



SPARK AND CANNON

TRANSCRIPT OF PROCEEDINGS

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THE HONOURABLE TIMOTHY FRANCIS CARMODY SC, Commissioner

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MR M COPLEY SC, Counsel Assisting

IN THE MATTER OF THE COMMISSIONS INQUIRY ACT 1950

COMMISSIONS OF INQUIRY ORDER (No. 1) 2012

QUEENSLAND CHILD PROTECTION COMMISSION OF INQUIRY

BRISBANE

..DATE 11/09/2012

Continued from 7/09/2012

..DAY 17

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

THE COMMISSION RESUMED AT 10.01 AM

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COMMISSIONER: Good morning, everyone. Mr Copley.

MR COPLEY: Good morning, Mr Commissioner.

Mr Commissioner, in view of the fact that this is the first time that the commission of inquiry has visited regional Queensland, it's been considered appropriate to make some general observations about the commission's work and the purpose of its visit to this part of the state. The regional visits provide the commission of inquiry with the opportunity to explore child protection issues and concerns in various parts of the state. The commission's terms of reference permit it to investigate matters including Queensland government's response to children and families in need of protection, the transition of children out of the child protection system, and of course the over-representation of Torres Strait Islander and Aboriginal children in the child protection system.

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As I've said, this visit to Cairns is the first of the commission's anticipated regional visits. Whilst here the commission will hear from representatives of relevant government and non-government organisations. The over-representation of Aboriginal and Torres Strait Islander children and the challenges of delivering services to these and other children will be a matter that the commission will hear a great deal about in the next two days.

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Evidence will be provided by persons employed by three child safety service centres in this region, namely the Cairns North, the Cairns South and the Cape York North and Torres Strait Islander child safety service officers. These three child safety service centres cover a vast area of the state of Queensland and include the remote communities situated on the Cape and through the islands of the Torres Strait.

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Difficulties confronting not just government, but non-government service providers in these areas include the distances that must be travelled, the availability of specialised and targeted services, and the retention of qualified staff to work in these areas. The commission yesterday visited a school and a residential facility providing services to indigenous children.

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The commission has, whilst in Cairns, already met with agencies which provide a range of services in the area, including family support, kinship care, cultural advisory roles, and legal services. Today and tomorrow commission staff will hold a public information session between 2.00 and 3.00 pm to explain to any member of the public what the commission has been doing and to provide information about how submissions can be made to the commission.

11/9/12

COPLEY, MR

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As to the evidence that you're going to hear in the next two days, you will hear first today from Detective Senior Sergeant Horan, who is the officer in charge of the Cairns district child protection and investigation unit. He will explain to you the role of the child protection investigation unit, which is to manage activities for crime prevention and to supervise and conduct criminal investigations, and more relevantly, conduct investigations in the areas of child protection and juvenile justice. He will explain to you that there are within the Cairns district - which goes from a little bit south of Cairns to the border with New Guinea - there are two child protection investigation unit officers, one in the Cairns CBD and the other at Thursday Island.

The Thursday Island child protection investigation unit is located geographically in the same place as child safety services for that district, so of course he'll explain to you about the degree of cooperation and the inter-relationship between the officers there. He will explain the duties of child protection officers, including the increased duties that have been placed upon them in view of the fact that they must comply with legislative requirements to do with the monitoring and reporting of reportable child sex offenders and he'll tell you that those extra duties, combined with the geographic distribution of such offenders across the Cape and through the far north impact significantly on the time and resources of officers in the child protection investigation unit.

He'll tell you that his officers are required to travel by vehicle, by police aircraft, by chartered aircraft or by boat to isolated communities to conduct investigations. In the majority of urgent child protection investigations where a child is the victim of a serious criminal offence the initial investigative response is provided, naturally enough, by uniform police of the Queensland police service and then the CPIU or child safety services are engaged sometime later.

Uniform police are integral to the early identification of child protection issues. However, due to the broad nature of general uniform policing, such officers do not have the capacity or the skills to effectively investigate all child protection issues, but they are of course relied upon to identify the cases that need the expert investigative abilities of child protection investigation unit officers.

Nevertheless, he'll explain that police in indigenous communities - that is general uniform police - are sometimes required to take the action that would otherwise be taken by child safety officer to bring complaints under the Child Protection Act of 1999. He'll tell you that a good working relationship and understanding of the

11/9/12

COPLEY, MR

differences and similarities in the roles of child protection officers and child investigation officers is essential to ensuring that all children who are at risk are identified and appropriate action is taken.

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He'll tell you that the Cairns district child protection investigation unit has received over 1000 reports of suspected child harm since 1 January 2012. The assessment of such reports of suspected abuse focus on the criminality of the alleged actions of a perpetrator and a consideration of section 9 of the Child Protection Act. A substantial number of the 1000-odd reports received since 1 January this year were assessed as not requiring a police response; but nevertheless the fact that those reports come in takes up time and resources in the child protection investigation unit to investigate them to work out whether a response is provided.

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Detective Horan will proffer the opinion that the increase in reports of suspected child harm in his view has come about primarily because of a change in reporting policy introduced by the Department of Education. His view is that reporting has increased the expectation on the agencies who investigate the reports that those agencies will intervene in the life or lives of the child or children concerned. His view is that a limited understanding of child protection intervention thresholds has led to a number of inconsequential matters being made the subject of reports to the child protection investigation unit.

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He will explain to you that those children who are placed in residential care are often children who have the highest needs but also the greatest level of risk, and it's for that reason that they're not placed into foster care with foster parents. Some of the difficulties that residential carers experience and which require police intervention with these children include assaults of carers, wilful damage to property, possession of drugs, sexual assault, and the absconding of children from residential care facilities.

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He will tell you that indigenous children account for approximately 15 per cent of all of the young people resident within the Cairns police district; however, indigenous children are disproportionately represented in the youth justice system. Anecdotal evidence suggests to him that a significant proportion of families of young offenders have had contact with child safety services before they become known to the juvenile justice system. To that extent that phenomena or scenario would not be common or confined to this district, and indeed it not something that's confined to children from indigenous families.

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11/9/12

COPLEY, MR

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You've already heard evidence in Brisbane, of course, that no matter what the background of children 70 per cent, for example, of those in detention at a child detention facility were children who were already known to the Child Safety Services first. So there clearly is a link between children in need of and receiving protection and children who commit offences, but that's probably not surprising to anyone with any commonsense.

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He will also speak about the degree to which the Queensland Police Service and the Child Safety Services officers exchange information and identify some difficulties and impediments in the exchange of information between agencies. He will tell you that the prevalence of joint investigations conducted by QPS, the Queensland Police Service, and Child Safety Services is not as common as it once was and, in his view, the absence of such joint investigations has had an adverse impact upon the degree to which each agency can assist children and investigate matters of concern to them.

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The most significant challenge that the Queensland Police Service faces, he will tell you, in this area is the identification and investigation of child protection issues in remote communities. Significant barriers there, apart from the obvious geographical barriers, include a lack of understanding on the part of families concerned about why the police need to investigate. Another concern is the extent to which there is family breakdown, language and cultural differences between investigating police officers and indigenous communities present difficulties.

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A number of the people that the police have to deal with in indigenous communities have had intervention in the past from government agencies which they haven't been particularly happy with which creates barriers to families providing the police with the information that they seek because a number of people are not prepared to trust investigating officials when those officials come with the best will in the world to assist the children and their family or the children and their families.

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You will also hear from Joan McNally. She's the manager of the Cape York North and Torres Strait Islander Child Safety Service in Cairns and she has been the manager of that service since August 2009. She will explain to you that there are three offices for that service, one in Cairns and two located at Thursday Island - one at Thursday Island and the other at Weipa. She will explain to you that service delivery to those remote communities has been improved with an increased stability in terms of the number of staff working in those centres and the lengthier periods of time with which most of the staff have been staying in the last couple of years.

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She will tell you that, in her view, collaboration between government agencies and non-government agencies in remote communities is essential to improve the outcomes for children in those areas. She will explain the role of investigation and assessment staff. Investigation and assessment staff are people located in Cairns who fly to the remote communities to investigate allegations of child harm and assess what needs to be done. She will tell you that relationships have improved between investigation and assessment staff and people in local communities in recent years. She will tell you about the establishment of the placement support unit which is a unit comprised of government workers in these communities such as Weipa and Thursday Island whose role is to increase the recruitment of kinship and foster carers.

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In the past and even today there are still insufficient carers within these communities. Her view is that this is largely attributable to the obstacles, as she will put it, that lie in the path of people receiving what they call blue card approval or blue card accreditation and she will present some statistical evidence concerning how many people as at September of this year in each of the communities is approved as a foster carer or a kinship carer, how many children those people are currently looking after and also present you with some statistics concerning how many further applications from foster or kinship carer applicants there are currently on foot with a view to the prospects of those numbers being increased.

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Of course it's important both from a statutory point of view and also from a practical point of view that children in need of care who can't live with their families and who come from isolated communities should, generally speaking, be placed in foster or kinship care with people of a similar background so that they don't lose their cultural connection to their communities. So she will say that the department strives as best it can to place Aboriginal and islander children with culturally appropriate carers, foster carers or kinship carers, but nevertheless there are substantial difficulties in having sufficient people from which they can draw to find those carers.

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She will also give evidence about various difficulties that her service confronts and provide some views about how things might be improved into the future. She too will address the issue of what she describes as the ever increasing number of notifications and child concern reports that are referred to the department which must be investigated and assessed.

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You will also hear from Elizabeth Buikstra who is the acting team leader of a unit called the safe kids unit at the Cairns Base Hospital. She's a Department of Health employee currently. She has held that role since August of

11/9/12

COPLEY, MR

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2010 and prior to that she was the program manager of the program referral for activity intervention in Cairns from February 2009 to July 2010 so she may well present as a witness that you will take the view has considerable experience in the area from the Department of Health's point of view.

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She will present statistics to show that reporting of what is described as a reasonable suspicion of child abuse and neglect has increased quite markedly in recent years. For example, the number of reports in 2006 was 160 for this area, in 2011 it was 421 and it's projected that by the end of this year it will have reached 535 for the calendar year 2012.

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One of the challenges that she identifies confronting those working in the area at the moment is that Queensland Health's information system is not compatible with the information system being run by Child Safety. Queensland Health's information system does not have up-to-date details about the children who are on orders and where they are living and that has various adverse consequences in terms of the efficient running of the Health Department's care for children in care.

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You will hear evidence from Pauline Carlton who is the director of the placement services unit and she has held that role since May of 2009. The functions of the unit, she will tell you, are to coordinate and negotiate out-of-home care placements in the Cairns region and to recruit, assess, support and train foster and kinship carers in this region. Most of her staff are based in Cooktown but some of her staff, as I foreshadowed before, are located with Child Safety staff in Weipa and Thursday Island.

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She will tell you that the biggest single challenge facing her office is responding to the increasing number of children who have entered the system. For example, the number of children and young people in out-of-home care in the Cairns region has grown from 684 in July of 2009 to 920 in July of 2012. She will tell you that state-wide nearly 40 per cent of children in out-of-home care are indigenous children, whereas in far north Queensland this figure currently stands at 79 per cent.

Her view is that early intervention and reunification services are required if the number of children in out-of-home care is to be reduced. Additional resourcing is needed to fund early intervention so that there can be a strong framework for working with families who are at risk of having a child protection notification found to be substantiated with the possibility that their children will then be taken away from them.

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11/9/12

COPLEY, MR

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She will tell you that despite a range of recruitment efforts in the region, the region continues to struggle to recruit an adequate number of kinship and foster carers. Some of the barriers to recruiting include overcrowding in homes, houses not meeting mandatory requirements, difficulties in securing blue cards not just for the proposed foster carer but for any adult household member who ordinarily resides in the house which is, of course, a consideration those who administer the blue-card system are required to take into account and she will also speak about what she describes as family, clan and cultural complexities.

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She will tell you that residential care services are an important part of the system and in this region most of the residential care services are relatively new, but they too struggle with the same recruitment challenges and she will tell you that the lack of mandatory qualifications means that some unskilled staff may from time to time be working with some of the most difficult children or some of the children with the most complicated needs.

Those remarks are probably sufficient really to explain to you in a general way the nature of the evidence that's going to come not just from those two ladies from the Department of Child Safety but from two other witnesses who will be called from the same department but who manage the Cairns south region and the Cairns region.

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COMMISSIONER: Thanks, Mr Copley. I will stand down briefly and then we will resume with the first witness.

MR COPLEY: Very well, thank you.

THE COMMISSION ADJOURNED AT 10.23 AM UNTIL 10.25 AM

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COMMISSIONER: Yes, Mr Copley.

MR COPLEY: Mr Commissioner, I call Glen William John Horan.

HORAN, GLEN WILLIAM JOHN sworn:

THE ASSOCIATE: For recording purposes, please state your full name, your occupation and your business address?
---Glen William John Horan. I'm the officer in charge of the Cairns district child protection investigation unit. The business address is 5 Sheridan Street, Cairns.

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COMMISSIONER: Good morning, Detective Senior Sergeant. Thanks for coming.

MR COPLEY: Mr Commissioner, I tender a statement under the hand of Glen William John Horan, 16 pages long, which was taken and assigned on 5 September 2012, and hand up a copy for you.

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COMMISSIONER: Thank you. That will be exhibit 57 and it will be published in full.

ADMITTED AND MARKED: "EXHIBIT 57"

MR COPLEY: Mr Horan, your statement has been admitted and comprises evidence in the proceeding so it won't be necessary for me to traverse every paragraph of it with you. Do you have a copy of it with you there?---Yes, I do.

Good, thank you. According to your statement you've had almost 25 years' experience in the field of child protection investigation?---20.

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20, sorry?---25 in the police - - -

Okay. All right. In any event, a substantial period of time?---Yes.

I'd like to take you first of all to paragraph 23 of your statement?---23?

23, yes, where you state that, "Since 1 January this year the Cairns district CPIU has received almost 1000 reports of suspected child harm"?---Yes.

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By including that detail in the statement in that paragraph do you mean to convey that this year, 2012, has seen a substantial increase in the number of reports; or is it just to provide us with the figures for this year to illustrate - - - ?---That's the figures for this year and

11/9/12

HORAN, G.W.J. XN

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it's reasonably consistent with the past number of years. 1

All right. You say later in that paragraph that when you do get reports, that the child protection investigation unit's focus is directed first of all to whether there's been any criminal conduct on the part of anyone - - -? ---Yes.

- - - usually an adult, and then consideration is given to the terms of the Child Protection Act, section 9?---Yes.

Which is the section which provides for the definition of whether there's been harm done to a child?---Yes. 10

I might just ask you something about that. Harm is defined in the section, as you probably will recall, but I'll read it to you just to remind you, "Any detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing." It goes on to state that, "Harm can be caused by physical, psychological or emotional abuse or neglect." And of course it can be caused by a single act or omission or a series of acts or omission?---Yes.

Do officers in the child protection investigation unit have any yardstick or a criteria for assessing whether or not a child has been subject to neglect, for example?---We would only really look from a - if that reaches a criminal standard, the neglect. 20

Yes?---That's where our assessment lies, to look at whether the level of neglect is causing some harm to that child - - -

I see?--- - - - that reaches a criminal standard which would fit within some offence under the criminal code. 30

Thank you. Just so that you might assist the Commissioner, in hearings down south there has been some discussion about what is meant by abuse as opposed to neglect. It might assist the Commissioner to understand what the attitude of the child protection investigation unit is as to the dividing line, if there is one, between the concept of child abuse and child neglect. One example could be to say abuse involves positive acts, whereas neglect simply involves omissions to act, but you may have a more sophisticated definition than that?---We base it more on what the outcome is for the child. So if the child suffers some harm from an omission and that would constitute a criminal offence, that would be when we'd more likely take action. But there is, I guess, lower levels of neglect, perhaps not providing some of the necessities and the like, but they don't constitute some significant harm to the child. 40

Do you therefore take the view that for want of categorisation, abuse involves positive, or acts, and

11/9/12

HORAN, G.W.J. XN

neglect involves omissions to act? If you stop and analyse it, is that the way you would look at it?---Yes, neglect is more likely an omission as opposed to some positive act. 1

Yes, or a failure to do something?---Yes.

COMMISSIONER: I suppose you and the department are looking at different things: they're looking at harm, which is consequence; and you're looking at how something occurred, who did what to whom, and if that requires police action. So you're really looking at causes, aren't you? ---Yes, and consequences. Because we would only take some investigative action if there was some significant health consequence, perhaps, to a child who has been neglected over some period of time. 10

Okay. But the child safety are interested in whether or not the child has been harmed in a significant way and whether there's a parent willing and able to protect the child in the future?---That's correct.

Into the foreseeable future?---Mm'hm.

How do you divide up your focus and areas of responsibility when you do together attend a complaint or respond to a report?---Our main aim is to gather evidence that may constitute an offence. Neglect matters are probably more difficult for us to gather some definitive evidence, particularly to prove that there was some detrimental effect on a child. So it would only be in those most severe cases that we would actually intervene. 20

But if you find evidence of criminality yours takes priority over the departmental concerns for the child's overall welfare?---We don't work in isolation, we'd work together. So if a child was at risk of ongoing harm child safety would take their legislative action and remove the child and place it somewhere safe. If we were to prosecute, those two things sit side by side and generally speaking the child protection order or whatever is remanded for a period of time until the criminal matters have been finalised. 30

Under the act you can take the same action as a child safety officer can take?---Yes, we can.

And if you are going to have an ongoing role do you take responsibility for taking out orders, or do you leave that to the department?---The only responsibility we would take is on - maybe at our initial response, depending on what time of day; if it's outside of business hours. Our only authority under the act is to take a temporary assessment order. So that would only remove a child from that harm for three business days, I think it is. 40

Yes?---And then child safety would then become involved

11/9/12

HORAN, G.W.J. XN

during business hours.

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Right, I see?---And perhaps look at one of those longer term orders.

So is the most involvement you'd have from a child protection viewpoint be to intervene and take urgent or emergent action such as to include removal and custody for the purposes of investigation and obviously safety. But that's the department's concern?---Yes.

And you wouldn't have any ongoing court involvement?---No.

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MR COPLEY: So should we read paragraph 19 of your statement this way, that police in indigenous communities are sometimes required to take action under the Child Protection Act in the absence of child safety workers to take out temporary assessment orders?---Yes.

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That would be the more correct way to - we could add that last phrase to the sentence and that would explain exactly what the situation is?---Yes, that's correct.

All right. Now, just going back to paragraph 23 again where you spoke of the 1000 reports almost, or almost 1000 reports in number that you've received this year, you say that a substantial number of the reports are assessed as not requiring a police response. Are you able to give us a proportion or a percentage figure this year that can illustrate the point you're making there?---I would say probably 40, 40 per cent, would not require a police response, perhaps even higher.

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Right?---I haven't done the figures exactly on - but we do keep a record of what we provide a response to.

So approximately 40 per cent haven't required a police response?---That's correct.

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If we focus upon the approximate 40 per cent that haven't required a response, is there anything about those reports of suspected abuse that you see commonly appearing? For example, are they cases involving alleged omissions to act or neglect of children?---Yes, they're mainly that low level neglect type information.

Yes?---By way do example, you know, perhaps a child has come to school, for instance, wearing the same clothes for a number of days in a row, or come to school without lunch for three days.

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Yes?---Certainly it doesn't reach that threshold for us to conduct a criminal investigation.

Well, it's certainly the case, isn't it, that there's no offence in the Criminal Code of failing to provide a lunch for your child every day to go to school?---No.

The only offence that would arguably be possibly relevant would probably be the offence of failing to provide the necessities of - or the necessities of life?---Yes, but that would be at that extreme end of the scale.

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That's right, and if the child got breakfast and dinner you might have some difficulties in bringing yourself within the ambit of that offence?---Yes.

Of course, you've also got to prove that it basically constitutes negligence which is criminal, haven't

11/9/12

HORAN, G.W.J. XN

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you - - -?---Yes, we do.

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- - - on the part of the parent or carer. So who is making, or from what part of society are these reports coming which are on 40 per cent of the occasions this year found not to be matters of any concern or interest to the police?---The majority of those would be each occasion through schools.

All right?---And on SP4 reports that they - - -

Beg your pardon?---On the SP4 reports that they use.

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What are SP4 reports?---I think that's just a form that education use to report matters of concern about risk of harm to children.

Okay, and so are the reports which are generally found not to be substantiated coming from teachers or staff of schools?---Yes, they are.

Do those staff have some legislative obligation on them to make reports?---I believe both policy and legislative, yes.

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So it's not just that teachers are inclined to report, they're under a legislative and a policy obligation to report?---Yes.

Would you regard it as a good thing to this extent, that it's better for them to report their concerns even if they're found not to be substantiated than not to report them?---My view is I think it would be a good thing if they had more of an understanding of what the thresholds are where the agencies intervene so that the volume of reports for those less consequential matters and the minor neglect matters and minor omissions could be perhaps dealt with either by the school themselves with some interaction with the parents or by some other means with other NGOs, perhaps.

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Has the child protection investigation unit in this district undertaken any educative program with teachers to explain to them the sorts of matters that the police are interested in investigating or can investigate as opposed to matters that need to be reported to a different agency? ---Where capacity exists - I have on occasion attended conferences attended by principals from around the region. Not every principal attends and as time goes on there's a turnover of staff as well. I guess the issue also is that a lot of those reports don't go through the principal for assessment, they come directly either through guidance officers or perhaps from teachers direct.

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Yes?---So although a principal may have that knowledge of where a threshold may be or what constitutes a criminal act, a teacher who is reporting may not.

11/9/12

HORAN, G.W.J. XN

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COMMISSIONER: Isn't the way you do it you get your boss to ring their boss and get him to tell his people what the thresholds are rather than leaving it to you to have to do it within capacity?---We do that from time to time as well, particularly when we identify from, you know, a specific area that is sending us a lot of reports that don't constitute criminal offences. So we have done that from time to time.

But it's for the department, the Education Department itself to educate itself about what reports should and shouldn't be made, isn't it? It's not your job to tell them how to do it?---No, it's not.

