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THE HONOURABLE TIMOTHY FRANCIS CARMODY SC, Commissioner

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

BRISBANE

..DATE 27/08/2012

Continued from 23/08/2012

..DAY 10

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: Good morning, everyone. Mr Capper. 1

MR CAPPER: Thank you.

COMMISSIONER: Listen, before you start, I'm going to adjourn at 12.30 today and then resume after lunch at quarter past 2 if that suits everyone.

MR CAPPER: Thank you. I've indicated to counsel assisting I'm going to hopefully be a little bit shorter than I first anticipated with this anyway. 10

COMMISSIONER: There's always an advantage in adjourning.

FRASER, ELIZABETH called:

MR CAPPER: Ms Fraser, on Thursday you were asked about your capacity to lodge an application in accordance with section 65 of the Child Protection Act, and in particular in relation to whether you could make an application on behalf of a child for such an order, and you thought that perhaps you could do so. Having a look at schedule 3 of the Child Protection Act, which defines an authorised officer as a person appointed under the act; a parent is defined under section 2 of that act as father or a mother of a child, a person in whose favour a residence or contact order is made, or a person to whom custody or guardianship has been awarded. A child is not defined, but would appear to relate solely to the child. Would it be correct to say that on reflection it would not actually be a correct statement to say that you could make an application to revoke an order under that legislation?---Yes, I think that would be correct, thank you. I guess in my view if a child did bring to my attention through the community visitor program or through a complaint that they wished to have that order revoked or an application made, I would make my best endeavours to advocate for that and see if we could get some legal representation for them to do that. 20 30

Thank you. I also asked you last week whether you considered it a strength or a weakness to have the agency responsible for coordinating delivery of services also providing the tertiary child protection response. I understand that you said that you thought that it was the strength under - the structure was the closest possible links between the two. Is that correct? ---Yes. I think that is right. I think there's probably room to further define the secondary services in that frame. 40

You also expressed a view on Thursday in relation to the national framework, and we've certainly tendered a copy of that and everybody has had a chance to obviously now peruse that. In relation to that, on page 8 of that report it identifies a child protection framework and it's got a pyramid. Would it be correct to say that your view is that the top slice of that pyramid is the 8000 children that we see in care presently, or thereabouts?---That's correct. 50

And then below that we have the second slice, which is the children at risk; and these would be the children that Mr Swan - the other 50,000 or so children, the other half of the notifications that Mr Swan says that the department should be looking at. Would that be correct?---That's right. He referenced the fact that there's probably about half of the 112,000 that would fit within that frame. I think they would be the families that are in that high risk group where you're needing to assist them with some supports around drug taking, misuse of substances, the levels of domestic violence that may be occurring, maybe some issues around mental health issues, playing out in those families. I think they're critical services that are relevant to keeping those children out of that top end of that statutory sort of service intervention.

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COMMISSIONER: Who should do that, Commissioner? Who's best placed - you'd call that early intervention, wouldn't you?---I'd call that, sort of, at-risk support. It's really - if you're looking at the hierarchy there'd be targeted services and programs to at-risk families, so I would see that still very much within the child protection frame and I think that sits fairly clearly under section 7 of the Child Protection Act.

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We were talking yesterday - sorry, Mr Capper, I'm going to butt in.

MR CAPPER: Of course.

COMMISSIONER: It didn't take long, did it?

We were talking the other day about - see, this is how - this is (indistinct) of the current child protection system in Queensland that a lawyer's interpretation of the underpinning legislation might envisage; that is, a system that lets children in need of protection into the system, and no-one else?---Mm'hm.

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Keeps the children in need of protection in the system for as long as they need it, but no longer. And in the meantime, supports their families so that they can reunite and that exit can be facilitated, and care for those children properly while they're in need of protection? ---Mm'hm.

Which is why protection is defined to include care. So you've got a system that keeps safe and looks after. But the system obviously has limited resources; it's struggling at the moment with 8000-odd; and the trajectory into the future is suggesting that that 8000 is going to rise exponentially over the next decade unless something is done about it. I take your point about identifying at-risk families and children and doing something about it so that you can reduce the tertiary intervention?---Mm'hm.

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But I think what I'm not sure about is whether that truly

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is as the current system is defined and designed, whether that's part of the child protection equation at the moment. It might well - in some places it certainly is; in Victoria for example - and world's best practice might suggest that it should be. I'm not sure, though, whether it's currently structured like that in Queensland. Perhaps the first observation I make about that. And you said you think it's within section 7. 7 is the chief executive's functions, isn't it? That's what section 7 talks about?---That's right, yes. Can I just get a copy of that? Yes.

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Are you thinking 7(1)(d), are you?---I'm thinking the - sorry, I just need a copy of the - - -

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Haven't you - - - ?---Yes. I guess part of the - yes, I think it is covered in there. I think also - - -

And (k)?---Yes. And I think if you listen to - if what the people were saying in their evidence, I think there is some agreement that the helping out families, the referral for active intervention, is still part of that at-risk group. These are people who are known to the system; they come to attention; the system in a sense has to look at how many of those need more intensive interventions; and make a decision about what goes into the statutory system. But we also know that this other group are in need of something more to prevent them coming back into that system. I think there is a good case to be made that those two areas tend to be the - they move between each other and I think they are the responsibility of that child protection.

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I think that everybody seems to be saying, from the peak bodies down, that someone has to provide this prevention, early intervention type of support to vulnerable children and their families?---That to me is another level again.

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Do you?---I think vulnerable families or disadvantaged groups who in a sense have children who are not meeting various levels of development or achievement are in what I would say the group where you're talking about intervention services for vulnerable groups in the community to close the gap with universal. I don't see that group as being part of the child protection frame.

Right?---So I suppose of the 112,000 that were coming to attention, I think you queried how many of those would be in that top level. I think the response that Mr Swan gave was, "Probably about half."

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About half?---So without arguing the numbers in particular, I was working on the basis that that top half are clearly seen as an at-risk group and some of those actually need more definitive statutory intervention and others need targeted at-risk services to help them, make sure that they don't keep coming back and knocking on the door, if you like, of the statutory services.

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Yes. No, I understand. The only question is who is supposed to provide it at the moment?---Yes. 1

And whether there is actually any statutory allocation of responsibility for that?---Yes, and I guess it's how you read seven.

It is?---But from my point of view, I think the child safety component, and we can talk about name of child safety or child protection, but I think there is an acceptance that the child safety or the child protection agency that's dealing with the statutory does actually have responsibilities for that high risk group who keep coming back and knocking on that door. 10

Yes, well, I think that's important. See, the whole system is statutory?---Yes.

People talk about it as though the system is non-statutory and statutory?---Yes.

But the reality is the whole thing is statutory?---That's true, yes. 20

The manuals are secondary materials. They don't replace the statute, they should reflect it?---Yes.

Section 15 is really the key, one of the key - performing, is really one of the key provisions, because unlike section 7, it actually says what the chief executive's main function is, and that is when she becomes aware of a child - when she reasonably suspects a child is in need of protection she must immediately assess and investigate the level of need, right? That's what she must do. Now, the way she becomes aware of that is by what we call notifications or reports and what Mr Swan is complaining about is the number of notifications that don't meet the threshold are meaning that the chief executive in complying with section 14 has to do all this work to find out what work she doesn't have to do, okay, and like in the police, he was saying 80 per cent of them don't reach the mark. So you're spending 100 per cent of your time and money in actually 80 per cent of your work and then you've got to do what you've got left actually with the 20 per cent that should be in your system, right. But what interests me is 14B, and that is she has to take other appropriate action she considers appropriate with this suspicion that she's got or these notifications of harm that she's got and they don't meet the threshold for protection. What does she currently do with that other 50 per cent? What does she do with all these reports that she's got but they don't reach the threshold? Do you put it in a bucket somewhere, or in drawer?---I think there was some clear acceptance that 50 per cent of that group that are actually reported to them do meet the threshold of risk and high risk and in some instances there's a need to look at intervention to remove or referral to a support body to assist them not to come back into that sort of risk frame of removal. There's 30 40

another 50 per cent or so which they indicated they don't actually do very much with, apart from possibly highlighting for them that there may be some services that they may wish to link with in their own frame.

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Do you think this is a real opportunity to do some preventative work with that 50 per cent that currently don't reach the threshold of being in need of protection but if you don't do something very well might in the next couple of years?---I think that next group down, if you like, are the vulnerable cohort that you would be hoping that your broader earlier intervention programs would be picking up on.

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But whose programs?---Well, I think they're a broader responsibility than the child protection system and I think they would be the programs that would be run through other agencies or funded through NGOs.

But are they linked up in - - -?---They would link to education, to mental health issues, to poverty, to transience and homelessness, those sort of things.

But are they linked up with the this 50 per cent of information the chief executive has got but is not doing anything with?---I think they are. I think that's the reason for - in my head, a reason why you would want some capture of that information, so that that information could then be fed into the sort of policy and program development activity that needs to feed into the vulnerable early intervention services but also the development of more targeted at risk services as well.

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So have you got three categories of children? You've got those in need. They're at the top?---Yes.

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Then you've got - in need of protection, I mean?---That's right.

Then you've got the high risk category and then you've got the vulnerable category?---Yes, that's right.

Is that right?---Yes.

Okay, and each of them requires help and support of different sorts at different stages in this process?---Yes.

Okay. Coming back to the children who the chief executive is actually responsible for under the statute, and that's the children in need of protection, and that is, by definition, don't have a viable parent to look after them and give them that protection, right, and bearing in mind that that principle in 5B - C, which the preferred way of ensuring a child's safety and wellbeing - in other words, for protection, which is defined to include care, is through supporting the child's family, would you think the system should, in order to - it's job must be to make the children who are in need of protection at point A not in

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need of that protection as quickly as possible?---Yes. 1

That's the main aim?---Yes, and we know from the data in that category that quite a few of them return again, and our data is indicating about 39 per cent of them.

Yes, sure, and that's just the nature of the business? ---Yes.

Do you accept the idea is not to keep them in long-term care just for their own good, that they're kept in long-term care for only as long as they need protection within the definition of the statute?---Yes, and support to - you know, to get their lives back on track and to make sure that their development trajectories are moving along - - - 10

Well, the act doesn't talk about development trajectories or anything like that. It just says - - -?---But it does talk about standards of care.

Yes?---Yes.

That's for those who need it?---Yes, that's right. 20

That is, those who are in need of protection?---Yes, that's right.

So the idea is to change them from being in need of protection as opposed to being in need of other things as quickly as possible?---That's right.

Change their status?---That's right.

And what that - - -?---But there, in a sense, the decision has been to actually remove them. As I say, to my mind, there is also a group of people who have been determined to be at risk but they may have parents willing and able to sort of look after them. 30

Yes, that's right. They're not - - -?---But they may need help.

On one view they may not be in the system, they're not in part of the entry into the system?---No, but they, I think, do sit within the chief executive's proper functions of providing help to that group to not move on. 40

Yes. No, I got that point. "Whether they currently do or whether they should, we can work out later on"?---Yes.

But I'm talking about the children who have been assessed as being in need of protection for the moment and trying to work out to get them not in need of protection as quickly as possible?---Yes.

I think what the statute is saying in that principle is how you do that is you intensively support their family?---Yes.

While they're in care - while they're in care over here, being kept safe, you focus on the family to get a parent who was not viable or not competent or fit to change their lifestyle so that they are, so the child can go back. Is that how it works?---I think that's part of it, because I think the reality is that, yes, a lot of work has got to go on with the family to put a situation there whereby the children can go back safely and appropriately, but I think you've also got to be doing quite a bit of work with the young person who - - -

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Yes?---Because in coming into care potentially there have been quite a few traumas that they've experienced and therefore there will be impacts on their development, their behaviour, and what you're trying to do is make sure that those things are sorted so that when the reunification does take place you've got optimum opportunity for those two things to work.

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Well, the dimensions of family are parents - - -?---And children.

- - - the child and siblings?---Yes, exactly.

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So that's the components of the family?---Yes.

We've got to look at the family as a whole but also its individual parts. I understand that?---Yes, so - - -

But what I want to know is does the department, that is, does the chief executive - let's drop the department and drop the system for the moment, focus on the chief executive. She's the one who has got responsibility under the act. Does she do that with children in care? Does she intensively support the families with a view to getting that child out of the care system and back into home as quickly as possible?---I think that's their responsibility.

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Do they do that?---I think the information that we have highlights how well that's occurring for kids and how often that's occurring successfully in the data that we've provided and in some instances they do a good job of keeping that child safe. They are improving jobs around addressing some of the therapeutic needs. They're looking at the issues around education, health, et cetera. So I guess what I'm saying in that space, it's a growing journey but I don't think it's at the standard yet where we would say it is top - - -

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Because if it wasn't standard then we wouldn't have 8000 - we wouldn't have the children in care treble in 10 years, would we?---I think they're slightly different paths because the children who are actually in care are not necessarily the ones who are coming in. What's happening in terms of why children are coming into care and its rising relates to what's happening in the broader community with adults and families and whatever.

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Sure. But it also relates to how long they're staying in? ---Yes, but to some extent that is also - that has an impact on the stats, yes.

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Thank you. Yes, Mr Capper?

MR CAPPER: Thank you.

COMMISSIONER: Sorry. I just don't understand when you say "they're looking at" what does that mean? They're looking at education. They're looking at their health needs. Aren't they doing something about it?---Sorry. By that I mean that if you look at our child guardian outcome indicator report, there - - -

Yes, which I have?--- - - - there is data there and I think there were some conversations with both the health representative who was here and the education representative who was here about how well the responses are progressing with respect to those needs of those children and I think there's a ways to go in terms of achieving parity between that cohort of people and the general population.

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Would you say that there's a ways to go in giving the families of those children, who by definition don't have a viable carer at the time the child goes into protection, the support they need to get into a state where they can look after their own children?---I would agree with that.

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Thank you. Yes, Mr Capper?

MR CAPPER: Thank you.

Now, you were just speaking about section 7 and the chief executive's functions and the comments that were made there and we're talking about the Child Safety system or the child protection system and a lot of the discussion we've

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been having sort of somewhat interchanges those two terms, but would it be feasible that when we're talking about a Child Safety system and the Department of Child Safety, they're talking about that top tier of the pyramid? Would that be correct?---Yes.

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Whereas the child protection system perhaps extends beyond that top tier to include the second tier, which is those that are at risk and vulnerable in that national framework; just like I think it notes on page 7 of the national framework that a health system is more than hospitals or, "A system for child protection is more than just a statutory child protection service," and I look to section 7 of the act and, particularly, 7A through to F. When we look at the provisions there, they talk about, "Providing or helping provide information for parents about the development of child and safety needs." That's clearly an educational focus, "Providing representative and support services to strengthen and reduce the incidents of harm to child." C, "Particularly providing or helping provide services to family to protect their children if a risk of harm has been identified," not actual harm. So certainly those top sort of A to F seem to be focused in the chief executive's functions. To me it seems to suggest those are the sort of preventative type functions of the chief executive as a whole, but then we go on to G through to some of the others down to about K where it starts talking about those in care and then K beyond or L beyond they start talking about specific targeted needs in those things. So the legislation, would you agree, seems to suggest under the chief executive's functions that it includes both the Child Safety Services as well as child protection sort of activity?---That's how I read it.

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Thank you. We've had some discussions, and certainly Mr Swan gave evidence, about when we're trying to measure our system against the national data, he indicates that there were some difficulties in terms of what were notifications in Victoria and what were they here and the different terminology. Do you believe that the national framework will help us to undertake better comparisons across national standards, particularly for Queensland's children?---I think that's the intent of that framework - was to try and achieve some greater consistency across jurisdictions so that children in every jurisdiction would: (a) receive similar standards of responses if they needed them, but also I think it would assist us to get a better understanding of the data and the data capture and apply some benchmarking across jurisdictions to see how different input models, if you like, are assisting and driving and impacting on those figures.

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Thank you. In relation to the evidence, as the commissioner has just identified, there's sort of been a threefold increase or certainly - I think it's two and a half or thereabouts in the past eight years of children in care, the Department of Child Safety's budget - certainly from the materials that have been provided - seem to have

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increased by fourfold from 174 million to 733 million over recent years. Does that accord with your understanding of the figures in that area or - - - ?---Yes.

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- - - approximately?---Yes.

In relation to that, can you provide sort of a view as to why you think that - I mean, we're still seeing more kids in care, but yet we're seeing an increase in funding. Have you got any thoughts on where that funding is going or what we need to do in that space?---I think that the - I mean, it is difficult to look at all the ways in which the funding is reported, but I think essentially there is certainly funding that goes into the investigations and assessment. There's funding that needs to go into the sport of children, but I think there is also some funding that's gone into the targeted services for at risk children.

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Thank you. Now, you've provided information in your statement and into the attachment as to how your monitoring work is undergoing. Are there any particular aspects of that evidence or any particular findings that you've made in that space that you wish to particularly bring to the commission's attention?---I think the critical areas are around - I mean, we had talked around that framework and I think there's been quite a lot of discussion on it, but I think the key areas that I've highlighted in our reports are around the timeliness of actions on referrals that have met that threshold for the child protection notifications and that's about 20,000 of the matters that are not screened out as child concern reports and I think the implications of those delays in making sure that the front end knows which ones are serious and which ones aren't, which ones need to be dealt with is critical because I think any delays in that environment are potentially suggestive that there may be a risk that's unidentified for a child at that point and if that goes on unactioned that could have significant detrimental impacts for not only the child, but also the family in that context and maybe other people involved.

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Thank you?---I think the service delivery to Aboriginal and Torres Strait Islander children, including the compliance with the indigenous child placement principle is a critical aspect which remains unacceptably low.

Yes?---And I think extent and quality of planning for children who are - once they're in out-of-home care is something that needs moving up, but sort of case planning and also making sure, I guess, within that, my head suggests that that work needs to look at the exiting arrangements, so whether these children - what work needs to happen to make sure that the reunifications back to families are occurring in an expedited and possible way or if it's not going to happen that the needs for that child are actually being planned for in an appropriate way and then more particularly as children are reaching 15, 16 and

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they've been in care for a period of time, the planning for them to move out into independence at the age of 18. 1

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Thank you. Now, in the evidence we have heard there's certainly different data and certainly from reviewing the reports that you filed and provided to the commission of inquiry - there's clear evidence in there of departmental evidence and other material and particularly evidence from the community visitors. During the course of evidence we heard from representatives from health and from education and we particularly heard in relation to a question posed to children about their unmet health needs and it was sort of suggested that - and it depends on the nature of the question posed to the children as to whether or not they had an unmet health need and their response. Can you just tell us briefly about that aspect of the data? I mean, how do community visitors go about collecting that particular information?---In terms of the community visitors' links with the children that they visit, they don't just ask questions of the children in terms of a simple question that you've got an unmet health need.

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Yes?---What they do is use their eyes, look at the condition of the child and observe. They talk to the carers. They do discuss issues with the children and see what their responses may be. If they've got concerns, they would raise those also with the CSO prior to finalising any of their reports to establish in a sense what that information and what their eyes and observations are highlighting for them. In the reports what we've tried to do is establish that framework, but also link it to quite clearly in the report what information is coming from CVs, who are the independent people who go in and observe what's actually happening for children and talk to people and get some picture of that and that report does come from CVs. We also put in there as much information as we can from children themselves, so their views - information out of the view survey and also linking whatever is relevant in that space that we can capture with regard to administrative data. The idea there is to try and use a sort of mix of information, triangulate that data so that we're looking at what the different measures are telling us with respect to what's actually happening for, in some instances, those children in that space. Those reports, before we finalise them, all go to the agencies for their comment and review and if they have any comments around that, we discuss that to make sure that the information in there accords with their findings or if they've got any particular initiatives or information that they want us to add. The idea is to try and achieve a collaborative understanding of what is the response that's occurring for these children in those domains.

