



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 16/08/2012

Continued from 14/08/2012

..DAY 5

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.

SWAN, BRADLEY called:

COMMISSIONER: Yes?

MS McMILLAN: Thank you, commissioner. I'll just announce my appearance. I appear with Mr Simpson today.

COMMISSIONER: Mr Hanger?

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MR HANGER: Yes, I continue to appear with Mr Selfridge.

COMMISSIONER: As does everybody else.

MR HANGER: Yes.

COMMISSIONER: Sorry, I was a no-show yesterday. I think it was because I went to the show on Sunday. Where were we?

MR HANGER: I had finished but there are a couple of matters that the witness could clarify.

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You have got the floor?---Thank you. There was a couple of questions asked earlier in the week that I've got some information to provide back. The first one was in relation to the number of children living in supported independent living arrangements. As at 30 June 2011 there were 56. In relation to adoptions that have occurred from the child protection system, over the last three years there's been one and one further in the process at the moment being considered.

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Do you remember the age of those or whether they had a disability?---The one that's been adopted - the child would now be four years old and had been subject to a short-term order for that period of time and had come into care. I don't know whether that child had a disability.

The parents voluntarily gave the child up for adoption? ---Consent after the child had come into the child protection system.

In your first statement there you used the term - what was it, supported - - -?---Supported independent living.

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Is that what we were talking about the other day when we said one person in a place on their own?---It's where there would be a teenager, generally 17, sometimes 16, who would be in an independent living arrangement where a non-government worker would drop in on that young person frequently but would not be in - would not be 24-seven care.

But we're talking about the evidence you gave on

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Friday (sic) about the person living in a residence on their own?---Yes, that's right. 1

COMMISSIONER: Now, what does that work out at, 56 at 50,000 a head?---Approximately, yes.

Yes, what's that? What is that?

MR HANGER: It would be 2 and a half million, wouldn't it? ---Yes.

COMMISSIONER: 2,000,000. 10

MR HANGER: About 2 and half million roughly?---About 2 and a half million, yes.

COMMISSIONER: Okay. What's the youngest person in independent living?---I haven't got that data but generally it's older teenagers.

Right; and at 18 they move out?---At 18 their child protection order would finish. Sometimes it's also an arrangement for some people as they transition out of the child protection system that it does support them in terms of moving into independent living before they transition out. 20

MR HANGER: And once they turn 18, are they off your hands completely or do you help them after that?---Once they turn 18 the department can open what we call a support service case, if needed, which would be to continue to maintain contact with that young person for a period of time and the young person can also get back in touch with Child Safety Services should they wish to.

During that period, would you continue to pay accommodation or would that pass to another department?---Not after that period of time generally, no. 30

It stops at 18?---Yes.

Other matters that you wanted to refer to?---The third matter was in relation to the proportion of funding for Aboriginal and Torres Strait Islander children within the system. We've gone back for the 10-11 budget and had a look at the proportions of children at various stages and approximately 229,000,000 of the 726 would have been for supporting Aboriginal and Torres Strait Islander children throughout the various stages of the child protection process. It's about 31 per cent of the budget. 40

COMMISSIONER: When you say "the child protection process", what does that include?---So we've looked at the various stages of child protection so we've looked at the intake stage and looked at the proportion of Aboriginal and Torres Strait Islander families that would be reported and taken a proportion of our budget that's allocated for the intake stage, then gone into the investigation and

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assessment stage again and looked at the proportions of Aboriginal and Torres Strait Islander families that would be subject to an investigation and then, thirdly, into the out-of-home care phase.

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So the reactive aspect of child safety?---That does include - throughout that it does include the funding that would also be available for family support within the child protection budget so family intervention services that would be available for families and also the recognised entities.

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But only for families with children in the system. None of that money goes to keeping kids out of the system?---I've looked at - for this purpose I've looked at the child protection budget, yes.

So is the answer to my question "yes"?---Yes.

MR HANGER: It's for keeping kids that are in the system? ---It's a proportion of the child protection budget for those who have been reported or within the system.

COMMISSIONER: See, really child safety - there are a lot of terms and they mean different things because protection might be broader than placement. Would you accept that as a general proposition under the act? Safety is a narrower concept than protection?---Yes.

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Protection includes care?---Yes.

Safety is an aspect of care. Do you agree with that? ---Ensuring a child's safety, yes.

You're caring for a child by keeping the child safe? ---That's correct.

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Right, but you're not necessarily protecting - you're also protecting the child by keeping it safe, but you're not doing anything about any other aspects of the child's needs. It's an immediate safety need that you're meeting? ---If the child is in out-of-home care, we are doing other things through the case planning in terms of, you know, their educational support needs, their development, their health needs, et cetera.

Yes, see, that's what I was wondering just about exactly what your remit is. As the legislation is currently framed your remit seems to be a bit like fire-fighting, rescue in the sense that you have got no role to play in the legislation for keeping kids out of the system. Your role comes in when a child is in the system by notification or substantiation. Then your role is to process them through the courts - keep them safe, process them through the courts and get an assessment. You can get various child protection orders, ultimately short or long-term order, and then you have this other role of case planning but, strictly speaking, your workforce is qualified, trained and

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focused on the intake, assessment, investigation, court process, but they have also got this residual role after the kid is in out-of-home care. They play a role there, don't they?--Certainly, and that's a very major proportion of our working role.

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I wonder it should be given the qualifications and focus of your people. What's their exact expertise in looking after children who are under the control or guardianship or whatever in residences? Why are they specially qualified to do that as opposed to a cost to government but not through child safety but through communities and families? ---When a child is in care, there are a number of people that are involved in that young person's life so depending on where the child is placed - if they're placed within a foster-care arrangement, then certainly the foster care has a significant role. The foster carer has a significant role as well as our officers that also have a role in undertaking case planning, working with the foster carer to ensure the needs of that particular child are met whilst - - -

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I know that's what you're doing?---Yes.

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I'm asking you to think about why that's part of your job as opposed to being the job of somebody from the communities department who is more equipped to look after the needs of children as opposed to the safety of children. Do you understand what I'm saying? You've got them safe, right, they're safe?---Yes.

Now what we need to do is look after their needs. Now, you're not especially trained by that under the legislation?---That's certainly one of our major roles of the child safety Department in terms of looking after kids in out of home care.

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Why?---And certainly a greater proportion of the staff would be allocated towards those children within out of home care.

I know, and that's probably why you've got as big a budget as you do, but what I'm asking you is why should it be your job and why should you get paid to do something that somebody else might be able to do better?---Within the child safety department the qualification of the workers, range of social workers, et cetera, are qualified to do that role, but - - -

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So that makes you something more than a fire fighter. That makes you doing triage and, you know, ward care as well? ---That would be consistent with child protection systems throughout Australia and internationally.

Yes. So are you more comfortable with child protection than child safety as a proper label for what you do?---I'd probably have to think about that. There's been a lot of, yes, different terminology that's used and the meanings of - we'd need to look at that.

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Well, if there's been a lot of debate about it what's the consensus?---I think there's various views around about what it should be called.

No doubt. That's what constitutes a debate, but is there a consensus view?---I don't think there's a consensus view. The department have been called the Department of Child Safety.

I can understand the department being called something - see, you're not the department?---No.

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You are Child Safety Services, which is a cog in the wheel of the department, but a relevantly small one that plays a narrow and defined role under the statute, aren't you? ---Yes.

It just seems to me that everybody seems - this is what it looks like to me at the moment, that people have sort of read a bit here and there in the literature and they've

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realised, "Most people are having a broader based framework here for child protection, child wellbeing or child welfare, and they're moving away from the tertiary intervention focus and we'll have to do a bit of that ourselves to keep up with the trend," but everyone is forgetting what your legislation actually says, which is what governs you, as compared with what their legislation and their government systems - and we're tagging little bits and pieces which we call early intervention and prevention on the body of child safety and saying, "Here we are, we've got a child protection system. We've made a child protection system out of a child safety service." Is that fair?---No, I think - - -

(indistinct)?--- - - - other parts of the department, including my responsibilities, do include looking at both universal services and secondary services that would be available for the community and be available for those families that need the additional support to try and assist them so that they don't end up in the child protection system.

Why is that your job? Why are you qualified to do that? Why are you qualified to keep kids out of the system?---My current functions include both the responsibility for the secondary or intensive family support services and also the child protection system and with a view to really trying to say, "Well, we need to try and look more at trying to support families earlier rather than letting families end up in a child protection system."

Okay, we know that?---Yes.

That's what everyone is saying?---Yes.

Is your attempt to do that to build into your function something that calls itself early or targeted intervention? ---Yes.

Okay, and this helping families?---Yes. Helping Out Families, yes.

But you would also know, wouldn't you, that from your position in Child Safety Services, which by legislation is pretty much limited to tertiary intervention, that your ability to prevent and intervene early given that you've got no powers or authority until you've got the threshold met, is limited?---Within the tertiary child protection part of the system, yes.

It's limited. So is that a general recognition around the place and they say, "Well, maybe we're giving Mr Swan a function that should be properly done earlier at a broader level within communities and family rather than within the tertiary focused child safety"?---No, I think the recognition was that it made sense to put the secondary system sitting alongside the tertiary system so that they can try and work better together either in preventing

families coming in or those families that have been reported, to get them out earlier and into support. 1

How has that been working for you?---It's what we've been doing through the Helping Out Families trial, about trying to - those families that are reported, to try and get them out into assistance earlier and also to work with our partners about saying, "Well, you don't need to report every matter to Child Safety Services. Some of those matters can be referred directly to the non-government organisations within the secondary system to receive those supports earlier rather than through the tertiary system." 10

The number of long-term orders and out of home care numbers, how has it fared during that period since helping families has been - - -?---The Helping Out Families has been in place since late 2010 in a couple of trial sites. The modelling that we had undertaken within the department at that point in time was looking at the numbers of families that were being reported to Child Safety Services and the numbers and types of families that if they were provided with assistance that we could do some work earlier to prevent them escalating into the tertiary child protection system. So the investment that was made within the south-east corner of the \$15 million was what we believed at that point in time was what was the additional need given the numbers of families that were being reported, the additional need over and above what was the capacity of the current system within that area, to provide those additional supports. The modelling that we have done was saying if we could work with those families and reduce the re-notification or re-entry into the system, then over time what we would see would be a dropping off then of the entry into the child protection system and into out of home care and it would take some five years or so before you could start to - well, early on you would see a plateauing, but then before you would start to see a reduction in the number of children in out of home care. So the investment in the south-east and what we've been really looking at then is monitoring the re-notification rate to see whether those families that have received assistance, whether it is making a difference and they're not being re-notified to the same extent as those families that are not participating. We have seen in the south-east a decline in the notifications compared to the rest of the state, a decline in the notifications, so we're looking at that very carefully. 20 30 40

But as you pointed out yesterday, or maybe Ms Apelt pointed out to me yesterday, the notifications don't really matter, it's the substantiations, because a lot of the notifications are 80 per cent off the mark?---The notifications - sorry, the term that we use for notifications is when we do the investigation. So that's the 20 per cent - - -

That's what you say - - -?---So your reports - the reports are the large - - -

That's the notifiable reports?---The reports that come in are the larger figure. When it's a notification it's the smaller amount, the 20 per cent, that are subject to an investigation. They're the ones that we consider to be a bit more serious, that we need to have a look at to see whether there has been harm or risk of home.

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So let's assume we can get rid of the 80 per cent or the 75 per cent that aren't really worthy of investigation, but you'd used them for intelligence and preventative work, wouldn't you?---Yes.

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You may as well. Do you think the 20 per cent rate is going to be pretty stable of the investigative worthy notifications?---What we were of the belief is that that we would be able to reduce over time if the families got support and that they weren't re-reported as much, yes.

Who do you see as being best placed to give them that support to prevent them being in that 20 per cent notification?---The non-government sector.

Who should be funding it - or, sorry, who should be administering the funds? We know who funds it?---Well, certainly in the secondary area the Department of Communities, Child Safety and Disability Services.

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But not necessarily the Child Safety Services part of it? 1
---Certainly, the responsibility for the secondary services
should - the responsibility for second service - - -

Should be Child Safety - - - ?---I suppose our belief is
that it is better to have - or my belief, my personal
belief, is that it's better to have the secondary system
sitting very, very closely with the tertiary system to be
able to try and get that better balance between the
secondary and tertiary.

What is the secondary system for all those of us who - - - 10
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---The secondary system is those more intensive family
support type services, so it usually includes intensive
family support, Domestic and Family Violence Services.

So a universal service is what every child aged between
zero and 18 gets. They get an education. They get health.
They get housing assistance, that sort of stuff, if they
need it and - - - ?---And they can get access to some early
types of family supports. Yes.

Yes. The theory is if you do that well, you'll have less 20
children dependent on welfare later down the track because
they'll be educated, they'll be healthy and their mums and
dads will be good mums and dads?---That's correct.

So they won't need the child protection services?---Yes.

But, of course, being an imperfect world, that doesn't
always work and what we've got at the moment, with the
level of imperfection, is about 20 per cent of those people
who get access to universal services aren't going to get
maximum benefit from them and they're going to end up on 30
the doorstep of community and department - and Safety
Services and Disabilities?---There would be a much broader
group accessing universal services than the 100,000 that
are reported to us.

Exactly?---Yes.

And of the 100,000 that get reported to you, there are
about 20 per cent who actually need - who fall within your
statutory remit?---They fall within the threshold of harm.

That's right. That is they've suffered harm or a risk of - 40
an unacceptable risk of suffering significant harm?---The
20 per cent is those that we think are serious enough to
undertake an investigation on and then of those 20,000
matters then about 30 per cent of them substantiated.

Yes. 30 per cent of the 20 per cent?---Approximately, yes.

All right. So just stay with me here?---I'm just staying
with you.

MR HANGER: 6000.

COMMISSIONER: 6000 on my theory, on Mr Hanger's figures as well?---I can give you the exact figures of the substantiations. Yes. In 2010-11, there were 21,600 investigations and of that there were 6598 substantiations.

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Very good. With that 6000 do we know how many of the substantiations were then the subject of long term orders? ---Initially, those substantiations could either result in an intervention with parental agreement or generally a short term order and it wouldn't be until after we've then tried to work with the family that it would turn into a long term order.

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A substantiations means a parent not - at risk, but with the parent not willing and able to provide?---That the child is in need of protection and a parent not currently willing or able to provide that.

So you assess the risk is unacceptable - - - ?---Yes.

- - - of significant harm having been suffered in the past or likely to in the future - - - ?---Yes.

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- - - and can't be protected by a parent because neither, or at least one, of them is not capable and willing to take the job?---If there was parent that was willing or able then it wouldn't be substantiated.

Okay. So we've got substantiated meaning either parent willing or able to look after a child at risk, so then it becomes your responsibility under the act?---That's correct. Yes.

The way you deal with that responsibility is to go to court and get an order?---It would generally be to try and work with the family outside of an order through an agreement with the family, but if it was deemed that that was not possible to do then, yes, we would go to court for an order.

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What's the percentage of success of the first option?---In terms of those on interventions with parental agreement - I haven't got the data here, but I can get the figures for you.

Do you know just ballpark?---Generally, they would be relatively successful in terms of being able to work with the parent or parents for that period of six months or more fairly intensively, both with the department and with the non-government organisation.

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But last year with those figures, how many did we end up on long term orders and out-of-home care?---I haven't got that flow through period for that.

It must be pretty much the balance, mustn't it?---I've got point in time figures that would go - - -

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We can extrapolate. What's the point in time figures?
---The point in time figures then for that year, there were
- it then goes back to the numbers of children subject to a
protective order, which was 8400, of which 4068 were on
short term orders and 4300 were on long term orders, but
some of those long term orders may - from previous years.

Previous years. Well, that's clearly what's happening,
isn't it?---Yes.

Each year you're topping up your base figures?---Yes. Each 10
year as children may be entering - placed on a long term
order then the cumulative effect of that is meaning that
the number on long term orders is increasing.

So you're getting more in when you're going in and out?
---That's correct.

That seems to be obviously two ways of tackling this
problem, reduce the numbers coming in, increase the numbers
coming out?---That's correct.

Right. What's your solution for the first one? How do you 20
reduce the numbers coming in?---The solution that we've
been putting up in that south-east is really about
expanding the capacity of the non-government sector to
provide those early supports to families and trying to work
intensively with families on those issues of why they're
being reported and to try and get families to those
services earlier rather than later.

There would be two fronts that you're fighting on there.
There would be mums and dads' deficiencies and the child's
problems themselves?---It could be, yes.

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It could be mental illness with the child, drug dependency
with mum and dad or a bit of mental health as well?---
That's correct. Yes.

Okay. So you've got to deal with both. You've got to deal
with the family as a unit, don't you? There's no point in
giving it to the child - - - ?---That's correct.

- - - in a vacuum. You've got to see the child in
context - - - ?---That's correct.

- - - mum, dad, siblings. Right?---And the non-government 40
organisations that we fund do work with the family on all
aspects of the family.

All right. We work on that front. Let's hope that our
systems can support families better and the child
protection system, whatever that is, gets the benefit by
having to deal with less kids over time?---Yes.

But then it's still got to do its job as a vacuum - - - ?
---Yes.

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- - - if somehow, given that it's your responsibility once they've got long term orders, to get them out of the system as quickly as possible?---That is correct.

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And as cost effectively as possible?---Yes.

Trying not to spend \$50,000 a year on too many kids in their own - - - ?---Yes.

So how do you do that?---So the two ways that we do that at the moment is trying to work with families through an intervention with parental agreement and similarly have the non-government organisation working with those families fairly intensively to try and address the issues of why they've been reported and been substantiated within the child protection system and, secondly, if a child does enter a short term order then really work intensively on reunification.

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All right. If that failed after two years or so on a linear assessment - - - ?---Yes.

- - - what do you do with the kids who are on long term orders, up to 18? How do you get them out of being dependent on the Child Safety system for their care? See, we've got the situation where a safety service is actually caring for children on long term orders and I do see care being part of protection, but it's a minor - it's not the dominant path, but what has happened here, we've got so many kids in out-of-home care on long term orders that you've actually become the care department?---That's a system of child protection, yes, around the world, but our responsibility in looking after those children is to try and ensure the best quality care that is provided for those young people to be given the best chances in life.

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So you start with foster, kin and foster?---Kin and foster carers.

And they're being outstripped by demand?---The difficulty, yes, in getting the numbers of foster carers.

Especially in the indigenous areas?---Especially, yes.

And they're the biggest group that you have of your client account?---Yes.

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So then your next is your own residential arrangements? ---Would be residential, yes, or a small group as they're transitioning into later teenage years into supported independent living.

Now, is there a cohort of this 8000 in out-of-home care who are regarded by - and this isn't a value judgment - the department as simply systemised? They've got so many problems, personal problems, emotional problems and, you know, historical - even inter-generational difficulties,

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the fact of the matter is they come into the system at 12. They come in at 10. They're really not capable of functioning outside the system even after 18?---There are - within the child protection system an assessment is undertaken on all children or young people in care to look at their needs and we would say that they would either have moderate needs, high needs, complex needs or extreme needs, which would be a small group of people who have very, very extreme needs; very complex behaviours and needs that require a much, much higher level of support.

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Have you given these figures of those break-ups yet?---It is in my statement, the propositions that we would assess at those levels. It's generally around 4 per cent of children in care are at that really complex end.

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What about the next level down, the - - - ?---I did have it in here somewhere. Generally, I think the next level down is about 13 or 14 per cent with moderate needs.

Well, presumably, then more than 70 per cent have got better than moderate chances?---Yes, certainly the majority are what we would call, yes, moderate needs. Yes.

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So how long do they stay in? Why are they still staying in until they're 18?---Some may still be 18. Some will still be in care. They currently don't have a parent who would be willing or able to look after them and it's not safe for them to return home.

While you're looking after their kids for them, is some other arm of government working on the parents bringing them up to scratch?---It depends on the length of time that the child or young person may be - - -

Well, there seems to be plenty of time, they're long term orders?---Well, it depends. The parents may have either disengaged or they may have some extreme complex needs that may take a very long period of time, so it could be a severe mental illness that may be a very long period of time or forever, it could be or could have a significant disability themselves as a parent or they could be, in terms of alcohol or drug issues, that they would be working with various parts of the service system at some points in time.

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So maybe we're kidding ourselves. Maybe the fact of the matter is that of that \$733 million a year you've got from the budget this year, a certain part of it is always going to be dedicated to looking after the kids who simply have nobody else - nowhere else to go, either because of their own problems or their parents' problems?---That would be - - -

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How many of them are we talking about? Have you done any figures or modelling in that?---Certainly, you know, we would consider those that would be on long term orders at this point in time that they don't have parents willing or

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able to care for them and therefore are likely to be in care for a period of time unless something changed in the family's circumstances.

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So is it safe to say that there are about 8000 children, at least, that we're going to have to provide for government assisted residence or government funded or assisted residential care until they're 18 and, obviously, thereafter because they're not going to be very functional as adults, so you're going to be looking after them in the other part of the system after that, but leaving it with the child protection system, is that right?---So certainly on long term orders, it was about 4500, I think the figure - 4300, yes, that would be on long term orders.

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And how much of the \$733 million does that cost?---I'd have to get the figures for you.

Would you?---Yes.

Thank you. We're pretty much stuck with that figure as being unlikely to be improved on in the near future? ---Certainly, we continue to work with children and young people to try and work with them that are in long term care and really work and de-escalate behaviours so that if they're at that high end complex or extreme needs that we would be working with that child or young person to try and move into a more stable, long term foster care or kinship care arrangement that would be in the best interests of that child. Some maybe in residential for a long period of time.

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Have you ever done any tracking of the kids who spend all their lives, or most of their lives, in care? Have any of them spent the majority of the rest of their lives in gaol? ---No, I haven't.

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Or long term unemployment, anything like that?---No, I haven't, but there is - I haven't got it with me, but there is research around generally about the outcomes for young people that have been through the care system are generally - - -

Are not rosy, are they?---Sorry?

It wouldn't be rosy?---Not rosy, no; not as good.

So it's not just the cost of child protection, it's the exponential costs over the lifetime of these kids?---And the purpose of - - -

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The cost to government?---Yes. So the purpose of either trying to work with the family and reunify with the family or provide the best possible care that we can whilst the child is in care.

Or find them another family?---That's certainly an option.

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It's not one you look at very often?---It hasn't been one that has been used extensively. 1

But even then, even if you find another family, some of these kids, because of their disabilities or for other reasons, are never going to be what the expectation is that parents raise children with values and socialise them so that they can contribute to a civilised society?---That certainly would be what we'd be trying to do, but of those children on those long term orders, many of them are placed in either long term foster care or long term kin care and we do have at the moment roughly about 800 who would be on long term orders to another suitable adult, either a family member or a foster carer that may have agreed to the long term guardianship of that young person as one form of permanency or stability for that young person. 10

I suppose if you don't reduce the figures or problems in childhood, they just merge into the rest of the adult population and are still a cost to the government?---That's certainly the - this is the research saying to try and put as much as possible into that prevention and early intervention and working with families is what the research is saying is the benefits for the long term. 20

So child prevention itself might be an early prevention measure to prevent extra costs in adulthood. It's an early intervention to prevent adult - too many adult costs to government?---I haven't heard it called that before, but it could be looked at that way.