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MR COPLEY: Well, I don't wish to quibble with the assertion and the answer that it's not the detective's job to do so, but the point of the question was, I suppose, to find out whether or not as the head of the CPIU Detective Horan had, I suppose, done something to ameliorate or to help his own office cope with these reports, many of which go nowhere?---Yes, and certainly we have, and as well as that talk to the principals, if there are matters that are not significant or lack a lot of context we would contact the school and either get some more information or explain to them that this isn't something that we would respond to so we can give them some feedback.

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When you get these reports is the name of the reporter, or to use the parlance that they use, notifier, on the document that you receive?---Some of them have already got the principal's name on the form.

Yes?---But I don't believe it's the principal that's filling out the form and sending it through. So at times it's difficult to identify exactly who has completed a form, but a large proportion of them do have the person who has provided the advice.

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Do your officers get in touch with those people to tell them the outcome of the investigation and why it is a matter of no interest to the police?---Mostly the assessments are done by me to try and, I guess, cut off prior to them getting to my staff. You know, they have so many things to do already, I don't want to send to my staff to do the assessments, so I'll do that myself.

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Yes?---If I get time amongst doing those assessments I will make some calls, particularly for those really low-level things that are not of interest.

COMMISSIONER: It's changed recently now, hasn't it, that teachers themselves have got the mandatory obligation, not the principal. Is that right?

11/9/12

HORAN, G.W.J. XN

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MR COPLEY: I think you'll find, Mr Commissioner, sections 365 and 366 of the Education (General Provisions) Act, which statute I don't have in the room at the moment but your Honour's assistant may have - he doesn't have Internet access in this courtroom - he does. He might be able to perhaps bring those sections up for us and perhaps he could just read into the record what the threshold is for reporting under, for example, 365 and 366. I think they're both the same. One deals with the staff of government schools, the other deals with the staff of non-government schools?---There has been a recent policy change for education to forward only those matters to police that are criminal in nature.

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I see?---So there has been a slight reduction, however along with that policy change I don't know that there was any particular training in what a criminal matter is. So there is still a lot of matters coming through to us that aren't of a criminal nature.

COMMISSIONER: Of course, the department complains that you send a lot of matters to them that you don't really have to, like when children witness family violence?---Yes.

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By policy they're all reported to the department?---Yes, they are.

That's your policy making it their problem?---Not mine personally, but it is a (indistinct) policy.

No, I don't hold you personally responsible, but that's part of the problem, isn't it? You've got people reporting stuff to you that perhaps could have been sent elsewhere and dealt with more quickly, more sensibly and adding to your time and cost constraints and you're doing the same to the department, according to the department?

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---Yes, we are and from this area there are significant volumes of those reports of children exposed to domestic and family violence.

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Yes. So what's the solution to - I mean, as Mr Copley says, it's better to over-report than under-report just in case someone's missed, but reporting itself doesn't necessarily mean that the child who might have been missed isn't - - -?---No.

- - - because somebody is going to assess its value to them or their responsibility and it might not, but it may very well be an early red flag that there's something happening in this family that needs to be looked at by somebody even if it's not precisely within your remit or the department's remit at this stage but if it gets worse, it will be?---
Yes. The biggest issue we have with most of the reports is quite often there seems to be some fear about discussing an observation that a teacher may make. For instance, a child may have bruising. Rather than asking what has occurred they just report to us, "The child's got a bruise," and there's no context and, you know, we're in a bit of a difficult situation because we need that context to work out if, you know, the injury is a criminal act. So we would have to go out to make that assessment.

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Make that inquiry yourself?---Yes.

MR COPLEY: But by the time you get there the bruise might have gone, mightn't it?---Well, most of our responses is around - is quite urgent around that loss of evidence so for matters like that we would respond quite quickly.

Would you, okay? So within days?---Definitely within days.

Because it would have to be usually for bruising - - -?
---Yes.

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- - - unless it's really terrible bruising to get there within days, wouldn't it?---Yes, but unfortunately some reports we receive are delayed so it may be a bruise was observed a week prior so by the time it gets to us we know that there would be no evidence of that occurring. However, if there's a lack of context, we would still make an inquiry as to what may have happened.

Who would you ask to obtain the context apart from obviously the child?---Well, that would be where we would go, to the child. So if I were to take 40 per cent out where we don't respond, of the 60 per cent we responded to again a significant proportion of those would be matters where we would take no action because of that gathering context or it may also be a situation where it's something like overzealous discipline or something where it's probably not in the interests of a child for us to intervene certainly, you know, by taking action.

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11/9/12

HORAN, G.W.J. XN

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COMMISSIONER: Or even asking questions; even turning up on the doorstep?---Yes, sometimes.

But don't both departments have people who can work out with each other what's reportable and what's not and do a memorandum of understanding so that, for example, in your bruise case it would be don't report bruises without some information about what the child says occurred?---Yes, and, as far as I'm aware, there are no parameters around those things or advice.

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But an MOU is for lots of things?---But across the board, you know, on a state-wide basis I'm not aware of anything like that, but it would be very helpful if we could have something similar.

Yes, because this is a really delicate area which involves both judgment calls and value judgments and it seems that in a lot of cases everyone wants to get it off their plate so they're not the one holding the package when the music stops?

---Yes, that's very much how it seems.

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Yes?---But there is a real fear about asking children, you know, more questions about - - -

It's better if a teacher asks than if a policeman turns up at the family home and asks, isn't it?---Certainly. Those sort of interviews we would do in the school anyway - - -

Without the parent knowing?--- - - - and then talk to the parent afterwards.

Without the parent knowing?---Yes.

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So that's going to create its only problems at home, isn't it?---It does.

If the parent finds out?---Yes.

Do you have to tell the parent?---Yes, we do.

After the event?---After the event.

MR COPLEY: Thank you.

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Now, just going back a bit to paragraph 16 of your statement, you say that generally uniform police in indigenous communities are the first responders to calls for assistance in the communities. That's not surprising. You say though that general uniform police are important in the early identification of child protection issues and although they do not have the capacity or skills to effectively investigate such issues, they are able to

11/9/12

HORAN, G.W.J. XN

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identify and assess whether or not more specialised officers need to come in. Are they trained by child protection investigation unit officers to be able to identify the hallmarks or the markers or the indicia of neglect or abuse?---No, they're not.

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So who does that training?---It's just general police training about identifying of offences, but in saying that in my statement there are varying degrees of, I guess, ability of some of our general uniform police, depending on experience. So they may well go to a situation investigating some other matter and completely overlook maybe a child abuse - what we would consider what is a fairly obvious child abuse matter.

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Yes?---So when I say that in my statement, we're reliant upon them to report to us instances of abuse or significant neglect, but because general uniform policing - they're response to things is so broad ranging they don't have any real specialist area. They need to have a broad knowledge of as much as they can and just by human nature some would have more of an interest in one particular area of policing than others. So, you know, for instance, someone might have more of an interest in traffic-type policing so they would quite quickly identify a traffic incident but not so quickly identify something involving children.

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Pulling over a car might raise the provisions of the Transport Operations Road Use Management Act, the Liquor Act and the Drugs Misuse Act in a particular situation, mightn't it?---Yes, and plus the alcohol management particularly in those remote areas.

Yes, and buried underneath all of those possible legislative breaches that might arise from simply pulling over the car there may or may not be a child in the backseat wearing or not wearing a seatbelt and all that goes therefrom with that?---Yes.

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Yes?---So I don't think that our general uniform police have that specialist knowledge, I guess, of being able to identify child protection or child abuse issues; you know, apart from the criminal matters even under the Child Protection Act identifying harm, for instance. We found in those areas where there is a CIB presence or where CPIU are - because those officers are investigating and involved in that type of policing, just by virtue of them being close to the community their experience sort of, I guess, filters out so it allows some of our general police to then be able to identify, but the majority of our remote communities don't have a specialist policing component. They're only general uniform police.

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Can you explain to the commission, so far as you're aware, what the impediment or impediments is or are to there being a child protection investigation unit officer attached to

11/9/12

HORAN, G.W.J. XN

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every remote community?---Well, financially, you know, is probably the biggest issue. I believe most of our remote communities now have a policing model that is sufficient for the community and the issues in those particular communities. Perhaps in the future maybe then we could look at putting a specialist component into one or some of those communities that would be able to address the areas surrounding, but along with just, you know, placing an officer there's issues around, you know, the resourcing they need to be able to do child protection investigations, whether they be home-like rooms or recording facilities to be able to interview children, and then not having Child Safety Services in that community again may lessen the response, I guess, that we could give immediately anyway.

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Is there any scope for a designated officer such as the officer in charge, for example, to be taken away every 24 months or so for some sort of rudimentary training in the area of child protection - and I emphasise the word "rudimentary" - which could be provided by child protection investigation unit officers?---One of the difficulties we have is that every two years - that's the tenure period for an officer in charge in the remote areas and for the more junior officers who are generally the first response most of them rotate every six months or so.

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MR COPLEY: So when you say, "The tenure period for an officer in charge," he's generally expected - he's sent to a remote community for 24 months and then generally replaced. Is that the case?---That's a minimum tenure period.

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Right?---Some do their time and get out, others will stay longer.

So after 24 months he's entitled to ask for a transfer?
---Yes.

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COMMISSIONER: That's the officer in charge. Is that right?---Yes.

And after six months does that apply also to the junior officers?---Yes, our junior officers rotate on a six-month basis. It's only the senior officers who - - -

Get a choice?--- - - - have the tenures.

Okay.

MR COPLEY: Is that ability to rotate away after 24 months, is that a policy that's designed to make remote postings more attractive to police officers generally?
---Yes, I believe so. And likewise, the six months, some of that is to do with some of the accommodation issues as well. Some are single men's barracks - single person's barracks - and quarters.

20

Yes?---Some are houses, some are duplexes, so it depends on housing availability as well.

Is it the case that officers in charge are generally older men or older women who have got spouses and children of their own?---I can't speak for all of them, but a large - - -

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I just said "generally"?---Yes, generally speaking, I would say.

And so for them to take these appointments or to stay in these appointments has got implications in their own private lives as well?---Yes, they do.

Does the police commissioner have the power to compel an officer to go and work in a particular station?---I don't believe it's happened.

40

He would have, though, wouldn't he?

COMMISSIONER: Under three years' service, I think he does, doesn't he? Theoretically?---Yes, but it doesn't happen.

MR COPLEY: No?--Certainly not the remote communities. And over the last number of years the police as well as other government agencies have really struggled to get officers to go to those areas, so there have been a number of incentives to get people there. One of those incentives is - particularly for the less experienced staff - is that shorter term to stay in the area.

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Is the thought generally that having officers who are there by their own choice and who are willing to be there for the period, a better outcome in the long run than forcing someone to go somewhere he doesn't really want to go?
---Yes, certainly.

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COMMISSIONER: Are there promotional advantages in going voluntarily?---A lot of the people who have gone there have been on promotion, certainly less senior staff.

So you go there to get the promotion?---Yes. And for some of the junior staff they go there to gain experience that they wouldn't get perhaps in other - - -

(indistinct)?---Which then enhances their career prospects.

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Like for example, if you wanted child protection experiences, the Cape would be a good place to go, wouldn't it?---Yes, if you had an interest in that area, yes.

Where did your unit come from? Are they recruited again voluntarily, or are they assigned there, on promotion?
---Within my unit we advertise positions. That's a state-wide advertisement. In saying that, though, I could safely say about 85 to 90 per cent of my staff were already here, so they're local. So they've just come from other surrounding areas. Some have come from those indigenous communities or at least spent some period of their career in there.

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What percentage would be applying for the - so what happens is it's a position that's advertised, isn't it?---Yes.

And that position will have a rank attached to it?---Yes.

And people will apply for that rank in that position?
---That's correct.

Okay. And so would you have any idea just roughly about applications by people to take the position who are already on that rank?---In remote communities?

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Yes?---The only ranked positions they advertise are the sergeant or the officer in charge position and perhaps a 2IC. I would say majority of people have gone up there probably on promotion. Some have gone sideways. But I couldn't be - - -

11/9/12

HORAN, G.W.J. XN

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You wouldn't really be sure about that. What about within your own unit?---Again the only positions that we advertise that are for promotion are the sergeant and my position. We get very, very few applicants for the sergeant positions. The pool is obviously restricted because of the expertise-required, but I couldn't honestly say that CPIU is a sought-after position.

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So has it got its own imposed career path, sort of thing? ---Yes. So the majority of people who, say, get a promotion into a CPIU - and I believe this would be similar around the state - generally have a background working in a CPIU - - -

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So the sergeant is really the bloke or the woman who used to be the senior constable there?---Yes, which is - I've started as constable and - - -

Worked your way up?---Yes.

MR COPLEY: So officers in the CPIUs are generally men and women who have a commitment to helping children and families?---Yes, they do. And by far the majority have - despite the experiences of other agencies, a lot of people in the CPIUs stay for a considerable period of time. I've quite a number that have been there over seven years.

20

Okay. The Queensland police service has an arrangement where they have appointed police liaison officers, haven't they?---Yes, they have.

And in remote communities those police liaison officers are generally people drawn from the ranks of local residents, aren't they?---Yes, they are.

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And they help the police effectively relate to and with the local community?---Yes.

Do police liaison officers in those communities receive any training to assist them to identify child protection issues?---My understanding is they do have annual training sessions, but we are asked to present but have only a very small component within the week or four days that they're down here. So to be able to give them significant skills and be able to identify in child protection is almost impossible in the very limited time frame.

40

Is that because there's a lot of information that they're required to absorb during their week of training here in Cairns on a whole range of issues?---Yes. And child protection in itself is quite a complicated area. Unlike some other areas of policing it's not so black and white. There are a lot of other considerations when you're looking at the care of children and risk of harm to children, and even criminal offences against children.

11/9/12

HORAN, G.W.J. XN

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Are you alluding to the need for the exercise of a discretion on the part of a police officer - - -?---Yes.

- - - as to whether he takes action against a child or in favour of a child?---Yes, that would be - - -

Which perhaps doesn't arise if a person is found in a stolen car?---No, that's right.

An adult in a stolen car, it's pretty black and white, he'll be charged - - - ?---Yes.

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- - - and that's that?---Yes, but in matters of child protection although we may have sufficient evidence to commence a prosecution, we may choose not to exercise our discretion because it's not really in the interests of that child, and depending on what other agencies are involved, what other strategies are involved to, I guess, make the life better for that child, we may not commence a prosecution.

So the discretion not to prosecute, is that a discretion that you as the man in charge are required to decide, or do you delegate the ability to decide down to your other officers?---That ability is delegated to all of the officers. In matters of intra-familial matters where we're working with child safety services, we would consult with them, but they don't tell us which way we should go, we would discuss, I guess, what issues are affecting the children or the families, what things they're putting in place to address perhaps what's occurred for the criminal act to occur, and use that as part of our assessment as to whether we exercise our discretion or not.

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COMMISSIONER: And you exercise it not only on the best interests of the child basis, but also - - -

MR COPLEY: Well, we haven't actually ascertained from the officer in evidence what is the paramount or guiding light in the exercise of the discretion, Mr Commissioner.

COMMISSIONER: I thought he said before it was the best interests of the child, didn't he?---Yes. But we also consider the, I guess, the family dynamic as well.

But you consider the community interest too, wouldn't you? ---Yes, and where it fits in with particular communities.

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They might be the same. The best interests of the child and the community interest might be the same?---Yes, and often they would be. We look at what, I guess, the outcome for the child would be perhaps if they were needing to go to court as a victim and a member of their family is a perpetrator, particularly if child safety services have

decided to either reunify the family or leave the child in the home. **1**

Now, you speak in paragraphs 27 and 28 about children with complicated needs and issues that have to be brought to somewhere like Cairns to live in a residential care facility?---Yes.

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11/9/12

HORAN, G.W.J. XN

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First of all can I ascertain from you are all of the residential care facilities in the Cairns police district located in or about Cairns?---Yes, in the greater Cairns area.

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Yes, and so some of the children that would be living there could be coming from quite a long way away, on the Cape or in the Torres Strait?---Yes, that's correct.

You say that those children have often very high needs or there's a great deal of risk associated with managing those children?---Yes. Some of them have - a lot of them have complex need. That's why they wouldn't be in a more traditional foster care arrangement.

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So another way of putting it, perhaps in more blunt - or blunter terms, is that some of the children in residential care are the ones more prone to playing up, making a nuisance of themselves?---Yes, but also we find that some of those children who have come into care, that although they have complex child protection needs due to the peer group that are in those facilities, they then may start going down other behaviours that they hadn't been involved in before, like youth justice type issues.

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So sometimes they come into contact with bad eggs amongst their own peer group in the residential care facility and they get involved in criminal activity?---Yes.

In these residential care facilities the children aren't under - they're not in detention, are they, they're not under lock and key or anything like?---Definitely not, no. They're certainly not secure facilities.

That's right, so is absconding a problem from those facilities?---A significant problem. We've had some children, because they're high risk before they even get there, if the carers don't know where they are they're reported missing. Obviously the police take a missing person report. Some children have been reported missing up to 30 times.

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So, for example, just across say a 12-month period or whatever period you care to identify for me, of the missing person reports that the Cairns police receive what proportion of them would relate to children in residential care facilities?---I would - probably more than half, because they're reported so often and located generally within short periods of time, but each time they go missing we take another report.

40

Yes?---Which again takes time and then, you know, if we need to conduct inquiries to locate them on behalf of the carers as well it takes time, but there are other calls for service as well to those facilities. Some of the children have stolen cars of carers and assaulted carers.

11/9/12

HORAN, G.W.J. XN

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Yes?---There's been sexual assaults within the facilities, a range of different issues police get called for - just disturbances, where neighbours call because of raised voices or arguing.

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So residential care facilities one way or the other occupy a fair amount of child protection investigation unit work? ---A lot of those calls for service are responded to by our general uniform police.

Right?---When the issues, you know, tend to reach a criminal nature or criminal offences being committed, we would then be more likely to respond as the more specialist unit dealing with young people.

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COMMISSIONER: Does anybody tell the department that one of their children at risk is at further risk by being missing?---Yes, the carers. They advise the department when they report a child missing I believe via crisis care if it's after hours or the local office responsible for that child during business hours.

A bit of a conflict then, perhaps, if they're the ones who is responsible for the child being missing?---My understanding is under the child safety policy a child can - you know, there's a bit of leeway about a child being missing before they report, however the care providers have their own policy and they will report immediately, as soon as a child - - -

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Well, they've got service agreements too, I suppose?---Yes.

MR COPLEY: If I can go to paragraph 42 of your statement where you state that despite information sharing provisions within the Child Protection Act it's been determined by Child Safety Services that the provisions do not extend to disclosing the names of notifiers to police except in limited circumstances?---Yes.

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Just so that I'm on the right track with you, what section or sections of the Child Protection Act are you alluding to there?---With the information sharing, that would be around 159.

Okay, well, I think we're on the same page, as it were, there. First of all, I'll ask you this. You state in paragraph 42 why it is important sometimes to know who the notifier is, because obviously they may have relevant observations or evidence to provide to you?---Yes.

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But what is your understanding as to why the Department of Child Safety doesn't generally reveal the names of notifiers to you?---The advice they've provided us is the identity of notifiers is protected and it's a confidentiality matter for them. The other, I guess,

11/9/12

HORAN, G.W.J. XN

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general view is if they advise other services of who
notifiers are then people would be disinclined to report.

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I see. If I give you chapter 5A of the act would you be
able to for me identify which provision or provisions that
you would assert the department would be able to provide
the names of notifiers under to you? Would that be a task
you could undertake?---Sure.

The first two provisions, 159A and B, would seem to be ones
that state what the operation of the part is designed to
achieve, and the purpose, so it might be more - - -?---But
even under 159A under that purpose my view is just under
that in itself should be sufficient for them to share that
information just for the coordination of - - -

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Could you read the relevant parts of that provision out to
us that you say are relevant?---"The purpose of this
chapter is to provide service providers to appropriately
and effectively meet protection and care needs of children
and promote their wellbeing by (a) coordinating the
delivery of services to children and families and (b)
exchanging relevant information while protecting the
confidentiality of the information."

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So your view is that a service provider includes yourself
and the Department of Child Safety?---Yes.

To effectively protect children you would say that
generally speaking you need to know the names of
notifiers?---Yes, but, you know, we wouldn't then go and
speak to a notifier and say, "Child Safety Services gave us
your name." It would be - we would utilise that
information. On occasion we may not even need to speak to
the notifier, depending on the information and where the
information was sourced. Some notifiers are third party
providers of information who someone has told them and they
decide to report to child safety or someone else.

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So you're alluding there to the fact that sometimes a
notifier is acting on hearsay once or more times removed
from the source of the real evidence?---Yes, which is why
we have such an interest in identifying who that is so we
can identify what the source or what the original
information was.

Because the notifier who is acting on hearsay once or twice
removed might be able to identify a person who is not in
fact a notifier but who might have relevant and admissible
evidence to provide to you either for a child protection
investigation or for a criminal investigation?---Yes,
definitely.

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That's why you'd like to know the names of the notifiers
in, what, all cases?---In all cases where we're
investigating some criminal offence.

11/9/12

HORAN, G.W.J. XN

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Yes?---But at times as well assessing the information because of - assessing whether the information is vexatious or whether it's being - you know, the information has been passed on to perhaps get someone in trouble.

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Right?---If we've got some holdings within the police service about perhaps, you know, some recent issues between parties, that might affect how much weight we put onto the information.

COMMISSIONER: Like a separation or family proceedings?
---Sorry?

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Like family proceedings?---Yes, or even domestic violence matters, those type of things.

So is tit for tat a problem?---Certainly where family law matters are raised, yes. We get a lot of investigations of sometimes fairly low level alleged offences and sometimes quite serious alleged offences.

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Right. So that might serve two purposes; one to vex your estranged spouse and the other might be also to gain evidence for use in your Family Court proceedings?---Yes.

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Which you manufacture yourself?---Yes, we do see a little of that.

MR COPLEY: So you've identified an area where the department isn't exchanging information with you. Is that something peculiar to the Cairns district or is that a policy of the department that applies across the whole of the state?---That's a policy of the department.

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And what about the other side of the equation? How prepared is the Queensland Police Service to exchange information with the Department of Child Safety? Would we, for example, expect to hear from people from Child Safety to say, "The police don't tell us this" or "They don't tell us that"?---No, I think we share information quite well with them. We would send to them an entire crime report with all the names of people involved in an investigation. Our view is we would be more inclined to give them information than not if it's going to be affecting the outcome for a child.

