



## SPARK AND CANNON

### TRANSCRIPT OF PROCEEDINGS

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THE HONOURABLE TIMOTHY FRANCIS CARMODY SC, Commissioner

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

BRISBANE

..DATE 5/09/2012

Continued from 30/08/2012

..DAY 14

**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.

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MS McMILLAN: Yes, good morning, Mr Commissioner. I appear with Mr Haddrick. I just wish to raise a couple of matters before we recommence with Ms Healy this morning. I think it clear from the web site and some media releases that the commission was to travel to Aurukun this week, but in consultation with the Aurukun Shire Council and following some unforeseen circumstances within the community it was last week determined that it was appropriate to postpone the regional hearing in Aurukun. This decision encompassed cultural respect for the community and practical issues such as the availability of witnesses.

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However, the benefits of seeing and hearing from the local people at the Aurukun community are of great importance to this inquiry and we will reschedule as soon as possible our visit in consultation with the local community. At this stage it's being considered for the month of October. We now hope to incorporate a visit to other indigenous communities in the state's far north, including Thursday Island. This will augment the hearings in Cairns which will take place next week.

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The commission will hear from representatives of relevant government and non-government organisations, with indigenous over-representation and delivery of services to remote communities being focal issues. However, it should not be thought that other ethnic communities within Queensland will be overlooked by this inquiry. These families have often encountered significant challenges, such as leaving war-stricken countries of origin before settling in Australia. The transition with cultural and language issues pose singular difficulties for them and it's proposed to meet their representatives where practical.

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Seven per cent of children in care include diverse countries of origin such as Sudan, the Republic of Congo. Sierra Leone, and of course Pacific Islands. This week also marks Child Protection Week, which runs from 2 to 8 September. It is a nationally recognised week that promotes the value of children and focuses attention on children, issues of child abuse and neglect. So far this week we've already seen the release of two documents that focus on child protection issues to mark this week; the first is from the Commission of Children and Young People. The Child Guardian released its overview and selected findings of the 2011 Views of Children and Young People in Foster Care survey.

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This report has identified that almost all children and young people feel safe in their current placement, are treated well, and are listened to by their carer. However, concerningly it reveals that children first entering care

5/9/12

McMILLAN, MS

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have a mean age of just four years. One fifth of children reported having more than three placements during their time in care. Almost one third of children do not think that they have a say in the decisions made by the department about them. Almost one third report not having decisions made about them explained to them.

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Almost half of them do not understand why they are in care. Less than half report having a case plan. Just over half of 16 to 18-year-olds report having a leaving plan - that is a transition plan - from care on reaching adulthood. More than a quarter reported difficulties at school which they have been unable to get help with. Half of the unresolved issues they report relate to school work and almost half related to bullying.

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The second document emanates from Brave Hearts, which documents its research and audit entitled The Three Piers to Prevention. This audit highlights the education, which relates to children being aware of their personal safety; empowerment; adults being trained, aware and motivated; and protection. A whole of government strategy, and as so is key to the protection against child sexual assaults in Queensland. This audit pleasingly cites Queensland as the top performing state across the piers. However, unless there be complacency, issues of specialist training for child protection workers and legal professionals demonstrate a need for targeted education.

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The audit argues that there should be greater coordination between state child protection authorities and the Family Court. Consistently the advice received by Bravehearts was that the state child protection authority would not intervene in the Family Court, which in turn struggled at times to make a determination when the department had not acted. Further, in stating its obligations and adhering to its obligations under the United Nations Rights of the Child 2012 emanation, and in particular Australia still does not have a national Commissioner for Children, nor a bill of rights for them.

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In relation to religious bodies, there are recommendations for the process to be victim focused and allegations not be dealt with internally but referred to authorities or alternatives such as Bravehearts. It's not appropriate for comment to be made by this inquiry as to Bravehearts or any live organisation to be referred primary allegations of harm. But nonetheless, a further recommendation from that audit is the need for a 24-7 specialised crisis support line for child sexual assault. One might thought that it resonates for all types of harm of children.