Well, if you do it properly early, even being while the child is still a child, in fact have children's rights which they lose at 18, you might be able to at least make them into a more self-sufficient adult?---But certainly in terms of the casework and the responsibility of our child safety officers is around providing the best possible care and opportunities for that young person whilst they are in care. 30

Do you think child safety officers are the best place to provide the best residential care alternatives rather than communities more generally?---Well, the current arrangement is the child safety officer really is the responsibility for the case planning and the statutory decision-making, but we don't - we fund non-government organisations to provide that - either residential and then we utilise foster care as to try and get - - - 40

So you administer it, yes?---We administer it, yes. 1

And you may as well administer it as anyone in communities?
---Yes. If I can clarify, the department doesn't provide
formally the out-of-home care for children.

No?---We fund non-government organisations to do that.

I know, and the section of the department that's
responsible for administering the non-government providers
is you?

---That's right, and it was certainly part of the CMC 10
report around making sure that there were quality
placements for children in the care system and the
regulation of care around approval of foster carers and the
licensing of non-government organisations to ensure that
they are able to provide the appropriate standard of care
for them.

But that's a responsibility of the chief executive of the
department?---Of the department, yes.

That's right, not of Child Safety Services?---It's the 20
responsibility of the chief executive administrating the
Child Protection Act.

That's right?---Under the current government arrangements
it's the chief executive of the department, yes.

So it's a department responsibility, not a section - what
do you call yourself? You say you are Child Safety
Services. What is that? In public service speak, what is
it, a unit or a vision or a section or what of the
department? What part of the department is it?---It's a
branch of the department. 30

Okay, thanks.

MR HANGER: Mr Commissioner, you were asking questions
before about the safety aspect of the work and I wanted to
draw your attention to section 5(b) of the Child Protection
Act which talks about - and you mentioned it earlier -
wellbeing and best interests and then, of course, there is
constant reference throughout section 5(b) not just to
safety but to wellbeing, whatever that means.

COMMISSIONER: When I was looking at that to see what - 40
Ms Apelt raised it a little or maybe Mr Swan yesterday.
Yes, there is wellbeing in there but it isn't the wellbeing
department.

MR HANGER: No.

COMMISSIONER: It's a child protection department and I'm
wondering what role wellbeing has and I rather gathered
that the wellbeing function was discharged by passing on
information to other people who might be interested. Is
that pretty much right?---Certainly the child safety

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officers would be responsible for the wellbeing of the child in care and their current roles in terms of doing case planning and appropriate placement, et cetera.

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Once they are in the system?---Yes.

But you're not responsible for their wellbeing before they hit the system?---The tertiary child protection system as it's structured, yes.

Your brief, is it not?---Yes, it is because, sorry, I'm responsible for secondary services as well under Child Safety Services within the department.

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MR HANGER: The subsection (c) refers to, "The preferred way of ensuring a child's safety and wellbeing is through supporting the child's family."

COMMISSIONER: Family, yes. I see all the words there. I just wondered how it worked in practice.

MR HANGER: Yes. I won't take that part of it any further.

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The commissioner is obviously interested in the fact that some children or teenagers have their own flat because many teenagers would love to have their own flat. I think it's necessary to describe the sort of person you are talking about. Why is it that somebody at 16 or 17 is given their own flat at taxpayers' expense?---It would generally be a young person that's in care. Generally they would probably have been on a long-term order. They don't have any parents willing or able. They are still very vulnerable, still under a child protection order and, as such, we then have a responsibility for that young person. If we didn't - - -

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I'm going to stop you. That doesn't answer my question. Describe the person?---The person could be a person with high needs still.

Describe the high needs. I'm trying to drill down into the detail?---It could be a person that has no family network. They still need some support to either engage in schooling or engage in employment. They may still have some difficulties in terms of participating risky behaviour so they could be - you know, we would want to supporting them so that they're not participating in those risky behaviours such as themselves in terms of, you know, drug use, et cetera, and we would be wanting to support them in that arrangement. If they weren't supported by us, they would be homeless and on the streets.

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Now, you said that they may have drug use. Why do you put a person who has drug problems on their own in a house with people visiting periodically as distinct from putting them in the other kind of residential accommodation which had four or six people in a house and 10 minders?---Certainly

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the young person may have been through a number of placement breakdowns so they may have been either in foster care of Kinship care that those placements have broken down or they may have been in residential as well and had difficulties in living in arrangements with other young people in a particular house.

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Why do they have - I'm giving you a chance to explain to the commissioner the sort of young person you are dealing with?---So they may have had issues in either aggression or assaulting other young people that may have been within that particular house that caused a difficulty for them to be co-tenanted with other young people and that both in the planning for that young person and their care arrangements that supported independent living was in the best interests of that child.

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Thank you. Mr Carmody was asking you about long-term orders. Once a child is in a long-term placement they rarely leave it until they're 18. Is that right or not? ---That would be correct. Unless there were some changes within their family circumstances, they would generally be on a long-term order until they were 18.

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So once you go through the couple of years of a short-term order, then you enter a long-term order and that almost invariably continues until you're 18?---That's correct.

All right. Now, we got off the point a bit. You came back this morning - - -?---I think I've covered - - -

We had a few other points that you wanted to - - -?---No, I think I've covered the information that I was to provide.

You have covered all you wanted to?---Yes.

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Okay, thank you.

COMMISSIONER: Mr Burns?

MR BURNS: Thank you, Mr Commissioner.

Mr Swan, just continuing this morning's theme, you were referred by Mr Hanger to section 5(b) of the act. Section 7 of the act outlines the chief executive's functions. You can go to it if you need to, but it outlines a range of functions which fall under the primary, secondary and tertiary caps, if I can put it that way, including such functions as promoting a partnership between the state government agencies, that is, other government agencies, non-government agencies and families with respect to the welfare of children. Are you digging it out?---I'm just digging out seven. Which number, sorry?

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It's subsection 7(1) paragraph (i) and in fact it extends to - if you look at (s), that in fact has a bearing on some of the questions the commissioner asked you this morning as to whether there had been any research into the life

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outcomes of children in care and the relationship between the criminal justice system and the child protection system. Just incidentally, do you know if there has been any research carried out or promoted under (s)?---There is research out that but I don't believe we as a department have under that research.

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Right, but otherwise section 7(1) - and mindful of the commissioner's caveat that it's words - has a broad range of functions of the chief executive of the department with respect to every level, it seems, of child welfare. I'm using that "child welfare" expression in a broad sense? ---Yes, and that function can be fulfilled either through undertaking those activities directly or working with other government agencies who would be responsible for undertaking those activities.

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Or, to use the words of the paragraphs in the section I drew your attention to, non-government agencies or organisations?---Yes.

The thrust of the act is the encouragement of a partnership between government agencies, including your branch and your department, on the one hand, and non-government agencies? ---Yes.

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As well, of course and importantly, as the families themselves?---That's correct.

Is that right?---Yes.

Okay. I just wanted to ask you some questions then regarding the different incarnations the department has gone through in recent times or at least over the last decade and a bit. If I could ask you this: I understand from your statement that your first involvement - I might have this wrong. You correct me if I do. Your first involvement in child safety was about 2007?---My first involvement formally was in 2007, although prior to that I had been working in Disability Services and had had a lot of interaction with the Department of Child Safety at that point in time because of children that were in our system or possibly within the child safety system.

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All right. I'm going to ask some general questions about how the department has evolved or devolved over time. If you can't answer them from your own knowledge, tell me, but, as I understand it - and we've heard quite a bit on Monday and Tuesday about the Forde Inquiry and the recognition there of the need not only to focus the energies of the state on protection of children at risk but also the need for prevention and early intervention, if appropriate. Were you here when Ms Apelt was giving evidence?---Yes, I was.

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She described those propositions, that is, the need for prevention and early intervention, primary-secondary-type services, as a base principle in child welfare. I'm

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paraphrasing and perhaps adding a little, but do you agree with that as a proposition?---Certainly, as I've described in my statement there, the system does need to look at including both the primary services, secondary services and tertiary services.

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Okay, but that's been a principle recognised for as long as you have been involved in child welfare?---Yes.

And the importance of devoting time and money to prevention and early intervention is well accepted?---Yes, and either directly or other departments who would have that responsibility.

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All right. Now, let's go to my topic of income agents, if I can put it that way. So when the Forde Inquiry delivered its report in 1999, there was a Department of Families? ---That's my understanding.

That's your understanding, thank you, and it had responsibility or at least exercised jurisdiction across primary, secondary and tertiary levels of care for children?---I'm not fully aware of the full breadth of responsibilities of that department.

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All right. Well, you know moving forward that in 2004 the CMC recommended a stand-alone Department of Child Safety to become the lead agency in the state in this area. Do you accept that? You need to answer so that we - - -?---Yes, that's correct.

All right. One of the precursors to that inquiry was an independent audit conducted by Gwen Murray where she described the Department of Families in 2003 as dangerously becoming like one of the children for whom it has a statutory obligation, that it was in need of major reform? ---That's correct.

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All right; and in fact the CMC commenced an investigation and in fact held public hearings in and inquiry and produced a report in January 2004?---That's correct.

All right; and, of course, we know that the 2004 report contains the terms of reference but we know that the catalysts for that were very serious allegations of abuse of children in foster care?---That's correct.

So accepting that it started from a different focus, the 2004 report contained over 100 recommendations for change in the welfare of children in this state?---Yes.

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Now, I just want to take you to some of those. You've already been asked questions about some of them, but do you accept this as a general proposition: that the primary recommendation from the CMC was a whole-of-government response to the problem?---Yes.

You accept that, involving a newly constituted Department

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of Child Safety, a stand-alone agency?---Yes.

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Is that right?---Yes.

Working then in partnership with other government departments?---Yes.

And non-government entities or organisations?---Yes.

And so far as the new department would be concerned it's role - and for the record this is at page 152 of the 2004 report - was to share the function of prevention and early intervention with the Department of Families or whatever agency was accorded responsibility for that. In other words, it was to share that role and the model that was recommended and, it appears, adopted at least in terms of the changes made to the legislation was that the new department's role with respect to early intervention would be specifically directed to children who had been identified as at risk or suspected of being at risk?---The former Department of Child Safety, yes.

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And the other prevention and intervention work would be performed by another government agency and that would be the Department of Families or communities or whatever remained. Do you accept that?---Yes.

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And it was an important part of the recommendations by the CMC that both the left hand and the right hand, that is, the new department and the department looking after prevention and early intervention, work closely?---That's correct.

They were sharing information and supporting each other. Is that the case?---That's correct.

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Now, to encourage that, among the recommendations were the director-generals or directors-general coordinating committee. Mr Commissioner asked you some questions about that on Tuesday and, to your knowledge, that was established, that committee?---Yes, it was.

And has functioned in the sense of having meetings?---It was, yes.

It was?---Yes.

Do I gather from that it was disbanded at some point?---I think it was subsumed into the role of a broader Human Services CEO's community.

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I will come to that. That happened in 2009, the event you're speaking about, but until 2009, did the committee function as recommended by the CMC?---I'm not sure of the full extent of it, but I was aware that it had met certainly over the period of time in implementing the recommendations of the CMC report.

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Apart from the committee, it was recommended, and this is, for the record, recommendation 4.3, "The position of child safety director be established within each department identified as having a role in the promotion of child protection"?---Yes.

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Did that happen up until 2009?---Yes, it did, and those positions are still existing at the moment and that child safety director's network still continues to meet.

All right, and this is all under the umbrella of what was described in the 2004 report as a coordinated approach to child protection?---I believe so.

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That was because the report had identified that there were advantages in having a sharp focus on children who were actually at risk?---I believe so, yes.

Sorry?---I believe so, yes.

All right, but the report also made the point, and for the record this is at page 139, that it was crucial that it should not be overlooked that in recommending a new standalone department focused upon the interests of children in care the CMC was not suggesting that the government's commitment to prevention should in any way be diminished. That was a key message from the report. In other words, establish the department but don't forget about prevention or early intervention in other contexts, primary or secondary?---I believe so.

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In fact, one of the recommendations from the CMC was that the government maintain its commitment to developing primary and secondary child abuse prevention services, which is at recommendation 4.4. Now, to make all of that work, this whole of government approach, recommendation 6.1 was that each department with an identified role in child protection be required to publicly report each year on its delivery of child protection services. Did that happen up to 2009?---It's still happening now.

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Right, so up to 2009 we have other departments who are looking primarily after primary and secondary - or providing primary and secondary services whether of themselves or through non-government agencies. They're each reporting, are they?---Yes. A child protection partnership report is published annually and has contributions from each of those agencies that have child safety directors.

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There was also a recommendation that the directors-general coordinating committee consider appropriate ways for the Department of Child Safety, the standalone department, and the other government departments to interact with federal and local governments and relevant community groups. Was that something that was done up until 2009?---It still would be done now.

Still done now?---In terms of our interaction with the federal government and non-government organisations and other agencies.

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So ultimately, and for the record this is recommendation 6.11, it was recommended by the CMC that a more progressive and contemporary integrated service delivery model creating a partnership between government and non-government organisations be promoted to deliver better services for children, in effect?---Yes.

Was work done along those lines?---Certainly there was - I can't remember the exact name - Child Protection Partnership Passport, I think it might have been at that point in time. It's now called the Child Protection Partnership Forum. It still meets quarterly and that involves the department and a range of non-government organisations, particularly the peaks of those organisations, that meet quarterly.

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All right, and again, to make all of this work there are recommendations for enhanced training, better reporting, that sort of thing?---Yes. Certainly, yes.

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If we go to the 2007 report we see a review conducted by the CMC, an extent to which the various recommendations were carried out?---That's correct.

So to take one example - it's a tolerably short report, but to take one example, recommendation 4.4 was that the government maintain its commitment to developing primary and secondary child abuse prevention services and it was reported that that had been implemented and one example was a process called, "The referral for active intervention initiative"?---Yes.

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Is that the same program that you gave evidence about I think on Monday as part of the \$103 million? I think from memory it cost \$8.5 million?---My understanding was that the funding for that came as one of the last tranches of funding from that.

From the 103 million or from - - -?---There was - I'll go back. I'll just do - I'd have to clarify it. I'm not quite sure whether it was part of the 103 or whether it was part of a second amount of money that was announced called "Future directions".

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It probably doesn't matter, but that's one of the initiatives?---Yes, certainly, and still in existence today.

It's just that up until 2009 at least it seems that at least on what's reported by the CMC the recommendations have largely been implemented - not all of them, but the vast majority of them have been implemented, and it is supposed to be a coordinated whole of government approach to the problem?---Yes.

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Including all three tiers of concern, primary, secondary, tertiary?---Yes.

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There's difficulties, isn't it - there is difficulty in thinking of the overall issue of child welfare by dividing it up into primary, secondary, tertiary, because ultimately you're talking about an individual child, aren't you? You're agreeing with me?---But it depends on where the child or the family may be in their current circumstances as to which part of a system they may access.

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Yes, but you need a close - if you're going to have a standalone department of child safety, as the CMC explained, you need to be in close communication with either government and non-government agencies providing earlier family support for it to all work?---That's correct.

To take up what you just stated, the very first contact with a child may lead to a protection order. It might be such a serious case. You have to answer so that we - - -?--It could do.

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It could do. In other cases the very first contact may signal a need for more family support or counselling or something of that nature?---It could do.

All right, so what becomes critical is that point of contact and the people assessing the magnitude of that problem at that time?---Yes.

COMMISSIONER: I wonder if it would be better to have a family at risk assessment rather than a child in danger assessment?---Certainly part of the current process, it is about the child, because the child has been reported, but part of the process does look at a family risk evaluation, or look at the family.

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Yes, but only at the point of notice, which might be too late?---At the point that it's been reported to us. There are also some other tools used by the non-government sector to do some early family risk evaluations as well.

Do you get the benefit of them?---One of the projects under the national framework for child protection was to work and develop a family risk evaluation tool for use by non-government organisations. It's called the CAARS tool and that has been developed and is available for non-government organisations to use, and there are a range of other tools that those non-government organisations do use.

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But a family at risk to you method isn't of much relevance, because your act says that you get involved once the threshold has been passed, not before?---But we are also interested in what happens out there, yes.

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You might be interested in it. There's nothing you can do about it?---Certainly what we were trying to do was how we may influence those other parts of the system to ensure that they're also operating and working to support families.

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Well, how do you do that?---So the work that we have been doing is around the Helping Out Families to try and ensure that families may be able to be reported directly to those non-government organisations that are at the lower end of the reports that we currently get.

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Lucky the Helping Out Families came in 2010 or there wouldn't be much else to tell me?---Yes, it was a very critical project.

Yes, all right. Yes, Mr Burns?

MR BURNS: All right, so we go to 2009 and the Department of Child Safety becomes part of what's described by someone in the evidence as a super department and a super department in size?---That's correct.

So it's subsumed with other departments - - -?---That's correct.

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- - - to become part of the overall Department of Communities. Is that the case?---Correct.

Since the election there's been another name change, at least. Have I got that right?---It's now the Department of Communities, Child Safety and Disability Services and some parts of the broader Department of Communities are now within other agencies.

So dealing then from 2009 at least until that change, they're no longer being a standalone lead agency responsible for protection, a child safety department. The role under the - or the functions of the larger department of which child safety was - or child safety services was a branch, included, what, all three tiers, primary, secondary and tertiary, in terms of child welfare?---At that point in time my responsibilities included communities and child safety services, which did incorporate the earlier universal services that were being provided through neighbourhood centres, as well as the secondary services, as well as the tertiary services.

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So the answer is yes?---Yes.

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All right, and not only that, what happened, it seems to me, from that, is that until that point in time, and you correct me if I'm wrong here, there were other government departments dealing with prevention, primary, secondary levels of service?---There were other parts of the Department of Communities and also other agencies that were also dealing with providing services to vulnerable people. So, for example, homelessness services, they're providing

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services - - -

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I get it. I've got that, but it was separate to the department of child safety. That department was focused on child protection?---Sorry, I - - -

Up until 2009 that was separate to the department of child safety because it was focused on protection?---That's correct.

In 2009 - and so the two primary agencies, departments, were child safety and communities?---Yes.

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Because you had a standalone department of child safety? ---That's correct.

Are you following me?---Yes.

Then there was this other department providing other services, earlier in time, usually, than the need for protection. Are you with me?---Yes.

Then in 2009 it all gets put into your bailiwick?---It gets put into the Department of Communities.

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Well, of which you become the director, don't you?---I was the deputy director-general.

All right, deputy?---Responsible for that part of the department. There were a number of deputy director-generals at the time.

Okay, but that part of the department was then charged with looking after all three tiers of welfare?---As I said, there were other parts of that department that were also responsible for other universal services, such as homelessness services.

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Okay, I beg your pardon?---Disability services, that would have also provided early family support to individuals.

I see?---So it wasn't a complete, all universal services.

Well, if we had the same man or woman in charge of the department of child safety, they would be after this amalgamation still doing that work but coordinating with outside departments. Yes?---We were still coordinating with outside departments, yes.

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Yes, and after the amalgamation you would be coordinating in your branch of the department with other branches within the department as well as people outside?---With the same responsibilities, yes, in terms of working with other outside agencies.

All right. Has that changed either this year or currently that that's essentially the structure of the department's operations so far as child welfare is concerned?---The

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current Department of Communities, Child Safety and Disability Services has a different structure. 1

What is it?---It has a strategic policy and program area that has three areas. It has child safety services responsible for the secondary and tertiary, it has disability services and it has social inclusion responsible for the earlier, more universal services, as well as domestic and family violence.

But all within the one department?---Within the one department, yes. 10

Do you know why there was this amalgamation? Was it for reasons of efficiency?---It's a government decision in terms of the machinery government changes that are put in place.

It seems to be quite contrary to what the CMC had recommended, that's all?---I can't comment.

No, you probably can't. Well, then the current position is, looking at it from a whole of department point of view and not just your branch, it's always been the position, at least since 1999, that all three tiers of child welfare are to be accommodated as best you can?---That's correct. 20

The reason I'm asking you these questions is, and it may be my misunderstanding of the evidence you've given, but I rather thought that the thrust of your evidence was that there's a moving back to a recognition that prevention is a good idea. Is that an accurate way to - - -?---No, not at all. Prevention and early intervention has always been there. As you've heard from previous evidence, what we've been trying to do is strengthen the prevention and early intervention. 30

All right. On Monday you said, and for the record this is at page 65, "I would say from my point of view that there hasn't been a focus in the period 03-04 onwards on those secondary and universal services." I'll give you a little bit more - - -?---No - - -

I'll give you a little more context. The commissioner asked you - in fact, put this question to you: "You know, when we were having a discussion before it appeared to me, anyway - I might be wrong. I'll have to have a look at the transcript, but it appeared to me that early intervention and prevention was rather a new discovery for the department and based on what was being done overseas and in Victoria when we only had to look back to 1999, the Ford Inquiry report, to see how important at least she thought prevention and early intervention was," and your answer was, "No, I wouldn't say that. Certainly the focus in Queensland since the CMC report was around developing the tertiary child protection system," et cetera, and then you finished that answer by saying, "I would, from my point of view, say that there hadn't been the focus in that period 40

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03-04 onwards on those secondary and universal services"?
---Certainly the focus since the CMC report for child
safety had been significant strengthening of the tertiary
child protection system. There had been work that had been
undertaken in relation to rolling out the referral for
active intervention services, working on the early learning
centres, and then the work that I described about trying to
further strengthen secondary interventions, but I think it
would be fair to say that it wasn't to the same extent as
what had been a significant focus on improving the tertiary
child protection system since the CMC inquiry.

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I'm just wondering how that can be. I accept what you say, but maybe it's a question of resources. I don't know, but it's clearly an important part of the recommendations that all three cares are accommodated by someone at all times, but your experience is that the earlier or the primary and secondary tiers haven't been the main focus?---It would be my opinion or my view that the detailed recommendations within the CMC report were clearly looking at the tertiary child protection system and looking at the significant improvements within that tertiary child protection system, that was certainly the focus of the former Department of Child Safety Services and, as I said, there had been work being undertaken around the universal system and the secondary system over that period of time, but by far the more detailed attention had been to child safety.

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But that's the point, you see. The Department of Child Safety, that was their job to focus on tertiary services, but the message from the CMC was, "But, hey don't forget about everything else that has to be done and we're recommending it be done by other departments and non-government agencies. Do you think that the amalgamation in 2009 may have meant that that message got a bit lost?---I don't think so. I think there certainly was a focus and as Ms Apelt talked about the other day, there was a focus also on the no wrong door approach within the period of the former Department of Communities and looking at across the services that the department had.

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And now I gather - and you correct me - but I gather from your evidence that your preference would be to have non-government agencies working in partnership with government agencies, performing the bulk of the prevention work or family support?---Certainly the non-government organisations are well placed to perform the family support.

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So is that a yes? Do you agree with that?---I said they're well placed to be able to and, as I said the other day, that families are more likely to want to or agree to participate in receiving services through the non-government sector than through the formal government sector.

Sure, sure. The hope is, and particularly with the pilot program Helping Out Families - the hope is that ultimately the number of notifications - that is the way you use that term - is reduced so the number of children who actually require protection under the act, statutory protection is reduced?---That's correct.

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All right. Do I take it then, just to finish up, that that means that your preferred position is to really go back to what the CMC recommended that you have a stand alone department or branch within a department dealing with protection, but the earlier family support services be performed outside that department?---I don't think I can comment. There are advantages of both models and as a

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government employee, I work within whatever the government of the day decides the structure of the department should be.

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All right, thank you.

COMMISSIONER: Thanks, Mr Burns.

