



SPARK AND CANNON

TRANSCRIPT OF PROCEEDINGS

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THE HONOURABLE TIMOTHY FRANCIS CARMODY SC, Commissioner

MS K McMILLAN SC, Counsel Assisting
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IN THE MATTER OF THE COMMISSIONS INQUIRY ACT 1950
COMMISSIONS OF INQUIRY ORDER (No. 1) 2012
QUEENSLAND CHILD PROTECTION COMMISSION OF INQUIRY

ROCKHAMPTON

..DATE 23/10/2012

Continued from 17/10/2012

..DAY 26

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.

COMMISSIONER: Yes, good morning. 1

MS McMILLAN: Yes, good morning, Mr Commissioner. I appear as counsel assisting. My name is McMillan, initials KA, senior counsel.

COMMISSIONER: Thank you. Mr Hanger.

MR HANGER: My name is Hanger, initials RR. I continue to appear for the state of Queensland. May I also place on record that my instructions are I do not appear for the judicial arm of government of the state of Queensland. I told you at some stage that I'd let you know about that. 10

COMMISSIONER: Yes. I'd been assuming that you don't.

MR HANGER: Yes, thank you.

MR CAPPER: Thank you. Capper, initial C, for the Commission for Children and Young People and Child Guardian, continuing to appear.

COMMISSIONER: Thanks, Mr Capper. Mr Guy. 20

MR GUY: Mr Commissioner, Guy, initial B. I appear for ATSILS.

COMMISSIONER: Thanks, Mr Guy. Welcome. Yes, Ms McMillan.

MS McMILLAN: Thank you, Mr Commissioner. Mr Commissioner, as you're aware the commission has so far visited regional centres including Cairns, Townsville, Beenleigh, Aurukun and Mount Isa. Our visit to Rockhampton will combine hearings, forums and site visits. This week is national children's week, which is particularly topical given the subject nature of this inquiry. The Rockhampton region has a population of approximately 111,500 people. 30

It's the traditional home of the Darumbal people. The Aboriginal and Torres Strait Islander population in the 2011 census for Rockhampton region was 4388. The region has four major localities including Rockhampton, Gracemere, Mount Morgan and Yeppoon, and lies on the Fitzroy River. This area covers some 28.5 per cent of the state. The region is supported by a number of industries including agriculture, mining and construction. 40

It is of note, as has been identified in one of the witness statements you will hear, that the growth of industry, particularly in Gladstone, has shown that there are particular issues raised with demand upon housing and other support services which needs to be met. Rockhampton region falls within the child safety service's Central Queensland region. There are two child safety service centres in Rockhampton itself, north and south. The other child

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safety service's centre in the Central Queensland regions are Emerald, Gladstone, Bundaberg, Maryborough and Kingaroy. 1

Over the next two days the commission will explore the issues experienced in this area including evidence from government agencies, a solicitor who's frequently active for children in child protection proceedings, an academic, and a Department of Health representative. Yesterday, Mr Commissioner, you met with young people who have had the experience of living in the car system. CREATE Foundation is a non-for-profit organisation; it acts as the national peak consumer body representing the views of children and young people with a care experience. 10

On behalf of you, Commissioner, we would want to thank Queensland CREATE, who was responsible for organising this opportunity. We would also like to thank those young people who shared their own deeply personal stories and constructive ideas how the system can be improved. CREATE's vision is that all children and young people with a care experience have the opportunity to reach their full potential. In 2011 the CREATE foundation published a report on the transition from care which highlights statistics that the Commissioner would find concerning, as only 31.7 per cent of eligible young people report having a leaving care plan and less than half of 17-year-olds leaving care have a plan. 20

The Child Protection Act provides for a charter of rights for children and young people in care which includes access to education, job training and dental care, medical treatment and counselling services that they require. The terms of reference for this commission requires us to consider transitioning from out-of-home care system towards independence in a Queensland context and to consider the planning for transition from care is clearly an imperative. 30

The form provided an invaluable opportunity for you, Mr Commissioner, to hear firsthand from these young people. Staff from the commission will also be meeting with legal service providers, recognised entities, and will hear from the Commonwealth department known by the acronym as FaHCSIA about how income management has been implement in Rockhampton. Thank you, Mr Commissioner.

COMMISSIONER: I am concerned about those planning figures. There's an old saying that if you fail to plan, you may as well plan to fail. 40

MS McMILLAN: Yes, sir.

COMMISSIONER: All right. We'll adjourn for a short period and then resume.

MS McMILLAN: Yes, sir.

THE COMMISSION ADJOURNED AT 9.59 AM

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THE COMMISSION RESUMED AT 10.12 AM

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COMMISSIONER: Yes, Ms McMillan?

MS McMILLAN: Yes, thank you, Mr Commissioner. I'm sorry there was a delay. There was a necessary to print off some material that the commission received in Brisbane during the course of yesterday. Prior to commencing the evidence I tender a report. It's dated November 2011 entitled "Final Report Prepared by the Commission for Children and Young People and Child Guardian". It is an independent assessment of the case management of the child by departmental officers at a Child Safety Service centre during 2009 to 2011.

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Now, might I add that on the second page there is a warning about confidentiality? After some discussion this report will be tendered absent the last page which identifies the dramatis personae, if I can put it that way, and I have indicated to all of those who have leave, but particularly perhaps for members of the media and other people who are listening to this, it's important to note that there are confidentiality provisions in the Child Protection Act and persons viewing this report are bound by that and if they are unclear, they should obviously revert to the relevant legislation. So on that basis, could I tender that report?

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COMMISSIONER: What is the section they should look at? 138, is it, of the Child Protection Act?

MS McMILLAN: Yes, commissioner, I believe it is. I just have to check that. 187 to 189 I'm reminded, thank you.

COMMISSIONER: Okay, thank you. The final report dated November 2011 will be exhibit 89.

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ADMITTED AND MARKED: "EXHIBIT 89"

MS McMILLAN: Might I also tender a letter under hand from the then director-general Ms Apelt to the Children's Commissioner Ms Elizabeth Fraser in relation to the same matter dated 23 January this year? Again copies have been disseminated with the names de-identified.

COMMISSIONER: I can see those names so what we might do is we might photocopy that again before it goes on the record.

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MS McMILLAN: Yes, thank you.

COMMISSIONER: But otherwise the letter from the director-general to the Commission for Children and Young People and Child Guardian dated 23 January 2012 will be exhibit 90.

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ADMITTED AND MARKED: "EXHIBIT 90" 1

MS McMILLAN: Then the last document at this stage is a transcript of proceedings which relates to the subject matter of those documents before you. They are the remarks of Judge McGill SC at the court held at Bundaberg. Again the names have been de-identified and also the date. All the parties here have copies of it.

COMMISSIONER: Thank you. Again that will be photocopied before it forms part of the record. 10

MS McMILLAN: Yes, I'm sorry.

COMMISSIONER: The transcript of proceedings will be exhibit 91.

ADMITTED AND MARKED: "EXHIBIT 91"

COMMISSIONER: The purpose is simply to give context to the evidence that is going to relate to that particular incident.

MS McMILLAN: Yes, that's right. 20

COMMISSIONER: The commission is not concerned about the - - -

MS McMILLAN: Subject matter as such.

COMMISSIONER: Yes, it's not examining the subject matter, as concerning as it might be.

MS McMILLAN: No.

COMMISSIONER: The main object of the evidence is to assess what, the departmental response to the report and the implementation of its recommendations? 30

MS McMILLAN: Yes, that's so, Mr Commissioner.

COMMISSIONER: All right.

MS McMILLAN: I call Ms Matebau, thank you.

COMMISSIONER: How do we spell her name for the record?

MS McMILLAN: M-a-t-e-b-a-u, Charmaine Matebau. 40

COMMISSIONER: Thank you.

MATEBAU, CHARMAINE LOUISE sworn:

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ASSOCIATE: For recording purposes please state your full name, your occupation and your business address?
---Charmaine Louse Matebau. I am currently the manager of Bundaberg Child Safety Service centre and the address is level 1 Quay Street, Bundaberg.

COMMISSIONER: Good morning, Ms Matebau?---Thank you.

Thank you; welcome?---Thank you.

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MS McMILLAN: Thank you. Could you just keep your voice up? It's a little bit difficult to hear you. Ms Matebau, you say you're the manager of the Bundaberg Child Safety centre?---Correct, yes.

How long have you held that position?---Since 22 December 2009.

All right. Prior to that time, were you employed by the department?---Yes, I was. I was the manager of the Gladstone service centre.

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The incarnation, can I put it, of that department which was changed in 2009, wasn't it?---Correct, yes.

What are your responsibilities as manager?---My responsibilities are to ensure that we comply with the department's policies, procedures, legislation in the operation of child protection, to assess risk of harm, to ensure that we work in a collaborative way with our partners and to address the needs of children in care in a holistic manner with our various partner agencies and then the various, you know, operations of human resource management and staff training, development, financial accountabilities.

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All right.

COMMISSIONER: Ms Matebau, sorry, can you sit back in your chair.

MS McMILLAN: Yes, just a little bit.

COMMISSIONER: Yes. Are you comfortable enough there?
---As comfortable as I can be, thank you.

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MS McMILLAN: We can hear you now without any difficulty so if you want to sit back a bit further, that's fine?
---Thank you.

COMMISSIONER: I meant the furniture. Is it comfortable?
---Yes, thank you.

All right. You're not supposed to be comfortable?---No, I

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know.

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But we don't want you to be too uncomfortable.

MS McMILLAN: Ms Matebau, can I just ask you, as manager, do you undergo training yourself?---I've undertaken two modules of the managers' training which is no longer available to managers so I'm unable to complete the other sections.

Right. When did you start that training?---I was first appointed as manager in 2005 in Gladstone and in 2006 and 7 there was some training available for managers.

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How many modules was it meant to include?---There were four modules in total, I believe.

And you completed two?---Correct.

When did the training cease to be available, to your knowledge?---To my knowledge, it was probably around 2008. I think we've had one managers' forum which is not really training necessarily. It was just bringing managers together to talk about particular issues.

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All right. So no training since that time when you've completed those modules has been available for managers? ---That's my understanding.

Your understanding, all right.

COMMISSIONER: You certainly haven't had any personally? ---That's right.

When you say you complete, how do you know you have completed something? Is it by the fact that the training is over - that's how you complete it - or do you have to pass some assessment process to see how much of it you took in?---It's by attendance.

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So everyone gets the attendance prize. Is it mandatory? ---No, I don't believe it was. It was highly encouraged though.

MS McMILLAN: I take it that you would be of the view that it would be appropriate for managers to be able to access training, wouldn't it?---Yes.

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In fact necessary, one would think, if you obviously perform a senior role, as you do, within the office. Correct?---Absolutely; and we have a continuous-improvement philosophy so I think it is vital for managers also to be partake of that training.

It's a little hard to continue to improve, isn't it, if you're not provided training, wouldn't it?---I would agree

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with that.

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Other than obviously what you glean on the job and exchange with your other colleagues, I imagine?---Yes, that's right.

Can I ask you - in terms of team leaders within your office, do they receive training, specific training I mean?---Yes, there has been team-leader training offered, and in Central Queensland region we've had a regional executive director that certainly believes in development so he has allowed us to have two team-leader forums whereby all team leaders, no matter what area they are responsible for, come together for professional development.

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So forums again aren't necessarily training. They're forums for exchange of ideas?---There were elements of professional development included in that as well, yes.

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Right, okay. Now, in terms of percentage are you able to say within your office, Bundaberg, how many of your team leaders, what sort of percentage, would have completed training?---We've recently had a - - -

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And team leader, I'm still talking about?---Yes. We've recently had a little turnover of team leaders, but prior to that I believe all of the team leaders had undergone - there were certain training modules offered, as there were manager trainings, and all of the team leaders had been to the central Queensland forums as well.

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According to Ms Harvey - do you know Bernadette Harvey?---I do.

Yes, according to paragraph 36, Mr Commissioner, of her statement of 21 September, team leader in the Bundaberg office between 2005 to 2010, it was 50 per cent had trained. Does that accord - only speaking, obviously, for the period that you were there, would that be an appropriate figure, do you think?---I would have thought it was slightly higher than that.

All right, and again, you're aware that child safety officers who enter the department's employment have training, do they not?---They do.

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It's a five-phase training module?---Yes.

Again, for Bundaberg it was for those - I understand it to be those years but we can clarify with Ms Harvey, it was 44 per cent who had completed that training. Does that accord with your anecdotal understanding?---What part of the training does it refer to?

Well, all it says is, "The following outlines" - paragraph 35 of that statement - "the number of current CSOs who have completed the mandatory child safety entry level training vocational graduate certificate?---I can't comment on the report because I don't - I haven't seen what Bernadette has written, but it's my understanding that all of the CSOs in the service centre have gone to their phase 1, 2 and 3 trainings and there are some that are in the process of completing various modules but they're all complying with what we expect of them.

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It is mandatory, isn't it?---Yes.

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All right?---In fact, they're not given a case load until they've gone to their first components of the training, yes.

Are you aware of the suggestion that - well, I'll withdraw that. You sometimes have undergraduates who are placed with you?---Yes, we do, on student prac.

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Yes, who are still completing their degree?---Yes. 1

Are they ever allocated case loads themselves?---No, they're not. They may be asked to do certain tasks associated with cases but they're not - - -

But they're not given a case load?---Case management responsibilities, no.

So that would be a practice that should never occur, one would think?---I would never have that in the service centre that I'm managing. 10

All right, thank you. Now, you understand that you're here to answer a summons relating to the implementations of recommendation from the final report into an independent assessment of the case management of the child by departmental officers, a child safety service centre during 2009 to 2011 under hand of the Commissioner for Children and Young People and the Child Guardian?---Yes.

Is that correct? Well, firstly I'll ask you, have you seen that report that I'm referring to?---Yes, I have. 20

All right. Would you look at this document? That's a copy of the report I just tendered, Mr Commissioner?---I've got it, thank you.

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

Is it the case that you were given responsibility to implement recommendations made in that report?---Yes, that's true.

I don't particularly want to go into the circumstances of the actual report, but there are some 16 recommendations made, were there not?---Yes, that's true. 30

Do you know when the department received this report?---It was - I was actually away at the time, so it was in 2011 and when I came back to the service centre, which was December, it was available to me on my desk.

All right. Now, perhaps could we just look at the recommendations, please. Can you go to page 2 of the substantive report, recommendation 1? "I recommend that the department provide professional developmental training to officers at CSSC." That's what, child safety service centre?---Correct. 40

All right, so that's your office in Bundaberg. Correct? ---Yes.

"In particular, CSO 1," and I gather that was a particular child safety officer?---Yes.

"In the gathering and recording of information and the level of detail to be included in the CPN." That's what, a child protection notification?--Correct. 1

"Additional mentoring or training is recommended on the structured decision-making, SDM, tools, specifically all harms to be screened and recorded and a detailed rationale for the outcome of these screening processes to be documented." Now, structured decision-making tools, just could you explain to us what you understand that means, that term?---The structured decision-making tools are a suite of tools that guide our practice that are aimed to provide some consistency across certain decision-making points. 10

I understand, do these appear in the child safety manual? ---They do.

Right, which is some, what, about 700 pages long? ---Correct, yes.

In terms of that recommendation did you understand, it appears from the report, because there was some criticism of the degree of detail which was included in the original intake in relation to this matter?---I'm sorry, can you repeat the question? 20

Do you understand, if you like, the force behind that recommendation appears from the report to have been the criticism of the lack of detail that was identified in the intake process?---Yes.

Can you tell us whether that recommendation has been implemented and how?---There is only one element of the 16 recommendations that haven't been fulfilled yet, and that particular CSO forms part of that. So CSO 1 is a part-time employee and she has been sick on the days where the training has been delivered specifically to the teams around SDM, structured decision-making, however she has been present at what we call our practice panels and the practice panels are the senior members of the office and we critique cases, decision-making points and decisions that are being made. That CSO has been present during a number of those practice panels where we specifically look at structured decision-making and then the decision itself. 30

So if I understand it, you say this report was received some time in 2011, you believe. It would have obviously been either November or December, one would presume?---Yes. 40

You were, what, I take it, on leave till early this year, were you?---No, I was on leave when this report was delivered to the office.

Right, but you were back on deck - - -?---Correct.

- - - what, January this year?---Yes, I did take some leave in December and yes, I was back on board in January. 1

Yes, that's all right?---Yes.

I'm just asking because if it's specifically recommended that this CSO 1 undertake this training, development and training, and/or training, and albeit she works part-time, one might have expected that given it's mid October that she would have undergone that training, particularly when she was specifically identified?---That's true. This officer has had a series of illnesses and workload pressures and personal pressures and so we have been trying to manage as best we can with this staff member. We have attempted to book in a couple of times to do some training with her. I might note, though, for your reference, she is no longer involved in any intake processes and where possible we don't miss an opportunity to undertake that same conversation in the practice panel with all staff, in fact, not just with CSO 1. 10

All right, but clearly even if she's not involved in the intake process the further training would no doubt assist her in other elements of her work?---I agree, yes. 20

Recommendation 2, that the department review and/or develop strategies and procedures implemented at the CSSC for investigating CSOs when a child discloses abuse being perpetrated by the parent, primary caregiver or household member. Now, what do you understand by that recommendation, and again, has it been implemented?---Yes, we believe that it has been implemented.

What do you understand by that recommendation?---My understanding is that this is talking directly to initial training for CSOs around investigations. 30

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So where it says, "The investigating CSO", that's CSOs who will undertake investigations and assessments, but it might also equally apply to a CSO across the board who has to investigate, for example, a matter of concern.

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So again, did you understand there was some criticism within the body of this report at the fact that departmental officers attended at the home of the child and the alleged - if I can put it - primary caregiver - and left and it was some - up to 10 days later before a plan seems to be formulated for the child. Is that correct?---I don't necessarily agree that that's the correct course of events. We have made an agreement with the mother - - -

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Just let's say "primary caregiver"?---Okay, certainly -with the primary caregiver that the child was going to be placed elsewhere, and then the primary caregiver accompanied the CSO and the police officer to further inquiries. The primary caregiver then went down to the Gold Coast where we were unable to communicate and retrieve this child, so.

All right. Let's look at it this way: it was at least at that stage flagged as being of high risk, wasn't it, the issue is disclosed by the child?---Yes.

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Right. And so isn't the criticism around the fact that when those CSOs left after that interview there wasn't a clear plan involved for the child at the time they left the residence? Do you understand that that's the criticism in the report?---Yes, I understand that the criticism.

Do you think that's a fair criticism?---Yes, I think there's some validity to that.

All right. And the fact that you say that the department wasn't able to engage with this caregiver because she went to the coast, perhaps that underlines the issues of careful planning and also the assessment and ability to deal with that risk, doesn't it?---In some respects it does, yes.

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All right, let's move on to Recommendation. Has that recommendation being implemented?---Yes. We have provided the Children's Commission with a table of responses to what has been completed and what was yet to be finalised. Do you have a copy of that?

No. Do you have a copy of it there?---I do.

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Perhaps could we see - - -

COMMISSIONER: I've got a copy. This is that one?---Yes, that's right. I do have copies if you want them.

MS McMILLAN: Ms Matebau is that a document which you say reflects what the department has undertaken in relation to these recommendations?---This was a document that was

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prepared for the Children's Commission in response to the report. At that point where this was provided there were still four elements of these recommendations that were not completed.

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Right, and - - -

COMMISSIONER: These are the ones mentioned in Ms Apelt's letter?---Yes, that's right.

MS McMILLAN: Right, so in terms of when was this provided?

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---This would have been provided - - -

To your knowledge?--- - - - Ms Apelt's response to the Commissioner.

23 January 2012?---That's right, yes.

Right, okay. Who prepared this document? Did you?---I didn't - I had some input into the document.

All right. Are you of the view that it is an accurate document?---It certainly was at the time.

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Right?---There are some updates to it since then.

All right. Perhaps will just go through that. At 2 you say that, "The department provides entry level CSO the competency-based training, regular supervision and ongoing training, including where appropriate, iCARE training, which addresses the nature of disclosures." Now, I asked you about the Bundaberg and in terms of - or completing all five modules, the figure according to Ms Harvey's statement was about 50 per cent. Is that the same sort of training we're talking about?---Yes, that's right.

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So you're unable to give us an exact percentage, but do you believe it is around still 50 per cent?---Well, you see, I'm becoming a little unstuck with that figure because it's a series of modules and all of the CSOs are up to date with where they need to be with those modules, so if there's only been on board with us for 18 months they may or may not have completed all five modules.

It's meant to be finished in 72 weeks, isn't it?---It's often not finished and 72 weeks.

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Why is that, do you know?---Well, there's a whole range of issues: one is availability of the training itself; one is the competing demands of the workload; the availability of the supervisor and the CSO to complete the modules that they need to do; and the CSO has to complete a whole range of tasks in their own time as well as work time. So there's competing factors in that.

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All right. "Recommendation 3: the department provide professional development or training to officers at CSSC, and in particular CSO2." So that was a particular child safety officer as well?---Correct, yes. 1

"And relevant team leader at that time in relation to the obligation to ensure that child's safety and complete a safety assessment prior to leaving the family home." And then it further particularises, "Utmost importance of such mentoring and training," emphasises the need for the investigating CSO to discuss the outcome of the safety assessment as being determined to be unsafe. Now, it had commenced as at the date of this document. Correct? ---Yes. 10

And the response was, "Any safety assessment practice reflection will be provided within the CSS training or structured decision-making procedures and tools facilitated by a senior practitioner on a date to be fixed in the first half of 2012." All right, just explain what that means? ---That means that there were two components to that. Firstly we wanted to specifically ensure that staff understood the safety assessment procedures and the completion of that, so that you do it in the home prior to leaving. 20

So effectively have a plan?---Exactly, yes.

Some sort of plan?---So we just wanted to reassure the Commissioner that we were going to attend to that specific issue.

And did that occur?---Yes, it has occurred.

Right. And have the particular officers, CSO 2 and the team leader, received specific training?---Yes, they have. 30

Right, okay. So that's now completed in your view?---Yes.

All right.

COMMISSIONER: You know the structured decision-making tool, how would you describe its purpose?---There are a number of tools that help guide us when we have to make certain decisions.

Okay, so it is a guide?---It is a guide. It sits alongside our professional development and expertise. 40

Yes, and it is a guide to what?---To assist in making certain decisions along the way to either deciding whether a child is in need of protection, assisting to draw together a sufficient case plan that meets the needs of the child, and helping us understand risk in a more holistic way.

According to its model?---According to its model.

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Its concept of risk?---Yes, that's right.

So could be called the structured decision-making tool a tool to make sound decisions in this area?---Absolutely, that's what is designed for.