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Right. You say in paragraph 45 that in the years that you've been involved in investigating child protection the frequency of joint investigations has significantly reduced?---Yes.

Is that so notwithstanding provisions such as those contained in chapter 5A that authorise the free exchange of information between your department and Child Safety?---Has it affected that?

I'm saying, notwithstanding provisions like chapter 5 that seem to be a legislative encouragement to the free exchange of information, the free exchange of information might generally, one might think, lead to joint responses. So I'm posing to you, notwithstanding the insertion of chapter 5A into the act which we know was an insertion made after the act was passed because it's chapter 5A rather than 6 - notwithstanding that, is the frequency of joint investigations still - has it still declined?---It's declined but for other reasons other than that exchange of information, but in saying that the more joint investigations we have, the more information we exchange anyway because when you're working together on a matter, you're more likely to share the information as opposed to working, as we do now, separately often on the same investigation but at different times.

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Well, I suppose what I was trying to put to you - and I will do it more succinctly now - is that a chapter like 5A one might expect would lead to the opposite result, that is, more joint investigations rather than fewer?---Yes;

11/9/12

HORAN, G.W.J. XN

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yes, it would, but it's more the changes in the structure of Child Safety Services that has affected our joint responses.

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Can you elaborate to the commission about you're referring to there? What's changed that's inhibited joint investigations, as far as you can see?---As you mentioned in your opening, there's a proliferation of child safety officers now across the Cairns district, whereas when I started, there was one CPIU and one child safety area office and we responded to the entire area so we had a very close relationship with the officers there that conducted their investigations and assessments, those matters that we would go to jointly. There was a good exchange of information. There was a good understanding also and, I guess, a cross-pollination of skills because we were working together so often. By that I mean, you know, I picked up a lot of information about assessments and what Child Safety Services are looking at when they're working through their act and they've picked up, I guess, some skills in investigating and talking to people and eliciting information from people and those people I worked with are now senior management in Child Safety Services around this area.

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Yes?---As time has gone on where we have got all these separate area officers, we've got all these competing interests. We would get - we still have the one CPIU but we're getting four officers calling us to go out and do a joint investigation with them and we just don't have the capacity and their prioritisation of matters is a little different to ours as well. As I said before, if we get some information where there could be a possible loss of evidence, we would respond to that as soon as possible, whereas Child Safety may assess that as only requiring a 10-day response, in which case they would prioritise other matters before that.

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So the expansion of Child Safety Services centres to other areas which might be regarded as a good thing has had perhaps an unintended consequence in reducing the number of joint investigations. Is that what it would come to?---I think it's a difficult area because it is a good thing that Child Safety Services have expanded in some of those areas. Some of the more remote areas - as you mentioned, they don't respond to those urgent investigation assessments. They have a response team here in Cairns who fly in and out.

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Yes?---So from that sense it's good that Child Safety Services are in those communities and they address - the people in those communities address the long-term guardianship-type things, those family issues that aren't urgent or require an urgent response, and if there's something - a notification or something where it requires investigation or assessment, more likely they would contact

11/9/12

HORAN, G.W.J. XN

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- the people in Cairns would get that notification. They would fly to whichever community to conduct that or, depending on how urgent it is, they might contact the local police to provide a response, and I know there is some flexibility in some of those remote areas where some of the officers there will respond to urgent matters of child protection but, generally speaking, they're there for more the long-term child protection issues.

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I'm just advised that you need to speak a little more loudly for reporting purposes, recording purposes?---Sorry.

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There will be a transcript produced?---Sure.

Thank you. Now, just one more question: have any changes to the SCAN criteria affected joint investigations?---I don't know they've affected joint investigations so much as our - the CPIUs certainly involvement with SCAN, whereas before there would be quite a number of matters that would be referred to SCAN. Now with policy change it's only those matters that are assessed as requiring a response from Child Safety, whereas prior to that it was, I guess, based more on, you know, to some extent a gut feel, a bit of professional knowledge and experience about looking at families that we think there are issues that may need some investigation or a multiagency response.

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Whose responsibility is it to identify and refer a matter to SCAN? Is it solely Child Safety's?---Now it is. It's only those matters that reach that threshold where they would respond that get referred.

Right, thank you. No further questions.

COMMISSIONER: Thank you, Mr Copley. Yes?

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MR SELFRIDGE: Yes, thank you, Mr Commissioner.

Detective Senior Sergeant Horan, there's one area I would like to explore with you.

COMMISSIONER: Sorry, Mr Selfridge, would you just mind announcing for the record your appearance?

MR SELFRIDGE: Happy to do, sir. For the record my name is Selfridge, S-e-l-f-r-i-d-g-e, initial J. I appear on behalf of the State of Queensland instructed by Crown Law.

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COMMISSIONER: Thank you.

MR SELFRIDGE: Thank you.

There is, as I identified, just one area I would like to explore with you and that is in relation to Queensland Police Service or CPIU, the capacity to respond to reports and notifications that are made?---Yes.

11/9/12

HORAN, G.W.J. XN

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We have the obvious tyranny of distance and factors that result therein prevail. There are then other issues in terms of reports, say, by the department that are made to you wherein perhaps they have to do their own internal assessment and, as a result, it has an impact on your response?---Yes, and I probably go back to the issues where there are matters where there could be losses of evidence or criminal matters. What happens is oftentimes we get a report at the same time; say, it's from, by way of example, education.

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When you say "we", do you mean both yourself and the department?---CPIU and the department through their regional intake service.

Yes?---When we get it, we make the assessment pretty much daily or immediately and if there's something we believe needs a response, say, a criminal matter, we would respond and contact the area officer or the investigation assessment team from that area to see if they're available to assist or do a joint investigation.

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In that short time frame, so maybe a day or even 24 hours, that office has not yet received the information because it's still in that assessment phase at the regional intake service, so they conduct what they call pre-notification checks. They would maybe contact the notifier again or someone else that may have information, try to gather some more information around it prior to making their decision as to whether they're going to respond.

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How does that stop you from responding at that time, though?---If it's a matter of a loss of evidence it wouldn't stop us, we would go and respond. But that has an impact on the families and the child because you're getting two separate investigations - - -

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I see?--- - - - often around the same type of thing. We would share the information of our investigation with child safety services so that perhaps they may not need to reinterview the child, but there would still have to be some response from them where they're interacting with family members, say. So there is that follow-up or secondary part of the investigation which in the past we were able to do as a joint response.

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You say, "In the past we were able to do it as a joint response." What's changed?---I guess what I was just talking about, that expansion of child safety. Each separate area office now has their own investigation assessment team, so there's a lack of consistency also in their responses and even in my understanding there's a lack of consistency in how they finalise or substantiate their investigations. There's a real disparity in - - -

You make mention of that in your statement?---Yes.

You say that as far as you're concerned - as far as CPIU are concerned there's a lack of consistency across the board in terms of this expansion of child safety services centres through Far Northern Queensland?---Yes. That's because of difference experienced staff or lack of experienced staff; team leaders who may assess things differently. But they're all working under their own separate managers in those distinct officers.

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Yes?---So if those managers aren't consistent, the team leaders aren't consistent, and across their decision-makers, that's where we get that disparity in responses and also in what the outcomes are for whether matters - - -

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COMMISSIONER: Is there no general manager?---There is an overall regional director, but - - -

Wouldn't he or she be the locus of control, if you like, who would be useful in the coordination and consistency, at least in dealings with other departments like yours?---Yes.

11/9/12

HORAN, G.W.J. XXN

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I think although the legislation and all the policy is there, it's about how people, I guess, form their own views about what that means when they're making their assessment. So it comes down to experience and the personalities of the people. It's not so definitive when they're making their final decision.

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What I mean is instead of each of the four regions having direct access to you, wouldn't it be better if they all went through their chain of command to you?---It would certainly be better for us. We kind of operate on a lower level whereby a child safety officer would ring one of my officers direct as opposed to coming through the top end. Just to, I guess, consult over what workloads people have got, when's a good time, trying to coordinate a response. One thing that you say there - and I believe child safety services here are commencing a trial - is with their investigation and assessment team, they're going to put them all into one unit so there is that one coordinated response across the entire district.

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So one team for all the regions?---For I believe everywhere but the Atherton Tablelands. So it will be the entire Cape area and Torres Strait and also around Cairns and - - -

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So a bit like your own structure?---Yes, very much like our structure, with one manager and a number of team leaders.

That seems to make sense to me?---Yes. And that's, I think, due to start next month, I believe.

MR SELFRIDGE: Picking up on that, you were about to tell us about how it used to work?---Yes.

Can you explain that to the commission first and foremost and then I'll put a question for you?---I think - when I talk about how it used to work, I guess we had a much closer relationship, but at that time I guess the responsibilities of the CPIU weren't so broad either. We had a very defined role and it was very much only child protection and only juvenile justice. Now over the years we've, I guess, taken on a lot of other roles with the advent of, I guess, technology, so offences committed through technology, child exploitation-type things; reportable child sex offenders and the management of them across this district is quite a big impact on us.

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Yes?---And I guess other - even training commitments and detective training programs and all the training that we do also impacts on our capacity, I guess. And our numbers were far smaller back then. I think we're also looking at - we weren't spreading ourselves so thin, we were looking at those really significant child protection issues as opposed to, I guess, taking a broader view and investigating some of the lower level type things.

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Can I just stop you for a second. Putting those issues about the responsibilities of CPIU being enlarged and the smaller numbers at that time, et cetera from a practical perspective how did it used to work?---There was one - like always there was the one CPIU office. At that time we responded to the entire district, so the Cape and the Torres Strait as well. There was one office just a couple of hundred metres away from the police station. We would - if some information came in about a child protection matter we would pretty much get straight on the phone, talk to our colleagues there, coordinate a time that's suitable for both parties, and respond. But they would have that information and be able to bypass, I guess, some of the procedures and policies they have now about - you know, with their structured decision-making. I guess ticking the boxes, for want of a better term, to get it to I guess look at whether it achieves a threshold before they respond, whereas back then it was more a professional judgment.

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Yes. In terms of exercising that discretion based on professional judgment?---Yes.

Without having to go through the SDMs, the structured decision-making type tools?---Yes.

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Is there scope for that in terms of a capacity for joint investigation? Do you consider there's scope for a higher level discretion to be exercised so there's a more responsive take on any reports and notifications that are made?---From a police perspective, or - - -

From a police perspective?---I think part of what we do - and we discussed before, our staff have a real commitment to child protection, so they're looking at issues that may - and from experience as well, some matters or information that we receive that's quite innocuous at first, you get an - either gut feeling or your professional judgment would - you know, we would choose to investigate a matter like that which may then lead to something far more significant. So there's those - I guess, past experience also affects how we respond to some things as well.

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Okay. But just focus if you can for a moment, just focus in on situations which an initial assessment - your initial assessment - you would determine that there's a necessity for a joint investigation and that it requires it to be responsive in the immediacy of the moment, so to speak? ---Yes.

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That, as I understand, is the issue that you raise in the course of your statement on several occasions about the department takes some time through their decision-making - - -?---Yes.

- - - structured decision-making process to be responsive,

11/9/12

HORAN, G.W.J. XXN

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when you think that a joint investigation is warranted and a quicker response is warranted?---Yes. 1

I suppose what I'm asking you is in your estimation do you consider that there's scope at higher level to exercise a discretion in those situations?---Definitely, yes. And individuals do, and some child safety services, by contacting them and telling them what information we've got, they may choose to come out and assist us at the time without the information from the regional intake service. But that is probably more a rarity and more on those really significant issues, where they'll use their judgment. 10

Okay. Coming back to some questions that were put to you by my learned friend Mr Copley in response to something that you identified in your statement. You talked about confidentiality in relation to the administration of the act and about notifiers and about how it would assist you - the Queensland police service, and CPIU in particular - if certain notifiers were disclosed. You're aware of section 186 of the act - 186?---Off the top of my head, no.

Can the witness just see a copy of the act, please, Commissioner. 20

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MR SELFRIDGE: Section 186 by its very nature and definition restricts departmental personnel from disclosing - keeping confidential names of notifiers in relation to notifications of harm or risk of harm?---Yes.

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You're aware of that in a general sense as such?---Yes.

But that can be overcome and it's often - when I say it's often, it's sometimes overcome by making an application to the court as such and seeking the court dispense with the confidentiality?---Yes.

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In your experience, have you come across that, such applications?---No, never.

So it's not even often in your experience. It's not even sometimes as such?---No, and at times we have - when asking for notifier details and being denied that, the advice we've received from the legal unit of Child Safety Services is if we execute a warrant for some criminal investigation we're doing, we can get that information, but more often than not we would either get it by other means or just identify who a notifier might be just by the nature of the information anyway.

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But you see this as having an impact particularly in relation to - this legislative provision having an impact particularly in relation to those malicious or vexatious-type notifications as such?---Yes; yes, for us because it would - I guess we wouldn't investigate matters that have no need to be investigated if we could identify there is some malicious or vexatious information there, you know, due to some other matter that's occurred between the parties.

Yes, or it's also intel for a future occasion too, isn't it?---Yes, for sure.

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Thank you very much?---Just on that, the non-advice of notifiers hasn't always been the case since this legislation has come in. It's only - certainly in this area it's only really been the last 18 months, maybe two years when advice was received from the legal unit within the Child Safety Services.

What do you mean? Sorry, can you expand upon that?---Well, up until, you know, 18 months ago we were - the notifier information was on out - the advice we were receiving from Child Safety Services, but I think how it came about is one of the managers from an area down south had moved up here and had explained that, you know, "Down in the metro areas we don't provide that information," because of, I guess, 186 and so then a decision was made not to provide notifier details.

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There are actually legislative provisions under section 2

11/9/12

HORAN, G.W.J. XXN

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sub (a) in particular where administration are performing functions under that as exemptions as such?---Yes. 1

I suppose it's where does that lie from a departmental perspective?---My understanding is it's - and I don't know exactly who, but the legal unit within Child Safety Services have decided that the way they read it is that that doesn't allow Child Safety Services to provide notifier information to the police unless it reaches - unless it's, say, a joint investigation or a notification.

Okay. I will leave it at that. Thank you very much. 10

COMMISSIONER: Thank you.

MS BYLES: Good morning, Mr Commissioner.

COMMISSIONER: Ms Byles.

MS BYLES: My name is Byles, B-y-l-e-s. I'm a solicitor employed with the Aboriginal and Torres Strait Islander Legal Service and I'm appearing today on behalf of that service. 20

COMMISSIONER: Thanks, Ms Byles.

MS BYLES: Good morning, detective senior sergeant. I just have some questions for you in relation to your statement?---Sure.

In relation to paragraph 5 - and I understand that you've covered this before, but I just wish to flesh out just a little bit more about the exact nature of your experience? ---Sure.

And particularly how it relates to your time in the cape? 30
---Yes.

So perhaps you could just describe a little bit more about what you've actually done and whether you've done field work or more investigative work and that kind of nature? ---I started - I think it was 92 in then JAB. I think back at that time there was only about six staff and we were responsible for, I guess, responding to child protection or child abuse matters and even Youth Justice in the remote communities back in those days. So from then up until my promotion to this rank I was still, I guess, actively investigating offences all over the district because it was only after I was promoted to this position I think the TICPIU started so I was still doing work up in that area as well, even though there were some CIB's placed - you know, single-man officers in Weipa and Thursday Island and Cooktown, but I've travelled to every community within the cape and quite a number of the islands in the Torres Strait to investigate both child protection matters with Child Safety Services but also child abuse matters, you know, 40

11/9/12

HORAN, G.W.J. XXN

ranging from the murder of children down to sexual abuse and probably some serious neglect of those. I've also investigated Youth Justice matters through a number of those communities as well when our general uniform police numbers were much less than what they are now and they didn't really have the capacity to respond to multiple offences committed by multiple offenders.

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Thank you. At paragraph 6 of your statement you make reference to crime prevention activities that is managed by the CPIU?---Yes.

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Can you provide some examples of those?---Well, if we had the capacity to do it, we would like to, but due to all these other, I guess, functions that have come upon CPIUs that we didn't have in the past our capacity for crime prevention activities is significantly reduced. The most recent we had was when we - and I mention it later in the statement - "Be strong; be heard" project I guess we had which was funded by a number of agencies where we travelled around to those remote communities ostensibly just to, I guess, inform or advice the government agencies what child abuse was, how we respond, how other agencies respond, how to report, who to report to and just, I guess, to give them the capacity to be able to identify and understand what would happen within the system, you know, once they report because what we discovered - and my predecessor had done a bit of a survey of that area with some of the government employees, including the QPS and their knowledge of child abuse and child protection issues was not very strong. So, as a result, we came up with this project where at the time we had the capacity to get around to all of those communities and we had community forums. We met with the government agencies and went around to all those communities on a rotational basis.

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Okay. What exactly would be the crime prevention aspect of that though?---Part of it is that early intervention by identifying abuse and perhaps getting services engaged, whether it be Child Safety Services or police, but because we have that discretion, if they report things to us, that doesn't necessarily mean we have to respond. That was part of the information we were giving them - is that just because you report something to police doesn't mean we, you know, race in and charge someone or, you know, remove children from families or any of those type of things. It was about giving them the knowledge of the system, I guess, as to where and what we can do with the information and what discretion we have.

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Thank you. On that issue as to early intervention I'd like to perhaps jump forward a little bit in your statement just because it dovetails in neatly with another question that I have that's raised by paragraph 16 of your statement? ---Yes.

11/9/12

HORAN, G.W.J. XXN

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Specifically my question relates to whether there's any capacity for the local police who you identify are often the first responders to perhaps divert families to services such as family interventions or to perhaps other services within the community to perhaps address maybe some of, you know, the more low-lying issues that you mentioned earlier. For example, if a child attends school on a number of days without lunch or, you know, maybe other aspects that may not reach the police threshold for investigation but a concerning nonetheless?

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11/9/12

HORAN, G.W.J. XXN

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---Certainly our general uniform police and particularly in the remote communities, they would know what services are available and would certainly - well, I believe they would certainly refer to those services. I guess - - -

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That's been your experience?---Yes. Part of the issue is there are not a lot of services in some of those remote communities, you know, certainly not the number of services we have say in Cairns or in other populated areas. So NGOs don't - you know, if they service the area it's only fly-in, fly-out. So most of the services in those communities are provided by government.

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Do you think that there's a direct correlation between the lack of availability of those services and perhaps the over-reporting of some of those issues that don't necessarily meet the threshold? So I suppose where I'm going with that is if somebody could be referred to one of those services at an earlier stage you may find that there might be less instances of that kind of reporting because it can be dealt with sooner rather than later?---I guess the way I would see it is that if there were other services available and early intervention we wouldn't get to the situation where we were only being advised of those critical issues when they get so bad that they need that statutory response.

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Thank you. If I can just go backwards - and I apologise for moving around?---That's okay.

Just to paragraph number 11. Obviously you list a large number of responsibilities there, and again, I think this has already been touched on previously, but you obviously have a limited number of officers in your team?---Yes.

Would you say that you're comfortable with the level of capacity that your team is currently operating at?---If I were comparing to other areas within policing, most police recognise that CPIUs have a far higher workload than probably most other police, but, you know, I also understand that we service a broad number of functions so we need to, I guess, put our resources where they're most effective. I guess what sometimes isn't taken into account is all those additional duties that have come upon us either through legislative change or policy change. Some other areas haven't had that same - and when I talk about other areas, other say sections within policing haven't had those additional responsibilities put upon them as we have.

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What additional capacity do you think would be of assistance to your team to be able to address those additional areas more fully?---I think that question anyone would answer that having more staff would be of great assistance, but I think having specialist staff in the areas where they can probably have a better effect would help us, because our capacity to respond to particularly

the remote areas is reduced by the volume of work we're doing in the populated areas. So we manage as best we can but it's not ideal to fly in and fly out of communities. But in saying that, I don't think we have the capacity either to have a CPIU in every community. Certainly we have if not a specialist response insofar as a trained CPIU officer, our CIBs that service those remote communities certainly have some skills and get if not all the training that CPIU officers get, get quite a bit of it with the I Care interviewing skills. You know, I don't think many of them would do the CPIU workshops, which is very specific to CPIU work, but they contact us and we can provide professional advice as well.

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Thank you. Now I wish to take you to paragraph number 12 and talk specifically about one of the functions that you mention, namely the monitoring compliance of reportable child sex offenders and I suppose my question is particularly focussed on how that role is performed in remote areas. So how is that role performed in community and how is your department ensuring that those children in those communities are being protected?---The reportable child sex offenders in the remote communities, we're reliant upon our general uniform police to assist us in the monitoring. It's not so much monitoring, it's just compliance management, where they have certain responsibilities that they need to comply with and we have some policy responsibilities as well as to how often we should be, I guess, visiting or checking with those people.

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Are those responsibilities being met?---We coordinate it from here and we send - because the general police in those areas have such a broad range of responsibilities it's not their area of focus, so I guess our - what an officer from my area does is by coordinating and he's advising them when they need to respond. So that's the coordination that we provide, however we will also travel to those communities from time to time as well to I guess have a more professional overview of how we're responding to them, because again, this is something that CPIUs know a fair bit about, reportable child sex offenders, but general uniform police and the general policing population don't have much knowledge of the compliance management policies that we have around it, the administrative burden we have around it, and all those sort of things. So although they're happy to go out and conduct a visit and gather a bit of information, we've found it's probably far more efficient for us to do the administrative side of reportable offender - what's the term I'm looking for - the compliance management.

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Thank you. Excuse me for one moment. I now want to take you to paragraph 13, and in paragraph 13 you make a reference to intra and extra-familial violence?---Yes.

I want to ask you a question about that, especially given

11/9/12

HORAN, G.W.J. XXN

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the structure of particularly indigenous families in remote traditional communities. How do your officers define extra and intra-familial violence?---Most of my officers and I could probably safely say most of the officers from this district would have probably a reasonably good knowledge of I guess the cultural issues affecting indigenous people, particularly in our communities in the Cape and the Torres Strait as well, and the notion of a more community parenting model and the extended family. So when we're looking at intra-familial to define that it would more - we'd be more looking at someone who is in the home. So although often children are cared for by a range of people within a community, we're looking at those people who reside in the home with them as opposed to the broader family within a community.