MS McMILLAN: Mr Commissioner, I was going to suggest perhaps we might have a short break.

COMMISSIONER: A break? That's a novel idea, but, yes, I'm willing to listen to it. How long?

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MS McMILLAN: Just 10 minutes or so. I'm just conscious Mr Swan has been going fairly solidly for an hour and a half and we have another hour and a half to lunchtime.

COMMISSIONER: Yes. No, fair enough. How much longer will we keep Mr Swan, do we think?

MS McMILLAN: I think about an hour, hour and a half.

COMMISSIONER: About an hour? Mr Capper?

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MR CAPPER: Probably half an hour to an hour at the most.

COMMISSIONER: Okay. Yes, we should finish you before lunch, if that's okay, Mr Swan. All right, thank you.

THE COMMISSION ADJOURNED AT 11.30 AM

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THE COMMISSION RESUMED AT 11.42 AM

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COMMISSIONER: Who is next?

MS McMILLAN: I think my learned friend Mr Burns had completed his cross-examination so perhaps - - -

MR BURNS: Yes, I have, commissioner.

MS EKANAYAKE: Thank you, commissioner.

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Mr Swan, paragraph 457 of your affidavit states that Aboriginal and Torres Strait Islander people experience significant levels of disadvantage. Is this recognition that the lower socioeconomic status and poverty these people experience is a contributing factor to the overrepresentation of children in the system?---It's as the statement says there, that it's a significant issue and Aboriginal and Torres Strait Islander people face significant levels of disadvantage.

And that's a recognition that that lower socioeconomic status contributes to that?---It's certainly one of the issues. I'm not quite sure whether it, I'd say, contributes to that. It's certainly a factor that impacts on Aboriginal and Torres Strait Islander people.

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MS McMILLAN: Could I just ask my friend to speak up a bit? It's a little hard to hear.

MS EKANAYAKE: Yes, sorry.

If I could just go to cultural competency at this stage, we're talking of representation of Aboriginal and Torres Strait Islander children in the system. Your statement at paragraph 438 speaks of cultural competency of training in cultural competency. How would you define cultural competency?---My understanding is that it's an understanding of Aboriginal and Torres Strait Islander cultural aspects and also history and that that may have an impact on what happens today.

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What about service delivery?---It's certainly part of all aspects of service delivery that people should be aware of cultural issues and be engaged in cultural competency training.

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Mr Swan, have you received cultural studies in cultural - - -?---I have done it a couple of times in previous years over my life in the public service.

Do you recall when that might have been?---No.

But this is not with the child protection system that you got your training in cultural studies?---As a public service I attended training a couple of times.

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COMMISSIONER: What is a cultural issue when you see it?
---Sorry?

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We have talked about cultural issues. What does that mean? What is a cultural issue?---In terms of it might be in relation to the history. It could be the family relationships or the clan relationship that may exist, particular areas that may be part of the culture of that particular family group, et cetera, that would impact on - advice that we would need to have that would impact on the decision-making.

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So what, you would need to know who was kin and who you should talk to and how you should talk to them and you should respect their views, how you should receive their views?---And also the approach that you may need to take in approaching families and listening and working with those families.

So everyone who has contact with those families has that sort of education, do they?---We endeavour to ensure that all child safety officer have that training as part of their mandatory training and also then work with the recognised entities to receive further advice.

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Because it would vary. When we say "cultural", we assume that there is a universal cultural issue but culture would vary from context to context, family to family almost?---And across the state and in different communities.

And across the races as well?---Yes.

You must have a big department looking after - a big section looking after that.

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MS EKANAYAKE: I'd like to touch on SDM tools at this stage. I have just a quick couple of questions on that. You stated in your evidence that some adjustments were made to the SDM tools. How are cultural considerations actually in the application of SDM tools?---There was a process that was undertaken that involved ourselves looking at the particular tools and looking at some of the various aspects and family relationships and issues and I'd be happy to get some further details in terms of the process that was undertaken and what they looked at.

Can the outcome of the SDM tools be altered due to cultural considerations?---It's certainly some of the factors that should be taken into account in decision-making and it's part of also what's used as professional judgment by officers.

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Is the department aware of the report entitled "Family Risk Evaluation Validation", a prospective study done by the Children's Research Centre in the USA? I think that was for the department - highlights a bias against Aboriginal and Torres Strait Islander children?---It highlighted that

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there were some issues within the tools that were being used and the tools have been adjusted. 1

I have a copy of the report, commissioner, if we could make it available to you.

COMMISSIONER: Yes, sure, if you want to tender it.

MS EKANAYAKE: I have tagged that page.

COMMISSIONER: I will provide copies. Was it the whole report or just that? 10

MS EKANAYAKE: It's a full report. I've just tagged that particular page.

COMMISSIONER: Okay. The report will be exhibit 19 and we will make a copy available to the other parties.

ADMITTED AND MARKED: "EXHIBIT 19"

MS EKANAYAKE: Were the SDM tools trialed on ethnic and cultural groups prior to implementation?---That was before my time. I would have to get further information for you. 20

Did the department consider other frameworks for structured decision-making?---My understanding at the time when the department was looking at the range of tools is they considered a whole range of tools available and the structured decision-making was the tool that they decided to use.

What were the other tools considered?---I'd have to get further information. It was before my time in the department. 30

Going back to the set-up of the department, just one more question on cultural competency. As deputy director-general, in your view, is the department culturally competent to work with Aboriginal and Torres Strait Islander people?---Certainly the department makes every effort that it can to understand cultural issues to work with recognised entities in undertaking the role that we do.

Attachment 1 of your statement gives the organisational structure of the department. Can I ask where the key Aboriginal and Torres Strait Islander professionals are located in that arrangement?---The key professionals are located throughout the whole department. There are a number of identified positions that are within the department and in regional offices. 40

Is there a unit called the "indigenous coordination unit"? ---There is.

It's still in existence?---Yes.

Where does that sit in the arrangement?---It sits within child safety strategic policy and intergovernmental relations. 1

Who are the officers in that section, if you could name somebody?---Jamie Oliver is now currently the person that will be moving across to the manager - no, Jamie Alley is his name, sorry, not Oliver.

Would you agree that the indigenous coordination unit is a significant component of the Aboriginal and Torres Strait Islander advisory structure?---Could you repeat the question, please? 10

Would you agree that the ICU, the indigenous coordination unit, is a significant a significant component of the Aboriginal and Torres Strait Islander advisory structure? ---It certainly played a very significant role in supporting myself through the work on the taskforce that had been mentioned the other day and also the development of the blueprint for implementation.

Would you know when the ICU was established and what was the mandate?---It was established when I joined the organisation. 20

And the mandate of the ICU?---Certainly it's moved but certainly in terms of providing support and advice on Aboriginal and Torres Strait Islander matters into policy and programs are within the department.

Is there a long-term commitment to the indigenous coordination unit to drive strategic policy and practices?--It's certainly in existence within the structure there at the moment, yes. 30

Mr Swan, are you aware of the Combined Voices report done by the Combined Voices group?---Yes.

I have a copy of the report, Mr Commissioner.

COMMISSIONER: I think we have one. Do we have one?

MS McMILLAN: I'm sorry, Mr Commissioner?

COMMISSIONER: We have got a copy of the Combined Voices report. 40

MS McMILLAN: Yes.

COMMISSIONER: Thank you. Others may not who may just want themselves of one.

MS EKANAYAKE: I can make that available.

MS McMILLAN: It might be best if it's tendered, if that's what my friend wants to do, and we can make copies available. 50

COMMISSIONER: All right. We will be coming to that at some stage in the future anyway, won't we?

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MS McMILLAN: Yes, so I'm happy if it goes in now and we can make copies of it.

COMMISSIONER: Yes, all right. I think we are starting next week, aren't we? The area that it relates to is on its way later next week, I think, but we will take it now. Exhibit 20.

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ADMITTED AND MARKED: "EXHIBIT 20"

MS EKANAYAKE: Do you know which Peak agency in the founding of Combined Voices?---It's my understanding the four Peak agencies were involved.

What key message - - -?---No, five, I think.

I'm sorry?---I think five. I think Q-Costs was included as well.

Do you recall their names?---I think there was Q-Costs, QATSICPP, PeakCare, Create and - I'm not sure whether Foster Care Queensland were involved.

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As we're aware, Combined Voices advocated and lobbied for a more balanced approach that reveals overrepresentation. Do you agree that it was only following representation made by this Combined Voices group that a strategic response was created to the alarming rates of overrepresentation?---It's been a significant issue that's been recognised by the department for a long period of time in terms of overrepresentation and Combined Voices is certainly a contribution to that.

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And you don't agree that it was only after that that the department - - -?---I can't recall the exact details of the dates of which certain reports were received, but certainly the department moved to establish a taskforce a couple of years ago to try and work with the sector around the sector coming forward with a strategy around some activities that could be undertaken to reduce overrepresentation.

Mr Swan, could you provide the commission with historical Queensland Aboriginal and Torres Strait Islander child protection Peak submissions in relation to reducing overrepresentation from the establishment of that Peak to the time the commission is established?---I didn't hear the question.

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I'm just wondering if you're able to provide the material or the documentation or submissions made by the Queensland Aboriginal and Torres Strait Islander child protection Peak to the department in relation to reducing over-representation of Aboriginal and Torres Strait Islander children?---At which point in time?

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From when it was established until when the commission was established - during that period?---They would be available within the department, I would imagine, and certainly the organisation itself would have them.

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COMMISSIONER: Are you suggesting we should have a look at them ourselves, are you?

MS EKANAYAKE: I'm sorry, your Honour?

COMMISSIONER: You want us to have a look at them?

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MS EKANAYAKE: Certainly.

COMMISSIONER: Mr Swan told us where they were.

MS EKANAYAKE: Yes.

COMMISSIONER: I rather gathered you were wanting us to actually read them rather than just know where they were.

MS EKANAYAKE: It would be useful. Our position is that it would be useful to the commission to have a look at that material.

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COMMISSIONER: All right. If the department provides it, we will add that to the list too.

MS EKANAYAKE: The Aboriginal and Torres Strait Islander taskforce review of overrepresentation was established, I believe, in October 2009. Is that correct?---I can't recall the exact date but about that time.

Are you able to provide the documentation that was involved, including correspondence between the DG, your department and to the Aboriginal and Torres Strait Islander child protection sector or a record of minutes, documents, interdepartmental and external correspondence in relation to the taskforce or when the taskforce established?---That documentation would exist. That would be available, yes.

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Our submission is that that material would be of use to the commission.

COMMISSIONER: Mr Hanger, will you provide it to us or do you want us to formally ask?

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That hasn't already been provided, Mr Swan?---No, it hasn't. I'm not sure of whether it was in that big list of information that we did provide. I'd have to go back and check against that but, if not, there would be documentation around the establishment of that taskforce and the correspondence provided.

MS EKANAYAKE: This would include correspondence between the department - - -

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COMMISSIONER: Could you just check that, Mr Hanger, to see whether it is not included?

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MR HANGER: Yes, we will look into that.

MS EKANAYAKE: Thank you, commissioner.

Given the lower socioeconomic status of Aboriginal children, young people and families - Aboriginal and Torres Strait Islander children, young people and families, were there government representatives from the areas of health, housing, education and employment included in the taskforce?---I can't recall the exact composition of the taskforce. I'd have to again go back and look at the membership.

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The information we have is that there were no representatives from those areas involved in the taskforce, but this if not information that you have, is it, Mr Swan? ---I can't recall off the top of my head. I can remember the taskforce and I can remember a number of people participating in the taskforce at various meetings. It was certainly a reasonable gathering of people and quite a vigorous debate or discussion around the issues and work undertaken to progress various matters that were raised by taskforce members to then a report being prepared for the department.

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Mr Swan, I have some information here about who was involved in the taskforce, if I may read it out to you? ---Yes.

Representatives of Queensland's key Peak bodies, including the Queensland Aboriginal and Torres Strait Islander child protection Peak, Queensland Council of Social Services, PeakCare Queensland, Foster Care Queensland and Create Foundation, a representative of the coalition of Aboriginal and Torres Strait Islander Human Services Organisations and respected and experienced child protection practitioners from Aboriginal and Torres Strait Islander organisations representing various areas of the state and distinctive perspectives of Aboriginal and Torres Strait Islander communities is what I can see. It doesn't appear to include - - -?---If that's correct, that's your - - -

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Yes?---I could confirm with our records, but the focus - and we certainly had lots of discussions with the child protection Peak at that point in time in terms of establishing the membership of that particular group and discussions with the Peak organisation, from memory, was about ensuring that there was appropriate representation from communities and various representation across the state, both Aboriginal and Torres Strait Islander members on that particular taskforce.

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If we proceed on the basis that not representatives from the areas of health, housing, education and employment were included in the taskforce, could I ask why? Do you not

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think it would have been a more appropriate response to have those representatives involved in the taskforce?---At times the discussions occurred with the Peak and there was a lot of discussion with they Peak around the membership of that particular taskforce and I can't recall whether that was raised at the time or not.

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Would you say that that would have limited the capacity of the taskforce to - - - ?---I was working very cooperatively with the Peak organisation at that point in time and discussions around who the membership of that particular taskforce was.

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So you would recall if there were representatives of housing, if you weren't - - - ?---You've told me that there weren't.

Yes, yes?---But it certainly was also discussed at the Child Safety director's network and it was certainly a significant issue and the Child Safety director's network were also kept up to date. This was seen to be a report that was to come from the taskforce and the representation that was made to government, from my understanding, from the Peak and combined voices was that they wanted a taskforce established and that they wanted the report to be from members of that taskforce to come forward.

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Would you say that the work of the taskforce would have been limited because these agencies were not involved?---It was the report of the taskforce that Peak had worked with the department and that Peak made recommendations about the particular membership of the taskforce. I can't recall whether they had recommended some of those other members to be on that taskforce or not.

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You wouldn't recall if the NGO peak bodies requested that the representatives - - - ?---I'd have to go back into the files. I can't recall off the top of my head.

I would request that information, Mr Swan. I believe that they're useful. As deputy director-general, you have received a report of the taskforce, together with the comprehensive report and recommendations and time frames. In your opinion, does the department's blueprint respond appropriately to reduce overrepresentation?---The report was received. The blueprint is the first set of activities to be implemented from that taskforce report, so it was quite a comprehensive report and discussions with other member organisations was that we would be looking at the first year activities and the blueprint provided more of an implementation plan for implementing the first year of activities. We've been having some further discussions with member organisations really now about the development of a second blueprint, which would be - or the second action plan or implementation plan, which would be the next set of activities to be undertaken.

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So would you say that it would establish a balance to universal prevention through education and awareness programs, target early intervention and (indistinct) supports?---Certainly, that's what we're working towards and one of the activities that was undertaken at the time of that report and since that was the establishment of the Aboriginal and Torres Strait Islander Family Support Services. 11 of them were funded around the state. I

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think at the time it was about eight and a half million dollars which has now risen to a little over \$10 million to provide indigenous controlled Aboriginal and Torres Strait Islander Family Support Services and certainly that was one of the directions that was being provided around strengthening family support to Aboriginal and Torres Strait Islander families.

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Can I ask how is the blueprint implemented by the department's regional offices and at local Child Safety Service centres?---The blueprint - there are a set of activities within the blueprint - a set of activities have been agreed between ourselves and the organisation. There are a number of working parties on those various activities and those working parties have progressed those activities. Our regional offices are aware of the taskforce report and also of the blueprint.

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Going to the child protection agencies, the Aboriginal and Torres Strait Islander child protection agencies, you have stated in your statement that they're required - sorry, to go back to my question again. You would say that these agencies, these child protection agencies, require capacity building. Given the importance of Aboriginal and Torres Strait Islander child protection agencies, is there assistance to strengthen effect government's management and leadership of these frontline services?---There has been a program over the years in the former Department of Communities, I think, which was called Strengthening Aboriginal and Torres Strait Islander Non-Government Organisations that had been in existence for some period of time. The point that I was making in my submission is that we funded those Aboriginal and Torres Strait Islander organisations a couple of years ago now. We've been working intensely with those organisations about getting the numbers of referrals up to those organisations so that they can be working at capacity. As you've - the overrepresentation in the child protection system is a significant issue and there are a large number of families that can be referred to those organisations. The initial period saw a very low uptake of families that had been reported to those organisations in engaging with those particular services. Over time, the numbers of families or the numbers of families that the services are working with to engage with those services is increasing and the numbers of families that are actually engaged with those services is also slowly starting to increase, but we still need to do some further work with those organisations around the numbers of families engaging and the level of intensity of those services engaged - of services being provided. We also did work with those organisations and with the Peak to ensure that all staff employed were provided with positive parenting program training and also training through Domestic and Family Violence.

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The department has established 11 regional Aboriginal and Torres Strait Islander Family Support Service hubs. Is that correct?---That's correct.

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What's the role of the Aboriginal and Torres Strait Islander Family Support Service and what do you see as the benefit of an Aboriginal and Torres Strait Islander Family Support Service?---Certainly, it was - the role is outlined in the documentation. From memory, it was to provide a range of staff at both the professional and the para-professional level to work intensively with families that were being reported to Child Safety Services, to provide those families with services or assistance on the matters for why they're being reported to Child Safety Services to again try and reduce a re-reporting of those families back to Child Safety Services and, hopefully, assist in keeping children and young people out of the child protection system.

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Could Aboriginal and Torres Strait Islander Support Services be expanded into non-stigma based services not linked to the statutory process?---Certainly, there are a small number of indigenous controlled organisations that are funded in that earlier area, but certainly it is a direction that we could certainly look at expanding those organisations. What we do need to do, though, is ensure that the organisations are able to operate at capacity and providing the maximum numbers of families with support. My conversations with the Peak has been that it's certainly something that we could look at, but until we've got the information about the services operating at capacity and providing the level of intensity of service that is required then we'd need to have that information and being able to go back to government to provide an argument about expanding those services.

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On that subject, has the department adopted different approaches to Aboriginal and Torres Strait Islander and mainstream family support services?---I don't believe so. We - - -

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So if I may finish; such as in the referral for active intervention and Helping Out Families initiative?---We use the same system in terms of monitoring the numbers of families that are referred, the number of families that the organisation is working with to seek consent and the number of families actually engaged within those services. We use exactly the same system across our referral for active intervention services, our Helping Out Families services and also our Aboriginal and Torres Strait Islander Family Services. We get the same information from that, that's useful in terms of being able to provide us with information about the level of services and the level of intensity of services that are being provided by those organisations.

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Would you say funding levels are comparable and consistent with the referral for active information - - - ?---Funding levels in terms of the expectation of the numbers of families to be receiving services, I think is comparable, although it is recognised that in the Aboriginal and Torres

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Strait Islander Family Support Services that they may need to work for longer and for more intensive periods with some families and I think the numbers or the caseload anticipation is the same or slightly less.

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How long does it take - you might have that knowledge - for referral for active intervention to reach targets?---The referral for active intervention services, my understanding, did take some time to reach targets, but the Helping Out Families Services when they were established, the expectation was very high, that they got up to capacity very, very quickly and that was monitored almost weekly in terms of those services getting up to capacity. The expectation by government at the time that the Aboriginal and Torres Strait Islander Family Support Services also moved to be able to operate at capacity was also fairly high.

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On that same subject of REI, did REI Services hold responsibility for early intervention and strength based family support prior to the Aboriginal and Torres Strait Islander Family Support Services being established?---Did they hold responsibility for?

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Early intervention and strength based family support services prior to the Aboriginal and Torres Strait Islander Family Support Services being established?---Those services were considered to be a secondary service system within the overall system of protecting children. Those services actually went through a period of change as well, which did provide then advice around both the Helping Out Families and also the Aboriginal and Torres Strait Islander Family Support Services.

Would you say that this has reduced overrepresentation in the past?---The?

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The RAI Services?---The RAI Services certainly were taking Aboriginal and Torres Strait Islander clients and as I had said earlier today that the modelling that we had done around the Helping Out Families trial was that, really, the amount of investment that was provided in that location was what was needed in a secondary support service system, given the numbers of families that were being reported to Child Safety Services.

Does RAI and HOF allow for referral from community based agencies and self-referrals from the community?---The model has changed over time in that those services when they were originally established could only receive services from Child Safety Services, the belief being at that point that there were sufficient numbers of families that were being reported to Child Safety Services to be referred out to those services that when they were first established that was the case. There has been some gradual refinements to those services over time to enable them to receive referrals directly from police and health - sorry, from health and education.

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But not self-referrals?---The Helping Out Families trial now is able to receive self-referrals from families that have previously been referred from Child Safety Services and have not engaged and can then self-refer after that.

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Have the Aboriginal and Torres Strait Islander Family Support Services requested the ability for self-referrals?--Yes. There has been recent correspondence received from Queensland Aboriginal and Torres Strait Islander Peak, which is currently under consideration and we will consider that, but the numbers of families being referred at the moment to those particular services is more than the capacity that those services could cope with.

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Do you acknowledge on that subject - do you acknowledge that Aboriginal and Torres Strait Islander Family Support Services have been in existence for only two years, as opposed to the mainstream HOF Services?---The HOF Services have only been in existence since 2010.

I'm sorry?---The referral for active intervention services has been in existence for some period longer than that.

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I'm sorry. I meant Family Support Services?---The mainstream Family Support Services have been in existence for many years.

As opposed to the Aboriginal and Torres Strait Islander Family Support Services?---Yes. You provided the date on which they were established.

The other day when you were giving evidence, you made reference to the 6 per cent of funding dedicated to Aboriginal and Torres Strait Islander organisations to provide services to Aboriginal and Torres Strait Islander children in care. You mentioned that some of that funding given to other organisations funded by the department to provide services to Aboriginal and Torres Strait Islander families - can you provide a breakdown of the mainstream services that are funded out of those funds?---I didn't say that. I said that that funding of 6 per cent was provided totally to indigenous controlled non-governments; that the broader funding available for Child Safety Services funds, mainstream organisations that also provide a service to Aboriginal and Torres Strait Islander peoples. I hear from the community and from various members that some members of the Aboriginal and Torres Strait Islander community want to receive services from Aboriginal and Torres Strait Islander controlled organisations and I also hear that some don't and would prefer to receive those services through mainstream services, so it is about having a balance of services available for individuals to be able to access a range of services.

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So what you're saying is that 6 per cent goes directly to Aboriginal and Torres Strait Islander controlled - - - ?
---Controlled organisations.

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- - - agencies?---Yes.

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Yes. Is there a long term commitment to appropriately fund Aboriginal and Torres Strait Islander agencies to deliver strength and needs based family support services?---The conversations that I have been having with the Peak over the last couple of years was around working with those organisations and ensuring that we can get the services up to operating at capacity and that we can then have a better argument in terms of going back to government for resources that would be then applied for further expansion of services amongst Aboriginal and Torres Strait Islander organisations. Unfortunately, the information that I have provided in my submission to date has showed that the placement services that we fund direct to find Aboriginal and Torres Strait Islander fostering kinship care services are currently only operating at just over 50 per cent capacity. So it is really, really difficult when our mainstream organisations are operating at capacity to take an argument to say that we need to expand those organisations when there's still a lot of capacity within the existing funded arrangements. Similarly, with the Aboriginal and Torres Strait Islander family support organisations, we'd like to continue to work with those organisations to ensure that they get up to capacity and that we have the information available to show that those services are also working with families and providing the outcomes that we want and then be able to go back and provide sound information about the need to expand those services.