And does it do that, in your experience?---In the majority of times, yes, I think it does. Of course, there's always an element of being able to override the recommendation if your expertise suggests that that's what you should do.

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Righto. And that's the space we're operating in at the moment?---Yes.

We're trying to work out, apart from a lot of other things, that gap between what the structured decision-making tool arrives at and where the CSO arrives at themselves; and when they're in conflict, how that conflict is resolved? ---It is often not one person pushing the "approve" button on it either, so a CSO might completed by the team leader has to view it and approve it.

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So is resolved by discussion?---Yes.

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And each officer in the hierarchy adding their experience to the question?---Yes. 1

Right. So the CSO would go to the team leader. The team leader would go to the manager. Is that how it would be resolved?---Yes, but I don't think I've ever come across one where it's come to the manager so it usually goes CSO, team leader, senior practitioner.

Right; and be resolved at that level?---Yes, although at times I might comment on whether I think it's an accurate description and there have been times where I haven't agreed. 10

So when we're applying the tool and our experience, the question we're trying to determine is whether the level of risk involved is what? What are we trying to answer? What question are we asking ourselves when we're using the tool about risk?---I don't think it relies specifically on one tool to tell us about risk.

No, but what is the question we're asking ourselves? Regardless of how we are going to answer the question and what we use to answer it, what is it?---Yes, I think what staff are aiming to do is try and get the most accurate information into the tool. I don't know whether staff understand the line of questioning of the tool and what sits behind that to then push out the answer at the end. Some staff certainly are aware of that and were working in the same department as the tools were being developed and implemented so they have a greater understanding of it. 20

Yes, but many don't?---Many don't, that's right.

From a systemic point of view, where does that leave us? ---I think that leaves us with some circumstances where some SDM tools are completed, others aren't, and they have to be seen as a whole suite of tools that assist in case planning and case magistrate and often it comes back to an administrative task that just needs to be done which is very unfortunate because if it was seen in the way that it was designed, then it might actually assist, but that is then paired with all of the accountability measures like the team leader overseeing it and the senior practitioner and now our practice panels as well. 30

All right. I'm going to formulate something and ask you to comment on it?---Yes. 40

One of the things I have to look at is whether things are fit for purpose?---Yes.

In order to understand whether something is fit for a purpose I need to know what its purpose is?---Yes.

So if we say that the structured decision-making tool is to

help determine whether a risk is unacceptable or not - because that's what we're looking for under the legislation, isn't it?---Yes. 1

We're looking to see whether a risk we're faced with should be assessed in at unacceptable which means that we have to screen out acceptable risks by using the tool?---Yes.

Is that right?---Only a couple of the tools are for that end of our business, I might just add, yes.

Right. Let's take it from those tools. Those tools that are designed for that purpose of screening out acceptable risks - do you think they are fit for that purpose?---Can I just have a think about that for a minute, if that's okay? 10

Sure, yes?---I'm probably not the best person to ask, I might add. Perhaps a regional intake manager might be better suited to answer because that's what they deal with day in and day out.

Okay, but you as the manager have to - - -?---Yes, I think that it has introduced more consistency in decision-making. 20

Right?---Do we always get it right? No, I don't think we do.

Now, is consistency something the system values?---Yes, I think it is.

Is that one of the indicators that it measures its performance against?---I think that's one of the things that we're often criticised about. I don't know that we measure our own performance by that consistency.

All right. What do you measure? What do you use to measure your performance in the risk-assessment process? ---Over the years it has varied, so there was a time where we would come together for an OPR, performance review. I can't recall - I think we haven't - I haven't personally participated in those for probably maybe three years, maybe four, so I don't personally know how my office is reviewed. However, as a manger, what I look for then is recidivism. If a family is continuing to come back to us at that front-end level, then that's a trigger for me that there's something not going right. 30

That is, something going wrong with the assessment? ---Exactly, yes. So I may or may not be aware of that, depending on how closely I look at the names that keep coming up or in supervision I might ask that question of a team leader. 40

Yes, it's a bit like randomly searching a shipping container, isn't it?---Yes.

The assessment of whether a risk I unacceptable or not is one of the key decisions that the intake screener makes, isn't it?---That's right.

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The other one that the system makes is whether there is a parent able and willing to protect a child at risk?---Well, if it's screened in and we assess it, then the assessing officer would make a determination.

Of that question?---Of risk, yes.

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Now, it would seem then if one of your main functions was to assess risk, you need to have some system in place to work out how well you're doing that job and I'm interested to know what the system does to quality assure in that area?---Yes.

Can you help me with that?---From my point of view, if you're sitting in an intake role and you can see that this is the third or fourth intake we've had, then that's a bit of a triggering point to say, "We need to take a closer look at this."

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That's the individual intake?---Exactly.

What about the system?---There's no alert that comes up on our system to say this may not be accurate.

Yes, that's right. So you have no red flag that goes up? ---No, we don't other than a reliance on expertise, professional knowledge and conversation.

Sharing information would be important if that was your system, wouldn't it?---Yes, extremely important; yes.

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Okay, thanks.

MS McMILLAN: Can I just ask you in terms of my questions of you earlier just to make sure that I have correctly put the facts to you, page 15 of the report says:

It is my assessment that the department's decision to place a child in out-of-home care while further assessments were being conducted should have occurred on 29 September 2009.

That was the first date they attended at the caregiver's house. Correct?---That's correct.

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Right. Over the page:

Significant concern that CS02 conducted interviews with the child and the caregiver on the 29 September 2009 and both parties indicated inappropriate sexualised incidents had occurred and the child

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stated that he was uncertain whether he felt safe. 1

It then goes on to say further in that paragraph:

The outcome of this discussion determined the child to be in need of protection and should be removed from the custody. However, the departmental officer did not take action to place the child in out-of-home care until 6 October 2009. This appears to be a significant lapse of time given the department had assessed the child to be unsafe six days earlier. 10

So I think I said up to 10 but it was six, wasn't it?
---Yes, that's right.

All right. You, I take it, wouldn't cavil with that that wasn't, given the level of harm that was identified, an appropriate measure?---I agree that the delay was unacceptable.

Yes?---Yes.

Indeed, just going back to recommendation 6, for instance, the department review and/or develop a written explanation of the interim custody processes provided to parents to promote their understanding of court proceedings, particularly rulings in relation to interim custodial periods. Now, the response was from your department that departmental officers provide verbal explanations of court processes on a routine basis. Clients are encouraged to seek legal representation. 20

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Then further, dropping down, "Further, it's also the responsibility of the magistrate to verbally inform clients regarding their rights and the nature of particular orders or adjournments. So the nature of court proceedings is such that they are so diverse that no one written document could deal with all eventualities," but really, whilst you've identified other parts of the system in terms of the court, really isn't the specific recommendation that if the department is going to undertake, for instance, an interim custody proceeding then it's really incumbent upon them to provide a proper written explanation to the parent, isn't it?---I'd probably have to consult court services, because they've assisted to develop this response, but with this particular case this primary caregiver was legally represented all along and those conversations were held not only with her from my department but also with her legal representation at every stage.

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All right, but generally in terms of you'd be aware that a lot of parents are not legally represented, are they, in child protection proceedings?---That's right, yes.

You'd probably agree, wouldn't you, that many of these parents are highly distressed, they're emotionally aroused. When issues of clearly whether the child is going to be removed from their care and what proceedings, if any, the department may undertake, that they may not be best placed to take in orally all that information. Correct?---That is true at times, however I've never met another case like this where the primary carer continues to deny knowledge of proceedings.

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You've never encountered that?---Not to this degree, no.

Right?---There are times where parents don't understand and we sit and explain, there may be times where parents have an intellectual disability or a mental health issue that prevents them from understanding.

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What is done about that, to your knowledge?---To my knowledge we would often sit with them again and continue to try and explain. They may have an advocate there from a disability agency or a mental health provider, but usually we come to some place where the parent is able to understand. Despite those attempts in this case we were still never able to get this particular parent to agree on anything. So it was a very adversarial - - -

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It was agreed, wasn't it, by that person, because it's recorded in the report, that she in fact did agree at least initially for the child to be placed other than in the home?---That's correct.

There was an issue about whether she withdrew her consent subsequently, wasn't there?---Yes.

And indeed - - -?---That's for the assessment. 1

Sorry?---The assessment - the care agreement. That's what you're talking about.

Yes?---Yes.

Indeed, recommendation 5 was that the department provide professional development or training to officers at CSSC in relation to the appropriateness of assessment care agreements being undertaken rather than temporary assessment orders. Now, the response to that was training you say was implemented and a new practice panel model being implemented in January 2012, but would you agree that's a fairly fundamental understanding officers would need to develop, wouldn't they, that there are some matters where clearly it's appropriate to go straight to a temporary assessment order rather than the assessment care agreement, wouldn't it?---There are some matters where it's more appropriate to go straight to a TAO, that's correct. I understand that the criticism in this case was that it was felt by the reviewer for the commission that - - - 10

Page 17, Mr Commissioner, of the report. 20

COMMISSIONER: Thank you.

MS McMILLAN: Yes, go on?---That the mother was withdrawing her consent for the care agreement and we should have immediately followed with another safety assessment and then an application for a temporary assessment order. We understood that mother was - or primary caregiver was at times suggesting her unhappiness with the situation, but that wasn't taken to be a withdrawal of her consent for the care agreement. 30

Yes, well, page 17 identifies that issue, that the mother did not agree with the placement and wanted the child to return to her care. She did not indicate she wished to end the assessment care agreement, nor is there any record of CSO 2 seeking clarification if that was the mother's intent. So the gravamen is this, isn't it, that really (1) issues of consent are clearly identified, isn't it, with a parent or carer about what their intent is, and (2) again, the assessment of risk, is this an appropriate measure to take or should we have gone straight down the road of a temporary assessment order? Would you agree?---Yes, on reflection I think that the review certainly pointed out to us some elements in our practice that we really needed to reconsider and I think that is a very important element. 40

Well - - -

MR HANGER: Hang on, let her finish.

MS McMILLAN: Go on, sorry?---Yes. In terms of a TAO

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being applied for, yes, I think that was the correct practice. I think that's what we needed to do and I think that's what we eventually did. There was a delay, although the child was safe, being that he was under a care agreement. So there's some technical issue in there. Was the child safe? Yes. Was he at risk of being further harmed? No. Did we take measures to continue to protect him? Yes, we did.

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All right. Now, in terms then of that, in relation to the next recommendation, 7, "The mediation occurs between the caregiver and departmental officers who will continue to have case management to resolve the impact of previous communication issues on the working relationship between the caregiver and the departmental officers," it seems clear from the report that there was considerable difficulty in that, wasn't there, the communication issues between the mother and the responsible child safety officers?---Yes, there were.

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Now, I see the response was that the mediation was not required because effectively the personnel had changed. A new CSO and team leader were, if you like, deployed to manage that case?---Look, prior to the report being given to us by the commission we were already aware of the difficulties and we were trying to manage those issues as best we could. There were a series of CSOs, in fact, that the primary caregiver didn't want to work with and so we eventually got to a point where we nominated another team leader and CSO. So that was already in play before this report came to us, and that was seemingly working.

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My question is this, is that the right way to go about it, because really perhaps an issue might be that the continuing changing of the personnel might in and of itself be a difficulty. Correct?---At times, yes.

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You would be quite well aware that that's an oft made complaint by parents, isn't it, that there's a very considerable change of child safety officers who are assigned to the case regarding their children. Correct? ---That's true.

So in fact the recommendation for a mediation perhaps was a good idea, was it not, because it could perhaps work on those issues with perhaps an external mediator to address what was clearly a problematic communication route, if I can put it, between the caregiver and the department?---I respect your view but I don't necessarily agree with it.

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What, because you just say - you say that changing the personnel was the way to go?---No, I don't think that was the only element. There were other motivating factors in this case and it was fraught with conflict right from the very beginning. There was a local member involved who continued to try to sway our case management and place

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pressure on us. There were also HR difficulties as well. When a staff member is - you know, when people outside of our office continue to make complaints about a particular staff member it does have an effect on them personally and professionally. So this was one of those cases where the range of complaint mechanisms had been utilised over and over again. So it does take its toll on staff members and you have to manage that issue as a manager as well.

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Well, a couple of things that I might ask you out of that. (1) what, to your knowledge, did the department do to support officers within the department with this going on? ---The normal supervisor, you know, would continue to have supervision with the staff. We would meet frequently to debrief as a group managing this issue.

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Is this the practice panel?---No. 1

This is something else, is it?---The practice panel wasn't in place at that point.

So you would have what, regular meetings? How regular?
---As regular as they needed to be to support the various staff members, but it was an onslaught, to be very honest with you.

That's what I'm asking you in terms of the response through the department to what you've termed as an onslaught. For instance, we've had evidence in another centre that the police are offered - apparently there's a mental health assessment undertaken yearly and there's mental health support for them. What, if anything, is advanced by the department other than a supervisor and you say having these debriefings? I'm not by my question indicating that's not of significance, but is there anything external provided by the department such as screening or assistance to departmental officers?---There's certainly an internal program called the "Peer support program" whereby your peers are trained to look for particular issues and support their colleagues and there's also the EAS provider that's external to our department and confidential. 10 20

What's EAS provider?---An employee assistance program for counselling.

Was that utilised in this matter?---I wouldn't know because it's confidential.

Right?---But what we do is we offer it. We give pamphlets. We acknowledge that it's available and confidential and if staff take it up, that's - I wouldn't know about it. 30

Well, do you know whether the officers who seem to be subject - particularly in this report, if you like, the frontline of this particular issue, CS01 and CS02 and the particular team leader. Did you get any feedback from them whether they felt supported?---I understand that they felt a great deal of pressure. I don't know that they ever came to me to say they felt unsupported.

No, but I'm asking - it's really the reverse?---Yes.

Did you undertake or were aware whether they perceived that they felt supported by the department?---I can't comment, I'm sorry. I don't know. 40

All right. In terms then of this matter as a whole I will tender the document absent some de-identifying particulars "Advice Regarding the Implementation of CCYPCG Proposed Recommendations".

COMMISSIONER: The implementation extract attachment 1

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will be exhibit 92.

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ADMITTED AND MARKED: "EXHIBIT 92"

MS McMILLAN: Thank you.

So as a whole, what would you say that might be gleaned from both the report and the recommendations and what measures the department has undertaken in relation to it? What do you think are the things that stand out as perhaps lessons for the future?---For me probably the biggest ticket item in the report was the fact that we don't do well the review process in a case plan and the articulation of progress or lack thereof of a parent and then joining the two in a new case plan. I think as a department that's something that we could do better at. There were technicalities in the report that I don't disagree with, but I think overall we've met out legislative obligations. There were certainly elements in the report that I think we did need to improve on and I was pleased that they were pointed out so we could pay attention to those details and I think probably, you know, the structured decision-making part of our business is one that is not well understood in how it fits into our practice framework.

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You mean well understood by child safety officers?---And their team leaders at times.

And their team leaders?---Yes.

That was the question I was going to ask you?---Yes.

Do you think - because the report ultimately concluded that the department had fulfilled their statutory obligations but clearly there were issues, it seems, about how the structured decision-making tool fits within those obligations. Would that be a fair way of putting it?---I think so.

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And gain perhaps, does it raise the question of whether too much attention is paid to adherence to those without at times the proper exercise of individual and professional judgment?

---Anecdotally I could say yes to that.

Do you think that again this report perhaps highlights the fact that the structured decision-making tools need to be fairly consistently revisited?---As in revised or - - -

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Revised?---Yes; yes, they do.

Because cases like this will come up that throw up particular issues, won't they?---Yes, always.

And, for instance, the decision to take the agreement - the assessment order as opposed to a temporary assessment

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order, a TAO. That's perhaps a good example, isn't it, of saying, "Really we should have been tipped off to go down that path rather than this path"?---Yes, and, you know, making those decisions at times is subjective which is why we have a hierarchy within each service centre, but in one service centre you may well decide on one path that another service centre would equally decide on a different path, yes.

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Which calls into question why you need, one would think, appropriate and consistent training for all levels of officers within a Child Safety centre. Correct?---Yes.

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So that you attempt to get consistency, if you can, but also provide ongoing on-the-job training and development. Correct?---Absolutely.

But also the scope for having individual subjective assessment?---Yes.

Because that's what at times is going to be perhaps more important than strict adherence to these SDM tools. Correct?---Yes, that's right. As a professional, you need to feel confidence in being able to make a decision that at times is outside of the recommendation from the tool and you have to have the professional expertise around you or from within your own experience to be able to articulate why you might be deviating from that because children and families are individual and at times you do need to make decisions that meet the needs of that child or family.

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Indeed. Yes, thank you, I have got nothing further, Mr Commissioner.

COMMISSIONER: Thank you.

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MR HANGER: It might be better if my friend went first today.

COMMISSIONER: Mr Capper?

MR CAPPER: Thank you. I only have two questions in relation to it. Obviously our issues are well addressed in the report and I won't labour on those.

You indicated during the course of your evidence though that you believe a table that was handed up as the latest exhibit, exhibit 92 - you said that that table was completed and attached to the letter of Ms Apelt. Is that correct? Is that your evidence?---As I understand, this was sent through to the commission by our then DG.

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Okay, because I guess the thing is I'm looking at the letter from Ms Apelt dated 23 January. It makes no reference to the table and also makes no reference at the

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bottom of the document to any enclosure and certainly my instructions are the commissioner has never received a copy of that table. Are you sure that that table was enclosed as part of that correspondence or it's just your assumption?---It's my assumption.

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Do you actually know when the table was completed or when it was prepared or if it has ever been provided to the commissioner?---To the best of my knowledge, it was provided through my department up to the DG and I understood that it had been provided to the Children's Commission.

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But you would agree that the letter doesn't refer to it. It doesn't make reference to it or enclose it, as you can see?---Correct.

Yes, that was the only thing I had to clarify, thank you, sir.

COMMISSIONER: Yes, Mr Hanger?

MR HANGER: Just a couple of things.

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Could I take you back to your exhibit 92, that is the tabular thing, and just deal with three paragraphs in it? Paragraph 3 refers to making a safety assessment prior to leaving the family home. What was the background to that? ---The background was that the officer that was investigating this investigation allowed the child with the primary carer's permission to go to a third party whilst she was questioned by the police. The CSO then came back to the office and discussed with the team leader a safety assessment. What should have occurred was she should have done that in the home prior to leaving.

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So she made a safety assessment back at the office - - -? ---On the go.

- - - in consultation with a team leader?---Yes.

Whereas she should have done it before she left the home? ---That's right.

I suppose then didn't have the benefit - - -?---Because you wouldn't leave a child at home that's unsafe.

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Left the child alone, yes?---However, the child wasn't at home, the child was taken to another caregiver. 1

Okay. And I suppose if she'd done it by the book she wouldn't have had the benefit of her team leader's input? ---We encourage staff to call to speak to a team leader.

Could have done that?---Yes.

Okay. Paragraph 6: I don't know if you want to comment on this, but in the absence of a lawyer, do you think it might be better to go over a verbal explanation four five times to get the message through rather than give a written pre-prepared form?---Well, there will be those parents who cannot read or cannot understand the brochure or the written documentation either, so I'm not quite sure then to what extent you continue to have that conversation. We do the best job we can in trying to provide an explanation to parents. 10

I'm just wondering whether a form is necessarily better than the spoken word when the spoken word can be repeated and you can decide whether your audience is understanding what you're saying?---Yes. In some respects, with respect, this is a bigger question that I can answer because it's on behalf of the entire department and I'm only responsible for my little bit. However, in consultation with court services and our legal branch I guess at that time we felt that it wasn't necessary. It might be something that's revisited, though, in the future. 20

And someone has told you what they think you should be doing?---Yes.

And you've got to do it. 30

COMMISSIONER: So if you really want to find out if somebody understands what you said, we have a tendency to say, "Do you understand," rather than saying, "What do you understand by what I've said?" And let them repeat to you what they think you said, and then you can work out if they really do understand what you said?---Yes. Can I be so bold as to suggest that I actually think the mother did understand in this case.

Yes, do you think she understood but again, it is that belief that you will act on, and what I think Mr Hanger is trying to work out is how do you road-test that belief before acting on it - - -?---Yes. 40

- - - so that instead of believing that she understood, you knew she understood because of the questions you ask? ---Yes.

MR HANGER: That's the sort of thing I was getting at, yes?---Yes.

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Going on to paragraph 7 or recommendation 7, I was interested in the use of the word "onslaught", so I think you should elaborate on that. What's the background to this?---The background to this case is that I think parents who have criminal matters or potentially have criminal matters are in a difficult bind when they work with our department because they are - - -

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There are in big trouble?---They are, and so they need to proceed with caution. They're given advice by their legal reps along the way what to say, what not to say, don't admit this, don't admit that. And so it creates a very difficult and adversarial process. During the course of this particular case we had constant complaints by the mother's support person, by the mother, by a local MP, such that they kept trying to attend family group meetings, it was in the paper, it was in Parliament, and you know, of course there were numerous complaints through to my office, through our central complaints unit, through our regional complaints unit, and it was very distracting.

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And did the local MP try and attend family group meetings, which are very private?---Yes, he did, yes.

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COMMISSIONER: Our system has got to be able to withstand that sort of human response, doesn't it?---Yes, that's right.

The system is there to get as close as a can to the mother. It's not always going to do it because it's a human system? ---Yes.

But there are two things that are competing with each other here: the system has to be robust enough to work for people who it affects, and that, in effect, works for parents, children, others; it also has to be built well enough to give support to the frontline people who are really faced with these difficult decisions and the conflict that that gives rise to. So they're both legitimate, aren't they?---Yes, they are.

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But the risk is that the system will protect itself at the expense of both or all other interested parties, all right? So the system has to be constantly on guard against doing that and finding itself in the bunker and then making decisions based on self protection in the child protection?---Yes.

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And do you think the system is alert to that and puts safeguards in place to ensure against it at the moment?---I think it was alert to that very issue, which is not to say it wasn't extremely difficult. And I think that there is a human cost to that. Certainly there was from HR perspective.

But my impression is that you were being critical of the MP

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and the primary caregiver for pushing their case against the department's decisions. Why are they allowed to do that?---They are allowed to do that.

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Because you could be wrong?---Yes.

And if they sat back and did nothing and you made a wrong decision that affected the child at firstly then that would be something they would have to live with?---Yes. However, there was no acknowledgment of the child protection issues themselves by the mother or her various support people, and for me that was the critical issue here. We've held very strongly to the fact that this child had been abused and the mother was not in any way acknowledging that as we were going through our case planning process.

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So from the system's point of view that affected her protective capacity?---Yes, that's right.

Right. And that's what you had to deal with?---Yes.

You had to make a judgement call, was her protective capacity safe enough to leave the child a home? Right? ---Yes.