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These two documents underscore the role of this inquiry in providing the road map in this highly complex area of protecting children. As to the evidence, Mr Haddrick will

5/9/12

McMILLAN, MS

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continue with Ms Healy and then tomorrow we will have Mr Wayne Risco from the Department of Aboriginal and Torres Strait Islander Affairs, and then Mr Alex Scott, who's the current secretary of Together Queensland Union of Employees. May it please the court.

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COMMISSIONER: Thanks, Ms McMillan. Before I call on Mr Haddrick, can I address a question to you, please, Mr Capper. You know that heartening result that almost all - I think, 99 per cent - of responded children in alternative care say that they feel safe and secure in their placement?

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MR CAPPER: Yes.

COMMISSIONER: I'm interested though in the methodology.

MR CAPPER: Sure.

COMMISSIONER: So for example whether the carers are present when the children are filling out their questionnaire, and what strategies are in place to ensure that the responses are trustworthy.

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MR CAPPER: Yes.

COMMISSIONER: Because that's what we want to do, we want to identify the trustworthy information and use it rather than hear what we want to hear about the successes and be misled into error. Can you help me with that?

MR CAPPER: I certainly can. If I could just defer to - I'll obtain a statement in that regard and perhaps file that perhaps later today or tomorrow.

COMMISSIONER: I'm very interested in the integrity of the methodology.

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MR CAPPER: Most certainly, thank you.

COMMISSIONER: Thanks, Mr Capper. We'll stand down before I call on, Mr Haddrick.

THE COMMISSION ADJOURNED AT 10.15 AM

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THE COMMISSION RESUMED AT 11.18 AM

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**HEALY, KAREN** called:

COMMISSIONER: Welcome back, professor. Thank you for coming?---Thank you.

MR HADDRICK: Thank you, Commissioner. Haddrick, H-a-d-d-r-i-c k, initials R.W., of counsel. Counsel assisting, instructed by officers of the commission. In the witness box we have Prof Healy, who was interposed last Wednesday.

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Thank you very much for coming back, professor. I just wish to continue on examining or asking you questions about aspects of your statement?---Mm'hm.

And the submission attached to your statement. Where we got up to last Wednesday, if I recall correctly, was the bottom of page 10 of your submission - sorry, at the top of page 11 of your submission?---Mm'hm.

I asked you some questions about your critique of the expression "front line workers" or "front line employees" in the department. Officers of the commission have kindly provided me with a list of the composition of the department in terms of the make-up of workers, and this information comes from the statement of Mr Brad Swan, who was our first witness here a little while ago?---Mm'hm.

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He advises the commission that there are 1576 persons in the department who are classified as front line - or, sorry, the department classifies them as front line. He identifies the breakdown of that classification as follows: 997 of them are child safety officers; 183 of them are child safety support officers; 41 of them are family group meeting convenors; 54 of them are senior practitioners; nine of them are principal child safety officers; 18 of them are SCAN coordinators; 208 of them are team leaders? ---Mm'hm.

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Now, if I could just return to your submission at the top of page 11. As I indicated, you have criticised the department's classification for persons as front line. If I recall your evidence correctly last Wednesday, you said to do front line you needed to have at least, I think, 40 per cent contact time with the community. Others will correct me if I'm misquoting you on the transcript?---Yes.

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Could you please tell the commission, of those figures that I just read out to you and the classifications, would you agree with Mr Swan's assertion of those persons as front line workers?---Yes.

Who are the people who you say are not front line workers?

5/9/12

HEALY, MS K. XN

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---There's a large group of people in the administrative stream category; people such as policy officers. 1

Yes?---Research support officers. They generally come under the classification of policy officer who were then included in the policy officer numbers. Just, for example, the numbers you've just given me, there are around 300 more CSOs in that number than were there when I collected the figures in around 2008, so that's a substantial increase.