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What support is being provided to these agencies, to the - - - ?---As I said before, there was a strengthening non-government organisations project within the Department of Communities that had been in existence for many years. We do meet with the Queensland Aboriginal and Torres Strait Islander Peak very, very regularly to talk about the issues. We provided a range of training for staff through the Positive Parenting Program and also the Domestic and Family Violence training and we've also been out providing training to staff witness those organisations about the use of the system that we have for recording referrals from the department and also the families that they're engaging with.

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Moving to the subject of foster and kinship carers, is there a breakdown available of the number of children placed pursuant to the child placement principle at section 83, including a breakdown of the preferred placement options?---The report within the information, the number of Aboriginal and Torres Strait Islander children that are placed within kin, other indigenous carers or indigenous residential care services which is at 52 per cent and it is a requirement of our staff, who are certainly aware of the two reports that have been prepared by the Children's Commission that have looked at the practice of the department in placing children in

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accordance with the child placement principle and looking at that report, the ability to record the various elements of that has been variable and the department has recently made some further changes to the ICNS system that would enable better recording of how departmental staff had gone through the various elements within the child placement principle and recorded how they may have considered each element before making a placement decision.

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Mr Swan, are you saying that information, that breakdown, is not available at this stage, the breakdown of the numbers of children placed in accordance with the child - - -?---Certainly there's two reports that are currently available from the Children's Commission that have taken a snapshot of children at various points in time. We didn't have the information available in accordance with how the department had placed children in accordance with the principle at the various steps and following the report from the Children's Commissioner we moved to implement changes within our ICMS system that would be able to start recording that.

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What are the challenges and barriers to recruiting Aboriginal and Torres Strait Islander carers, in your opinion, or in the experience of the department. It's certainly a significant issues already in terms of the population. The population, Aboriginal and Torres Strait Islander population, has a much larger proportion of children within that population so Aboriginal and Torres Strait Islander adults are far more likely to be carers than the non-Aboriginal and Torres Strait Islander population. So there's already an emphasis on carers, a greater proportion of the adult population being carers, than the proportion of the non-Aboriginal and Torres Strait Islander population. There's also issues in relation to carers being able to meet the appropriate approval requirements for a carer.

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Could the Aboriginal and Torres Strait Islander foster and kinship care service recruit and support non-indigenous carers to increase the carer pool, in your opinion?---They can and they are able to and they have done - some of those organisations have done so in the past, yes.

Can I ask you this, why is it left - - -?---But - sorry.

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Go on?---I mean, the issue really is that that's down the hierarchy then of the indigenous child placement principles and the preferred option really is to place with kin or to place with other members of that young person's community and I suppose Aboriginal and Torres Strait Islander community organisations are much better placed in terms of being able to know family and kin and community members in terms of being able to identify those family members.

But you're saying that sufficient numbers of Aboriginal and Torres Strait Islander carers are not available to care for these children, these large numbers of children?---Yes.

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In which case we have to consider alternatives?---Yes, and certainly there shouldn't be anything preventing those organisations from recruiting non-indigenous carers, and I'm aware some of the organisations have in the past.

Why is it left to carer choice to determine which agency supports them as foster and kinship carers?---I'm sorry, I didn't hear - - -

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Do the carers have a choice of which agency supports them as foster and kinship carers?---Both our mainstream organisations also recruit Aboriginal and Torres Strait Islander carers. I don't know the numbers, but there would be a number of Aboriginal and Torres Strait Islander carers supported through mainstream foster and kinship carer services.

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Does the department recognise the benefit of Aboriginal and Torres Strait Islander agencies recruiting and supporting Aboriginal and Torres Strait Islander carers to meet the cultural retention and preservation needs of Aboriginal and Torres Strait Islander children?---Yes, we found 10 dedicated services to do that.

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Are you able to tell us how often provisional approvals are given - are made or utilised?---Provisional approvals?

Approvals of carers?---It's certainly a part of the system. Provisional approval is, you know, generally for a short period of time. The data as at 30 June 2011 shows that at that point in time we had 130 provisionally approved carers, so that's carers who have been recruited and a decision has been made to place a child or young person with that carer whilst they're going through the process of becoming an approved carer. Of that 134, 101 of those were - sorry, 33 of those were Aboriginal and Torres Strait Islander provisionally approved carers.

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So are these approved carers as opposed to kinship carers? ---They could be carers or kinship carers. They could be general foster carers - - -

There's no breakdown?---I don't have the breakdown here.

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I see. How often is section 61 utilised to grant custody to family members in the initial stages of an investigation?---Let me refer to - - -

Section 61. I'm looking more at 61D?---61D.

(1), 61D(1)?---I don't have the information, but that's certainly what is available to be able to grant custody to a child's family member if the parents are willing and able to then work with the department and to work with that family member in the care of that child.

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How are non-parties utilised and considered in supporting the Aboriginal and Torres Strait Islander extended family to support the court process in relation to the placement of a child?---How are?

Non-parties, in the sense non - if you look at the act, the act provides - the act has two different definitions of a parent. At section 11 you have a wide definition, a wider definition, whereas when you get to sections where the child protection orders are provided for the definition

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simply includes a father or mother or somebody having Family Court orders, or to that - how are non-parties utilised to provide care for a child?---I think what you might be getting at is in terms of Aboriginal and Torres Strait Islander - some of the cultural issues in the recognition of family being broader - - - 1

That's correct?--- - - - than just the immediate mother or father, the recognition of broader family and the extended family.

Because of the extended family being involved in the care of a child, yes?---Certainly that's one of the roles that we would expect our recognised entities to provide when they're working with departmental officers about providing information about those cultural issues that would recognise that broader family in terms of making decisions about that child or the placement of that child. 10

Do you recognise - does the department recognise the risk of cultural disconnection and identity erosion for the 1200-plus Aboriginal and Torres Strait Islander children placed outside the preferred placement option?---It's certainly an issue that we recognise, that part of our role is to ensure that we maintain that connection with family or kin or with culture, and it's certainly one of the issues that has been raised in the Children's Commissioner's report, which certainly did provide some information around the connection with children and young people with their family and the results are within that report which was quite positive in terms of the connection that young people were still having with their family or with their culture. 20

Are you able to provide an overview of the projects proposed for the foster and kinship care model?---For foster and? 30

And kinship care model?---I'm not quite sure what you're asking me.

If I may, I'll just go back to the other - the kinship care and reconnection project, is there such a project?---There has been a project going within the south-east region, I understand.

Are you aware of what the project is involved in, or what they're doing?---The project was certainly about identifying Aboriginal and Torres Strait Islander children who may have been in care who have not had such a close connection with their family and trying to work on identifying family and reconnecting those children with their family. 40

Are they developing a best practice model for foster and kinship care for Aboriginal and Torres Strait Islander children?---They've certainly been developing a model that we would then need to consider in terms of all Aboriginal

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and Torres Strait Islander children within the system. 1

Is that available at this point in time?---I'm not sure.
I'd have to check.

Could that be made available?---If it's available. I'm not quite sure of the stage of the report.

COMMISSIONER: Mr Swan, I was just looking at one of your practice papers in your operating manual. It's dated August 2007 and it makes an example from a study in 1980 of 200 families with an alcohol or opiate addicted parent had physical or sexual abuse occurring in over a fifth of them, so that means 10 in every 200 had a child who had physical or sexual abuse recorded because the parents - well, not because, necessarily, but the parents were alcohol or opiate addicted. Right?---Did you say - - - 10

That's what the thing says. So that's 10 families - 10 children in those 200 families are at risk because of what their parents do. Is that a figure that corresponds generally with the situation today?

MR HANGER: Sir, can I just challenge your mathematics there? 20

COMMISSIONER: Yes.

MR HANGER: I'm only listening to you, but - - -

COMMISSIONER: Yes, of course.

MR HANGER: Just do it again.

COMMISSIONER: A fifth of the - - - 30

MR HANGER: A fifth, you said.

COMMISSIONER: Yes.

MR HANGER: A fifth.

COMMISSIONER: Yes, a fifth of 200.

MR HANGER: Is 40.

COMMISSIONER: Is it? Okay, thanks. Successfully challenged then. Okay, so 40 out of 200. It's not getting any better, anyway, Mr Swan?---No. Certainly there's sort of two areas that I can refer you to. 40

Mine was 5 per cent?---No, I haven't got the percentages here, but of the matters substantiated for the year 2010-11 there were 5900 substantiated. 370 of those were for sexual abuse, 1287 for physical harm, 2300 for emotional harm and 1902 for neglect. We also earlier in the week talked about the parental risk factors, so this was then the percentage - the risk factors within parents that have

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been identified of those families that have been substantiated in care. 1

Yes?---I'm just trying to find the page - at point 195 of my statement, and that - it doesn't have - that one, sorry, doesn't have sexual abuse in it, but it certainly had the various risk factors of parents in terms of alcohol or drug misuse and mental illness.

Yes, but did that correlate them like I did, that 40 out of 200 families with parents having an opiate or drink addiction were abused physically or sexually?---Themselves, or had abused physically or sexually their children? 10

I don't know who was responsible. I'm just saying that according to your document here a study of 200 families with an alcohol or opiate addicted parent found that physical or sexual abuse had occurred in over one-fifth of those families?---Yes. That would have been research that we would have undertaken.

Is that consistent with the current figure?---The patterns of abuse and parental risk factors haven't changed that much over time. 20

Right, so as Mr Hanger points out, that's 40 kids out of 200 families were physically or sexually abused?
---That - - -

Right. Now, my question is, having established that that's the rate, or the incidence rate, would the department undertake any research to find out why the other 160 families didn't have sexual or physical abuse occurring in them?---I'm not aware of any research, but they would have had other factors which would have caused them to come before the department. 30

But, see, wouldn't that be a worthwhile inquiry, to find out what - we've got these 200 families with alcoholic parents, or one of them, and 40 of them come into our system because they've been physically or sexually abused, but the good news is 160 of them don't. I wonder why? Wouldn't that help do your work, though, if you could find out why 160 don't and then try to transplant those reasons into the 40 that do?
---Certainly any research that we can do that assists in child protection is worthwhile. 40

Sure, and do you do any of that worthwhile research currently?---We do a range of research within the department. We support a number of universities that undertake further research as well for us.

Having done all that research, can you help me with my question why there are 160 who don't in that situation come into the system and 40 do?---Not off the top of my head, I can't.

Sorry, I cut off somebody then.

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MS EKANAYAKE: Mr Swan, would you say the department adequately meets Aboriginal and Torres Strait Islander legislated cultural and legal rights outlined in the Child Protection Act?---The department makes every effort that it can to meet all the requirements of the legislation.

Are you aware that when identifying a child as Aboriginal and Torres Strait Islander the information - the ICMS system that you just mentioned, that a cultural support plan template is automatically created in the case plan of the child. Are you aware of that?---Yes.

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What would be the accurate number of quality cultural support plans that meet the unique legal and cultural rights for Aboriginal and Torres Strait Islander - what number, would you say, of quality cultural support plans are available for these children?---I don't know the number but it's certainly available within our system and it's reported on regularly in terms of the numbers of Aboriginal and Torres Strait Islander children that would have a cultural support plan in place.

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I believe the figures that you've given - cultural support plan data, 73 per cent current plans and 92.7 total plans based on a review of the case files. In our view, this doesn't meet the quality required of a cultural support plan. We have made submissions to the - the Aboriginal and Torres Strait Islander Legal Service has made submissions to the Commission for Children and Young Persons in relation to cultural support plans and the maintenance of proper cultural support plans for these children. Our submission was made earlier this year and the commission has responded and has agreed that an audit of cultural support plans should be carried out. Are you aware of this response of the commission?---I'm not sure whether we've received that notice or not yet.

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Commissioner, may I tender the submissions made by ATSILS to the commission?

COMMISSIONER: Sure. Do you need a copy? Anyone need copies?

MR BURNS: Yes, I'd like a copy.

COMMISSIONER: Thank you. I'll make sure you get one, Mr Burns.

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MR HANGER: We'd like one at some stage.

COMMISSIONER: That will be exhibit 21.

ADMITTED AND MARKED: "EXHIBIT 21"

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MS EKANAYAKE: Mr Swan, would you acknowledge that there are currently children, Aboriginal and Torres Strait Islander children in the child protection system who might not have a quality cultural support plan?---The department makes every effort it can to ensure that every Aboriginal and Torres Strait Islander child has a cultural support plan in place. The figures that you just quoted, 92 per cent, the planning process that commences as the child enters, but the cultural support plan might not be completed until some time after the child has entered care so there's always - it's never going to be 100 per cent because it doesn't start from the day they've entered care, so the process begins in terms of developing a case plan for that particular young person, of which a cultural support plan is part of that.

What quality assurances are in place that these cultural support plans are reviewed on a regular basis, say, weekly, monthly or - - - ?---Cultural support plans are reviewed along with the case plan every six months and those plans for recognised entities are to have input into the cultural support plans as they're developed. That's a key role for the recognised entities to ensure that they have input into those cultural support plans.

For example, a child on a number of child protection orders, for instance, you start at the two year and then you continue to another two year and so on and so forth. What kind of assurance is there that a cultural support plan would be in place for such a child?---The cultural support plan, 92 per cent of those in care have a cultural support plan in place. It's then regularly reviewed, along with the case plan, and that recognised entity should have an input into those regular reviews of the case plan and the cultural support plan as well.

But you're unable to say if it's appropriate or a quality cultural support plan. You say there is - - - ?---They should all be an appropriate cultural support plan that the recognised entity has had significant input into and agreed that that cultural support plan is appropriate for that young person.

Mr Swan, can I ask you, when the Aboriginal and Torres Strait Islander Child Protection Sector was reformed in 2010-11 and recognised entity services were reduced to 11 regional hubs, what was the thinking behind that?---The thinking behind that was that certainly part of the view that was coming forward from the taskforce at the time was that we needed to expend a further proportion of funding in family support services. The family support services were the critical element to try and provide intensive supports to families in contact with the child protection system. A bit of - work was done looking at the comparisons and expenditure and I think Victoria spends about under \$3 million on recognised entity services and at that particular time, Queensland was spending over 16 million on recognised entity services. Some work was done around

looking at what was an appropriate level of expenditure for recognised entity versus redirecting some of that funding towards family support services. At the point in time, the belief was that we should be redirecting about 50 per cent of that funding to family support to try and get assistance to families earlier rather than allowing them to re-scale or escalate into the child protection system.

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Sorry. Did you say 16 million at the time or - - - ?---At the time.

Is it more or less now?---At the time there was about \$16 million that was spent on recognised entity services and at that point in time, \$8 million was directed then to recognised entity services and \$8 million was directed towards family support services. It's currently just over \$10 million for each of those services.

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So that's a combination of \$10 million for two sets of services?---No. It's \$10 million for each of those services.

Each? I'm sorry. So a recognised entity would be - the entirety of the recognised entities - - - ?---Receives just over \$10 million.

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- - - receive 10 million?---And the family support services receive just over - indigenous controlled family support services receive just over \$10 million.

Mr Swan, the blueprint for the implementation of the recommendations of the CMC inquiry, recommended funding for recognised entities to commence at 4.7 million in the first year, to be gradually increased until it reached 17.2 million in year 4 and which we're looking back at 2007-2008, so you're saying currently recognised entities receive \$10 million, whereas the recommendation was that recognised entities receive 17.2 million?---The information received at the time as part of that process was recognised entities were also performing a family support function and there was confusion between the role of whether you could be a recognised entity and providing cultural support as opposed to whether you could provide family support to an organisation. At the time it was believed it was better to actually separate those two particular functions so that it was very clear for an organisation about when they were providing recognised entity services and when they were providing family support services. So it was actually making greater clarity for the organisations about the types of services that were being provided and the expectations of those organisations about when they may be a recognised entity and when they may be providing family support services.

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Mr Commissioner, I have with me a report done by the Aboriginal and Torres Strait Islander child protection Peak in September 2011 which I would like to tender which sets out the funding levels and the deficiencies in funding levels to the recognised entities.

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COMMISSIONER: Do you want to make that an exhibit?

MS EKANAYAKE: It's called "Losing Ground".

MR HANGER: I have no objection to it being an exhibit but I have some reservations about it. I think the witness should be entitled to comment on whether it's accurate or not because it sounds to me like a submission rather than a report from the way it was described.

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COMMISSIONER: I will take it as a submission.

MS EKANAYAKE: My apologies, it is a submission.

COMMISSIONER: Yes, I will take it on the basis of it being a submission. That will be exhibit 22, Losing Ground.

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ADMITTED AND MARKED: "EXHIBIT 22"

COMMISSIONER: It's a submission about the adherence to the Aboriginal and Torres Strait Islander child placement principle in Queensland. What is that, section 6 or something of the act, is it?

MS EKANAYAKE: Section 83 is the child placement principles.

COMMISSIONER: Okay, thanks. I am just going to stand down for lunch because I have got something to do, but I just wanted to ask a question before I do, if I can just interrupt, so I understand the position. Is the way it works, Mr Swan, that the chief executive has this responsibility under the legislation. To substantiate harm, right, you get a notification or a suspicion of harm and that's a significant impact of some sort, as described in the act. So you look to substantiate the harm or non-substantiate it and if the harm is substantiated, you then look to assess the level of needing protection. Is that right? They are the two steps?---We'd probably before that work to determine whether or not we can work with the family through an agreement or whether we need to go for an order.

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But wouldn't you need to know what the harm was - - -?
---Yes; yes.

- - - the risk was and what protection needs the child had, if any, before you took the next step?---Yes.

Right. So once the chief executive says, "Yes, there's a risk of relevant harm. There is a need for protection,"

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it's assessed at - what do you do, high, low, moderate? 1
---No, it's either a child in need - assessed as a child in
need of protection.

Which includes care, as we have established?---It could be
an allegation against a carer, yes.

No; no, "protection", the word - in need of protection in
the act includes care?---Yes, care.

So it's either protection or care?---Yes.

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So does someone make a recommendation to the chief
executive and say, "This child is at risk of harm," but the
sort of protection it needs is care?---There could be a
recommendation that the child is in need of protection and
therefore further work would be undertaken then on what
would need to occur or we could say that there is
substantiated harm but the child is not in need of
protection because of family arrangements. So, for
example, it could have been a domestic and family violence
matter, the child witnessed the issue or the incident, may
have had some harm from that, but the mother has now
removed herself or the partner, the husband, has removed
himself from the house and therefore the mother's willing
and able to protect her children so it might be still
substantiated harm but not in need of protection and
therefore wouldn't enter the system.

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Right. The level of harm is already stipulated in the act?
---Been established, yes.

And before the chief executive does anything it has got to
be of a certain type. It's described in the act?---Yes.

Yes, it has got to be a harm of significant - - -?---Or 30
significant risk of harm.

Yes, unacceptable risk of harm and "harm" includes a
significant impact of some sort on your mind or your body?
---Yes.

That's how it works?---Yes.

But the levels of protection don't seem to be set out in
the act anywhere. The levels of harm do. There are
degrees of harm and there are levels of risk. You have got
high, low, medium risk. You have got levels of
consequence, low consequence but high risk, high risk, high
consequence. Walking across the road blindfolded is a high
risk and also likely consequence, but wouldn't you need
something to sort of work out - shouldn't there be various
graduations of the type of protection that a child needed?
All this child needs is to be cuddled for 10 minutes, then
that child would be right or it needs to be taken out of
home now or needs to be put with the aunt and uncle just
down the road for a while. Do you do that?---That's part
of the assessment then to determine based on harm then

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what's the option. So the first option is to try and work with the parents on an agreement. That could include the child staying in the family home or it could include the child going to live with grandma or grandpa or an uncle or an auntie for a short period of time whilst we work with the family.

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But my question is that child that you have taken the lowest intervention response with - - -?---Yes.

Is that child still in your protection?---They're still, yes, under an intervention by the department; yes. It's defined, I think, within the legislation under "Intervention with parental agreement".

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Yes, that's what that is, is it?---Yes.

Yes, all right, thank you. Quarter past 2 - would that suit everybody?

THE COMMISSION ADJOURNED AT 12.54 PM UNTIL 2.15 PM

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MR HANGER: Sir, may I mention an administrative matter?

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COMMISSIONER: Yes.

MR HANGER: There's a summons to Margaret Allison, number 1975088, which has proved more complicated than we expected or anticipated.

COMMISSIONER: The summons?

MR HANGER: Pardon?

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COMMISSIONER: The summons or complying with it?

MR HANGER: Complying with it is more complicated. Could we extend the time until Friday week, which is 24 August?

MS McMILLAN: No difficulties, commissioner.

COMMISSIONER: Certainly. Thanks, Ms McMillan.

MS McMILLAN: Thank you.

MS EKANAYAKE: Mr Swan, I'm going to go back to the questions about the recognised entity. What is your understanding of the legislative role of the recognised entity in child protection matters?---Briefly, to provide cultural advice in all decision-making of the department.

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What was the original blueprint for the implementation of CMC recommendations funding the recognised entity sector? ---Sorry?

To fund the recognised entity sector?---You quoted it before.

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Yes. I raised that. Yes?---Yes.

Would you have anything to add to that?---No, I've answered the question.

Now, with the legislative role of the recognised entity, do you see the recognised entity being an independent role or a role connected to child safety?---It's an independent role if they're separately funded non-government organisations, but they do need to work closely with departmental staff in terms of providing their advice and also in - particularly when they're going out on investigations.

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Does the child safety practice manual and the service agreement in place with the recognised entity place any limitation upon the RE's? For example, a limitation on engaging with families, to gather information to inform their independent position or responding to the court independently as provided for at section 6 subsection (4) of the Act?---The roles set out, it's accepted, and there are some - I'm not quite sure about the first one, but

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there are also some limitations in terms of their roles in court matters. 1

What limitations are those?--My understanding is that their advice is to be provided through the department in affidavits that are prepared by the department.

But wouldn't you agree that section 6 subsection (4) provides for the court to obtain information?---That section provides for the court to - I can't remember - I'll have to read the section of the act. 10

I can read it out?---I can refer to the section?

Yes. Section 6 subsection (4)(a), "If the Childrens Court exercises a power under this Act in relation to an Aboriginal and Torres Strait Islander child, the court must have regard to the views about the child and about Aboriginal traditional and island custom relating to the child of a recognised entity for the child," and it continues?---Yes.

Now, my question is: my understanding is that it's independent; that information can be provided to the court as independent - - - ?---No. The arrangements at the moment are that the RE is to provide that cultural advice to the department and the department is to include that cultural advice in the materials that are provided before the court to make a decision. The Childrens Court - RE's can provide separate information to the Childrens Court should it wish and it can do that by letter or by other means. 20

I understand there's a service agreement with RE's?---There is a service agreement with RE's. 30

Are you able to provide a copy of the service agreement to the commission?---It would be a service agreement that would be in place within an existing organisation so that organisation would also need to agree for that to be provided.

I think that would be of some use. Has there been a recent attempt by the department to further define the role of the RE?---There's been some joint work going on as a result of the blueprint, some joint work been going on between the department and the Peak in relation to court work. 40

Are you saying that that's going to further limit the role of the RE in relation to - - - ?---No. I'm saying that that work is currently ongoing between the department and the people.

Nothing has been finalised yet?---I'm not sure at what stage it's actually up to. I am aware that the work has been undertaken.