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You could do that regardless of what noise she was making? ---And we did.

Right, okay?---Yes.

So then the fact that the - - -?---However - - -

Sorry, the fact that she was going to people for support and pushing her case as best she felt that she needed to, really isn't a matter for the department to have a view about, is it?---I was asked for my view. I think that at times distracts us from continuing on with the casework, the case management.

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So maybe we need to find a way of the department not getting distracted by irrelevancies?---I think we do our level best to maintain a focus on the work with the child and parent, but I think that there is a human element in that at times, you know, if you've got one or two complaints, that's nothing, we manage that every day, that's okay, so long as we attend to it; but for this particular case it was repeated and no matter what we did, was considered the wrong thing.

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Not enough?---Yes.

Or the wrong thing?---Yes.

But my point is that when it comes to that situation it becomes combative between the department and the caregiver? ---Yes.

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And the child is still - so when you say you get
distracted, to get distracted with what? Your relationship
with the caregiver and her - - -?---The conversation with
the parent - - -

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- - - conflict with the department?---Yes, the conversation
with the parent becomes more about the conflict between us
rather than the child, and even if we try and bring the
conversation and the case management that to the case plan
or the child, the process is distracted rather than the
CSO, necessarily.

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But at the end of the day it's the department that makes
the decision?---Yes.

And the risk is for the system that decision will be based
partly on how they judge the performance of the mother?
---That's true, yes.

Even though the mother might be acting protectively in
making complaints about a department which she thinks has
got it wrong?---That's very true, yes. So I'm not
suggesting for one minute that we take away the advocacy
rights or complaint mechanisms, just acknowledging that for
this case there were so many of them that it was very
difficult - - -

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But if you're going to have them in place, you've got to
accept that they're going to be used?---Yes, absolutely.

And you can't complain about it. Okay.

MR HANGER: I started this too.

COMMISSIONER: But I finished it, Mr Hanger.

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MR HANGER: No, but I think you would accept - and
certainly I would accept as a mediator that sometimes
people that are doing their best for the parties are making
things worse, and that includes barristers in mediations
and others.

COMMISSIONER: They'll remain nameless, no doubt.

MR HANGER: They will remain nameless.

But can I finish on a positive note?---Yes.

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Have you had a good result with this particular case?---We
absolutely have.

Can you tell Mr Commissioner about that?---This child is now back at home with his primary caregiver. The order is due to expire in December of this year and she is maintaining her appointments with probation and parole, with her psychologist. The child continues to meet with his psychologist. The school reports indicate that he has settled back into the home now. The primary caregiver still has some serious issues to work through around her own childhood abuse and therefore how she sees the world and her relationship with her son, but we have been able to manage to reunify this child, and that's just one of the cases in my office. We've had a very dedicated focus on looking at reunification and we've had some really great successes with that, even for children on long-term orders. So I'm really pleased with the progress of the case.

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You really regard this as a very successful case in the end?---We do, yes.

COMMISSIONER: What about the other side of the equation? How do they regard it, do you know?---I understand that the mother is very happy with her relationship with her CSO and the fact that she has her son back in her care and it reaffirms the progress that she's made with her psychologist as well.

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What was the basis of the notification in this case?
---Sexual abuse.

Actual or risk of?---Actual and risk of emotional.

So risk of emotional abuse in the future?---Emotional abuse was substantiated and risk of emotional abuse in the future due to sexual abuse.

Is that what the structured decision-making tools spun out?
---I can't honestly answer that.

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In your experience what would be the predominant basis of a substantiation? Would it be emotional abuse, or risk of it?
---I think neglect would be very high and then probably emotional, yes.

Yes, of the abuse categories?---Yes. I think neglect would come first, then emotional.

Right, and of the abuse categories which is the hardest to identify?---Emotional, and cumulative harm is the most difficult.

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So the most predominant substantiation is the most harm?
---Yes, although at times it's the most obvious as well, because if the child is acting out then - - -

Well, it's only obvious if you call it correctly?---Yes,

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that's exactly right.

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It's not obvious if you've miscalled it as emotional abuse when it's not?---That's true, yes, although we'd often try to triangulate that to be able to ascertain the validity of it. So we'd look to the schools who know the child better than we could possibly hope to.

Yes, but you still at the end have to make an assessment of something as intangible as emotional abuse about a child who - and then it's the question of the ongoing risk of that and whether it's unacceptable or not?---That's right, yes.

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What you've got to do to make that call is your structured decision-making tool and whatever experience you can bring to bear on it yourself?---That's right, yes, which is why it was really important for me as the manager coming into this service centre to have a vision about looking at all of the children who were on long-term orders to reassess that.

Yes?---So if a child has come into care two or three years ago, or four years ago - - -

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Do they still need it?---Do they still need it? Have they aged sufficiently that the risks have reduced?

Because they're more self-protective?---Exactly, or have the parents been able to address some of those things - - -

To become more - - -?---Even if it wasn't exactly the way we wanted them to do it, or on our timeline, had they achieved that?

Well, you did that. Does the system do that?---Not of its own accord, no.

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You did it because that was obviously, to you, what needed to be done, so why doesn't the system do what seems to you to be so obvious?---I think there's an assumption that once a child is on a long-term order we don't continue to work in that way, and in the majority I think that's true, but there are times when it becomes an obvious decision-making opportunity.

And you'll never know if you don't look?---That's very true. So part of our practice panel was also then to bring all of those kids who were on long-term orders back to the practice panel to have another look over this.

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How did you go with that? What did you find when you did that?---Well, we've had a lot of success stories whereby we have - you know, when we first become involved with the family we sometimes don't know where both parents are, for example, and then through another look at the case we'll

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locate the second parent and there are occasions where the second parent didn't know that the child was in care so we've been able to work with that parent to either build a relationship, to acknowledge the culture and the family history or to reunify.

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So again, if you hadn't started that process none of that would have happened?---That's right. That's exactly right, yes. There are times when long-term orders are absolutely necessary, but in my view they still require review.

Once you get a long-term order that's not the end of the story?---No.

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If you were designing the system you would include in it a review function?---I would.

MR HANGER: Just one thing. How often?---That's a tricky question, because when you start talking to foster carers of children on long-term orders they get very nervous, very anxious, as do children. So you have to do it cautiously and respectfully, but - I don't know.

COMMISSIONER: No. It's another one of those hard calls? ---Yes, it is.

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It has got to be on a case by case basis, I suppose?---It is case by case, and there may be times where it's obvious, when a parent has come back to you and you've scratched your head and thought, "Goodness gracious, how come we didn't know where that parent was?" or, "Thank you for coming to us because now we've got an opportunity to do something different for that child that will make a big difference in their life."

MR HANGER: But then you've got to weigh up the issue of bonding to the foster parent?---Exactly.

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As distinct from going back years later to a parent that they haven't known?---Yes, that's very true. So at that point it might just be about relationships and connections between the child and their biological family, but still very significant for that child.

COMMISSIONER: Is that on the basis of a best interests assessment?---Yes. Attachment - - -

Why is that a question at that point?---It depends on the - - -

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Well, I'll tell you why I ask the question?---Yes.

Because when the child went into care the question was has the child been harmed, an unacceptable risk of significant harm, and no protective parent. That was the question. That was the qualifier to get in?---Yes.

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But now to get out it's got to be a different question, does it?---Yes, that's very true. 1

But does that come from the legislation that says the question changes?---No.

No, so why does the department change the question?---It's a very good question and I think that it depends on how long the child has been in our care for, how long the child has been with the foster parent - - -

I know, but isn't that a risk of the system trying to do the right thing the wrong way? It's got to act under the law, not its own view of what is right and what the law should be?---Yes. 10

So if you were rewriting the law what would you have as your criteria to work out as if a child is in the system should leave? Would it be whether the - - -?---I think that we would have to satisfy has this parent got the protective capacity.

Right, let's say they do?---Yes. Is there a significant relationship or a sufficient relationship that could be built upon between the parent and the child. 20

To make going home a worthwhile effort?---That's right, yes, and, you know, there is research that talks about returning children to family where the household has changed. So there's a new partner, a new home.

All right?---So there are some delicate issues in returning a child or children to their parent.

So you think the question of return should be best interests based?---I do, yes. 30

But you acknowledge that it isn't at the moment?---At times it's not and there are competing interests then again, because foster carers have the right of appeal through a QCAT process around that very issue.

But isn't the concept of foster caring based on temporariness?---Yes, that's what underpins the out of home care system.

That's the difference between foster care and adoption? ---That's right. 40

As a foster carer I know it's always a temporary proposition?---Yes.

So why do I have a right of appeal?---Because currently under schedule 2 of our act it talks about review rights of foster carers if we're to make a placement - - -

Other than them?---Other than them.

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Even back home?---Yes.

Should they have that right?---My personal view is no.

Yes, okay. Thank you.

MR HANGER: Can I just refer you to section 65 of the act?

COMMISSIONER: Yes, that's where that comes from.

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MR HANGER: Yes, (7) (b).

COMMISSIONER: Yes. I mean, I'm asking whether that is something that needs changing.

MR HANGER: Thank you.

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COMMISSIONER: Anyone else?

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MR GUY: Thank you. I'm going to take the witness away from the case that you've been discussing and I just want to concentrate on Aboriginal and Torres Strait Islander children that are in care.

Down at Bundaberg, have you got any figures - of all the children how many Aboriginal and Torres Strait Islander children would be in care?---I don't have the figures on the top of my head, no, I'm sorry.

10

There is a substantial population of Aboriginal and Torres Strait Islanders in the Bundaberg area, is there not? ---Yes, but it wasn't as substantial in my memory as when I was in Gladstone, for example.

COMMISSIONER: What do you say it is, Mr Guy?

MR GUY: I was asking the question as to whether - - -

COMMISSIONER: Yes, I know, but do you have an idea? I would like to know the answer to the question if you have got a bit of an idea.

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MR GUY: About 40 per cent, your Honour, of the children.

In relation to the training, you mentioned that the CSOs are coming and going from the department at various stages of their overall training. Just with the recognised entities that are required under the act - with the CSOs and the team leaders, when are they made aware of the need for the recognised entities to be involved?---That's certainly part of our induction conversation but it's also part of their first training that they go to.

30

The first training session?---Phase 1, yes.

In relation to the structured decision-making situation, it's been mentioned to this particular inquiry that the department has become what's probably called more risk averse in recent years. With the decision-maker process, is there any account taken in to for the child and the caregiver's families, surrounding relations, et cetera, in regard to assessing a risk or an unacceptable risk?---I'm sorry, I'm a bit confused about your question. Is that in relation to kinship care options? Is that what you're talking about?

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Just in the initial stages, family risk evaluations as part of the structured process?---So that's a specific structured decision-making tool.

Yes, tool?---And your question about the tool is?

In relation to the child or the primary caregivers, when

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you're looking at whether there's a risk or an unacceptable risk and whether the department is going to take any action, do you look at surrounding family, relations? Rather than possibly taking the child or placing the child into care whether there are other family members that could maybe step in and - - -?---Okay. If I could talk a bit more broadly than just one tool - - -

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I will put this question to you, okay: how does structural decision-making cater for families, family communities, strengths and support systems in the initial assessment stage, particularly family risk evaluation?---Okay. So it's really important for me to say that the structured decision-making tools only form one part of our work. We might utilise them to help us make decisions but we also use the record of interviews that we would have with children and their families, any other information we've gathered from community agencies, and if it's a child from Aboriginal and Torres Strait Islander background, we would always have a member of the RE with us if they're available or we consult with them as soon as we can. We've also been lucky enough to have one of our indigenous CSOs go into the role of a child safety support officer so now that officer is available for consultation and advice for all of our staff as well. As for the family risk evaluation tool, I can't comment on the design of the tools or whether that tool specifically asks the question of whether the child is indigenous or not because I haven't seen the tool for a long time. I don't personally use it in my day-to-day business, but I understand that when they were designing the tools, they certainly did consider the need to modify the tools around our specific indigenous people and in deciding whether to remove a child or not we would always consider family and an extension of that family.

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Have you got any sort of concept of how that structured decision-making tool could be given a more balanced assessment?---I'd have to give that some thought, I'm sorry. I haven't prepared for that, yes.

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Just a comment: are you comfortable with the tools or the tools' ability to respond to Aboriginal and Torres Strait Islander children, their holistic wellbeing?---The tool doesn't respond to anything. The tool guides the practitioner who responds to. So even if the tool doesn't guide us to the answer that we think is right for that child, we will override it. So in that regard I think that the tool does a fair job of trying to guide us, but it ultimately is up to our professional expertise to decide whether that's the right direction for that child and family.

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Just in relation to the overriding - and I think part of your evidence has been with the structured decision-making tool that there is the ability to override those tools, a senior practitioner or whatever?---Yes.

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Are you aware just in regard to Aboriginal and Torres Strait Islander children how many times the specific use of the tool has been overridden?---I wouldn't know. Are you talking about just from my office or for the department?

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It would have to be for your office, I suppose?---Yes, I wouldn't know off the top of my head, I'm sorry.

Would you accept that a positive process may be to develop additional structured decision-making tools aimed at supporting Aboriginal and Torres Strait Islander children? ---I would be in support of anything that helps us to make better decisions and have better outcomes for Aboriginal and Torres Strait Islander children and families.

10

Thank you. No further questions, commissioner.

COMMISSIONER: Yes, thanks, Mr Guy.

MS McMILLAN: Might this witness be excused?

COMMISSIONER: Yes, certainly.

Thanks very much for your time and the evidence that you have given?---Thank you.

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I'm sure it will help inform the shape of the final report. I appreciate it?---Thank you very much.

Thank you; good luck?---Thank you.

WITNESS WITHDREW

MS McMILLAN: Do you wish a short break?

COMMISSIONER: Yes, sure.

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THE COMMISSION ADJOURNED AT 11.40 AM

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THE COMMISSION RESUMED AT 11.59 AM

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COMMISSIONER: Yes, Ms McMillan.

MS McMILLAN: I call Bernadette Harvey.

HARVEY, BERNADETTE MARIE sworn:

ASSOCIATE: For recording purposes please state your full name, your occupation and your business address?

---Bernadette Marie Harvey, I'm the regional director of child safety services Central Queensland region, and a business address is 209 Bolsover Street, Rockhampton.

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COMMISSIONER: Good morning, Ms Harvey. Welcome.

MS McMILLAN: Ms Harvey, have you prepared three statements in relation to this inquiry; the first being 21 September 2012, the second being 4 October 2012, and the last one being 10 October this year?---That's correct.

Are they originals of those statements - copies?---Yes, they are.

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I tender those, Mr Commissioner.

COMMISSIONER: Those three statements together will be exhibit 93.

ADMITTED AND MARKED: "EXHIBIT 93"

COMMISSIONER: And they're published.

MS McMILLAN: Yes, there's no reason they shouldn't be published, Ms Harvey?---No.

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Thank you. Now, Ms Harvey, do you have copies of those statements with you?---I do.

All right, thank you. Now, can I just ask, in your statement of 12 October you say you're acting in the position of regional Executive Director, Central Queensland region, Department of Communities, Child Safety and Disability Services. Are you still acting in that position?---No, I'm not.

All right. So your substantive position is the regional director?---That's correct.

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All right. And is that what you returned to?---That's correct.

All right. What's the difference in the two vis-a-vis responsibilities?---The role of regional executive director

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oversees the whole range of departmental services throughout the region, so it includes as well as child protection services, the provision of disability services and also the provision of funded services to communities.

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All right. What does the regional director do?---The role of regional director is specifically around overseeing the delivery of child safety and child protection services in the region.

Now, your formal qualifications, you have a bachelor of arts, psychology and welfare studies and a bachelor of applied science, psychology and a bachelor of laws. Correct?---That's correct.

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All right. Now, in terms of - you've also worked in the various incarnations of the department since 1992. Correct?---That's correct.

All right, thank you. Now, can I ask you some questions: in relation to your statement, 12 October, paragraph 13, you say that in October 2010 the central Queensland RIS - what's that? What does RIS stand for?---Sorry, I'm just locating the appropriate statement.

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It's page 2. Is RIS the regional intake service?---That's correct, yes.

All right. And it makes referrals to a range of government and non-government organisations. Now, firstly can I just ask you, you point out the advantages of it in the sense that it's removed that responsibility for intakes from local child service offices. Correct?---Correct.

But would you consider that there are disadvantages of this system?---I think there are some disadvantages, and certainly some of the feedback we receive from our partner agencies are that one of the key disadvantages is the loss of that local relationship that they may have with the individual service centres.

30

Yes?---For Central Queensland the regional intake service is located in Hervey Bay, so obviously it is a considerable distance, for example, from Emerald. So that's - it can inhibit those local relationships.

And secondly might it also cause delays at times?---Not necessarily delays, no. Certainly in terms of the receipt of information into the Hervey Bay regional intake service centre would occur in a timely way and the communication, or for example a notification, back into the respective service centre would happen in a timely way.

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Can I give you an example? Last week in Mount Isa we heard from a police officer there that - and I should say I understand this is a different area that the one we're

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talking about?---Yes.

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But they had to make contact from Mount Isa to the Townsville RIS only to be told, "Well, it's not their case, you'll now have to go to RIS in Cairns," as I understand it. In the end there was quite a considerable delay and a week later the police officer still haven't learnt what had occurred as a result of that information being passed on. Now, clearly as an example that wouldn't be considered acceptable to have that sort of time delay, wouldn't it? ---No, certainly not if there were critical child protection issues identified.

10

Yes. And so that's one issue, but the second issue, as you point out, is the loss of local knowledge. Now, one could assume that that is going to be a fairly important and sometimes a key aspect of providing timely child protection services, isn't it?---Yes, in some aspects, yes.

So for instance if you need to find an urgent placement for a child and in Rockhampton here you probably have a pretty good knowledge of what foster carers might be available, so to speak, at short notice; you might also be aware what other support services might be available at short notice, say for instance mental health; whereas if you're based in Hervey Bay you're not going to have, are you, that sort of detailed knowledge?---Just to clarify your first point, in terms of placement, for example, that certainly wouldn't be a function of the regional intake service, that would be a function of the local service centre and the placement support unit. Your second point around their knowledge of local agencies, yes, they may not have that local intel knowledge, but they certainly have a list of available services within each of those locations. So certainly staff at the regional intake service would know where they could refer families to.

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COMMISSIONER: So what would the partner agencies - what relationship with a saying had been affected by the establishment of regional intake?---I think some of the anecdotal feedback we've received is it is quite different because it's not your local CPIU, for example, phoning your local service centre and having a conversation with someone they know on a face-to-face basis; it is that they are phoning someone in Hervey Bay who they might not necessarily know or have that personal relationship with.

So accepting that that's a difference, does it adversely affect the service delivery?---In my opinion, no, but that is certainly some of the feedback from partners.

40

Yes, okay. So what's not happening that used to happen before the regionalisation occurred?---I'm not sure, and I think that would be a good thing for feedback from partners around what they think. I have heard the issues around a time delay. I have heard that discussed before. The lack

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of local intel about what might be happening in that community might be some of the things that the regional intake service might not. 1

Why would the intake service need to know what was happening?---It could be - you know, for example I talk in my statement around some of the pressures, for example, in Gladstone. So if you were phoning someone in the local service centres they're fairly acutely aware of some of the impacts the industry are having an some of these - - -

So the context - you miss the context?---Yes, the context, yes, correct. 10

And systems are all about context, aren't they?---Yes.

And when context changes or varies the system needs to adapt to the change or the variation to work properly, doesn't it?---Yes. Yes, it does.

And that's just systems theory, so let's apply the theory to the practice. Because of the intake not having the context within which the call is made or what's happening in that area, what difference could that make?---I don't believe it's impacting on the screening decision that is being made. 20

Because that its primary function, isn't it?---Yes.

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To screen?---Yes.

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And they screen in or out without reference to context?
---Again I can talk generally.

Yes?---Yes, that certainly they would consider the risk that's identified and the potential harm that's identified as well as the protective factors that may be present. So I guess, you know, industrial context and housing stress and those types of things wouldn't necessarily be factors we'd consider in terms of determining our screening outcome, but certainly could be good context to what's happening in the community, for example.

10

Yes, but you might do that at the next step when it's localised?---Absolutely, yes.

MS McMILLAN: But I suppose an issue is if it's not screened as a notification so it doesn't go then onto the local Child Safety centre but it's a child concern report - as I understand, they're of a lower level, if I can put it that way - you would, wouldn't you - in the department if you get a report which doesn't get to the notification level but, nonetheless, you think it's of significance enough that you would like to refer that family on to a support service, whether it's something like Evolve, whether it might be Mental Health Services, is the difficulty going to be in terms of someone based at Hervey Bay - whilst they may have a list in front of them, they don't have the local knowledge of saying, "Well, I know that Mental Health Service provider is pretty full up at the moment. You're better off trying X, for instance, or I know Y exists locally." How do you get around those sorts of difficulties?---I think there could be those tensions and that lack of context for some of those staff. In terms of the RIS management team they have worked hard in building their relationships with the Referral for Active Intervention Services or the other early intervention services so that they still can make those referrals. They are aware of the capacity of those agencies on a regular basis so I think they can still make those good referrals and do make those referrals directly.

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We understand now under the current SCAN model the matter has to reach notification level, doesn't it, before it goes to SCAN. That's your understanding?---Yes, to go to a full SCAN meeting.

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Yes, and that's notification as the department regards it?
---That's correct, yes.

So in terms of issues that might be child care concern reports which may not reach that level but, for instance, the local CPIU is concerned about it, they might under the former system which didn't have this regional intake service pick up the phone to someone such as yourself and

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say, "Look, I'm concerned about this. It's come to our notice. I've been told it doesn't reach the notification or I'm aware it doesn't reach it," but it might be useful intelligence for you to know because you think, "Well, that marries up with some other concerns that we've had," through Education or Health or whatever?---Sure.

1

How are you capturing that sort of data which again, if it's caught early enough, might mean you could refer them on to another intervention service, secondary provider, or itself might start in the back of your mind, "Well, maybe this should be raised as a notification"?---In terms of the SCAN model there is provision in the SCAN model for the calling of an information coordination meeting that is called with the regional intake service and the concerned partner agencies so it is for those child concern reports that haven't met the threshold.

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Yes?---So there is provision within the current system for that meeting to be called where exactly the things you've talked about can be raised.

But we're told on other evidence - I'm not saying this region in particular - that that's not necessarily easy to be able to organise?---I'm not sure and probably can't comment about that. I am aware - if I can just refer to my notes, I am aware that in the last year there have been four called. The region is covered by three SCAN teams and so two of those meetings were called by the Rockhampton SCAN and two of those by the Bundaberg SCAN. So there is provision in the current SCAN model for that to occur.