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COMMISSIONER: So it's household based rather than relationship based?---Yes.

MS BYLES: Thank you. If I could take you to paragraph 14 of your statement, you refer to the CIB officers and the training that they receive and you mention that they receive aspects of the specialist training?---Yes.

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Can you elaborate on that to explain exactly what that is? ---The most important training they receive is training in the I Care interviewing model, and that's to interview child victims of abuse or some serious offence. So that - because that seems to be a particular delay in responding to child protection matters or child abuse matters where there's no skilled person to interview a child and sometimes the legislation and the policy is probably, even within our service, taken a little too literally, in that some police officers just won't speak to a child to gather evidence whereas in some matters, in some cases, they can and probably should so that we can get, I guess, a quicker response.

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If I could take you to paragraph 15 of your statement, you mention talking about a child who is a victim of serious criminal offence just towards the bottom of that paragraph? ---Yes.

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Could you explain what you would mean when you use the word "serious criminal offence"? What do you define as a serious criminal offence?--I'm probably alluding more there to the child sex offences and matters where children receive significant injuries or perhaps die as a result of some actions of either a parent or a caregiver. 1

Thank you. Now moving to paragraph 20. We've touched on this earlier, but I suppose I just want to ask specifically are you aware of any particular efforts that are made by your officers, particularly obviously the local police officers, to refer people to early intervention support services? Is there perhaps a protocol at a particular police station, or - - -?---This district, and I believe some other districts across the state - I'm not sure if it's proliferated across the entire state - have a web-based referral system called SupportLink, but that's only voluntary. So we would have to get consent to refer. Given the - - - 10

I beg your pardon, consent from whom?---Consent from a child or the family to refer them to a support agency. Given the nature of some of the issues we're faced with, the likelihood of getting consent to have an intervention from another agency is fairly limited. In saying that, we also have relationships with some of the NGOs, but the majority operate on a consent basis, so depending on what particular circumstances for a family, there may be little or no intervention. 20

Excuse me for one moment. I want to talk a little bit more about that system that we were just referring to, the SupportLink. How do the police officers go about obtaining that consent or discussing those options with either the child or the families of - the relevant family members? ---It would be having some contact with them. But depending on what the information is that may have been referred, we may consider that a referral to some of those agencies, and knowing what responses they give, may not be suitable. 30

Would you, perhaps by way of an example, look to involve perhaps members of the local justice group or perhaps members of the recognised entity or organisations such as that to assist in that process?---Generally, no, we would not.

So it would just be the police officer involved speaking perhaps directly to whomever might be a candidate to be linked in with that service?---Yes. And I guess the issue with that is involving those other agencies again is that time lag, so if we consider that an intervention is required or desirable then the earlier we can get that information across to a service, the better. 40

That time lag that you refer to, is that exacerbated by the

lack of local services?---The SupportLink model only works in the Cairns metro area, not for remote areas. There are a number of services available here that can respond to some of the issues that we identify, but there are also - some of the referral agencies, I think, are based elsewhere other than Cairns and are either phone support or some other means.

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Thank you. Please excuse me for one minute. If I could take you to paragraph 24 of your statement. You make reference to essentially two different categories of child protection investigations, less serious and more serious. Could you define those two terms for us?---It might be - - -

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At least by way of examples?---Less serious would be those matters where it would be maybe a criminal offence but not where there's been any significant injury or it's a one-off offence. So the time frame to investigate those, when I talk about four to five hours, that's the coordination and response, if it's intra-familial, with child safety services, travel to whatever location it maybe, interviewing witnesses or victims, then talking to perpetrators, so that that's why that four to five hours. Or more often than not one matter could take one officer an entire shift of eight hours. The more complex matters are the investigations like child deaths, grievous bodily harms, those quite serious child abuse matters, and sex offences, obviously.

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Thank you. In paragraph 25 again we talk about this issue of reporting and perhaps the issues there. I suppose my question is do you think that if people could access the early intervention services locally, would you expect to see less of the higher level intervention?---If they could early, when it's first identified that families are having problems, certainly. I think everyone is of the view that if we could intervene early in many of these cases we wouldn't have the significant issues that we have when ourselves or child safety services get involved.

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Thank you. Excuse me for one moment. Now I wish to take you to paragraph 28 of your statement. I want to ask some questions specifically about children in residential care. We've already identified that there are obviously some unique issues with respect to children in those particular placements. Obviously the background to that placement is that they're there pursuant to child safety intervention, usually court orders, and that this places the chief executive essentially in a quasi-parental role?---Yes.

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And they essentially subcontract that role to the residential service provider, whoever that may be. And obviously you've mentioned that you receive reports of certain events that occur at those centres which may very well meet the criminal standard?---Yes.

11/9/12

HORAN, G.W.J. XXN

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I suppose I want to highlight in my question the difference between, I suppose, an event that may happen at a residential care facility and an event that may happen in a home, just a normal home. Because obviously you would accept that some of the events that you refer to in your statement that occur at residential facilities, would you accept that they also occur obviously in normal homes? ---Yes, they do.

And it may not be the case that a police officer would necessarily be called if one of those types of events occurred in a family home?---That's correct.

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So acknowledging that situation, how do your officers respond to these types of events when they happen in residential facilities?---Most of the responses, that first response is our general uniform police. Anecdotally I think there is some level of frustration with the number of calls for service, particularly around missing persons. But there is a zero tolerance policy from the service providers as well, so for any matters of any assaults or anything of concern, including disturbances, they'll call the police.

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What do you mean by disturbances?---Some of the residents perhaps arguing or fighting; some children not getting perhaps what they want, so verbally abusing the care providers.

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So would it be fair to say that aside from the issue that you've already identified about people coming - children coming into contact with perhaps a negative peer group or children that might lead them astray, if I can use that phraseology, it may very well be that - would you accept that children in residential care facilities may come to the attention of the Juvenile Justice system earlier for activities committed in those residential facilities than children who maybe do similar activities in regular homes? ---I think because the care is being provided by someone who is not a family member, the level of tolerance is obviously much lower, so what a family member may tolerate as the behaviour of their child wouldn't be what a service provider would tolerate. So in that sense, yes, perhaps some things would be reported - more likely to be reported to police and a child may enter the Youth Justice system as a result, but I think quite a large proportion of those children have more significant Youth Justice matters than what's happening just in the home.

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Thank you. Excuse me for one moment. Further on that issue, would you accept that - and it's alluded to in your statement, but would you accept that children in residential care facilities, because of their more complex needs that you refer to in your statements, may also be experiencing various levels of trauma either associated with the reasons that they're in care or perhaps even associated with the fact that they're in care of itself? ---Yes, they may well be and a lot of the children reporting missing are leaving the facility to be near family or extended family members.

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Is that a consideration that is taken into account by police officers when they're exercising that discretion that you mentioned earlier about whether to continue with a prosecution and perhaps issue a caution or some lesser - - -?---I can't speak for every police officer, but certainly the officers in my section would consider that perhaps because they know more of the system than what maybe the general uniform police would So we would perhaps exercise our discretion perhaps a little more than some other police.

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Thank you very much. If I could perhaps now turn to paragraph numbered 31 in your statement, here you speak about percentages of young offenders. Would you be able to break that down perhaps further even if it's in a rough sense with respect to how many of those offenders may be involved in the child protection system?---I guess I could say that many of them are known to Child Safety Services but are not actually involved within the system currently.

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So do you mean not subject to a current intervention? ---Yes, and they may be known not particularly for something that they've been involved in but something involving their family, younger siblings or older siblings,

11/9/12

HORAN, G.W.J. XXN

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so often the family is known to Child Safety Services. 1

Do you have an idea as to the number of those offenders who may have been removed from their local community?--Not significant numbers. Reasonably low numbers, I think, would be children removed from their community insofar as our overall offending group.

So would it be fair to say then that you would say that most of the young offenders that you refer to in your statistics are Cairns locals essentially?---Yes.

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Excuse me for one minute. So obviously we're talking about juvenile offenders. Would you see from your experience a correlation between family function or perhaps dysfunction and juvenile criminal activity?---Definitely, yes. There's a distinct lack of supervision for most of our juvenile offenders; in some cases a lack of parental responsibility from one person. A lot of these - - -

What do you mean by that?---Well, a lot of these children don't - although they have an address, they often don't stay within the one home. They move around the community either with their peer group, with relatives and don't have any one person that takes responsibility for them and some of that is the behaviour of the child themselves, that they choose not to be in a particular home, but some of it is parents or caregivers not really being overly concerned about where their child is.

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Again, would you say that perhaps that's another avenue where early intervention support could perhaps become involved, particularly, you know, perhaps at the early stage of a juvenile offender's offending career to try and identify those exact issues to stop the escalation potentially of that criminal behaviour?---The service does do that to an extent with, you know, cautioning, Youth Justice conferences where other services do get engage and they look at, I guess, the more family issues around offending. So there are a couple of opportunities there. Our more prolific offenders obviously are probably beyond that, but we've also - there's a group in Cairns that I'm involved with, coordinated care for vulnerable young people, where we do consider those children who are entering the justice system but also have some - are known to the child safety system and also other NGOs around the community. So with those children we try to get, I guess, a response around them to try to get them out of the justice system and out of the child safety system as well.

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Again I want to speak more about that because I wanted to ask you exactly that. What is that program? So perhaps I can jump forward again just to speak further about that and if you would not mind perhaps going further into exactly how that panel works. How do children get referred to that panel? What agencies are involved in that panel? How does

11/9/12

HORAN, G.W.J. XXN

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it practically work to try and reduce youth crime?---It came about because it was identified there was a lack of coordination across the NGOs and even some of the government agencies responding to these children and their families. So in some cases there are a lot of agencies involved but none of them were talking to each other or were knowing what the others were doing so it was also about being, I guess, efficient in our input with families. As I result, the Department of Communities was tasked to get this up off the ground. The agencies involved - a number of our NGOs who are involved in youth services, YouthLink and YETI, Youth Empowered Towards Independence. There's also education, the Flexible Learning Centre, which is where a number of our kids with complex issues go. There's the Volatile Substance Misuse Group; I think mental health. Anglicare come along as well, plus ACT For Kids is where the meetings are held with their family support and bail support services - sorry, and the referral is from any of those agencies and it's based around, I guess, when these children are coming to out attention, particularly focusing on those younger children but also in some cases the older children, and there was some linkage to that group through the previous government's Project 200, I think it was called, so a lot of those children were referred as well so that we could coordinate a few services around the families.

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I know you said it was essentially the Department of Communities was tasked with creating that panel. Was that the Department of Communities Child Safety Services or is that the Department of Communities Youth Justice?---To be honest, I couldn't tell you where the particular person who did it sits. I think it's in just their community services area within the Department of Communities. I'm not sure of the break-up of the - - -

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The reason why I ask is that - my question is: is there a fostering of coordination between the approaches adopted by the Department of Child Safety obviously where the youth is involved with that system and also the police again to try and reduce the juvenile from committing further offences?

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---With the police and child safety, did you say, or - - - 1

Yes, sorry, a coordinated approach between those two particular agencies?---A lot of those children, their offending behaviour in itself does not meet any thresholds for child safety to become involved.

But perhaps in cases where they're already subject to departmental intervention?---If they are children in care under an order the youth justice involvement and the management around any youth justice orders or anything that is - any management of that tends to take precedence over their child safety intervention. I don't know that those two, child safety and youth justice, coordinate very well. 10

So that's more a matter for youth justice?---Yes.

Thank you. Going to paragraph number 32 - excuse me for one moment. I beg your pardon. You speak of various concerns and I suppose it would be helpful to get a sense of what you think may be the underlying cause for these symptoms of family dysfunction. If you could - from your years of experience, particularly in the remote communities, are you able to perhaps identify some particular issues that may be particularly more likely to lead to these kinds of situations developing?---I think it's very difficult to define any particular issue. I think the issues are so complex and so different for each family that I don't think I could do that, but certainly alcohol issues are big issues, domestic and family violence is a significant issue, violence in the home. Discipline is an issue. Obviously the more basic things such as sufficient food, sufficient shelter, sufficient money to feed all of the children or all of the family members. 20

What role do you think adequate housing plays?---It plays a significant part. I think some of our - certainly our young offenders, if the home is crowded they don't want to be there. In saying that, some families choose to live in that environment and, you know, by consent have extended family members stay with them. So it's not that often they're being forced into that situation, it's some families choose to live in a situation where there are large numbers of people in one household. Whether they be people visiting from other areas and stay for significant periods of time or whether it's just a family arrangement that - you know, that sort of communal living and the communal sharing of money and all of those type of things. 30 40

Excuse me for one moment. So you mentioned that in some events people aren't forced to live in a situation where there are a large number of people in one house. Would you say, however, that there is enough housing in the communities so that those people could, I suppose, go to another house if they wished?---Are you speaking about Cairns or remote - - -

11/9/12

HORAN, G.W.J. XXN

MR COPLEY: Well, I think, Commissioner, the witness probably isn't really qualified to speak about the supply of housing in indigenous communities. He doesn't live in one. We don't know how frequently he visits them and he is, with respect, only a police officer.

COMMISSIONER: Fair enough. Do you agree with that, Detective Senior - - -?---Yes, I couldn't - - -

MS BYLES: I'll withdraw the question, commissioner, if it's offensive in some way.

MR COPLEY: It's not a matter of being offensive, it's just a matter of can he offer any opinion that's informed on anything other than either anecdotal evidence or what he reads in publications.

COMMISSIONER: Yes, I think that's right.

MS BYLES: Thank you, Mr Commissioner.

So if I can move to paragraph number 33, you speak about the SCAN team and you mention that the recognised entity has a role in that team. Could you describe how - well, firstly exactly what that role is, and secondly, how helpful that role is in achieving the SCAN team's objectives?---Again, it's probably difficult for me to answer, because as officer in charge of the CPIU I don't attend SCAN meetings. We have a SCAN coordinator.

To the best of your knowledge?---My understanding is the recognised entities are involved in any matters involving indigenous families.

Do you know the level of that involvement? Are we talking a phone call or a meeting or - - -?---No, they will attend a SCAN meeting and have input into, I guess, what they believe is, you know, appropriate for that particular family or any knowledge they may have of that family through the service they come from. So really just to inform the SCAN group, you know, maybe some background issues, some family issues, maybe put in some context around particular situations, and also provide advice as to responses or agencies that they may be able to engage with.

In your experience that's occurring?---Yes.

Excuse me for one moment. If I could take you to paragraph number 50 of your statement. You use the term "child abuse" and I suppose then it would be helpful if we could understand exactly what you mean by that term, because obviously it can cover a broad range of activities?---Yes, when I talk of child abuse it's more the criminal child abuse where criminal offences have been

committed against children as opposed to, I guess, the omissions that were referred to earlier, the neglect type issues.

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You then go on to talk about some of the issues with respect to notifications and community involvement in relation to those investigation processes. What strategies do the police adopt to try and overcome those difficulties? Do you use interpreters, do you - - -?---Some communities don't have - and when we use interpreters for criminal matters we would need an accredited interpreter. Many of those languages don't have accredited interpreters.

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Can you perhaps just explain what you mean by accredited interpreter?---I guess they're licensed and considered by the court to be an expert in that language.

So they hold a particular qualification?---And we understand that some children and some families in those communities, English is a second and sometimes third language for them. So in communicating with them, you know, we would alter the way in which we communicate. There is some level of understanding certainly from officers in my section and we have a couple of indigenous officers as well within my unit whose heritage is around this area. Likewise in Thursday Island, I know there's at least one officer who is from that local area as well and probably more who can assist with some language difficulties.

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Thank you. Going back to - and I'm referring now to paragraph 51 and going back to the Be Strong, Be Heard program, we've obviously discussed that program a bit and in your statement you mention that that funding has now finished. Is that - - -?---Yes, close to.

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Do you think that there would be some utility in addressing the issues that we've, you know, discussed today in recommencing that program?---The funding wasn't the issue, it was the capacity of the CPIU to deliver that program became the issue. I think if there was some system in place where that type of information could be relayed to the people in those communities, you know, government agencies and community members, I think it would only - could only help rather than hinder the identification, whether it be early identification and intervention or whether it be on that more significant end of child abuse.

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Thank you, that concludes my questions. Thank you very much. 1

COMMISSIONER: Mr Capper.

MR CAPPER: Thank you. Capper for the Commissioner for Children and Young People and the Child Guardian. I only really want to pick up two issues with you. At paragraph 32 of your statement you say that, "While many families are receiving support from various government and non-government agencies for a range of social issues, there's only limited coordination of the services provided." And you then go on to say, "And no assessment of effectiveness on the impact of young families and young people." Firstly in relation to that, you certainly spoke about there seems to be a lack of coordination between youth justice and the Department of Child Safety. You've made that comment during your evidence. What do you mean by that?---Children who are involved in the child safety system who then get into the youth justice system, in my experience the youth justice orders tend to take - I guess they're something that is assessed, you know, they're compliance with a court order as opposed to, I guess, the care arrangements and the family situation. Although there is some integration, I don't think that they coordinate very well. 10 20

Okay. So there seems to be a bigger focus on the justice side of it rather than the ongoing and future care, protection, wellbeing of the child once they've hit that youth justice system as opposed to continuing to look after their needs in a child safety system?---Yes. And the youth justice system is very much focused on that child as opposed to the broader issues within the family.

You say that in terms of - going more broadly than that, you say there's only limited coordination of services provided. What do you mean by that - more broadly than youth justice and child safety?---Some families with a number of different issues have federal government services, whether it be Centrelink or support through Centrelink. Some of the NGOs such as ACT for Kids or even some of the youth agencies all doing different things to address, I guess, the same issues. I don't think they coordinate well, as in communicate well as to what each individual agency is doing. The families obviously aren't advising each agency of who they're getting support from either. So there's probably - the way I see it there's some overlap of services, but the biggest issue, I think, is there's no assessment of whether all these inputs are effective on making any particular changes to families. 30 40

Okay. That was the second point that I wanted to seize on. Why do you consider that important and how would we go about doing that?---As to how, again, it's not my area of expertise, but why is probably for efficiency more than

11/9/12

HORAN, G.W.J. XXN

anything. Some families are getting a lot of services and a lot of resources put into addressing some of their issues, but because they're not coordinated well they're all done in isolation, but no one agency assesses the overall effectiveness. They may assess - if it's a youth agency they might assess how the children in that family are going; Centrelink obviously are assessing employment prospects or financial issues, but all those groups aren't getting together to see what the overall outcome is for a family.

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Okay. So we certainly heard some evidence in our Brisbane hearing so far about questions about should it rest with the Department of Child Safety; should it rest with the Department of Communities; should it be separated; should it be given out to NGOs and outsourced; should a central agency be outsourced? You've referred to there's no one central agency. You obviously see that as a model that perhaps - whether or not - whichever agency, but there certainly needs to be one central point collecting that information and making these referrals and checking whether or not it's working. Would you agree with that?---I agree that at least one of the agencies should take responsibility for the entire case management, so to do that coordination role. How to identify which agency that is, I don't know, but I think if a family is identified as having broad-ranging issues where children are involved in youth justice, there's child safety issues, there are domestic and family violence issues, I think that one case management approach to coordinate the resources to address the issues for the entire family rather than those distinct issues, would be far more effective than probably the process that we have now.

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Okay. With your experience with SupportLink, you certainly indicated that you require consent for that to occur? ---Yes.

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So any referral out to whatever agency by whoever, whether it's by police or by anybody else, we've heard comments about the stigmatisation of the delivery of services and that some people don't want to engage because of the stigma attached to it being the department, being the police, being whoever. You refer to the fact that there's a requirement for consent. Do you see any benefit in not requiring that consent or there being some other way to do - I mean, based on your experience with SupportLink, this is - do you think we should continue to go down that line of requiring consent, or is there another model that you would suggest?---I think if consent wasn't the issue I think that - some people don't consent just because of a lack of knowledge of what services are available or what the services provide. I think if we could avoid the whole consent issue and the services could contact them - and I believe SupportLink contact within 24 hours just to advise people what services they provide - maybe then the issue of

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consent can be discussed, as opposed to at the referral phase. 1

Okay. No further questions, thank you.

COMMISSIONER: Thanks. Mr Copley?

MR COPLEY: No further questions. May the witness be excused?

COMMISSIONER: Yes. Detective Senior Sergeant, thanks for your time and the information you've provided. It's much appreciated. You're excused. 10

WITNESS WITHDREW

MR COPLEY: I call Joan Margaret McNally.

McNALLY, JOAN MARGARET sworn:

THE ASSOCIATE: For recording purposes please state your full name, your occupation, and your business address?
---Joan Margaret McNally. I'm the manager of the Cape York North and Torres Strait Island child safety service centre. We're based in Spence Street. 20

COMMISSIONER: Good morning, Ms McNally. Thank you for coming.

MR COPLEY: Mr Commissioner, I tender a statement under the hand of Ms McNally, together with a copy for you.

COMMISSIONER: Thank you. That will be exhibit 58.

ADMITTED AND MARKED: "EXHIBIT 58" 30

COMMISSIONER: And it's okay to publish, Mr Copley?

MR COPLEY: Yes.

Ms McNally, can we infer from the first four paragraphs of your statement that you've worked with the department - we'll call it child safety because it's changed its name over the years - for about the past decade?---That's correct.

Okay. And in that time the department has always been governed by the Child Protection Act of 1999?---That's correct. 40

You would be familiar with the definition contained in section 10 of the act of a child in need of protection - - -?---Yes.

- - - being, "A child who has suffered or is suffering or is at an unacceptable risk of suffering harm and who does

11/9/12

McNALLY, J.M. XN

not have a parent able and willing to protect the child"? 1
---That's correct.

The word "protection" is defined in the schedule to the act as including the care of a child?---That's correct.