Can I ask you: can the RE visit a family without informing 50

the department for the purpose of gathering information?
If, as you say, the RE's role is independent?---I'd have to
get some further advice from the department. I'm not
100 per cent sure on the response to that. 1

Do you acknowledge or what is your understanding of the
role of a recognised entity as set out in section 6?---I
think you just asked me that question a - - -

In relation to consultation and participation in case
management?---The role of the recognised entity is to
provide cultural advice at all points and in the child
safety officer's work and all decision-making that the
child safety officer makes. 10

Can I put to you, wouldn't it be more appropriate for RE's
to be more actively involved in casework to achieve
positive outcomes for children and young people? What is
your opinion?---I don't think I can offer an opinion. The
role that's set out on this for recognised entities to
provide cultural advice.

Could it not be something that could be reviewed?---I think
that's something that the Peak could take up with the
organisation in further defining the role. 20

When I say "actively involved in casework" I mean,
convening family group meetings or cultural support plans,
assisting with - - - ?---They certainly involve the family
group meetings - - -

- - - cultural support plans?--- - - - and certainly
involved in the development of cultural support plans.

And their input as transition from care officers where they
would be directly involved with Aboriginal and Torres
Strait Islander children?---They're certainly involved in
transition from care planning. 30

Has the department considered legislative reform of
section 6 to allow greater authority and responsibility to
the recognised entity in the areas of what I mentioned,
family group meeting convening or cultural support planning
or the initial child placement principle actions?---I'm not
aware of any consideration. I would have to check.

I'm sorry?---I'm not aware of any considerations - - -

You're not aware?--- - - - and I'd have to check through
the department. 40

COMMISSIONER: It's a fair point, though, Mr Swan, isn't
it?---Yes.

I thought from what you told me yesterday the category or
the categories from which the conveners, the child
conveners, that the family group meeting is drawn is so
narrow that it's only drawn internally from the department,

although from someone who's not a case manager. Is that right?--Yes. There are. Sorry. I did get some further information yesterday that there have been a small number of instances where external contractors have been engaged in more complex family group meetings, but it's not generally, as I said, widely used - it is departmental staff.

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Is that to save money, is it?--No. It's been because the department is responsible for the statutory decision-making that the family group meeting was part of that - - -

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Isn't that part of the problem that the family group meeting which you can say or do anything that won't render you liable to criminal proceedings, but it will jeopardise your position with respect to the statutory decision-making in child protection as opposed to criminal proceedings - won't it?--The purpose is to really gather, you know, sufficient information about what's in the best interests of that child in terms of the ongoing care of that child. Yes.

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Yes, and from the point of view of one of the participants for the department to use against their interests, wouldn't it, because their interests might conflict with the best interests of the child so they're not going to be very open with you when they know that what they say could be used against their interests?---That's why the legislation was changed. The legislation was changed to try and encourage parents to be more honest and open within those family groups.

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But it was only changed to the point of getting them to be honest enough not to get criminally prosecuted?---It's still information that, yes, that would need to be taken - - -

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You still need more information that might cut across their interests in the search for the best interests of the child?---It's certainly information that would need to be taken into account in decision-making, yes. The issue in relation to recognised entities undertaking that role is potentially the same as the issue of recognised entities undertaking a family support role, that it was often perceived that there was a conflict between when they would be undertaking their recognised entity role and when they would be providing family support. So certainly I think the recognised entity's role is fairly clearly defined in terms of their cultural support. The issue I think that would need to be considered and whether or not it would be the recognised entity that would take that broader role or another non-government organisation - could be an indigenous controlled non-government organisation that would undertake that specific - that function along with other functions.

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MS EKANAYAKE: Would it not be statutory assistance that the legislation provides for that involvement? Does not the legislation provide for that involvement of the RE? ---The legislation provides for involvement in terms of providing cultural advice to the department. I think what you've been talking about goes a step further beyond that in undertaking specific functions or activities.

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Mr Swan, are you aware of the Victorian model, the family decision-making model, where Aboriginal professionals are involved in a family group convening in cultural support programs where they assist with the implementation of cultural support plans?---I think I have looked at the Victorian model previously; again, probably a couple of years ago. I think in the Victorian model the role of recognised entity is clear and separate. As I said before, Victorian government only provides under \$3,000,000 for the recognised-entity function and, yes, Victoria does provide funding to non-government organisations for some of those other functions.

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COMMISSIONER: If you were conducting a family group meeting, it would be an area where cultural competency was particularly important?---Yes.

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Wouldn't it be?---Yes.

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So have you got enough people in the department who are not the case manager of the particular case being dealt with at the group meeting who are culturally competent enough to run a group meeting as a convenor?---Certainly all officers have undergone cultural competence of training. We do have Aboriginal and Torres Strait Islander staff employed in every Child Safety Service centre and also the recognised entities are required to participate in all of those meetings.

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I thought that was the point that was being made, that they weren't. Do you mean they could be the convenors, not just a participant?---Yes.

MS EKANAYAKE: Cultural competency has been an issue.

COMMISSIONER: But do you say the recognised entity should be the convenor, not - - -

MS EKANAYAKE: Should be participating more actively and convening meetings as well as involving in cultural support plans as well as assisting when children move out of care.

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COMMISSIONER: This is what the Standards for Cultural Competence and Social Work Practice published by the National Association of Social Workers in the US says is cultural competence. It refers to the process by which individuals and systems respond respectfully and effectively to people of all cultures, language, classes, race, ethnic backgrounds, religions and other diversity factors in a manner that recognises, affirms and values the worth of individuals, families and communities and protects and preserves the dignity of each. Do you think you meet that standard in every one of these family group meetings? ---It certainly would be what would be the desire and the intention of our staff and they'd certainly have a similar understanding of that type of notion in undertaking the meetings or convening the meetings.

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No doubt they would do the very best with what they had, but objectively do you think as the responsible person that that standard would be met in every case?---I believe that they would be making every effort to meet that standard, yes.

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That's a different thing. That's about how hard you try. My question relates to how far you succeed. Do you think they would succeed in meeting that standard every time they have a family group meeting involving indigenous - - -? ---Certainly not every time, but certainly they would be - that would be what they would be wanting to achieve.

And what the department would be wanting them to achieve and what the department would be doing to ensure that they could as often as possible achieve?---And the department

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certainly engages with the recognised entities and has them involved in all family group meetings in relation to Aboriginal and Torres Strait Islander children, yes. 1

Does that sound like - - -?---They certainly use the recognised entities in terms of identifying family or kin that also should be involved in those family group meetings.

Are they across the regions, the recognised entities?
---They're located in every region, yes. 10

Every region?---Yes.

There's not one without one?---No, there's not one. Some have more than one. There are 11 that are funded throughout the state.

So there are 11 regions?---There are seven regions.

Your regions?---Yes, there are seven. We have seven regions.

I see?---Seven regional offices. 20

So there is no lack of them from your region ratio point of view and there is no region that's not serviced by one. Is that right?---No, that's right.

Okay, thank you.

MS EKANAYAKE: So, Mr Swan, you then say that the RE is currently very limited in its role. The role they have is restricted to consultation and participation in activities rather than any direct active involvement?---Their role is currently set out within the act. 30

They're not involved in casework activities?---They're involved in providing advice on all casework matters. They're involved extensively with the organisation on all matters that require decision-making.

Are they involved in implementing case plans or cultural support plans as their counterparts in Victoria would do?
---They're not involved in implementing but their advice is used in what is in the plan.

The extent to which the RE - - -?---I'm not sure. I think we would need to check. I don't believe that RE's undertake that role in Victoria. I think separately funded organisations undertake that role or the department would fund - it could be the same organisation but they would fund them for a different purpose and I think - - - 40

On the subject of family group convenors, can I ask do you have the figures for how many private convenors facilitate family group meetings or are convening family group meetings?---No, I don't. 50

Would that be available?---Not readily, no.

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COMMISSIONER: I think we have asked for them.

MS EKANAYAKE: In your view, does the Queensland Aboriginal and Torres Strait Islander community deserve more ownership over cultural preservation and retention actions within the child protection system?---It was certainly one of the recommendations that came forward in the taskforce report about undertaking research, particularly on the Canadian model, to look at options and how such a similar model may be able to be implemented within Queensland and it certainly, I think, was also - I believe it was also one of the recommendations that have come out of the Cummins report in Victoria.

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Do you think any progress will be made on that?---It wasn't within the first blueprint but it was one of the items to be considered. It wasn't listed as one of the first-year actions within the taskforce report but was one of the items that needed to be considered in further work on implementing the taskforce report and there have been discussions that have occurred since then. I've had some discussions and certainly a desire to undertake the work but there would certainly need to be a lot of work undertaken within Queensland to be able to move to such a process.

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Do you believe this will be beneficial to Aboriginal and Torres Strait Islander children?---It certainly has some benefits within the indigenous population within Canada and it's certainly worthwhile exploring further.

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Would you or do you acknowledge historical obstacles for Aboriginal and Torres Strait Islander people or families in relation to engagement with the department funded family support agencies? Do you? What is your opinion on that? Do you acknowledge historical obstacles for Aboriginal and Torres Strait Islander families?---I'm certainly aware of the history, yes, and that that could impact on some families and their participation.

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How is the department actively addressing this, or is the department actively addressing this issue?---Certainly part of the reason and the argument that came forward in the sector about funding indigenous controlled family support services and that's part of why we moved to fund 11 Aboriginal and Torres Strait Islander family support services in Queensland.

Returning to my original question of whether lower socio-economic standards and disadvantage is a contributing factor to over-representation, do you see Aboriginal and Torres Strait Islander organisations being best placed to work towards (a) reducing over-representation and (b) meeting the cultural and legal rights of Aboriginal and Torres Strait Islander children whilst in out of home care?---Certainly the indigenous controlled organisations are a critical part of the picture. As I indicated before, we fund a number of indigenous controlled organisations throughout the state, but we need to continue to work with those organisations and ensure that they are operating at capacity and providing a level of intensity of service, and when we have that information then that's a really sound argument that we can take back to government about the need to then further expand the funding for those organisations.

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My final question, are you confident that the needs of Aboriginal and Torres Strait Islander children and families are met by the current early intervention and statutory report system?---It's certainly been - we've been making all efforts to try and ensure that those family support services, either indigenous controlled or mainstream organisations, provide culturally appropriate services to Aboriginal and Torres Strait Islander families.

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Thank you, Mr Swan.

COMMISSIONER: Thanks. Mr Capper?

MR CAPPER: Thank you. Thank you, Mr Swan. One of the issues that we would like to discuss has pretty much been dealt with so that's fortunate for all of us, I'm sure, but just touching on a couple of matters that you've addressed in your evidence over the last few days, you indicated

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yesterday and certainly on - sorry, the day before, that the intake process that you undertake, you said that intake process takes four to five hours. You took us briefly through that process and you indicated that that includes an assessment of the previous CCRs and further to that a review and elevation through the process to supervise. When you say four to five hours, is that every single intake or is that just the most complex?---We've done work to understand how much each one of those - each CCR, and that's an average of what it would take for the CCR to be recorded. 1

Thank you, and those presently - - -?---And approved. 10

Sorry?---Recorded and approved.

Okay, thank you. Those are done by the child safety officers at present?---We have seven regional intake services and one located in each of the departments regions and that's undertaken by child safety officers that work within those regional intake services.

Now, we note that there's 112,000 of them throughout the last 12 months or thereabouts and the notation is that four to five hours, close enough to half a million man hours taken on that process per year. Has any review been undertaken in relation to whether that can be streamlined in any way? Are there IT solutions, is there anything of that nature that has been undertaken to identify possible savings in that area?---Certainly there's been a look at the ICMS system to try and look at making it easier to use and trying to reduce the numbers of screens that an officer needs to utilise to try and reduce the amount of time. 20

Okay, and when was that undertaken and how effective has that been?---It was undertaken probably approximately 18 months ago and I haven't done any further work since then, but it's had some impact but not a lot. 30

When you say the work was done 18 months ago, were there recommendations from that? Were there things that could be done that haven't been done yet?---From recollection there was information about trying to reduce some of the screens.

Yes?---I understand that we've done some work in some of the releases of ICMS to further reduce the numbers of screens a person needs to access.

Okay, so that may come back even further? We may find more efficiency over time?---It could do, but not a lot. It's still a process that the officers need to go through in terms of receiving the information, making sure they've identified the right client, making sure that we look at the previous history, making sure we identify the other siblings involved, also understand the family. Some of these families are quite complex in terms of the numbers of partners and the numbers of siblings and particular siblings from different partners and we need to ensure that 40

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in the new incident that's being reported just who is involved in that new incident or not.

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You indicated that part of the analysis and that process, the important part of it is to look back at whether there are further previous child concern reports. In relation to that you indicate that part of that process is that the officer will undertake an ICMS interrogation, they will see whether those are there, and I think you described it as saying - you know, in your first day of evidence you said, "On the information provided it may not be a significant issue, but our child safety officers are skilled in terms of the range of questions to ensure that they can get enough information for the person concerned and to make sure that they can then make a decision about whether or not it should be recorded as a notification or just a child concern report." So you would agree with me, would you not, that the information contained on those CCRs, albeit you've indicated they just get filed, are very valuable in the process of assessing whether or not to take further action or to elevate this?---No, what we've been saying, we're trying to say, is that there's a large proportion of those CCRs that come in that take a considerable amount of work and effort that probably should not need to come and be recorded on a child safety system. Systems in place in New South Wales and Victoria and the UK don't require that large volume of matters to be recorded within a child safety database.

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I accept that and I do acknowledge that, but the issue that I'm getting to is when undertaking that assessment on any subsequent notification, and I think that's indicated at about 39 per cent - from the child guardian's information, 39 per cent of these matters that are recorded as CCRs eventually come back within 12 months. Isn't that correct? ---I don't know the exact figure.

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Okay, but would that be close to right?---I don't know. I can check.

Now, in relation to that, though, certainly when these matters - people do come back into the system for multiple CCRs. Is that right?---It would be a new matter that would be reported to the department, yes.

That's right, but they may have had previous notifications in the last 12 months?---They may have had a previous report or they may have had a previous notification.

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Thank you. When you go back and assess that new report that's come in you look back at the history to identify whether there have been previous reports to you and that assists you in determining whether or not this matter should now be elevated to a notification or for further action. Would that be correct?---Yes.

Now, understanding that the whole process and the referral for active intervention tries to get rid of a lot of those

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notifications that would appear unnecessary - - -?---A lot of the reports.

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The reports, sorry, that would appear unnecessary to you, but certainly those reports, from what we've just seen, have some value in that later assessment process. Would you agree with that?---It depends on the nature of the report, and certainly, as I said before, in other jurisdictions the level of the reports, certainly the lower level matters really would not have an influence on the decision-making apart from recording that there might have been five very, very low-level reports in the past and certainly the Wood report and the experience in Victoria and also the Munro report in the UK and what they've been doing over there is saying that the child protection systems don't need to have those lower level matters recorded and reported.

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Would you agree, though, that the cumulative harm that can be demonstrated from multiple CCRs over a period of time becomes - - -?---It depends on the nature of the CCRs and whether or not they're taken into account in relation to the cumulative harm, yes.

Okay, and picking up on that exact point, which is let's presume that you don't have that data to make that assessment, we go down this line of police and health and everybody else, diverts those matters out directly for referral without reporting a CCR, without referring that or - - -?---But - - -

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Can I just finish, sorry? Without recording that in a centralised location that data would be lost as part of that decision-making process. Wouldn't that be correct? ---The intent of what we've been trying to do, and certainly the intent within New South Wales and the intent of developing the child protection guide which the commission has been extensively involved in part of that process is to say that there are a proportion of matters that do not reach a threshold of needing to be reported to Child Safety Services and the guide, based on the experience in the US and its use elsewhere is a lower threshold than the threshold of harm or significant risk of harm within the act. So its role is to try and get the lower level matters out of the system but still about 50 per cent of the matters that are currently reported would be reported to Child Safety Services and the screening would occur then in relation to still recording some of them as child concern reports and still recording some of them as notifications, but it was about identifying the lower level matters that could be referred directly to a non-government organisation, which occurs in Victoria and occurs in New South Wales, is being looked at in Northern Territory and also other jurisdictions.

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I guess my concern, though, is where is that data going to be kept if not centrally within - whether it be the department or anywhere else. I appreciate that it may not

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fit into the Department of Child Safety per se, but where is that data going to be available for those agencies to say, "Now that I've got this new report and I now need to decide and assess whether or not I need to escalate this to a child safety concern and send it to the department," how does that department gather that information or become aware of that information that's necessary to effect its decision-making as to whether to escalate this?---In Queensland and in New South Wales, in using the guide information is captured in the database around those matters of which those agencies utilise the guide and make a decision not to report it or to report it to Child Safety Services, but it's not recorded then in the child protection database. In Victoria the matters are then kept by the non-government organisations in terms of intake that they have as a community based intake and kept within the non-government sector. If then the matter is - they need to refer the family to the child protection system because they believe the child has been harmed or at significant risk of harm, then they would do so when working with the family.

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In relation to your evidence, you indicated that there were regional intake centres that were created, or the regional intake centres and the staff, and they're staffed by child safety officers, you said, the team of people that undertake those processes?---Yes.

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I understand that there was a review undertaken of that structure and that organisation of that model, is that correct, in 2011?---There has been an internal review undertaken, yes.

In relation to that report there was a number of key issues from that report that were identified which - in fact, the report notes that the objective of those regional intake centres was to ensure consistency or to increase consistency in the matters and the assessment of matters. Isn't that correct?---Yes.

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So how will we achieve the same level of consistency if we are not collecting that information centrally or through - at the moment I think you said it was seven regional centres?---We would still collect that information for the matters that were reported to Child Safety Services and look at that.

Yes, but how do we ensure consistency in the matters that are being reported to you or that are being assessed? I mean, how are we going to identify that there are not - I mean, you spoke earlier in the week about the concerns of government that children could fall through the gaps. How are we going to ensure that that's not going to occur? ---The process as is put in place in both New South Wales and Victoria now is that those decisions are taken and then the matter referred to the non-government organisation and the non-government organisation would engage with that family and work with that family and if they had any

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concerns then they would report that to Child Safety Services.

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In that report there were concerns raised by Child Safety Service centres that there was insufficient gathering of information at the intake centre, including a lack of knowledge of cumulative harm, and that was one of the issues that was raised during the course of that review. Isn't that correct?---I believe it was one of the recommendations, yes.

In fact, there was certainly another observation made that there were concerns as to how the RIS records intakes for infants and exposure to domestic violence and they recorded that the RIS appears to screen out those matters rather than identify infants that are more at risk of harm, as research suggests. That was another observation made in that same report?---I'd have to check the report.

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Of course. Has a copy of that report been provided to the commission?---I'm not sure.

Thank you. Could a copy of it be provided to the commission of inquiry?---Yes.

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Thank you. Now, in relation to that there was certainly - again, I could take you to it if need be, but certainly it indicates also that there were a number of instances where an analysis of the pattern of history of harm would indicate if the intervention was required, however there were concerns raised that the RIS just looked at the surface concerns and subsequently screens out matters, and again an apparent lack of assessment framework and knowledge of cumulative harm is the RIS?---The purpose of the report is to undertake a detailed analysis of the RIS that have only been in operation for a period of time to look at the issues that were being identified that we could identify those areas where we needed to go out and do some further work and practice improvement work around the areas that we needed to continue to work with those staff to do practice reminder or practice reinforcement or further development of those staff. So it was very detailed in terms of the range of matters that you're talking about that we would continue to work with our staff on to ensure that we improved practice.

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But you don't think those same concerns will translate into a newer model whereby those assessments are being undertaken, those same sort of issues, the lack of acknowledgment of cumulative harm, the inability to obtain information, the inappropriate application of tools or tests to the assessment of harm wouldn't also translate into another model, particularly if it's taken outside the program of the department as it is, or something similar to your department?---No. I might just give an example. I've been out on the regional intakes service and I've sat in with our officers and an example of a matter that was phoned in at that particular point in time was a school who

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- there was some parental conflict between two parents -
between the two parents, which the school believed was
impacting on the education of the child, so one parent
wouldn't give the child school books to pass to the other
parent when they were alternating between one house and the
next, and that's not, from our point of view, a matter that
needed to have a child protection response, it's really a
matter that they needed some support and counselling to
work through that particular issue and ensure that the
child was participating appropriately in school. That was
a matter that then, because it's reported to us, that we go
through that whole process of gathering enough information
and screening to make a determination of that being
recorded as a child concern report.

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I agree with that and I acknowledge?---And that's the type
of matters that we're trying to use the guide to sift
through to say that they don't need to be reported to Child
Safety Services.

Accepting that, and accepting the observation that you made
on day one, which is that whilst on its face it might seem
inconsequential or insignificant, let's couple that - so
we've got this process now where these matters get sent
out. The department looks at that and says, "I don't think
this is a matter that meets this threshold so I won't send
it to the department," so there's no central record of that
notification. Police, on the other hand, have another
report for the same family that says police attended a
domestic violence incident in relation to the same family
or the same conflict issues and they've said, "I don't
think that reaches the threshold because it's just a
disagreement at the change of contact," or whatever else,
"so we won't send that to the department," and a child
turns up at a health centre with injuries or something
similar which may or may not be accidental and that gets
screened out because we don't think it's quite to that
level if we can't identify who actually caused the concern,
but when we collectively take all that together it might
give us a bit of a different picture. Do you accept that?
---Certainly the other - the minor matters, if it was a
matter that was reported, certainly the matter, in terms of
reported, where that child has turned up and had some
injuries, that would certainly require a child safety
response, but the other two matters in isolation certainly
wouldn't, and even the other two matters in cumulation
certainly wouldn't require a child safety response.

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What I'm suggesting, though, is we're using the example that you've given, but there would be cases like that which would be slightly more elevated or would become collectively a concern for the child protection system which wouldn't otherwise be identified because of this fragmented approach to - - -

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COMMISSIONER: Mr Capper was talking about building an evidence based for circumstantial reasoning.

MR CAPPER: Yes.

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COMMISSIONER: Aren't you?

MR CAPPER: Certainly.

COMMISSIONER: You know, if you haven't got the evidence base, you can't infer - - - ?---No, that's right.

- - - a harm from one incident, but if you have a number of connected incidents, none of which on their own would suggest risk or harm, taken together might well lead to at least a reasonable conclusion that this was a non-accidental injury and therefore can't be explained away by the parents, or one of them, as such. There's some validity in the argument, isn't there?---Yes, yes.

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MR CAPPER: I'm not suggesting that the department continue to collect all this data and it may be that the commission decides eventually that that may not be necessarily the right situation. What I'm asking, though, is you would see support or would you support the notion that whilst there's 112,000 referrals to you that you might otherwise screen out, we would still need to collect that information somewhere centrally. Would you agree with that?---The issue is, yes, whether or not it does all need to go on the one database or whether or not there are other ways in which the information can be collected at a point in time, ie, as they do in Victoria if a matter is reported and they've got some concerns, they may get in touch with the non-government organisation that may be working with that particular family to understand more about the case and what supports they're providing before they make their judgment.