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All right. Otherwise, how is that sort of information being captured under this model?---Well, the information is recorded on ICMS in terms of the information we receive, whether it's through an ICM being called or whether a partner agency might just phone the team leader in the RIS and discuss with them, you know, some additional information they might have. Certainly our key partners such as CPIU officers regularly discuss with team leaders if they have concerns about the screening of a matter so in many ways there is good communication in that regard and avenues for that to be discussed.

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Now, can I just ask you - there has been some recent press coverage about an injection of funds and I think you were interviewed for a story in the Fraser Coast Chronicle. Do you recall speaking to them about - - -?---I do, yes.

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As I understand it, there's a new \$4,000,000 early intervention trial now in the primary stages of planning. It's a long-term of reducing the number of Fraser Coast children put into care. The Fostering Families trial will spend more than \$500,000 each year over the next two years to help 160 Fraser Coast families where neglect has been identified. You were quoted as saying that the day-to-day

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involvement with 160 families would mean an intensive in-home program to teach parents basic skills such as budgeting attaching to their children, grocery shopping and making healthy meals. You said it has the potential to make great inroads. Is that an accurate representation of what you said to them?---It's fairly accurate, yes.

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Right, okay. So in terms of this, can I ask you how have 160 families been identified as the number that you would address through this program?---So I can just talk generally about the Fostering Families?

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Yes?---So the Fostering Families was an election commitment so it was certainly a commitment of Minister Davies in terms of rolling out an intense service that works with those families early on when neglect is identified. I can't say I've been a part of the discussion around how the numbers were generated. I imagine that's been based on an amount of dollars that have been allocated.

COMMISSIONER: There would be a planning document with all this in it, wouldn't there?---I imagine so, yes, which we can provide.

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MS McMILLAN: All right.

COMMISSIONER: Which part of the department provides that? We have got Child Safety Services?---Correct.

Presumably label reflects function and so it's that part of the department that has primary responsibility for child safety issues. This program - is it seen within the department as addressing or performing the child safety function by Child Safety Services or is it seen more broadly as a child welfare function that's provided by the broader community's part of that triumphant - - -?---Which I think they call "social inclusion".

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Social inclusion, they do, yes?---Yes.

So do you know which arm of the department is providing this early intervention program?---It's my understanding that this is Child Safety programs and that - from what I understand the program is designed to take referrals from the regional intake service but also direct referrals from partner agencies. So it is in the early intervention phase in terms of when neglect concerns might first be identified, but I do understand it sits within Child Safety funded programs.

40

So the department is now moving into the business of early intervention?---Yes.

Directly, I mean, by offering a service that it didn't previously offer?---Sorry, so the Fostering Families will be provided by an NGO. The service will be delivered by an

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NGO.

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So it's buying the service?---Yes. It is, yes, buying the service.

All right, but it's buying it to create it because it's not currently available anywhere else, is that right, to fill a gap?---Yes, that's correct; yes.

And all the services that are available for RIS to refer to - are they government funded?---There would probably be a combination of, you know, community based organisations. Some would be government funded. Some may be, you know, church affiliated and funded in that way. Probably the majority of agencies would receive some government funding.

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I'm just wondering, and I probably will find out if I read the document, but again, would you agree with this proposition, that the Queensland system is safety rather than protection oriented, what we call a statutory system? ---I think it's fair to say that when Child Safety Services intervene it really is about ensuring children are safe. I think what, you know, has been identified before the commission and generally is that there is a need for families to get help very early on when they first need that help, when issues are first identified in their family.

1

What do you think about the child safety being the referral mechanism for that early intervention as an appropriate mechanism?---A couple of things. I think it is very difficult if you make child safety the sole referrer into those agencies, because that means in effect we bring, you know, a significant number of children into contact with the department. We are then the sole referral source. I think there's merit in universal service providers being able to refer in the first instance when there is first an indication that there is some issue within the family.

10

Have you heard any talk about in previous public sessions the possibility of privatising the intake phase?---I've heard some discussion, yes.

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What do you think about that?---I think there is merit in it being delivered externally, I think there's merit in it being delivered internally, but - - -

Can you tell me what the respective merits are?---Yes. I think in terms of it being delivered externally by the community I think there are certain merits in terms of then families could engage at a point where they need help, and if that's being delivered by an NGO they may be more likely to engage in that help at that point in time.

30

What they call self-referring?---Correct, yes.

That would be an earlier point in the continuum, wouldn't it - - -? ---Yes, it would.

- - - than it would be if you came through the Child Safety Services intake?---Yes, that's correct, which is generally the time when families first need that help. Often it is too late by the time - you know, or whatever is happening in the family has been going on for some time by the time it comes to child safety's attention.

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If they're going to you looking for early intervention family support they're looking in the wrong place, aren't they?---Correct, yes.

They're shopping in the wrong shop. What about the disadvantages of an NGO or some community based intake?---I

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suppose it's not disadvantages, I suppose it is just about, you know, the considerable work that might need to occur with the sector to have them at the point where they can perform that function. 1

Yes?---You know, in terms of one capacity of agencies, but also then in public confidence around going to those agencies.

And your own confidence that they were screening in and out appropriately?---Correct, yes. 10

But that's something you could tell over time?---Yes.

MS McMILLAN: Now, in terms of those services that you've identified you then go on to talk about the PSU in paragraph 14, which is the placement services unit?
---Correct, yes.

So do I understand this correctly, that it is a unit which is tasked with organising placements for children, whether that's foster care, residential care, any of those sorts of suites?, is that right, or kinship care or whatever it be. Correct?---That's correct, yes. 20

So the idea of the individual child safety officer needing to organise that is effectively they're absolved from that and it goes to this central unit?---It is a - there's a dual responsibility. I mean, certainly we need the information from the child safety officer that will inform the placement decision, but yes, the PSU then sources that placement and provides those options to the office.

It has been operational for how long? About since April 2009?---That's correct. 30

All right. Now, Ms Harvey, have you had a look at the findings of an inquest into a child named S? I asked that you be shown that this morning?---Yes, I have.

I'll just hand a copy up to you, Mr Commissioner.

Ms Harvey, I want to ask you some questions about this. I should indicate that there's nothing on the face of this that you actually had any involvement with this particular matter. Is that correct?---That's correct.

Right, but I take it because of your role - these findings were handed down on 22 May this year by Magistrate or Coroner Hennessy in Rockhampton here. Are you aware of this inquest and its findings?---I am. 40

I take it given your role it's the sort of thing that would be brought to your notice. Correct?---That's correct.

Now, can I just ask you; I'll just canvass very briefly for

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those perhaps who aren't familiar with the facts of it, in brief, S was a 10-year-old child who was placed in foster care, wasn't she, and in fact what had occurred was that she - excuse me, Mr Commissioner. On 7 February 2009 in the evening S was struck by a car in Rockhampton and suffered fatal injuries. Now, she had been the subject of a child protection order, as I indicated, and on the afternoon of the accident S had run away from her placement, which was through a foster care organisation known as Lifestyle Solutions. She absconded with another resident, K, who was a 17-year-old with an intellectual impairment. The child left the premises after having a series of arguments with another foster child, T, during the course of the day. Both these girls, S and K, were lost and in seeking assistance from the Queensland Police Service at that time by phone the accident occurred. That, in general, would you agree, is a snapshot of what occurred?---From what I understand, yes.

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Page 3 of the inquest indicates that the issues raised might perhaps be summarised that - the circumstances in which the department placed S at Lifestyle Solutions, this foster care provider, the previous history between S and T, those two children, the circumstances in which they were placed in the same residence, if you like, the action and management of their placement. Further issues included the experience, supervision and training of S's case manager within the department and also, if you like, the contract administration, or perhaps quality assurance, one might term it, with Lifestyle Solutions. Now, it's clear, it seems, from the inquest findings that S and T had a previous history, that, to put it bluntly, they didn't get on, but I want to particularly take you to page 18 and paragraph 88 and onwards. The coroner records that there's a high level of competence by the departmental officers in the PSU and it's considered within the department the initiative will facilitate the matching of children in placements such that the situation in this instance is likely to occur. Now, she records at the next paragraph that whilst it's a positive initiative, there's no ability to flag an ICMS - and pausing there, ICMS is your data system, isn't it, that the department utilises to record information about children?---Yes, that's correct.

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Obviously their parents, et cetera, but relevant information in relation to children who come into your system, if I can put it that way?---Yes.

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Information of prior conflicts between children or between children and carers. Now, can I ask you, is there now an ability to flag on ICMS conflicts between children or between children and carers?---No, it's my understanding there isn't currently an ability to flag that.

One would think given particularly what the coroner had to say, if not on a commonsense basis, that would be

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appropriate, if not essential, wouldn't it?---Certainly
would be useful information to inform a placement decision.
I understand that the recommendation has been provided to
the department centrally and is certainly one of those
things that is being looked at in terms of modifications to
ICMS.

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So that particularly if when you look at your statement you say that there is in effect a lessening pool or a shrinking pool of foster carers who are available. Correct? 1
---Correct.

So that one would think that that problem might become more acute overtime?---It may well.

Yes. So the recommendations gone to the department hasn't to your knowledge make any decision about that yet?---No, not to my knowledge.

All right. Furthermore, it appears going on in these findings of the coroner that under paragraph 105, notification to the department, page 22 and following, it appears that there was a meeting between the foster carer through Lifestyle Solutions and the child safety officer who was responsible for S - this CSO, Graham - at paragraph 105. At 106 on a Saturday the Queensland police force contacted the department after-hours service because a complaint had been made that S was being bullied, so it seems to be that there was a triangular situation going on, that there was a complaint made, the police contact the after-hours service for your department because there is an issue about S being bullied; and then the after-hours contact the CSW at Lifestyle Solutions, which is the foster carer. So my question to you is: is this an instance of difficulties that arise when child safety officers aren't available after hours in the sense of being able to attend the difficulties that arise with children in care? Clearly there is an after-hours telephone service?---Sure. 10 20

But there is no person on the ground, is there, available after hours?---No. There is a manager on call in all locations. However, no, After Hours is the department's after-hours service. 30

And the first time an officer could physically attend, if you like, would be on the Monday. Correct?---That's correct.

And that appears - at paragraph 107, what appears to have occurred?---Correct.

Now, the further thing I want to ask you about is that paragraph 114 on page 24, after there was, it seems, a meeting between the child safety officer responsible for S and the foster carer, and there are issues and rules, it seems, worked out at that meeting; the child safety officer responsible for S did not make any contact with the child safety officer responsible for T. And in fact at paragraph 114, that child safety officer says she never had any discussions with Rockhampton South child safety service centre and was not advised by the team leaders to do so. Now, that would seem, one would think at first blush to be a pretty bizarre situation where you have two child safety 40

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officers from two different offices within child safety, Rockhampton North and South, but they don't talk to one another about this issue. That would seem to be again a situation that wouldn't be tolerable. Correct?---Correct. And in terms of the information we put before the coroner, we certainly highlighted that at that point in time the two individual service centres would make their own individual referrals to the placement provider.

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Yes?---The establishment of PSU means there is then a single conduit for that information, so the PSU is then the referrer to the placement service. Conversely since this time regular meetings with the provider and the CSOs and senior practitioners, I understand, from the offices occur. So on a monthly basis they'll talk about what's happening with the kids within the resi to alleviate some of those communication issues that appear to be evident in this matter.

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All right. So those were going to be my next questions: what if anything has changed as a result of either the findings or in fact the evidence that came before the coroner, to your knowledge?---Yes, so I'd say that that has been a considerable change in practice.

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All right. Can I ask, on page 51 of that inquest, the recommendations: could you perhaps tell the commission so far as they relate to your department; so obviously I'm not asking you to comment on anything to do with QPS?---Sure.

So far as you're able to say are you able to tell the Commissioner what of any of these recommendations have been implemented?---I really am unable to give an update in terms of where the recommendations are at. Legal services certainly was in receipt of the coroner's findings and I understand have convened a range of meetings centrally to talk about the recommendations. And I understand the department is required to report to the coroner around the implementation of those recommendations at a later point.

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How long does that, in your experience, take, for the department to report back to the coroner?---This is my first experience in terms of this.

Right?---So I'm sorry, I'm unable to answer.

All right, thank you. Now, can I ask you - paragraph 20 was the one I was particularly referring to in terms of the availability of foster carers. Now, in terms of foster carers, I take it that you would regard with some concern on your view any breach of confidentiality of information by foster carers, wouldn't you?---Correct, yes.

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All right. Have you had cause to correspond with a foster carer - and you will understand I'm not asking you about the facts of the matter, nor obviously anything about the

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identity of the foster carers - but would you look at this document, please. Ms Harvey, it's an excerpt from correspondence. It's under your hand. If I just say that I understand it's a date some time this year. If you just read that to yourself?---Yes.

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All right. As best as you can recollect, did you write correspondence that ended with those three paragraphs this year to foster carers?---I did, yes.

All right. Can I just ask you: clearly you must have given those last three paragraphs some thought as to their formulation. What was it you were seeking to achieve by those paragraphs?---So can I just provide a little bit of context in terms of - - -

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Yes?---Certainly the department on a regular basis peruses the media through media monitors.

Yes?---If there is information in any of the media articles that is considered may be a breach of confidentiality, legal services on behalf of the region will peruse that matter and will draft a letter, which I understand is for the regional director's signature. This is what occurred in that instance. So the letter, although under my hand, was drafted by legal services for me.

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All right. You obviously put your hand to it nonetheless? ---Correct.

In terms of that did it occur to you perhaps the fairness aspect of that? Because when one reads it on its face it says, "Well, I'm giving you the opportunity to effectively tell us what you did, but I may well then pass that on" - the admissions - I don't have it in front of me - to be taken into account in terms of further action. Did it occur to you about the fairness to those persons to perhaps warn them that the purposes of making admissions and to what purpose they may be put to?---Sorry, I'm unsure of the question.

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Did it occur to you about the overall fairness of seeking that the foster carers respond to you and that you may in fact utilise their response in matters that - against them in terms of action you would take such as prosecuting them for a breach of that section?---In terms of asking them for their response I suppose that was an opportunity to provide them - for the opportunity to indicate why they had pursued that course of action. In terms of making a decision about taking further action that isn't my delegation. That is in fact the director-general's delegation. The advice I had from legal services was that the regional director sent the letter but certainly - the letter to them. Their letter of response to me was provided to legal services for their drafting of a brief to the director-general for a decision around whether any further action would be taken.

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All right. I tender that, those three paragraphs.

MR HANGER: Well, I have got reservations about the tendering. I'm just not quite sure as to how it's relevant to any term of reference. I know my friend is being careful not to identify anyone. I've got no problem with that, but is this really relevant to one of the terms of reference that you have?

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COMMISSIONER: I will just have a read of it. What do you say, Ms McMillan?

MS McMILLAN: I'm just looking at the terms of reference for just a moment. It could well fall within 3(d), reviewing the effect of monitoring, investigation, oversight and complaint mechanisms for the child protection system and identifications of ways to improve oversight of and public confidence. It could well be contended that this is an issue upon which the department, they say, becoming aware of potentially a breach and a way in which they respond to that so that goes to public confidence, so one would have thought that that would fall within that. In terms of recommendations, any reforms to ensure the Queensland child protection system achieves the best possible outcomes to protect children, one of those might be their current placement and the way in which foster carers are dealt with by the department.

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COMMISSIONER: Yes, I think it's sufficiently relevant to a term of reference. I mean, I think one of the biggest levers the department has is the threat of removal or ongoing intervention and there is a question of procedural fairness, on the one hand, having to do something which might incriminate yourself. People who aren't legally advised might do something against their overall interests in the hope of achieving a particular objective which might blow up in their face. I will tell you what I will do subject to any further argument, Mr Hanger. I will accept the tender, but we will have to do a better copy because you can see the child's name on this one.

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MS McMILLAN: Yes, again perhaps we could photocopy that copy which would ensure that that can't be viewed.

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COMMISSIONER: Yes, and I will order it not be published at this point. It will be exhibit 94. So exhibit 94 is not to be published.

ADMITTED AND MARKED: "EXHIBIT 94"

MS McMILLAN: I understand from the witness's answer she's not able to advance it any further than that.

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COMMISSIONER: Yes. Can I ask this question in fairness to you: did you draft the letter or did you sign it?---I signed the letter.

MS McMILLAN: That's why I'm content - this witness said that she didn't draft it.

COMMISSIONER: You had already said that, had you?---Yes.

Sorry, must have dropped off.

MS McMILLAN: Yes, so I'm content that I can take it no further with this witness.

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All right. Now, I want to change to a different topic. Your statement of 21 September - I want to ask you about page 4, paragraphs 30 to 32. Now, you have identified the current caseloads for CSOs in Bundaberg, Kingaroy and Maryborough. You would be aware, would you not, that the CMC recommended caseload was to be capped at 15 and, indeed, there has been evidence from Mr Alex Scott in relation to those issues that caseloads should be determined not only by number but also complexity and issues of rural and remote matters coming into play. The CMC report of 2004 recommended that there be the employment of additional family service officers, as I understand, CSOs these days, within the next 12 months to reach a ratio of one FSO per 15 children. Now, firstly, can I ask you do you think the figure of 15 is a good, viable sort of figure taking into account the particular, if I can put it this way, market forces that play in Central Queensland? ---It's complicated to give a definitive yes or no. In terms of the 15, if that is five children in the one sibling group, then perhaps a caseload of more than 15 might be appropriate. If it's 15 distinct families, then, yes, the 15 be an appropriate benchmark. As my statement indicates, from 2004 to 2009 I worked for Youth Justice Services so - but what I understand is that the department has never been at the point in which CSOs have had a caseload of 15.

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All right. Are you able to comment at this stage the caseloads that you've identified, the most recent figures being to 30 June 2011? One notes, for instance, that

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Kingaroy has the largest caseload per child safety officer there. What do you say about the sustainability of the current caseloads as you understand them from what you've identified?---I would consider that Kingaroy with a caseload of 26 as of June last year was a very high caseload. There have been some additional resources since that period of time provided to the Kingaroy service centre.

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Indeed, Maryborough now is 27.8 at 31 March 2012. What about that over on page 5?---Yes, similarly Maryborough is a very, very high caseload. In terms of them providing additional CSOs obviously that requires an injection of funds into the department and from a regional director's perspective the only options I have available to me are to reshuffle, you know, what I already have within the region, you know, and certainly advocate for additional resources for those service centres. In both of those locations, Maryborough and Kingaroy, they work very intensively with a significant number of families on IPAs and caseloads are also - as well as being calculated based on the number of children on orders, they also include a calculation of the number of families from children you're working with on IPAs.

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I was going to ask you this: is your definition of "caseload" children under orders as well as children within IPAs?---That's correct, so children subject to ongoing intervention.

Are there any other children that you would identify as falling within the definition of "caseload"?---There may be some children under support-service cases.

Just explain what they are, please?---So a support-service case may be a case that voluntarily - sorry, that is opened on a voluntary basis with a family. It may be, for example, a case that's engaged with a young person who's exited care so a young person over 18 where there may be some additional supports required. The department may open a support-service case to continue to work with that young person.

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So would that be included in your case load?---I understand that is included in the case load - - - 1

When you say you understand, is that the way in which the ICSM records it, or what gives you - what forms the basis of your view?---In terms of operational reports that I've provided that is included.

All right, thank you. Now, can I just ask you, further down that page, about training issues, paragraph 35? ---Sure.

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For child safety officers the mandatory level, that is all five phases. Correct?---Correct.

Over what years is this, because paragraph 36 is for the period 2005 to 2010. Is it for the same period in paragraph 35?---I am unsure of the period of time, but it certainly wouldn't be as far back as 2005. I understand that the VGC, which is the vocational graduate certificate, I believe, commenced in 2009.

All right?---So I'm not 100 per cent certain of the time-frame for that data, but I could clarify that for you. 20

Do you understand then anecdotally whether that's a fairly accurate representation of the current position?---That's my understanding.

Now, are they eligible CSOs there, that is, that they've been there for the 72 weeks?---So what that figure is, is out of those - so say, for example, the first box, so for Bundaberg, it talks about the total number of CSOs.

Yes?---So within whatever that time period is, 16 CSOs would have entered the department. Within that same time period seven would have completed the 72 weeks or whatever time period it took them to complete the VGC. 30

But my question is say that 16 figure, have they been there for the 72 weeks? So are they all persons who should complete the mandatory training - should have by that time completed it?---I'm unsure.

Right?---I do have some information that I can access that will provide some information based on which phase CSOs are in at any given point in time. 40

All right, and how long they've been there. Would you be able to do that?---I'm not sure I could tell you how long, but I could certainly tell you what phase they're in.

If one presumes, for instance, Maryborough, the total number of CSOs and the number who have completed, 27 per cent, that's only just over a quarter of them who have completed all five phases?---Correct.

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Are you content with that figure?---No, but I think that figure would require some further unpacking about - for example, I know Maryborough has had a significant number of new staff come in.

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Right?---It may be that a number of staff who had completed the VGC had left, so this could be accounted for by those new CSOs that have come in.

All right, so you say you need to do some further work on those figures to make them perhaps comprehensible in that sense?---I can, yes.

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Paragraph - - -

MR HANGER: So do you want her to do that then or - - -

MS McMILLAN: Yes, please. Paragraph 36, in terms of team leaders training over this period, what does their training consist of?---So again, having been away from the department for a period of time, I understand that Child Safety Services ran team leader training specifically for child safety service centre team leaders. I understand - and I know Ms Matebau also wasn't clear around the date, but I do understand around 2008, but certainly by the time the department MoG'd in 2009 that - - -

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COMMISSIONER: Sorry, MoG, for those - - -?---Sorry, Machinery of Government changes.

Machinery of Government change?---That specialist team leader training was no longer offered by the department. From what I understand, the broader department offered generic supervisor training, leadership development training, however it wasn't specific training for child safety service centre team leaders.

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MS McMILLAN: Okay, so that specific targeted training no longer exists?---Correct.

At that time, which obviously incorporated this specific training, Kingaroy is noted at zero per cent?---So out of the current team leaders that they have, which is four, from what I understand, of the current four team leaders none of them have participated in that specific team leader training because it's no longer offered.

And Bundaberg and Maryborough were about 50 per cent? ---Correct.

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But again, I suppose you can't necessarily tell us who was new, in the sense that they may not have been able to undertake that training. They might have - - -?---That's exactly right.

Right, I see?---Yes.

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Again, are you able to access that or not?---I could probably access it. It might just take some digging to access that, but yes.

Would you do that?---Yes, that's fine.

Can I just ask you too, in terms of the breakup between Bundaberg, Kingaroy and Maryborough, are you able to assist us? Do you regard in terms of complexity of cases - out of those three offices what is the basic makeup, both complexity but also type of harm? So, for instance, in Bundaberg anecdotally what is your view, what's the majority type of harm that arises in substantiated notifications there?---I wouldn't be able to answer that question without - - -

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All right. Could you answer for any of those three?---Not with any absolute certainty as to what is the most common identified harm in those locations, no.