Okay. In view of the fact that an intervention with parental agreement is predicated upon a conclusion or a state of satisfaction on the part of the chief executive that there is a child in need of protection, how can the chief executive therefore be satisfied that an intervention agreement with parents can be entered into, because the chief executive has to be satisfied that the child's parents are able and willing to meet the child's protection and child's protection and care needs?---So for a child to be subject to an intervention with parental agreement the outcome of that notification must suggest that the child is in need of protection, then workers will do an assessment around parents' willingness and ability to work with the department to implement a case plan that would allow the children to remain in the care of their parents while we work with the parents around the child protection concerns. 10

Yes. It's just that the section 51ZB says that the chief executive can consider intervening with the parents' agreement if he's satisfied that the parents are able and willing to work to meet the child's care and protection needs. But of course the Part only applies if the child is in need of protection. That is to say if the child does not have a parent who is able and willing to protect the child from harm. Do you see that what I'm attempting to understand here is that if a child is in need of protection - that is he doesn't have parents who are willing and able to protect him from harm - if he's in need of protection, how in the next breath, so to speak, can the chief executive be satisfied that the child's parents are able and willing to work to meet his care and protection needs, thus allowing there to be an intervention agreement?---I'm not sure that I'm actually understanding your exact question, but it is that the assessment is done around the parents' ability to work with the department to address those child protection needs on assessments made that the children can continue to reside in the home whilst we continue to work with the parents to address those - - - 30

COMMISSIONER: Maybe the distinction is between the parents not currently being able and willing to protect, but willing to try, with the department's help, to get in a position where they can?---That's correct. 40

MR COPLEY: So in the area that you're responsible for and have been since August 2009, namely Cape York North and the Torres Strait Islands area, are you able to inform the commission in terms of approximate figures currently this year how many interventions or care agreements have been entered into between parents and the department in the area

11/9/12

McNALLY, J.M. XN

you're responsible for?---I haven't got that exact data on me currently. I can get it for you. 1

I just said approximately, not exact; just approximately?
---Who are subject to intervention with parental agreement?

Yes?---Within that area, maybe about 30.

All right?---Between 20 and 30.

Between 20 and 30 intervention agreements?---Intervention with parental agreement, yes. 10

All right. Does that mean 20 or 30 children, or are you there encompassing some agreements that cover more than one child in the family?---Yes, I was referring to children.

To children?---Yes.

Okay, so there's 20 or 30 children, thereabouts, in your area that are subject to an intervention agreement with parental consent?---Yes, I think that's about right.

Okay. And in the area you're responsible for, how many children are there who are in out-of-home care now?--- Again, I don't have that exact data on me. 20

Approximately?---Approximately, probably around about 80, I would imagine.

Okay. At paragraph 16 of your statement you state that staff turnover in the Weipa area has decreased and six of the eight staff there have served for between 18 months and two years?---That's correct.

Do you know those staff up there, yourself personally? ---Yes. 30

Have you seen how they work and interact with children?
---Most of them, not all of them.

All right. Another witness who will be giving evidence at this hearing has said in her statement - she's from the Department of Health based in Cairns, so what she has to say mightn't apply to your child safety officers - but she states that some child safety officers struggle in the way that they engage with the client and it would appear that this is reflective of their level of competence and skill. Is that something that you've noticed among the child safety officers that you're responsible for on Thursday Island and Weipa?---No, it's not. Certainly when we have new child safety officers that join the department and who haven't worked with the department before, we have someone who mentors them. We usually try and have a mentor who's been there for a period of time and who knows the community a little and they will help them through the process of 40

11/9/12

McNALLY, J.M. XN

emerging themselves in community and working with community. 1

Okay. At paragraph 22 you speak about the establishment of the placement support unit?---Yes.

When was that established?---There's been workers in hubs for approximately two years now, I believe.

You make the point that there were not enough carers in the communities that you're responsible for and you proffer two reasons for that, overcrowding in houses and the inability to obtain blue card approval. And then you have reproduced below paragraph 22 some figures current to 3 September 2012 concerning the number of approved carers, the number of children on current placements, and the number of possible or potential new carers for the Cairns, Cape York North and Torres Strait Islander region?---Yes. 10

If you could just explain, obviously down the left-hand side we can see what community each of the carers and where the children are coming from and where the new carers might be coming from, but under the heading Current Approved Carers - AFC, what does that stand for?---Approved foster carers. 20

Okay. So there are no approved foster carers in Aurukun at the moment?---No general carers. There are no approved general carers in Aurukun, that's correct.

You used the word "general carer", I said "foster carer". Are you attempting to draw a distinction or are you just using a different word?---Sorry. The distinction I was trying to draw was the distinction between a kinship carer and a general carer. 30

Well, the next column is headed KIN. Is that concerning kinship carers?---That's right.

Okay. So there's no approved foster carers in Aurukun, but there's five approved kinship carers?---That's correct.

And just so that we know, what's the difference between a foster carer, an approved foster carer, and a kinship carer?

---A kinship carer generally is a member of a child's family. The assessment is different for a kinship carer as opposed to a general foster carer. A foster carer goes through a training process to qualify to become a foster carer; kinship carer's don't need to go through any particular training process, they are members of the child's extended family. 40

So they could be a grandmother or an auntie or a bigger sister, an adult sister or something?---That's correct.

11/9/12

McNALLY, J.M. XN

Okay. The next column is LTG. There's one of those people in Aurukun. What does LTG mean?---This column stands for long term guardianship to other. So it's not to the chief executive, but to often a member of the child's family.

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Is that a person who has got the guardianship of a child for, say, up until the time they turn 18?---That's correct.

Okay. So there's one long term guardian there in Aurukun? ---That's right.

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And so unsurprisingly, given that there's no approved foster carers in Aurukun, there are no children placed with approved foster carers in Aurukun?---No. There's five children placed with - there's five kin carers in Aurukun - kinship carers.

Yes, hence there are seven children with five kinship carers. Is that correct?---In Aurukun? That's correct.

Because now I'm looking under Current Placements?---Yes.

So we've got the numbers of children in approved foster care for each of these communities that you're responsible for, then the number of children currently in approved kin carer, and then you have - the next column is Residential/Safe Houses, so there are five children currently, as at 3 September, in the residential or safe house in Aurukun. Is that so?---Yes, that's right.

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Now, who is operating these houses, residential/safe houses?---ACT For Kids.

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Right; and is there a difference between a residential and a safe house?---Yes, there are.

What is the difference?---ACT For Kids is - safe house is run by ACT For Kids in both Napranum and Aurukun so they're a non-government agency that are funding them to do that. We have residential placements in Cairns that are - sorry, I'm getting myself a bit confused - that are transitional placement packages where children are based in what we'd consider more of a residential-type placement.

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Right; and so are these just short-term placements or are these houses in Aurukun and other places meant to be for the short term?---They are, yes.

And how long do you define "short term" to be?---They were initially meant to be up for six months.

Is that initial expectation proving to be true or are they staying for longer than that?---They're staying for longer than that.

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How much longer?---We've probably had children in the Napranum safe house for up to 16 months.

Why is that?---Because we haven't been able to find kin carers in community. When the safe houses were set up, part of a safe house was to have a kinship and foster care position attached to the safe house so the model was for these particular positions to find kin in community so the children wouldn't be in the safe house for long periods of time and then we'd move them through to kin.

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Okay?---Unfortunately this hasn't eventuated. ACT For Kids handed the money back to the department. They were unable to fill those positions so we haven't been able to find kin carers, yes.

So there are two children currently in a safe house or residential house in Napranum?---In Napranum - I actually thought we had four children placed in that but, according to those figures, yes, two.

There are two. There's one approved - there's one kin carer in Napranum?---That's correct.

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So how many persons is that kin carer responsible for at the moment?---I couldn't tell you without looking up the data.

It presumably must be at least someone, wouldn't it, otherwise either or both of these children would be looked at being put over with them, wouldn't they?---Not

11/9/12

McNALLY, J.M. XN

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necessarily. The fact that someone's a kin carer doesn't necessarily mean that they will take those particular children. 1

Because they're not necessarily their kin?---Their kin, that's correct.

All right.

COMMISSIONER: Can you be a kin carer and an approved foster carer without being active?---Yes, you can. 10

MR COPLEY: And then you've got another column there which I've mentioned before which is called the "Potential New Carers" column?---That's correct, yes.

For example, there are possibly two people - there are two people who have expressed interest in becoming a carer in Bamaga?---Yes, that's correct.

Does that mean that they're wanting to become approved foster carers or kinship carers or both?---That doesn't actually me exactly what they're wanting to become. There will be someone from the placement services unit later who would be able to answer these questions a lot clearer. She's responsible for kinship and foster carers within the department. 20

Thank you.

COMMISSIONER: Can I just ask you a question about the decision as to whether or not a child is in need of protection and it relates to the existence of a parent able and willing to protect? In Aboriginal communities a parent includes a person who is regarded as a parent under tradition and in Torres Strait Islander communities a parent includes a person who under island custom is a parent. When the department is deciding whether or not there is a parent willing and able, does it consider whether there is a customary or traditional non-biological parent willing and available?---Yes, not for court purposes. 30

But for the purposes of determining whether a child is in need of protection, does it?---With the assessment - for the assessment phase officers can just look at the adoptive parents. That's who they would be assessing. Unfortunately when it comes to - if we need to apply for orders, the department then has to locate biological parents and the adoptive parents have no legal right in the process. 40

Because of the difference to the definition of "parent"? ---Because they're not recognised within the legislation as being the parent in that particular instance.

They are recognised as being a parent for the purposes of determining whether or not a child is in need of protection - - -?---That's correct.

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- - - and has a willing and able parent?---That's correct.

But not for the purposes of whether a child protection order will be made?---That's right.

What do you think about that?---As I mentioned in my statement, I think it's part of the legislation that needs to be looked at. I believe that this is particularly in the Torres Strait Islands a cultural practice and that often the parents - the biological parents have had no connection with the children since they've been born so - it is also part of their custom that they don't tell the children about it until they're much older so when the department goes in and then has to try and locate biological parents, it can cause some problems for the families.

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You don't know, I suppose, the difference between a parent by tradition and a parent by custom and why one is distinguished from the other across the two cultures?---No, I can't speak to that, I'm afraid.

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Anyway, if there was a traditional non-biological parent around who was able and willing, then the child wouldn't be regarded as being in need of protection?---If there was a biological parent?

If there was a non-biological traditional parent in the case of an Aboriginal community or an Aboriginal child and a non-biological customary parent for the islanders, would the department leave the child in the care of that parent? ---If we were able to through an assessment leave the child with another family member, yes, the department can certainly do that.

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So say you had a child who was with - can a child have more than two parents in an Aboriginal community?---They have extended family who look after each other in an Aboriginal community.

Maybe I should ask you this way: who under Aboriginal tradition is a parent?---I can't answer that for you.

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Right?---We would look at - from a department's perspective when we were going out to do a notification, if that's what it was, we would be looking at who the child resides with and then asking our RE for information regarding, "Are these the people we need to be talking to or is there other family that we should be talking to?" but it's usually based on the notification of where the child's actually residing at the time and who's looking after that child at

11/9/12

McNALLY, J.M. XN

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the time.

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But the department's told by the law that if there is a parent able and willing to look after, that is, protect the child, then that child is not in need of protection?

---That's right.

So wouldn't a relevant question - wouldn't the controlling question for the department be, "Does this child have a traditional parent able and willing to protect him or her"?

---Yes, it would.

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And to answer that question properly you would have to know who was under Aboriginal tradition a parent?---Yes, and we would then ask the advice of our recognised entity in regards to that that are based in those communities to give us that advice who we should be talking to.

So the RE would be the one who would identify who the traditional parent was for the department?---Yes, we would ask their advice around that, their cultural expertise around that, because the department wouldn't necessarily know that.

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Right. So it's a particular person on a family-by-family basis, is it, rather than it being a traditional parent being able to be identified by kinship tracing?---Usually the recognised entity would be able to tell us who that would be or our justice group in community.

So the department doesn't have a list of who the traditional parents for an Aboriginal - all the Aboriginal children are and who the customary parent for the Torres Strait Islander children are?---No, we don't.

MR COPLEY: Is that because the identification of the customary parent for a Torres Strait Islander child might vary from child to child?---Yes, that's correct.

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So when the act speaks of or is predicated on the apparent assumption that there's a common islander custom as to who parents would be, is the act misunderstanding the true position in that whoever the customary parents are might depend from one family to another or one island to another?---That's correct.

COMMISSIONER: Is that supposed to be a reference to customary adoption in the Torres Strait Islander tradition?---That's correct, yes.

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It's not the same in the Aboriginal tradition?---No.

But whoever wrote this piece of legislation assumes that there is a readily identifiable traditional Aboriginal parent for children?---Yes.

11/9/12

McNALLY, J.M. XN

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But there isn't?---There's not, no.

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MR COPLEY: If there was, there would arguably be a lesser need for approved foster carers or kinship carers, wouldn't there?---That's correct, if there was.

You would think, generally speaking, that if there - - -?
---If that was true, yes.

COMMISSIONER: I thought that was the point of it. I thought the point of it was to widen the pool of parents available to choose from to avoid intervention.

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MR COPLEY: To avoid putting the children into care and protection.

COMMISSIONER: Yes.

MR COPLEY: Yes.

COMMISSIONER: Which is slightly different to having the extended family and the local community being looked to as the substitute parent.

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MR COPLEY: Is that an appropriate time?

COMMISSIONER: Yes, it is. We will resume at quarter past 2.

THE COMMISSION ADJOURNED AT 12.57 PM UNTIL 2.15 PM

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11/9/12

McNALLY, J.M. XN

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THE COMMISSION RESUMED AT 2.22 PM

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COMMISSIONER: Yes, Mr Copley?

MR COPLEY: Mr Commissioner, before we resume questioning the witness, during the lunch break I was approached by a gentleman from the federal Department of Families and Housing, a Mr Peter Clark, who provided me with statistics which were collated by the Australian Bureau of Statistics after the census last year concerning the demographics and education and employment statistics and dwelling statistics for various communities on Cape York Peninsula and at Yarrabah.

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It occurred to me that it might be helpful for the commission to have these statistics available, because, for example, one of the issues that they cover is the question that you ruled Detective Horan couldn't answer, which concerned dwellings and things like that, and for each town or each settlement are figures concerning the average number of people per household compared to the Queensland state average and the Australian average and it might be helpful to have those, because even though Mr Clark of course can't guarantee the 100 per cent accuracy of statistical surveys, it's generally accepted and the commission could take notice of the fact that the Australian Bureau of Statistics probably is the premier statistical agency in the country and their figures are usually relied upon by all levels of government and councils and private industry as being pretty accurate.

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COMMISSIONER: Sure.

MR COPLEY: I don't have copies but they'll be put onto the - - -

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COMMISSIONER: Web.

MR COPLEY: Web. I'll just read into the record which towns they concern. Aurukun, Yarrabah, Mapoon, Pormpuraaw, Wooril Wooril, Lockhart River, Kowanyama, Napranum and the Northern Peninsula area.

COMMISSIONER: Okay, thanks, Mr Copley. The census statistics as a bundle will be exhibit 59.

ADMITTED AND MARKED: "EXHIBIT 59"

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MR COPLEY: They basically show the position as at - I think it's 9 August 2011, if you read the footnotes at the end of page 3, I think it is, of each document.

COMMISSIONER: Okay, thank you. Did you need them now?

11/9/12
2.22

McNALLY, J.M. XN

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MR COPLEY: I don't need them now. I just thought we'd tender them now for - get them so they can be put onto the website.

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Ms McNally, I just wanted to ask you one further question. At paragraph 31 of your statement you speak of the anomaly of government and non-government service provisions Aurukun compared to that of Torres Strait Islands and the Northern Peninsula area and you say the anomaly is considerable. What are you referring to there?---In relation to that I'm referring to the services that are provided, both government and non-government to Aurukun as compared to what's actually provided in the Torres Strait.

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I know that. Are they better in Aurukun than the rest of the place or are they worse?---Yes, we have a lot more services going into Aurukun than what we have through the Torres Strait.

By that do you mean both government and non-government services or just government services from you?---We have government services in both the TI area and Aurukun area.

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Yes?---It's probably more around the non-government services.

Are you able to offer any explanation for why non-government services going to Aurukun are so much better or more enhanced than they are to the rest of the Cape?---I would imagine that we have a lot more services going into Aurukun due to Aurukun is a welfare reform community.

Yes?---Aurukun has always been a community by the public that has a lot of problems in it, perceived by the public. It's also a discrete community as opposed to the Torres Strait which has - you know, there's 17 outer islands to service.

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Aurukun is population-wise the largest of the four communities that the Families Responsibilities Commission is responsible for, isn't it?---I believe so, but I'm not exactly sure on that.

Okay, and it's also the largest for which the Cape York welfare trial is running, isn't it?---I believe so.

No further questions, thank you.

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COMMISSIONER: Thanks, Mr Copley. Mr Selfridge?

MR SELFRIDGE: Yes, thank you, Mr Commissioner.

Ms McNally, before we commenced the sittings this afternoon, you kindly provided some maps to myself as counsel representing the State of Queensland. I'd just

11/9/12

McNALLY, J.M. XN

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like to put those maps to you, if I can, and for you to explain to the commission what they represent, please? ---Okay, the first map is just showing the map of - - -

I'll just stop you for just for a second, please?---Sorry.

Mr Commissioner, there's a copy of those maps, if I could hand them up to you at this moment in time so that you understand and can follow it at the same time.

COMMISSIONER: Thank you.

MR SELFRIDGE: Okay, the first one, which is a blue map, as such, can you just explain to the commissioner what that represents?---Okay, basically why I provided this map is we have a hub based in Weipa.

Yes?---A child protection hub that services Mapoon, Napranum, Aurukun and Weipa. So it was showing the distance between, you know, where we actually service from that hub.

So that's at the northernmost point of Cape York, as such, this?---No.

No?---No, the first - are you looking at this map?

Yes. Sorry, my apologies?---Yes.

Yes, but taking it further, right up to New Mapoon, et cetera, that takes us up towards Cape York - - -?---It does, that's correct.

Yes, that's what I mean, sorry?---Yes.

The second map is literally the northernmost point?---Yes.

Takes us up then into the Torres Strait. Is that correct? ---That's correct.

Could you expand on that in terms of - - -?---Okay, we have a child safety hub based in Torres Strait Islands.

Yes?---On the Torres Strait, Thursday Island, and that hub services all of those outer islands there as well as on the next map is what we call the Northern Peninsula area. So they're responsible for servicing child protection provisions to those areas.

Okay, and the third map, which is slightly off-set in terms of the northernmost point, which is off to the north-west, if you like, that represents what, that map, the third map?---This map here?

No, the third one?---Sorry. The first one represents, sorry, the Northern Peninsula area.

11/9/12

McNALLY, J.M. XXN

Yes?---So they're the five communities that we service within that area.

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So those named communities there, New Mapoon, et cetera, those are the named communities that you service within that area?

---That's correct.

Okay, and these are provided to give the commissioner a greater or better understanding of the geography and, in particular, the (indistinct) of the geography the distances cover within that. Yes?---That's correct.

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Yes, okay. Mr Commissioner, I seek to tender those documents, thank you, as a bundle.

COMMISSIONER: Yes, sure. The bundle of maps of the Cape and the northern tip of the Cape will be exhibit 60.

ADMITTED AND MARKED: "EXHIBIT 60"

MR SELFRIDGE: Thank you.

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COMMISSIONER: Who is the service provider of the Weipa hub? The Weipa hub?---The child safety hub.

Yes?---The hub in Weipa, yes.

You have?---Yes, we do.

Okay, and what about RAI, where's RAI?---RAI is actually based mostly here in Cairns.

Right?---We don't use them throughout the Cape.

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Yes. Is that a financial constraint or a model problem? ---The model is based in Cairns.

Yes, because Cairns is the biggest centre, but the idea of RAI if you could afford it, is it a good one to put in the Cape?

---I believe it could be, yes, but we have other models in the Cape. It mightn't work quite as well at this point in time.

Okay. Sorry, Mr Selfridge?

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MR SELFRIDGE: Yes, thank you.

Ms McNally, as in paragraph 1, you say your area and your role, your responsibility, as manager of the Cape York North and Torres Strait Islands Child Safety Service Centre, you've just identified to the commission the geography of that area that's covered.

11/9/12

McNALLY, J.M. XXN

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Throughout the course of your statement you identify different parts about out-of-home care and taking children from communities, and whether they be taken to another community and placed with foster carers or whether they be in residential settings. In terms of the specifics of that and what kind of impact that might have on those children on an ongoing long-term basis, would you care to elaborate to the commission?---The removal of children out of community?

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I'm sorry?---Are you talking about the removal of children out of the community?

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Yes, I'm talking in a generalised sense of removing children from communities and then specific to those children, what does it mean in terms of impact on an ongoing basis?---Yes, the removal of children has a huge impact, taking them out of their own communities. We often bring children down here - we bring children down here when we can't find a placement in communities and place them in a very alien environment. So they're placed down here. If we're lucky we can find a foster carer. Often they'll go into a residential - which is a youth worker model - that the children are actually placed in. It's very, very different to what they experience in community. I actually believe we probably can cause more harm to the children by taking them out of community and placing them down here, as opposed to making every attempt to keep them within their own communities.

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Okay. Related to that, both directly and indirectly, are working within indigenous communities. Can you identify to the commission any differences from child protection or a child safety-type perspective in relation to specifically working within indigenous communities, as such?--- Certainly. I kind of touched on previously the services that we have to Aurukun. Aurukun is a very well-serviced community. We have the family responsibility commission there, it's a welfare reform community, so there are quite a few services provided to the Aurukun community. In relation to Thursday Island, because of its geographical area we have very few services provided to the outer islands. There might be services actually based on Thursday Island or even the northern peninsula area, but there's no real outreach services to our outer islands - and there's 17 of them all up. So if we have families who are on outer islands who might need basic family intensive support services, the services that are funded up there aren't funded to do regular and consistent outreach. So some services might travel on a quarterly basis, some might travel on a monthly basis, and this isn't sufficient to service our families up there.

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Okay. What does it mean for the worker on the ground, though, in terms of those that are in the hubs or at a TI hub as such, working on the ground in the indigenous

11/9/12

McNALLY, J.M. XXN

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community, as opposed to working at a central base in Cairns?---In a professional aspect it means that they don't have those services that are offered to workers based in Cairns. So basically we ask our officers when they're travelling to outer islands to do some of this work themselves, to undertake some of those basic parenting courses, those kind of things. We can't ask them to undertake specialist service like sexual assault counselling or substance abuse counselling, but they can certainly undertake some parenting, budgetary, dietary kind of training with our families. That's at a professional level in TI. For workers working within the hubs for a personal level there's nothing. I mean, they go up there, they feel extremely privileged to work in a community, but the things that we take for granted, they don't have access to.