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Okay. Now, in HOF and the referral for active intervention, we send matters out - and feeding off that when we send matters out to referral agencies and the non-government organisations look after them, has any work been undertaken to assess, I guess, the effectiveness of that insofar as have we looked at, "Okay. We've sent 1000 people off to this referral agency and of those 1000 that we sent there, X came back, but this agency we've got twice as many coming back." Would that not suggest that those two agencies may be necessarily less effective than one another or one may be less effective than the other? Has any work been done or is any work being done to undertake that assessment process?---Not in - we certainly got the

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information from each of those agencies in terms of the matters that have been referred out. With the system that is put in place there, they have a database that's not the Child Safety database, but it does collect all information in relation to referrals out from Child Safety, matters that are reported directed from police, health and education and also the self-referrals, if they have some. The department is able to see all matters on the Child Safety database, but also able to see all matters that may be reported directly to the non-government organisation if we need to, if we have some concern, so it's two systems that run in parallel side by side. We then are looking, as I said over the last couple of days - we have been undertaking research. We have a very small number of families that had completed their case plans early in the piece. The early information from those show that they were 50 per cent less likely to be reported and also the early information at that point in time also showed that there had been a decline in the notifications within the south-east compared to the rest of the state and we're just in the process at the moment of undertaking a further set of analysis of the next group that have gone through.

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Accepting that, how do we know which programs are working more effectively than others? Is there any way to measure that?---We've got information in relation to reviews of our referral for active intervention, which is an intensive family support as well as we're collecting information on the Helping Out Families.

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From a service organisation - - - ?---From a program.

- - - at NGO level?---From a program. We can certainly look at the variations between organisations and so, yes, if organisations are not meeting the requirements within their service agreement, which is that if there's a Family Support Service that would be funded and the expectation would be that they would be providing services to X numbers of families and that the level of intensity would vary from a percentage at a low level, another percentage at a moderate level and another percentage at a high level, that we're able to monitor that from those organisations and make assessments about whether or not they're delivering on the service agreement.

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I guess my issue is not so much how many families go into the organisation, but how many families are we able to measure based on those programs, how those families are being effected or benefited from those programs by, as you say, the 50 per cent reduction. Is that being measured across organisations or is just that being measured sort of systemically across the program, as it were?---At the moment we did look at systemically that we can go down to have a look at those that have been engaged in each of the organisations and whether there's any variation on that.

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We heard yesterday - sorry, Monday, Tuesday - in relation to there being a significant number of ongoing orders,

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temporary orders, being made, the problems with core processes and matters falling over and not proceeding as we would hope and adjournments coming about. Has there been any qualitative or quantitative analysis undertaken as to the reasons for that? For example, in some jurisdictions, you know, the prosecuting organisations will say, "Every time a case fails at prosecution, I want to know why it failed. Was it evidence based? Was it because we didn't comply with serving briefs?" or whatever else. Has a similar sort of process been undertaken for why - or an analysis been undertaken for why the matter is being adjourned?---We've undertaken a couple of projects and one I talked about earlier in the week when we undertook an analysis of the work of our frontline officers and then identified that court work was one of the most intensive parts of their work.

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Yes?---And we had some business analysts come in and look at the process and what was occurring and identified a number of issues within that and a plan has been developed and been implemented to look at what our officers do in terms of improving the qualities and materials that go before to court to actually reduce either the adjournments or the matters, yes, resulting in an adjournment or a matter not being finalised. We've also just in the recent information coming in and looking at the matter with 7000 matters, starting to have a look at what's happening in some of the other jurisdictions and certainly the emphasis in Victoria is that the emphasis placed on Victoria is that a much greater emphasis is placed on working with the families first before going to court and that would be either because they've got a much more extensive non-government sector within Victoria and that could be the fact that the family has been referred directly from police or health to a non-government organisation to receive a service or the matter could have been reported to Child Safety Services and that they didn't take any action within the department; that they referred the matter straight out to the non-government organisation for assistance. That could be part of working with a family more intensively before getting an order.

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Yes. What I'm talking about, though, is we've heard yesterday that we get short term orders and we keep having to get shorter term and we keep adjourning the matter and getting temporary orders put in place and what I'm asking is: do we have the numbers to say, "Well, this many failed because there was no case plan. This many failed because there was no family arrangement. Family meetings didn't take place because the family didn't engage," or, "This many failed because we didn't follow our procedural requirements. Is that an analysis that's been undertaken? ---No, I haven't done that analysis.

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Okay. But do you think that would actually be valuable to actually understand - - - ?---It certainly would be valuable in terms of understanding better why the court process - why there's more court work within Queensland.

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Particularly given the number of adjournments that we're seeing and the number of temporary orders being made?
---Yes.

Now, following on from that, is there a departmental guideline as to the standards? I mean, you said you did this review as trying to increase the quality of materials being provided to court. Has there been any other work undertaken or is there a manual or something else that identifies the work - - - ?

---Certainly the range of activity that we undertook as a result of that, I've outlined in my submissions.

Are those briefs and documents prepared for court checked by supervisors, managers or any of those people along the way? What's the quality assurance process?---Yes, they are. There's a court coordinator in every Child Safety Service centre who has the responsibility of checking those materials and there's also a process in terms of ensuring that team leaders also check the materials.

All right. Obviously, the Commission for Young People and Child Guardian has oversight roles in relation to the department. Can you tell the commissioner inquiry the governance process that's in place, particularly in relation to how the department deals with and is there sort of some process that you engage to make sure that recommendations provided by either the child guardian or particularly by the Child Death Case Review Committee are implemented and making sure that they're actually followed up and, for that matter, the Forde and CMC type recommendations, but any of those recommendations from either - whether it be from the child guardian, from CMC or those, is there some sort of process or program that you go through to make sure that those are actually - or what's the governance processes that are in place in relation to checking that those things have been met or actioned?---As you'd be aware, there's a very extensive checking process that occurs between the Children's Commissioner and the department. Any report that the commissioner does make and provide to the department, we go through a process in looking at those recommendations and we provide regular reports back to the Children's Commissioner in relation to the implementation of each of those recommendations. We also have in place an annual monitoring plan which is agreed between the commissioner and also the department in terms of the range of materials that the department would provide and particularly in relation to performance information or statistics in relation to various aspects of the system and that information is provided regularly to the commissioner.

Okay. I guess just finally, the other question that I particularly have is - sorry, I take that back - the second-last. In relation to the Child Protection Partnership Network, I understand that there's required to be annual reports prepared for that. Is that correct?

---There's an annual report called The Child Partnership Report, which is tabled in parliament each year. 1

Okay. I understand the last report for that was 09-2010. There's no such report for 2010-2011. Would that be correct?---The 2010-11 report is in the process of being finalised at the moment.

Thank you. Just in relation to your evidence, you indicated that the department is responsible for case plans for children that are in juvenile detention and in relation to that, you said that every one of them has a case plan or should have a case plan. You also indicated that as well as that case plan, you would also look at the plans for them to - towards the end of their time with you, if they happen to still be there, that they would also - you would have a look at those transitional reports or transition plans in relation to those. You said that the care of those children fell to the Juvenile Justice System. Is that correct?---Whilst they're in the Juvenile Justice System, they're also on a Juvenile Justice order and also then the responsibility of the detention centre. 10

Does the child safety officer still go and visit those - - -?---They should visit them. 20

Should?---Yes, as well as, as you'll be aware, the Children's Commissioner also has their community visitors also visit those young people in detention.

Yes, I understand the Community Visitors Program, but I'm more concerned with the role of the child safety officers and are they engaging with them and are they raising or elevating the concerns that are raised by children in detention, you know, to the relevant authorities within those areas? Is that being undertaken or you - - -? 30
---They should be.

Should be, but you don't know?---I'd have to go back and get information for you.

Thank you. What about children - and when we talk of children, under 18, particularly 17-year-olds who might be in an adult prison, does the same process apply for them? Do they still have those case plans? Do they still have those visits? Do they have that child safety officer interaction and monitoring?---My understanding is that they should have, but I'd again have to check on those that are in there and whether visits have been undertaken. 40

In relation to those children, we heard yesterday that there were plans in place in relation to children who are transitioning and may still require some support and assistance as they transition from the Child Safety system into adulthood, you know, up to sort of 21 and in some extreme cases, 25. What about children in detention? Do those same processes apply for those, particularly more so those in adult prisons, as they transition from 17 to 18?

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Let's say they get released six months after they turn 18, are those plans and those processes in place to assist them or are they given the same level of support to reintegrate into the community?---Yes. We also fund a service throughout Queensland called The Youth Housing and Reintegration Service, which is twofold both to support young people exiting Child Safety or the care of the state and also to support young people exiting the care of the state, so that young people, if they've turned 18, upon exiting detention then they are able to access a non-government organisation that can provide support for their transition back into the community.

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COMMISSIONER: Is being released from an adult gaol exiting care?---Depending on their age. If they were still 17 when they were released from that, then they would still be under a child protection order. If they had turned 18, the child protection will have finished, but they could come back to us should they want to or they would be referred to the Youth Housing and Integration Services.

So they would be under an order, but we don't know if they would be under a plan?---They should have a plan in place.

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Should, but we don't know. How many 17-year-olds in adult prisons are we talking about?---I don't know the exact figure. There's more than those that would just be on - they wouldn't all be on child protection orders, but the - - -

Yes. To the non-vulnerable children - - - ?---There may be vulnerable still, but they would not necessarily be on a child protection order.

All right.

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MR CAPPER: Thank you. That's all I have. Thank you.

COMMISSIONER: Thank you. Anything further, Ms McMillan?

MS McMILLAN: Just a couple of matters, Mr Commissioner.

You were just asked by Mr Capper some questions about work that's being done in relation to trying to reduce the matters that are adjourned, court matters. What work is that that's being undertaken?---Sorry. There were two issues. I said one was that we had done some work in relation to the court work to try and look at our internal processes, the material being provided and tried to improve the quality of that material being presented to court so that that's not an issue within the - - -

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When was that done or is it being done?---It's in my statement here. I talked about it. It's certainly outlined within the statement. It's outlined in paragraphs 402 to 405 and that analysis project was undertaken in 2008 and then ongoing work had been undertaken and there was a range of processes put in place

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following that.

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Sorry. Just so I understand, since January 2005, these are the court coordinators - - -?---Yes.

- - - have been appointed in regional offices. Is that correct? Are those persons generally legally qualified, to your knowledge?---Generally. There's a mixture of both legally qualified and also experienced child safety officers. Yes.

Has that been found to be effective in terms of streamlining efficiencies in relation to court matters? ---It's certainly been found by child safety officers to be, yes, an additional support and assistance in preparing materials for court.

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At 405, the court work project - - - ?---Yes.

- - - implemented in June 2011?---That's right.

What's the feedback in how effective that has been? ---Certainly, it's starting to put in place arrangements to oversight the quality of that court material and I don't have any feedback on the implementation of that at this stage.

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Given the high number of no action reports or CCRs as they're called from QPS, Queensland Health and Education Queensland that the department deals with, it would be valuable, would it not to provide IT access to enable them to access your department's information, wouldn't it, because, in essence, should it not be a two-way street because that would inform their decision-making about whether to refer it to the department and, likewise, would it not then perhaps address one of the issues that Mr Capper asked you about, about information falling through the gap?---There's a lot of confidential information that would be contained within the Child Safety Integrated Client Management System and a lot of obligations on staff in using that particular system. They'd have to look at a way in which we could put some arrangements in place or firewall it so that only certain information could be accessed.

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Yes, but indeed in the Act already there's protections, aren't there, for confidential information for third parties coming into possession of that information?---We did look at within the - when we were developing the Helping Out Families model, we did look at whether or not we could provide a system in place - d it's certainly doable - a system in place for the non-government organisations where if the matter was referred directly to them, they could have done a check to find out - they wouldn't get the information. They could have done a check to find out if there had been a previous matter reported to child safety or not, but then if they needed further information, they would have to go through the department to get further information.

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Did that happen?---No, it didn't happen; no.

Why not? Do you know?---Because the model that was then put in place - the government put in place changed that and kept everything being reported directly to Child Safety Services.

When did that occur, to your knowledge, just ballpark figure?---It would've been in the middle of - early to the middle of 2010.

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And was there an IT project in the past funded to enable portal access to agencies or is that what you were talking about?---That was what I was - I think that was what I was talking about which was to - that could have enabled sort of access by non-government organisations to make a check on whether there had been a report.

All right. So, as far as you understand, mid-2010 it didn't go further because the government changed, if you like, perhaps the goalposts in relation to that again and what, indicated that it should call come to the department?---It did, yes.

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Those child concern reports?---That's right.

I see, thank you. I've got nothing further. Might this witness be excused for the moment, Mr Commissioner?

COMMISSIONER: I might have him stand down.

MS McMILLAN: Stand down, yes.

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COMMISSIONER: Either way, I will excuse you or stand you down, but I won't release you from the obligations on the sums for the moment.

MR HANGER: He may leave the building and just come back when we ask him.

COMMISSIONER: Yes, of course. It's just in case - - -

MS EKANAYAKE: Mr Commissioner, I have a couple of

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questions for Mr Swan.

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COMMISSIONER: You have some more questions.

MS EKANAYAKE: Just a couple more questions.

COMMISSIONER: Yes, sorry, Mr Swan. You almost got away.

MS EKANAYAKE: On the subject of Youth Justice, have any children or young people been remanded in custody due to a lack of appropriate placement, as far as you're aware?
---Have any young people - - -

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Any young person or child been remanded in custody due to a lack of appropriate placement?---I'm not aware.

Has the department considered strengthened the dual case management approach for children and young people in the Youth Justice and child protection systems?---Certainly the Youth Justice part was in the one department of the Department of Communities and in some cases were co-located, in not all cases, and certainly that was part of the former Department of Communities in terms of that strengthening the relationship between Juvenile Justice and Child Safety Services.

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Thank you.

COMMISSIONER: Now, you can safely go, Mr Swan.

WITNESS WITHDREW

MS McMILLAN: Mr Commissioner, I would recall Ms Apelt at this stage.

COMMISSIONER: Yes, thanks, Ms Apelt.

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APELT, LINDA ANN called:

COMMISSIONER: You are on your former oath.

MS McMILLAN: Ms Apelt, you have got a copy of your statement there?---Yes, I do.

All right, thank you. Now, I want to take up with you a number of other issues. Now, in the interview that we had with you on 3 August you were asked some questions in relation to the advantages of having a broad-ranging or super department. I think this is the terminology which was used and you remember you recall that you indicated the advantage as being the No-Wrong-Door policy and you, for instance, spoke of a young 16-year-old - this is page 3 of the transcript, Mr Commissioner - having acquired a brain injury as a result of encephalitis, had very aggressive behaviour and his parents couldn't handle him at home and then you went on to outline what might be a path that there follows and you indicated within the one environment, Department of Communities, all those services were part of

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the same family. As I understood it, you were saying there was disability support, mental health support, schooling and housing. Correct?---Not schooling but certainly housing and a number of other services related to human services. 1

Now, it's correct that since late March this year we know that the Department of Housing and Youth Justice are no longer a part of the super department and I understand you finished as director-general, but in your view would you think that the excision from the super department of those elements might make it harder to deliver that sort of holistic service?---I think structural issues are an administrative arrangement that can work one way or the other if the policy settings are right, the legislation is right, the training, the practice is right. Professionals can work across structures. However, having said that, my experience in the three years of having responsibility for integrated service delivery across the full gamut of human services delivery I found as a chief executive officer it was much easier to ensure that staff were able to work as case managers in the interests of a child in an integrated way, and you mentioned housing. Having housing part of the human services area meant that in cases of domestic violence where people might otherwise be homeless and therefore have their children vulnerable I found it much easier to be able to broker safe secure housing for a young mother so that she was able to demonstrate that she's got the ability and willingness to care for her child and then easier to work with the other secondary services that were in my role of responsibility to ensure that that mother and her child remained in a stable situation. 10 20

I imagine it would also be applicable to young people who are of adolescent years in organising perhaps independent housing for them if it's part of that department, would it not?---It certainly in my experience - having the overarching responsibility for brokering the secondary, some of the primary, as well as the tertiary service, it was from my point of view easier to have a helicopter view, if you like, as to what was required to put together the whole picture to help a stable living arrangement rather than just have one slice of the picture. 30

If they're now part of different departments, then I take it you'd need very good channels of communication and coordination, would you not, for that to now function as well?---You certainly do and, mind you, you need good communication and information sharing when different functions are part of one department so I think that premise happens in either way. I would like to think, however, that if the policies are strong, legislation is right, practice is good, legacies can remain and people can still operate according to the principles of what's in the interests of a child and their family. 40

COMMISSIONER: You see, if you use child-related means or services as your criterion, every portfolio would touch

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that?---Absolutely; absolutely.

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So you would certainly have a mega-department consisting of all the departments that apparently are separate?---The point you raise is a pertinent one because the universal services of health and education are perhaps some of the most influential services in terms of the quality of a child and family's life. However, when we're talking about the child protection system, we're talking about a residual element of the population out there for whom universal services are not enough.

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That's right, and not only are they not enough but the children are in a situation where they need a substitute parent, that is, they haven't themselves not benefited from the universal service provision but their parents aren't fit or willing enough to keep them at home safely?
---Absolutely, and hence the role of the chief executive officer under the Child Protection Act. It's loco parentis.

I was discussing with Mr Swan earlier today - I was wondering whether - someone has got to do it. Once the fire-fighters rescue the child from the house, someone has got to look after that child, particularly if the parents have gone. Now, if the fire-fighter would take the child to the hospital, the hospital would look after them for a while until someone came and collected them, but we don't have that here. The child safety officer acting as fire-fighter takes the children to the chief executive. That's how it works, isn't it?---Essentially that's how it works, yes.

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And the chief executive is then responsible for housing and caring for that child until it no longer needs his help or their help?---Mm'hm.

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Why does the chief executive have to exercise that function within the context of a Child Safety Services area?---I think, as you've mentioned on a previous occasion, the principles that support the definition of the role of the chief executive officer as, I guess, the person who's responsible for custody or guardianship of children at points in time - we're talking about a set of circumstances that essentially require a statutory framework or statutory protection to protect the rights of the child and the relationship with the primary family. It's an exceptional set of circumstances for which there's an exceptional response that's been tailored.

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So that function is reflected in the Child Protection Act?
---Yes.

So it reflects function here?---Yes.

But it's not really reflected in the Child Safety Services name, is it?---No, but it's an adjunct. It's an adjunct arrangement. If you think of a continuum of circumstances

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in a child's life, it would be a sad day if we went back in history to when the child protection system operated as an entity unto itself, and that's when we had the pre-Forde arrangements and other times in history when children became guardian - you know, the state became the guardian of a child or a custodian of a child but didn't think of the child's whole set of needs and we know from history that that's very damaging for a child's life.

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What we do now is we outsource - after the state's taken over the control, guardianship, responsibilities of the child the chief executive outsources their general welfare and wellbeing to non-government organisations, doesn't he? ---Essentially.

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And somehow - it doesn't how you cut it. It's still difficult because someone all the pieces - there has to be a coordinated approach of ensuring that that child now under the care of the chief executive as opposed to his or her parents gets all needs met from non-government sources?---Yes.

None of which provide universal services?---Yes, that's right. It's a combination of related services, depending on the needs of the child or the circumstances of the family, but there are very clear principles within the act that informs the decision-making and judgment-making of child protection officers about what's best at a point in time. As I've mentioned previously, that's really black and white; you know, it still requires judgment calls, professional judgment.

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So really once the chief executive has taken out, just say, a long-term order just for the sake of convenience, the chief executive then really becomes not the provider of the service but the monitor and the monitor of the non-government agencies that do?---Yes; yes.

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And so in that role you have to make sure that the people you have outsourced your responsibility - and it's a non-delegable one presumably. The buck will stop at the chief executive if something goes wrong?---That's right, yes.

To protect the child and also no doubt the department there must be a rigorous accountability regime in place to ensure that standards are met and principles are kept by these non-government organisations paid for by the taxpayer?

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---That's absolutely correct and I think in Australia Queensland has often been heralded as a jurisdiction that has particularly rigorous monitoring and oversight quality standards, quality of care. The Children's Commission in Queensland is, you know, perhaps one of the strongest commissions in the western world in terms of its oversight powers and monitoring powers. The licensing regime for a non-government organisation with out-of-home care is as rigorous as it gets, likewise the blue-card system, plus the other system for people to become accepted as foster

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carers is a rigorous system. It meets practice that's considered to be international good practice. However, it is certainly not a failsafe system; you know, if it was a failsafe system, we probably wouldn't be here today.

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It's run by humans?---That's right, it's run by people who are merely human beings.

So is there a high rate, for example? I will find out the specifics later on, but is there a high rate of revocation of carer licences or suspensions of them?---Clearly I've been out of the system a while, but when I was the accountable officer for this area, it wasn't an issue that I had to deal with regularly. It was an exception rather than a regular occurrence.

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What about non-renewal, that is, they have had enough and they hopped out?---There have been - certainly people opt to be a carer for a point in time, then another point in time they decide that that's not for them any longer.

Overall at least up until March this year you thought that the standards were being maintained and the quality assurances were there in the care of children under order? ---Yes, and within that context, you know, there were occasions when as the chief executive officer I was not confident about the quality of the specific circumstance or the operation of a circumstance and the department would investigate and intervene and make recommendations for improvement.

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What do you say about the idea of when you're having family group meetings that you should get a convenor? You should really use your power to get a private convenor. "Private" I would have thought prima facie meant non-departmental convenor?---There are circumstances where that is appropriate, particularly if the particular family - there's such a poor trust or breakdown between the family and the department or the government. In those circumstances it has made sense to bring in somebody independent to be seen as more impartial and therefore have better chances of being able to broker suitable behavioural change. So in my experience, you know, it's been important to have resident convenors because often in the emergency of the situation you need people who are on hand and able to respond, but in other circumstances I can recall where it made good sense to bring in somebody else independent who would be seen as impartial.

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What about the point about extending the immunity from criminal proceedings to include child protection proceedings as well?---Look, I don't profess to be an expert in that area at all, but it seems to me that it has some merit in order to be able to give the various authorised officers as much confidence as possible to go with what they believe if their best judgment rather than, you know, going on the side of, you know, protecting one's back, I suppose.

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COMMISSIONER: Thank you.

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MS McMILLAN: Thank you.

Just following on from that, there's probably some merit, isn't there, at also looking at stages of which you have a family group meeting? You would be aware that at least in one of the southern states here, there are truly what's called a mediation - - - ?---Yes.

- - - early in the process, so at that time it's assessed immediately if there is a risk of harm to the child, very quickly are there suitable placements within family or family friends or that sort of arena so that you look very quickly at that earlier merging issue to see if that can effectively be dealt with then and then at a later time prior to - if it needs to go to a final hearing, if I can put it that way, for an order to be made, that you have one where there is, it seems, genuinely an attempt to resolve it and, if not, have things properly regulated for trial. What do you think about those sorts of ideas?---There's absolutely merit in a system that allows for those arrangements - that resources those arrangements and where one is able to have such a staged or stepped system, that's perhaps in many cases a luxury, given the emergency situations that, you know, child protection activity often finds itself in, but for those cases that really don't require the full belts and braces statutory response at this point in time, I think your proposition has enormous merit.

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Indeed, it might be at that early stage because of the emergency nature of it. You might have to have, for instance, someone from the department - - - ?---Yes.

- - - because there wouldn't be time to convene?---Yes.

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For instance, someone from another organisation such as Relationships Australia or Anglicare or someone from those sorts of service providers, but do you see that in the wider context in trying to resolve the matter, if at all possible, there would be merit in having someone who might be perceived, at least by the parents and the child, as being independent?---Yes, absolutely.

Indeed, that might, to some extent, dispel the adversarial atmosphere, at least for the parents and the child, might it not, of the process of the family group meeting?---It would. I have to say there's merit there, but there's also merit - sometimes there's a - often there's a very strong and trusting relationship that develops between family group conveners and families, particularly if there's been a working relationship over a period of time. So I think to have a system that has horses for courses would be obviously beneficial.