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Thank you. We've certainly heard evidence in relation to what those departments do and they certainly indicate that they interact somewhat with the reports. We still see escalation of some concerns in particular areas. Does this sort of give rise to the notion that you indicated last week that you would like your reports tabled in parliament in relation to those issues?---I think that the feedback that I've had from agencies in general on the reports that

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we've made, particularly in trying to get a systemic understanding of what is actually occurring for young people when they're receiving services, has been positive. People, I think, find that useful. It helps contextualise, I guess, individual issues and concerns so that we've got a better understanding of what's happening on a system-wide basis. However, I do think that now that those reports are available, there's some value in having them considered and, I guess, responses to what they're saying made a little more formal than what exists at the moment.

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That's all I have. Thank you.

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COMMISSIONER: Thanks, Mr Capper. Mr Copley?

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

COMMISSIONER: Yes.

MR HANGER: May I - - -

COMMISSIONER: Yes, I'm sorry, Mr Hanger. Didn't you have a - - -

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MR HANGER: I don't think so.

COMMISSIONER: All right. Mr Selfridge did.

MR HANGER: Can I have another go? There are just a few things. In fact, in many ways it arises from your questions.

Going back to the commissioner's questions about what is done for the families of the children that are needing protection, can you describe the kind of problems that are arising in these families that result in the child coming into care?---The issues that we know provide greater risk for young people who are coming to the attention of the child protection system or young people who may need, you know, to have responses to assist protect them. Those are usually issues of - there's prevalence, if you like. It's not in every case, but there's an intermix and interplay of high levels of violence, often substance misuse, sometimes poverty, transience, change in relationships.

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Do you have any breakdown of these? I mean, just as a complete layperson, I would imagine that addictions, be it alcohol, drugs or gambling might give rise to family violence?---They would be a factor, but as I say there are a range of things that would play out, but our snapshot report would highlight what are some of the issues there and how that's - and what data there is available, but certainly in terms of their prevalence and how they play out, we can probably - there is data that shows potentially how prevalent that is, if you like, but - - -

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So we could get a breakdown of the causes that the children

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are coming into care in the first place?---Those issues that are prevalent for - and to what level of percentage, if you like, they seem to be present when young people are coming into care, noting that, of course, for every individual child it would be slightly different.

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All right.

COMMISSIONER: I think the figures show that family violence is 90 per cent in separations, parental separations, in the family violence is involved?---Yes. It's a pretty alarming figure.

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MR HANGER: But then that family violence may not be violence associated with the children?---It may not be directed towards the children, but the issue I guess - and I defer to some of the discussions that have gone on in the family consultant, I know the impact of high levels of violence in the home in terms of impacts on children and their development.

Of course. Yes?---And I guess that fits - often it's not physically directed towards them would fit - you know, provide a lot of the issues around emotional abuse.

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I suppose family violence is frequently prompted by alcohol and drugs and the alcohol and drugs are frequently prompted by poverty and so on - - -

COMMISSIONER: And by abuse in the previous generation.

MR HANGER: Yes?---Yes, there are certainly historical issues there.

COMMISSIONER: There's a bit of technology there, Mr Hanger.

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MR HANGER: Yes, it's amazing. The technology is going up.

I've been meaning to ask you about - - - ?---I don't have technology.

- - - the project in Hope Vale to develop a community plan to keep children safe. Could you tell us about that?---In terms of the work that's going on with the Families Responsibilities Commission are you talking about?

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Yes, yes.

COMMISSIONER: That's Mr Pearson's - - - ?---Yes. Basically, the people in the court would be familiar with the fact that some period ago, Fitzgerald J did a review and a report on what was happening in some of the remote communities in Cape York. Following that there was some detailed work to try and look at: what might be the response to that because there was some very concerning information that was brought out about the future for those

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young people. That gave rise to some of the alcohol management plans, the work around improving local governments in those communities and ministerial taskforces which were, in a sense, focusing in on trying to work with those communities and leaders to establish: what are the objectives. What are the plans about how we're going to make sure that young people in these communities have a better future and some of those link to strategies around education, et cetera. The work of the Cape York Institute looked at the notion that there were critical issues around trying to promote family responsibility through links with income support and helping families to get better skills around managing income, but also having discussions and conversations around linking that with school attendance and making sure that the children's health needs were being met, et cetera. There's been quite a lot of work in trying to work with those communities to, I guess, lift those outcomes for kids at the same time as providing some support.

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MR HANGER: There was a lot of work to get the community to own the project, wasn't there?---Yes. A lot of the projects that are needing to be worked through need to actually have local ownership and leadership drive with them and in the community you will always get different views about how is the best way to move forward, but there was broad acceptance to move with that strategy and there was an approach to put that strategy into three communities in the cape.

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But did the community in the end sign off on the issue and get the support?---Yes. My understanding is that they have and they worked with it and there have been some improvements in some areas and I think there's opportunities to build on that and move forward.

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But as I understand it, and correct me if I'm wrong, of course, there was a lot of trouble in getting community support for the project?---Yes.

Okay. Can I go back to another question that the commissioner was asking you. Once the children are in care, they seem to stay in care for a long time. Sorry, I'll rephrase that. Once they've been in care for two years, they seem to stay in care for a long time, like up until they're 18?---Some.

You say some. I had the impression that it was most of them, but am I wrong?---I think about 50 per cent of them are on long term guardianship orders.

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Once they go on to long term guardianship - - - ?---Then often they will stay for a long period of time. Yes.

Following on the commissioner's question, is anything done to facilitate the training of their parents so that they can come out of that long term guardianship or is it not a realistic proposition?---I think if they're in long-term

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guardianship arrangements, there's been at least an assessment at that time that the reunification prospects are limited. I think we talked last week about whether or not there was a need for that to be continued to be reviewed on the basis that people do change over time and what sort of links and contacts are made every three, four, five years, et cetera.

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All right?---I'm not totally aware of the detail around that. That would be more the department's area.

Yes?---What we would be looking at more is what's actually then occurring with respect to attending to the needs of the children who are in those arrangements.

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Yes, thank you. Thank you, commissioner.

COMMISSIONER: I suppose, commissioner, a home couldn't be a place of safety and care if it's a violent climate, could it?---I think that's a complex issue. My view would be if there's a lot of violence going on in the home, I doubt very much that it would be promoting the best interests of that young person in terms of development and their future. That's not say on individual bases that everyone is going to be impacted to a level that is going to be, you know - have affected their education attainment, et cetera. There are probably a lot of young people in the community who may be impacted in that way, but certainly the research highlights that it certainly has a lot of detrimental impacts for young people in terms of modelling, in terms of their future sort of behaviours and just in terms of their feeling of security and stability and safety.

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I think the figures are at the moment that at least one in four children in Australia witness violence against their mother or stepmother?---Yes.

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Who's responsible for domestic and family violence prevention in our system?---I think that is a broader program in that sort of - for me it's in that sort of area of the early intervention sort of activities and programs that we need to operate within the community and I think there is a combination of agencies who would be combining to try and get those messages out and offer varying programs to people who are perhaps engaged in that sort of activity, if they come up to the attention of the police, if they come up to the attention of health authorities and in some instances some of them may voluntarily engage in that sort of behavioural sort of change work as a result of perhaps breakdowns in families. A whole range of reasons might prompt people to deal in that space, but I think as an issue it's something that is not - it is a broader issue than just the child protection frame.

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I think the direct cost to employers of domestic and family violence per annum is about half a billion dollars?---Okay.

And overall I think the cost country-wide is about

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\$4 million billion. Are there public private partnerships? I mean, obviously it would be in an employer's interests to reduce family violence, if it would cost them half a billion dollars a year. Do they contribute to these preventative strategies? Do you know?---Yes, I don't - I think they should, but I think in a general sense at the moment, probably most of those programs are funded both through state and national initiatives and they probably would fund quite a few of those programs out through NGOs - - -

The self interests alone would be an - - - ?--- - - - and advocates. Yes. 10

- - - incentive, wouldn't it, if it's going to save you half a billion dollars collectively?---Yes.

All right. Who should I ask about that? Do you know?---I think probably the Department of Communities would be a coordinator and a lead there.

Okay?---And they would be aware of the broader range of programs that would be available. 20

Yes. All right?---And communities there, I'm talking about the broader communities.

So if you look at costing, half a billion dollars to employers, then it would reflect 66 per cent or more - that's two-thirds of the victims of abuse being employed women?---And certainly I am aware of, you know, a number of - - -

In paid employment; women in paid employment, two-thirds of them are the victims of assaults at home?---As I say, I'm aware of some groups who - I'm not sure that they're the employer groups, but some high profile groups like your sporting organisations, et cetera, who've, you know, committed to some of the messaging around the notion that that sort of behaviour towards women and others in families is not acceptable. Everyone would have seen some of those campaigns, but what the private sector has committed by way of dollars to programs and services beyond - I know, for instance, in the public sector we would make available to employees access to employment assistance programs so there would be referral frames in there and I presume some of that might sit across some of the private sectors, but I don't have the details around that, Mr Commissioner. 30 40

I think Australia's CEO Challenge - I think that is a charity that contributes to violence prevention?---Yes.

But I don't know how it's coordination?---Yes; and that - - -

Maybe that's an area where we can look at, a vulnerable child or maybe from the high risk child category you spoke about?---And I think in part - I did mention, I think, last

week that in that sort of vulnerable space and the programs
that need to be effected to drive down some of these issues
that we're talking about or make a difference in those
areas is a little bit - the governance around that, the
planning, the objectives. I think there could be a lot
more done to try and at least make it clear what's
happening at a national state level and how those things
work in together and who potentially is driving that
in - - -

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What do you mean, it's fragmented or something?--- - - - in 1
coordination at the state level, yes.

You think it's a bit fragmented?---Yes.

All right, excellent. I suppose that's one of the
occupational hazards of being in a federation?---Yes, it
is. We are stuck in some instances with some of that rail
gauge issue.

Excellent. Yes, Ms Ekanayake?

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MS EKANAYAKE: Just one question, commissioner.

COMMISSIONER: Yes.

MS EKANAYAKE: Commissioner, going back to the discussion
about a periodic review of children on long-term orders,
what's your opinion on attachment theory that currently is
applied when discussions are held about perhaps returning a
child to a parent?---I think that that's part of what needs
to be looked at and managed. Attachment - and there's a
lot of research and information about the importance of
people being able to form relationships with people and if
you muck up some of those attachment linkages in the early
years of people's lives they do struggle with those to
greater or lesser extents over longer periods of time, but
it's how those attachment change - you know, how that's
managed, in a way. I think that changes can be managed,
but it needs proper linkage and working so that it's not
sudden. Relationships can be sort of built up and then if
you're moving to a changed circumstance, for instance where
a child may have been removed, it may be that then family
is identified and links and community, particularly for
Aboriginal and Torres Strait Islander children, and there
may be an interest then in moving a child back into that
frame, but if the child has been, since birth, with a group
of people here who have been caring for it - and now we're
talking about a three or four-year-old who knows - has
never met these people, then in order to make a successful
linkage or connection and transition there, you're going to
have to work pretty hard to make sure that you get those
relationships happening, that there is a link, that the
child feels comfortable and safe with it. I think everyone
can add to and incorporate something that's beneficial to
them, but if it's a cataclysmic notion of, "We've now found
the family. We'll just take the child, put it over here,"
and then they're separated from the people that they've
actually relied on for two or three years, I think you're
in a situation of trouble, but I think it's also important
that where families are found and connections can be made,
they should be pursued and they should be pursued with the
utmost professionalism to try and get the best success and
outcome for that child.

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Thank you, commissioner.

COMMISSIONER: Commissioner, I think that's all. Thank

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you very much for your time. You've spent a long time in the witness box. We appreciate the evidence that you've given and the time that you've allocated to the commission?---Thank you, Mr Commissioner.

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WITNESS WITHDREW

COMMISSIONER: Mr Copley?

MR COPLEY: I call Stephen William Armitage.

COMMISSIONER: Good morning, Mr Armitage.

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MR ARMITAGE: Good morning.

COMMISSIONER: Thank you for coming.

ARMITAGE, STEPHEN WILLIAM affirmed:

COMMISSIONER: Mr Copley?

MR COPLEY: Mr Commissioner, I tender the statement of Stephen William Armitage which was declared on the 6th day of August 2012, some 16 pages long, together with seven attachments.

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COMMISSIONER: Thank you for that.

MR COPLEY: I'll hand up to you, Mr Commissioner, a copy of the statement and the annexures in case you wish to - - -

COMMISSIONER: Thanks very much. I will have a copy. Mr Armitage's statement will be exhibit 36, thank you.

ADMITTED AND MARKED: "EXHIBIT 36"

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MR COPLEY: Mr Armitage, I'll just wait for the commissioner to get a copy of the statement.

COMMISSIONER: Yes, and no suppression of any information in Mr Armitage's statement sought?---No.

MR COPLEY: No.

COMMISSIONER: It will be published in full then, thank you.

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MR COPLEY: Mr Armitage, if you can turn to - you've got a copy of your affidavit?---I do, yes.

I just want to ask you some questions - - -?---Sure.

- - - under the chapter, or the part, rather, headed Profile of Youth Justice Clients?---Yes.

Paragraphs 92 to 102. At paragraph 99 of your statement you state that a large proportion of young people in the

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youth justice system were known to the child protection system?---Yes. 1

You assert 69 per cent as at 30 June 2011?---Yes.

Do you mean to convey by that that when these young people first came into contact with the system of youth justice they had already been subject to investigation and/or intervention by the Department of Child Safety?---Yes. That data is provided by the Department of Child Safety. It's a very broad definition of being involved and known to the child protection system. 10

Yes?---I took the liberty of asking for an assessment of children detained last Monday.

Sorry, children?---Children detained under - - -

Detained?--- - - - either bail or on a sentence in youth detention centres to look at who was - what form of relationship they had with the child safety department, and on that day of 21 August there were 165 young people in detention and of these young people 22 per cent, or 37, had a current child protection order and an additional three young people were on an intervention - intervention with parental agreement. Of those children on orders 62 per cent were indigenous, for example, and 19 of those young people, indigenous young people, are at the Brisbane Youth Detention Centre, and four at Cleveland Youth Detention Centre. 20

In your affidavit at paragraph 99 when you speak of 69 per cent of children as at June 30 last year being known to the child protection system, I just wanted to ask you what you meant by the word "known". For example, does the 69 per cent include children who have been the subject of notifications - - - ?---It does. It does. 30

Just listen - but not substantiated, or substantiated notifications?---It does, both.

Both?---It does, and that's why I wasn't satisfied that - I needed more fine ground information.

Yes?---I thought it was too - very broad, a very broad definition.

So in paragraph 99 it's a figure that puts things perhaps in the worst possible light, because it says, well, "known" includes people who were investigated, or children who were investigated, but there was nothing to be done?---That may be an interpretation, that the data is collected like - so including where notifications have been made but not substantiated. 40

Okay?---But you could interpret it that way.

All right. I just wanted to understand?---Yes.

It's important for the commission to understand what exactly you meant by "known"?---Sure.

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Thank you.

COMMISSIONER: Mr Copley, just - paragraph 93, you say last year 49 per cent of young people admitted to supervised youth justice orders were indigenous?---Yes.

What's the figure this year?---Well, the year is not - I haven't got the data for - - -

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But you looked at as at that date?---As at that date, yes.

That you looked at last week?---Yes.

What is it?

MR COPLEY: That was for people actually in detention, though, wasn't it?---That's for, yes, detention orders or bail. There could be a few been refused bail and awaiting trial.

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Whereas - - -?---So the basis of their - - -

COMMISSIONER: I see?---Yes.

MR COPLEY: Yes, and what Mr Armitage would be referring to in paragraph 93 on supervised youth justice orders is presumably immediate release orders, probation or community service orders?---Community service orders, so many orders the court may make that requires the department to supervise in the community.

COMMISSIONER: Okay, thanks.

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MR COPLEY: Thank you. Mr Armitage, you state that during 2012 risk assessment has been conducted on 1522 young people?
---Yes.

Now, that would clearly include not just the young people in detention centres but young people in contact with your service?---Correct.

It can summarised this way, if we look at all the bullet points there, that for various reasons, up to 63 per cent of that 1500-odd have been assessed as having a moderate to high risk of reoffending?---Yes.

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Is that the case?---Yes.

Thank you. You then in paragraph 98 indicate that this information suggests that effort must be directed to addressing support systems for these children and their families?---Yes.

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You point out areas where they need to be supported. My question for you is, in fact, as at today what is the Queensland government doing to minimise the prospects that people in the category that you've identified up to 63 per cent of 1500-odd children are in fact getting the support they need to help them stay out of trouble with the police again?---Sure. The first thing I would say is that we have got that information, that we've got the capacity to assess risk. There's a very well developed - - -

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Do you mean to say to me that until recently you didn't have that information and therefore there has been a step taken forward here in at least knowing it, or is that just a preliminary comment you're making there?---It's a preliminary comment there, yes.

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Okay?---The risk assessment tool has been in place for some time.

Right?---Which allows as a matter of course all children placed on a juvenile justice supervised order - that means that they are managed and supervised by the justice service or in detention. All children are assessed against - for their level of risk and there's a rigorous process around that. So that's the first point, that we've got some level of rigour and specificity about each individual child which will inform the case response the way the case workers involved will tailor the response to the young person. There's a range of ways that they can do that, including working with - if the child, for example, is a client of the child protection system there's very clear guidelines to inform case management of working with child safety. Where there's an issue of detachment or disengagement from school, for example, it is expected that the case workers will work with and engage with the education authorities relevant in the particular area.

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Now, these case - - -?---So the case management framework is the other part that informs the way they respond to that particular individual and they've got a range of additional tools that are research based that can address offending behaviour, including, and I've made reference to it in my statement, techniques or tools called the aggression replacement treatment - training, sorry, which when applied with rigour and with integrity can significantly impact on reduction of offending.

Who do the case workers work for?---The case workers work for the Department of Justice and Attorney-General through youth justice.

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Okay, so the case workers, does that expression comprehend the people that supervise youth on probation?---There are a number of employment categories based in the youth justice community based services. The person with responsibility for the case is the case worker. There are other employees that assist that may also supervise, including youth workers, maybe supervising a community service activity,

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but it's the case workers that - - -

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So there is a case worker who supervises what the entirety of the youth justice service's response - or responsibility to the child?---They have responsibility for the development - the assessment and the creation of the case plan for the young person and its execution.

Yes, okay?---They may deliver some of that directly themselves or draw on other resources to do that, but they are accountable for it.

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So for each child, if we consider, for example, just a child on a probation order, that child might be supervised by your service not just by the case worker but by actually an officer of your service who is performing the role of the probation officer. Is that the case?---If that's part of the case plan, indeed.

Yes?---But the responsibility, again, for ensuring that that other person's supervision aspect of the probation order is done in accordance with the case plan is the case worker.

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So if there is a child on probation who it is decided has perhaps achieved as far as he can achieve in the formal school environment and he might have difficulty with truancy or something like that and it's thought more desirable that the boy should be directed towards getting employment, does the case worker do something to assist him to get employment or to enrol in a course that might help him get employment?---Yes.

Think of an example. Tell me what the case worker would practically do to assist the boy that's not very academically inclined, who is on probation, who is about the age of 15 or 16, to get a job?---They may work with - again, it should be through the - in cooperation, collaboration, with the Department of Education and Training, because the young person is still required under law to be enrolled in school.

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Yes?---But they can work with and do work with technical and further education authorities, TAFE colleges, to enable access to more practically oriented courses. They may work with services that provide pre-employment work to get the person - a young person in a position where they can usefully take up either employment or working in - the rigour of going to TAFE on a regular basis. So they can draw on a number of resources to do that, non-government services, that may provide that sort of service, to pre-employment support.