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What do you mean? Give us examples?---A hairdresser, something as basic as buying underwear or clothing. Those kind of really basic things that we take for granted living in urban areas, workers in those hubs can't access.

Okay. And identifying those issues for people working within the indigenous communities and lack thereof, how do - in your view what are some of the measures that could be taken to fix or address this?---The department has to be really, really strong in relation to the incentives that they provide to CSOs to work in communities. We need to ensure that we provide good incentives. I know previously it used to be you had to work - you were contracted to work for two years within a community; that's been changed to three. It's extremely hard to keep people in a remote setting for three years. We need to ensure good housing for our staff in communities. Housing is a problem not only for staff, it's a problem for our clients. Housing is a major issue in any community. We need to ensure that we keep - and we ensure the incentives are worthwhile for people to work in communities.

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Thank you.

COMMISSIONER: What are the incentives, though?
---Currently there's a \$10,000 bonus. It's taxed and they're entitled to 5000 every six months; subsidised housing and a training and development incentive.

So the housing is subsidised, is it?---Yes.

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Not free?---No, it's not free.

What's the subsidy?---They generally pay probably between 80 and 120 a week, but housing in Thursday Island is up to \$900 a week.

Is it?---Yes.

11/9/12

McNALLY, J.M. XXN

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How come?---Because there's - - -

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Not many?---It's scarce, extremely scarce.

Don't you just build more?---Sorry?

Can't we just build more?---It's only a small island. It's only got capacity for so much.

And it's at full capacity?---They're currently building some housing or units up there, but the cost in TI is astronomical compared to some place like Cairns.

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You said before Aurukun is well serviced?---Yes.

Is it serviced as well as it can be?---I believe so, yes.

Okay?---I believe in relation to services that go in, it's very well services.

It's good enough?---It's certainly good enough. I mean, I also spoke in my submission about the difficulties that non-government agencies have in recruiting people to those positions.

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Yes?---There's a huge turnover of staff and it's extremely difficult to recruit to specialist-type positions in remote communities.

Assuming that within a margin it's as good as it can get and needs to be in Aurukun, has it made a discernible difference?

---I believe it has. I believe that having a safe house in Aurukun - we've had a number of reunifications that could partly be put down to the fact that the children are actually in the community, so reunification is something we can actually achieve, it's something - when children are based in Cairns and parents are in Aurukun reunification is very hard to achieve, obviously.

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Because the parents have to come to Cairns?---Parents have to come to Cairns or the children have to go to Aurukun; extremely expensive, as you can imagine. So where you would be wanting to have contact maybe twice a week, that certainly can't happen when the children are placed in Cairns.

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And it would be destabilising for the child to go back to Aurukun or any other community regularly, wouldn't it?

---Yes, certainly. If they're at school age it's not something you can do during the school period. To send them up for a weekend is far too expensive, so it's about school holiday time if they're based in Cairns.

Is there a priority emphasis given to their schooling - if

11/9/12

McNALLY, J.M. XXN

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not by them, by the department?---I believe the department attempts to. Certainly I believe I have. I believe education is really important for our indigenous children to break cycles. I don't believe the education in communities is at the standard we would like. We've had children brought down here of 13 and 14 who can't read and write.

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Tell me about that school I went to yesterday, what was it? ---Djarragun College?

Yes, Djarragun school?---Commissioner, I can't speak very well to that because we have - I only have one child who attends Djarragun. It's not a college that a lot of our children go to, so I probably can't speak to Djarragun with - - -

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But you send one child there at the moment. You used to send more, didn't you?---We used to have more children there. We have the Western Cape College in Weipa, so we have children go to that. We just don't have a lot of children - Aurukun doesn't have a secondary school so children go to boarding school. We just don't have a lot of children at that boarding school age currently.

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But Djarragun, as I understood it that's the school where the kids who have for one reason or another excluded themselves from every other school, goes. Is that a fair comment?---I probably can't really comment on that. I know Djarragun probably has changed over a period of time. My experience with Djarragun previously wasn't that, no.

Wasn't a good experience?---No.

There were some problems with financial management, wasn't there?---There were problems with that. There were also problems with our children being excluded very easily from the school.

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Right, okay; but that's just a change of policy, change in personnel sort of thing, isn't it?---Could well be. 1

But the idea of a boarding school and a day school that predominantly indigenous children can have access to and get an education for a reasonable price is a good idea, isn't it?---It is.

When you sent that one child that you have currently got to Djarragun, how much do you pay for the child to go there for enrolment?---We claim Abstudy for children who go there so we - I think the child we have - it's a very small amount that we have to make the difference of and pocket money basically would be the extra we pay. 10

Right. So would the yearly fee be about \$30,000 for an enrolment there for a boarder?---I can't comment on that.

Okay, but Abstudy covers most of it, whatever it is? ---Abstudy covers a great percentage of it.

And that's a federal government allowance?---I believe so, yes. 20

So when I was out there anyway, what I saw was a couple of hundred children, maybe 400 children, primary-secondary school age, some boarders, some primary school students, and I understand - not being from up this country, I am not fully familiar with the controversy about its funding. I understand it's not an approved department service provider. Is that right?---My understanding is it's not, no.

It's not, and does that largely arise out of their financial management problems?---I can only speak on my experience with them and that certainly was my experience a number of years ago. 30

Okay, but what I saw though is the kids were orderly, well behaved, they were going to school, they seemed to be well cared for, on the one hand, and the people there were telling me that funding is a problem and a risk of it being mothballed for lack of funding because they depend solely on enrolments and against that the federal government has obviously spent a lot of money on infrastructure there because they have got refurbished boarding houses, new sports facilities. I don't know how much but millions of dollars. It struck me as a bit odd one government at one level spending a lot of money on infrastructure at a place that's at threat because of lack of state funding or enrolments likely to fail. Don't the federal government and the state governments talk to each other about what's a good investment of taxpayers' money as in, "Should we put a sports centre in a school that is in financial difficulty or put it in a school that isn't"?---One would hope so, commissioner, but you probably would be better placed to 40

11/9/12

McNALLY, J.M. XXN

answer that than I am.

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Fair enough. Yes, Mr Selfridge?

MR SELFRIDGE: Yes, thank you.

Just picking up on those similar themes that we have already discussed, differences in working in indigenous communities. In terms of your role as manager at Cape York North, Cape York and Torres Strait Island one size doesn't fit all. Does that mean something to you?---Yes, it certainly does. I mean, I think with child protection offering those services in the cape is very different to offering them in some place like Cairns or in Brisbane. We need to work better and smarter in the communities. We rely very heavily on working well with other organisations and I think that's even more important in communities than probably here it is in Cairns. It's really important for my service centres and my hubs to work very closely with the indigenous agencies up there. It's also important for us to work well with the non-government agencies. We need to have a holistic framework to deliver services well in the cape. I don't believe we're there. I think we're working towards it but we have some way to go, but we all need to collaborate and work well and understand each department's agencies roles in that.

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You say we need to work better and smarter in communities. You say we're working towards it. How are we working towards it?---Look, as I said in my statement, the hubs have been open since - I believe they were operational about 2007. When I came to the Cape North office in 2009, they weren't well staffed. We didn't have the staff. It's taken a number of years for us to staff hubs well, so to have people based in hubs. We have a relatively stable workforce when you talk about how long people will stay in communities doing that job. As I said, in Weipa we have six out of our eight staff who have been there for 18 months so - sorry, I lost your question.

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What I'm essentially asking is this: working better and smarter?---Yes.

You say we're working towards it?---Yes, okay.

We have got a relatively stable workforce?---Yes.

We've got a better retention rate. Are we getting there? Are we getting there? Are we in the right direction, or what things could we do to augment that or assist?---Look, we certainly are going in the right direction to that and I think I spoke about that, you know, the stability of staff, staffing, the staff actually being accepted in community. I think hubs - I absolutely believe hubs are very important in delivering child protection so it's not a fly-in, fly-out service. Many years ago we had a fly-in, fly-out

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11/9/12

McNALLY, J.M. XXN

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service. We don't have that any more. We see our staff who are based in hubs very well accepted in communities to the point where particularly on TI I also - when I've been there, we've been invited to tombstone openings, to funerals, to feasting for when someone's died. So people are much better accepted if they actually live in a community as opposed to fly-in and fly-out because they get to know their community. They immerse themselves in the community and become part of the community. So we certainly are heading in the right direction particularly in relation to hubs in working smarter. I actually believe we could start looking at investigation and assessment people being based in hubs. When hubs were first set up, I believe there wasn't - they didn't think it was safe to put people in the hubs because of removal of children. I think we've come a long way and I think we need to start looking at a model of having IA workers based in hubs and they're also part of the community and accepted as part of the community.

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Is that realistic?---Definitely, yes.

Also in that same theme of size doesn't fit all from a different perspective, targets - as manager, targets, identifications, focus, policy, direction?---Certainly.

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Does that mean something to you?---Yes, it does. Look, the department expects certain throughputs and, you know, I talk about this a lot at my own management team meetings. When we talk about - so the department might say they expect each worker in an investigation and assessment team to complete six notifications a month. I will always argue that we can't do that because a lot of it is about a travel component for my staff. If I've got staff in TI for a week, 10 hours of that is spent purely on travel without anything else. We also have indigenous communities protocols that we need to follow so we will send a letter to every community prior to visiting it and then when we go into community, we must go and meet with someone from the council and usually the police. So that can take up to an hour and a half for our staff to do that kind of work prior to them actually doing any other work. So the protocols that we should follow in communities and that we do follow take quite a bit of time so the throughput, I believe, for cape staff in relation to what the department expects should be different. It shouldn't be - you shouldn't be expected to put the same thing through as an urban based service centre.

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So travel, protocols, expectations and along those lines should be factored in is what you're saying?---They certainly should; you know, when we have staff who go up there, we catch a plane from here to Horn and then from Horn to the ferry it's a short bus ride, then from the ferry you catch a ferry from Horn to TI, a short ferry ride, and then if they're going out to do work, you get on

11/9/12

McNALLY, J.M. XXN

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a chopper.

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There needs to be an appreciation of that?---Sorry?

There needs to be an appreciation of that?---Yes, I believe so.

Okay. Can I just come back one step? I was previously asking you some questions about out-of-home care and you identified what it means in terms of impact on a child and the child's welfare and the long-term impact on a child. I think when Mr Copley asked you some questions, you suggested it was an approximation but there were currently about 80 children in out-of-home care in your remit?---No, sorry, if that's what I said, there's certainly more than that in out-of-home care, and I might have said that. I think we're probably closer to about 130-odd, I would imagine.

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Okay. Financial implications, cost implications because if I can just put something to you, a statement to you, and then you tell me if you agree or disagree and why.

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Obviously that which we do in terms of child protection is governed with everything else by budgets and constraints, but the general theme of this commission thus far has been through intervention - early intervention. At that stage there's cost savings at the other side and perhaps it's a more cost-effective means of addressing some of the issues that are raised when able to do so. Would you agree with that as a general principle?---Yes. 1

Yes. What do you say in terms of those children - particularly those children who are taken from the communities and brought back to Cairns or outlying areas in terms of costs implications for you and for the department in terms of budget?---Often if we take children out of community and bring them to Cairns, as I spoke on earlier, we don't have a lot of foster carers, so they often can't be placed with a foster carer or a kin carer. We often have to place them in residential, which is a very, very expensive model. So we're paying a lot of money to place children in residential. This has been a discussion, I believe, with - we talked earlier about an intervention with parental agreement. 10

Yes?---The amount of money that we put into paying people to look after the children here, I believe would be better spent in putting around families and keeping those children in the family, so keeping them in their community and in their family and putting the services around that, rather than removing them from their community. 20

With a shift towards this focus of - whatever terminology is attributed to it, but something along the lines of an IPM-type model - intervention with parental agreement-type model. Is that what you would advocate we have?---Yes, I would. I would advocate that we put the money into the families and keep the children - yes, we can go in, as I talked about before, to do an intervention with parental agreement is yes, they've been deemed children in need of protection, but the department has also done an assessment about the parents' willingness and ability to work with the department to address those child protection concerns. So if we can keep the children in the family like that and wrap services around the family, I think that would be money much better spent, and then coming - you know, maybe not working and then coming to the department's attention again. 30

The family, however described or however defined, as such? ---Yes. 40

And you identified just before the break that there's no strict parameters or definitions of whether it be custom or tradition respectively between the Torres Strait Island and the Aboriginal communities as to what defines a parent and family for a particular child?---That's correct. I mean, in relation to that, as I said, in the Torres Strait it's -

11/9/12

McNALLY, J.M. XXN

the only way we would know is if we went in to do a notification and then the family say to us, as often happens, "This child has been given to us through cultural adoption."

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Okay?---So that is the only way we would know. And to find out further about that we would use the recognised entities. Recognised entities in communities know their families. Often they're from that community, so these people who are the recognised entities know their community and can give us that information.

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Not to over-simplify things, but to give an example, could it be something as simple as a child being - an adoptive family with the community, whether it be a blood relative or otherwise - normally a blood relative, but somebody that's kin for that child and has been caring for that child as primary carer for a period of time?---Sorry, could you say that again?

Yes, it's probably my accent and probably the convoluted question as well - perhaps both. Could it be as simple as someone, whether a blood relative or otherwise, who's been caring for a child as primary carer for a period of time, and they're identifiable parent as such within that community? Is it as simple as that sometimes?---Yes, it can be, yes.

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COMMISSIONER: But if that was a situation the child wouldn't be in need of protection from that parent, would you? See, the point of the legislation is aimed at keeping children safe enough at home as long as there's a parent able and willing to protect. And if a child is - and so the parent then becomes the focus of the decision-making, who's the parent?---Yes.

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That is, who's the parent who won't protect the child? But if the child is being cared for by kin or an adoptive parent under customary arrangements you have to decide whether it's that parent who can't protect, not the biological parent who might present the risk to the child who the adoptive parent is protecting the child from? ---Commissioner, can I give an example? I agree, we're getting a little confused. If a notification is deemed the correct intervention we go out and we assess that. When the concerns come in the concerns would come in about whom that child is currently living with.

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Right?---So whether it's their adoptive parents or biological parent. The assessment is actually done on that household regardless of whether it's - my concern in relation to that is that regardless of whatever the outcome is, the adoptive parents don't have any legal standing in a courtroom, regardless of whether that child has lived with them for the last 10 or 12 years, paperwork, service, everything goes to the biological parents, regardless of

11/9/12

McNALLY, J.M. XXN

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whether they've had anything to do with this child or not. 1

And I think the adoptive parents and the local community would complain about that?---They certainly would. I mean, this is something that's been talked about a lot in communities, that the adoptive parents - and it's also about this is the custom and the children aren't meant to be told about it, and yet child safety can come in and then we've got to go and find parents.

And in fact as I understand it - I might be wrong, I often am - but it's actually embarrassing to the biological mother sometimes to serve her with documents relating to the child? 10

---I think it's quite embarrassing to all involved to have to go down that road. It's not culturally appropriate. Can I just ask you some questions about the residential I went to yesterday. I won't identify where it is, but it has four children with high needs in it?---Mm'hm.

And it's in Cairns. And it's a therapeutic-based service. Do you know the one I'm talking about?---I might.

All right. I was just wondering how and whom identifies the allocation of funding for that sort of thing. For example - I'll use the analogy - for placements and cares the government purchases a service, right, from a provider. Now, do you go and buy off the shelf what's being offered, or do you tell the provider what you want? Do you custom-make your product?---In relation to us placing children in residential care - can I just preface this by saying the director of the PSU unit will be appearing and she can probably speak much better to this than I can. But in relation to us placing children in a residential setting, it is our responsibility as a service centre to discuss it with the service-provider about: this is what we expect you to provide us. 20 30

But that's after you've identified the service provider. I'm at the stage where you're calling tenders?---Okay. And that probably is something I can't speak to.

All right?---I'm sorry.

I just want to know who designs the tender. Who determines what you actually want and what needs you're meeting?---Can I ask that you ask that question of - - - 40

I will, yes, sure. And the final question is you were talking to Mr Selfridge about supporting families rather than intervening when a child is actually in need of protection because by that stage either the child has already been harmed or at such risk of harm and it can be too late. What is the appropriate point of entry for a statutory system?---I actually think that we get a lot of - through our RIS - lots of intakes - - -

11/9/12

McNALLY, J.M. XXN

That's the intakes - the regional intake system?---Yes.
Lots of intakes through them that really should be dealt
with by other funded agencies. An example would be like
the DV service could maybe deal with it. Some of the race
services based in Cairns - certainly doesn't apply to us in
the Cape - but some of those - take a lot of work for the
RIS service to do and they're really not at the end of
where we would be intervening.

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11/9/12

McNALLY, J.M. XXN

17-81

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Okay. Let's take that as correct. Somebody in government has to receive those intakes and farm them out to the appropriate service provider. Right?---Yes.

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At the moment it's happening by default through the child protection system?---Yes.

So people are reporting because at least they're reporting to somebody who might do something because at the moment nothing is being done. That's an understandable human reaction, isn't it? So if you are going to change it, you need to give them somewhere else, some other letterbox to drop it in, don't you? What do you call that letterbox? At the moment it's a child in need of protection. What should you call it, a child in need of help?---I suppose I can answer that in relation to - an example is the number of - and it's due to the police legislation that they must pass this on, but there are many numbers of intakes that we take from the police relating to domestic violence. Some of them are really about the child hasn't witnessed it. That's really not something that child protection could deal with.

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That wouldn't be consistent with their policy either, if you get that, because their policy is only if the child down witness it. Anyway, it doesn't matter. You're getting them when you shouldn't be getting them - - -?---We get them, yes, and we get them by - and that obviously takes up a lot of work by - - -

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But the question for the child is: what do you do with it once you have got it? Given that you don't want to hear about it but you did, what do you do with it?---Well, as I said, I think the RAI Services could actually pick up some of that work. There's a domestic violence service.

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But does it?---Not currently.

No?---This is what I'm suggesting could occur.

Yes, so that means you get a lot of information that might be useful to help a child that never gets passed on to anybody. It gets filed in a drawer somewhere?---Well, all the information that Child Safety takes currently is recorded.

It's recorded?---Yes, is currently.

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But what is done about - recorded for whose benefit? Who gets access to the records?---Well, if it's a notification or - if it's just an intake and it's just a general inquiry, it does get recorded and people don't get access to that.

It gets recorded and filed, but, as you say, if you passed it on to a DV organisation, it might actually be recorded

11/9/12

McNALLY, J.M. XXN

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and actioned and you don't know how many of those mere intakes or child-concern reports that don't meet your threshold don't come back to you in two years' time as a substantiated notification, do you?---If it came back to us and it met our threshold, we would know about it.

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No, but what I'm saying to you is you might have been able to prevent it ever bouncing back to you by doing about it when it first came to attention?---Yes; yes.

Instead of just saying, "It doesn't meet our threshold," it gets filed. If there was a facility to farm it out to some organisation that could do something about it, it means you might never get to hear about it. You might stop it at the threshold?---Yes, and I agree with you. We need to - the early intervention and prevention services are very important.

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But, see, you don't need me to devise a system like that. Surely you can do it cooperatively among yourselves. The government doesn't need someone like me to work it out? ---Right. I'll give you another example of the kind of thing you're talking about. When we have sexual offenders who are released by corrections, they're released back into the community and they can go and live on - go back into community and live in houses so then something will happen. Last year there was a police - they looked at all sexual offenders who were released back into community and we got something like 25 notifications in a week from the police about sexual offenders who were living back in homes with children. For child safety the fact that there's a sexual offender living in the house makes it a priority 1 so that's a 24-hour response for us that we have to go out with no other information but this person's - some of those cases the people had - the alleged offender had been living back in the house for six to 12 months because there's no communication - - -

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Now all of a sudden it becomes your problem within 24 hours?---That's right, because there's no communication between the police and corrections and ourselves about that. If there was better communication or some kind of agreement between us about how - then we wouldn't have these 24 hours - 20 of them in - - -

But, see, you would recognise that. They would individually recognise that. The policeman who was in here before you would have said, "Yes, that's a good idea. We should do that." We all know what we should do and you can't legislate for it. You can't say, you know, departments must act sensibly and cooperatively and work something that works out? ---Between themselves, yes.

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You can't do that?---No.

And you don't need to do it?---No, MOUs are good.

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Yes, that's right. I would have thought there would have been a lot of scope. There are a lot of MOUs floating around about how you managed and filed records and keep IT systems functioning, but there don't seem to be any about how you manage human beings?---Yes. I can let you know - and, as I said, I could only speak to my own experience and my work in the area that I work in - that this is a problem, to go into a house after someone has been living there for 12 months purely based on the fact there was an offence at some point in time because our system says that becomes 24 hours that you have to go out and investigate that with no other information but that.

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All right. How do you deal with that? You say the police shouldn't give you the notification if that's all it is because the risk has been there for six months and it hadn't got any worse overnight or they should give you the information and say, "Look, don't treat this as a priority 1. The bloke's been there for six months." However, you do need to know that it is an ongoing risk. The longer he's there, the bigger risk he is so you might want to do something about that. So the information is useful?---Yes.

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But it's only useful if you do something useful with it? ---Yes, and it's only useful if you have it.

Yes, if you have enough of it?---You have the information.

That's what you're saying you're not getting enough of? ---Yes, I think there's no talking between the three government agencies around that.

Here's your chance. How would you like to talk to them? ---I mean, in relation to this particular thing, I think we need to - I think an MOU would be quite good when people are released back into community that - you know, police or corrections inform us about that so we're aware someone's there, we're aware what their conditions are when they go back into community, so we don't have to race back in when there's been something said about - - -

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Who designs an MOU for you?---Sorry?

Who does your MOUs up?---I believe it probably depends on what level you're doing it. At the level we're talking about between governments it certainly would be well above my level, whether it be DG level or RD level.

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DGs can't do it though unless they know there's a problem from lower down, can they?---No, they can't and that's why this inquiry is probably a good thing so all these issues are brought to light.

11/9/12

McNALLY, J.M. XXN

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Okay. Mr Selfridge?