Is there any commonality or differentiations, would you say, in the types of cases, if you like, that you're seeing in those three child service centres?---I think there would be some differences obviously based on the catchment areas of those service centres. So Kingaroy obviously is a relatively rural based community. It provides services into Cherbourg, so in terms of its clients it would certainly be a different cohort than the cohorts within the other two service centres. I guess each of those locations have their individual aspects, but again, I couldn't talk with any confidence about those specific differences.

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Now, in terms of questions in relation to children when they change placements, foster children, I suggest to you that it's the case that children when they're transported to their new placement I imagine they're transported by child safety officers who are responsible for them? ---Probably in the majority of cases.

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Yes?---In some cases children may well be picked up at service centres by foster carers, but probably in the majority of cases they would be transported by child safety staff.

What do you say to a proposition that it's not always explained to a child why they're changing placement and that at times they arrive at a new foster placement without any explanation to them, or age appropriate explanation, about why, for instance, the placement has broken down at their last foster care and that they're moving on to a new one?---I think it's reasonable that that may be the experience for some children. I don't think that's acceptable, but that certainly may be the experience some children have.

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The child safety manual indicates that where a child is subject to a short-term guardianship order, a long-term guardianship order, a short-term custody order, that the officer is to provide written notice to the child of a change of placement. Now, obviously it's got to be age appropriate, but is that your understanding, that that needs to occur?---I don't have first-hand knowledge Of that provision.

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All right. Well, we know the manual is what, some 700 pages thick, isn't it, or thereabouts?---Correct.

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Also pursuant to section 90 of the act they are to discuss with the child internal and external review options. Now, are you aware of that section in the act?---Not personally aware of that section.

Are you aware, though, from practice that that is to occur? ---No, I'm not aware.

So can I take it that you wouldn't be aware of how often it is or is not complied with?---No, I wouldn't, I'm sorry.

Could I ask this, what care or attention is paid for children shifting placements that they arrive with personal possessions of theirs?---From what I understand, service centre staff try and ensure that children's belongings accompany them, that they are things that belong to the children and certainly as children move carers those personal items that are theirs should accompany them.

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Can I also ask really in a similar vein, foster carers receive an allowance obviously for children in their care, don't they?---That's correct, yes.

What quality assurance exists that the money that they're being paid to care for that child is actually utilised for the child's needs, that is, buying them appropriate clothing, shoes, medical supplies, all of those sorts of things? Can you tell the commission?---I'm not sure that there are, you know, particular mandated quality assurance processes for that, but certainly in terms of, you know, carers meeting the statement of standards it would certainly be when CSOs visit children that they would make note of those things, and certainly if it appeared a child didn't have suitable clothing it would be practice that a CSO would raise those concerns with the carer, but I'm not sure of any - you know, that there's any quality assurance check process in place for that.

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Again, it's been suggested that at times children don't move from placement one to another with appropriate wherewithal, if I can put it that way, clothing, shoes, pharmaceutical supplies, all those things, apart from personal items?---Sure, yes.

Are you able to comment on that at all?---Not really. I mean, I have heard similar concerns raised. I think staff go to great lengths to ensure that children leave placements with those belongings. I think at times there may be some issues in terms of collecting those personal items from carers and there may be some dispute around ownership of those things, but certainly it is something staff, you know, continue to work towards in terms of those belongings accompanying children.

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Now, I wanted to ask you some questions about the statement of Cheryl MacDonald. Have you read that? She's from health, the child protection liaison officer?---No, I haven't.

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All right. Mr Commissioner, is that a convenient time, because what I'll do is ask this witness to read it over the luncheon adjournment.

COMMISSIONER: Yes, sure. That seems good. We'll make it 2.00 or 2.15? What suits?

MR HANGER: 2.15.

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MS McMILLAN: 2.15, please. There's some homework - - -

MR HANGER: If she's got to read - - -

MS McMILLAN: Also someone is at the bar table undertaking in that time - - -

COMMISSIONER: Well, how long - yes, okay.

MS McMILLAN: 2.15.

COMMISSIONER: Will we finish the third witness today if we come back at quarter past 2?

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MS McMILLAN: I'm hopeful that we will.

COMMISSIONER: All right. How much longer do you think you will be?

MS McMILLAN: Probably 15 minutes at most.

COMMISSIONER: 15 minutes. Other estimates? Mr Hanger?

MR HANGER: Yes, I'll be a little while with her, because I want to give her a chance to comment on the solicitor's material.

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COMMISSIONER: Yes.

MR HANGER: But she's looked through that so she's ready to deal with it.

COMMISSIONER: All right. Mr Capper, have you got any - - -

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MR CAPPER: Probably 15 or 20 minutes at most, I'd say.

COMMISSIONER: Mr Guy?

MR GUY: 15, 20 minutes, your Honour.

COMMISSIONER: Yes, okay. Quarter past 2 then.

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MS McMILLAN: Thanks.

THE COMMISSION ADJOURNED AT 1.02 PM UNTIL 2.15 PM

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THE COMMISSION RESUMED AT 2.15 PM

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MS McMILLAN: Yes, thank you.

I might just start - I want to return to one topic if I could, Ms Harvey. In terms of training, team leaders - is this perhaps a way of encapsulating what they do - they direct a lot of the day-to-day traffic, if you like, in terms of decisions about what procedure might be adopted by the department: for instance, whether to intervene, whether to remove a child out of home, decisions about what placements should be made; a lot of the day-to-day directive proceedings come under the umbrella, if you like, of the team leader's responsibilities, doesn't it?---That's correct, yes.

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Right. So clearly it's a very responsible role?---Yes, it is.

Do you think there's merit in that role having accreditation? That is, you don't get to take up that role unless you're accredited, and that you've undergone some specific targeted sort of training to be able to fulfil that role?---I think there'd be merit in there being some clear and specific training for team leaders.

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Yes?---The issue of accreditation is obviously difficult because at times we do need to have people act in a team leader position and they may not have had the opportunity to undertake that training, which may be based on availability of the training.

Yes?---So I think the concept is good, but in terms of practically, it may be problematic on a day-to-day basis if they could never commence team leader duties without that accreditation in place.

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Perhaps if they were permanently appointed to that role? ---I would support that.

What about do you think that there should be - some of us already need to go and undergo compulsory professional development, a number - say 10 hours a year - do you think there's merit in that, particularly for team leaders?---I think there's be merit in that - - -

So that for instance there might be external lectures in relation to attachment theories for young children or indeed older children, but issues that obviously would continue to educate them and inform them. Do you think there's merit in that?---I think there's merit in that, and I think we would find that a significant number do undertake those other training opportunities.

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2.15

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Right. And no doubt should be given credit for doing that? 1
---Yes, they should.

What about child safety officers; do you think they should undergo, again, CPD hours per year?---I think again there would be merit in that approach, and certainly a significant number of child safety officers go to a whole range of other workshops and forums other than - and training other than what the department provides to them.

And at the manager role such as yours, there's not mandatory training, is there, for you?---No, there's not. 10

Is there any available training within the department? ---No, not within the department. There would be some broad training around leadership and supervision and elements of that, but not specific.

Do you think again that needs to be specific, or do you think at that managerial level general training about supervision and responsibilities that ensue with that managerial role would be sufficient?---I can see value in both. 20

Okay?---I can see value in there being those broader development of skills, but also the more specific skills that are required to manage a child safety service centre.

All right. And I imagine you probably think they should undergo CPD training as well?---I think that would be appropriate.

Because obviously they need to keep their core skills, one would think?---Yes.

Another aspect in relation to those issues is one might think that obviously a tertiary qualifications such as social work or other allied degrees may assist you in obtaining a position, but do you think after all the years of experience - about 20 years, you've had in the department - - - ?---That's correct. 30

Do you think there's merit in a specific post-graduate level, perhaps a diploma, in child protection itself, so that you have graduates who have a targeted educative program in relation to child protection issues? What would you think about that?---So I could probably comment on two areas. 40

Yes?---I think my personal view is that we could do some further work with universities around what is offered in undergraduate degrees.

Yes?---So that graduates have the range of skills that would make them suitable for employment in child protection. I think the supporting staff to obtain

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post-graduate qualifications should be encouraged. 1

You mean like appropriate levels of leave and perhaps financial incentives as well?---Yes, that's correct. And there is currently a - the policy is called a SARAS, study and research assistance scheme, that does provide opportunities for staff if they wish to engage in post-graduate studies.

And in your experience how successful is that at encouraging employees to want to study further?---I can speak from my personal experience. I obtained my first degree as an undergraduate and then whilst working for the department, with the support of SARAS, undertook two further degrees. So I would consider that it's an appropriate way for staff to be supported. 10

Thank you. You've had a chance to look at Cheryl MacDonald's statement?---I have, yes.

All right. Can I take you to some specific paragraphs in it and then I'll give you an opportunity to - if you want to make any further comments yourself. Could you please go to page 5, paragraph 14(c). Do you have that in front of you now?---I do. 20

All right. You'll see that CPLOs - that's child protection liaison officer - the multiple requests for the same information. Can I ask you firstly do all records within your department get uploaded to the ICMS?---Generally, yes, all documents do.

Generally?---Yes - - -

So if so, then the problem that this witness has identified really should not be occurring, should it, if people are properly searching the ICMS system. Correct?---Correct. 30

All right. Are you aware of that being an issue that's arisen?---No, I'm not aware of that.

All right. Can you tell us what the current procedures involve in making a section 159N and M request?---No. Sorry, it would be outside of my experience.

All right. Paragraph 14(i), you've seen what Ms MacDonald says there about appropriate information being - 40

Due to lack of on-call staff, uniformed police officers are attending maternity units to serve women who've just given birth with temporary assessment orders and arrange for the baby to be removed, which leaves maternity staff to counsel women.

Were you aware of that occurring?---No, I wasn't aware of that.

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All right. Would that concern you if that was the case?
---Yes. It sounds like a concerning event and I appreciate from the CPLD's point of view that that was distressing for hospital staff.

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Well, it would connote a couple of things: one is the police aren't really - that's not really within their role, is it?---No.

Their job description, if one might say; secondly that might connote, mightn't it, at face value, that this hasn't been perhaps terribly well planned, if it's needing to be done in this way?---without knowing the specifics of the case I'm really unable to respond.

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All right. And do you think that perhaps highlights the need for on-call local staff to commence work on notifications that are received after hours?---And I guess again it depends on the context of this particular instance, whether it was the result of an emergent notification on the weekend or whether it was the emergent birth of the baby on the weekend that necessitated that TAO. So I suppose it just depends on what those circumstances were.

20

But generally if a TAO is necessary immediately upon the birth of the child, that would tend to suggest that you already had assessed it at obviously a high risk, because you wouldn't be taking the temporary assessment order at birth, would you?---That's correct.

So presumably you would have been made aware, one would think if not at least a week more than that, probably, wouldn't you?---Presumably. Again, hard to know without the specifics of the matter.

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All right. Subparagraph (j), further on, obviously still within the same context:

Parents in the hospital setting: parents are often left uncertain about what is required of them, particularly when they have been asked to make decisions. The experience of this witness: the experience is there's been no written information or case plan given to the families. In other words, families have no point of reference.

In other words, families have no point of reference. Again, are you aware of that occurring?---No, I'm not.

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Would that concern you?---Again, if families are left in a situation where they're unsure what's happening with their newborn, then, yes, that is concerning.

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Yes, all right; and (k) the role of the indigenous recognised entity is not really clear for parents. It appears they are often seen as an arm of Child Safety. Do you think that that's a fair assumption that one might make, that they're seen as being part and parcel of the department?---That may well be the assumption of parents and certainly in the notification phase if the RE staff are with us, that may be the assumption of parents. I do understand that RE staff, you know, would explain their role and where they're from in that process, but I understand that for some parents there may be some confusion around who those players are.

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It also goes on to say that there are times when REs are not present during interviews with parents. Now, clearly that shouldn't be occurring, should it?---No, but I do understand there are some instances when, you know, for a range of emergent reasons the notification or the investigation and assessment needs to occur and RE staff may not be available which I understand then as soon as practicable there is a discussion about that case and the decisions in that case.

20

Now, (m) over the page - in terms just generally in relation to recognised entities, it's been suggested that at times they really fill just a tick-a-box, that they don't seem to have a meaningful or are unable to have a meaningful role in family group meetings, for instance, as one particular example. What do you say about that?---I think the local officers here have worked very well with the local RE provider to work on the relationship and to have a productive working arrangement in terms of the delivery of child protection services. I think they have a good relationship locally. I think they work hard at that relationship and have a mutually respectful relationship.

30

Are you able to comment on apparently within this area, this child safety area, in the last year approximately there has been 24 indigenous children removed from their homes and in half of those cases the recognised entity has disagreed with the decision taken by the department? Are you able to comment on that at all?---No, I'm not able to comment further on that. I did in a meeting probably about a month from the RE hear that information and certainly encouraged that I was happy to take up those issues if I could have some more information about the specifics of those matters.

40

What, are you still awaiting that information?---Yes, I haven't had a further conversation with the RE.

If that's borne out, what would you intend to do about it?

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---I think probably I'd need to have a bit of an analysis around: is that that the department's disregarding the recommendation of the RE? Is that that we disagree around some elements? I think it probably just needed a bit of an unpacking about what were the specifics involved.

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All right. Sorry, go on?---I did raise that issue with the local service centre managers as well who also weren't aware of those instances so from the department's perspective very happy to follow up those matters.

Now, I was going to give you an opportunity. Is there anything else in Ms MacDonald's statement that you particularly wanted to comment on?---No.

10

All right, thank you. I have finished.

COMMISSIONER: Thank you.

I have just got some questions I want to ask you before anybody else asks you some questions about the making and revoking of child protection orders. You haven't got a copy of the act there?---I do, yes.

20

Excellent?---Yes.

All right. I'm going to start at section 59 and try to work our way through?---Sure.

I know you have got a law degree. I'm interested in mainly how the department interprets these and implements their interpretation of these provisions rather than what they might actually mean. They may mean the same. So 59(1) deals with the making of a child protection order which we know has got various types?---Yes.

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Now, subsection (6) says that you can't make a child protection order or before you make a child protection order you have got to be satisfied, that is, the court, that there is no able and willing parent in the foreseeable future or the child's need for emotional security will be best met in the long term by the making of the order. Can you tell me how often does the department rely on subparagraph (b) of subsection (6) as the basis for making a long-term guardianship order in the chief executive's favour?---I'm unable to answer that question unfortunately.

I'm sort of highlighting this for the benefit of the lawyers. That seems to me to be the first time where something other than a protective need is relevant to the making of a removal order?---So that subsection is specifically in relation to the making of a long-term guardianship order.

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Long term, yes, quite?---Yes.

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And you can understand that because it lasts till the child is 18?--18, that's correct. 1

Now, if you go to 65(6), this is the revocation of a long-term guardianship order. Long-term guardianship orders can be made to a family member, other or the chief executive?---Correct.

When a court is considering revocation, it may only revoke if it's satisfied the order is no longer appropriate and desirable for the child's protection so again protection comes back in as the controlling principle in subsection (6) which is the main section. Then subsection (7) talks about what the court can have regard to in deciding the question in subsection (6) and it talks about contravention of the order. Now, does the department regard absconding as a contravention of the order by the child?---No. 10

No, okay; and then in subparagraph (b) of (7) the court must have regard to the need for emotional security and stability of the child, but that only relates to where the long-term guardianship order is made in favour of someone other than the chief executive. Right?---Yes, because that's an order under 61(f). 20

(f) (i) and (ii)?---Yes, screening; yes.

So it doesn't have to have regard to that in respect of a long-term guardianship order made under 61(f) (iii) which is to the chief executive. Right?---Yes.

So I'm just wondering where it comes in as a matter of law that the question of whether a long-term guardianship order in favour of the chief executive should or can be revoked on the basis of a best-interests consideration as opposed to a protection issue. Can you help me there?---As best I can. I mean, my understanding is that, you know, we don't make a lot of applications for revocation. 30

No, I see that?---And certainly in terms of the revocation, my understanding in practice is that we absolutely have to be certain that the child is no longer in need of care and protection or no longer in need of protection and that seems to be the - - -

Right; and that's how you approach it?---That's right.

It is still protective based?---That is my understanding. 40

All right. Then let me test that. I do this because of the legal principle involved. When you have got a 17-year-old absconder from a residence, how does the department deal with that situation having regard to the provisions we have just gone through and it's attitude to revocation of the order?---Well, I mean, generally the department's approach in that situation is to try and

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maintain through whatever ways it can some connection with
the child and it certainly isn't practice that we would
revoke that order.

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Even in a situation where there's no protective need anymore?---It's certainly not practice that a revocation would be taken back, yes.

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All right?---Is my understanding.

That seems to be reflected in the statistics. Now, again, just unpacking that for the benefit of the lawyers, because at some point in time they will have to deal with this, that seems to have the consequence, arguably, that the department as substitute parent has got more authority and control over that 16-year-old than the natural parents would have if a 16-year-old left home. There would be - again, as I understand the law, where there's no crime committed there would be no - and given that the child was competent, legally competent and autonomous, there would be no power in that adult parent to compel the child to return home, would there?---No.

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Yet the department can and does?---Yes, but, you know, in many instances, as you indicated, the child will make their own decisions and may not still return back or stay in the location in which we place them.

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Except that the evidence I've heard is that the foster carers have to notify the department of someone absconding?---Yes.

The department, if it's out of hours, will notify the police. They will recover the child, take the child back to the residence for it to happen all over again next week. That's the dilemma, I guess, for the department that I'm interested in understanding its response to?---Yes, and I think there is some work we need to do about - in many cases when a child leaves that placement we may indicate through the system that They've absconded, but generally we may well know where they are.

30

Yes?---So whether that's a technical absconding, if you know what I mean - - -

Yes?---But generally the requirement on staff is to report that as an absconder. I know that then leads to a whole range of other things, but the current policy is to report that child as an absconder.

Because again, there's a risk to the department if you don't?---That's correct. That's correct.

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So what I'm interested in is it seems to me that I can perfectly understand why the department and everybody else would be concerned about the child's safety to themselves, needing protection from themselves?---Yes.

But that's not a basis for state intervention?---No.

So it seems to me that there's a difficulty there that either needs to be addressed through the legislation so that it reflects what society does expect - - -?---Yes, and I guess the view of the department has been that these young people, although they might be 16, have had a very different life experience to other 16-year-olds and may have some vulnerabilities.

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Well, you imply a risk, I suppose, do you?---Yes.

You say that it may not be - there's a protective risk there because of their circumstances?---Because of all those other factors, yes.

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Okay, I can understand that, but I'm interested in seeing if the court requires you to prove that implication by an evidence based - - -?---Yes.

Does it?---Well, I guess we're not bringing those matters before the court, are we, for that question to be asked?

So that's a neat way, if you like, of avoiding the question of responsibility, who is responsible for that child, whether the child is, him or herself, or whether the state continues to be?---And that often is an arbitrary - you know, or a decision depending on the characteristics of the child and a whole range of considerations around their ability to make good decisions for themselves. All of those factors I guess influence us around that.

20

Yes, well, see, with the initial intervention it's justified under law by rescuing a child from harm, dangers or threats of dangers. That's the initial way the state intervenes in a family?---Yes.

But once you've moved past that into the different phase of ongoing intervention it seems that through practice it's changed and that the substitute parent then exercises authority over the child as you go through the system that is not based on protection needs but based on its view of best interests, and its view of best interests prevails because you don't make revocation orders in the case of a child whose natural parents would have lost authority over them?---I accept that.

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Have you addressed that in your discussions within the department in policy-making?---No, not really. I haven't heard it discussed in that frame. I'm aware that it's been raised through the commission and I expect the department will look at that issue.

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All right. Anything arising out of that, Mr Hanger?

MR HANGER: I'll follow up on it. In respect of those children who at the age of 15, say, abscond from your care, do you chase them up?--Generally service centre staff would continue to try and locate the young people, try and locate family or friends, you know, who might know where the young person is. So, yes, staff continue to try and engage those young people. If they're young people that have been placed in a residential, for example, it may be in some cases that the residential provider follows up on our behalf. So, yes, we continue to follow up and try to re-engage those young people.

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Does that actually happen? I mean, supposing you get the typical young teenager who says, "Get lost. I want to stay with Billy"? Do we still follow those up?--We still follow that up. So with that instance that may well be where we're at and the child may decide that that's where they're staying, however the department will still continue to offer a range of other supports to the child.

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One of the options that has been floated by the commissioner is perhaps at that point in time you terminate the guardianship, because otherwise, you know, you might be liable for them running out on the road and getting knocked down, or things like that, but that's never been considered, I presume?--No.

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No, all right?--I mean, I think the state - well, the state has considered that until those children are 18 that the state has a responsibility to them - - -

COMMISSIONER: But, see, that's what I was testing with you before?--Yes.

If you read the principles it would say that. If the child has no parent then the state has a responsibility. Now, that's in the principles?--Yes.

30

But the thing about interfering with family life is you've got to have a statutory basis for it, and as I said before, it is protective in its nature. The question is whether the law allows the state to continue with being - - -? --Whether we have a statutory basis to continue to be involved.

Yes, and that's what I've got some doubts about?--Yes.

So when you say the state has decided that, that's the question. That's the debate rather than the answer.

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MR HANGER: Can I ask you a little bit about residential care?--Yes.

If you need to refer to it, although it's probably in your head, I'm referring to your affidavit of 21 September around paragraph 45 where you say there are 49 children

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placed with residential care and over the page you break that down. There's 15 in Bundaberg, 21 in Kingaroy and 13 in Maryborough. Do you know how many homes those are in? I mean, these are in group homes of some kind, I take it? ---Sorry, 45? Was it dot point 45?

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Yes, paragraph 45, top of the page. Under the heading Residential Care Services we've got 49 people?---In terms of this statement, I was asked to provide information around the Bundaberg, Kingaroy, Maryborough locations only.

Yes?---I can refer to my further notes and provide you with the number of residential care services if you would like that, but I could probably just talk generally that - - -

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Just talk generally, because I'm really concerned with the issue of cost, quite frankly. The commission is faced with the impossible task of not spending any extra money but reforming the system?---Sure, yes.

One of the ideas may well be that residential care, which from what I've heard so far is limited to one, four, six kids in a home, might be more efficiently managed?---Yes.

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I just wondered, say, in respect of Bundaberg where you've got 15 people at a residential care how many of those - how many homes are they in?---So I think, you know, without - I'm just not sure what time period this - I think it was March. So there is a - I think there are two four-bed residential. There may well have been some children in TP.