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Now, for this to succeed for the person that's on probation is it necessary for the youth to cooperate with the case worker?---Certainly.

To take part in a TAFE course or something like that?

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---Certainly.

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Because it's generally the case, isn't it, that probation orders in their conditions don't include requirements with that degree of specificity, do they?---No.

Sometimes they might say that the child must obey all the lawful directions of the probation officer?---Correct, yes.

But I take it the youth services department doesn't seek to have put into probation orders that the lawful directions would include something from the probation officer about attending a TAFE course or something of that nature?---Not as a matter of course. That would be part of a case plan, though.

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Yes, of course. Yes, but what I'm trying to - - -?---Like, attendance - - -

Just listen. What I'm trying to get to is this - - -?
---Sure, okay.

- - - that for the government to be able to help some of these youths they've got to want to help themselves, haven't they?---Indeed. Indeed.

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So if you're not terribly successful in preventing a youth from reoffending it could just be the case that it's not entirely all the government's fault?---Certainly, yes. That could be correct, yes.

The youth himself might actually bear a measure of responsibility - - -?---I agree.

- - - at the age of 16 for his own future?

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---Indeed. And that's recognised in the manner in which the orders are made and executed by the Department of Justice and Attorney General, they recognise developing maturity of young people and that they should take responsibility for their actions and should take opportunities where they're brought before them usefully. The orders do have requirements for young people to attend the - make themselves available and attend the area - the office, for example, or to certain places. And they can be breached and are breached for non-compliance and taken back to court.

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Yes. And of course your jurisdiction over them effectively ends when they turn 17, doesn't it?--Or at the completion of the order.

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Okay?---There may be in some cases orders that extend well beyond their 17th birthday.

What would be the maximum length of time an order could extend beyond their 17th - - - ?---Life.

Life?---Yes, for a very small number of young people that are found guilty of murder, they can be given a life sentence and spend part of that in a youth detention centre and then be transferred to a prison.

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But usually by no later than 18 they'd - - - ?---The majority. The majority.

Then once they're in the adult system, to be released from the prison as a murderer, they'd be released on parole, would they not?---The conditions that apply, yes.

So what I'm trying to convey to you is that whilst the government might have an ongoing supervisory role with them, Youth Justice Service wouldn't in that case, would it?---Once the responsibility is transferred to the adult corrections, no.

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No. So what I was saying to you before is effectively true, isn't it, that really unless they're on a probation order that's got a year or two to go after they turn 17, most of your service's responsibility to help hem ends when they turn 17, doesn't it?---Yes.

So there is a limited window for Youth Justice Services to help these people - - - ?---Indeed.

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- - - and steer them in the right direction?---There is.

And if there is anybody else in the apparatus of the state to help them is got to be found somewhere outside youth justice, hasn't it, in that situation?---Yes.

Yes, okay.

COMMISSIONER: Youth Justice was transferred from

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Communities to the Justice and Attorney General in April this year, was it?---I think it was March. Following the 24 March election, the following week there was an administrative arrangements order and all the arrangements were - all departments all changed.

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MR COPLEY: In paragraph 12 you said that the machinery of government changes took effect in April?---Yes, it took effect in a practical sense, yes.

Okay, so from April - the Commissioner is correct - - - ?
---Yes.

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- - - Youth Justice went over to the Department of Justice and Attorney General?---Yes, the legal arrangements, I was referring to.

Okay?---In terms of administrative orders.

All right. Just on that point, the estimated budget or Youth Justice in 2012-13 is about \$142 million according to your statement?---Yes.

Okay. And of that 142 million, it has to be spread across the funding of youth detention centre operations?---Yes.

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We all understand that to be effectively something akin to a prison?---Certainly - - -

You don't have to be defensive about that, I'm just trying to define terms to move - - -?---No, no.

- - - to move to where I want to go?---Sure.

So we'll just call it something like a prison?---Okay.

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Then you say it's got to fund community-based Youth Justice services?---Yes.

By that do you mean the supervision of community service, probation, and intensive release orders?---I do. I do, and including youth conferencing.

You then go on to say it's got to fund youth justice conferencing services?---Within the context of the 142, yes.

Okay, yes. And you say it's got to also fund limited early intervention services?---Yes.

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And funding for some non-government organisations?
---Correct.

If we turn over to page 4 we see that the non-government services get a total of about 5.23 million - - -?---Yes.

- - - of the 142 million?---Yes.

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We see two paragraphs above that that the budget for youth justice conferencing is about 10 million?---Yes.

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We see that budgeting for youth justice service centres is 31 million, at paragraph 22?---Yes.

And we see that the budget for youth detention centres takes up the lion's share of about 125 million, at paragraph 20?---125, yes, well, the 142 million does not include all the capital. The figure on paragraph 20, a combined budget of 125 million, 41.2 million operating and 83 million capital.

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Okay?---So that's a - the capital is a non-recurrent one, that's Cleveland Youth Detention Centre's enhancement.

Yes. And all of that 125 million comes out of the 142, doesn't it?---No.

No?---No. The 41.2 comes out of the - - -

Okay?---I can - - -

Okay, that's all right. So 41 for youth detention centres, 31 for youth justice centres, gets us to 72 million?---Yes.

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Then 10 million for the youth justice conferencing gets us to 82 million?---Yes.

Then 5.2 million for the non-government services get us to about 87 million?---Yes.

Where does the difference then go between the 142 million budgeted at the 87 million spent?---Just bear with me, I've got a breakdown for you.

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Okay?---I believed I had a breakdown, I'm finding difficulty accessing it at the moment.

That's all right because the reader of the affidavit might have thought that - - -?---Yes.

Might have thought roughly that the 142 million you referred to at paragraph 13 included all the figures I've mentioned plus the 83 million capital expenditure, that might have accounted for the 142?---Depends on how - budget's calculated, including operating expenditure as well as capital.

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Okay, right?---And it depends - part of the difference could be the way the capital for Cleveland has been presented, because it's over a three-year period.

Okay?---I can get an accurate breakdown of the 142 for you.

What really prompted this line of inquiry was that whatever else this statement of yours does, it gives us some idea how much is spent on the youth detention centres and it

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gives us an idea of how much is budgeted for youth justice service centres - - -?---Sure. 1

- - - and how much is budgeted for youth justice conferencing - - -?---Yes.

- - - and how much is budgeted to be given to non-government organisations. Because they seem to be the categories that are referred to back at paragraph 13 of your statement?---Yes.

But what the statement doesn't tell one immediately is how much money is being spent on the limited early intervention services?---The very limited early intervention services is a reference to the Brisbane-based early intervention services that we currently operate. 10

All right. So is there only one early intervention service currently operating?---In that - yes.

And it is operating in the city of Brisbane only? ---Operating, but it is funded by - that we have employees running - - -

Yes?--- - - - in the -and paid for by youth Justice. 20

Yes, okay. That's what I'm trying to find out?---Yes.

So you've got one service running. Youth Justice is funding and operating one early intervention program currently?---Yes.

And it is operating in Brisbane city. Just tell me how much, approximately, is that costing in this 2012-13 budget year? ---I believe that was around \$2.3 million, but I would have to confirm that. 30

Okay. And what is it doing, that limited early intervention program in Brisbane?---This service has been under evaluation - has been evaluated around that very point on the question of what services it is providing and how it can be - is it being effective in terms of its program.

Well, that's different?---And it was, as I understand it, it was established as a pilot some time ago. 40

Yes?---And with the intention of providing an after-hours service principally for young people that came in contact with the law and establishing immediate support with accommodation and those sorts of things.

So it is providing - - -?---And linking with other services, services like and emerging crisis sort of intervention service and ongoing family support of those that were at formally in the youth justice system.

Some might these be young people that have had something like a caution or some contact with the police service? ---They may have, yes. 1

Okay. And the service provides, if not itself emergency accommodation, it facilitates access to emergency accommodation provided by other organisations?---Yes, it doesn't provide it, it accesses, yes.

Right. And no doubt that's because it is considered that a young person might more readily offend if he's homeless compared to if he's got somewhere to live and to sleep? ---Yes. 10

And so what else does the service do besides that?---As I understand it they provide - they work with - they aim to work with the families of those young people and to - - -

Right?---On whatever the presenting issue is. I can't provide you with any more fine-grained information at the moment.

No, that's all right. I'm just trying to clarify and understand perhaps even the limited role that Youth Justice Service currently performs in relation to early intervention and also the time - and with already established the time-limited role that that Youth Justice Service provides with effectively what they might call in some other context relapse prevention?---Yes. 20

That is to say preventing them from committing offences into the future by steering them towards education and things like that?---Yes.

Thank you. And of course the limited roles that you perform there is all a reflection of the fact that you only come into the lives of these people if they have either offended already or perhaps have some initial contact with the police service?---Indeed. 30

Okay, thank you. I just want to ask you about a reporting obligation that employees of detention centres have got? ---Yes.

According to section 268 of the Youth Justice Act if a detention centre employee becomes aware or reasonably suspects that a child has suffered harm while detained in a detention centre he must, unless he has a reasonable excuse, report the harm or suspected harm to the chief executive immediately, and if a regulation is in force, in accordance with the regulation?---Yes. 40

And indeed there is a regulation, isn't there, regulation 35 to the Youth Justice Act, which sets out the details that the report might include?---Yes.

That obligation to report is confined to employees of detention centres who become aware or reasonably suspect

harm has been suffered in the detention centre?---In respect of the provisions you just talked about, that's correct, but there are other requirements on a community basis.

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That's what I was just about to ask you. Is there an obligation in the Youth Justice Act for what I'll just colloquially call probation officers or community service supervisors to have to perform a similar reporting obligation as is imposed upon youth detention workers?---I don't believe there is in the act itself but there are certainly requirements in the Youth Justice Manual.

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Yes?---The practices and procedures for officers to do that.

Okay?---Detailed procedures around that.

Perhaps you can help me with this, is the rationale for legislating or it for those in detention that it could well be the only way harm is going to be made known to the relevant authority, if the detention workers bring it to the attention of someone further up the system?---That may well have been a rationale. I also believe it would be - because those regulations were drafted post the Forde Inquiry.

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Yes?---There's particular focus on youth justice - child protection in the context of detention.

So the - - -?---That was the focus of the inquiry.

Okay. So the enactment of this section, 268, and the regulation might have been, as far as you know, a response to the recommendation arising out of the Forde Inquiry?---I believe so, yes.

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So the position therefore is that youth detention workers have a mandatory obligation under statute to report?---Yes.

Other youth justice workers who are not youth detention workers have an obligation to report but it is to be found in their manual?---There's a requirement of their job that they comply with the manual - the procedures are published. It's not under statute.

No, so their obligation is to be regarded as an administrative obligation rather than a statutory or legislative obligation?---Yes.

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Thank you. At paragraph 86 of your affidavit you say that in late 2011 it was - and I'm paraphrasing - discovered that a rather small number of young offenders were in fact responsible for a high proportion of crime?---Correct.

Correct me if I'm wrong, but was the discovery that there were a small number of offenders committing a lot of property offences? Is that what we're talking about?

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---Yes, property and car theft. 1

Okay?---Yes.

Thank you. And you say that an integrated case management initiative was then launched?---Yes, focusing on a particular strategy in relation to those young people, yes.

You said it was a whole of government response led by the youth justice program?---Correct.

And tell us what the response was and what is practically being done to deter these recidivist property and motor vehicle offenders from committing further offences?---Yes. The young people concerned are typically around 200 at any given time, of the caseload of our young people on orders. So that there is a particular focus and application of worker time and other resources on those young people in the places that they're found. Currently there are 15 places in Queensland where there are what there are what are referred to as P200 - and that's a reference to the number - panels. 10

And where are those 15 places?---I haven't got them here, but includes areas with a high population where you would expect there to be a number of offenders, so it would be Cairns, Townsville, all the major towns like Cairns, Rockhampton, Townsville, Brisbane, North Brisbane - - - 20

Sorry, and - - - ?--- - - - Gold Coast, Sunshine Coast, and so on.

In Brisbane, though, can the panels be more specifically - can you describe more specifically in Brisbane where the panels are?---The panels would be in the same locations as the youth Justice services centres. 30

So there's Woolloongabba, Bowen Hills, the two centres, and it is the responsibility of the manager of those Youth Justice Services to establish a panel. The panels typically involve the police and education, health, and others that may be relevant to the particular case.

Does the caseworker for the kid find himself on this panel too?---They would be - their information is very relevant to the management of the case, they would.

Right. And so what does the panel do for this number or this cohort of 200?---The panel - this strategy is very new, it's been in place for less than 12 months. 40

Yes?---And it's under evaluation and we're monitoring it regularly so they're in the early stages, but essentially it is to bring to bear the relevant knowledge, skills and services of each of those players I mentioned before to assist in the management of the young person, the offender and so having used, as I mentioned before, the risk assessment tool to identify those areas, that that young person might be at - the behaviour is influenced by lack of accommodation or not engaged in any meaningful skill or employment or training or they've got health issues that need to be addressed. All of those can be considered and responded to as the resources enable.

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Okay. As the assistant director-general for Youth Justice, do you at this stage - have you formed any impression as to whether these panels are making a meaningful difference? ---I'm in the process of doing that. Indeed, in the last - I've been in this position since 4 June and one of the things I'll be making my priority is to visit the centres where we have Youth Justice Service centres and meet with the relevant players where I can, so I've been meeting with assistant commissioners of police and others to talk about this and other - I believe it's got great potential to work and I think it's early days to establish whether it's impacting on reoffending. I hear what I'd call anecdotal information on the success of this approach, but as I say, it's early days in a rigorous evaluative sense to say "it's working" but I think it's got a great deal of promise and I'm encouraging it to continue in its current form.

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Okay. No further questions.

COMMISSIONER: Thank you. Mr Hanger?

MR HANGER: Mr Armitage, in paragraph 120 you refer to youth boot camps?---Yes.

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They seem to be very topical at the moment?---Indeed.

Would you tell us about what's proposed there and what's happening?---Yes, thank you. The government had an election commitment to trial two youth boot camps in Queensland and that was my charge - my program is charged to develop a proposal for consideration by cabinet to do that very thing and trial it in Queensland. The cabinet approved the particular proposal last week and the attorney-general announced it, along with a tender to potential providers in two areas of the state. There are two models approved and to be tested. One is an early intervention model based in the Gold Coast and the rationale for the early intervention model is to target those young people that are known by police, by school principals, by communities, identified by their own families as at high risk and likely, all things being equal, to become recidivist offenders, but it hasn't quite done that - - -

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COMMISSIONER: Sorry. So if they're at high risk of

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offending, so they're at high risk to other people?
---Pardon? 1

They're a risk to other not other people are a risk to them?---They're a risk to other people. Yes.

Yes?---And then so - - -

MR HANGER: Before you go on. You also used the word recidivist?---Yes.

But do I take it that they can go into the system before they become an offender at all - come to your notice as being 10

a - - - ?---It will be a trick or a design element that needs to be carefully monitored and evaluated in the course of the trial to make sure that the young person's - children, young persons selected are those at risk, indeed, and the service is not being made available to those that otherwise would not - - -

COMMISSIONER: But you focus your attention, don't you, according to - what I think I read in your affidavit was that the recidivist, the likely repeat offender, you give the targeted attention to them - - - ?---Correct. Correct. 20

- - - because if you are looking at the - stopping them offending for the first time, it would be a preventative rather than an early intervention approach, wouldn't it? ---It's an early intervention, commissioner. They've had that involvement with the police, maybe low level involvement, but they've got all the hallmarks. They're on the cusp of being cautioned, but before that formal step is taken, this would be an option. 30

When you say "early intervention" it's a word I've heard a lot in different contexts, but I think it originated in public health models. What do you mean? What does it mean to you?---What it means to me is where there are already characteristics or issues that have emerged in a particular family or young person that haven't been prevented or the risks are present so the - - -

The risks of reoffending?---The risk of getting engaged in offending - of creating victims, if you like.

Who are the candidates for the boot camps - - - ?---There's two - - - 40

- - - kids who are at high risk of getting into more trouble?---Correct. There's the two models: the early intervention model, which is those on the cusp of entering and committing more offences to get more and more engaged in the youth justice system leading to detention and the other model is a sentenced youth boot camp option, which is targeted at those that are involved in the youth justice system and that are regular - their offending is such that

they would be likely to be detained. 1

They already are recidivists?---They're already recidivists and this is targeted at reducing their offending.

Is it a diversionary program, is it?---Yes.

It's an option instead of going to - - - ?---There will be a voluntary option that a court may make in the Cairns district for the period of the trial. The court would have to satisfy itself upon receipt of the pre-sentence report that the young person would benefit from this option. 10

More than detention?---More than detention, but if the option was not made available, they would be going into detention based on their offending.

Okay. So they're in Cairns and that's the reoffenders? ---That's the sentenced - - -

And the early intervention one is at the Gold Coast? ---Correct. Yes.

Is it limited to certain levels of offending, this option? ---It's primarily aimed at property offenders not violent offenders, although the court may investigate the particular nature of their offending, but by and large it's intended to be aimed at those repeat - any offenders of car stealing and those sorts of offences. 20

And it's voluntary - - - ?---It's voluntary.

- - - in the sense that the child has to agree to it? ---Has to consent and another important element is the involvement of the young person's family or caregivers. 30

Can they give consent instead?---No.

At what age are they eligible to give their consent to this option?---Between 13 and 17.

MR HANGER: How long is it for?---The sentence boot camp may be an order made by the court from three months to six months and in the order or program there is a month residential component to the program and the balance of the order, whether it be two months or up to five months, will be a highly structured community based program. 40

COMMISSIONER: And they live at home?---If they're bailed at home, yes.

Yes. But they have to spend a month in a residence, a term of residence?---In the sentence option it's a month, yes.

But is that a maximum?---Yes.

And a minimum?---Yes.

All right?---The program is designed for a month. 1

Where do they live in that month?---That will be yet to be determined. The government has gone - an issue to tender for both the programs and depending on what the providers put forward is in accordance with the specifications in the tender how they're going to deliver this residential component as well as the very structured community based component.

Is that informed by the chief executive of the Child Safety Services?---The design specifications - - - 10

What sort of places you can place the child in care?---Yes. With a child in care, we'd have to have the permission of the Department of Child Safety and they'd certainly be involved in the determination of whether a referral is appropriate or not and hence that's the requirement for a pre-sentence report for the sentence option. It ensures if that's the relevant - you know, if - - -

Even if they're under the chief executive's care and control under a child protection order, they still personally have to consent. Is that right?---Yes. 20

The child?---Yes.

So neither the natural nor the substitute parent can consent on behalf of this child for this option?---No. The act requires consent for all of the orders, you know - or for probationary community service and - - -

How many do you envisage being in this pilot that you have to house for a month - up to a month under the trial? ---Yes. Each of the programs will aim to offer this to 40 young persons over the period of the trial, which is two years. It is anticipated that the program in both cases will involve six young people at a time over the period of the two years. So it's 80 young people in total over two years. It's quite modest, but it's a trial and it will be rigorously evaluated and will inform future policy - will assist in the decision-making around future policy; whether this trial needs - or the program needs adjustment and/or whether it's suitable to be scaled up and provided in other communities before it is, it's being rigorously evaluated. 30

All right. Okay. 40

MR HANGER: Is it worth thinking about not getting the child's consent and just getting the parent or guardian's consent or do you think that's - - - ?---I think it goes to the notion that young people have got increasing capacity to understand the nature of their responsibilities and an onus - - -

Yes; and perhaps that - - - ?---I think in a practical sense, they will need to agree to undertake this program for it to work. It will be a challenging exercise for the

young people involved and it will be made clear to them in making that choice, but I think that the act - it goes to the notion of the age and criminal responsibility. 1

And they've got to own the problem and the solution?
---They've got to take responsibility for their actions and where opportunities are provided that can lead to a more productive way of living their lives and take that opportunity.

