting, was 7602 so it's slightly less than what we call as in living away from home. The difference predominantly is that the national measure doesn't include those supported in independent living and it doesn't include those referred to as a small group that may be in detention or in a mental health facility or a health facility and it doesn't include those that may for some

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reason not have a placement at that point in time so they may be self-placing somewhere. 1

So there are about 1000 or 1300 more living out of home than there are in out-of-home care by definition?---No, there are about 400 extra living away from home that are not in out-of-home care.

I see?---Yes, so 7600 in out-of-home care and there are 8063 children living away from home.

I see; so that's eight in 1000 living away from home?---The rate - - - 10

What's the national average?---The rate per thousand of children in out-of-home care which is the comparison - Queensland is seven, yes.

7.8 by the sounds of it?---Seven per thousand.

Yes, but 7.8 per thousand really, isn't it, if you have got 7000 in out-of-home care?---It's divided into the population. 20

I see?---So it's divided into the population of young people which gives - - -

I thought the national average was about 7.3?---I just didn't have the national average figure here - yes, the number in out-of-home care, yes, is 7.3 and the Queensland rate is seven per thousand of the population.

Seven per thousand of the general child population between zero and 18?---Of the population zero, yes, and under 18, zero to 17. 30

MR HANGER: Could I just come back to that figure of 400 that are living out of home but are not in out-of-home care? 400 are in youth detention centres or - - -?---There is a range of different places where they may be living. They could be - there are a number that we have that would be supported in independent living, so particularly the older teenagers may be in supported independent living.

Stop there. What's that mean?---That means that they may be living in either a Department of Housing unit or in private rental supported by a non-government organisation that would visit them regularly and provide support. 40

COMMISSIONER: Are they living with a responsible adult or on their own?---No, they're just generally by themselves. Generally this would only be older teenagers so - - -

How old can you get?---17-year-old; normally a 17-year-old. Sometimes it might be a 16-year-old but generally 17-year-old that at that point in time has said, "I don't want to stay living in my residential" or "I don't want to stay living in my foster-care arrangement."

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Do they go to school or have jobs?---They could be either. We would be certainly encouraging them to be in school or they could be in employment, yes.

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MR HANGER: So what - sorry.

COMMISSIONER: No, you go on.

MR HANGER: It might be the same question.

Why is the community supporting somebody in that situation if they have chosen not to live in the residential care offered?

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---They're still a young person that's very vulnerable. They still don't have any parents at that point in time that they can return home to and they still need some additional supports at that point in time to be able to participate hopefully in education or in employment.

COMMISSIONER: They are only vulnerable at home, not in their own home?---They're a young person, yes, still teenage, 17. They don't have any parents that they can return home to and live with at that stage.

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It sounds like happy days. They are in a flat on their own funded by the government at 16 or 17 and maybe they go to school or maybe they have got an apprenticeship or maybe they have got a job?---They're still a child under a child protection order at that point in time.

That's what Mr Hanger's question, "Why?" Why would they still be under an order in that situation?---Because they're still under - at that point in time they're still under an order till 18 and they're still a vulnerable young person that would still need some support in their life.

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MR HANGER: Some support.

COMMISSIONER: And the support they get - the some support they get is what, a flat?---A non-government organisation would also be providing support to that young person and visiting.

MR HANGER: All right?---Others would be in - could be in detention. They could be in a health facility or they could be what we call self-placing. So they have made a decision of where they're going to live and they have self-placed in that arrangement.

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COMMISSIONER: The ones in the flat - do they have pocket money too?---It would depend on their arrangement. Some of them may be eligible for some Commonwealth benefits in that arrangement.

How many of them are there?---I'd have to get - I don't know off the top of my head. I'd have to get the figure for you.

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Thank you?---It's a small number.

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What, less than 10?---No, under 100 or around that.

Under 100 is a small number?---Compared to eight, yes.

How much does that cost per year?---They're generally at a cost of about 40 or 50 thousand.

40 or 50 thousand a year - under 100 of them?---Yes.

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How far under 100 is it?---I'd have to get the exact figures for you. I haven't got it in my head.

MR HANGER: Is it possible to pull that out quickly or not? I mean, over lunch, that's all?---It certainly is, yes.

COMMISSIONER: Is that on top of the 200,000 by 600 you told me about yesterday?---Certainly it's a child that's on a child protection order that we have a responsibility for and, yes, they're not placed in residential care.

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MR HANGER: I have finished subject to his answering that question.

COMMISSIONER: Okay, thanks, Mr Hanger. Did you have anything, Mr Burns?

MR BURNS: I do. Are you sitting on, Mr Commissioner?

COMMISSIONER: No, I don't have to but there is a question I wanted to ask that was relevant to you so maybe I should ask it, then stand down and have you back.