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COMMISSIONER: Just for the record, what is that? ---Tertiary placements or transitional placements. So those children may have been in a single tenancy or they may be residing with other young children. If it's in a TP placement, generally that might be two young people. However, probably in that time period we did have a very successful TP placement in Kingaroy where there were seven siblings placed together which - that model of those seven siblings placed together was a very good model and involved those children and their parents doing some intense work and five of those children have returned home to parents.

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MR HANGER: That's a big success story?---And it is likely that the remaining two will also return home. So, yes, the setting up of that placement for those seven children has been high cost but the model in terms of having those children who were subject to LTG to other so they were in fact - were a matter in which we had stopped working towards the unification with those parents.

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COMMISSIONER: Was that the family, "other", or non-family?---No, foster carers, I believe, which then that placement broke down. Those children then came back into care. The parents at that point were re-engaged and had made some significant changes.

Just to follow through Mr Hanger's line of questioning - and I understand the past history and the bad experiences that many people have had with institutions?---Yes.

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But if you had a situation where for the sake of the debate there was no abuse of a child in a group residence - let's call it that for want of a better name - what would be wrong in principle with housing, say, those children who were aged between 15 and 18 being transitioned out into a group residence of up to a dozen on the basis that it was cost efficient and did no harm, as opposed to having the 12 in up to four or five different residential placements with round-the-clock carers?---I think as long as that larger placement model meets the needs of those young people, then it's okay; I agree.

40

Has the department sort of looked at that?---Now, again in terms of my history I, you know, worked for the department at a time when we had a significant number of group homes and we had BoysTown and we had a range of things that were in place at that time; you know, progressively we moved away from those arrangements. We moved away from resi care

entirely, then over the last few years certainly we've moved back towards resi care. 1

Crept back, but only smaller resis?---Smaller resis and some of that, you know, has been around the cohort of young people in those resis that for some of them - they are very difficult young people and having a significant number of young people with really complex behaviours can be very difficult, but, you know, I certainly see no issue with a model where you would have young people with lesser behaviours, you know, together in an appropriate accommodation model. 10

Again being a reviewer of a system looking for solutions that might exist to really difficult problems, in principle, again assuming no abuse and no harm, was there anything wrong with the Boys Town model?---I think certainly the BoysTown model met the needs of some young people and did a good job in meeting those young people's needs. Obviously, as you said, a whole range of other, you know, factors then led to us moving away from those models, but I think for a particular cohort of young people that type of environment works well, that structure, you know, that regular routine - that certainly is conducive. 20

For the record, the BoysTown model was 10 cottages each with house parents in them servicing up to 50 boys. As well as their protective needs they had their education needs met as well onsite, didn't they?---That's what I understand, yes.

All right. So you can't tell me whether that model has been reconsidered in more recent times?---I haven't seen that model reconsidered in more recent times but I think, as I indicated, the move even to resi care is - - - 30

Is gradual?---You know, back into resi care is relatively new as well.

But that seems to be the history of the - it's the pendulum nature of this business, isn't it?---It is absolutely the pendulum nature, yes.

It goes from towards residential, away from it, then something happens and it goes back towards it gradually and then gets to there and then goes away from it again?---Yes.

So it's a reversal of trend that goes from almost 360 degrees?---That's right, yes. 40

We have a tendency too perhaps to overcompensate for something that was less than optimal?---That's right, and we throw the whole model away at times.

The baby out with the bath water almost?---Correct, yes.

So that's one of the things again that we might have to have a serious look at to see whether or not the anti-group residential argument really is sustainable in the current economic and social environment?---Yes; yes.

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MR HANGER: Following on from that, we've heard evidence from a lot of people, including police officers who are really very frustrated at young people absconding from residential care and, I think, throwing tantrums and damaging places and threatening carers. Now, putting off your official hat - I'm asking you a personal opinion there - how are we going to deal with that? Police can't keep driving 100 miles to pick up an absconding kid who has gone to a nightclub and been reported, as his carer had to, as a missing person. What do you suggest Commissioner Carmody do about it?---Yes, I agree and certainly for the police it is a considerable problem.

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It's expensive too?---Absolutely; and, as you said, a bit of a never-ending issue for them at times. I think some of the work, you know, that really needs to occur with our - whether it's resi care providers or staffing resis, some of the work about, you know, managing young people's behaviours so that they don't reach those points of escalation where - you know, I am aware where police are routinely called to residentials to, you know, become involved, you know, in issues that are happening so I think we need to do, you know, some more work with providers and foster carers in the earlier stages about how to manage those young people's behaviour and also in terms of, you know, what therapeutic involvement is happening with those kids around trying to manage some of those behaviours.

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Well, you say that. I wonder if you're not being idealistic there. You've worked in a youth detention centre in fact, haven't you?---I haven't worked in a youth detention centre but I was responsible for a Youth Justice Service centre so certainly have a fair range of experience in terms of Youth Justice.

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I'm assuming that since your department has done its best, they have done lots of things that you're suggesting here. Is there a better solution than that?---I mean, it really is a difficult thing and I think what we're seeing is things like bail conditions and, you know, bail programs also are difficult around who enforces those programs. There are no easy answers for how you keep these kids at home other than, you know, engaging them - in a very practical basis engaging them very well during the day and having them involved in a range of activities to try and minimise, you know, some of that absconding.

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Yesterday I had a chat with you and I showed you a statement by a solicitor here called Katina Perren. I asked you to look at that because I was going to ask you to comment on it.

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I'll ask you to, for the record, identify this document which was given to me by my learned friend. That appears to be a copy of the statement that you've been through and examined?---That's correct.

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I'll tender that for identification. I presume it can be tendered as an exhibit. We'll just tender that as an exhibit, sir.

COMMISSIONER: That statement of Katina Perren dated 10 December - no, that's her date of birth, sorry. 16 October 2012 will be exhibit 95.

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ADMITTED AND MARKED: "EXHIBIT 95"

MR HANGER: She will be giving evidence, I'm told, later on, so rather than tender it for identification we'll put it in now.

Now, I invited you - I said to you - you and I discussed it and you said there's some perfectly valid points here that you couldn't disagree with, but we decided to deal with a few of them. Can I take you to paragraphs 10, 11 and 12 and ask you what comments you would like to make on those? ---Certainly 10 raises a range of issues around, you know, the amount of paperwork that service centre staff have to do and are involved in, and I think it's certainly a valid point that there is a huge amount of paperwork.

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And you'd like to see it cut down, I presume?---I think from a service centre's perspective - and, you know, I know that it's been raised before, before the commission, the amount of paperwork is immense for child safety officers, but I guess in terms of that paperwork that really is about meeting, you know, record-keeping policies and ensuring accountability around decisions, that it then allows clients through RTI to access their files. It certainly is one of the things that the department is often criticised about, about having a lack of files. So I think it's a valid point, but the system would need a significant overhaul for there not to be - - -

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Well, now is your chance. I mean, everyone - I don't think you need to convince anyone in this room that there doesn't have to be paperwork?---Yes.

But she makes a point in paragraph 12 that there's a file individual to each child and then she says - - -?---That's correct.

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- - - you know, they're just copied and copied and copied and they're all the same?---Yes, and again, I agree with that point, that yes, kids have individual files, that certainly in terms of when we provide that either through a right to information request or they're subpoenaed the volumes of paperwork that that is - and it can be

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duplicated. The current policy requires that anything that is a hard copy that is uploaded into ICMS, the hard copy still has to be retained on a file as well. So there is considerable duplication. 1

Now, the next paragraph I wanted to take you to, to comment on was paragraph 18 which deals with family group meetings? ---Yes.

Where she says you're highly inefficient and she complains in paragraph 19 about mediators not being impartial. Do you want to deal with those?---Only so far as to say that I think in the statement she makes a comment that they are usually child safety employees. Well, yes, they are employees of service centres, so family group meeting convenors are child safety staff. They were a position that came out of the previous inquiry. They have been, I think, valued within the service centres in terms of helping staff meet the requirements around case planning. So they play a valuable role. I think she makes a valid point in terms of that when we enter those negotiations that child safety enters those negotiations with a bottom line. That seems a fairly valid point - as do legal reps when they come into that negotiation. I guess the impartiality of the FGM convenor, they are departmental employees, so I think it's a valid point that they are staff and at times their impartiality may be a concern. 10 20

Nothing else there. What about paragraph 22, "Child safety has a system whereby certain child safety officers are placed on teams," and you talk about there - go on in 23 about continuity of care?---Yes.

It seems to be a big - it's been mentioned a lot, if I can put it that way?---Sure, yes, and the point is certainly in terms of how service centres are established, there are teams in service centres. Generally in terms of managing a service centre managers would look at the skill and expertise and strengths of CSOs and place those CSOs accordingly within those teams. The system does mean that those people with expertise in investigation and assessments do the investigation and assessment phase. If a family then proceeds to ongoing intervention then yes, the case would change teams and move on to someone who has particular expertise in working, you know, with families on a short-term basis or on an IPA. So, yes, that does occur and that is very common within service centres. 30 40

COMMISSIONER: I wonder why you don't change their name, because child safety officers is a reference to safety whereas once the state has intervened - and it's the lack of safety that allows you to intervene?---Yes.

After that why wouldn't you call them something like child protection or child welfare officers rather than child safety officers?---They've been called a range of, yes,

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different things over the years.

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Yes?---From child care officers, I think, when I started, family services officers. So, yes, I think it's a reasonable point.

Just in terms of the perspective of the parent who sees the child safety officer as the person who made the decision?
---Yes.

Whereas if they have the same title as the person who is supposed to be providing care and ongoing protection through intervention with a view to reunification or not, has a different title to the person who was responsible for the removal, it might help the relationship building, do you think?---It may do. Yes, it may do.

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MR HANGER: One of the matters sort of floating around is this issue of separating out the people who might take the kid from you from those people who are trying to help you and keep the child with you, you know, and having them as almost different functions and different names. Would you care to comment on that kind of process, because the suggestion is that once the organisation becomes involved they're the enemy and they're out to get your child, and that kind of approach?---Yes, and I think in terms of the evidence Ms Matebau presented this morning, that often we engage in this very adversarial relationship that, you know, when it gets so bogged down I think it's reasonable to argue might not be in the best interests of the child. So I can see the point families raise about, you know, that the department is always trying to collect evidence and always trying to look at those things. I guess that's a fair point.

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So you think there might be some point in sort of separating the collection of evidence with a view to going to court from the group trying to help you and the people trying to help you?---And it's interesting, as time has gone on, we've moved from calling it an initial assessment to calling it an investigation and assessment, which has almost been a deliberate sort of, yes, move into that investigation.

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COMMISSIONER: But I suppose what that tells you, if you're reading it, would be that you investigate forensically what the facts are?---Correct, yes.

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Then on the basis of those facts you make an assessment of future risk or protective need?---Yes.

So I can understand why you do that and those people who should do it should be forensically trained and they may or may not need to be social workers at that point. At some point of the assessment, though, you need to have someone who understands the full continuum of a risk?---Yes, and

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whether we need that process for all matters I suppose is something to consider as well. 1

MR HANGER: Can I try out another idea with you, that is, there has been some criticism of the way in which the department conducts litigation, that they don't do it very well. Cases are adjourned, I've heard, because the department drops material on people at the last minute or the parent asks for an adjournment at the last minute. Obviously adjournments cost a fortune?---Yes.

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Is there some point in saying once a matter is going to go to court that it be passed across to Crown law and dealt with by professional lawyers rather than social workers who have some little knowledge of law?---There could be some merit in that approach. I think we've seen over the last few years that in some of the broadening of the qualifications so - of the qualifications so certainly in terms of coordinators, I think, in the region I had a bit of a look. I think four out of the seven service centres have coordinators with law degrees so I think there's certainly some inroads that is occurring and the feedback I have from managers in those service centres is that those people bring a range of, you know, skills and processes that we could certainly benefit from around, you know, for example, the length of affidavits, what we put in affidavits, all of those things. Certainly we rely on the expertise of legal services in our court services unit as well, but I think certainly my personal opinion is we have benefited as an agency through the broadening; not to say there aren't very good coordinators that have those other degrees.

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Of course?---I think certainly in terms of that expertise they bring - - -

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COMMISSIONER: But again that is discretionary?---It is, yes.

It's up to the department to how much they will access that or will use the benefit of that?---Yes.

There might even be an argument, say, even before an application that an independent entity makes the decision as to whether or not there is sufficient evidence justifying an application for a child protection order? ---There could well be, yes.

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MR HANGER: May I change the subject now across to paragraph 65 of that affidavit?---Yes; yes.

She talks about reunification of a family and supervised contact?---Yes, and, you know, I guess in certainly the information, you know, I receive from managers in the service centres is managing the supervision of contact between parents and their children is an immense workload for service centre staff and I guess at some time you do wonder is there a better way in which some of that could occur and is it - I mean, there's certainly a valid role for the department to play in terms of assessing family dynamics and supervising some of those contact visits, but whether that needs to be every contact visit - that can be quite a labour-intensive process for the department; you know, whether something like the use of contact centres is a possibility. It certainly is a really labour-intensive process and we don't want it to be - I know Ms Perren alludes in her statement that that then determines how much

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contact the department offers and I think that's a significant issue, you know, if that is - - - 1

So when you talk about contact centres, this is something I know nothing about, but the Family Law Courts have some kind of access - - -?---Yes, I understand that is; yes.

COMMISSIONER: They have facilities that are supervised independently by volunteers. They supervise them? ---Certainly some of those contact visits we would absolutely want to supervise to have a look at it, but I've certainly heard the information from families as well that, you know, with the feel that the department is sort of watching them, you know, all the time on those contacts that can in some part, you know, stifle the - - - 10

Again that may be attributable to the legislation because you have got 100 per cent responsibility to facilitate contact and only if it's appropriate and to the extent appropriate?---Yes.

So if you have got that mandate, then you have got to fulfil it somehow?---Yes, that's right. As I said, there will be contact that we will probably always want to be, you know, the - - - 20

The lead agency for?---The lead in, but maybe not all, I suppose, yes.

MR HANGER: The other thing I wanted to ask you about was paragraph 91 and I think you have covered that really with my learned friend. The complaint relates to the extent of education of the people working in the field and basically you have agreed it could be improved significantly?---I think it could be, yes, and I think there is, you know, criticism that I've heard that child safety officers, you know, aren't familiar with the act and, you know, don't rely on the act. The information I have is that certainly, you know, they rely on certain provisions of the act. I think, commissioner, you've indicated the practice manual is large and probably is their first port of call. Rightly or wrongly, that certainly is where they go to. 30

COMMISSIONER: I don't see that as a problem as long as the manual reflects the law?---The legislation, yes.

MR HANGER: What's the average level of experience for I and A workers? Do you know?---I wouldn't have that information, no, before me to present today. It's obviously very variable based on each of the service centres. 40

Let me follow that up with a general question?---Sure.

Is it the case that the newly employed CSOs are appointed to an I and A team straightaway or not?---That would be the

case in some locations, yes.

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A suggestion has been made to me that it would be better to have experienced CSOs working with them at least? ---Certainly, and that is my understanding of the current process around inducting new staff, that certainly they would be buddied up with other more experienced staff in those I and As or with their team leader or with other staff from within the service centre, so that certainly would occur.

Thank you. In paragraph 196 she says that it would be good for the child support workers to have ready access to a solicitor either in-house or otherwise. Again you agree with that and, of course, you've got the law degree so you've got the benefit of being able to advise yourself, but again that sounds like a sensible idea and to a certain extent we have that?---Yes.

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All right. Now, I've take you through that very detailed affidavit of Ms Perren. Are there any other matters that you want to raise relating to that affidavit?---No, not at this stage, thank you.

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No. Nothing further, thank you, Mr Commissioner.

COMMISSIONER: Thanks, Mr Hanger.

Before I refer to the other questioners there is something that is troubling me that I would like to get help with, Ms Harvey, if I could?---Sure.

It is this: do you agree that the primary service that the department provides is protective? It's there to protect children at risk?---Yes; yes.

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What's troubling me is how the department again under the law protects unborn children at risk of developing foetal alcohol disorders. Now, I'm not sure if you have considered this in-depth, but section 8 defines the concept of a child for the purposes of this legislation which is entitled "child protection" so you only protect children? ---Yes.

Now, "a child" is defined as an individual under 18 in section 8?---Mm'hm.

It's the only definition of "child" in the legislation. When you look at the concept of unborn children in section 21A, subsection (1) applies where the chief executive reasonably suspects a child may be in need of protection after he or she is born. It says nothing about in need of protection right now before you are born. Right?---Yes.

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So that's the act setting out your term of reference?---Mm.

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Now, paragraph (2) says that if you have that suspicion, you have got to take appropriate action which gives a couple of examples. One is investigation the circumstances. Again that is protection after birth. Do you see that?---Assessing the likelihood of harm.

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Yes?---Yes.

The need after birth?---Yes.

Again nothing about need now?---No.

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Or offering help and support to the pregnant woman. Now, you might say offering help and support to the pregnant is a form of intervention, very soft?---Mm.

In that scenario, what does the department do other than take the child if the child is seen to be in need of protection at birth? What sort of help and support to the pregnant woman before birth does the department offer?
---So in the case where the department raised the notification, so there would be a notification and we've assessed - - -

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Protective need?---We've assessed that the child may be in need of protection upon their birth, we can offer a - open a support service case and offer direct supports to the mother whilst still pregnant and try and encourage and engage her to meet - - -

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To be protected?---You know, to deal with some of the risks.

To be protected?---Yes, that might be evident when the baby is born.

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What you would be if you were a pregnant woman who had a child at risk of developing foetal alcohol disorder would be to stop drinking?---Yes.

That's how you'd be protected?---Yes.

That's what you would expect?---Yes.

That's purely voluntary, that offer?---Yes. That's my understanding of how the legislation works.

Can you tell me what - do you have any information about how often or what the pickup rate is for that sort of service?---I don't, I'm sorry, commissioner.

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So again, looking at it from a purely fit for purpose point of view, your main purpose is to protect children when they need it. Children are individuals, which implies that they are between zero and 18 and not before. The unborn child in this scenario is at highest risk of harm in utero?
---Yes.

Yet the department is helpless to do anything to protect that child?---That's correct, yes.

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Without the mother's - - -?---Consent.

- - - consent and agreement and commitment?---Yes.

It seems to be a lacuna to me. Has the department grappled with that reality, that it being the sole child protective agency simply can't intervene before birth to protect a child at serious risk?---Yes, and again, I'm not sure to the extent of which the department has considered the issue. Certainly the legislation implies, as you've said, that we can only take action after birth.

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After birth. Well, the legal concept of "child" would be normally after birth. You would have to redefine "child" to include an unborn child?---Yes.

There would be issues around that?---But certainly in terms of early intervention that's the key time, isn't it?

Well, precisely, isn't it?---That's the key time. 1

It's where risk is highest and needs are most?---Correct, yes.

This is the most - short of prevention, this is the earliest possible point of intervention?---It absolutely is.

Which the law currently denies you, on that interpretation of it?---Yes. 10

Now, just let's assume the law changed and said, "No, let's define 'child' to include an unborn child." How could, should the department effectively intervene in that scenario?---Well, again, the intervention would really be about what supports does mum need to deal with those issues.

You can already do that. If that didn't work and she said no?---Except it's voluntary, yes, that's right. So it would be around how you can enforce that, I guess, is the difficulty, isn't it, and that's sort of what the act says about without - - - 20

You can't even involve the RE for indigenous - - -?---No, not without consent, yes.

Yes, and you can't get consent unless you ask?---No, that's right, and the act talks about not interfering with the pregnant woman's rights or liberties as well.

That's going to be the problem?---Yes.

But even if you could get over that problem you've still got the practical problem of what do you do in a liberal democracy - - -?---That's right. 30

- - - short of forcing someone to do something against their will for the protection of another person?---Yes.

Which if not intervened will suffer grievous bodily harm over a lifetime?---Yes, I agree.

I don't want (indistinct) Mr Capper.

MR CAPPER: Thank you. Craig Capper from the Commission for Children and Young People. I guess I want to start with the issues in relation to the protections for children once they're in care?---Sure. 40

In relation to that, you're aware that the commission reports regularly in relation to a wide range of things, including the outcome indicators and feedback that we receive?---Sure, yes.

In relation to that, what safeguards do the department have in place to protect children in care? You mentioned earlier the fact that you visit them. How regularly does that occur in practice?---I don't have, you know, figures for each of the service centres around how often they're visiting kids - - - 1

For the region?--- - - - but certainly my understanding is on a monthly basis service centre staff are visiting kids. Certainly kids that are in resis or in TP arrangements that might be more frequent visits. 10

Certainly that's the expectation, that's the policy, that the children get visited once a month at least?---Yes, that's correct.

And as you say, in resis and some of those more complex and higher needs, more often?---That's right, and it may be visiting the young person, but, you know, in the intervening periods of time it might be phone calls to the carer, it might be phone calls to the young person. So it wouldn't just be that that is the only contact that might occur, that direct visit. 20

I guess the issue that we have, and I guess the issue that I have particularly in relation to - or from the commission's perspective, is that when we look to the data in relation to it - I mean, are there any other safeguards that are in place in relation to children in care? I mean, how do we protect them in between the month that you're visiting?---Well, certainly those children are engaged in school, some would be engaged in therapeutic intervention, so certainly from a service centre's perspective they would also be getting updates from those other key professionals that are also engaging with the kids, which I think you can consider as another safeguard. 30

Okay, and what about the role of the community visitor? How do you see that fitting into the system?---Well, certainly the community visitor is also visiting those young people and, you know, bringing to the department's attention any issues, you know, that the young person or the carer might raise with them.

COMMISSIONER: Sorry, is the CV visiting the site or the person?

MR CAPPER: It's both, but they visit the child particularly?---They visit the child. 40

But they also have reportable - - -?---Yes, they visit the child.

There's certainly activities that they undertake in relation to assessing the site and making sure the conditions are appropriate and the needs are being met and

it certainly covers - - -

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COMMISSIONER: So it's not just the site primarily and the child - - -

MR CAPPER: No, quite the opposite.

COMMISSIONER: Right, okay?---They may also talk to the carers as well, mightn't they, the CVs, on those visits?

MR CAPPER: Most certainly. So you would agree that they are also an additional safeguard?---Yes, absolutely.

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Now, in relation to that certainly the data that we've received, particularly in the Queensland - and it's reported - I mean, are you aware of the commission's key outcome indicators report?---I am aware of the report, yes.

Have you read it at all?---I have flicked through it. I, you know, haven't read it in great detail and probably couldn't make reference to any particular elements of it.