Sure.

COMMISSIONER: What happens if they reoffend while they're on an order?---If they reoffend, the usual process will take effect. The police will follow up their process and - - - 10

Yes, but I mean will they get another offer at boot camp?
---That will be a matter for the court.

Can they under the act?---The act is being drafted as we speak.

Okay. Will they?---It's an option that will be considered, but I think the usual practice is for courts to make - courts are best placed to make those sorts of calls because every situation is different. 20

Yes. But what I mean is only if the court has the option of reigniting the order - - - ?---Yes, sure.

- - - and whether it ceases on reoffending or whether it - - - ?---Look, I do not anticipate there will be any block to the court making another order, if the court believes it to be appropriate and worthwhile. 30

Does it automatically cease on reoffending?---No. No, there would be a breach process brought before the court for the court to consider the extent of the breach of non-compliance; whether the order should be varied or discharged and further action taken.

So the court will have two jobs; to deal with the breach and the new offence?---Yes, yes.

MR HANGER: I understand boot camps - never having done one - to be involved in sort of outdoor activities and - - -?---Yes. 40

- - - getting up early in the morning, doing press ups and walking up Mount Warning and - - -

COMMISSIONER: I don't think they do press ups and walls. I think they have machines that they use.

MR HANGER: A health hazard, is it?---I don't think they'll have machines in the bush, though.

In the bush and climbing a mountain and camping at the top and I suppose, hopefully, giving kids self-respect and that they've done something and achieved something. Is that the sort of thing you - - - ?---That's the notion; using the evidence around challenge based programs, wilderness type programs is pretty good and given the opportunity for young people to be momentarily out of the situation they're in and others in whatever way supported their offending or potential offending - - -

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And giving them some - - - ?---Yes, to - - -

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- - - self-respect?--- - - - think about what they're doing, but all the elements of physical activity and the challenge in that.

COMMISSIONER: Boys and girls? Are boys and girls eligible?---They are, but primarily it will be boys, just on the proportion of young people that offend that are boys.

Mainly boys?---It will be mainly boys, I would expect; not excluding girls, but the girls would need to have - each young person will have a particular tailored program for them and that bridge will be crossed in terms of the residential component.

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That's what I was thinking about?---Yes.

MR HANGER: After the one month in-house, you've got a period of time out of house, what do they do then, wash off graffiti or something like that?---That may well be appropriate if that's the nature of their offending. There'll be several elements. It will be a very structured day that we would expect them to be involved in that would reflect their risk assessment. So if they're not in school or not in some meaningful activity they should be in at the age they're at, there should be efforts directed towards that; getting them back into some form of - whether it is school or TAFE or employment, if there are health issues that need to be addressed and family support issues that need to be addressed; all of those elements would be part of the arrangement. I mean, one of the things that Youth Justice Services strives to do is relate the way an order is put into effect to the actual offence. So if they've been in graffiti, we will try to make sure that part of what they do - you know, they clean off graffiti.

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Make their punishment fit the crime?---As far as it is reasonable to do that. Yes.

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COMMISSIONER: So they go to school during the week unless they've got a job, in which case they go to work, and then on weekends what do they do, climb mountains and do press ups up the top?---There may be weekend camps. There may be other activities that would need to be spelt out. What we've done in the tender is given very clear specifications about what each program should involve. It will be up to

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the providers to come back with the approach that they're going to take. 1

Is the tender commercial in confidence or can you give me a copy?---No, it's in the public arena and there's a - - -

All right?---I can certainly give you a copy.

MR HANGER: I think it would be interesting?---Yes.

It's obviously a matter you're fairly keen on and interested in as well?---Indeed, indeed. Yes, we - - - 10

You think it's got real prospects?---I believe so. The effort was put into ensuring that experiences of elsewhere in the country or in the world internationally were drawn on and to ensure we didn't repeat the same problems, but also that we built into the plan the things that do indeed work. For example, I mentioned earlier the aggression replacement training, that is something that the research tells us, if done correctly, can be very effective, up to between 25 and 28 per cent reduction in offending of the cohort we're talking about is repeated over and over into national jurisdictions and we're in the first couple of years implementing that here. 20

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That 25 per cent is a good figure?---The cohort we're - a high offender - is a good figure, yes, it is. 1

That leads me on in fact to paragraph 13 dot point of your statement. The fourth dot point - paragraph 14 - the fourth dot point there refers to, "Programs to address offending behaviour." That's the kind of thing you're referring to there, the aggressiveness training?---Yes.

Forgive me asking, youth justice conferencing; what kind of matters go to youth justice conferencing?---A whole range of different offences. 10

What, handbag snatching?---Yes. Graffiti. Generally it would reflect the sorts of offences the majority of kids are involved in, and that's property offences.

Okay. And I take it both offender and victim have got to consent to the conference - - - ?---They do.

- - - before it happens?---They do. The victim's consent is pivotal.

How well does it work? Successful?---Routinely at the end of each conference each of the participants are asked to rate their satisfaction with the exercise and victims routinely record over 90 per cent satisfaction. 20

That's great?---It is.

Paragraph 16, the 137 figure that are in detention; what kind of offences attract the youth detention penalty?---All those under 37, a good proportion - the majority of them are actually on remand awaiting sentence.

So of those - - - ?--- - - - people may - and the range of offences would be repeat property offending or serious offending including robbery with violence and very rarely, but too often, murder and - or very serious sex offences. 30

Okay?---But the majority would be repeat property offenders.

All right. And so the people who are on remand, this is in effect using it really as a gaol until they have a trial? ---This is where the bail options that are available are not made available to that particular young person for a variety of reasons. 40

Why, compared to other states, do we have so many on remand? Just slowness in the court system, or - - - ? ---There may be - there was a comprehensive review done a couple of years ago with Prof Mazerolle leading that, from Griffith University, looking at the causation, what might be contributing to that high number. We are a stand-out in the country, but every jurisdiction has this issue of high numbers on remand. Court delays may be a contributor. The young person's profile themselves, they may well have been

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granted bail previously and not complied with the bail conditions; or the young person themselves - and a number do - decline bail.

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Okay. In the youth detention centres education for the inmates is provided?---It is.

Tell us a little bit about that?---As a direct result of the Forde Inquiry - - -

Yes?--- - - - the education provision was given additional focus and the Department of Education and Training provide - it's a fully-blown school in both the Brisbane Youth Detention Centre and Cleveland Youth Detention Centre in Townsville.

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There is a school in the detention centre?---There's a school that is headed by a principal and it operates on special school resourcing, so something like six students to one teacher.

To one teacher?---Because of the nature of the population of young people that are in detention.

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Are they particularly good teachers?---My experience - I'm very - it's a very impressive service that's provided at both centres. I might add that it has been in place for over 12 years and I think as an example of interagency integrated service, that provided by JAG, Education and Health, is an example that works very well as a holistic response to try and make the most of that period of time they're in detention to turn them around.

And you have had some excellent results, I understand, with the education?---Clearly my colleagues in the Department of Education would be best placed to provide the detail around that, but I am aware that the average age, for example, of young people in detention is around 14 years, 10 months, and their average reading age - this is information I got from the principal at the Brisbane Youth Detention Centre - it may vary at Cleveland - the average reading age for those 14 years and 10 months is grade 3 - year 3. The principal there will claim - and there's every reason to believe this - is that the - these are a modularised program; with a three-month program they typically get 18 - improvement in reading age of between 18 months and two years, for a three-month program, which is significant.

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COMMISSIONER: So they come to grade 5 over the 15?---From - with a three-month program they can improve from - yes.

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And what should they be at 15? Grade 10 level?---Yes. Grade - yes, 9 and 10.

MR HANGER: Can we take another three months and add on a couple of years, or not? Perhaps I shouldn't ask you that, I should ask - - - ?---You could, but people aren't sentenced to detention for school, not - - -

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No?---I think the biggest challenge is what happens is - I think what that tells me is that young people do respond to the level of structure that youth detention provides. It's fully - every moment of the day is planned out and they respond to that, and it's quite different from their experience generally in the community.

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COMMISSIONER: I suppose Mr Hanger's point is that better education is a preventative aspect of the - and rehabilitative aspect of detention, isn't it?---It is.

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And that's the objective, apart from detaining them to keep the community safe from them, it's to aid them not to go back into detention by reoffending when they get out?
---Yes.

Because that helps the community as well?---Indeed.

MR HANGER: I think you also do some trade training there?
---Yes, there's a certificate - accredited to deliver - through the school's accreditation as an RTO there's a range of practical courses that young people can complete and carry with them into the community and the accreditation and build on that.

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So you could get a fundamental trade accreditation while in the detention centre?---You could. It would be dependent upon how long you were - - -

Of course?---The nature of the sentence that you've got. You could begin to get a basis for that.

COMMISSIONER: You'd be out by 17, wouldn't you?---That's correct. You may not have got the full requirements - - -

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MR HANGER: That's what I was saying, it was just the - - -?---These are all portable so they can take them to a TAFE in the community.

COMMISSIONER: Can they take them to the prison?---They potentially could.

I don't want to know about potentially. Can they - - - ?
---They're accredited by the - as a registered training organisation. They're elements of the training course, they're recognised whenever - in Queensland or in other states.

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No, what I mean is what 17 - is what children in detention get until they're 17 available to them in prison after they've been transferred there after their 17th birthday?
---I'm not aware. I'm aware that there are some training opportunities in prisons.

But they may not be corresponding?---I'm not aware of the full - I'm not aware of the full extent of that.

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MR HANGER: I take it this trade training that we're talking about is done in the youth detention centre?---Yes.

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It's not a case of going out for anything?---No.

All right. Is there any research done on the extent to which the people that leave the youth detention centre go on to lead a crime-free life?---There has been some research from time to time to track the careers of young people - - -

(indistinct) or not?--- - - - detention - no, going into prison and there's a large proportion of those that do, but there's a smaller proportion that don't. One of the things that Queensland is best placed - in a much better position to address those sorts of questions - is this year they commenced the use of a unique identifier for - a number that is allocated through police so a person can be tracked through - their progress through, whether it be through the court system or through the Youth Justice system, and then subsequently onto - so we'll be able to do that with certain - very accurately.

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So people get now an identifier number when they go into the youth detention centre?---It's an identifier - commenced this year - that the police will allocate. It's been developed in conjunction with police and with courts and with adult corrections. It can track them through all the systems.

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But the qualification to get it that you and I are discussing is they get it because they go into youth detention centre?---They will already have it and it will become apparent when they're admitted to youth detention centres through the integrated Clay case management system. If they've got - because once they're arrested and brought before the court, that's when the record commences. These systems can talk to each other.

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COMMISSIONER: When do they get allocated the number? At what point?---By the police.

Yes?---The police are the first contact.

So when they first come to police notice they get a number? ---I'll need to get - to get as more detailed response I'll need to get that verified.

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MR HANGER: Could you find that out over lunch?---I will.

I presume it's only a phone call?---Sure, yes. It is.

COMMISSIONER: Because they've already got a number in the education system?---The education system have got a unique identifier and have done for nearly 10 years.

Why not use the same one so it's a uniform unique identifier number?---I think that's a matter for policy.

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There'd be whole - I could see - identify a number of reasons why that mightn't be the case, but - - - 1

You mean, Australia Card objections?---Could be. And the vast majority of young people in schools don't get involved with the justice system.

No, but they've already got a number because they're involved in the education system, is my point?---They do.

So it's not like you're giving them something they haven't already got because they're offenders?---Yes. 10

They've already got it. The question is would it be useful to keep that number and track them through the system with that number rather than giving them a new number that does stigmatise them as being an offender or police attention? Give everyone a number in the education system not based on what they've done wrong - - - ?---Yes.

- - - but just because they're in the system, and keep that one going to track people wherever they go?---That may well be the case. 20

I didn't really want to know about policy, I wanted to know about practise. Was it practical?---Often these things, as you may well be experienced with, integrating case - with computer-based systems, practical can often be elusive and costly. So I'll need to take advice on the technical reality of that. It sounds like it would be worthwhile, but may not be practically feasible to do. I don't know.

I take your point about the policy. That's for government? ---Yes.

But if it was an attractive policy position, one of the things would be how practical it was. It might be at least something worthwhile having a look at?---Yes. 30

MR HANGER: You just dropped the phrase "integrated case management system"?---Correct

And I thought I'd heard that used in reference to children in care?---Correct.

So why did you mention that?---Because when - - -

Is it the same number that they have once they're a child in care that goes across to the detention?---When the integrated case management system was designed it was designed in parallel with - when it was in Department of Communities - with the development of the child protection integrated case management system. So it truly is integrated at the point of the sharing of information. There's a whole lot of protocols around who should have access to that and so on, but there's a flag, for example, where a child is placed on a community-based order or a detention order, when the case worker starts to enter that 40

data a flag will come up if they're known to the - either in care, under order, or some other intervention, which is why I was able to get that data I mentioned at the outset about the 22 per cent of young people in detention were on a care and protection order. That's because of that. We're able to draw that case by case from the ICMS.

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Can I take you to paragraph 28. In the third line there you refer to supervised accommodation. What is that? ---There's one trial - that's a reference to a program that is being trialed in Townsville that provides supported accommodation to - exclusively to young people leaving Cleveland Youth Detention Centre. It's a small four-bed residential house - with the - it's being operated by Mission Australia. It has experienced youth workers providing 24-7 supervision and providing support to those young people, rather than them going to wherever they came from previously, that may be a problem - may encourage their offending. This one gives them an opportunity leaving the highest structure of detention that some kids - most kids are able to benefit from; back into the community under a fairly significant level of supervision and prepare them for independent living or other options. It's a small four-bed facility. I visited it a couple of weeks ago. There were three young people in that facility. They weren't there on the day I visited because one was at school, one was in - they're all in different programs and so on. I thought it was a very - potentially good model, but as I say, it's under evaluation and it is often - yes, it's a model that could be considered.

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Is it quite an expensive model?---Yes, it is, to the extent that there's staff involved. It's not as expensive as youth detention, but it is, because of the ratio, four beds to the - whereas the - - -

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10 staff, is what someone told us?---Right. So it is a very expensive model, but it's the question of what - if it's establishing itself of reducing offending, that needs to be considered, too, in terms of the number of victims that are no longer going to be victims.

Paragraph 94, "There's an under-representation of indigenous young people in provisional options." Can you explain why that under-representation occurs?---I'm not fully - I'm not really in a position to give you an analysis of that. I'd be guessing.

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No-one wants you to guess. Paragraph 109:

New South Wales recently commissioned research into the development levels of young children in detention centres. The findings from this study and others identify higher than average community levels of developmental delay and mental illness. Additional studies have identified very high

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levels of acquired brain injury? **1**
---Yes.

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Now, I take it acquired brain injury - - -?---May be from a range of sources. 1

But, I mean, for example, in a car accident where there's a brain injury, that would be an acquired brain injury?
---Yes.

But also it's a common sequelae of abuse?---Yes.

Also of assault, I imagine?---Yes.

So have we done anything in Queensland to look at the people with acquired brain injury or developmental delay and mental illness in detention centres?---I mentioned earlier that there's a tripartite case management model in the detention centres which involves Queensland Health and both the centres have a health centre. They're connected to the local general hospital, so at Brisbane it's the Ipswich General Hospital that is responsible for the service there. They routinely - they do full health checks. 10

I'm really just asking you - - -?---I'm not aware - - - 20

Yes, you're not - - -?---I'm not aware in that particular instance, but that may well be useful to direct to the Queensland Health.

Someone else, yes. I have nothing further, thank you.

COMMISSIONER: Thank you. Yes, Ms Ekanayake?

MS EKANAYAKE: Thank you. Jennifer Ekanayake, solicitor at the Aboriginal and Torres Strait Islander Legal Service. Mr Armitage, your statement highlights the over-representation of Aboriginal and Torres Strait Islander children - - -?---Yes. 30

- - - at 49 per cent on supervision orders and you also say 69 per cent of children known to the youth justice system have some linkages to child protection. Anecdotally, is there a large percentage of Aboriginal and Torres Strait Islander children entering the youth justice system?
---Well, the data that I provided earlier in the snapshot of last week of young people in detention indicates that the majority of the 22 per cent of young people in detention that day were Aboriginal and Torres Strait Islander, 22 per cent that were on child protection orders. 40

Paragraph 97 of your statement says offending behaviour is being linked to family functioning and that 38 per cent of children were identified with this risk. Given the significant connection between the criminal justice system and child protection what benefits do you see to identify Aboriginal and Torres Strait Islander children in care to promote access to early intervention? You did speak of early intervention before, but specifically in relation to Aboriginal and Torres Strait Islander children?---What

benefits do I see early intervention - - -

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For Aboriginal and Torres Strait Islander children?---Well, I think all - correctly - when an early intervention service is correctly designed to understand the client base, the clients they are working with, in the case of Aboriginal and Torres Strait Islander young people or other young people, understand their situations and they've got an intervention that's proven to be useful then I think it would be beneficial. I think the early - any program that purports to offer services needs to be rigorously evaluated and demonstrate that it's actually making a difference, because far too often in child protection and youth justice there's not the evidence. There's good intentions but not the evidence and it can lead to not very good outcomes, but I think if it's properly designed, and by that it means that it's using an intervention that likely to work, on evidence, and that it understands - which includes very much understanding the client base, so with Aboriginal and Torres Strait Islander children it would be engagement with family and community, understanding the impact of - sorry, the role and importance of the cultural context, all should be part of that intervention.

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Thank you?---All that I think would be helpful.

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Thank you. At paragraph 54 you highlight the need to develop alternative placement options to reduce the number of Aboriginal and Torres Strait Islander children on remand. In your opinion could more collaboration and targeted assistance occur between youth justice and child safety in dual order cases?---Our experience - I inquired on this very point. There's very clear guidelines for our officers working with child safety or child protection workers where the kids are in - where young people are in care, so there's very clear expectations about doing that, collaborating, reviewing, quarterly reviewing, the work that they're doing. So they're working together. I inquired as to the extent of the monitoring of the effectiveness of that and there are quality assurance reviews taken from time to time and I'm advised that those arrangements are - their quality reviews and so on are complied with. As to the effect of that in terms of assisting with the care and protection outcomes for those young people, I couldn't give you a definitive answer. I haven't got information to say whether it's - I'm sure it's effective, but whether or not I can give a number of that - put a number to that, I can't. But I'm certain that there is a clear process in place and that by and large people both in child safety and youth justice put that into effect, they practise the policy as it's required.

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You mention 22 per cent of young people in detention are on child protection orders?---Yes, on that day.

ATSILS is of the understanding that youth justice and child safety have worked closely with the Commission of Children and Young People to provide a breakdown of the numbers of

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Aboriginal and Torres Strait Islander children on dual orders. Is this information available now or would you - - -?---I would need to inquire with other - - - 1

Is it possible to provide that information?---I'll give you that in the break, yes.

Thank you. ATSILS - - -?---Yes.

Thank you. ATSILS is specifically interested in youth justice's cultural competency framework and how learning might be transferable to a child protection context. We note at paragraph 73 of your statement that indigenous conference support officer roles have been established? ---Yes. 10

What are the benefits of Aboriginal and Torres Strait Islander led conferencing and how is this unique in comparison to previous youth justice conferencing models?

COMMISSIONER: Before you answer the question, Mr Armitage, could you agree on the definition of cultural competence? 20

MS EKANAYAKE: What is your understanding, Mr Armitage, of cultural competence?---My understanding of cultural competence is that the person has knowledge, and good knowledge, of Aboriginal and Torres Strait Islander culture, knowledge in a practical sense that they can practise working with Aboriginal and Torres Strait Islander children and knowing who they should be involving, understanding the role of elders and the history that may have contributed to the young person's - where the young person finds themselves. So understand - competent to the extent that they understand Aboriginal and Torres Strait Islander cultural and history. 30

COMMISSIONER: Ms Ekanayake, does that accord with your definition?