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Obviously one of the things that you might look at, if it was requested, for instance, if there indeed was a

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breakdown of trust, as you call it, or indeed particular cultural issues, it would indeed perhaps be appropriate on a case-by-case basis to identify that, wouldn't it?
---Absolutely.

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Thank you. Can I just go back. In terms of the department, we know - and this has been traversed, you've heard, with Mr Swan that the CMC recommendation 4.1 was for a new department. That was a stand alone department. With that at 4.2, Mr Commissioner, there was a directors-general coordinating committee. Now, is this correct that there were director-generals of various departments, including Child Safety, obviously, communities, housing, police, justice, all of those that were concerned, so to speak, with the welfare, in the broader sense, of the child, they were all involved, is that correct, in that committee?
---That's correct.

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That, I take it, was to implement what might be called a hold government response?---Yes.

So as I understand that, it's really to run alongside the idea of this stand alone department, was it not?---Correct.

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But I imagine to perhaps address the issue of having it in a stand alone department, the obviously close cooperation then with other government departments concerned with the child and, indeed, the family's welfare. Now, that no longer exists, does it?---To my knowledge, it doesn't.

No. Below it, if I can put it this way, there was also another CMC recommendation 4.3, the Child Safety Directors Network. Correct?---Yes.

Again, correct me if I'm wrong, but these were directors in all of those departments that were meant to assist and inform the department of relevant child safety issues. Is that correct?---That's correct; and they develop child safety strategies within each of those departments so that there was a better connection of sharing information across departments that were in the interests of a child.

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Is this correct that as time has gone on, those directors' positions have been combined with other responsibilities in those other departments?---I don't know. It's quite possible that that has occurred.

All right. Really, the Directors-General Coordinating Committee was the one driving strategic cooperation, information sharing between the varying departments?---Its primary role was to ensure that the recommendations from the CMC report were being implemented. As I recall, that committee got to a stage where pretty well all of the recommendations were implemented. It was clear then that the Child Safety Directors Network, which were senior officers within the government, were getting on with the job from an operational, implementation point of view and a new committee was formed among chief executive officers,

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which was the Human Services Delivery Committee, which oversighted not only the implementation of child safety matters, but related human services, early intervention prevention arrangements to ensure that government departments were actually working well to deliver.

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When did this commence, ballpark again?---Look, I think it was probably sort of mid 2009, early 2010.

In terms of when you left the department, was that committee still in existence?---It was still in existence. Its focus progressed to a stronger emphasis on ensuring that the strength and quality of standards around the non-government sector were one that red tape was reduced so that the NGOs could get on and focus on delivery of services rather than what they were reporting at that time was some burdensome reporting and so-called red tape matters, but also it was about ensuring that the quality standards and monitoring across the NGO sector was articulating, if you like, because a number of the NGOs - for example, Lifeline, had several contracts with Child Safety Services, several contracts with Disability Services, with education and other areas that were all about providing support to families and children, but they had different sets of quality standards and reporting arrangements. So the emphasis when I last had involvement was ensuring that there was a compact, if you like, between the government and the NGO sector to get as tight and well functioning relationship as is possible to provide both secondary and also tertiary support services.

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If the focus was then more on that, given now we've got two important elements now removed from the Department of Communities, it would seem even more important that that committee, or another one, obviously have as its focus cooperation and information sharing between these various departments, wouldn't it?---I think that it's absolutely critical that from an administrative point of view that there's a formal arrangement between all of those departments that have an influence in the quality of a child's life.

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We have heard that the intakes in relation to child safety have continued to rise?---Yes.

Do you think that these mechanisms, that is the Directors-General Committee and then the Child Safety Directors Network has been effective in addressing these? ---It has not been as effective as we would like it to be and I think that it takes something more than a coordinating committee. I think it takes perhaps legislative and, definitely, policy change and practice support so the professionals outside of the direct child safety arena have the confidence, the skills, the back up, to be able to use their professional judgments about what's in the interests of a child and their family at that point in time rather than using the Child Safety system as a default arrangement which, as we've heard throughout the

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hearings, is not sustainable.

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COMMISSIONER: But all that does - over reporting simply distracts the Child Safety Services from the 20 per cent or 30 per cent of notifiable harm, doesn't it? It wastes a few hours going through it?---Yes.

It doesn't actually reduce the number of children with notifiable harm or risks, does it?---No. No, absolutely not, but what I think, I think in all probability would do, is ensure that there's more timely targeted support at an earlier stage. I think the point that was discussed earlier about making sure that there's some central oversight of cumulative harm remains an important - as a constant and that's something that I think over time information systems as they've improved across government to be able to have whole of government sharing of information for fit purpose is possible and we've seen that with the Integrated Justice Management System where justice agencies now can share and access information for a common purpose.

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The act already recognises two groups in the notification capture, doesn't it? It recognises children at risk and then children in need of protection?---Yes.

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They're different, aren't they? They're different people? ---Sometimes they're - - -

They might be the same, but they're different categories? ---Yes. Sometimes they're the same, but on a continuum, they might be at a different point.

But the chief executives are concerned with the children who need protection more directly?---Yes.

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Indirectly, all of government has to be concerned with the children at risk so that they don't enter the system?---Yes.

You identify them early. You treat them early. You prevent them from crossing that threshold?---Yes.

Isn't that really what's - - - ?---Yes.

You've got to be a gatekeeper to say, "Okay. I can see you coming, but you're not going to cross here because we're going to help you out before you get here." The other ones have somehow not been able to have been helped by the various other services or their families and they have reached the threshold?---Yes.

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They're the children in need of protection?---Yes.

There's always going to be a cohort of them. That cohort is always going to have, by the look of it, those sorts of problems that the other 80 per cent of kids who are notified, but didn't meet the threshold test, are able to

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helped with, so these are the hardest 20 per cent you're dealing with?

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---Yes.

The idea is to make sure that that 20 per cent doesn't increase in line - or it seems that ordinary population increases otherwise it's going to get out of control, isn't it?---Yes.

What's it been over the years, in your experience, the number of kids - the 8300 we've got now, is that percentage wise proportionate to the population of children in Queensland dramatic or fairly stable?---For indigenous children it's dramatic and it's the proportion of indigenous children coming into the system that is absolutely disproportionate to their proportion of the overall population. For non-indigenous children, it's been fairly constant.

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The most notified in respect of non-indigenous children is abuse, normally sexual abuse, as opposed to indigenous children it's neglect and physical abuse?---The primary sources of notification are domestic and family violence, drug and alcohol abuse and also sexual abuse. I'm not aware - my recollection is that those primary sources of referral apply across indigenous communities as well as non-indigenous. However, the level of poverty in indigenous commonsense is, as a general rule, more excessive than other parts of the population and so issues of neglect become an overlay.

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All right. So the critical problem is an explosion in the number of indigenous children entering the system. Is that right?---That's my view. That's the bit that's changing. The other constant - you know, if we look in the history of our civilisation, there's a cohort of people who for a whole range of reasons that we know about will require the state as a safety net.

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That includes indigenous and non-indigenous?---Yes.

Because the indigenous cohort has expanded exponentially? ---It's grown disproportionately. Yes.

Why?---I think it's - well, you know lots has been written about this, but clearly on all of the indicators of disadvantage, indigenous people still fare the worst in this country and that's reflected in the child protection system as well as the justice system, the education system for attainment and also on health indicators, less - you know, poorer attainment than the rest of the population. For that reason, successive governments have put increasing resourcing behind closing the gap initiatives.

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That's the point, isn't it? All those problems you've identified are historical so they can't be the explanation for the recent explosion. It must be something new in the equation?---The new bit during my time of my involvement

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here has been extra outreach and resourcing into indigenous commonsense so that more children are coming to our notice than they may have otherwise have done. For example, we now have officers for Child Safety who actually work and live in the various remote communities of the state, whereas before it was primarily fly in, fly out and less ability, if you like, for people to be able to report concerns and for concerns to be able to be addressed as immediately as the state is now able to do. 1

So this is an example of under report the incidents of abuse in indigenous communities up till now?---Some people have argued that. Yes. 10

Are you a subscriber to that view?---Look, I think on all probability that would be the case. If you haven't got the oversight there, you don't see or you don't know what you don't know.

So what we're seeing is the truer picture of the future stable cohort - no. We're at the beginning of - - - ?---I would hope not. I would hope that as we just continue to make a concerted effort to provide better support to indigenous families to have access to a good education, health system, employment, alcohol and drug - - - 20

But 75 per cent of them are urban?---Exactly.

And they have access to all those things?---Well - - -

They may not access them, but they have access?---There might be the physical proximity, but for a whole range of other reasons, the access doesn't occur.

The solution doesn't seem to lie in the child protection system then, does it?---I think that's the overall point in that the child protection system is one little statutory entity within a bigger network, if you like, of state provision or state support and always the universal system should be the strongest, biggest investment, which it absolutely is. The secondary system is the bit in the middle for intensive family support when things are starting to go off the rails. The tertiary system is the bit at the end when it's just, you know, that's the last resort. 30

At the moment would you say that the child protection system at its tertiary level is carrying the weight for the failures of the primary or the shortcomings, anyway?---You could argue that and it certainly would be reasonable to assume that if we were able to beef up a more targeted response at the universal and then perhaps the secondary level that targets people who meet the characteristics of a cohort that we know in all probability are likely to end up in the child protection system, you would assume that's going to get better results. 40

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I was just thinking before about the chief executive being the substitute parent and how proud he would be of the outcomes that he or she had managed to achieve over the childhood of the long-term order children. Has anyone ever done any studies to see how many of them went on to university and got a degree, or an apprenticeship and a got a trade and is now rearing a successful family themselves? ---There are lots of studies done by various academics in this field that, you know, perhaps the department could cite, and I know Griffith University has been particularly active in this area to help inform, you know, what are the ingredients that make a successful long-term guardianship arrangement. That's what counts, really, that if a child is in a long-term guardianship that it's actually a successful arrangement, but having said that, the research is also abundantly clear that if a child does go through into the state protection system the chances of also having lower educational attainment, brushing up against the justice system, the chances are greater.

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Yes. See, there wouldn't be a problem if you had 8000 in your long-term care and they over their lifetime produced more than they cost, would there?---No.

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Because you'd say, "Well, it wasn't a bad system. It produced functioning adults in the end and really that's the object. That's all their parents should have done and if we did it for 8000 people and it cost us X amount of dollars, well, overall, it was cost effective," but obviously it isn't. That's why we're here. That's why we think 8300 in our system is too many, because they cost too much and at the end of the day they're not paying that back to society. Like, they're getting - they're not contributing to society to pay the cost of their upbringing, their substituted upbringing, back. Otherwise there wouldn't be a philosophical problem, would there? ---You can frame it from an economic argument point of view.

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Well, I mean, wouldn't you say, if you were designing the perfect system, the idea is to make sure that no kid who doesn't need protection enters the system so that the system is not spending money on someone who doesn't need it, according to the statute. On the other hand you have to make sure that every child who does need protection gets it when they need it?---Yes.

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And for as long as they need it?---Yes. Yes, absolutely.

But no longer. So that's all you've got to do. That's the answer right there, isn't there?---That's certainly the answer. That's the frame that we're working to.

Well, then why do I hear stories about somebody who is parked in the protection system for no real reason other than that they have a disability that is very difficult for their parents to help them with? Shouldn't they be in

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disabilities?---As I said in the previous hearing, when we 1

count the number of children on protection orders I think we need to discount then the number of children with disabilities who still have caring, loving parents who want to continue with their guardianship but it's unreasonable for them to do so and they've been left with no other option other than to relinquish their child to the state. You know, we're not talking about huge numbers of people, but there is a small cohort that have found themselves in that situation and - - - 10

But we would be talking about a high cost for that small number?---We're talking about a very - well, on a comparative basis it's a high cost.

Because their needs would be greater because of their disability?---Yes, that's exactly right, however the parents in that situation do not fit the definition of the act that their children are being looked after under.

Fix the act?---Well, that's a possibility. 20

But, really, that's what happens, isn't it?---Yes.

They get shifted and parked in one. Just because there's a barrier there, being human nature, like water, we go around it. If we can't go through it we go around it?---Yes.

Sorry.

MS MCMILLAN: You may have heard Mr Swan give evidence just before he was excused that the department had explored access to the ICMS - that's the central information management, isn't it, the system that you - - -?---Yes, the 30 integrated client management system.

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And for non-government organisations, but apparently it never eventuated. That was approximately in 2010. Do you know anything about that initiative?---I do. That was the exploratory work when Helping Out Families was being designed and the objective of that work was to take the system further so that there was a better connection between the NGOs who were delivering secondary services and the government's central information system about clients. There was quite a bit of work done on that, but it got to a point when I guess, you know, there were all sorts of philosophical debates about protecting the privacy of children, protecting the privacy of parents, but that wasn't necessarily to say that it was not a good idea. It was just at that point in time it wasn't - on the balance of all the other priorities that the government was dealing with there were other priorities that were pushed ahead, and I believe that that's a piece of work that needs to continue so that keeping a handle on cumulative harm is knowledge that decision-makers have to inform their decision-making, because, you know, while it might be the child not bringing their lunch to school successively for a week here, it might be something else that's going on over here in the health department or elsewhere and decision-makers need to be able to have what's the overall picture of cumulative harm in order to make a professional judgment about, you know, what's the best intervention at this point in time for the child?

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It would be important, wouldn't it, not just for NGOs but particularly for other arms of government, wouldn't it?
---Yes.

Because if we're hearing that a lot of the child care concern reports are from police, for instance, who attended a domestic violence dispute, then it would be really important for them to be able to both provide and receive information, wouldn't it?---Yes, I agree.

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Given the huge rise, it seems, in the number of intakes to the 2010-11 year, which is, I think the last one we have, and given the work that was done by the child - sorry, the director-general's coordinating committee, it doesn't seem that this was given any particular priority after 2010?
---There were other priorities that overtook that one.

COMMISSIONER: Were they high priorities?---At the time that was considered to be the case, because to actually resource up some additional secondary services such as domestic violence services was seen as much more immediate that, you know, the long-term investment of getting an information system together that connects - - -

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MS MCMILLAN: But it would seem in many ways that would run alongside it, wouldn't it, initiatives in relation to domestic violence?---If you have an open purse, yes.

But would indeed that sort of initiative be a huge investment?---Information systems do - in the relative

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expenditure of government departments are generally on the - they're big investments. 1

But I suppose one has to bear in mind if we're hearing four to five hours for a child care concern being entered into and supervised, four to five hours, that's a huge investment of time, isn't it?---It's a huge investment of time, but it doesn't necessarily mean that the information system is not fit for purpose. It's a reflection of the complexity of the decision-making that is actually involved, because I know when I first was advised four to five hours, I thought, "What?" I kind of imagined somebody pressing a button and a screen coming up, but once I sat beside the officers and went through what's involved in a structured decision-making process with a family that might have lots of different biological parents involved, lots of sibling arrangements, lots of cumulative reports over successive years, changes in names of families, changes in addresses, I then started to appreciate what was involved in that information gathering and judgment making process. Look, no doubt there can be some tweaking of the system to make things happen faster, but it does reflect the complexity of the families that the child safety system deals with on a day-to-day basis. 10 20

All right. Now, in terms of the - you were asked some questions on Monday about priorities of the department. Page 29 of the transcript, Mr Commissioner. Sorry, it was Tuesday. Prior to 2009, I asked you, if there had been an emphasis, from what you indicated, refining - I think you used the word "sharpening" of the service delivery located around child safety within the department. You answered, "It was a focus on implementing the recommendations of the CMC inquiry, which were primarily about sharpening up on the policies, procedures, the legislation, reporting and care standards of children. It also had recommendations relating to supporting the ongoing investment in early intervention and prevention." Now, if one looks at - and this is part of exhibit 17 - the table in relation to real recurrent expenditure on child protection and out of home care services; this was across New South Wales, Victoria, Queensland and Western Australia for the year 2010-11, if you could just - in fact, it's on the screen, I'm sorry, in front of you. You will see that as at that year Queensland were - intensive family support services at some 30,000 as opposed to say Victoria of 63,000 and New South Wales at 163,000. Western Australia was down at 7000-odd. How does that sit with your answer in terms of investment in ongoing investment in early intervention and prevention?---It's no secret that the history of resourcing the non-government sector in Queensland over many, many years falls behind the national average. You know, that just is a fact across the human services area, particularly so when it comes to resourcing up the non-government sector compared with the other states and territories. We have certainly fallen behind the national average on successive years, despite the fact that the budgets, as we've seen, particularly in child safety and in the community services sector have 30 40

continued to increase in Queensland. The disability budget has increased exponentially over the last 10 or so years but it still falls behind the national average, and so we see that pattern reflected, I think, in the comparative investment here across states and territories. However, I recall with the 2010-11 budget for the Department of Communities, which was around \$4 billion all up, \$2.1 billion worth of that was grants to non-government organisations to provide various family support, intervention, domestic violence services. So in terms of the proportion of appropriations to government departments you would have to say that within what was available there was an ongoing emphasis and recognition that family support services is an absolutely essential adjunct to the tertiary protection system.

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Yes, well, we know one of the most, it seems, significant intervention and intensive family support services is Helping Out Families. Now, that commenced in about October 2010. Correct?---Yes.

So even though clearly you've identified well prior to 2009 this early intervention and prevention was very important, even with the Helping Out Families being in that 2010-11 year we still see Queensland, it seems, very much below the figures of Victoria and New South Wales, don't we?
---Correct.

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To your knowledge, has that sort of figure changed up until the time you left rateably between Queensland as opposed to Victoria and New South Wales?---During my experience, Queensland's investment in the human services area still fell below the national average, particularly Victoria.

Indeed, in terms of the budget we hear of 733 million, are you able to give an approximate breakdown of how much that was say between early intervention, prevention issues as opposed to the tertiary sort of expenditure like court processes and those sorts of figures?---Look, I haven't got those figures at the top of my head, but given that that appropriation was a line item particularly for the child safety area one would expect that, you know, by far the majority of that budget was supporting a tertiary system. There were some funds in there for family support but the child safety budget relies very much upon budgets in other areas for secondary services, particularly the Department of Communities, disability services, education, health and to some degree in the justice department.

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You would be well aware of the work of Prof Munro in terms of her review in the United Kingdom?---Yes.

You would probably be well aware of one of her findings related to the over-emphasis on procedures and compliance with child protection workers to the detriment of effectively working with children and families. She proposed that information technology systems do not always support good practice and can be cumbersome where staff are

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required to spend too much time on documenting and duplicating information. What are your thoughts in terms of how that may be reflected in the Queensland child protection system?---I've heard this argument from the social work association in particular who have met with me on a number of occasions and concerned that as we've broadened the level - you know, the breadth of expertise of people who can qualify to work as child safety officers, that that professional judgment side of things, I think there's been arguments to say that that's been diluted to more a structured didactic decision-making process. I think given the volume that we're working with and the appetite that the community and governments have for information there has to be some way of being able to record and justify the myriad of decisions that happen around the child's life, but as I think I said earlier, you need to have that married with the ability to make a judgment about, you know, what are the grey bits, what is the judgment here that's going to apply, the principles in the act, about what's in the best interests of the child? Prof Munro, I think, you know, she was right on the money there. At the end of the day it has to be on the balance of probabilities what's in the best interests for the child. It's not always in a rule book, but that can be helpful to put against other intuitive knowledge.

COMMISSIONER: What do you say, sorry, to the criticism that the department at the moment, or as at March 2012, was in crisis? Who is in crisis?---I guess it depends on how you define a crisis. If we take a comparative situation, if you go to pre-Ford and compare the situation then to now, you would have to say that there's been an evolution of sophistication, and the fact that the Children's Commission reports have successively reported through their interviews with children and young people in care that by and large children who find themselves into the out of home care system or in the protection system actually feel safe, they report that they feel safe, whereas we know when the Ford inquiry happened, going back 1999 and prior to that, the majority of children didn't feel safe in institutional out of home care. Since the inquiry into foster care by the CMC we've also seen through the Children's Commission's reports that children are actually reporting that the quality of their lives is actually - you know, they feel safe, they feel cared for. So the crisis may be defined in terms of this trajectory of reports that just keep escalating towards child safety is just not sustainable. You can't just keep building a bigger and bigger system to take on a workload that the entity is not fit for purpose for.

It's not just the volume of reports. That can't be it. It must be the volume of those that cross the threshold because - - -?---Yes. 1

The 80 per cent that don't cross the threshold you deal with in four or five hours. That's an efficiency thing. That's a staff cost, but the ongoing cost, the ongoing government investment, is in the 8000 and rising which includes 4000 indigenous and rising kids who haven't got any safer place to live for up to 10 years than in the state. That's got to be the crisis, doesn't it? ---Certainly the rising numbers or disproportionate numbers of indigenous children that are coming into the care of the state is of enormous concern. 10

And not going out until they're 18?---Yes.

And then who are they when they leave?---However, if the children have quality of care and are safe within that system and principles of being able to still connect with culture and kin are adhered to, it might on the balance of situations still be a better scenario for those children that obviously would otherwise have been - - - 20

So it's a least-worst crisis?---That's one way of putting it.

How do we know that? Is anyone doing studies on this sort of thing?---Obviously the Peak bodies keep a close eye on this area and - - -

But they are the ones saying it's in crisis?---Yeah, well, look, we'd all agree it's not an ideal situation, otherwise we wouldn't be yet again having another look at how can we improve the quality of children's lives out there so the state doesn't have to intrude or intervene. So if out of this inquiry we can come up with a better way of helping children and families to exercise, you know, quality of life, well, that's a good thing. 30

I think it's how can we avoid the state having to intervene, but isn't it more how can we avoid the state having to care for so long for so many, not after the intervention?---I guess there have been periods in history when people would have argued that the state needs to exercise stronger responsibility of caring for children for a longer period of time, you know. If you look at the history of child protection in the western world, there have been periods in time when advocates have argued for the state to take a stronger role and responsibility in caring for the safety and wellbeing of children. 40

It's just a cost of doing business?---Look, it's not an ideal scenario but the reality is the values of our society say that it's not good enough for a cohort of children to exist in a certain set of circumstances, therefore the state has the responsibility.

True, but the state also has a responsibility to everybody else in the community to make that cohort as small as possible?---The state, plus the community has that responsibility. 1

Plus the parents?---Yes.

But obviously when your parents are part of the problem because they only come to state's notice on our liberal western idea when it's got bad enough for someone to do them in. So they're not really part of the solution at this point. They're part of the problem. The community has to be organised by government because government outsources to community, not the other way around?---Mm'hm. 10

So it really is left to government to find the solution to keeping that cohort to its proper levels and not to allow it to grow just because parents aren't as responsible as they should be?---Yeah, look, there's no doubt about that and we've heard earlier how Queensland has such a high number of court orders compared with other states and territories. I guess if our child safety officers had the confidence in a secondary support system to be more accessible across the whole of the state, we might see that some of the edge on those numbers of court orders might come down. 20

One of the things we discussed with Mr Swan yesterday was the consequence of risk aversion. Now, I understand, you know, have to make a tough call and everyone's looking at you to drop the ball and as soon as you do your photo will be in the paper, but do you think it's a real problem that a call is made to take a child into the system that really, all things considered, wasn't in need of protection at that time and this adds to the excessive numbers in the system? I suppose your answer to that is if that was on the state, right, just an error of judgment, you would soon weed them out - they wouldn't be on a long-term order?---Yes, that's right. 30

You would expect the system to weed them out?---That's right. It's more likely to turn into a short-term order because, you know, there are ongoing monitoring review, case management, liaison with families.