But, I mean, I guess the issue for me, though, is flicking through it - I mean, as a regional director you're surely - the information that's contained in these reports that's gathered either from your own data and assessed by the Commission for Children, it would surely be used or should be useful to you to be able to use that data to inform your own decision and policy-making, surely?---Yes. Yes, I agree with that.

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But you say that you've flicked through it but you don't necessarily engage with it, necessarily?---Well, in terms of that specific report, no, I haven't. It may be that it goes to the service centre managers. We may through our leadership team consider the findings, consider some of the recommendations, you know, as we do with reports that CREATE might provide, but in terms of your question about that specific report, no, I haven't.

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I guess my concern is it appears to be from what I've seen and through the evidence that there appears to be no systemic approach to how to look at this material and how to respond to it. Like, "What is this actually telling us? What can we learn from this and what can we do?" There appears to be nothing systemic in the system, in the department, to look at those issues and consider how we can perhaps improve service. Would that be right?---There's probably, you know, so set clear process, if that's what you're saying, yes.

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Yes, and I guess my concern for - the reason I raise that is, I mean, certainly in relation to that report it indicates that - and for those following it, it's page 52 of the 2008 to 2011 Queensland Child Guardian Key Outcome Indicators Report. In relation to that it indicates that

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for the central north zone, which is your area, which covers your area from our community visitors perspective, that 21.9 per cent of children said they weren't visited the previous month by their CSO. That's from children or their carers if the child wasn't able to provide information. So that's one in five aren't being visited the preceding month. Would that accord with your knowledge, or how are you able to confirm that that's happening or not happening?---I don't - as I said, I don't have that, you know, clear information before me. I'm not sure whether that was the snapshot at that point in time, what were the factors that meant in that previous month those visits hadn't occurred. I understand the department's position is a monthly visit. I couldn't say that that occurs in all instances and that there would be a range of reasons as to - - -

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Do you not think that that's an important measure to check, that each child that is in your care, or in the department's care - I say your care as the department's representative, but every child that is in your region that you're responsible for caring for does in fact receive that visit once a month?

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Do you not think that that's an important measure to check that each child that is in your care or in the department's care - I say your care as the department representative, but every child that's in your region that you're responsible for caring for does in fact receive that once a month?---I think it's an important measure. It's not a measure that the department collates, to my understanding, so, as I said, it is something individual service centres collate. I don't collate that at a central perspective but managers certainly, you know, are abreast of those visits and whether they're occurring.

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Feeding on from that - I mean, keeping in mind that this is one of our key safeguards, to make sure the children are visited regularly, in this region, the Central Queensland region - this is based on your own data or the department's data provided to the commission. In the same report at page 18 it identifies the number of matters of concern substantiations. Now, correct me if I'm wrong, matters of concern substantiations are those where the child has suffered further harm or has a substantiated complaint of suffering further harm whilst in care. Is that correct? ---If they are matter of concern notifications, yes.

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So these are where the child is in care and has suffered further harm whilst in care?---Yes.

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The figures for that period were 52 for the Central Queensland region out of 207 for Queensland which puts it around about a quarter of the state's matters of concern substantiations occurred in this region. So I guess what I'm looking for is how we're ensuring - I mean, keeping in mind that protection is that children need to be protected. This data is contained in this report. Looking at those two figures alone suggests that the children aren't being visited regularly, you know, in at least one in five cases certainly didn't get the previous month's visit and what have you, and it's resulting in matters of concern which are a quarter of the state's total number. Does that not concern you?---Yes, that concerns me that, yes, there are certainly those - you know, if that's the information we're providing, that there are those numbers of matters of concern.

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Has anything been done by the department to look at those issues as to the reasons for those higher levels of matters of concern and any activity undertaken to ensure that proper measures are put in place to reduce them over time? ---Certainly probably not in terms of a broad systemic response, but certainly in terms of those substantiated matters of concern action plans are put in place around them and certainly I know the Children's Commission recently have conducted audits in terms of those action plans and certainly as a region we complied, you know, in terms of providing all that information around those action plans, so that's on an individual perspective that that

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happens. It certainly on a system basis raises issues around the level of training and the level of support that - not just the department but certainly also our NGO foster and kinship care providers provide to foster carers as our funded body as well. So I think there are those things in place around ensuring that carers are being appropriately supported.

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COMMISSIONER: Those substantiated matters of concern - the harm is on top of the trauma the child already has suffered from being removed.

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MR CAPPER: Of being in care, that's correct. This harm that has occurred - and correct me if I'm wrong.

COMMISSIONER: It's additional harm.

MR CAPPER: This is harm that has occurred whilst they're in care?---That's correct. That's a matter of concern, yes.

Now, the community visitor information certainly identifies that there's - and you've identified that there has been a high turnover of staff through your evidence?---Yes.

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And certainly in relation to those visits the information that we've been reported through our community visitors is that some of the things include the transporting of children or supervising contact as a visit to the child for that month. Would that accord with what you're aware of or could you comment on that?---I guess staff would see that if they're transporting children and they're having a conversation with child in the car and talking about those things, they may well count that as a contact; you know, I guess I'm not 100 per cent certain what service centre managers collate in terms of, you know, counting that as being a visit to the young person, but it may well be if they're engaging with the young person, it may well be that that's what they call a contact visit.

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But the purpose really of a visit is to actually check that the child's doing okay and that they're needs are being met and if there are any issues arising, but surely transporting the child from one location to another or visiting - supervising them having a contact visit doesn't give effect to that. You would agree with that?---It may not. In some instances it may. For example, if they're going to pick the young person up from the carer's home, they may, you know, engage with the carer and the young person and talk about some of those things so, you know, in some cases it may be reasonable that that's, you know, considered the visit. In other cases it might not be appropriate; you know, if it's purely just supervising a contact visit and there's little opportunity for a one-on-one discussion with the young person, then I agree it probably wouldn't be suitable to count that as a visit.

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Now, in relation to the caseload, you were asked about that at paragraph 32 of your statement of - I think it's the 29 September statement, the longer one?---Sure. 1

21 September. It indicates the Maryborough Child Safety Service centre has its caseloads increased to 27.8 up until 31 March 2012. That appears to be almost a 30 per cent increase on last year. Is there any reason for that? ---Some of that has been around, I think, as I may have mentioned, the relatively high number of intervention with parental agreements that they run, so they certainly run a significant number of IPAs. 10

Is that an assumption or is that - - -?---That's what I know to be the case. Also obviously it is a large busy office and there are, you know, a considerable number of children in care and, you know, is certainly some of the reasons why the programs such as the Fostering Families has been targeted into Maryborough.

Wouldn't that also be having an effect on - the flow-on effect of that is that that also makes it much more difficult to make sure that you're meeting the need to meet with children every month?---Absolutely; absolutely, yes. 20

So the manageable levels of caseloads has that flow-on effect as well. The safeguards start to drop as well? ---Sure, yes.

Now, in relation to paragraph 37 of the same statement you indicate that there is a dedicated transition-from-care child safety officer at Bundaberg?---Yes.

Do they assist the other offices or just Bundaberg?---No, that would just be in Bundaberg. 30

Okay, because going on from that at paragraphs 46, 47 and 48 you break it down in relation to each of the Bundaberg, Kingaroy and Maryborough Child Safety Services centres? ---Yes.

At the last dot point in each of those you give us the number of the children aged 15 and over who are subject to a child protection order granting custody or guardianship to the chief executive and those who had a transition from planning?---Yes.

But based on the figures that you have provided there - and I welcome anybody to correct me in case I'm wrong. This isn't certainly my strength, but 29.35 per cent of children leaving care, according to those figures, leave care without a transition plan. How can that be the case when we've got particularly in Bundaberg a dedicated CSO to look at this issue but, more broadly, almost one in three children are leaving care without a transition-from-care plan?---And I think there are some issues in terms of how 40

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we report the data, so in terms of how the department reports the data. So a transition-from-care plan isn't a separate plan to a case plan so it is a case plan that has transition-from-care planning elements in it. Generally the data report is those case plans that have been done in that six-month period. I think it would be extraordinary that there would be no transition-from-care plan for any children leaving care. I think it's a valid point that there may be transition-from-care plans that aren't current, as in they haven't been reviewed within the six months, which is probably more so the issue than there never being a plan. Is that clear?

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That's clear, but I guess the issue that I have with that is that is that we've heard evidence from - I can't remember her name, but certainly from an officer from the Department of Housing who indicated that for her purposes the transition-from-care planning needed to take place, particularly if the child was moving into independent living or with assistance through the Department of Housing, would be at least six to 12 months' notice required?---Sure.

If these children don't have a transition-from-care plan six months out at least, then they're certainly not going to be able to be assisted into - - -?---Yes, maybe I could just explain it a bit differently. So it may well be at 15 and a half we commence work with the young person around their transition-from-care plan. So in terms of their case plan at that point it would have some transition-from-care elements in it. If at 16 and a half we haven't reviewed that plan, there is - the strict definition is there is no current plan for the child, but there is still an actual plan. It's just not current so - I don't know whether I'm explaining that well enough, but it isn't the issue that there is no plan. There is an issue that the plan may not be current and that's what those statistics reflect.

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Well, see, the problem I have with - and I appreciate that clarification, but the problem I have with that is it says - and these are your words in this statement - - -?---Sure.

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- - - and it says, for paragraph 46:

31 children aged 15 years and over were subject to a children protection order, granting custody of guardianship to the chief executive.

For 27 of these, or 87.09, transition from planning, transition from planning had a curb, which is - and we're talking about transition from care plan, which is the dot points that you've got at the top of that?---Yes.

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It says transition planning had occurred. It doesn't say had been completely completed or had met the 18-year-old. This is that transition planning had occurred, at any level, not completion levels, and certainly that's what your paragraph reads, and you're suggesting it should have read differently?---I'd have to clarify those statistics to be clear.

It was put to you earlier, the notion, that if we move towards, perhaps, these larger residential group homes, similar to, as you say, the BoysTown, sort of, model, what safeguards, particularly in those areas, obviously as the commissioner's identified, leaving aside the abuse issues - I can't - because what safeguards would we need to see in that type of model to ensure the protection of children in those homes? The reason I say that is having been in the department for a long period of time, having been through and seen those models and being aware of those models, what would we be looking for if that type of model, or what would be essential in that type of model if it was to occur - - -

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COMMISSIONER: Assuming you could deal appropriately and permanently with any question of doing any more (indistinct)

MR CAPPER: Absolutely?---Well, again, I guess, certainly, it would be, you know, that we would need to ensure that children's needs were met, that they were having appropriate education in such an arrangement, that their therapeutic needs were met, so we'd need to be certain that such a model, you know, could meet their requirements and certainly in terms of safeguards of that model, yes, it would need to continue to be, you know, ongoing engagement with child safety officers around that placement. That was a safe and okay placement for those young people. In terms of my responsibility as a regional director, I'm not responsible for the funding of, for example, the residential or those programs, or of the monitoring through licensing and the statement of standards. But certainly in terms of residential, the licensing regime

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that is in place is very stringent and certainly those NGO providers go through that very stringent licensing, which, if we were to move, I guess, to a larger residential model, those elements would be critical.

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That would include things such as extensive screening of people who are working those facilities?---Absolutely. All of which is encompassed in the licensing process.

Again, a similar sort of situation in relation to community visitors and probably even an increase. As you say, these are children who are in high complex or residential, or detention centres. They certainly would want to be visiting a lot more frequently to have - - -?---Absolutely.

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- - - that independent oversight continue over that process. Would that be right?---Yes, I agree.

In terms of the qualifications of people who are operating or engaging in those sort of services, what would you be looking for?---I think, certainly, in terms of outcomes for young people that we would want to see staff in those, you know, facilities having a broad range of qualifications. Certainly in terms of residential providers, there is no current, you know, minimum standard in terms of qualifications that they hold, but - - -

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Should they have?---I think in some cases, it would be beneficial. You know, it's difficult that certainly in some residentials there are very good staff that don't have quals and are very appropriate and very good with young people, but, you know, I suppose it's a whole conceptual debate about, you know, whether we should have people with quals or not have people with quals. I think some work towards a minimum set of quals would be beneficial.

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Thank you. Those are my questions.

COMMISSIONER: Thank you, Mr Capper. Mr Guy.

MR GUY: Thank you, commissioner. Ms Harvey, if I could just take you to paragraph 77 of your main affidavit, you comment that adherence is made to the indigenous child placement principle?---Yeah.

Paragraph 77?---Yes. Thank you.

You would be familiar with section 83 of the Child Protection Act?---Yes.

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From your statement in paragraph 77, it would appear that placing a child in a residential care facility is in keeping with indigenous child placement principle?---Sorry, in terms of section 83, is the question - - -

Yes. You've indicated in paragraph 77 that a commitment to

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the indigenous child placement principle is children in out-of-home care or placed with kin, other indigenous carers or an indigenous residential care service. Under section 83, are you able to identify where a residential child care service fits into - - -?---I can't see - - -

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- - - paragraph - - -?---Yeah. I can't see a reference under 83(4) where it refers to an indigenous residential service. My understanding around the collation of the information is that those three types of care were considered for the purposes of collating these statistics. I'm not even quite clear what the definition of an indigenous residential care service is, so - - -

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COMMISSIONER: Have you ever seen one?---Well, I'm not sure whether that definition - and I know it's in my statement, but I'm not sure whether that definition refers to a residential that's - - -

That has indigenous children in it?---Yeah, that's just for - you know, has indigenous kids in it or whether it's a service ran by an indigenous NGO, so probably which is why my hesitation in answering your question, I'm sorry.

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Are there residences run by an indigenous NGO in this region?---No (indistinct)

So it can't be that?---So it can't be that. There are certainly some resis in the region where there are just indigenous kids.

It might mean that?---Sorry?

It might mean that?---Yeah. So it might, it might weigh in the - yeah.

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Would that be something that the department would see as a good thing to have indigenous with indigenous rather than mixed?---I think in terms of - so I know there is a residential in Rockhampton that is a resi - - -

Exclusively indigenous?---Yeah. I believe that it was set up for indigenous kids, but I'd have to rely on information from the service centre managers that - I think there might be non-indigenous kids in that resi as well, so I don't know that it's a hard and fast rule that only indigenous kids could be placed in that resi. I think, again, it's an assessment about: could that residential meet the particular needs of those young people.

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I suppose you would be looking to try to comply with the placement, indigenous placement principle?---Yeah.

But I met a young person yesterday that told me she was one of 15 children, several of whom were in care, so she had seven siblings in care who were in different placements and

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they no longer had contact, even by Facebook.

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So that wouldn't be reflective of the child - the indigenous placement principle, would it?---No. Without knowing - - -

Why?--- - - - where those children are placed, but no, it seems inappropriate that they don't have any contact with each other. Yes, but without knowing, you know, exactly where those children - - -

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Unless the department decided contact was not in either of their - - -?---Yes, that there was some reason - yes. 1

Any of their best interests?---That's right, and they could separately be placed with kin. I don't really know. It seems extraordinary that all seven would be in different locations.

It did, yes?---Yes, and that they don't have any contact, but without knowing the specifics - - -

That wouldn't be a desirable outcome?---No, not at all. 10

From the department's point of view?---No, not at all.

You would do your best to avoid that?---Absolutely, yes, and particularly even if it couldn't be that those kids lived together they certainly should be having some type of contact and knowing each other.

MR GUY: I just put it to you, Ms Harvey, that certainly as far as the act is concerned at the moment the residential care as outlined in your affidavit doesn't at this particular point in time fit in with the legislation?--Yes, that's conceded. Absolutely. 20

COMMISSIONER: Just while Mr Guy is doing that I just want to ask you this question. How does the department interpret the term "unacceptable risk"? Is an unacceptable risk a risk that's possible, that is almost certain to occur if steps are not taken to avoid it, or probably will occur if steps aren't taken, or might occur?---I'm not sure.

That's the key question that a risk assessor asks, isn't it, and answers?---Yes, that's - - - 30

By reference to the structured decision-making tool?---And maybe, you know, an unacceptable risk is one that would have such dire consequences that it would seem - - -

Well, that's what risk is. It's a combination of chance and consequence?---Yes.

Some things are very likely to happen with very low results, like driving around a roundabout. It increases the incidence of an accident but lowers the severity. On the other hand, there are some risks you would never take because - - -?---That's right. 40

Like jumping out of a plane without a parachute, because - - -?---The consequence.

It's certain to happen and the consequences will be devastating, but presumably the system, the department, gives that word "unacceptable" a meaning?---Yes.

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I'm just wondering what it was?---Yes. Sorry, I can't answer that. 1

MR GUY: Just - sorry, commissioner.

COMMISSIONER: Yes, go on.

MR GUY: Just one final question just in regard to residential care, and thinking about kinship and placement with kinship?---Sure, yes.

Would you count residential care as a kin placement for a non Aboriginal or Torres Strait Islander child?---Sorry, you might just have to repeat the question, I'm sorry. 10

Looking at residential care, as has been discussed - - -? ---Sure, residential care, yes.

- - - and kinship, would you - from a non Aboriginal child's point of view, would you regard residential care for non Aboriginal or Torres Strait Islander child as being sort of kinship?---No.

No?---No. It's residential care, yes. 20

COMMISSIONER: And it wouldn't be - that would follow logically for any child?---Yes, that's exactly right.

MR GUY: So just in relation to that particular response and that question, why has the department placed residential care as part of the indigenous child placement principle?---Yes, I'm not sure why it is in there. I think it is just an error that it is indicated in 77, 78 and 79 and 80.

Okay?---So I think it should be struck out. 30

Commissioner, just in regard to the comment made by the witness and deletion of those particular paragraphs of the affidavit - - -

COMMISSIONER: It will be notionally deleted and be treated as though it wasn't I there.

MR GUY: Thank you, your Honour.

Ms Harvey, I'll just take you to paragraphs 46 to 48 of your main affidavit?---Yes. 40

Just by way of a summary, child protection case plans including cultural support plans?---Yes.

You provide figures there, Bundaberg, 94 per cent, Kingaroy, 100 per cent cultural support plans, Maryborough, 97 per cent?---Yes.

In relation to those figures how did you come to those conclusions or those percentages? Is it from a data report?---That was information that was provided to me from a data report. I can just explain further that in terms of a young person's case plan there are certain fields that are selected if it's an indigenous young person that asks - I can't quite think of the wording, but it indicate is this an indigenous young person, and Torres Strait Islander young person, and is a cultural support plan required, to which I believe if there's a yes, we then go on and fill the content of the further text boxes, then it gets a yes vote. So I can perhaps pre-empt your next question, that I think in terms of the information that goes in those cultural support plans, I think there's certainly work the department could do in terms of that information, and prior to appearing today I did randomly have a look at some of the cultural support plans that are contained in those case plans and I would think that it is still an area that the department requires further work on.

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Ms Harvey, ATSILS, that's the Aboriginal and Torres Strait Islander Legal Service, Queensland, made a submission to this inquiry in February 2012 and I believe that that submission has been tendered to the inquiry - you wouldn't have read that submission?---I have read some elements of it. I haven't read it in its entirety.

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If I could just take you - and I'll - permission to approach, commissioner?

COMMISSIONER: Sure.

MR GUY: You've got the document there?---I have, yes.

If I could just take you to page 11 of that document?
---Yes.

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Just starting at the top of page 11, (a), would you mind just reading paragraph (a) of that statement?---Sure. "In 2009 enhancements to the Department of Communities Child Safety Services Information Client Management System established an environment where a child safety officer's completion of an Aboriginal or Torres Strait Islander child's identification field results in the automatic appropriation of a cultural support plan within the case plan template. ATSILS recognises that this ICMS development promotes the creation of cultural support plans, however ATSILS draws the commission's attention to the fact that the current performance data is represented by a significant proportion of cultural support plans with limited to no quality case management information nor actions."

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"ATSILS questions"?

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---ATSILS questions the authenticity of the current publicly reported data on cultural-support plan performance. Consultation with the state-wide non-government child protection agencies provide advice and information indicating majority of plans are incomplete and fail to meet children's cultural retention needs. The consultation findings are further evidenced by an ATSILS internal review of child protection case files demonstrating a large percentage of cultural-support plans with no information recorded and other cultural-support plan 5 information headings.

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Would you acknowledge that that sort of provides some sort of questioning on the validity of the data that you provided in regard to the cultural-support plans?---Yes, and I think, you know, it further goes to the point I previously made that I did have a look randomly in terms of some case files for indigenous kids in the region and, yes, I would agree with the findings that in some cases those cultural support plans lack sufficient detail. I certainly didn't see any where there weren't information under the five headings, but in my view there could be more work done around ensuring further detail is provided in those cultural-support plans and is certainly something I intend following up within the region.

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Could I just ask you to read paragraph (b) on page 11? 1

---The Aboriginal and Torres Strait Islander kinship reconnection project commissioned by the placement for Aboriginal and Torres Strait Islander working group conducted a sample audit of 28 children. The audit confirms ATSILS' concerns relating to the effectiveness of cultural-support planning with only seven children benefiting from a completed cultural-support plan and six receiving a partial plan.

More concerning, 50 per cent of children audited did not benefit from any form of cultural-support planning. The audit conducted quality assurance of cultural-support plans and constructively evaluated each plan. If the key findings of the kinship care reconnection report sample data are projected into the current 3017 Aboriginal and Torres Strait Islander in out-of-home care, 1508 children would have no cultural-support plan. 697 children would have a partial cultural-support plan and only 811 would have a completed cultural-support plan.

Thank you for that. I just put it to you that there certainly appears to be conflicting evidence regarding the number and the quality of cultural-support plans applicable to various indigenous children. Would you agree with that?---I would agree that the number provided is based on an automated ticking of a box. Yes, I agree and I agree there is certainly more work the department needs to do in ensuring the appropriateness of those cultural-support plans and that RE's identified - CSSOs in service centres have a significant role that they can assist us with in terms of improving the quality of those cultural-support plans.

I have just one final matter. In relation to the recognised entities, hypothetically I think the recognised entity as part of their participation in the decision-making in the investigation and assessment stage identify a number of kinship-care options. The recognised entity must refer those placement options to the service centre. It then refers them to the PSU who then actions recruitment and assessment. Is that correct?---Yes; yes, that's generally correct, although if in the investigation and assessment phase 20 family members were identified, it certainly wouldn't be that we'd refer all 20 to the PSU to undertake an assessment of. It would be certainly that the service centre would do some work, I guess, in terms of - you know, for us to move to a full assessment of them to identify, you know, a few key potential kinship carers, but certainly, yes, the process you've identified is sound.

Would you agree that administration costs could be significantly reduced if the recognised entity could work

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with a family to directly refer kinship-care applications to an Aboriginal and Torres Strait Islander foster-care agency rather than going through the three stages that you mention?---Yes, that certainly could be a process; yes.

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No further questions, thank you?---Thank you.

Thank you, Commissioner.