MS EKANAYAKE: It could go into more detail, commissioner.

COMMISSIONER: Yes. Well, could you explain, I think - just put on the record, if you would, what ATSILS' expectation of cultural competence is.

MS EKANAYAKE: If I could bring that over lunch. 40

COMMISSIONER: Okay, yes, fine.

MS EKANAYAKE: I'll put it together and bring that back.

COMMISSIONER: That way the question - - -

MS EKANAYAKE: Yes.

COMMISSIONER: It's going to be addressing the question rather than addressing his concept, which may not actually

be what you're looking for.

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MS EKANAYAKE: Certainly, in which case I might have to postpone that question till after lunch.

COMMISSIONER: Fine.

MS EKANAYAKE: What qualification level do indigenous conferencing support officers hold and how have these officers been professionally developed within the department?---I'd have to take the first part of the question on notice and over lunch I think I'll be able to answer that question. In terms of the second part, all conveners are required - there's mandatory training required and whether you're an indigenous worker or not to be a convener you have to be accredited and there's a training program.

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Thank you. Can you provide more detail of the outcomes of this program, in particular the numbers of Aboriginal and Torres Strait Islander children or young people engaged in reoffending and the impact on underlying practice?---So are you specifically talking about conferencing?

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Yes?---Conferencing, the purpose is to engage - give the victims an opportunity engage in a justice process. So that's one thing. The other is to provide an opportunity for deferral from further involvement with the youth justice system. It's not - its purpose was never intended to be a process to prevent further offending, it was about a diversionary option from being involved - taking other orders, or very much about police being given an option rather than taking the young person to court and, importantly, it was about giving victims the opportunity to be involved in the dealing of that young person that committed the offence against them, not about reoffending.

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Given that these conferencing officers are now a feature of your justice system, in your opinion could Aboriginal and Torres Strait Islander people deliver similar initiatives in a child protection setting?---Justice conference is a very specific program. It's about bringing the victim and the offender together to enable the full extent of the consequences of their offending to be known. It typically involves the parents, the arresting officer. So it's a very - it's specifically tailored towards dealing with a young person's actions, that is, the crime, so I don't see that that would translate well into a child protection context. The particular skills involved, the conveners have to be very skilled people. I mean, in enabling, you know - it can be very emotive meetings and very powerful and they need to be - that's why they have mandatory training, so they've got the ability to make sure it's a constructive experience, and they do - 90 per cent, as I said, victims report satisfaction, but it's dealing with - the content still is very different to child protection.

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Certainly, but you would be saying that those skills, the

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convening skills, can be used in another context?---May well, yes. It's the highly developed communication skills to be able to enable a group of people with different perspectives, perhaps, to listen and to work a plan out. In the case of youth justice it's a plan around the young person's - how they make reparation, or apologise and make reparation for an offence. So those skills I've got no doubt would be valuable to anybody working with - you know, in maybe a child protection context, but it's an entirely different context.

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Thank you. At paragraph 48 you refer to the North West Aboriginal and Torres Strait Islander Community Association, NWAICA, funded to address factors underlying offending behaviour?---Yes.

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Including the cultural needs of young people. In relation to a shift towards early intervention models can you provide more detail of the outcomes of this program, in particular the numbers of Aboriginal and Torres Strait Islander children or young people engaging or - and reoffending, and the impact on that program?---I haven't got that handy. I would have to come back on that.

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But can that information be provided?---Yes.

At paragraph 100 you refer to dual intervention between youth justice and child protection?---Yes.

And the fact that the services maintain separate case management responsibility with some coordination in assessment and planning, including attending SCAN meetings?---Yes.

Given the over-representation of Aboriginal and Torres Strait Islander children, to what extent does this collaborative assessment and planning address the wellbeing, best interests and cultural needs of Aboriginal and Torres Strait Islander children on dual orders, in your opinion?---There's a requirement that those matters are considered as part of the process. To give it a measure - I couldn't give you a measure because each individual case would be different, but it's certainly required that they take cultural matters into account in developing - in their assessment and developing a response.

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Mr Hanger raised the question in relation to paragraph 94 whether you have any details. Could that information be provided, that's the under-representation of indigenous children or young people in diversionary program options? ---If it's available it will be provided.

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Thank you. I have no further questions, commissioner, except for the question that has been postponed.

COMMISSIONER: All right. Thanks very much. Mr Hanger?

MR HANGER: Before you adjourn, could I ask that the time

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27082012 09/RMO(BRIS) (Carmody CMR)

for two summonses be extended? The summonses are 1978137
in relation to John Oxley and 1981939 in relation to
Aurukun, and I'm asking for an extension until 29 August.

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COMMISSIONER: Okay, that seems reasonable to me.

MR COPLEY: No difficulty.

COMMISSIONER: Yes, I'll grant the extension of time for
complying with both summonses, thanks, Mr Hanger. Ms Wood,
did you have anything?

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MS WOOD: I have no questions for this witness.

COMMISSIONER: Mr Capper?

MR CAPPER: Ms Deere - - -

COMMISSIONER: You do, okay. Well, I think I might - how
long do you think you will be?

MS DEERE: 15, 20 minutes.

COMMISSIONER: Okay, well, I might adjourn now, in that
case, and resume at quarter past 2. Would you be able to
come back then, Mr Armitage?---Certainly.

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Okay, thank you.

THE COMMISSION ADJOURNED AT 12.16 PM UNTIL 2.15 PM

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27082012 10/JJT(BRIS) (Carmody CMR)

COMMISSIONER: Thank you. Sorry for keeping you waiting. 1
Yes?

MS EKANAYAKE: On the subject of cultural competence, I undertook to bring a document back. Since this issue is going to come up over and over again, I have brought with me the ATSIL's cultural competency document which I would like to tender.

COMMISSIONER: Okay. The cultural competent client representation procedural guide - - - 10

MS EKANAYAKE: Commissioner, if you would turn to page 4 - - -

COMMISSIONER: Yes?

MS EKANAYAKE: - - - it defines cultural competence.

COMMISSIONER: Yes. Okay. I'll make the document exhibit 37.

ADMITTED AND MARKED: "EXHIBIT 37" 20

COMMISSIONER: Have you got a copy for Mr Armitage there? ---Yes.

Okay. So the question relates to cultural competence in the sense of it being described as, "Having the means and skills to understand, empathise, communicate and interact effectively with people from different cultures," and in this context indigenous.

MS EKANAYAKE: Certainly.

COMMISSIONER: And their families. Is that right? 30

MS EKANAYAKE: Yes.

COMMISSIONER: Okay. So understood in that sense.

Mr Armitage, do you remember the question?---Yes. All of our staff have access to both cultural awareness training, which is online, and cultural capability training, face-to-face. That was previously delivered by the Department of Communities and we're now in the process of ensuring a similar course is available now in the justice of attorney-general. We under cultural competency to mean - and it covers off what your definition is, but ability to understand the impact of contemporary and historical issues in Aboriginal and Torres Strait Islander young people, their families and communities; ability to engage appropriately and effectively with Aboriginal and Torres Strait Islander young people families and communities; ability to work in partnership with Aboriginal and Torres Strait Islander young people, families and ability to work professionally and in a culturally respectful manner with co-workers who are identified as Aboriginal and 40

Torres Strait Islander people. So that's open to all of our youth, justice workers - in addition to that there's some specialist courses available for different employment categories, including cultural capability, training for youth workers in youth detention - that work in youth detention centres during their induction, a comprehensive and accredited cultural capability module delivered to youth workers as part of a certificate IV in youth justice and accredited cultural capability module delivered to supervisors in youth detention as part of a diploma in youth justice; an introductory two-day training course for all new indigenous competent support officers and specific skills based training for new case workers in Youth Justice Services during their induction on interviewing Aboriginal and Torres Strait Islander young people. So there's a range of targeted programs.

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Is the training done by indigenous people?---Indigenous people are involved in delivery of all those programs and the design to - - -

With formulating them as well?---Sorry?

In formulating them as well?---Yes, in the design and delivery.

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So the only difference I could really identify in the definitions was yours doesn't use the word "empathise"?---I haven't used that term, but it would be designed - the purpose of the program would be - - -

To be empathetic to their situation?---To be empathetic; to understand the situation.

I think they're probably different concepts, but anyway, I just - - - ?---Yes.

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MS EKANAYAKE: Thank you, commissioner.

COMMISSIONER: That's all?

MS EKANAYAKE: Yes.

COMMISSIONER: Okay. Now, Ms Deere, did you have some questions?

MS DEERE: I did.

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COMMISSIONER: Thank you.

MS DEERE: Mr Armitage, my name is Deere, appearing for the Commission for Children and Young People. You indicated earlier today in your evidence about the trial in Brisbane for what seemed effectively to be like (indistinct) to police. I think you indicated that that may have been evaluated. Are you able to share the results of those with us?---Not right now. I haven't got it with me.

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Okay?---There was some internal evaluation of the delivery of the service, these services using - there's a basis for improving its effectiveness, but I haven't got that with me. I can get access to it.

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Sure. Can you just let us know - even though I know you don't have the results with you - was that looking at also what outcomes will be achieved for those young people?---I couldn't say. I couldn't say.

In addition to that trial, which is a government funded, government staffed arrangement - - - ?---Yes.

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- - - we've heard as well today that NGOs are funded to provide a range of services?---They are.

Can you indicate what proportion, if any, of those services that they're funded to provide include prevention and early intervention?---No. The majority of those services are to provide services to children that are in the youth justice system, including bail support and the program I mentioned earlier in Townsville providing accommodation, primarily, designed in providing support to young people that are under orders, although I was asked before lunch about the North-West Aboriginal and Torres Strait Islander Community Association. They target young people in the system or at risk, but I couldn't tell you what proportion of the Aboriginal 30 young people who they work with a year are at risk or on orders. There's that - so they'd be the closest, I think to the early intervention regime.

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And is there any scope or move towards rolling out the early intervention type services more broadly than just the Brisbane and this (indistinct) services?---Not at this present time. Apart from the very focused trial that is under way with the boot camp that may lead to expansion, but it's very specifically targeted at risk offenders. The majority of early intervention programs are funded through the department that used to be known as the Department for Communities or federal agencies like AFAXIA. No, I think that - it's not that I don't think there should be early intervention programs, it's about who's best equipped to deliver that in terms of their core business.

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Do you have a view on who should lead the services?---I think that across the continuum from birth to employment there are a range of agencies at both state and federal and non-government, communities to provide services that make at certain points - in the provision of universal services like education and like family support and the kindergarten, early childhood, transition from primary to secondary; support to employment. There's a whole range of agencies that would provide services that you could categorise as early intervention and for those children and families that are not able, for whatever reason - maybe for disadvantaged - circumstances, for example, are not able to easily access universal services like school or health.

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So the answer is not simple, but there's some very obvious - those that should be responsible are responsible and provide services like education, for example, in a transition from early childhood services to school.

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And just sticking with the services provided by NGOs for the moment, you indicated in paragraphs 27 and 28 of your statement a range of services that they provide, but indicate that there are various initiatives that you referred that don't have state-wide coverage and they're contracted out - - - ?---No.

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- - - based on local need. Can you tell us how local need is determined?---Local need? In a youth justice context that would be based on the risk assessment of each of the young people on orders in a particular area, and if there are trends that are emerging that are beyond a particular individual, that may be an indicator of service volume, number of kids on orders. In some communities, very few; some others, there's a high volume of kids that will justify a particular program response, like Brisbane and Cairns and Townsville. So it would depend on the, as I say, the volume and the nature of the trends that were emerging. I think a great source for answering that question now and in the future will be the P200 panels. They're focusing on the highest risk young offenders and they would give information that would lend itself to making decisions about resource allocation. We use the resource, that risk assessment tool, to direct resources that we currently have to the highest need, that is the young people at the highest risk of reoffending. That's been in place for some time and is an integral part of the integrated in-case management framework which is captured now in the computer-based system.

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Is work done to identify gaps in service delivery based on the information that became available, if this has been around for some time?---We're able to aggregate that local information into regional and state-wide databases that can inform at the regional level, for example, practise improvement, program responses. There's a regional director for each of the five regions that Youth Justice covers and it's part of their responsibility to assess on a regular basis - evaluate on a regular basis the effectiveness of the service in meeting the published standards for Youth Justice Services, and then that can be fed into a state-wide policy and program development process that can assist in the formulating of future plans, whether it be improvement of existing services or be it curtailment of services that are not in fact working and redeployment of that funding, or including that information when budgets are being considered in the future. I think I'm very much of a very strong view about the use of outcome data to assess whether a service is providing an effective service or not. An effective service in the Youth Justice context particularly means the reduction of offendings. That's a piece of work that we are doing some more work on in defining what that means - what the

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recidivism measure means - both at the individual case level, regional and central level for a variety of reasons, not the least being effectiveness of outcome, but accountability as well. I think it's very important the public and community have confidence that the way their funds are being directed through Youth Justice has is being used as effectively as possible to reduce further offending.

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If I can take you now to your evidence around the new boot camp initiative?---Yes.

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Can you explain to us or give us the thinking around if a child has a concern that arises during boot camp or a complaint about something that may happen during that process - - - ?---Yes.

- - - where would that child be directed to?---In the development of the detailed guidelines for the provider, those, among other matters, will be determined and they will be determined in consultation with the commission. I had a meeting with the Commissioner some fortnight ago about that very issue and the role of the commission, particularly in the month-long residential and how the commission might play a role in monitoring or approving or considering the guidelines that those services operate. So we're very much aware of those issues and working with the commission - will be working with - again, started working with the commission on addressing those.

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Can you - - - ?---Sorry, so we can embed those requirements in a contract when we select the service provider.

There's been a little bit of evidence given around the issue of children being held in detention on remand. Are you able to tell us - I don't know - are there people who are on dual orders, so on a child protection order, who are held in remand purely because there are no other accommodation options for that young person?---No, I'm not able to give you a definitive answer to that. I'm sure that it would be on a case-by-case and you could analyse each case. You may find - you could find some plausible explanation as to why the person - the offending that the person has undertaken and been charged with may result in them not being in supported accommodation. But it would be a case-by-case analysis.

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COMMISSIONER: I think the question was are they - not what they did, but are they housed on remand because there's no better alternative?---Not explicitly on that statement.

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No?---Not explicitly. That was a point I was just trying to get at.

I don't think the question is just looking at the explicit, it's probably trying to drill down to see if there's any implicit?---I've certainly heard on an anecdotal basis that

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there are young people in the - particularly young people that are high-risk offenders - the highest risk offenders - that find it difficult to access supported accommodation. 1

Can the supportive accommodators turn people down as unsuitable?---They in effect can.

But they dress it up in some language that might suggest - or might disguise the true reason for rejection? ---Possibly. I did make the comment earlier about the trial program in Townsville that is dedicated to Youth Justice former detainees. The basis for that in part is because of the difficulty of accessing Commonwealth funded supported accommodation services. They're turned away. 10

Bail is a right, generally speaking, rather than a privilege - - - ?---That's correct.

- - - even for adults who commit serious crime. Wouldn't that mean that the child's right to bail pending trial or sentence is really being denied on a dubious premise?---The courts grant bail on their own undertaking fairly routinely, assessing each case on its merits. 20

You'd hope so?---There's a more recent - in more recent years there's been provided to courts a support program that the courts can order bail with conditional bail arrangement. The courts have to be satisfied, and if they're not satisfied that there is adequate accommodation to reject a bail application on that basis, generally where the young person has previously had conditional bail but not been able to - - -

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What, is that in the Bail Act somewhere? It's been a while since I looked at it, but is that in the Bail Act? ---There's provision under the Bail Act to grant conditional bail. 1

Yes, I know that?---Yes.

I didn't think there was any provision that says you can deny bail because there's no suitable accommodation?---I do not believe that it would be on that basis, it would be on an assessment of that risk of them offending, and they may take into account the stability of the placement in assessing their - - - 10

Or the availability of one?---And the availability of a placement that mitigates the likelihood they would reoffend.

What about for - these are children who are under orders, part of the child protection orders, you're talking about? ---These are children that are primarily because they're being dealt with for a criminal offence.

Yes, but they - - -?---They may be on - if they're on - there is a responsibility - if the young person is on a care and protection order it's the responsibility of the Department of Child Safety or the child safety program to provide support to those young people. 20

Apparently one of the few advantages of being under orders is you get bail more readily than somebody who isn't, who doesn't have viable accommodation. Is that right?---I wouldn't know. I couldn't answer that question, but you're more likely to get bail if you can establish that you've got a stability of accommodation, stability of activities that you're involved in, whether it be employment or school and so on that the court would take into account in assessing likelihood of reoffending - of offending and keeping - or complying with the requirements of the granting of bail, and that is that they come back to court and - - - 30

Yes, thank you.

MS DEERE: Thanks. In relation to children on dual orders you indicated earlier that you have the capacity if someone is entering into detention look up the integrated case management system?---We do, yes. 40

At what point would that check be undertaken?---Right at the time of their actual admission. Once they're out of there - at admission there is a triage approach and they take the first bit of information around - well, clarifying the identity of the young person and if they're known to the system already, particularly for their assessment of the suicide risk so there can be an immediate plan put in place - a safety plan put in place, but the system - so once they enter the name in the system that will indicate

whether the young person is known to the child safety system. 1

Then what is, I suppose, the next step? Does somebody put a call through to the CSO?---Usually - it's often that young people are admitted to detention overnight following arrest as they're required to be - if they're not grounded by - placed in a youth detention centre pending a court hearing. So it's usually overnight but it would be the next day.

Then how do you use the information that might be available to Child Safety Services to then plan for that child's needs and the services that will be delivered to that child?---Correct. It would be - as I say, there's a comprehensive integrated case management plan put together. There's an initial at risk assessment made both from the immediate health needs and the surveillance needs in terms of suicide risk, self-harming, then in the course of the ensuing days there's more comprehensive assessment and tests done both by health, education and case workers responsible in the centres and if the child is under - known to the Department of Communities they would be involved in that case management, and when the child is discharged, for example, the primary responsibility for the placement, if the child is a child protection client, is the Department of Communities. 10 20

How soon ahead of a person's detention period coming to an end does that transition planning start to happen with child safety?---Well, the intention of the case planner is that at the outset starting planning for release, and the reason for that is to ensure that the programs are put in place that can maximise their - you know, they have stability when they do leave detention. So I can't give you hours and days, but the focus of the case planning right from the outset is planning for release. It's not something done at the last minute, it's done integral to the case management framework. 30

Mr Swan from Child Safety Services indicated to the inquiry that child safety officers should visit children who are in detention?---Yes.

Does that actually happen, in your experience?---To my knowledge it does, yes.

In terms of the health assessments that are done once a person comes into the detention framework, if you like, do you access health information that child safety have? Are the health passports that are created (indistinct) available?---The primary responsibility for the health assessment is the health service centre and they would have access to that, I'm sure. I probably need to confirm that, but they would have access to that sort of data. 40

So, sorry, I'm unclear. Does another health assessment happen for that particular child or do you access the

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information that Child Safety Services holds?---I would imagine both, because circumstances can change and there would be an input into a health assessment, I'm sure, already existed information, but that would make - there could be any number of things from a health perspective that have happened in recent times that need to be assessed on the spot.

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Can you talk us through the process where those assessments are undertaken and how that's fed back to child safety - or is it fed back?---No, I couldn't, not on the detail, but certainly I could - my intention is to review the transcript and if there are any issues that the commission can benefit from further fine-ground detail we can come back in a written supplementary submission or statement.