Let me just get this correct. So the figure I gave you, 997, you say that that has grown by about 300 in the last five years?---It seems to have, because it was around 700 at the time. 10

Okay. There couldn't be any chance that the figures have actually grown by that number of people in terms of doing child support officers roles - sorry, child safety officer roles?---They could well have grown. They could well have grown by that amount.

Okay. Roughly, how many people are you aware of working in roles in the department who don't comply with your understanding of what should be a front line employee? 20

---Okay. The figures that you've quoted are not publicly available. You would have to get them from someone like Brad Swan, from the executive of the Department of Communities. That's one of my criticisms. These figures are not publicly accessible. How those figures are - they're never reported in annual reports or any sort of general report to the public and instead the whole group will be over 2000 people easily, who include policy officers, are just referred to as front line workers. If I remember correctly, the words they use in the report are, "Fully 80-plus per cent of our staff are front line," so I'd like to know what the entire staff complement is today. 30  
When I was doing my research in around 2008, it was around 2400 staff, of which 700 were CSOs.

You say that it was around 2400 - do you say?---Yes. Around that, yes.

So there is a difference between that figure and the figure I just quoted you of 1576?---You've just quoted me the front line staff in that, so how many more are employed in that agency.

Okay. Now, you've critiqued Mr Swan's knowledge of the composition of the - sorry?---Yes. 40

You made a comment as to what should be made of the figures that I just provided you. On page 12 of your submission, on the third dot point, you say the following and I'll quote: "There needs to be more accountability from executive decision-making to the front line. Decision-making structures need to be established in the

organisation so that the executive gains insight into the demands of front line practice and understands how the executive decision-making will impact upon the capacity of front line staff to realise the organisation's mission to promote child safety and wellbeing"?---Mm'hm.

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Can I get you to explain what you mean by that?---Yes. The executive makes decisions without reference to the front line staff. There is no feedback loop between the front line, other than through representative organisations such as the union. So, for example, many of our members tell us that they experience an enormous increase in the administrative burden under the new Child Safety regime post-CMC, yet at the same time I was in discussions with the executive and they would often talk about the need for more paperwork without any reference to how that would impact on the time available to work with the clients of the agency.

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When you say you were in discussions with Child Safety, without necessarily identifying the individual persons, what level of management are we talking about?---I'm talking the executive. For a time I met regularly with the executive because I was seeking to assist and support improvement in workplace practices and workforce issues.

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The quote that I just read out to you then appears, if I can put it this way, to be an, at least, applied criticism of the management of the department?---Mm'hm.

Would you agree with that characterisation?---Not necessarily, no. It's a criticism of the systems. The lack of feedback loop. Any functioning system needs good feedback mechanisms in it.

Do you believe, as the situation stands today, that the executive of the department has a comprehensive understanding of what's going on, on the ground, in terms of the delivery of services?---No.

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Why do you hold that view?---Because I believe the structures don't exist for systematic feedback. The feedback that they receive at the executive level is highly filtered rather than systematic.

So do you believe that Mr Swan is seized of the true situation on the ground?---I believe that has a filtered view, and I believe all members of the executive have a filtered view rather than a systematic view of the impact of executive decisions.

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What would you do differently to ensure that the executive has a clear understanding of what's happening on the ground?---I would seek to develop a system whereby there was systematic feedback from front line workers. I'll use the term "front line". We might use another term

5/9/12

HEALY, MS K. XN

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eventually - whereby new ideas, such as the idea that executive might have that we need an extra form or an extra accountability mechanism; but this is discussed with representatives of the front line service delivery around the impact that would have on their capacity to realise the service mission. It's so that there's some kind of systematic rigorous review of the impact of executive decisions at the front line and, similarly, the front line staff can perhaps provide ideas to the executive.

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Now, we've been using the expression "front line" and it was a question I asked of you last Wednesday - - -?---Yes.