COMMISSIONER: Any questions?

MS McMILLAN: No.

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COMMISSIONER: I have just got one question. I wonder if you could give me a comment on this: assuming that a child has to be removed from a home for safety reasons, do you accept or reject that the system should intensively work to reunite the family and return the child home when the child can be safe enough at home and not when the child's best interests are to return home. So the return home should be based on whether it's safe enough for the child rather than when it's in their best interests to?---Yes, I think it should be based on whether it's safe for them to return home.

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Because that's the basis on which the state removed - - -?
---That's the basis on which we intervened.

And if the cause for the intervention has gone, unless there was some legislative basis for it, it wouldn't be appropriate for the department then to paternalistically impose another criterion such as best interests?---Which is subjective.

All right, thank you.

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MS McMILLAN: Might this witness be excused?

COMMISSIONER: Yes, absolutely.

Thanks very much, Ms Harvey, for the evidence that you have given. I appreciated your time and thoughtful answers?
---Thank you.

WITNESS WITHDREW

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MS McMILLAN: I will be calling Prof Kevin Ronan now, thank you, Mr Commissioner. 1

RONAN, KEVIN ROBERT sworn:

ASSOCIATE: For recording purposes please state your full name, your occasion and your business address?---Yes, Kevin Robert Ronan. I'm a professor of clinical psychology at CQ University; address Bruce Highway, North Rockhampton.

COMMISSIONER: Good afternoon, doctor. Thank you for coming?---Good afternoon, commissioner. 10

MS McMILLAN: Professor, you prepared a statement in relation to this inquiry which was affirmed on 2 October this year. Correct?---I think so, yes. I think that's the date.

And the attachments to it - one is your lengthy curriculum vitae. The other one is an attachment "Child Maltreatment Introduction to the Special Issue". The third attachment is "Child Maltreatment Prevalent Risk Solutions, Obstacles"?---Correct. 20

Would you have a look at those documents, please?---Thanks.

Professor, could you just, please, clarify that is a copy of your statement?---This is a copy of my statement; it is.

And the contents are true and correct?---And the contents are all there.

Yes, and the attachments are all there as well?---That's right.

Yes, thank you. I tender that, Mr Commissioner? 30

Do you have a copy of that with you?---I don't. I gave that copy to Emma.

That's all right. We will find another copy.

COMMISSIONER: The statement will be exhibit 96 and it will be published. The statement and the attachments will be exhibit 96.

ADMITTED AND MARKED: "EXHIBIT 96" 40

MS McMILLAN: I have got another copy for the witness so, if you wish, you can keep that there, Mr Commissioner. Could Mr Court Officer give the witness a copy for himself to look at?---Yes, I've got a copy of the attachments so just the statement.

Professor, you are a professor of psychology, clinical, with the department of behavioural and social sciences at

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the University of Central Queensland. Is that correct? **1**
---Actually it's the department of health human services.
That's an old departmental name.

All right. You're a member of the Australian Psychological Society?---I am.

Your research interests relate to clinical psychology, treatment outcome evaluation, child and family psychology, including conduct disorder, anxiety and trauma, schizophrenia and the effects of homework on therapy. You also have a keen interest in hazard and disaster preparedness, response and recovery behaviour. Is that correct?---That's correct. **10**

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All right, thank you. Can I just ask you a couple of questions? Paragraph 11, please, of your statement at the bottom of page 3, you say that principles and practices in day-to-day settings, and these obviously relate to training to facilitate successful implementation in relation to the sort of therapeutic intervention you promote, you say there are a range of organisational culture and climate factors that have been identified as either getting in the way of implementation or alternatively facilitating its implementation. Can you just expand upon what you mean by culture and climate factors?---Sure. There's been a fair amount of research that's been done in I suppose particularly the last 20 years that has looked at the problem of disseminating interventions that have been supported in research settings being implemented with some success in real life day-to-day settings. So the state of play, as I mentioned in earlier parts of the statement, is that clinical psychology, other mental health professions, other child protection related disciplines, have been quite good in the last 50 years or so at developing various interventions that have worked for a variety of the sequelae - a variety of the effects that are linked to child maltreatment. The problem in my estimation currently is one about travelling those interventions and those sort of practices into those kind of day-to-day settings that include child protection kind of settings, and that particular kind of brand of research has been referred to in various terms, but a current one that's used quite often is implementation science. So the science of how do you implement in such a way that the intervention approach that has been useful in a research setting is similarly useful in a real life setting. So the terms of organisational culture and climate refer to the overall ethos and practices that either support or detract from being able to implement with some success an intervention approach.

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Okay, so if I can just ask you, on page 4 are you saying that, for instance, in a child protection sphere if you have a rigid policy and procedure environment that make it difficult for the treatment programs requiring flexibility to fit within. That would encapsulate one of the problems with translating, I suppose, theoretical considerations to child protection issues, because children by their very nature require flexibility, don't they?---Yes.

Also because of the variety of the types of abuse or neglect that they may have suffered, on one hand. Correct?---Yes.

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Secondly, the aspect of the individual impact on that child will differ, won't it?---That's correct.

So are you saying that what you need to really understand is if you're going to have any programs implemented in the area of child protection you need to very much take into account the flexibility that's required in adapting it to

children?---Yes. You know, I think that you've done quite a good job of honing in on a central issue, and that is that interventions that we advocate for based on the evidence are those that have an inherent flexibility within them, that have to fit to all of the individual needs of families, of the children, of the various kind of environments that we work in. So the short answer to your question is yes, absolutely.

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All right. Now, professor, given we need to rise and, I understand, your unavailability tomorrow, if we don't finish all of your evidence this afternoon and if you don't get to perhaps address some of the issues that you think it's important, would you be prepared to prepare a submission encapsulating those for the commission?---Yes, and I'd be prepared to set aside first thing up in the morning to come back if that were appropriate, because I think this is an important enough process to, yes, participate in to - yes.

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All right, thank you. Mr Commissioner, at the moment they're all the questions I have. I'll allow others to proceed with their questioning.

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COMMISSIONER: Thank you. Mr Hanger?

MR HANGER: I think I can be fairly short. Professor, as I understand both your submission and your articles, obviously primary and secondary intervention are the best bet to start with, that is to say, treat the family, give them Matt Sanders' Triple P program and so on to stop getting into what we've called, and I presume you do too, the tertiary stage of abuse?---Yes.

You then talk in terms of, in the third stage, treating children with cognitive behaviour therapy?---Yes.

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One of the options?---When you say the third stage, you're talking about the effects of the abuse on the child specifically.

The effects of abuse. They've been abused now and we've got to do something about it, yes?---Well, I think that the cognitive behavioural kind of trauma focused interventions with the kids is important, but it's not the only kind of intervention.

No, you've got to have a multi-pronged approach and you've got to adapt to meet the particular circumstances?---That's right.

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There's been a lot of work done over recent years on neuro-imaging. Is it not correct that the consequences of trauma, abuse to children, are laid down according to the neuro-imaging pictures we have on the right side of the

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brain in the cortical and subcortical regions?---Yes, well, I'm not an expert in neuro-imaging, but I do know enough, I suppose, about Bruce Pirie's and others' research that those tracks that are laid down fairly early can be kind of hardwired, in the sense that they produce, for example, a tendency towards hyper-arousal in situations where other persons wouldn't get particularly aroused.

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That's right. They affect the vagus nerve and so on?
---That's right.

Yes?---And they will produce - to use the simplistic kind of terms, they will have more of a tendency to produce a fight-flight response rather than a more considered, reasoned response.

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Precisely. The cognitive behaviour therapy, the PTCBT that you refer to, is a verbal therapy and the current research done by world famous people who I can name to you is to the effect that the jury is, to put it mildly, out on the effectiveness of CBT in treating trauma in children. That's correct, isn't it?---Well, no, I think that there is a fair amount of evidence that supports trauma focused CBT with children who are experiencing trauma, and I would take a little bit of issue with the characterisation of it as a verbal only therapy. It's a therapy that actually also promotes a couple of really important ingredients related to trauma. One of them is exposure, or approaching - you know, Confucius talked about go to the heart of the darkness and you will find safety. So there's a doing aspect, a behavioural aspect, but there's also a trauma processing aspect, so a kind of a going back through and processing in an emotional way some of the effects that have happened.

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Quite so?---Yes.

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Quite so, but you used the term "hardwired" which I thought was fairly appropriate. Unfortunately child abuse is, as you say, to put it in lay terms for people like myself, hardwired?---Yes.

The words I put to you were that it's laid down in the right side of the brain in the cortical and subcortical areas and that CBT does not effectively get to those areas and treat it. The work I refer to, apart from the gentleman you referred to, is the work of Prof Alan Schaw, spelt S-c-h-a-w?---Yes.

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You would be familiar with his work. He was recently in Queensland, I think, and a gentleman you probably know, Prof Graham Martin from the University of Queensland?
---Yes, and I guess too that extending - I do agree that CBT alone just isn't going to do the job, and I'll just give you a very quick example. We're doing a randomised control trial right - it's just started year four of a

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five-year trial, that's looking at a home-based intervention for kids with conduct disorder and youth offending problems. A subset of those kids, as we know, kids - child maltreatment produces a range of risk trajectories. One of them is towards conduct disorder and delinquency and offending and so forth, and so in terms of that particular cohort of kids, to do CBT alone the research is abundantly clear that that will produce perhaps some short-term gain but typically six months, 12 months down the track those kids are going to be back doing the same kind of problems.

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Yes?---So there's a variety of other things that need to happen.

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No, we're on common ground. Let me ask a question from right field now, not a matter that you've given evidence on?---As opposed to from the right brain.

Bonding. Bonding and maternal deprivation and so on. What are the prospects if a child doesn't bond to a mother?

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COMMISSIONER: Sorry, Mr Hanger, can we get some terms agreed? 1

Bonding is what a mother does to a child and attachment is what a child does to a mother. Is that right?---Well, I think that you could go - I think it could go both ways.

All right.

MR HANGER: Yes, I must say I use the terms interchangeably, but I'm happy to use either. 10

If we don't get the attachment of the child to the mother or the bonding of the child to the mother or carer, whatever it is, you know, within the first 12 months, what are the prospects for that child? I know it's a broad question and you haven't even given evidence on it?---Well, that's right, and I don't claim to have expertise in attachment-related kind of research or science. However, it's going to be a tough road to hoe, to cut to the chase.

MR CAPPER: I have no questions, thank you.

COMMISSIONER: Thanks, Mr Hanger. Thanks, Mr Capper. Yes, Mr Guy? 20

MR GUY: Thank you, professor. Professor, the questions I'm going to put to you relate to the indigenous population, Aboriginal and Torres Strait Islander, for instance. Given the historical influence of the intrusive policies and procedures and forced child removal practices that Aboriginal and Torres Strait Islander people have been subject to, you comment and report on intergenerational trauma and, of course, that's of particular interest to indigenous communities. From a professional point of view, how do you see or define intergenerational trauma?---Well, I suppose in the first instance define it fairly simply in that the effects of one generation are passed along to the next generation and repeated again and when we speak about intergenerational transmission in this context, it's generally referring to an unhealthy as opposed to a healthy context. Intergenerational transmission can cut both ways. It can be both healthy and it can be unhealthy, so in this respect I think we're talking about the unhealthy form of intergenerational transmission. 30

Yes, and with this trauma, any comment on how it is passed from generation to generation?---Well, yes, and I don't think it is - well, I know that it's not limited to Aboriginal families so I will speak just a bit more generally about some of the transmission processes that hence are thrown up from the research. One of them is around some family processes. A typical one that you find in families that are at risk for maltreating children is what's called a course of family process and a course of family process is really quite simply - to use a kind of 40

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colloquial expression, it's an upping-the-anti process. So what typically happens is parents in the first instance will use coercive means to get their child to move from A to B, whether it's verbal or physical means that coerce that child. Typically what happens is that as that child grown up a common human response to being pushed and coerced is ultimately to push back in some way. Two and three-year-olds, as the research shows, learn how to start pushing back and they start pushing back through whining, throwing temper tantrums, getting stiff when you pick them up, a whole variety of means of starting to push back. As children then grow up, that coercive process gets more and more back and forth and that kind of way of solving problems through coercion and aggressive then starts to get inculcated and that's a means for some intergenerational transmission.

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And then they start doing it to their children and so it goes on?---And so it goes.

COMMISSIONER: How do you break that cycle, doctor?
---Well, we've got a very fine intervention, commissioner, that breaking that course of cycle is around getting in and kind of rolling the sleeves up and working with the family; not just working with the young person but working with the family and really primarily the caregivers in the first instance to help them start to understand how they can get some turnaround in a child's aggressive behaviour. So they typically - when we start working with parents, they don't like a child acting up and getting in their face and all those sort of things. They're not really aware of this overall course of process so through development of a relationship we try to widen the corridor for their ears to prick up so we can start sharing with them essentially in user-friendly terms what the research tells us and how they can get better outcomes by doing it slightly differently. So that's a kind of a - - -

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Right. So they understand that the have contributed to the child's current behaviour and it has got a cause?---Yes.

There's no point butting heads against the behaviour. It's changing behaviour through role-modelling or help and support?---Parenting practices.

By parenting, yes?---Yes, that's right, and I guess just to clarify, if an intervention approach is seen by parents, they get very testy about ideas that the finger is being pointed at them so we don't talk in causal kind of language. We talk more in solutions language. So we talk about parents as the solution to their child's problems as opposed to the cause. While we quietly know that perhaps they might have quite a bit to do with the cause as well, we do see them very much as the solution.

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But they don't need to know that - - -?---Correct.

- - - to be able to take a solutions based approach to the behaviour?--Both a solutions and a strengths based approach, yes. 1

MR GUY: That answered my question. That answers my question. I have got nothing further. Thank you, professor.

COMMISSIONER: Yes, thank you.

MS McMILLAN: Just to perhaps clarify, in your attachment 3 is what you're talking about, the coercive factors?---Mm. 10

Have you perhaps identified them in detail on page 200 and following of that attachment? So it's attachment 3? ---Page 200?

Yes?---And are we in the left or right column?

The right down near the bottom, the last paragraph on the right-hand column?---Yes, those are some of the factors that will go along with that family with that process. 20

Coercive?---Yes.

And then on the next page, the first left-hand column about midway down, prevention and intervention and there you've indicated, as I understand it, that you're looking at three major areas of focusing treatment. Is that correct?---Yes.

Preventing impairment, preventing recurrence of maltreatment and the long-term preventing initial child maltreatment? ---That's right. 30

All right, thank you?---I'm sure that those could be translated into primary through tertiary kind of languaging.

Yes, okay. Just one further issue: page 199 of that paper of yours which you co-authored with a number of writers, didn't you?---Yes.

In the right-hand column about a dozen lines down you say that children who are - "emotional maltreatment and physical abuse under five years of age children tended to project externalising behaviour and aggression. In contract physical neglect during this period was more often associated with internalising behaviours". Now, can you just expand on why it is that you're of the view that they manifest themselves in different ways with children under five?---Well, as we point out in that section, the research on outcomes by age are really quite mixed. So in some research you find kids who have been maltreated will have more internalising anxiety, depression types of symptoms. 40

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In other research you find they have more externalising kind of acting up. So the research is not really clear and really, in my estimation, that's a function of individual factors within a family that are going to produce a particular kind of range of responses, but in terms of expanding on that particular piece there the kids that are more prone to the externalising behaviour and aggression - so externalising is really the acting out of problems.

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Yes?---Internalising is the taking inward of problems, more depression and anxiety.

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I understand that, but why do you think there's a distinction there that you've got emotional maltreatment and physical abuse they tend to act out, if you like, whereas by contrast physical neglect - they internalise that?---Yes, I think the emotional abuse is probably related more to some of those coercive processes and so that child is - - -

Coercive, sorry?---Yes, and so they're learning to push back through those externalising aggro, aggression, aggressive kind of responses.

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They're modelling?---Well, modelling is one part of that, but there's more to it probably than just the modelling.

Yes?---Yes, the internalising behaviours as a result of physical maltreatment, in my estimation, is a result of a child being sort of in a sense shut up, shut down, because they're at risk of - if they do act up, they're at risk of some sort of physical long arm of the law extending in their direction so they learn how to quieten down rather than to act up perhaps.

All right, thank you. I have nothing further with this witness.

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COMMISSIONER: Thank you.

Doctor, how do you identify emotional harm as distinct from bad behaviour?---Well, I suppose that, you know, the diagnostic manual itself talks about maladaptive consequences for the individual or other. So, you know, if it rises above a particular sort of criterion around producing some sort of significant concern towards for that person or for others, then in the end it is kind of a clinical decision, but we've got some tools that have been - you know, sort of empirically established cut-off points that help the individual clinician make some decisions about whether or not this is in the adaptive range or the more maladaptive range.

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What sort of qualifications or training would a clinician making the call as to what is emotional harm need to have in your view?---Well, I don't think it's a real easy

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determination to make; you know, there are a number of factors that are going into it. So, you know, I look after a new clinical psychology training program at the university and I suppose that my bias leans in more of that specialised direction, but I'm coming from the ivory tower. So I used to work for a couple of states in the US and in fact looked after a residential treatment centre, a large one.

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A therapeutic one?---Yes, and had some thoughts about some of the issues you raised with Bernadette, with the last witness, in relation to that particular topic, but in terms of this particular issue I think that you do have to have a certain level of skills and qualification to be able to find - you know, to be able to determine for an individual child where is that cut point for that child within their context.

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Because the consequences of a false positive can be more harmful to the child than a false negative?---Indeed; indeed.

So given that emotional harm is one of the defined harms that the system can justify intervention on the basis of, what discipline should be making that call at the very least?

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---Well, again, you know, I'm thinking with both an academic and a clinical psych hat on, but I'm also thinking with a former employee of the state hat on as well and trying to put the two together in a way where you try to get the right specialisation but you're also mindful about costs and other sorts of factors so I hesitate to say it would need to be a highly qualified psychologist in every instance, but really the ethical part of me really does lean in that direction. You need a proper assessment in order to determine, "Does this child actually - are we really having a true positive in this instance?" because I agree. I think that false positive problem is a massive one potentially. The idea of a kid being taken out for no real good reason in the end is - - -

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Well, given that there's - well, there doesn't seem to be a lot of evidence that removal and ongoing intervention in the longer term over the lifetime is any more beneficial than leaving a child in an unsafe house with parents. There's no data around that. So we assume that it would, but the assumption is only valid if you've made the right call, that this child has been harmed and at risk of further harm if not removed?---Yes, agreed. 1

So what were you going to say - or what did you think about the residential questions that I asked you?---You were asking - the question that I kind of honed in on in particular, commissioner, was the one around trying to create larger residential care environments with 12 beds or more. 10

Yes?---I looked after a 24-bed state facility in the state of North Carolina in the US. 12 beds were in a secure portion, 12 beds were in a step down apartment setting across campus. So it was a transitional facility for the kids and, you know, the research shows that in residential care environments you can have positive effects. The problem is that there's been statistical reviews that have shown that in some peer mediated interventions, of which residential treatment is part of, you can get negative effect sizes. In other words, the kids can be worse off after the intervention than when they came in, and a major risk in a residential care environment are peer socialisation effects. 20

Like bullying and things like that?---Bullying is one, but also what some people call things like deviancy training. So the idea of being able to egg on your mates, of sort of - the book definition for deviancy training is contingent positive reactions to rule-breaking talk, and that can account for quite a bit of causality in predicting future episodes of antisocial behaviour. 30

But wouldn't they get that at school anyway? If they were susceptible to it wouldn't there be plenty of exposure to that sort of - - -?---Perhaps, but in a twenty four-seven environment, which I was intimately involved in, unless you were monitoring those kids twenty four-seven they can get up to all sorts of mischief.

So they were in the residence 24 hours a day, seven days a week. They didn't just sleep there and then go out to school. They were educated there?---No, we had an in-house school as well. 40

Were they because they were multiple complex needs children?---Yes, they were what we might call egregiously conduct disordered.

Right, because of some other deficit rather than - - -? ---Typically, most every - almost every young person -

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they're all males, 12 to 18. In almost every instance they had some sort of significant abuse and neglect history, yes. 1

Right, and because of that would you say that even at 18 they still were children in terms of needs, unmet needs?---Yes, and being thrust into an adult system that wasn't ready to catch them, definitely. I guess one other just piece of data to share with you, there was a study that was published in 1966 that went into a residential environment and looked at the question about rates of reinforcement. So every time a child is reinforced in this setting by a staff person, by an adult, how many times have they been reinforced by another young person? The ratio was for every staff reinforcement there were nine peer reinforcements, which gives us a little bit of a proxy for the peer influence versus adult influence for kids, particularly once they get into that more adolescent stage. So residential environments can be a real breeding ground unless there's some safety kind of factors put in for creating more problems than are solved. 10

Was yours a single sex residence?---Yes. 20

Male or female?---Male.

Right, okay. Did anyone ever do any longitudinal studies as to what happened to those boys after - in adulthood? ---No.

It would be handy to know that, wouldn't it?---It would. It would be quite handy.

Anything arising from that?

MS McMILLAN: No. Might this witness be excused? 30

COMMISSIONER: Yes. Doctor, thanks very much for waiting and also for sharing your evidence and your expertise with us. It's greatly appreciated?---Thank you, commissioner.

MS McMILLAN: I should just actually - the last page of your curriculum vitae, whilst many of your other referees are international, perhaps these final pages - contact details for ones in Australia, perhaps they should be de-identified?---Could we maybe have them all de-identified, for all - - - 40

Yes?---That would be fantastic.

COMMISSIONER: All right. Well, I'll correct that.

MS McMILLAN: Yes.

MR HANGER: Just before the doctor - - -

COMMISSIONER: Yes, Mister - - -

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MR HANGER: Before he goes, I was interested - - -

MS McMILLAN: Just the contact details.

COMMISSIONER: Yes, not the names.

MS McMILLAN: Yes.

MR HANGER: I was interested in this last discussion you were having where you were running the unit in the USA?--- Yes.

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I just wondered - I've heard the same thing about, you know, it can do worse than people being outside. I'm just wondering if there any references you could email to the commission on articles that you might have written on that, or anyone else had written?---I will.

Could you?---There's a couple that leap to mind that I'll send to - - -

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COMMISSIONER: Okay, that's good, thanks.

WITNESS WITHDREW

COMMISSIONER: All right, well, we'll adjourn now till - now, how are we travelling? 9 o'clock, or is that - - -

MS McMILLAN: 9.30.

COMMISSIONER: 9.30 is still okay?

MS McMILLAN: Yes.

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COMMISSIONER: All right, 9.30 it is.

THE COMMISSION ADJOURNED AT 4.34 PM
UNTIL WEDNESDAY, 24 OCTOBER 2012

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