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Sure. So this might be another one that you perhaps don't have off the top of your head but I'll put it to you anyway?
---Yes.

You've indicated at paragraph 118 in your statement that in some cases children will come into the youth justice system and have health problems identified for the first time, such as hearing or sight issues?---Yes.

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Do you have any data or information available to suggest that that might have been for children who are on child protection orders?---No, but again, we can - I'm not certain that we can do that in retrospect, but we'll look at that.

I guess the link there is that that information will hopefully already be available to child safety and could then be made available to you and vice versa?---The intention of the case management framework is to be - is collaborative, the full exchange of relevant information all about the care and safety and future planning of a child, so I'd be very surprised if that was not made available, but let me confirm - or made available or accessed by either youth justice or the child safety, because youth justice has got the immediate duty of care and it's information necessary - they would necessarily have to, or should have, regard to in planning, you know, for the care of that young person in detention.

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So when a person is in detention are youth justice effectively the lead agency, even though that collaborative approach is adopted?---They've got the person in their direct care so they've got the immediate duty of care as the act spells out and in terms of the powers and responsibilities of the chief executive in a detention centre - of a child in a detention centre, but the guardian or the person with the legal responsibility for the child like a parent is the - if they're in care is the Department of Child Safety and they would have regard to them from the outset, or like a parent, in terms of the future planning and consents about medical treatments and so on.

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So if a health issue arises or there's education concerns while the person is in detention, who is responsible for ensuring that something happens and that that's brought to the right person's attention and that the services that that child requires are actually put in place?---The duty of care lies with the detention centre manager through - or the chief executive through the manager or the director of the centre and they can exercise that responsibility by ensuring the medical service has access to that young person through the case assessment process and by ensuring that the Department of Child Safety or the parent is involved in the planning process. It's their responsibility ultimately because they've got the charge at that point in time.

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Then if I can take you to paragraph 54 of your statement which talks about a couple of initiatives to attempt to address the overrepresentation of Aboriginal and Torres Strait Islander children by developing alternative placement options. So there's a reference to the Queensland Aboriginal and Torres Strait Islander justice agreement and the response to the Cape York justice study? ---Yes.

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Can you talk us through those programs? Have they worked or has any work been done to see what return of investment in those programs - what's been achieved?---There's been a number of strategies over time put in place to try to divert indigenous young offenders from further involvement in the youth justice system through, for example, the cultural capability training, through the employment of Aboriginal and Torres Strait Islander staff to work with Aboriginal and Torres Strait Islander students, the funding of agencies that provide - non-government agencies to provide a range of services, including bail support. There's been some limited funding available for trialing - as I mentioned earlier - supported accommodation in the community, the Townsville trial, for example, just that one program at the present time and working with other agencies to try and encourage them to provide alternative accommodation. As I say, all those young people that are on care and protection orders clearly - and the majority of them, on the evidence I've already provided, are Aboriginal and Torres Strait Islander kids in the youth justice system; access by them to services that fund the Department of Child Safety and Communities fund. So there's been a range of strategies to try and reduce the overrepresentation. I might just on the - in my statement, I appended the statistics over the last five years and there is certainly an overrepresentation of Aboriginal and Torres Strait Islander children, but if you look closely you'll see that the increase has been - there's been no increase, in fact - and the actual numbers are fairly significant over that five-year period of distinct children that are involved in the youth justice system, so that's a positive. I think I am keen to work with other agencies in the development of diversion options or see the doing of a broader primary, secondary, tertiary strategy across the life cycle and I mentioned before, starting with prenatal - or from birth to employment because I think whilst we will continue to improve the services that we do provide to reduce offending for those young people that eventually find themselves in the - because of their behaviour find themselves in the youth justice system, to minimise that - by taking the opportunities down the line from early childhood through to minimise the likelihood they're involved, you know, so reduce my client load, if you like, and because I think there are opportunities in the life cycle to do that and I don't think it's a structural response or, you know, departmental - grating in departments about an effective strategy that engages across government, state and federal, that targets the agency with the appropriate methodology, if you like, whether it be

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education or health or early childhood at that point in time to ensure the maximum number of the population are engaged in mainstream services and that there are specialist programs for the small number that are not able to engage for whatever reason and that's what I'd call the early intervention services at various points and it continuing. I think the earlier the better.

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Just finally - - - ?---It's a bit late when they get to us, but it's never too late to do something useful, but it's far cheaper to do it there at the front - - -

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What linkages or, I guess, interactions do you have with Queensland Police Service in terms of identifying and raising awareness around diversional options?---We have a number of ways that we engage with the police as a department. The panel I mentioned for the most at risk youth at risk of offending - police are an integral partner in that. The police - each Youth Justice Service are expected to have - and do have to my knowledge - very good relationships with the police. I make the practice myself from the beginning when I first took up this role of connecting with them at the highest level, at the commissioner's level, and every geographical - if I go to Townsville, it's the assistant commissioner of police, I will meet with them and exchange information about what we're doing and give the opportunity - if it hasn't already been resolved - certainly an expectation that issues should be resolved at the local level and if they haven't, I'm keen to know that and provide that information to police. So we see the police as an integral partner, as the court - as much as the courts are, as well as the Department of Communities, Education and Health. So I think there's a range of ways right down to individual case management where we're involved with the police and other key agencies that they contribute to crime prevention.

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Do you look at stats in - - - ?---Sorry, and the commission, of course.

Do you look at your stats perhaps by region to identify areas where there might be special concerns - - - ?---Yes.

- - - around diversionary not being offered or not being taken up?---Well, for a range of purposes, including the adequacy of the response to the offending or compliance, for example, if there's an unusual number of young people not complying with orders, why; what additional matters could be put in - response could be put in place. We have a very strong emphasis on the use of data to inform and practise at the individual level at the justice service level, at the regional level. My expectation of the regional directors is that they use the data they've got available to routinely review and work with the services, Youth Justice Service, to improve their practice outcomes. So a cultural outcome focus, a focus on the value that they're providing, an unwillingness to change if that's not the case and redeploy our resources to areas that do

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provide outcomes. So I expect very much a value to action, learning, culture that's focused on outcomes not just activities. So that goes right up the chain right up to myself. So I'm fortunate in the sense that as the assistant director-general, I have got one of the report is to me - between me and the services. So I've got 1100 staff across 25 locations at the present time plus the detention centres. It's possible for me to have a reasonable direct conversation with them and an understanding of their particular approach to the job that they do.

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There are a set of consistent standards for youth detention and for services provided in the community and the standards that have been in place for some time, they can be - all the services can measure themselves - and I think it's important that they take that attitude - measure themselves against the standards, but we can do quality audits from time to time about the quality of the services that they do. I think - again I mentioned the role of the regional director is to do that. At the systems level we can verify and monitor that process. I think it's important to be open with your partners about that, particularly the Children's Commission. I think - we do have regular meetings with the Children's Commission about - particularly about the youth detention centres and the work of the Children's Commission's community visitors and the data that they - and information that they deal with. So that's part of that information used to improve services and quality of the service in detention, for example. In the youth detention centres also there's - as a result of the Forde Inquiry - there's an inspectorate that is charged under the act to do quarterly reviews or quarterly investigations into the youth detention centres. They publish a report that they work through with the youth detention centres and make available to the commission and the commission vice versa provides information. That's all about ensuring the basic responsibilities of the centres for safety, security and rehabilitation are met in a transparent - to those players involved and - so there's a range of strategies and organisational cultural responses to service improvement, data that can be used in assessing value for money, and if, you know, there is ability to provide additional resources or realignment of resources, we've got the data for consideration by the appropriate authorities, whether it be government or other authorities, Commonwealth authorities, for example.

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Okay. What happens if you identify a service or an outcome that you're trying to achieve and it's just not getting there or you start to plateau? At what point do you examine a new approach or some indications of programs that have gone for some time and we haven't necessarily seen better results?---Part of my - the early stages of my time in this job is to review what processes are in place to do that on a regular basis and what strategies we use to ensure that happens. I've mentioned a few things that I think there are some real strengths in the Youth Justice program that have been put in place, that have either recently been put in place or - and they're able to be more effectively exploited, if you like, that now includes the integrated case management system which has been progressively implemented with the final tranche of that system being brought online in July for youth conferencing. So there is an information system that we could draw on; there's the - for example, with the youth boot camps there will be a contractor on it with the successful providers that will spell out matters for which they will be evaluated and monitored and the conversation will be held on a routine basis around those elements to ensure there is

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improvement. That's something I've got a very strong commitment to using data and tools that we've got, like funding, to ensure we are doing the best we can with the money that is available - - -

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COMMISSIONER: Sorry, Mr Armitage, it sounds like a chapter from the annual report. I think you are asked at what time - what stage do you intervene, not - - -?---I say - - -

- - - answer, address the question - - -?---Okay. I'll put it in a more - - -

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Understandable?---As simply as I can - - -

Good?--- - - - and from the outset, the expectation will be made clear that we don't wait until the car is over the cliff and crashed at the bottom of the cliff, we are clear about what work is required to make sure the car stays on the road and on the track. So we are engaged in those conversations as a matter of course and have that ability to measure - - -

- - - does that help? Does that answer your question, Ms Copley?

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MS COPLEY: I guess is it something - is it something new that your - - -?---No, I think there's been a commitment to that, I think (indistinct)

I've not got - - - ?---I think there has been funding agreements, for example, they have been not as clear as they could be about outcomes or about outputs rather than outcomes. Sorry about the annual report language, but outputs are about - I mean, it is one thing to say you're dealing with - we've provided services for 30 clients in six weeks - - -

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COMMISSIONER: I know the difference between outputs and outcomes, Mr Armitage?---Okay.

MS COOPER: Thank you?---I apologise.

MR COPLEY: Practically speaking the youths that will be going on the youth boot camps are really going to be confined to youths who have committed property offences or low-level violence offences, aren't they?---Likely, yes.

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Youths that have sexually offended aren't going?---No.

All those who exhibited extreme violence aren't going?---No.

Neither of those who demonstrate extreme behaviour?---No, generally speaking.

What does "extreme behaviour" mean, because it can't mean extreme violence because that's a category of disallowance

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of its own?---What it can mean is self-harming - extreme self-harming. 1

Wouldn't they be people with significant mental health issues?---Could be.

Because they're not going either?---No.

COMMISSIONER: So who is going? If they agree, I mean?

MR COPLEY: Mr Armitage has agreed that practically speaking it will be property offenders and those who have committed low-level violence offenders. 10

COMMISSIONER: But only if they agree.

MR COPLEY: Yes?---That's a large proportion of the offenders that we're talking about, the - - -

COMMISSIONER: We haven't started yet so we don't know how many are going to do it?---No, that's correct. It is going to be evaluated.

MR COPLEY: It is envisaged that only about 40 per year could go on the sentenced Boot Camp?---Correct. 20

And is it envisaged that only about 20 per year can go on the early intervention youth boot camp?---No, sorry, 80 for the two-year period, so it's 20 per year for each of the programs.

I see.

COMMISSIONER: And when your quota is full do you stop offering it?---Certainly we would be in a position to do that with the early intervention program. We would have to - - - 30

Think about that?--- - - - to see what - to think about it because our estimate is that there will be - we'll see. We'll see. It's a matter that I'll be under continual monitoring and evaluation.

MR COPLEY: And the sentenced youth boot camp is going to be conducted in or around Cairns, isn't it?---That's correct.

And so it might be a viable option for sentencing judges in Cairns or Townsville to consider that sentencing option? ---No, not Townsville, Cairns. 40

I see, so the only people that would be able to go on a sentenced youth boot camp would be juvenile offenders sentenced in the Cairns court?---Mm.

So know - - -?---Cairns and district court.

Sorry, do you mean - - -?---The rationale is to enable

family involvement and so they're in the geographical - they're able to get to the residential component. 1

COMMISSIONER: Not to be District Court, the courts in the district.

MR COPLEY: I see?---It will - working through - it could be based on the residence of the young person.

So a youth sentence in Stanthorpe or Warwick or Gympie won't be eligible to attend a sentenced youth boot camp in Cairns?---In Cairns, no. 10

But there won't be any down here for him either, will there?---No, it's a trial.

Yes, okay. So at the moment it is starting off on a very small scale?---It certainly is.

COMMISSIONER: What is the demographic up in Cairns in terms of the target group for this trial?---For example, I think - if I can just refer to my notes.

MR COPLEY: According to be sentenced youth boot camp funding information paper 2012 - 2013, Mr Armitage, Aboriginal and Torres Strait Islander young people are significantly over-represented in the criminal justice system - - -?---They are. 20

- - - geographic target area and will therefore make up a significant proportion of the target group?---We would expect that to be the case.

So that's the answer to the Commissioner's question? ---Particularly in Cairns. 30

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COMMISSIONER: Significant proportion. Significant being what percentage, do you think?---Up in Cairns it would be well over the majority. I haven't got the number. I can get that number for you.

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Yes, that would be good?---Yes.

Somewhere between 50 and 100 per cent?---That's correct.

MR COPLEY: It might assist the commission if I tender the sentenced youth boot camp funding information paper 2012-2013.

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COMMISSIONER: Yes, it would, actually.

MR COPLEY: And separately tender the early intervention youth boot camp funding information paper 2012-13.

COMMISSIONER: Thank you. The first document will be exhibit 38 and the other document described will be exhibit 39.

ADMITTED AND MARKED: "EXHIBIT 38"

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ADMITTED AND MARKED: "EXHIBIT 39"

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

COMMISSIONER: Thank you, Mr Copley. Anybody - yes, Mr Hanger?

MR HANGER: The witness was asked to do a lot of work over his lunch hour which he conscientiously did, so I think we should ask him the answers to the questions he can answer.

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COMMISSIONER: Absolutely?---Yes, thank you. The first was the youth and family support service. I was asked about what services it provides. The youth and family support service is an extended early hours - sorry, extended hours early intervention and prevention service within the Brisbane region. Its current target group is children and young people aged 16 to 17 who are at risk of entering or progressing within the youth justice system with a particular focus on the younger range of this cohort and Aboriginal and Torres Strait Islander children and young people. Referrals to this service are received primarily from the Queensland Police Service, Department of Education, Training and Employment, Youth Justice Services themselves and Child Safety Services. They aim to provide an immediate response to families in crisis, intervention to address family conflict, intervention to improve the family capacity to respond to difficult adolescent behaviour and facilitate a family response to problem truancy. All of those services are all crisis in nature, hence the focus on provision of services after hours, because they tend to emerge after hours in a crisis sense. So that's the youth and family support service. Another

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one was the question about the single person identified, the single - under the integrated case management system. A young person is provided with a police identifier at the point at which a formal police response is provided; that is, where there's a caution issued, where there's a notice to attend issued or a charge laid. So it's at that point that the unique identifier is placed on the record by the police. I was asked information about children on dual orders of child protection and youth justice and a report that the Children's Commission produces. My understanding is - we do provide data to the Children's Commission annually. Specific data on dual orders, though, is not included in that report at this present time. Match data for dual order - and match data is developed together with child safety who holds the information about the child's status in their system, of course. Match data is provided annually to government as part of the child protection partnerships report, but you would have to refer to the Department of Communities in respect of that report. They have carriage of that report. Cultural competency we've talked about. The qualifications of indigenous conferencing support officers, the ICSOs are employed on the basis of their strong communication skills, knowledge of local community, ability to engage with young people and victims in a conferencing process. They receive an introductory two-day training course. The training aims to address general principles and practice issues relevant to working in the youth justice conferencing program and prepare them for successfully working their role. It also aims to address specific cultural issues that are relevant to conferencing to the position - conference support position. It explicitly provides an opportunity for discussion of issues relating to culturally capable practice and are able to access a range of other services, training services, including suicide prevention, working with young people who sexually offend and working with young people who use drugs and alcohol. Finally, I mentioned the North West Aboriginal and Torres Strait Islander Communities Association, and my information is that they work with young people of 10 to 17 who are at risk or are in the youth justice system and that from the operational data that we've got available to us, they work with an average of 30 young people a year.

Thank you, Mr Armitage. Yes?

MS EKANAYAKE: We were actually looking for figures for Aboriginal and Torres Strait Islander children on dual orders, but clearly you couldn't have it?---That information is provided on an annual basis through a report that the Department of Communities makes available to government. I'm sure if you directed that question to - - -

Certainly. Thank you.

COMMISSIONER: Thanks, Mr Armitage. We appreciate your time and the evidence that you've given?---Thank you very

much.

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You're excused. Thank you.

WITNESS WITHDREW

MR COPLEY: I call Clare Tilbury.

TILBURY, CLARE affirmed:

COMMISSIONER: Good afternoon, Ms Tilbury. Thank you for coming. Take a seat.

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MR COPLEY: Mr Commissioner, I tender the statement of Clare Tilbury together with its annexures and I provide a copy for you.

COMMISSIONER: Thank you. Ms Tilbury's statement will be exhibit 40. Thank you.

ADMITTED AND MARKED: "EXHIBIT 40"

MR COPLEY: Ms Tilbury, you've prepared a statement that's relevant to three areas of the commission's terms of reference, namely the adequacy and deficiency of the current use of resources in the child protection system, the practices and procedures of the Children's Court and the transition of children through and exiting from the child protection system?---Mm'hm.

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I just have to get you - - -

COMMISSIONER: Sorry, Mr Copley, unless there's any objection, Ms Tilbury's statement will be published.

MR COPLEY: There would be no objection to your statement being published on the website, would there?---No objection, no.

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No, thank you.

COMMISSIONER: Thank you.

MR COPLEY: I'll just have to get you to keep your voice up?---Sure.

Because that microphone is, as I understand it, just for the aid of the court reporter. It doesn't amplify your voice around the room.

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Beginning first of all with the adequacy and efficiency of the current use of resources, the position is that since 2003 you have published a number of works either alone or with others concerning government funding for the child protection system. Is that the case?---Well, I've published articles that have a bearing on the issue of where resources are placed in the child protection system.

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Those articles are annexures to your statement, aren't they?---They are. 1

Now, there are three or perhaps four particular issues that you've identified and the first is you assert that there's a significant under-investment in Queensland in intensive family support at the early intervention stage. How is it that you're able to demonstrate that compared to other levels of investment? Is it simply looking at the department's budgetary takers or is it something else that you rely upon for that assertion?---I've done a couple of things here. I've analysed administrative data that the department makes publicly available and I've looked at the budget information that the department makes available. So in relation to administrative data, for example, I've looked at the right rates of renotification and resubstantiation of children in the child protection system and I have argued that high rates of renotification and resubstantiation indicate a couple of things. One is that there's a lot of repeat work going on at the early stages of child protection engagement and that this work is almost wholly unproductive because it doesn't lead to a service being provided to the family. 10

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I've also looked at just the relative expenditure on phases of child protection and intervention, so expenditure on what's called intensive family support on child protection investigations in out-of-home care. I think as I've pointed out in the statement, there's a relatively small proportion of funds allocated to intensive family support compared to the other two. 1

Where do you say that it's \$52.6 million on intensive family support and 295 million on child protection and investigations and 369 million on out-of-home care? It's probably the case, isn't it, that a proportion of the money that you say is allocated to child protection investigations - maybe I'm wrong on this - might also include the wages and entitlements of the staff that have to perform the investigations. Would that be correct? ---Certainly, yes. Yes. 10

And, similarly, in terms of out-of-home care, that 369 million would probably involve capital expense as well as the wages of the people that have to look after the children in out-of-home care?---I think not so much these days capital expenditure, but it would be wages for departmental staff and funding to non-government agencies that provide out-of-home care services. 20

But even allowing for the wages of the staff in those two areas concerned - because in the third area of support for non-government organisations, none of the money is going for wages, presumably. It's all going into programs. Do you say that there's still a significant underfunding of early intervention programs?---Well, the programs are run by staff and so it certainly is going - the staffing is the major cost, however the funds have been expended, so it's staff in non-government agencies who are running programs. 30

I see. So do you see that some of the money that goes for the programs is going to the organisations to employ staff to actually run the programs?---Almost all of it.