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You'd appreciate that the expression "front line" is - - -?---Yes.

- - - a common expression out there in the community currently. With as much particularity as possible, what would you describe as a front line worker and why would you delineate them to other people?---A front line worker to me is someone who spends a substantial amount of their working time in contact with the clients of the agency. The agency exists for the purpose of keeping children safe and I believe it also has a purpose for keeping families together as far as possible; so people who are directly involved in the delivery of services consistent with that mission.

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5/9/12

HEALY, MS K. XN

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Would the person who mans the front counter at a child safety office be called a "frontline worker"?---Actually there's no-one who staffs the counter. There's a receptionist there.

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Yes?---So I guess, yes, they would be a frontline worker.

And they're generally an administrative person, are they?  
---They're an administrative worker, yes.

So you would broaden out the definition of "frontline" from beyond those who necessarily hold the descriptions that I referred to before, that is, child safety officers, child safety support officers, FGM conveners and so on. You would have a broader definition of "frontline workers" than those particular classifications?---Well, a receptionist I would consider a support staff to the professional frontline worker so maybe I'm talking about the person - when I'm using the term "frontline worker", we do need to delineate between the professional frontline worker and support staff for the frontline worker, but also there are layers within support staff so the receptionist who's actually meeting with clients is different to the policy officer working at 33 George Street.

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You've answered a couple of my questions making reference to the policy officers. Do you accept that there does need to be some backbone policy officers who support the department?---Absolutely.

And where would you draw the line between the ones who are required and the ones who are not required?---That's a very interesting question and I don't know where to draw the line. My criticism is that all of these workers were being called frontline and there was no attempt by any previous administration or the current administration so far to tell us what is the value of the workers. How many are needed? No-one actually knows so I can't answer that question and I believe neither can anyone else.

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COMMISSIONER: So that I understand it, what are you saying, everybody is front? There's no backline?---That's how they've been reporting the data. I believe there is a difference between a frontline staff person and I define a frontline staff person as someone who spends a substantial amount of their working week engaged in the direct service deliver consistent with the mission of the agency.

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As opposed to backroom people?---Yes.

And policy people are backroom people?---Absolutely.

You say there's no way of identifying who's properly in the frontline according to an accepted definition of that term and who is more appropriately referred to as a "backroom person"?---In Queensland there's not. In other states

5/9/12

HEALY, MS K. XN

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there is so in other states they do make this delineation, but in Queensland from the early 2000's onward for some reason the government started to adopt in its reporting practices the general term "frontline" to refer to everyone.

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I suppose you can't avoid the social fact that reduction of frontline workers being reported in the newspapers creates more panic than letting go a bureaucrat or a policy-maker in the background?---Possibly; my issue is that it makes it very difficult to have public accountability or public understanding of how these organisations operate.

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So frontline are more highly valued in terms of maintaining staff numbers and revenue bases than policy-makers?---I think that's a reasonable interpretation, yes.

MR HADDRICK: Just before we go on, in your evidence last Wednesday I, of course, pointed out to the commission that you hold a chair in social work at the University of Queensland and you're the national president of the Australian Association of Social Workers, but in one of your answers you indicated that you previously worked for the department. Can you just tell the commission what that role was and what it was?---Yes, I was a family support officer which would today be called a child safety officer between 1988 and 1991 and then I worked at Brisbane Youth Service as a family support worker with vulnerable families until 1993 and at that point I undertook PhD studies, but during my PhD I established a young mothers' support service that is still operating today.

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Okay, thank you. Just returning to your answers to the commissioner's questions just then and also mine, you indicated that in the early 2000's - I don't recall which year you said - that the department staff were reporting on all employees being frontline workers. Did you raise those concerns with anyone in the hierarchy of the department? ---Definitely I raised those concerns with the executive and I think I raised it with the minister as well.

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Now, the ministry has changed a number of times over the years. Which minister did you raise them with?---Well, I had several discussions with Minister Boyle and Minister Keech.