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MR SELFRIDGE: I have no further questions for the witness, thank you.

COMMISSIONER: No more questions. Now, Ms Byles - - -

MR COPLEY: Could I just ask - - -

COMMISSIONER: Yes, Mr Copley?

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MR COPLEY: If that's all right.

COMMISSIONER: Of course.

MR COPLEY: Thank you.

Ms McNally, under section 14 of the act it says that if the chief executive becomes aware, whether because of notification or otherwise - so if the chief executive becomes aware from the child protection investigation unit that a sex offender has been released and is living at such and such an address, that probably falls within the category of or otherwise - of the alleged risk of harm to a child - so if a chief executive becomes aware from the police that there's a sex offender living in a house where there are children and it's assumed that because he was a sex offender, the children there are at risk of harm and he reasonably suspects the child is in need of protection, that reasonable suspicion presumably being borne of the fact that the children are living with a sex offender or in the same house as a sex offender, the chief executive must immediately have an authorised officer investigate the allegation and assess the child's need for protection or take other action that the chief executive considers to be appropriate. In that situation, prima facie isn't the chief executive obliged to go and immediately investigate those children even though the sex offender might have been living there for six or 12 months if the chief executive has found out from the police that there is a sex offender living there?---Certainly under the legislation we are obligated to do that within 24 hours.

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Well, prima facie you are, but then it says "or take other action the chief executive considers appropriate" and we have heard evidence that sometimes - there is a system in place whereby family services has criteria or - yes, criteria around when they - by what time they will have to complete an investigation and I just wanted to ask is a time frame within which an assessment or an investigation has to be completed - is that done pursuant to section 14(1)(b) of the Child Protection Act?

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11/9/12

McNALLY, J.M. REXN

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---Which is what, exactly, sorry?

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Well, I just want to know - you see, we've heard evidence that sometimes child protection will move like greased lightning on something, other times they'll say, "Well, no, we've only got to do that within five days or within 10 days"?---Okay.

Now, if the chief executive becomes aware through an email these days from the head of the CPIU that sex offender X is living at Sheridan Street, Cairns and there are three children there and he's served time for molesting children before, if the chief executive reasonably suspects the children living there are at risk of harm then he must immediately investigate or take other action he considers appropriate, and I'm just asking you if he doesn't immediately investigate, as section 14(1)(a) requires him to do, is his failure or her failure as the chief executive to immediately investigate permissible because section 14(1)(b) says he or she may take other action as the chief executive considers appropriate?

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---Due to our screening criteria in the department once there's allegations of sexual, that then becomes a 24-hour response regardless.

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COMMISSIONER: That's the problem with rules. When you've got a rule you'll obey the rule instead of exercising your common sense.

MR COPLEY: But the point is that under this legislation you don't have to act within 24 hours, do you? It says that you must immediately do something or take other action the chief executive considers appropriate?---But because of the way that would be screened it would screen as a 24-hour response.

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Yes, but that's because someone in the government department has drawn up a policy or a manual or a guideline - and all those ladies there behind you are nodding vigorously.

COMMISSIONER: See, it's overriding the law.

MR COPLEY: Isn't it?---But that's what we must abide by.

What?---Our priority rating. Yes, you're saying there's a policy in there - - -

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Well, you've got to abide by the act?---Sorry?

You've got to abide by the act, haven't you?

COMMISSIONER: And what you're abiding by at the moment is somebody's wrong interpretation of the act.

MR COPLEY: In law the only thing you have to abide by is

11/9/12

McNALLY, J.M. REXN

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the law, isn't it, the act?---That's correct.

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So it would be open to a family services officer to say to the police or to their manager, "Look, this sex offender is 81. He's been living there for the past nine to 10 months. The police tell us that the children's mother is living there. He's her father. We've had no reports from the mother about him, we've had no reports from the school about the kids not attending school or anything untoward happening at school, nothing has come in from Health. We might let that matter rest for a week or two because we've got other more pressing cases to deal with"?---Can I say to you that in relation to sexual offence - and sometimes the department can be a little risk averse, but it's also - when you say "sexual offender" people get very concerned about that. So if they're saying - you know, so it is something that people will respond to quickly, because if you don't and something does occur you've known that there was a sexual offender in the house, without any other information.

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Well, you've known since you were told?---That's correct.

Yes, and your policy is that, or the department's policy, if there's a sex offender - and I assume it doesn't matter whether he's offended against minors or adults, it still warrants a 24-hour response, does it?---If it was - it would be against minors.

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Against minors?---And if he was based in a house with minors, yes.

I see?---That's - - -

COMMISSIONER: I just - - -?---The response would be 24 hours.

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I've often wondered about section 14(b) and how it's used in the department, because as you say, the law says you've got to do something or something else, and I'm wondering how often the "or something else" is used?---I think the department tries to do the something as opposed to the something else. I can give you an example where we might do the something else. In the Torres Strait when we can't - if there is a 24-hour, obviously we mightn't be able to get a staff member there in 24 hours to - as I said, the plane, the bus, the ferry, the chopper. So we would ask in that instance for maybe the police to be able to site the children or start that investigation. So that would be an example where we would do "or something else".

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But just going back to Mr Copley's example, you're told, you find out, you've got an 81-year-old sex offender who has gone through all the sex offending programs and there's no other indicators of risk, although in order for you to get to 14(b) someone has had to have decided that the child

11/9/12

McNALLY, J.M. REXN

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is in need of protection, which means that the child is at unacceptable risk of some harm and has no parent able and willing, so that means that whoever the parent is in the household is deemed to have been - is deemed not to be able to protect the child from the sex offender even though that we know that the last for the six months she apparently has been. On Mr Copley's example, wouldn't the "or something else" be contact the mayor at Aurukun or wherever it was and say, "Listen, we've just got this information from the police. We have to respond because there's a risk and if we don't we're going to read about it in the Courier Mail on the front page. We don't want to do that. What do you know? How big is this risk? Is it an unacceptable risk or is it not and how is the best way to deal with it other than us flying up there in the next 24 hours to investigate something that's going to turn out to be a non-event"?--- That certainly would be the best way to deal with it if you could get that extra information. Once a notification is recorded and given to a Child Safety Service centre it's from the recording time we have got 24 hours. We would then - as I said, we would where possible ring police to see if they could start that. Unfortunately we don't have the luxury of deciding whether we need to respond to it or not once the notification has been made.

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But, see, that's exactly what the act gives to the chief executive. It says the chief executive has to work out whether the child - or the chief executive has to reasonably suspect that the child is at risk of - or in need of protection. Now, to reasonably suspect something you've got to have information, you've got to assess it and you've got to reach a conclusion?---Yes.

The conclusion has to be this child is in need of protection, which is at risk of harm, unacceptable risk of harm, or having been harmed and no parent who is able and willing to protect the child. How does the chief executive actually do that if the screening says no matter what the child sex offender in the household, you've got a 24-hour response. There's a delegation by the manual of the law and the chief executive never even knows what she's supposed to be aware of, I suppose?---I can't talk to the differences or the maybe anomalies between our policies and the legislation.

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But someone's got to think - this section says someone has got to think about it. Not a screening, someone has got to think about it case by case?---And I agree with you.

But that's not what happens?---People who work in child safety attempt to do what, you know, is set out in our practice and our policy and procedure manual.

MR COPLEY: But if you don't do what's in that policy and procedure manual and respond within 24 hours would you be in trouble with the chief executive?---I don't know that

I'd say we'd be in trouble, but certainly there's stats taken to if you - the amount of 24 hours you don't respond to. So there's certainly data kept - - -

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So they're keeping an eye on whether you're responding to certain things within 24 hours?---Well, there's certainly data kept on that, yes.

COMMISSIONER: But isn't that a classic example of the difference between output and outcome?---Sorry?

Isn't checking to see whether your response is within time an output as opposed to an outcome?---Yes.

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I thought it was outcome based?---One might say it was an outcome - you know, that you would achieve whatever the outcome was by responding in that period of - whatever the set time is.

Yes. No, that's an output, that is, you can tell what you've done within time?---Yes.

It's easy to calculate and if you judge your performance against that you can say, "Well done. You've met the key performance indicator. We responded within time on 80 per cent of occasions even though we didn't really need to," and you get a big tick. The other thing is, the alternative is, you look at, well, what did you achieve by what you did? Not whether you did it within time but what did you achieve by it and did you achieve a respectable result, and this is your opportunity to do it here in section 14 where it says if you get some information, think about it. What does it mean to you? Interpret it and then act according, whereas - and that's the outcome. You might make a mistake but as long as you act reasonably no-one is going to blame you - or no-one reasonable is going to blame you. On the other hand, if you've got a system that says every time that read button goes off, regardless of who pressed it, you've got to jump in your car and go somewhere, that's an output, because you jumping in the car might not have achieved anything except wasted petrol. So that's the difference in the two things?---Yes.

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MR SELFRIDGE: Mr Commissioner, I rise to my feet because while I well understand the point that's being made and the reason as to why it's being made, I would suggest that this type issue is more of a strategic type issue in terms of policy and direction as such and, as manager of a Child Safety Services centre at Cape York, I don't know that this witness is able to assist you any further on that particular point.

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COMMISSIONER: I don't know either.

MR SELFRIDGE: I'm sure you gather my point too in terms of the assistance that this particular witness might offer here on the issue.

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COMMISSIONER: She will offer me assistance based on her experience.

MR SELFRIDGE: Yes.

COMMISSIONER: She might reluctantly want to say something that needs to be said.

MR SELFRIDGE: Yes.

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COMMISSIONER: She won't say it if you just say, "What do you know?" You need to ask questions of witnesses before they will tell you what they prefer not to tell you because they are employed by the department that they're talking about, but my job is to find out what people really know and not just accept the first thing they tell me.

MR SELFRIDGE: I understand that, Mr Commissioner, but in essence the witness has already described to the commission how her policies are put into practice and how they're required to respond to such notifications or such reports.

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COMMISSIONER: Yes.

MR SELFRIDGE: In terms of your observations in relation to how practice could be better performed or adhered more strictly to the legislation as such, section 14 sub (1) (b) - - -

COMMISSIONER: But she can tell me, "Yes, that's right. If we did it that way, it would be better," can't she?

MR SELFRIDGE: I think she did.

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COMMISSIONER: Right. So you don't want her to say it again.

MR SELFRIDGE: I think I have made my point. Hopefully I have made my point in relation to it, but I don't wish to pursue it any further.

COMMISSIONER: Okay.

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MR SELFRIDGE: Thank you.

COMMISSIONER: Mr Copley, do you want to pursue anything?

MR COPLEY: Well, just my learned friend will object if he wishes to, but what I wanted to posit to this witness was this: that it must therefore be the case that whoever wrote the manual - and the director-general would have approved it or signed it so that it thereby became the director-general's manual so we will attribute this state of mind to the director-general because the section requires the director-general to have a state of mind. The director-general must proceed on the basis that the fact that a sex offender is living in a house with children automatically gives rise in the director-general's mind to a reasonable suspicion children are at risk of harm no matter how many other adults are living in that house, no matter the age of the offender or how long ago his offending or the age indeed of the children or the sex of the children. Is that a fair summation of the position?--- It is, but I would argue that there are other circumstances that you would need to know to work out whether you need to be responding to that and we don't get that information.

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No, you just have to respond under your manual. Your manual requires you to respond within 24 hours?---Yes, it does.

Because the director-general has deemed shared residence in that situation to amount to a reasonable suspicion? ---That's correct.

And a reasonable suspicion generally would require a person to know all the facts - also many of the facts that he or she can know about a situation before jumping to a conclusion normally, wouldn't it?---Yes.

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COMMISSIONER: That might be stating the self-evident, Mr Selfridge, but perhaps I should put you on notice that from what I have just heard it seems to me that the manual does override the law or arguable does and the chief executive has fettered her discretion and you might want to address that at some appropriate time.

MR SELFRIDGE: I think we should address it at some appropriate time, Mr Commissioner.

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MR COPLEY: I have no more questions.

COMMISSIONER: Ms Byles?

MS BYLES: Thank you, Mr Commissioner.

11/9/12

McNALLY, J.M. XXN

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Ms McNally, my name is Byles, B-y-l-e-s, initials S.J., solicitor with the Aboriginal and Torres Strait Islander Legal Service and obviously I'm appearing on behalf of that service today. Good afternoon. I wish to ask you some questions in relation to your statement and also your evidence provided to the commission today. Firstly, I would like to start essentially from where we are at the moment talking about decisions and responses. Are you familiar with the term or the idea of "structured decision-making"?---Mm'hm.

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What does that term mean to you?---They're a suite of tools that the department uses called "structured decision-making tools" that are meant to help guide workers in decision-making.

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So are they used by the department?---Yes, they are used.

Are they used in relation to every decision made?---Yes.

Okay; and does the manual form part of that process - and I should say just for the sake of clarity the manual that we were all referring to in discussion just a moment ago. Is that part of that process or is that outside the process? Perhaps for those who aren't familiar with the term "structure decision-making" it might be helpful to explain exactly what that means from the departmental point of view?---Okay. As I said, they're a suite of tools for different decision-making points within child protection.

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Which includes the manual?---It's included in the manual, yes.

So we've been talking a lot about the example, I suppose, of sexual offenders and the fact that there is that response requirement. Is there a similar response requirement required for perhaps another potential form of harm; for example, maybe domestic violence, perhaps a particular type of hospital admission?---All notifications at the department have some time limit on the response so it varies.

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To provide another example, I suppose, the 24-hour response?

---Physical abuse that's obvious or has required hospitalisation or medical - - -

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So perhaps a broken arm or something?---Yes.

Okay. So with respect to the broken arm - and again this is sort of, I suppose, feeding from what's been discussed - what ability does a child safety officer have when assessing a notification? What ability do they have to exercise their professional judgment in that structured decision-making tool process?---So using the structured

11/9/12

McNALLY, J.M. XXN

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decision-making tools you're referring to?

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You mentioned that every decision is - - -?---They can be overridden, structured decision-making tools, in consultation with a senior prac and a team leader.

That's perhaps a little bit different so perhaps we need to flesh that out slightly. So earlier you said that all decisions made follow that structured decision-making tool? ---As a guide.

But there are exceptions to that situation. Can you provide an example of an exception to that situation? ---Well, just generally speaking, I mean, they can look at the questions and have a look at what they're saying and it might have an outcome of if we're doing a safety assessment as unsafe, but due to various other factors a team leader and a senior prac can decide that it's not unsafe due to this, this and this.

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Is that not slightly different to what you discussed with the commissioner and Mr Copley in your evidence earlier? ---In relation to what?

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Well, particularly in relation to the sexual assault or a sexual abuse notification and also with respect to the abuse notification requiring the 24-hour turnaround. As I understood your evidence, you had to comply with that and there are various scenarios put before you that might have indicated that that may not necessarily have been appropriate in particular circumstances, but you said that that still needed to be complied with. Are you now saying that actually there are certain circumstances where that 24-hour time frame doesn't have to be applied because we can exercise our professional judgment to not - - -?---I was actually talking about a suite of tools in relation to ongoing intervention and doing that, not in relation to notifications or the regional intake service.

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Okay?---But there actually is ability, you're right, to overturn those decisions also. 1

So is that perhaps something different then? Just so we're clear, so the department gets a notification that a child has presented at the hospital with a broken arm that is suspected to be the result of child abuse and as part of the structured decision-making process you - the child safety officer is required to consult the manual and the manual says that that must be investigated within 24 hours. Can the child safety officer exercise their professional judgment and say, "On the material provided before me I think the child probably got that falling out of a tree. I will investigate that in a time-frame outside the 24-hour period"?---They can do pre-notification checks and get further information in relation to that. 10

So perhaps describe what you mean when you say pre-notification checks?---Okay, so a lot of time they might ring education or health and get further information, or might ring a school and get further information or a health clinic; out in the islands it's often the health clinics, and get further information. 20

Practically speaking - and I keep in mind the evidence that you've already provided, Ms McNally, that - I believe it was put to you again in relation to the matter of sexual abuse, and you were asked can you not follow that and you said no, the manual must be followed in relation to that 24-hour period. Practically speaking, how often are those periods not adhered to? So, for example, with the broken arm suspected to be the result of abuse, how often does a child safety officer say, "I will not comply with the particular investigation time-frame in the manual"?---I don't think child safety officers set out to say they're not going to apply by a time-frame. There are times that they can't abide by a time-frame often and to the 24 hours I spoke to before where we would ask police to start it. So certainly we don't apply to all - you know, we can't apply to every time-frame five days, 10 days. I can't give you a number for that. You'd have to get some data around that. 30

I suppose I'm not necessarily looking for figures, I'm looking for an indication, I suppose, as to the way things work and really looking for an indication as to the culture of the workplace. Again, there's sort of been discussion around it, but is it the case that the structured decision-making tools, which include the manual, are the usual decision-making processes?---They are certainly used to guide decision-making, yes. 40

So then the next step in that question is are they always followed?---No, as I explained earlier, they are in consultation with the team leader and senior prac.

11/9/12

McNALLY, J.M. XXN

How often would that happen, in your experience?---I can't give you how often that would happen. I can't give you a number.

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Well, I'm not necessarily after a number?---Yes.

I'm after an indication. So does that happen, you know, regularly, does that happen, you know, once in a while, does that happen once day, does that happen in every second notification you receive about a child in hospital with a broken arm? Is there some kind of indication you can provide with respect to that?---In relation to once we receive the notification - and I probably want to be clear that you might need to get information in relation to what the RIS team do separately. I don't deal with the regional intake service team, but certainly in relation to when - from the time we get it within a service centre, no, we wouldn't regularly overturn decisions made through using the structured decision-making tools. There are certainly occasions when we do and we have discussions around that, but does it happen regularly, probably not.

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Okay, thank you. I'd like to now go to your statement. You do have a copy there in front of you? Lovely. So I'd like to start with paragraph number 9 and you're essentially talking there about resourcing. Would you say that the resourcing for those areas is adequate?---Based on numbers currently, yes, I would.

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I'd like to now ask a question with respect to paragraph 11. Forgive me for one moment. Yes, so with respect to paragraph number 11, you speak there about particularly the Weipa hub and providing ongoing intervention, kinship and foster care support. Can you perhaps explain, practically speaking, how that support looks?---Okay, so the team is based in Weipa, as I spoke about, a team leader, four CSOs, two CSSOs and two placement support workers. So they're based in Weipa. They travel to Aurukun on a regular basis, so that's to - they provide - then on an IA team they provide ongoing intervention. So they're working with families on reunification or through intervention with parental agreement where the children are still placed in the home. So is that what you're - that's the work they undertake. The PSU workers are responsible for identifying and assessing and recruiting and training kinship - training carers.

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Yes, I suppose what - and perhaps I'll ask this sort of as a second part of that question, is particularly with respect to the kinship foster care side of the work, I suppose I'm more after information as to how it actually works. Like, do the workers go out and speak to people about kinship care options, do they sit with people to help complete forms? How do they actually assist to, I suppose,

11/9/12

McNALLY, J.M. XXN

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recruit kin and foster carers?---It's actually the responsibility also of the investigation and assessment team if children have to be removed from the home to talk to the families about possible family members who could care for the children. So if they identify any of those they are passed onto the PSU workers to continue through with the assessment or possibility of assessment for them as kin workers. Also talking to the REs. If the REs have identified family that they think might be suitable kin that we could possibly get assessed as carers. Also just various drives, you know, have various drives through different things. They might put something on a shopping mall or something like that with a table, just talking to people about kin care, going and talking to schools, promoting - - -

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So community legal education as a pillar of recruitment? ---There's been some - yes, there's been some recruitment through schools.

Do you find that those resources are adequate to assist in the recruitment of kin and foster carers?---We don't have enough kin and foster carers in community, certainly not.

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Do you think that that deficit may be addressed at least in part if there were more resources that targeted that issue? ---I don't know that it's purely a resource issue. We don't have enough staff doing that. I don't know it's really about that. There's also the issues of blue cards, of overcrowding in houses, those kinds of things in community.

We'll get to that in a moment. Now I'd like to ask a question on paragraph 12, and here you speak of the Cairns office. Excuse me for one moment.

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I beg your pardon, I actually want to ask a question about paragraph 13. I apologise for that. You talk about the regionalisation of the INA team - investigation and assessment team. Do you know why that regionalisation was undertaken?---I believe the region was looking at different ways of operating. We have certain service centres who - there incoming is very high and they can't deal with the incoming notifications that are coming in. Other service centres whose incoming is not so high, so there's a real inequity in the incoming of jobs to be done, so I think the region was looking at trying to create a unit that would create more equity amongst teams.

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So is it fair to say that that decision was based on departmental resourcing and the allocation of departmental staff as opposed to maybe some evidence as to the impact that that may have on service delivery?---I believe that was looked into also. They were looking at, you know, that it might give better - same level of decision-making through because it can be quite different. So having an office with one manager looking at the decision-making might give us more consistent decision-making amongst team leaders in relation to notifications and outcomes.

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So is it fair to say then that the decision to regionalise the INA hub was based on evidence with respect to service delivery and from the position of allocation of departmental resources?---That's probably a fairer statement, yes.

As far as you're aware. Now I'd like to ask a question with respect to paragraph number 15. In paragraph number 15, Ms McNally, you mention that there have been improvements. Can you provide some examples of these improvements?---Prior to that the Cape was one large office with one manager and the same number of hubs, much bigger IA team. Since then, since it's been split, I mean, we can - the fact that it is now two smaller offices, much better focus for a manager to look at your own area and what's happening in that area. I believe - I can only speak to my office, we've had case plan completion rates gone from 27 per cent to 80 per cent.

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Perhaps it would be helpful if you could flesh out exactly what you mean when you talk about case plan completion rates?---Sure. So it's about each child in care must have a case plan and the case plan must talk to the child's well-being and what needs to occur for that to happen and also what the parents might need to address. So that's all included in the case plan. Something for the - the CSOs need to work towards this case plan so that there is actually something in place, parents know what we're working towards, children (at the right age) know what we're working towards, and the service providers who are providing any of those services as well as the CSO. So it's in there in a case plan, this is what we are aiming

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11/9/12

McNALLY, J.M. XXN

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for, this is what we need to do to get there. So without a case plan it's a little bit ad hoc about what people are doing or are expected to do, so it's been a huge improvement in that, in case plans for children in care. 1

So when you talk about a case plan completion rate you're actually talking about the development of a case plan as opposed to meeting the goals within a case plan?---Well, it's also the development, and if you don't have a case plan in place you have to review the case plan is every six months, so - then that's reviewing about exactly where we've got to in that case plan, so that's reviewed with the family six-monthly. 10

And that's part of that case plan - - -?---Case plan completion, yes.