Almost all of it? Okay?---I haven't got - that's what they receive funds for, to employ staff.

If the matter is looked at in that way, there does seem to be a discrepancy fairly marked between the money spent on early intervention as opposed to those other stages of the system?---And why this is important is because at the point where a departmental officer is deciding that a child is in need of protection and is considering what services might, you know, enhance the safety and wellbeing of the child then they've got some options and if there aren't intensive family support services available to them that they can perhaps refer the family to or get that service engaged, then their only other option really is out-of-home care. 40

Yes?---So this is what we call the system becoming led by services that are available rather than the actual needs of the child.

COMMISSIONER: Professor, sorry, when you talk about early intervention, at what point in the system are you talking that there should be an intervention? Is it on substantiation or notification of somewhere in between or before?---I think it could be at either of those points and, indeed, I think it could be afterwards as well because I mean it is - it gets a bit semantic I think, early intervention, how early do you go because it seems to me that you could provide an intensive family support service when a child is actually in care, when a child first enters care in order for the child to go home.

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Yes. That might be early - - - ?---And you are intervening early to prevent the child staying long term in care, indeed.

How would you define Queensland's current child protection system? Where does it start and end for you?---Well, the child protection system really starts, I suppose, when members of the community or professionals make a report to the department that there's a concern about the safety or the wellbeing of the child.

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That's exactly how the statutory - - - ?---Yes.

So it's a statutory system. That's how it starts under the statute?---Well, yes, but I mean I think there's a lot of - people use that term "statutory child protection" in many and various ways. There are - - -

They use it in the tertiary intervention sense often? ---Yes, although the two aren't - sometimes people say "statutory" as in departmental, as if they're the same thing and I think they're not the same thing.

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Yes. It's statutory in the sense that it's governed by a statute?---Yes, but there are many things the department does that aren't governed by statutes. The statute doesn't constrain the capacity of the department to provide certain services to protect children. It only sets out the powers that are available to the department in providing particular types of child protection services.

It sets out the functions of the chief executive - - - ? ---Yes.

- - - and the responsibilities of the chief executive? ---Yes.

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It doesn't define very many terms?---No.

It doesn't really define itself either, you know. It just sort of says, "When you get a report - when you become aware of something by notification of otherwise then you've got to do these two things, either investigate or do something else appropriate"?---Yes.

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That's about it?---I think it's open to the - I mean, the department has shaped - the department over the years has shaped the child protection we offer to families.

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Through secondary materials like its manual?---Yes; and, importantly, in where it allocates funds to build up service delivery.

So its departmental policy, which should be following the legislation that fills in the gaps?---Well, generally speaking, yes.

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Yes?---Yes.

What do you call a notification in your statement? What do you mean by that word?---I mean notification as the department defines it, so I've used the publicly available data that the department provides to, in this case, the Australian Institute of Health and Welfare, using their definition of notification. In short, it's when it reaches a threshold of significant risk of harm to a child is what the department defines an application - - -

To a child without a viable parent?---Well, no. When there's risk of significant harm to a child and the issue of whether there's a parent willing and able really comes in at the point of deciding whether the child is in need of protection just to be - - -

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That's right. Before that, there's this duty in section 14 to do something about information you get and it says - that's the only time that you use the word "notification", whether by - - - ?---Yes.

- - - a notification or otherwise, but notification seems to have taken on some technical meaning within the system that isn't derived from the legislation?---Correct. The definition of notification itself has changed substantially since the act was first promulgated to now.

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Yes?---So the department has changed it by policy definition.

Yes. What do you mean by renotification?---I mean when a child is notified more than once in the same 12 month period, so a child - someone has reported a concern about the child. It's assessed to have been significant and in the same 12 month period, they've been notified again.

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That's because, what, something wasn't done about the first one or the - - - ?---That's certainly the most plausible explanation. Sometimes a child's circumstances can change in the period, but oftentimes it's because no response has been made to the first notification and the concerns are still there and the child is notified again, often by the same person.

By the same notifier. Might that also be no feedback to

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the notifier about what the department actually did do about the first one?---Well, possibly, but it also would indicate to me that there are no material changes in the circumstances of the child between the first notification and the second. I might just add that I've only reported data there of notifications within the same year, so you could look at within two years and you'd find renotification rates, of course, even higher and so a high renotification rate is an indicator of inefficiency because it means that you haven't responded to the concerns about a child that you've identified the first time round. They're still there. So it seems to me - - -

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And still at risk?---Still at risk, yes.

Whether they actually are in need of protection or not isn't a determination you've made yet?---No. That's right. Yes.

But you clearly need to do something preferably the first time?---Well, that's my argument, but of course that doesn't happen for many children. Many children are assessed at being of significant risk, ie, a notification is substantiated and no further action is taken.

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It's the renotification figure that's more important than even the notification figure because notifications are just subjective opinions of - they may not be just subjective opinions - - - ?---No.

- - - but they do include subjective opinions of the notifier about harm and the extent of it, the level of it, which might be assessed quite differently from the department by reference to the definition in the legislation?---Well, a departmental officer has assessed the information provided by the notifier and determined that there is a level of risk to the child in order for it to be recorded as a notification.

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Right?---So not everything that someone makes a report about gets recorded as a notification. 1

Well, we've heard figures that 80 per cent of the ones that the police send on don't?---That's right, so you wonder about the point of it.

Of the notification?---Making the notification.

And you wonder what you do with the 80 per cent. The information has to be rich with intelligence, at the very least. 10

MR COPLEY: Well, notification - can we put this proposition to the witness, perhaps, for her to consider?

COMMISSIONER: You certainly can.

MR COPLEY: Could the fact that someone even thinks that there's something to be notified be the trigger for - the last trigger or the last warning sign that there is a family and a child that's in need of intervention?---So as I understand it, you're suggesting that perhaps a notification itself should be the trigger for a service to the family. 20

Well, you see, the reason I'm - that's right, and the reason I'm putting that to you is that you criticise the department or the government for spending only X per cent on early intervention. Now, it could be the case, for all we know, that by the time the Department of Child Protection receives these notifications they're confronted with a situation, for example, where the children are living in absolute squalor and the parents are affected by alcohol or drugs and are demonstrably not caring for the children, in which case the department might think, "Well, the time for early intervention here was some years ago. There's no point in doing that now. We need to take these children away, get them safe, then we'll look at some rehabilitative programs for the parents." See, that's what I'm suggesting to you, that it could be that by the time it gets to notification itself it's too late to have these early interventions. What do you say to that proposition? ---I think certainly by that case often it is very serious, but that's not to say that the department shouldn't or couldn't provide a service to the family that would ameliorate those child protection concerns. So it's about what we're calling early intervention, and that's just become so clouded as to not be very helpful anymore. 30 40

Well, can I ask - - -?---So it's a question of what the department does to try and protect the child.

Can I ask you to consider this? You tell me if this is right or wrong, that generally speaking if there's a necessity for the department to be notified there should have been some sort of telltale signs or indicia to other people in contact with that family some weeks or months

beforehand that there was a problem there and that those people perhaps in that area haven't reported those concerns to anyone. For example, if there's behaviour seen at school or there's evidence seen by doctors or nurses in the public health system to suggest there's something amiss weeks earlier, wouldn't that be a more appropriate time in the ideal world for the department to be launching some sort of alternative initiative like early intervention? ---Yes, and there are some services like that available.

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Yes?---So there might be, you know, a range of family support services available in some communities where that's possible.

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See, what your figures could be capable of - the interpretation that could be placed on these figures that you've got in paragraph 9 is that when the department investigates notifications which they find to be substantiated, the sad fact of the matter is that the proportion recognised by the \$52 million is the only proportion of those notifications that can be assisted with family support intervention and all the other notifications really only admit of one or a more limited range of outcomes, such as taking the children away from the family for a time. What do you say to that proposition?---I think it's a proposition that can't really be sustained by the evidence that there is available, so I think - - -

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Can you demonstrate the correctness of your answer by pointing us to the evidence?---Yes. So I think that - so the department itself has an early intervention response available to it which is called intervention with parental agreement, so that's where they've decided the child is in need of protection but they think they can work productively with the family to try and resolve the child protection risk concerns while the child is still living at home rather than take the child into out of home care. So, you know, it's certainly open for the department when it thinks it's possible to work with the family in those ways to keep a child at home and I think what limits the use of intervention with parental agreement is simply the amount of resources available to the department for that sort of work.

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So do you see the department's - - -?---Whereas if you take a child into care, if you, you know, obtain an order for a child, you have to find a placement for the child, whereas the intensive family support responses tend to be more discretionary and if they're not there, well, that's your option, is to use out of home care.

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You see the department's response as being driven by the budgetary options that are available to them?---Yes.

Whereas I'm suggesting to you what about the other side of the coin, that the budgetary options reflect the reality that the child support workers are confronted with when they go to these homes?---Yes, so I suppose the counter

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argument is that every child who is in out of home care should be in out of home care and that is the correct response to make to their needs. I can't see that that necessarily follows, because you can't explain why there was a big upsurge in children going into out of home care after the last inquiry, the CMC inquiry, and now that's levelled off again. So was it suddenly that we have all these children who were so in need of protection that they needed to be placed in out of home care and now that's changed again? So I think what we're seeing is that the level of need of children has remained fairly consistent and indeed they are high level needs, but it's actually the availability of services that drives what response is given when a child is found to be in need of protection. The other interesting thing about that intervention called intervention with parental agreement is that there are widely varying uses of that in different child safety service centres. So one service centre uses that option quite a lot - - -

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Which one is that?---Well, I'm not - I mean, I don't have the data, but there will be some that use it quite a lot, so say 20 per cent of their children in need of protection might be receiving intervention with parental agreement and the next door child safety service centre won't be using it a lot at all. So that says to me it's not the needs of children that are different across those two CSSCs, it's actually practice decisions about what is available that's driving it.

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Well, can I just ask you to think back to your research? Was the practice of the department in rural areas, say west of Toowoomba where they're clearly in rural areas, like Goondiwindi or Roma or Dalby, different from the practice of the department in densely populated urban areas like Logan or Beenleigh or Ipswich?---Actually, the patterns that differ between CSSCs aren't so much on rural and urban - there's not that differentiation. They tend to be far more idiosyncratic. Sometimes you can't - you know, it's hard to explain the differences in why one office has got a high rate of taking children into out of home care and the other one doesn't other than just different approaches to protecting children taken by team leaders and managers and so on - - -

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COMMISSIONER: That's different to practices based on the availability of services, isn't it?---Service availability, yes.

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Because you'd think that it would go down geographic lines if it was based on availability, so it must be based on something else?---Yes, but, I mean, services aren't evenly spread throughout the state.

No?---We couldn't say that there are a lot of services available in Brisbane and there aren't a lot of services available in rural areas. You know, it really is different to that.

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MR COPLEY: But what perhaps I was wondering was there may be fewer out of home options available to a departmental worker in Goondiwindi compared to what's available to a departmental worker in Logan and that that might have influenced how the departmental worker in Goondiwindi dealt with the family when he or she first came into contact with them compared to in Logan?---Yes.

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But you've suggested to me before that there isn't really a difference there along those lines?---Well, in fact there aren't any departmental workers in Goondiwindi.

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Well, that's just an example?---Well, no.

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It's a very good point because therefore the opportunities to provide an intensive - you know, working with the family, keeping the child safety at home - are more limited there because nor are there any funded intensive family support services based in Goondiwindi. So perhaps it is more likely that a child would be taken into care there simply because there aren't the other services available on the ground to work with the child and the family.

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COMMISSIONER: Has anyone done any profiling of those practices across the regions to find out why there is this anomalous result, do you know?---Not to my knowledge.

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You'd probably be the one who would?---I've done some work just in the region where I'm based, differences between the use of intervention with parental agreement, and it does seem to depend a lot on just decision-making at the practitioner level about what is the best, because it's really about juggling risk at that place. You see, if you take a child into care while a child is nominally safe, whereas if you decide to work with a child still at home then the officer is carrying a bit of risk, things can go wrong in that situation. So sometimes it depends on the experience of the staff, whether they're more prepared to open (indistinct)

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The data tells us what's happening, it doesn't tell us why?---No, but we can explore the more plausible - the ones that are more plausible than others.

Yes, but it could be evidence-based too, couldn't it, if someone had spent the time to nut it out?---Yes, absolutely it could, yes.

All right. So what you're saying is once you get a notification that you regard as falling within the definition of harm, then that's the time to be intensively support the family unit of the child, because if you do - if you spend money doing that, what you'll do is reduce the costs and consequences of a re-notification?---Yes.

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And in turn re-substantiations. Is that right?---Yes. But I'll just say I don't think you'd be working with every family who was notified.

No?---I think you'd be making an assessment. My point is really that there should be a broader range of services available at that point then simply investigating and making a determination.

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Like what?---Like a family support service.

Okay, what else?---Well, that's really the main type of service, so a family support service can be many and varied things but they provide a range of practical - it depends on the needs of the families and what the identify problems were. So they might provide practical assistance to a family, they might provide therapeutic services to a parent

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or educational-type services, parent education and so on. 1

Right. So as you said before, the proper measurement of the performance of a system like this one, would it be having the number of children in long-term out-of-home care as all those children who need it and no one else?---Yes. Easier said than done.

And then for those children to be in that care, substituted care with the substituted parent - a departmental parent, only for so long as they need protection?---That's right. 10

And would you see family support services, or whatever they are for the particular family, as not only a good early intervention, but also an ongoing, even when the child is in long-term care, you keep - because you're going to get them out quicker if they've got somewhere to go to. If you focus on their family, which is the primary - even under the legislation it is the primary care-giver and place where they should be - you keep working on the family even though success seems a long way off?---Mm'hm.

You're still going to get them out quicker - you're going to release them from the need protection quicker and more cost effectively than simply keeping them until even their 18th birthday?---But I think there is no doubt that some children will need to be in care for a long period of time, and that assessment can be made. But the whole intent behind having the one and two-year orders is that when the child first enters care, that first two years is the critical period for you to continue working with the family towards reunification of the child wherever possible. The act doesn't require that you have a one-year order, then a two-year order, then a long-term order. If a child is in need of protection and it is apparent from the very beginning of your contact with the child that the child is going to need long-need care, then you'd apply for a long-term order. There is no doubt that out-of-home care is a very valuable service for the children who need it. 20 30

We've got 8000 or thereabouts at the moment. What is the proper figure for a place like Queensland?---I don't know. I don't think we know that.

But do you have an idea, though, from your researchers of what a place like Queensland might expect in predicting and allocating funds for this sort of area of government services?---Yes, so I think we could compare the situation in Queensland with other states and we could say, "Well, why does Queensland have a higher rate of entry to care than, say, Victoria?" 40

It's got more indigenous, probably - - -?---Yes.

- - - would be the answer?---Okay, but that implies to that all the indigenous children who are in care should be in out-of-home care, and I put an argument that most indigenous children are in care for reasons of neglect and

that that would be a prime case for providing a family support services over a period to stop children going into care. And so it's very, sort of, undifferentiated, you know, there's no - we need to look at the reasons why there are concerns about children and try and provide services that meet the needs of that particular family, because out-of-home care in itself doesn't really make needs, not of itself.

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No, and it is only designed to meet the protection needs of the child - - -?---Yes.

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- - - for as long as the child needs it?---Yes. But, I mean, Queensland has got a much higher rate of overrepresentation than other states, not because we've got more children here, but because of, well, the service mix that is available to meet the needs of those children and their families.

I think that by 2016 we are supposed to have more indigenous children in Queensland than elsewhere in the country?---Which, I mean, it's not that that should be taken for granted because the rates of overrepresentation used to be very steady in the 80s and 90s. It used to be about 25 per cent.

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Now it is 40?---And it is only - yes, that's right. And that is - so what is the explanation for why that's increased in the last decade?

What do you think?---It's because we are more risk-averse, shall we say, so we want to make sure nothing happens when taking children into care. But I don't think we can say that the needs of those children and their families suddenly increased in the last 10 years, it's just that the range of services we had available changed; I think policy settings changed, so there wasn't - you know, it was a different focus on providing services to Aboriginal children and families. In that last-you know, there used to be comprehensive sort of child protection family support services - indigenous child protection family support services - and they were changed significantly in nature so that the family support part was taken away for a period.

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MR COPLEY: When was there once comprehensive indigenous family support services?---The Commonwealth used to fund what was called Aboriginal/Islander Child Care Agency, so Commonwealth funding went into it, and that withdrew in about - shall I say the early 2000s. I can't be sure about that. And the state used to provide services as well, but post-CMC when it was decided that the Department of Child Safety would focus exclusively on the safety then there the nature of those services changed so that they were required only to assist the department with investigations and assessments rather than provide support to the family, so the nature of the agency changed.

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So do you think that the influence of the CMC's report

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caused there to be a change of attitude by the department,
that it became less willing to take a risk with children
and more inclined to her on the side of caution and just
intervene and take the children away so that there was no
blame coming back on the department if something did go
wrong?---Yes. Look, I just don't think it's as causal as
that. I mean, certainly that wasn't the CMC's intention.

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I'm not suggesting it was but - - -?---No, I think a full
range of factors conflict to - they changed the situation
considerably post CMC because - - -

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Well, can you identify what the factors are that are here in Queensland that perhaps aren't there in South Australia or Victoria?---I think there's been more focus on the development of targeted family support in other states. I think other states have got more of a strategy about reducing indigenous representation. For example, New South Wales has got a network of indigenous intensive Family Support Services that are charged with preventing children entering care and doing reunification with children once they do enter care. So different states have taken different initiatives. It's about the service mix that's available to respond to the needs of children and families once it's been decided that the children are at significant risk of harm.

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So is that why you are effectively - or why you focus in paragraph 9 and make the point about the limited funding for intensive family support compared to the other strategies the department can employ to protect children? ---Yes, because I think it's a question of balance. I think we need all those types of services, but you've got to have a reasonable balance between them in order to make the system as a whole work effectively.

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Probably if one was adept enough at one's mathematics, one could work out what proportion of the departmental budget was going on intensive family support compared to something else here in Queensland. Are you able to perhaps give us some idea of what the position is in Victoria or South Australia in terms of the proportion of resources that are going to early family intervention compared to child protection investigations or out-of-home care in those states?---Not off the top of my head, but there are some data in relation to that reported in the annual reports on government services that the Productivity Commission puts out, so you can have a look at those data.

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Okay. So the Productivity Commission reports would help us there?---Yes.

Okay.

COMMISSIONER: Professor, sorry, being a lawyer is a handicap sometimes, but if you have a look at the section in the statute that governs the protection system, what it says is, "The chief executive becomes aware of alleged harm," and that's defined or alleged risk of harm which actually isn't defined because harm includes unacceptable risk, however, be that as it may, but then it says, "And reasonably suspects the child is in need of protection," which is defined. Essentially, what it's saying as I interpret it, and subject to all the other lawyers in the room, is that the chief executive doesn't actually act under the act by investigation or otherwise unless and until she reasonably suspects the child is in need of protection and it may be based on a notification, but it's in addition to the notification. It's not the notification itself that triggers the chief executive's responsibilities

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and functions. Doesn't that complicate things a little from the early intervention because by the time the chief executive can do anything under this system that we've currently got, she's got to be satisfied that the child doesn't have - suspect that the child does not have a viable parent to protect him or her?---But the act doesn't prevent the chief executive from doing anything.

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MR COPLEY: Can I refer you to - my learned junior pointed this out to me some minutes ago - part 3B in chapter 2.

COMMISSIONER: What does it say?