And this is separate to the topics that you spoke about last Wednesday?---Yes.

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What did you put to those ministers?---That I was concerned about the use of the term "frontline staff" as a general term to refer to the majority of staff in the agency whether or not they had contact with clients and one of the reasons I was concerned was that it made interstate comparison impossible. It made transparency in understanding the level of service delivery to families

5/9/12

HEALY, MS K. XN

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impossible to gauge.

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COMMISSIONER: Did you regard it as a misleading name?---I do regard it as that, yes.

MR HADDRICK: Did you say that to those ministers?---I don't know if I used those exact terms.

Do you recall those ministers' responses to you when you raised these concerns?---I don't recall the ministers' response but I do recall the response of people within HR and in fact I have an email where they said, "Don't give us a hard time about the administrative support level in this agency. We need these staff," and I think they used the exact term "hard time" and my - my problem is not with policy or administrative staff. My problem is in calling all these people frontline.

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COMMISSIONER: Sorry, you got the email when you were doing what? How might you have been able to give them a hard time about this issue?---Because I was doing research on workforce comparisons so I was asking for the sorts of figures that "you were reporting" because - earlier about who was actually - "how many CSOs do you have? How many CSSOs do you have in this organisation because they're not available in any of your annual reporting?" It's part of my research to look at workforce comparisons.

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Ethical research wouldn't allow itself to be influenced by the impact of an honest appraisal on a government department, would it?---No; no, they asked me not to give them a hard time.

Yes, but that wouldn't be an unknown feature of independent research, would it?---Absolutely; that's right, yes.

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MR HADDRICK: Do you recall when that was?---It would be 2007-2008 year.

Did they give you any rationale as to why they took the approach that they did?---No.

Either in writing or orally?---No.

When was the last time you raised that at the ministerial office level?---About 2008.

COMMISSIONER: Did you take it as an attempt to influence your independence?---No; no, I took it as part of, you know, that they understood that the reporting of "frontline" - the way they were using the term "frontline" - they understood it was unusual. No other jurisdiction does it in Australia and so it just made interstate comparison impossible.

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You wouldn't soften your criticism, if you were going to

5/9/12

HEALY, MS K. XN

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make any, just because they asked you to, would you?---No; no, I didn't.

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MR HADDRICK: Just returning to your submission again, if I can go back to page 11 of your submission, the second dot point, in the last sentence of that dot point you say some of your members, the AASW members, report that some members of the child safety executive failed to demonstrate a critical understanding of the damaging impact of child removal on individuals, families and communities?---Mm'hm.

Can you tell the commission with as much particularity as possible why you hold that view or why your members hold that view?---I think I gave a similar statement last week when I appeared which is that many members of the executive have no background in this field or practice in child protection so they have - and they have no educational foundation in this field and they seem to have very limited knowledge of matters such as the history of the stolen generation, the forgotten Australians. There is instead a political imperative that they're very concerned about and that is preventing child deaths which is completely, you know, an important mission of the agency, but this doesn't seem to be balanced with addressing the competing interest of the child to maintain a safe connection with their family

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5/9/12

HEALY, MS K. XN

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So the department became extremely concerned about preventing child death at any cost, and that seemed to be associated with a large increase in the number of children taken into care, which I think by any standard meant that a whole lot of false positives in decision-making - - -

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I just want to slow down on this because I want to explore this in a bit more detail?---Yes, sure.

I just want to put this proposition to you and get you to respond to it. Shouldn't it be the first goal of the department in exercising its statutory functions to prevent child deaths?---Yes. But the Department of Child Safety was no more effective in that than the Department of Families.

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Okay. You use the expression there in that second dot point that, "They failed to achieve a critical understanding"?  
---Mm'hm.