That's right, courts?---Yes.

So it's probably not the human error that's giving rise to the 8000 or 4000 indigenous who on long-term orders, is it?---I think if it is a contributing factor, it's very, very small. 40

Small?---It's immaterial.

So what is it? What's putting kids on a long-term order? That seems to be the nub of the problem?---Certainly in applying the child placement principle for indigenous children and what we know from history or in the history of 50

stolen generation, et cetera, of understanding and doing what history tells us is in the best interests of children there's been - it has been an ongoing challenge to be able to find enough kin and family members who are in a position to be able to help out, if you like, over a long period of time given that we know from the social housing system that indigenous households in this state are some of the most crowded households already and indigenous people in my experience have been very good at taking in kin and family and looking after each other, but, you know, our experience in the child protection system is that there just aren't as many placement options as we would like.

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Let's look at the reasons why it might be. It might be there just aren't enough foster carers or Kinship carers to get them out of the system?---That's correct.

Demand is outstripping supply. The reasons that the children are there on long-term orders are more complex - becoming more complex and impervious to solutions?---Yes.

Their parents are becoming more irresponsible, more dependent on welfare, drugs, violence, alcohol and unemployment benefits than ever before and they're not getting off them so that they can be fit parents again? ---Mm'hm.

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That would be another thing?---That's correct.

Can you think of any other drivers to - and I hear people talking about drivers. Forget for the moment how they get in, right. They would be similar drivers but they're in now and they're in for a long time?---Mm.

Why are they staying in seems to be the question that is going to be challenging me when I write the report and there are a couple of reasons why I think they're staying in there from what I have seen and heard so far. Can you help me with other reasons other than those few that might be contributing to that long-term order for so many kids? ---Primarily it's because they don't have parents or family members to be able to go and live with in an alternative arrangement. I mean, foster care arrangements and some of the other residential care arrangements are legitimate placements for children.

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So I'm wondering then why adoption hasn't been explored as a serious option or as a serious alternative here?---Yeah, look, adoption is always an option and that can be explored.

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It seems the least used?---Yes, and I think that's - I mean, I'm not an expert in adoption but I have taken advice from people who are experts in adoption over the years, having asked exactly the same question transcript, and I guess what I've learned to understand is, well, first of all, adoption is forever, whereas fostering - - -

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State cares only till you're 18?---Well, fostering children is not always a straightforward process; you know, sometimes arrangements break down. We know from, you know, documentation about the stolen generation and also documentation about the early history of the state being coercive in adopting children when the state's made a judgment that the parent is not a fit parent. There's damages also to a child's life that have been well documented. So, you know, adoption is there as an option but we're talking here about severing the legal relationship between a child and their parent when we know that many children in out-of-home care in the child protection system continue some form of relationship with their biological families even - regardless of how inept that family is, there's still a connection there that history tells us people value. 1 10

So is there a phenomenon then - I take that to be true, what you just said. Is there a phenomenon then that the vulnerable child on their 18th birthday who's been long-term care of the department goes back home - catches the first bus back home?---That is a possibility, but I guess the fact that the child has been - you know, the young adult by that age the likelihood is probably slim, but the fact that that person would have a knowledge of who their family is, what their family history is, what their lineage is - it may be that they don't have a strong relationship with their parents but they might with their siblings, their aunts, their uncles, their cousins. 20

So severing the parental relationships may be a step too far given what we know about the intergenerational damage that was done in stolen generations?---Yeah.

Unless the reasons were different; like, for example, I understand the stolen generation hardly relinquished their children voluntarily?---Well, people can relinquish their children voluntarily to the adoption system now. 30

Yes; no, but my point was in the stolen generation they were actually stolen. They were taken from parents who wanted to keep them and who were willing and, depending on your view of things, able. There wasn't a question of unwillingness. What I'm talking about is adoption in a situation where the behaviour of the parent has amounted to a relinquishment of the parental interest and responsibility for that child? ---Yeah, and that's where adoption remains an option. 40

Yes, sorry.

MS McMILLAN: Mr Commissioner, I would like to just ask a couple more questions just doing a very quick straw poll of how long everyone will be. I think probably just over an hour would pull up the rest of Ms Apelt's evidence apart from where I need to go so I'm in your hands, Mr Commissioner.

COMMISSIONER: I'm content to see on if Ms Apelt would prefer that and everyone else is willing to do that?---Yes.

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MS McMILLAN: Thank you. I want to ask you a couple of questions on the adoption issue while we're here. Firstly, when you mentioned about fostering doesn't always go smoothly, do you mean by that that - for instance, perhaps one of the most traditional areas for difficulties is adolescence in terms of parenting generally. Is it your experience or have you received anecdotal evidence that for foster carers that might also come into a reluctance to adopt because the idea that if they adopt and things hit a rocky patch, for instance, adolescence, that it is very difficult then to effectively hand the child back or say, "I can no longer manage"?---Yeah. I don't know what the empirical evidence about that is but, as you say, anecdotally, having spoken with a number of adolescents who are in the care of the state, often in group homes, they don't necessarily want to be adopted and then, secondly, talking with a number of young people who are adolescents that come into the care of the state, fostering is not always the best option either. Sometimes a small group home with, you know, a youth worker and other support is more acceptable. It's horse for courses, but adoption, you know, as we all appreciate, is a very significant - well, severing of the legal relationship between a parent and their child and for the state to coerce such a situation it's a very, very serious set of considerations, particularly in that we don't always know that even though parents may be disengaged and disinterested at this point in time, they may not necessarily be when they come out of gaol, for example, or when their mental illness becomes stabilised.

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I don't think, with respect, Mr Commissioner was meaning a forced relinquishment?---No.

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I think in terms of it being promoted more as an option? ---Look, it's there as an option; it absolutely is.

In terms also of issues of adoption, is it correct that obviously foster carers receive an allowance from the department in terms of - is it about 10,000 a year in general terms?---I think so, about 400 and something dollars a fortnight, up to 500 and something, depending on complexity.

Yes, I was going to say if the child has disabilities or other issues that make then high needs, it can be what, up to about 500 a week, is it?---Yes, I think it's just 500 a fortnight actually.

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Right; and if they adopted a child, those benefits would then cease, would they not?---Yes, because all of a sudden the parent is the legal guardian.

So that financially - I mean, again have you been aware again even anecdotally of that being an issue for foster

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carers looking at adoption?---I'm not aware of it in terms of foster carers looking at adoption but I can understand why that would well be a consideration. I am aware, in talking with a number of foster carers, the concern that when a child that they have been fostering reaches 18 and those financial benefits drop away, the relationship that they would like to continue in the transitional into young adulthood becomes more difficult if they don't have that level of financial support and we know that a number of people are now arguing that, you know, "We don't become adults really until we're about 25 years of age," that an 18-year-old - - -

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COMMISSIONER: Is that women?---Beg your pardon?

Is that women? Older for men, I think.

MR HANGER: 25 for men, I think.

MS McMILLAN: Well, one might argue - no, I won't go down that track?---But anyway, you know, you can imagine for foster carers who want to, you know, and often do continue a supporting arrangement with the child that they have had on either short-term or long-term arrangement the financial support is helpful.

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So that again, I take it, would you be aware of how big that cohort would be of foster carers who would like to continue to be able to assist but financially if that runs out with the child turning 18, they're unable to do so or it would be very difficult for a person?---Look, I think that would be a significant proportion of the cohort, I really do, given that the payments are an allowance; you know, it's not an income or a wage. It's an allowance and fortunately we have amazing people out there who put their hands up to be foster carers who put a lot of their own personal resources as well as other resources into providing generally very high levels of care for children.

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Now, I want to ask about residential care. It's correct, isn't it, that residential care workers don't have to have any specific child-related qualifications. I mean by that social work, psychology or behavioural science in general?---Given that the workers are generally employed by the non-government section, it will vary from non-government organisation to non-government organisation. It will vary depending on whether or not the service is providing therapeutic care and in that case it's more than likely that the workers will have specific qualifications. In other instances they might be certificate youth workers that are providing support. In other cases it might be that the person has the appropriate life experience, plus a blue-card clearance.

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Was it your experience that the department did closely monitor both the qualifications and appropriateness of residential care workers?---The monitoring framework is through the licensing arrangement which is, you know, as

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good as it is in other jurisdictions and then there's
ongoing monitoring through the funding agreements and then
there's also a complaints mechanism where complaints can be
investigated.

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All right, thank you. Now, in terms of children on long term orders, we see the number climb and I take it that you probably can't assist us with how many new children are entering the system or that children are staying longer in the system. Is that correct? You wouldn't be able to give us a breakdown of that figure?--Well, as we know, there are more indigenous children entering the system and I guess in some way with more children staying on orders over a longer period of time, it might reflect that the decision-making at the tertiary end is actually the wrong decision-making; that the right children are getting into the higher more intensive levels of care and other children, hopefully, through a triaging arrangement of getting in-home support, intensive family support through a secondary system which we know, compared with what the investment is nationally, it doesn't - it's still under a national average investment.

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COMMISSIONER: I think that is the point, isn't it? You've got a stable cohort of 8000 at the moment, but it looks like it's trending upwards, half of them are indigenous and that's trending upwards, then assuming that most of them are on long term orders, it means that they're exactly the people who should be in the system?
---Yes.

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They are the people in the system because they need protection and they need it for a long time?---Yes.

Otherwise they would have been weeded out earlier?---Yes.

Okay. Let's accept that. So then the problem for government is not so much the wrong people getting in or even staying longer, it's the fee for care service that government has to pay is increasing because it actually doesn't really care how many - apart from its pastoral concern - how many kids are in the system. It really is concerned with how much they cost government being in the system because government just outsources their care to non-government organisations. So is it that the non-government care service providers are charging government too much per head?---It depends on what your benchmark is of what is enough, what is the right amount.

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Meeting a need, I suppose, you would have to say. What does it compare with the national average per head? Is there an average of how much a child in long term care costs government through non-government service provision?--Look, there would be some benchmarks around that area and given that it's a competitive field across the nation, I don't know. My sense is that the market probably moderates a bit there in that NGOs are competing with each other for workers across Australia. I'm not - and there have been recent - you'd be aware of recent wage cases for community service workers in the non-government sector which basically show that the wages that people are paid are fairly comparable.

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So that brings us back, looking for the solution, to dealing with the underlying reasons that those children need to be in the system in the first place because of their parents' problems and combined with their own problems, either as a result of their parents or independent of them?---Yes, yes.

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There's no escaping them, is there?---No. No, there's not. Yes.

MS McMILLAN: In relation to children on long term orders, we know under the act that orders can be made for two years or long term up to 18 years. Now, it's correct, isn't it, that there's no mandatory review of case plans, is there, legislatively?---Not legislatively, but in a policy sense there is in that all children in care need to have a case plan and should have a case plan, but occasionally when children might come in and out of care intermittently, it can be quite difficult for case workers to start and complete a case plan for that child so, you know, there are a cohort that move in and out of the system. I can recall asking questions about why there's a small cohort that don't have their case plans and I could understand, you know, why it was it was difficult for a case worker to complete a full plan around education, health and other support services when a child might be coming in and out of care on an intermittent basis.

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I understand Mr Swan's evidence was it can be up to about 20 per cent of children don't have a current case plan?---Yes. That sounds about right.

That's about one in five?---Yes.

Do you think that there should be a legislative underpinning of how often case plans should be reviewed? For instance, in the Mental Health Act we know that it has to occur -immediately six weeks it's an involuntary order - but six monthly after that do you think there should be a legislative requirement to have that at least every six months?---The legislative requirement would certainly give more certainty and perhaps leverage for resourcing to enable that to occur.

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Because you probably heard Mr Swan's evidence that children, for instance, who go into a mental health facility or, indeed, youth detention, it seems may not have from, practically speaking, a case plan in existence. Was that your experience?---It is my experience because of the intermittent relationships that a child in that circumstance has with a number of professionals. However, if a child or a young person does go into the youth detention system, sometimes they are on a dual order and in the youth justice system, there will always be a case plan around that young people.

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Because they are arguably two categories where they're

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probably most in need of - - - ?---Yes.

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- - - a detailed case plan, particularly pulling in the various governmental sectors that they're in contact with at that time?---Yes. My experience has been that young people in the youth detention system have a strong connection with services from the mental health sector. You know, some of the best mental health workers in the world are the people that are working in our youth detention centres and I've seen them in action. The Children's Commission community visitors keep a very close eye on this and I've read the reports over successive years and have confidence in the community visitor program to ensure that young people are getting the case support that they need while they're within the youth detention system and I know that the commission - when I last was working in this area, the commission was turning its attention to 17-year-olds in the adult system, which I think was a good thing.

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In terms then of children who are in long term orders and ensuring that only those who need to be are, again, legislatively a parent can seek a revocation or variation of an order, can't they?---Yes. Yes, they can make application.

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But, again, you would accept that a lot of the parents that we're talking about whose children are in long term orders generally have either a disability themselves, mental health issues, perhaps a substance abuse issue or, indeed, all of them - - - ?---Or homeless.

Yes. It may be quite difficult for them to be able to be in that position to seek a revocation or variation of an order, mightn't it be?---Yes.

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Do you think there's a place for having shorter term orders in terms of you have your two-year order, but should again there be some sort of court again addressing the issue maybe after five years, for instance?---There's a possibility. You'd be aware from the act that we've got quite a number of different kinds of orders in Queensland and there's always merit in keeping an order contemporary because people's lives wax and wane and change a lot so I think, once again, if that can be resourced or legislative change is an impetus for the appropriate resourcing, it can be a good thing.

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Because there could be, again, some children simply are falling between the gaps - - - ?---Yes.

- - - where if you've not got parents willing or able - or willing and able - to seek a revocation - - - ?---Yes.

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If you don't have an active child safety officer reviewing that case plan, you might indeed - again if they're on a long-term order, they're quite a young child, effectively not have anyone really addressing - for instance there might be kin who become available that weren't available, say, five years ago or there may be again a need to address it formally within that time?---Look, I think that's a likely scenario and it also highlights the role of the advocacy services to support parents who might be in a position that they don't feel competent or well placed to be able to exercise some rights about reviewing orders.

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Do you think that the number of court orders in Queensland - we know they're the highest in Australia and we know that about not quite half of them are interim orders. Is it your view that Queensland's practice has developed at least in part from a risk-averse perspective?---I think that if our authorised officers had the confidence that there was a strong enough secondary service system there where they could rely upon intensive family support working with families during that risky phase, then they might be more inclined to make application for court orders, if they had the confidence there was that other system that was, you know, taking care of the safety and wellbeing of the child.

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So perhaps again if there was more of an intensive use of resources earlier on to explore other options, you think they may not be so perhaps intent on seeking orders?---It then becomes part of the overall - you know, stronger part of the overall decision-making of the authorised officer, whereas at the moment because in some parts of the state in particular there isn't the option to rely upon strong, competent secondary services, then obviously you're going to go for an order rather than leave a child in a situation that's obviously very risky.

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COMMISSIONER: Do you think it's appropriate in the second limb of the definition of the child in need in section 10(b) of the act that before a child is in need of protection there has to be no parent able and willing? Would it be acceptable, tolerable, appropriate simply to delete the words "and willing" and if there was a parent able to look after the child, the parent should have to, that is, their willingness was irrelevant to whether or not the child needed protection? ---I guess if you make the assumption that "able" means one is willing - it's perhaps a bit tautologous.

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It might mean different things. Presumably that's why they're there, the different meanings. One might be able but unwilling, that is, "I could do it but I'm not going to." The other one might be, "I'd love to do it but I can't"?---Yeah.

Should a parent have the choice to be unwilling, I guess, in this realm, bearing in mind that if you took it away, the child is still going to be at risk?---Yes. I know that in obviously - you know, the consulting and working through

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at the outset the terms "able" and "willing" were very important because the different scenarios - as you point to, you know, you might be perfectly able to but you couldn't give a rat's.

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So because you don't give a rat's, the state has got to pick up the pieces?---Yeah; yeah, and intervention with parental agreement - the parent has to be willing to change the behaviour.

Yes, the probable unwilling parents. Maybe it's a state you grow into, unwillingness as a parent.

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MS McMILLAN: In terms of then decisions being made, as you say, whether secondary services could be employed, does part of this come back to whether there's the appropriate skills within each of the child safety officers? I mean by that the diversification now of qualifications to become a child safety officer. You would be probably well aware of arguments I think you outlined before whether persons who aren't, for instance, well versed in social work should be child safety officers and that comes into, doesn't it, that grey matter that you referred to before where you might have all your structured decision-making tools but if you don't have the experience that would guide you, then, of course, that may well fall into the category of a decision not made or indeed children perhaps unnecessarily being taken into care?---Mm.

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What do you say about that?---I wasn't the director-general when the decision was made to broaden the skills base, but I do understand that the key driver for that was the challenge of recruiting sufficient officers to do the work of child safety and so the assumption was that other people that have had, you know, professional tertiary education in the human services area with other specific training in child safety there's no reason why they couldn't be well equipped to make the sorts of judgment that child safety officer are expected to make. My experience tells me that that is true; that we've got very good child safety officers who have a social-work background. We've got very good child safety officers who've come from education; some that have justice degrees. Indeed, we've got people who have been police, former police. I think, you know, people who come to the role with the life experience, the right value system and the willingness and ability to learn can make good child safety officers.

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All right. Now, in terms of turnover, if I cite some figures to you, tell me if this accords with your understanding. 2003 the recorded frontline staff turnover was 28 per cent per annum. 2007 it was 42 per cent in the first year and 73 per cent by three years. Would that accord with your understanding of that?---It sounds about right. In my report I talk about the separation rate of child safety officers which - so the turnover can mean that people are turning from one role within the system into another so sometimes that's not bad thing if people are

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being promoted or moving on to other areas of career. I think the separation rate is perhaps the more concerning statistic because that means people are actually - you know, child safety workers are actually leaving the system altogether and I cite in my report that between April 2010 and March 2011 the separation rate of child safety frontline staff was 15.98 per cent compared with 30.31 per cent between October 08 and September 09. So even though separation - you know, fewer people are leaving altogether, it's still a challenge to recruit sufficiently skilled and qualified staff.

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Recruit, I'd suggest to you, and retain because you don't get that body of experience and therefore, one would think, very important skills to make decisions often in very highly pressured situations?---Yes, absolutely.

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And, indeed, do you think part of the review framework for child protection officers contributes at all to the high separation rate?---So you mean the review framework in terms of how their performance is reviewed?

Well, I'll take you specifically to - we know that the Commission for Children and Young People and Child Guardian Act - section 4A, Mr Commissioner - the child safety officer can face the possibility of criminal liability if they are found to be negligent?---Mm'hm.

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That's one aspect. The child death review that you would be well familiar with - - -?---Yes.

The review panel was obliged to consider whether disciplinary action should be taken against individual officers?---Yes.

Now, those are just two, but they are two significant oversight or review bodies. Correct?---Yes, absolutely and it highlights the seriousness of the decision-making that our officers are making.

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And do you think that there's perhaps a call for what might be called more, as termed in the health arena, for instance, open disclosure where there could be perhaps less again stigmatised reviewing of child safety officers' decision and conduct without some of these fairly, one might say, onerous aspects?---I believe that there's merits in looking at that. If we work on the assumption that all child safety officers are doing their best with the knowledge and skills, and resources that they have, then I believe that there's merits in reviewing such - well, what results in a very - it increases the consciousness of risk, if you like, in doing their job.

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Indeed, as Professor Munro's quoted as, "Tragic case outcomes and almost never the result of a single decision-making failure, but usually reflect of series of decision errors?"---Yes. 1

You're no doubt well aware of that quote?---Yes.

But I imagine that accords with your experience, does it not?---Yes, yes, it does. Absolutely.

Again, any review panel, would you think that would be essential that they should, for instance, contain personnel who have got current frontline experience?---Yes. 10

So that they're able to judge - - -?---Yes.

- - - themselves with a body of experience of doing that sort of work - - -?---Yes.

- - - whether or not that conduct falls below what might be called an acceptable level?---Yes.

Officers engaged and that sort of - - -?---It would just mean that the decision making process is as well informed as it might be. 20

Do you think that there's any merit in having a child protection authority resource to be active in high risk situations? For instance, when a child is assessed at having a very high risk of, for instance, suicide or anything of that nature. So having, if you like, a specialised body within the department that can quickly address and assess, obviously, children who might fall within what might be called a high risk category?---There are - obviously there is senior practitioners throughout the state and centrally who have got more sophisticated levels of knowledge, experience, expertise to make those sorts of judgments, so I guess the straight answer is: yes, there is absolutely merit in having people who are well placed to provide that kind of support to our frontline staff. 30

It might be just me, or perhaps - no, I did get a hint? ---That's all right.

That's a hint (indistinct) yes, thank you, Mr Commissioner.

COMMISSIONER: Thank you. Do you think there is any point in 11(2), which is the provision that excludes from the definition of 'parent' a person standing in the place of a parent on a temporary basis. That is: why would a child be in need of protection, necessarily, because although - although because that child had was somebody who was standing in or standing there as a temporary standing parent. What would that trigger?---I guess the emphasis there is "temporary basis", where, in a crisis situation, it could be the convenor of a women's refuge or the police have collected a child in the middle of the night and, for 40

example, I know from my experience on Palm Island, there are a number of aunties that were authorised officers, that would take the child on a temporary basis until the next day the child protection officer could work out more - - -

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But might also include Auntie Beth, who is looking after the child while Mum and Dad are sorting out their problems?---Yes, and I guess the emphasis is on how temporary is temporary.

In the previous subsection, it talks about a parent being someone having or exercising parental responsibility for the child. I noticed parental responsibility, unlike the Family Law province, is not defined in this Act, but that must mean someone permanently exercising parental, but not necessarily under any formal order?---It can and that's exactly right, and as we know, there are lots of aunts, uncles, grandparents out there caring for children that aren't under any law.

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It is just merged into that situation, and if it is has and if it is fairly permanent then the child would not be in need of care even though he or she had no parent ready, no parent willing and able?---That's right. If it's an arrangement that's developed and it's stable, and long-term, well, that's good.

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Okay. Thanks. Mr Hanger?

MR HANGER: Mr Selfridge.

COMMISSIONER: Mr Selfridge.

MR SELFRIDGE: Yes. Before I do, Mr Commissioner, I'm conscious of the time. It's now 5 o'clock and I could possibly be about 45 minutes.

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COMMISSIONER: All right. Are you able to come back tomorrow, Ms Apelt?---What's - Friday, isn't it?

Monday?---Yes, yes.

So how much longer do you think? Leaving me out of the equation, how much longer?

MR SELFRIDGE: Leaving yourself out of the equation, Mr Commissioner, possibly 45 minutes to an hour, maximum.

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MS EKANAYAKE: 15 minutes to 20 minutes.

MR HADDRICK: Could be about 10.

MR CAPPER: We don't propose any questions at this stage.

COMMISSIONER: So a couple of hours, maybe. Would that be okay - - -?---Yes.

- - - if we adjourned until Monday morning at 10.00? All

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right. Anything else before we do that? All right. Thank you. 1

WITNESS WITHDREW

THE COMMISSION ADJOURNED AT 5.03 PM
UNTIL MONDAY 27 AUGUST 2012

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