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MR COPLEY: It speaks about what Ms Tilbury has spoken of a little while ago about intervention of parental agreement.

COMMISSIONER: Yes.

MR COPLEY: It talks about in 51Z that this part will apply - and I'm paraphrasing - to a child if there is no child protection order in force, mandatory custody or guardianship but the chief executive is satisfied that the child is a child in need of protection. Now, the chief executive's options are not there constrained to going off and seeking a court order about the child.

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COMMISSIONER: No, no.

MR COPLEY: Under 51ZA he can provide ongoing help to the family and child who's in need of protection.

COMMISSIONER: Absolutely; and in fact has to, but - - -

MR COPLEY: So the department has got a legislative mandate to spend the money on what Ms Tilbury, I think, would call intensive family support.

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COMMISSIONER: Yes.

MR COPLEY: Your point seems to be - - -

COMMISSIONER: But when?

MR COPLEY: Well, this is getting back to the point perhaps that I'd raised earlier with the witness that the chief executive isn't obliged to statutorily know anything or isn't going to be told anything by anybody until it gets to the level where somebody thinks the child is in need of protection and that would influence what sort of early intervention programs could then be made.

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COMMISSIONER: But even if the chief executive had a child under an order, the chief executive could still decide the safest place, the best place, most appropriate place for that child with or without family support is at home - - -

MR COPLEY: Yes, and she - - -

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COMMISSIONER: - - - as a placement option.

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MR COPLEY: - - - could decide that even though the kid needs protection, she's not going to go for a protection order - - -

COMMISSIONER: That's right.

MR COPLEY: - - - because she's going to see if she can secure parental agreement to help the family stay as one unit at home.

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COMMISSIONER: I know. But they're just options, like, section 14 has to be the trigger for the chief executive doing any of those things.

MR COPLEY: Yes; because, presumably, unless the child is at risk of harm, the child is going to be adequately catered for by the Education Department and the Health Department looking after his or her needs.

COMMISSIONER: It's a very confusing section, but at the very minimum, the child - before the chief executive must investigate or take other appropriate action under section 14, the child - she must suspect the child is in need of protection.

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MR COPLEY: Yes.

COMMISSIONER: All right? Now, I take the point that you don't have to. That only mandates what you have to do; when you have to investigate or take some other appropriate action. The chief executive could implement a policy of early intervention at some earlier point in time before she was of the view that the child was in need of protection, maybe.

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MR COPLEY: But how does - that's the question that I posed to the witness.

COMMISSIONER: I know.

MR COPLEY: How does the chief executive become aware of these families before that point?---Well, I mean, the chief executive might assume that in any community there's going to be concerns about the care of children and what's an appropriate way to respond to those concerns. So with the community we could go to Goondiwindi and say, "We know there probably are children at risk of harm here. We receive so many notifications from this area. What's a good way to respond to that?" and I mean you can pick Goondiwindi, but you know you look at a confined community like Cherbourg where there aren't any Family Support Services and say, "What might be the best way to respond to the needs of children in this community? Is the best to wait until someone tells us there's a problem and then we can investigate or might the best way be for us to set up a

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service that families can come to if they've got any concerns and seek support and advice and guidance and that they would voluntarily receive services from or that a teacher could make a referral to or a health worker can make a referral to?" So I'm saying there's nothing under the act to prevent the chief executive from providing a child protection service in that manner. There's nothing to say that the chief executive has to wait until they've received the information.

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It may be that the commissioner thinks, though, that there is an impediment?---I'm not arguing with the lawyers but I - - -

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COMMISSIONER: No.

MR COPLEY: A legal impediment.

COMMISSIONER: That's what lawyers are for in arguing with because it may not be a clear-cut answer, but Mr Hanger will tell us what the crown's position is about what the chief executive's ability to do what you suggest should be done and what seems commonsense; whether or not she has got the discretion to spend the budgetary allocation on such things as things currently stand under the legislation. Mr Hanger, would you get some instructions on that for us?

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MR HANGER: Yes, but not for the minute because I mean I, with respect, agree with the observations you're making.

COMMISSIONER: Yes.

MR HANGER: I answer it by saying, "Well, we're here to amend it and fix it up."

COMMISSIONER: Yes?---That's right.

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MR HANGER: Because it doesn't make sense at the moment.

COMMISSIONER: But the professor is saying it doesn't need any amendments. It's not broken.

MR HANGER: Yes, I realise that. No.

COMMISSIONER: That's what we need to find out.

MR HANGER: Yes.

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COMMISSIONER: All right. Let's take a point on board that in an ideal system that's what you would do. In best practice fit for purpose system, child protection system, you would identify the vulnerable families and children and you would address them at that point of weakness instead of - while the problem is small instead of waiting till it grows into a big one. Is that the theory?

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---Yes, and I'd go further than that and I'd say there ought to be more points of entry into support for vulnerable families than merely notification, and indeed - you know, I mean, in the overall scheme of things and the history of things this system of notifications and investigations is fairly recent in all jurisdictions that have it. I mean, many people have argued it arose out of a particular set of circumstances that no longer exist today. In other words, it arose in a set of circumstances where people were reluctant to interfere in other people's families and these things were hidden away. Well, now they're no longer hidden away so perhaps notification and investigation mightn't be the most effective way of responding to what we now know to be quite considerable concerns about children.

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So you would have an educated guess or an assumption and says, "Well, we know from experience that these sorts of things need addressing." We still have to identify the family that needs it, so you could provide a universal sort of family support?---Yes.

But you still have to get the targeted one before you're really going to do anything useful, and that's, I think, Mr Copley's question. How do you identify the family that needs intensive targeting, secondary services, at the point when they need it most?---Well, I think there's quite good risk assessment systems now around that so that we can, you know, reasonably predict or assess what - you know, which families are in trouble, so where there's multiple risk factors around parental alcohol use, parental drug use, parental mental health, domestic violence. So there are quite good assessment systems that would say, "Children in these families of a certain age are likely to be at risk of harm and we ought to be providing services." I think one of the - I mean, just on those risk factors. So it's around about - you know, it's around the wrong way, isn't it, that we say there's a parental mental health problem or domestic violence and we respond to that with a child protection service rather than a mental health service or a drug and alcohol service which is really getting to the needs in the family.

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That's the point, really, what prompted me to ask you what's the child protection system. Where does it begin and where does it end? Where does it begin, more importantly. Are you saying to me it should begin before notification or are you saying to me, no, leave it there to respond to - let it be a rescue service, a fire fighting service, but outside, before it, have your mental health service, your family support service, all these other things, and then it can just look after the back end?---No, I certainly would define the child protection system as including family support, investigation and assessment, out of home care, because there's no big, you know, clear distinction between the children who need to be in out of home care and children who don't need to be in out of home care. That requires some work with the family over a

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period of time, often times.

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So is the definition of child in need of protection helpful or unhelpful in your view of service intervention and the timing of it?---Well, yes, but decisions about child in need of protection are only for the purpose of deciding whether an order should be obtained in relation to the child.

That's yet to be decided, because if - it doesn't say that, actually?---Yes, but, I mean - - -

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It says that you take other appropriate action?---Yes.

So what's that? That might be family support, you say? ---Yes, that's right. I mean, clearly you have to make a decision that the child is in need of protection in order to - you know, because otherwise what's the rationale for you, the state, being involved with the family?

Well, except that it means that you haven't got a viable parent to protect you so therefore somebody else needs to do it. So you can't give the family support then because you're supporting an unviable parent. What's the good of that?---Well, I don't know. It's not about the parent being unviable, it's that the parent needs - - -

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Not willing or able?---Not willing or able. In other words, needs assistance to, you know, provide adequate care for the child, would be the other option.

That's it, isn't it? You can be viable, you can be willing and able. If you're not now you can be made able by support. Is that what you're saying?---Yes.

Yes, well, I think the act already provides for that?---I think so too.

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MR COPLEY: What do you say to the proposition that there is a scope for early intervention at least in the areas where the police bring information to the department, in the sense that we've heard evidence from the police that if they're called to an incident involving domestic violence the police officers are obliged by the police service to bring that to the attention of the Department of Child Safety Services and it apparently is the case that upwards of 80 per cent of those so-called notifications from the police are found to not warrant further attention? Now, they might not warrant further attention in terms of a court order, but they might perhaps be the warning sign that there's a family there - if the mother and father are acting aggressively towards each other, that that might be covering up substance abuse or alcohol abuse or problems with a child who has got a lot of medical or behavioural difficulties, that those notifications from the police might be the catalyst for an early intervention in other ways, mightn't they?---Yes. So if there were a service available to assist the family where domestic violence is

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occurring, then perhaps a referral to that service that could work with the parents on, you know, the causes of the domestic violence or the effects of the domestic violence.

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But at the moment the police - - -?---There isn't - - -

- - - are only obliged to report to one service and that's child safety?---Yes, and child safety doesn't really have the resources to, you know, make contact with all of those families and provide an actual response to the domestic violence.

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No, and it might even be arguably outside, at the moment, on the legislation, their purview.

COMMISSIONER: But it's acting as - you need someone - whether it's this department or this chief executive, you need someone to be farming out - getting it in and then allocating responsibility to the appropriate service. At the moment, is it what you're saying that the services are so thin on the ground that the only one that's available that is responsive to anything is the child protection service?---I think that's how we've set up the system in Queensland, that the department is the entry point to those other services.

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Yes, it's the entry point to those services that exist, but we're continuing to call it child safety even though the act calls it child protection. The services they provide is called Child Safety Services?---Well, I only call it child safety but I'm referring to that part of the department that's named child safety.

Then the other part of it, the other aspect, is child care, or the care - out of home care or - - -?---Yes.

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So protection has got to aspects, one safety and one substitute care?---Care.

Or alternative care.

MR COPLEY: Now, moving along - - -

COMMISSIONER: At your own pace, Mr Copley.

MR COPLEY: I'm sorry I've been so longwinded.

At paragraph 11 of your statement you say not only is there insufficient attention to early intervention or family preservation, and we've discussed that, there is insufficient attention to family reunification once a child enters care. Why do you say that and upon what basis do you make that assertion?---I make this assertion on my analysis of out of home care data that the department makes publicly available, and particularly with the finding that the main reason that we see more and more children in care is that the length of time in care is increasing. So it's not that the entry rate to care is increasing, it's that

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the length of time children spend in care is increasing. So in other words, children are going in and then there's a big ballooning effect going on because children are exiting at this lower rate and staying longer.

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COMMISSIONER: I wonder if an explanation for that might not lie in something the Children's Commissioner said to me the other day. I was just asking her about what sort of - I thought she said - I think she might have corrected it later, but initially her response was, well, look, sometimes, applying the best interests principle, you really need to keep the kids there for their own good, even though they may not strictly need it, they may no longer be in need of protection under the definition?---Right.

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You wouldn't agree with that proposition if that's what you - - - ?---No. I mean, why would the children be in out-of-home care if they weren't in need of protection?

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Well, they would get a bit of education?---Right. I wouldn't have thought that was a reason for children to be in out-of-home care.

MR COPLEY: It was also posited that they get to know their carers well because they've been with them for some years and one has to weigh up whether it's a good idea to take them away from the new carers that they know and return them to their parents if they haven't had much to do with them in the intervening time. What do you say to that proposition?---So that's why in the first couple of years when a child first enters care, it's very important to put that effort into working with the family to see if the child could be returned home because otherwise, as you say, if the child is in care for a long period of time and they don't have enough contact with the parents, it may not be in the child's interests to return the child home. So I would certainly agree with that proposition if that's - - -

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COMMISSIONER: Because stability becomes the overriding consideration?---Well, I think, the child's wellbeing becomes the overriding consideration. So the child's sense of who they are and where they live and who their family is can become settled in at placement.

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Has anyone ever done any studies on kids who have been in long term care in a foster home, they hit 18 and then they go home?---In fact, most children go home from foster care.

So what's that saying about where they wanted to be all that time?---Well, at the very least it says even when children are in long term care, they should be having some form of contact with their family, with their biological family.

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Which would mean that the stability issue could be bicameral; that is, they might be able to move in and out of the system on an as needs basis - - - ?---Yes.

- - - instead of someone saying, "For your own good, you'd better stay put"?---Yes. Some jurisdictions do have they model, it's called shared care. So, in other words, you're sharing the care between a foster family and the family of origin, so the child might live with the foster carer but the family of origin is still involved in, you know, various aspects of the child's life so there's not a complete severing of the relationship.

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And until whatever is causing the child to be in need of protection disappears, whether it's the violent stepfather or the drug dependent parent or parents or trouble with the siblings. The child's problems will continue and they, I understand, can be addressed separately or in addition, but you should never stop giving up on the family of origin,

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should you?---Well, I think it depends. I think sometimes families - you know, the family of origin is destructive to the child's wellbeing and there ought to be limits put around the type of contact that occurs, so I think that's quite appropriate sometimes.

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Did you read the Courier Mail this morning?---No, I didn't as it happens.

Okay. Fair enough?---Yes.

There was a suggestion as if it was a serious consideration that there comes a point when parents simply have to be cut off and parental responsibility is terminated and contact terminated for the child's good. What do you say about that proposition?---I say there's no evidence for that and that sometimes it is in the best interests for the child to have ongoing contact and sometimes it isn't and that's an assessment that should be made with the child in mind. You see, sometimes, these sort of suggestions are made that, you know, there's a point two years or five years after which there ought to be no return and the evidence simply doesn't bear that out. For some children it is important that they know. You see, when a child is placed in care, they're not just separated from their parents, they're often separated from their siblings and the sibling relationship - - -

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And their extended family?--- - - - so there's often a whole lot of reasons why contact with the family ought to be maintained in the child's interests.

So you would be against the idea of terminating parental responsibility to facilitate adoption as an alternative to long term out-of-home care?---I think sometimes that is a good option for kids. I don't think we should rule that option out. I just think we should - it's one amongst many and it's not going to be right for all children.

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Okay. Finally, you would need to review the situation if you were going to be able to do that, wouldn't you?---To review?

Yes. Like someone needs to keep an eye, "Does this child still need protection at 14, 15, 16, 17, 18"?---Yes. Although I'd put it in the other way about someone being involved in monitoring the child's wellbeing while they're in out-of-home care. Yes.

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And the family's status, too, because it's not going to stay still?---Yes. That would include, you know, relationships with the family. So because most children return home to their family, we ought to have an eye on what are the relationships like between the child and their family.

And should we - - - ?---And they change over time as children grow older and whole lots of different reasons.

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Should we be consistently asking the question or regularly asking the question, "Is it safe enough at home yet"?
---Well, I think sometimes, no. I think children need security and stability after a point in time, so sometimes children want to know, "This is my forever home," and they don't have this uncertainty hanging over them that they might go home in three years, five years, seven years. It's important for children, whether they're adopted or a decision is made that they'll be in long term foster carer that this is their forever home.

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And that's not linear?---What I'm suggesting is it doesn't have to happen after two years or five years. It should happen, you know, based on the information in that particular circumstance for that child.

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And somebody in the child protection system should be making that call?---And, indeed, yes, that's their responsibility to make that decision.

Do we have enough qualified people to be making that call at the moment?---Well, I haven't done any research on - - -

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It should be a court supervised judgment?---Well, long term orders - you know, applications for long term orders are made by the court and that's the point at which the court should consider - does consider - whether a long term order is necessary for a child and the same - there are other orders available as well, guardianship to a third party and so on, so the court is actually involved in those decisions.

Except that when you make a long term order, it finishes on the eve of the 18th birthday?---Yes.

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That's the end of the court's role?---Yes, that's right. I mean, many children will continue to have a relationship with the carer after they turn 18, but unfortunately many don't.

MR COPLEY: Which jurisdictions have the shared care model that you spoke of a little while ago?---New Zealand uses that model a bit and, again, there would be cases of that here. There's no prohibition on a child continuing to have their family involved with them, even if they're in out-of-home care. So there might be instances of that happening here. There's nothing to stop it happening in certain - - -

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Okay. Now, in view of the time, can I just ask you, are you available to come back tomorrow?---Yes.

You are?---Yes.

Okay. All right.

COMMISSIONER: All right. It might be time to pull up

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stumps today, but just before you go, professor, if we had a look at the entries into the system pre-CMC, so pre-2004, before the spike, couldn't we extrapolate from there what the stock standard for Queensland is for out-of-home care in figures or numbers?---Yes. We had a fairly steady entry rate of around about 2.5 per thousand.

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2.5 per thousand?---I'd have to go back.

It's now seven per thousand?---No. That's the stock - that's the number in care at a point in time. I'm talking about the entry rate.

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I see. Okay?---Yes. So I think we need to look at what the long term trend has been for entrants in Queensland and we need to compare the situation with other states to see is Queensland relatively high or relatively low and I don't think we can say with certainty there is a right rate of entry into care.

But we can say that it's too high at the moment, can we? ---Well, it's back down to pre-CMC entry rates now, so it's consistent with the long term trend. It is one of the higher states, so I think we should be looking at, you know, in a more systematic way what are the differences between Victoria and Queensland and what accounts for that difference in the entry rate.

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So if the entry rate is back to normal levels or expected levels then in 10 years' time the numbers in out-of-home care should be down, too, shouldn't they?---No, not if the current trend of longer stays in care persists.

But there will be lesser of them staying longer if the entry rate is lower?

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---Yes, but the long-term effect of longer stays now is going to have an impact over a long, long period of time, because if children enter today and they're more likely to stay longer than shorter, then obviously that is another 18 years' worth of accumulated effect on numbers in care at any single point in time. So that's why I draw attention to the figures about duration in care, because I think they are actually driving what's going on in out-of-home care more than entry rates.

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So exit rates rather than entry rates?---Yes, exit rates again have been reasonably steady, yes.

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So duration?---It's duration.

Why are they staying so long? If that's the question, what's the answer?---The answer is lack of attention to family reunification; working with a family once a child enters care. And there are - - -

Ongoing, asking the question that I posed before, is it safe enough to go back home again?---That's right, yes. Have we done enough work with the family to resolve the problems that led to the child coming into care?

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Have we taken a child who was in need of protection and made it not in need of protection?---Yes.

That's your key performance indicator in a child protection system?---That's one of them, is safe reunification, yes.

All right. You like "family preservation" rather than "early intervention", as a phrase?---No, I just use the terms as they're used in the literature, really, and because I think "early intervention" has become too confused, so early - you know, what's early? What's intervention? So I think "family preservation", at least you get a sense of what the work is. The actual work that's done then - family preservation and family reunification - is exactly the same work with the family. So it's building a relationship with the parents, engaging with parents, assessing their needs, linking them with the service to resolve the needs; it's exactly the same actual type of work.

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Okay, excellent. Thanks very much, professor. I appreciate you coming back tomorrow. I know it's an impost.

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WITNESS WITHDREW

COMMISSIONER: Estimates for Dr Tilbury's availability tomorrow. Mr Copley?

MR COPLEY: Do you mean how long she might be required?

COMMISSIONER: Yes, I do.

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MR COPLEY: We still have to canvass her views - and perhaps this would be the form in which I would do it - her views about the transition of children to an exiting the system, and then her views about the children's court - - -

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COMMISSIONER: Right, okay.

MR COPLEY: - - - and how it's functioning. So those two issues that I have to canvass before my learned friend Mr Hanger or Mr Selfridge can even start.

COMMISSIONER: What does that give us? Any estimate?

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MR COPLEY: An hour.

COMMISSIONER: An hour? Okay. Any other estimates?

MS EKANAYAKE: About 10 minutes or 15.

MR CAPPER: Probably 15 minutes at this stage.

COMMISSIONER: Doctor, that gives you some idea of the estimate, anyway. So 10 o'clock tomorrow morning. Thanks very much.

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THE COMMISSION ADJOURNED AT 4.23 PM
UNTIL TUESDAY, 28 AUGUST 2012

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