If I reverse that around and put that in the positive you're effectively asserting that the leadership of the department - and therefore by implication their ministerial masters, whoever they be at the time - do not have an understanding of the impact of the removal of children on those individuals and their families and their communities?---I do believe they didn't have a strong understanding of that.

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Okay. You've used two examples of policy concerns that you have articulated as the basis on which you hold that view; that is their lack of knowledge or understanding of matters pertaining to the stolen generation and forgotten Australians. Do you have any other policy concerns in terms of their lack of understanding?---My main concern relates to those issues around the traumatic and harmful effect of child removal and the need to avoid that as much as to minimise the likelihood of false positives in this system. There seemed to be no concern with that. I guess a great deal of my concern was around that matter.

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Okay?---The other policy concern - and I guess it relates to workforce - is the lack of understanding of child protection being fundamentally a human process and accept a strong emphasis on it being a legalistic and policing process.

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You use the expression "false positive". What do you mean when you use that expression?---Where a person is found to have abused their child when in fact they haven't. So something being falsely found to be so when it isn't the case.

COMMISSIONER: Is there such a thing as a false negative as well?---Yes, so someone not being found to have abused

5/9/12

HEALY, MS K. XN

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their child when they have. But I don't think our system suffered much from that. It did suffer a little because we did have child deaths, but - - -

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But we compensate by erring on the side of the positive finding when the indicia may not be strong enough to support the conclusion?---I believe so. That's evidenced by the 30-plus increase in children in care but no appreciable difference in the child death rate in the first years of the post-CMC reforms.

MR HADDRICK: In your answer to one of my questions a couple of questions ago you effectively asserted that the department has become risk-averse?---Yes.

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I think we explored some of those issues last Wednesday? ---Mm.

I need to put to you and invite you to comment upon what is so wrong with the department taking an attitude that it is averse to the risk of a child suffering harm?---Because the risk aversion approach only concerned about the potential harm suffered to a child in the home and not the potential harm suffered to a child through their removal and placement in institutions or in alternate care.

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But shouldn't that be a factor that is considered in the deliberations of departmental officials when they form their assessment before they make an application for an order in respect of that child?---Yes. However, as I've mentioned in my evidence last week, that the department became so deprofessionalised that I do not believe it had the capacity to make those deliberations effectively.

So you're saying that the diminution of the academic and/or professional qualifications of the departmental staff have led to the department making decisions that it might not otherwise have taken if it had a greater degree of staff that accord with your view of what should be the professional skill set of that staff?---Absolutely. The other problem - can I just go back to the risk aversion - that it is extremely traumatic for someone - and any of us could imagine this - for a government authority to knock on their door and allege that they have abused or neglected their children. We need to minimise the inappropriate intrusion of government agencies in vulnerable families' lives in ways that are non-supportive and traumatic to them. It is quite widely held and recognised that it is very invasive to have a government authority in one's life unnecessarily, particularly in a policing form. So that's another reason why we need to be careful of a risk aversion that leads to large numbers of notifications and then large numbers of children being taken into care. These events are very traumatic and things that sometimes families never recover from.

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5/9/12

HEALY, MS K. XN

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Can I take you to the bottom of page 12 of your submission?  
---Mm'hm.

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COMMISSIONER: I suppose that's how child protection started as a movement, wasn't it?---Mm.

Cruelty against - the RSPCA was the first anti-cruelty body?---Yes.

And children were treated as human animals within the benefit of the legislation?---Mm.

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And then they set up the societies against cruelty to children in the late 19th century in the US and the UK through charitable and benevolent organisations and essentially there wasn't a lot of difference between the dog catcher and the child protection inspector?---Mm.

They had the same function, to rescue children or animals at risk?---Rescue, yes.

Are we going back to that?---I hope not. Could I actually just make one other point about risk aversion that I think is very important - and when you used the word "benevolent" it reminded me of this - which is that if the state adopts a very large net and it takes a lot of children into care - takes a lot of false positives - and it does things like forcibly remove children, in years to come it will face serious litigation over that. Currently many non-government agencies are facing the threat of litigation as a result of the forced adoptions that happened in the 1960s. These people eventually will start to demand justice for the injustices of a false positive and the trauma it had in their lives. So that's something else to bear in mind, that these people have rights and eventually they may demand that those rights are heard.