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MR BURNS: Thank you.

COMMISSIONER: You are going to be back anyway, Mr Swan, after lunch, I'm afraid. What about this question: the CMC recommended that each government department that was responsible for a child-related matter put in place a child safety director and that directors-general coordinate a committee or coordinate of directors-general be set up to coordinate the delivery of multi-agency child protection services?---Yes.

I was wondering if that was implemented?---Yes, it certainly was.

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How is that working?---Yes, there were a number of departments that had a child safety director appointed within those particular departments. I think I've outlined that in points 355 to 360 of my submission. That child safety director's network has been in operation over that time. They certainly in the early days of the CMC report provided assistance and advice and implementation of all recommendations of the CMC report. They've certainly been

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involved in the development of the service model and the implementation of the evolved services. They've certainly been heavily involved in the reform of the scan network that's in place or the multi-agency teams that come together. They had a significant input into the development of the Helping Out Families pilot or trials that we've been referring to in the south-east and they've also worked extensively with us and the Children's Research Centre to develop the trial child protection guide that we've talked about police, health and education to use in making that early decision around whether to report to Child Safety or not.

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Is the directors-general coordinating committee set up? ---That's probably evolved over the period of time. It was established, my understanding, when the Department of Child Safety was established. It evolved into a broader human services CEO committee which was meeting and I think the new arrangements for directors-general under the newer government are still being formulated.

So does that, whatever it's called, coordinate the delivery of multi-agency child protection services as envisaged by the CMC?---Certainly my understanding in the early days the CEO's committee certainly had oversight of the work that was being done in terms of implementing the recommendations of the CMC report. The human services CEO's committee then had a broader remit in looking at human services matters more generally but also the coordination of human services between the various agencies.

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I suppose there might be a bit of confusion. Child protection services to one person might mean a tertiary intervention service. To others it might mean a broader based - sitting in a broader framework of universal services. So maybe it's a bit of terminology. Would you agree with Ms Apelt that when you talk about child protection, while you might get indirect benefits from the better provision of universal and preventative services, you're not directly involved in either the provision of them, nor should you be because that would confuse your role and you would need to rewrite the act?

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---Certainly tertiary child protection services, yes, as Ms Apelt referred to, is in relation to that high-end, hard-end tertiary system. Certainly the child protection system in total does need to incorporate, as Ms Apelt said, the universal, secondary and the tertiary and be seen as a total system with all particular players having their role.

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But you might aptly call that a child wellbeing service? ---Could be, yes.

Rather than a child protection service?---Yes, could be.

Child safety?---Yes, could be better terminology to use.

So with child safety in place you can actually guarantee safety?---Yes, certainly though in my responsibility at the

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moment we do certainly see a stronger connection between high-end, intensive family support services and the secondary system and the tertiary system because we really need to see that better inter-plan and interaction between those two systems to try and get that support earlier for the vulnerable families that are being reported to Child Safety.

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Because you're only rescuing those who need it who qualify the threshold?---In the tertiary child protection system.

In the tertiary job, but you really can't - you're a bit remote from the true prevention through universal service provision, aren't you?---No, my current responsibilities do include the secondary service system within the department and do include that focus on Helping Out Families and the referral for active intervention services as trying to get a better interaction between those two systems.

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Yes, I understood that, but what I'm saying is you're a bit too removed from the primary or universal service provision to be responsible for that?---Certainly not responsible for it but we certainly do - - -

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Encourage to get the benefit of it?---Encourage it, yes.

I understand; and you would want to be able to plug into it. Can you plug into it okay at the moment?---Definitely, and certainly what we're trying to encourage is that better cooperation through the alliances of family support organisations at the local level that really should then understand the local service system which would include all of the universal services and also the secondary services that would be available.

Would you see Child Safety Services administering that or just the beneficiary of that?---The Department of Communities, Child Safety and Disability Services certainly has a role in trying to facilitate that, but the tertiary child protection system is a beneficiary of that.

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Again, sorry, but do you see the child protection system, as it's referred to in my terms of reference, as being a smaller part of what's referred to as the department? The department is responsible for communities and disability, as well as Child Safety Services?---That's right, yes.

Right; and it's the Child Safety Services that provides what under the Child Protection Act we call child protection?
---Yes.

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Which includes care and wellbeing but, as Ms Apelt said, the wellbeing is just more not intervening to protect or to keep safe but passing on information to other agencies more interested in wellbeing more generally?---Yes.

Right. Does everyone else know that? Good. I will see

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14082012 10/CES(BRIS) (Carmody CMR)

you after lunch. Quarter past 2. Is that okay?

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THE COMMISSION ADJOURNED AT 1.09 PM
UNTIL THURSDAY 16 AUGUST 2012

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