Okay, thank you. Now I'd like to ask you, I suppose, a hypothetical question based on your experience and ask what you would think the impact on service delivery will be if your role - I should say the role that you supervise in relation to your responsibilities as manager - was regionalise to a major regional centres such as Cairns or even Townsville and essentially go back to the way things were previously? What impact do you think that would have on your service delivery? 20
---I think it would have a huge impact on service delivery. I think having that - - -

Positive or negative?---Sorry?

Positive or negative?---I believe a negative, and the reason being the things I spoke to before about how both service centres have improved greatly since it's been split into, so for those reasons. 30

Thank you. Now I'd like to go to paragraph number 16. You mention that you've managed to improve stability in relation to employment at the hub. I think you spoke about various incentives, and I suppose my question to you is simply why? Why has the recruitment at the service centres been so successful in recent times?---In recent times. I think a lot of it does have to do with the personalities you've got there. We've got an extremely strong leader in Weipa who's been there for two years. I know we've had staff go there because she is there, because of the kind of team leader she is. So that has accounted for, I believe, why we've got such stability of staff there. We've got strong leadership in that particular hub. And with that strong leadership has come improvement in relationships with all our service providers, so that makes it, you know, more attractive for people to stay also. 40

Thank you. Now I'd like to move on to paragraph 18. You mention that - you talk hear about collaboration of government and non-government sectors and how this is

11/9/12

McNALLY, J.M. XXN

improving. How do you measure success in relation to these particular initiatives?---Which particular it initiatives?

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The ones that you talk about in paragraph 18, you mention that, "Collaboration with government and non-government agencies in community continues to improve," and you say how its demonstrated. How do you measure that improvement? How do you measure the success?---The collaboration, I would measure through the amount of people who turn up to stakeholder meetings; the fact that we're actually asked to provide training at the school or with other services; the fact that we've reunified a number of children, so that's how I would measure that.

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Do you have in mind any future initiatives to assist with community participation?---The officers are always looking at different ways of doing our work up there. It's ongoing, collaboration with organisations. We actually have a - not so much in Aurukun, but a new initiative in the Torres Strait where our services are funded adequately to provide regular outreach. We've spoken to them and their coming out with us to work on the outer islands. We are helping them share the cost of that, so that's our way to assist our clients on the outer islands get some form of service delivery, but that's working very well with the indigenous organisation working with us to provide that.

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What about the recognised entities, do they assist in relation to this process?---Where we have recognised entities, yes. I mean, we've got - the recognised entity in Aurukun has been there for quite a long time and is extremely well respected and is fabulous with - Stella, her knowledge is second to none. And same in TI, we've had the same RE there for two years; again, great relationships with him. So it about, I suppose, people being there for a period of time so those relationships can grow and evolve, and they're the two areas where we've had long-serving REs.

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Thank you. I'd now like to speak to paragraph 19 and this idea about the investigation and assessment team moving to the hubs rather than the regionalisation. I want to ask a question about if that approach was adopted - the approach that you say would work better - How would the department manage the - particularly from a community perception point of view - the relationship between the office and the community; the situation where a essentially the team that is often responsible for taking children is sitting next to the team that is trying to reunify the children? How would that stress be managed?---Within your office?

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No, within the - within the office and also in the community?

We all work for the department. We're all working for one thing. Once we remove children we work - we want to work to get them back to their community. In actual fact we don't want to remove children. So there won't be a tension within the office. I think within the community again what we have seen with people based in communities is people being a lot more - well accepted into the community. It's about the way we do our work. We need to do it with - you know, we've talked a lot more about doing more of an assessment type of - rather than an investigation more - not the forensic investigation but more of an assessment about what's happening. So we've talked about how we can change what we do in communities and so I actually think doing the work that way, using our NGOs to work alongside us would work and - you know, I'm sure there might be some tensions at first but because child safety, I believe, are, as I said, not so much welcomed in communities but they're not vilified any more either, this could work in community and it would be working in a different way using, as I said, a lot more stakeholders to maybe conduct that assessment as opposed to a forensic investigation.

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I just want to now move on to that issue of the alleged vilification of child safety members in the past. You refer to that in your statement at paragraph 20. I suppose, firstly, I want to understand what you mean when you say that the workers were vilified and also the feedback that you received in relation to that and again, I suppose, specifically what has been put into place to address that issue in your view.

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MR COPLEY: In my submission, the question isn't really relevant because this is an inquiry into the current system and if in the past there was a system in place where the I and A teams were in the local communities and being vilified, that's no longer the case because the investigation and assessment teams aren't in the local communities and when they go there, they're no longer vilified so it's not really relevant.

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COMMISSIONER: Unless you want to compare current with the past and see which is better, but I think otherwise Mr Copley is right, isn't he?

MS BYLES: Excuse me, commissioner. I suppose, your Honour - and I accept that it probably is of limited relevance, but I'm instructed that it's still of relevance nonetheless, given that we're talking potentially about a situation where the I and A team could be moved back to the hubs. The reality is we're talking about the same communities and we're talking about a situation that on the evidence was characterised in that way only relatively recently.

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COMMISSIONER: I suppose you don't want it to return. Is that right?

11/9/12

McNALLY, J.M. XXN

MS BYLES: That's correct.

COMMISSIONER: So you accept that it once happened or not?
---No, I don't believe - certainly not in my understanding
that they used to be - - -

MS BYLES: The evidence is that they were and that's - - -

COMMISSIONER: What's your experience about what happens
now?---That we are - you know, we can go into communities a
lot easier now. We have better relationships with
communities.

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That presupposes that it used to be not so good?---You're
talking in particular about I and A.

Yes, well, the evidence is - the word "vilification" has
used been in the evidence.

COMMISSIONER: Do you get vilified now?---No.

MS BYLES: I will leave that there, thank you,
commissioner.

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So moving on to paragraph numbered - excuse me for one
moment. Moving on to paragraph 22 and talking about
carers, obviously we've gone through the figures in that
table. What isn't clear on that table is how many
applicants for either kinship care or foster care
qualifications either withdrew their applications early or
were rejected. Are you able to assist in relation to an
understanding with respect to those?---No, I'm not. You'd
need to speak to the PSU director in relation to that.

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Thank you. Excuse me for one moment. If I can draw your
attention to section 83 of the legislation - and I have a
copy that I can provide to you so I can just hand that to
you?---Thank you.

So obviously this provision deals with the placement of
obviously the particular provisions that apply to
indigenous children. We've spoken about, you know, that
sometimes children have to be removed from community and
placed in Cairns. My question is: how does the department
ensure that they meet their obligations under section 83
subsection (7) of the legislation in those circumstances?--
-The department always will attempt to place a child with a
kinship carer in community, in the community that we might
have to remove from. If that's not viable, sometimes we'll
look in - if I'm looking at Aurukun, we'd look at another
area close by. So in Aurukun we'd look at Weipa, we'd look
at Napranum and we'd look at Mapoon. In relation to the
Torres Strait, we would look at all the outer islands and
the NPA. If there were no carers in that, we would then

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11/9/12

McNALLY, J.M. XXN

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have to - and we had to bring the children to Cairns, we would then look for an indigenous carer in Cairns. Obviously if we couldn't find an indigenous carer in Cairns, then we would have to place them with a non-indigenous carer.

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I suppose subsection (7) thought talks about more than just placement so it talks about helping the child to maintain contact with the child's community and language group?
---Yes.

So how about those additional responsibilities?---Yes, sorry about that. Look, I have to be honest. Certainly when we place the children in communities, they're in their own community. They're in their own culture. If they're placed on another island or on TI, it's about - we facilitate contact sometimes on a weekly but mostly - - -

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I beg your pardon. I suppose what we're talking about is particularly children who are removed from community and we know the example is Cairns and that's probably if - would you accept that that's probably the most likely place the children end up if they can't be placed in community?
---Yes.

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Specifically how does the department make sure that those additional responsibilities aside from placement are met?
---Well, in relation to contact?

I'm talking about not just contact?---I was probably just going to go through A, B and C there, that outline there.

Yes?---So in relation to contact, if the child's place here, we would organise contact with either the child going back or parents coming down to have that contact. In relation to - a cultural support plan must be done so that would be included in relation to the helping the child. With the child's community and language group that would obviously encompass their travelling back to community and the contact in community and then we have cultural support plans that each child must have also that would talk to those C and D.

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So how are those cultural support plans developed?
---They're developed in conjunction with the RE, sometimes with the family and sometimes with the carer that we're placing the children with.

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So how does that actually work? Does the caseworker get on the phone? Is there a meeting?---Cultural support plans can be - it can be talked about at any point when we've removed, but you could discuss it at an FGM so a family group meeting we would talk about that. It might be after the order is made or often prior to the order being made us talking to the family and talking to whoever we need to talk to ensure we're keeping the child connected.

11/9/12

McNALLY, J.M. XXN

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Is that information reduced to a formal document?---Yes, it usually is a formal document.

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Yes, okay. What measures are taken within the department to ensure that that cultural support plan is followed?---Is followed or implemented?

Yes, or implemented?---I don't know that there's any - a measure for it per se. I mean, certainly in relation to our children having contact and that, that's the responsibility of the workers, the team leaders and managers, to ensure that our children are getting the contact in their communities and that, you know, if they're placed with non-indigenous carers that we're ensuring that they are - you know, things like going for medicals to (indistinct) and using the indigenous services where possible, ensuring that they have contact with their communities.

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Excuse me for one moment. Still on that topic, you mentioned that as part of the cultural support plan you might talk to the carers. What about the care agreement? Are there provisions within the care agreements to also support the implementation of the cultural support plans? ---I'm not 100 per cent sure on that. The care agreements last for 28 days during the period of assessment so I don't know that that would be incorporated in that period of time.

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I'm talking more about the foster care agreements or replacement agreements - - -?---Sorry, I thought you meant a care agreement.

Yes, sorry?---So say that again. In relation to the?

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Yes, so with respect to the formal agreements that the department enter into with foster carers with respect to the provision of care is there a component of that particular agreement that places an obligation on the carer to ensure the cultural support plan is met?---Yes, we have what we call placement agreements, so that would be incorporated in that normally.

Excuse me for one moment. In your experience are you satisfied that the cultural support plans that are being developed are actually ensuring that the chief executive is complying with the obligations in the legislation that we refer to?---I can only speak on behalf of the area I work to and I would say yes.

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Excuse me. Thank you. Now I want to have a discussion about another aspect of kin care, or kinship care, and I want to draw your attention to section 61 of the legislation. I'll provide you with a copy of that for your reference. I'm just handing you a copy of the Child

11/9/12

McNALLY, J.M. XXN

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Protection Act. Now, I'd like to direct your attention particularly to section 61 subsection (f) subsection (ii). For the benefit of those without the legislation in front of them, that talks about types of child protection orders, the section 61, and subsection (f) speaks to alternative orders that can be made and (ii) states - sorry, subsection (f) states, "An order granting long-term guardianship of the child to," subsection (ii), "Another suitable person other than a member of the child's family nominated by the chief executive." So you have that in front of you. Do you believe that - obviously that's from a long-term perspective, the way the legislation is worded. Given your experience as a child safety officer and given the issues that have been raised with respect to kinship care problems, and you raised earlier in your evidence that you thought that in fact it could be causing children more harm to bring them to Cairns out of their community, would you be supported of legislative reform to allow or empower a magistrate to make an order like this on a short-term basis as opposed to a long-term basis?---But that's no different to - that would just be - - -

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I beg your pardon. Excuse me for one moment. I beg your pardon. I interrupted your answer?---Yes, sorry, granting long-term guardianship of a child to another suitable person - so you're saying granting short-term guardianship of a child to - - -

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Well, no, more short-term custody. So essentially my question is: is that something that in your view would be a positive development if a magistrate was able to utilise that kind of order on a short-term basis?---So short-term custody you're talking about now.

Yes, or short-term guardianship?---Okay.

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I put it to you that it's particularly in this region more usual that a short-term order is a short-term custody order. Would you agree with that?---That's correct, yes.

So it's probably useful to talk about it in the terms of a short-term custody order?---Possibly. I'd have to really think that through, sorry. Possibly, yes, that would be - that could be beneficial.

Do you think that that might be a way to try and resolve the issues that the department are experiencing in recruiting or obtaining approved kinship carers?---It might. I'd really have to give this some thought. I haven't given it a lot of thought, obviously. It would also place a lot of responsibility on - if I'm talking about - - -

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Yes, I beg your pardon?---Sorry.

Yes, please continue?---It would also place a lot of

11/9/12

McNALLY, J.M. XXN

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responsibility if I'm talking about - so when you're saying 1
granting custody to other than a member of the child's
family, so you're still talking about them being paid as
kin carers or as kin or - - -

Well, potentially. I suppose I'm talking about that in a
broad sense, but essentially the point of my question is
whether it could be of benefit in circumstances where it's
difficult to obtain approved foster carers or approved kin
carers?---I suppose I don't know how that would be any
different to us placing the child with someone, as it says, 10
other than a member of the family, which is what we would
normally do with that direction.

Yes, okay. Thank you. Now I'd like to take you to
section 113 of the legislation. I beg your pardon. Now, I
suppose this ties in with the earlier discussion we had
around the definition of "parent" and, you know, talking
about adoptive parents being involved in these proceedings,
but I would like for you to explain what your understanding
of that provision is?---Which, this?

Section 113, yes. 20

MR COPLEY: Well, I object to that question, because the
section is headed, "The court may hear submissions from
non-parties to a proceeding." It would be a matter for a
court whether it was willing to hear submissions from a
non-party and it wouldn't really matter what this officer's
subjective understanding of when the court would exercise
that discretion would be.

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MS BYLES: Excuse me, Commissioner. Your Honour, my submission would be that it is relevant from the point of view of - particularly given the issues that were raised earlier in evidence of the very, very limited definition of "parent", and while Mr Copley is quite correct in saying that at the end of the day these matters are for final decision by a magistrate, the magistrate would obviously make that decision on the basis of argument before him or her and it would be of interest to understand what the department's viewpoint would be in relation to this matter, to see whether that's a matter that the department would likely contest or how the department would approach these applications before a magistrate.

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COMMISSIONER: I think she can tell you based on her experience of what it had done in the past.

MS BYLES: Yes.

COMMISSIONER: And that can help predict what it's likely to do in the future.

MS BYLES: And that would be sufficient, Commissioner? ---You want me to explain to you what my understanding of this is?

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COMMISSIONER: No.

MS BYLES: No.

COMMISSIONER: How it is working in practice at the moment from the departmental point of view?---I have to say first off that I don't present in court or appear in court at all. As a manager it's not a role I undertake. We have a court coordinator who undertakes that role, so I really probably can't speak to this very well at all.

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MS BYLES: Excuse me for one moment. In your role as manager do you supervise the court coordinator?---I do.

Are you informed of the outcome of court processes?---It goes out to the office. It's certainly something that the court coordinator discuss in detail with the team leaders because they're obviously case managing the cases.

And you manage those team leaders?---Yes, I do.

Okay. So you would have some knowledge, then, of what happens in court in relation to matters managed by your team?---I have some understanding of what happens in court, yes, but it's not one of my prime roles or primary roles.

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No. Excuse me for a moment. I'll move away from those questions and maybe just generally ask the question as to whether you could see benefit - given what you said in relation to your role, you could see benefit in the

11/9/12

McNALLY, J.M. XXN

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application of that section from the viewpoint of assisting the department to maybe identify potential kinship carers?
---That section can be - it's already in the legislation.

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I know it's already in the legislation, but essentially if it was used widely or if it was - given your experience would you think that that would be of benefit in relation to ensuring that the placement principle was adhered to?
---I don't know that that would have a huge impact on child placement principle.

Thank you for that. Now I'd like to go to paragraph - I beg your pardon, still paragraph 22, and talking about placement, kinship care and foster carers. You mention two issues as to why the kinship care process is not successful in that there are insufficient carers. Do you - and I suppose this is probably implied in what you say - if there was adequate housing to reduce the overcrowding that you refer to in your evidence would you say that that would lead to an increase in kinship carers being approved?---It could, but it's not just the problem of overcrowding, but yes, housing is certainly an issue in communities.

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And then you go on to of course mention the blue card obstacles. Can you identify what those obstacles are?---In community - currently when someone applies to be a carer every person in that household has to have a blue card. So regardless that it might just be two primary people who are wanting to become carers, everybody else in that household has to have a blue card. A lot of people aren't interested in going through the whole process; it's quite a lengthy process, lots of paperwork involved. A lot of indigenous people who aren't going to be caring for these children but happen to live and reside in that house don't want to go through the process so often the family will say yes, no, they don't want to go through the process, they don't want to feel that paperwork, even though the primary carers - the people who have identified they'd like to be primary carers - are happy to go through the process, others of the household aren't.

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Getting back, I suppose, to the discussion that we had about to support that your office provides in relation to this particular issue, are those family members informed about the impact that that decision do not progress with the blue card application would have on the kinship care application?
---Certainly.

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Are the recognised entity is involved in those discussions as well?---Yes, we use our recognised entity is all the time in our decision-making and in asking questions, because they're the people who know our communities best, so yes, we certainly would have discussions with our recognised entity is around that.

And are you aware of circumstances where a potential carer
- an applicant to be a carer - has a blue card and has been
not approved as a carer?---They have a blue card but
haven't been approved?

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That's correct?---Not that I'm aware of.

So that's not your experience, you have had experience of
that occurring?---No.

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11/9/12

McNALLY, J.M. XXN

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Excuse me for one moment. I just want to speak further a little bit about recognised entities and I just want to ask you whether you're aware of the reforms that were put into place in 2010 with respect to the recognised entities and the reduction of the number of services or service providers, I should say, from around 32 service providers to 11 service providers. Were you aware of that?---Yes; no, sorry, who were the service providers that you're referring to?

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I don't have the names of all of the service providers, but in 2010 there was a reform that was put in place to organise the recognised-entity system and essentially one of the main pillars of that re-organisation was that the number of service providers was reduced from 32 to 11. Were you aware of that?

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---Yes. I mightn't be following you clearly. My understanding is the service providers - it's provided by two services - three; sorry, three.

That was state-wide, of course. That wasn't just - - -?
---Okay, sorry.

Yes, I beg your pardon. So were you aware that there was essentially that re-organisation?---Yes.

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Do you think that that's having impact on service deliver with respect to the recognised entities?---Look, I'd have to say, as I said before, the REs that we have had for quite a period of time have worked well so they haven't move, but in relation to the model, it probably is a little bit difficult. You go through one indigenous organisation who talks to another indigenous organisation, gets that information, goes back to the middle indigenous organisation and then back to Child Safety so I don't think the model works that well.

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You also mentioned that - well, perhaps it was more by implication than something that was directly said, but are there recognised entities in all the communities that you service?---No.

Do you know why there aren't recognised entities in some of those communities?---They haven't been able to recruit to the positions.

Okay. Excuse me for one moment. I would now like to move on to paragraph 23. You talk about the excellent recognised entity relationship and I think you've already discussed that or some aspects of that previously. Is there anything you wish to add with respect to that? Particularly I think you mentioned that the Aurukun recognised entity and the recognised entity on Thursday Island you worked with quite well. Is there anything you wish to add in relation to that?---No, I mean, there's a lot of areas where there isn't a recognised entity

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11/9/12

McNALLY, J.M. XXN

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currently within the Cape.

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Now I would like to move on to paragraph numbered 24. In this paragraph you mentioned that the child safety officers are well meaning and compassionate. Obviously that's from your anecdotal - that's anecdotal evidence there from you?--Yes, that's from my experience with my staff in my service centre.

With your staff that you manage, yes?---Yes.

And you also speak about that your staff have a passion to work with indigenous people. What about the cultural competency of your staff? Firstly, how does the department measure cultural competency and what does that concept, I suppose, mean to the department?---I don't know how anyone measures cultural competency, but certainly it's part of standard training with CSOs, cultural capability training. That's included in their training framework. Also within our service centre and our RE NTI does cultural specific training for our staff and we have done a little bit of that in - it used to be offered in Aurukun. It's not offered any more. So it is really being guided by the REs and by the justice groups in those areas but, as I said, up in the Torres Strait we've been very lucky to have an RE who does provide that cultural specific training for our staff.

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Just talking with respect to the departmental training, what does that comprise of?---It's a two-day training course in relation to cultural capabilities, yes. It's very generic obviously.

Yes, and who is that run by?---I'm not sure who runs it within the training in the department.

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So is it external training or is it within the department? ---Yes, I believe there's external trainers providing that training.

COMMISSIONER: Ms McNally, would you say as a manager involved with experience in the system that, having completed the two-day course, you would be culturally competent?---No.

Right. It might not even be a good word. You need to be culturally appropriate or respectful more than competent, don't you?---Yes, you do and I think it's really hard to get - I mean, I think you've got to have a basic understanding and I think part of a basic understanding in working with indigenous people for me is certainly understanding the history of indigenous people so that's really important, particularly in the area we work to understand how indigenous people might react to us, but I think then you have to - it's a very broad kind of training that's provided to staff and I'm not quite sure how we get

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11/9/12

McNALLY, J.M. XXN

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staff to be culturally capable or competent. A part of training once upon a time was spending a number of days at Woodchopper and working there. I don't know that that really provides - - -

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The term itself might be a bit misleading and give rise to false expectations and wrong messages. If you say you're going to go to a cultural competence class and you attend there for two days, you must come out thinking that you are culturally competent?---Culturally competent, yes, I know.

That might be a dangerous thing to think?---I think it is. I actually believe that it's the immersion in the community that you're working with which will give you that cultural knowledge and understanding and that's the only way that you really - - -

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The only way to be culturally competent is be part of the culture?---Yes.

All right. I think we might leave it there for the day.

WITNESS WITHDREW

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THE COMMISSION ADJOURNED AT 4.27 PM
UNTIL WEDNESDAY, 12 SEPTEMBER 2012

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11/9/12

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