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MR HADDRICK: But you accept that the activities of the department are removing children - - - ?---Yes.

- - - or placing orders, that they are all court orders that crystallise that power for the department to do that action?---Yes.

So when you say there might be litigation, you say that knowing that the activities of the department are currently immunised, if I can use that word, by force of a court order to allow them to do what they do?---Yes.

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Okay.

COMMISSIONER: I suppose the risk area for them is making the order - - -?---Yes.

Is making the application for an order needlessly - - - ?

5/9/12

HEALY, MS K. XN

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---That's right, yes.

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- - - or negligently?---Negligently, yes.

MR HADDRICK: I'll just jump ahead in your submission because it relates to what you were just saying?---Yes.

If I take you to page 14 of your submission, the second paragraph, the last sentence?---Mm'hm.

You say:

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There is also some concern that in the political context of child protection an unwritten culture has emanated from senior management placing pressure on frontline workers to lower numbers of cases that are "screened in" as notifications?

---Mm'hm.

I suspect that relates to what you've just been saying to the commission. I just want to give you an opportunity to perhaps tell the commission what is the basis on which you form that view, that there is an unwritten culture emanating from senior management to effectively screen in children?---No, it's to lower the number of children that are screened in. That's because with the introduction of the structured decision-making tools, as I've said recently in my previous evidence, that led to a large increase in the number of children that were being screened in. The reason for that in part was the lack of cultural sensitivity of the structured decision-making tool. It's an American tool, it's just been taken holus bolus, adapted into the Queensland context. So in particular a lot of indigenous children were screened in.

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This comment was from many of our members who worked within the Department of Child Safety Services and they say that a culture has emerged of - well, there was pressure upon them to reduce the numbers of families that were being screened in because of the explosion of numbers following the structure decision-making tool.

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So let me get this right?---Yes.

Your membership has told you that there is pressure being placed upon them - - -?---Yes.

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- - - to try and reduce the number of children who notifications are made against because of the explosion in numbers?---Yes.

When did they make that comment?---This is as part of preparing this submission they made that comment.

Did they give some sort of indication as to the timeline in which they've held that view?---They said around the introduction of the regional intake system. I don't know what year that happened, but I think it was post-2009.

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How widely held is that view?---It's widely held amongst our membership so I haven't had a counterview to that and I've certainly had many views similar to this put to us and I think one of them said the motto on the RIS, the regional intake system, is if in doubt, screen it out.

Just bear with me a second?---Mm'hm.

COMMISSIONER: Sorry, just while that's happening, meaning what?---Meaning screen them out, you know, to reduce the number of families. If you've got any discretion at all, screen the notification out. Don't include it.

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So what's that, a demand reduction strategy?---Yes.

MR HADDRICK: Can I just put this proposition to you: you would appreciate the commission has had a number of witnesses go before you?---Yes.

One of the witnesses was a very senior police officer who has recently been promoted one level higher and he expressed the view towards the end of his evidence that when you inject discretion into the requirement for notifying or not, you find that people are adverse to exercise that discretion. They wish to screen children in so as to effectively - my words, not his - protect their own backsides?---Yes.

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What you have just said to the commission runs contrary to that. If I understand your evidence correctly, you've effectively said that there is a pressure in the department to screen out children as part of the notifications

5/9/12

HEALY, MS K. XN

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process?---Mm'hm.

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Would you care to comment upon that view expressed by the current deputy commissioner?---Well, I think he's correct. I think there might be a human tendency to screen - to seek to screen matters in or to protect oneself and I think there is a culture in the department which isn't surprising. You're getting large numbers of people being screened in to say, "Reduce those screening. We don't have the staff capacity to deal with this."

Putting aside the management of the department, what is the culture amongst the frontline workers of the department, those who actually have to do the job? What is their overall approach to the exercise of discretion that they may or may not have?---Well, I can only speak for our membership but the majority of our membership would seek to minimise the intrusion of child safety services in clients' lives and they would seek to have less intrusive means of engaging with vulnerable families.

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I'm just going to ask you to have a look at a section of the act. I might just ask the commission's officer, do we have a copy of the Child Protection Act that I could put?

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Could I just get you to have a look at page 31, section 10 of the act, please?---Yes.

You have found that?---Yes.

Section 10 says - I'll just read it for transcript purposes, "Who is a child in need of protection?" and it goes on to say, "A child in need of protection is a child who (a) has suffered harm, is suffering harm or is at unacceptable risk of suffering harm and (b) does not have a parent able and willing to protect the child from harm." Do you have a view - you would appreciate that it's that test that is applied to determine whether a child is in need of protection and upon the answer to that test a decision is made in respect of seeking court orders in respect of that child?---Mm'hm.

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Do you have a view as someone who holds a chair in social work whether that test is a suitable test or it's too wide or too narrow?---Well, this isn't a test. It's a statement. I'm happy with that statement.

Yes?---So, sorry, what's the test?

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Well, those two criteria constitute what is defined in law as a child in need of protection?---Yes.

It is the satisfaction of both of those limbs that constitutes when the department can bring - sorry, when the courts can make an order relating to the child. Do you have a view as to whether those other necessary elements of

5/9/12

HEALY, MS K. XN

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deciding when the state - and I mean that in the broad sense, you know, for the body politic - should interfere in the parental child relationship?---Okay. Well, firstly, can I say with point B I would hope the term "parent" was defined reasonably broadly to recognise current social norms which can include caregivers, you know, adult caregivers. My view is that as far as possible the state should seek to support families to safely care for their children. I think that the Queensland government doesn't do a very good job of that right now and we do less well at it than other states and territories of Australia on the whole and that's because we spend a lot less on early intervention and prevention services than other states and we spend a lot more on that more intrusive end. So my view is that we need to find least intrusive ways of helping families, but, sure, there is a group of families for whom more intrusive means are absolutely needed to protect their children.

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In that respect, can I take you to the bottom of page 12 of your submission?---Mm'hm.

At the bottom of page 12 and the top of page 13 you say:

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Of additional concern is that once children enter the statutory child protection system in Queensland the system that is meant to protect and care for them tends to further harm them. This is evidenced by children who end up having multiple placements, inconsistent workers, are returned home too soon or not at all and in the increasing number of young people in care who end up in the Youth Justice System?

---Mm'hm.

Now, that's quite a damning criticism of the system, if I could say to you?---Mm'hm.

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What is your evidence or what is your basis for holding the view that the system "tends to further harm them"?

---Actually this view is really - it's my view, it's a view of many of our members and it's a view quite strongly held internationally that child protection systems can do a lot of harm to families and to the individuals involved. As I've repeatedly said at this commission, we have a lot of knowledge now on the history of the failures of the child protection system, particularly the out-of-home care system in such things as the forgotten Australians. That's in terms of the poor quality care offered to vulnerable children and young people in some alternate care systems, the extreme expense of those systems and the trauma of disconnection from their families. So actually while agree it's damning, it's really not a controversial statement. We know that many children who've been in care for any reasonable amount of time will tell you they've had multiple caseworkers. There are often placement

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5/9/12

HEALY, MS K. XN

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breakdowns, particularly as children become older. 1

Okay. I just want to stop you there because I think it's a very important thing?---Yes.

I want to go through each one of those individual?---Okay.

You say "multiple placement workers"?---Yes.

For the purposes of the transcript so the commissioner can consider this issue down the track, can you explain what is meant by "multiple placement workers"?---I think I said "multiple caseworkers". I meant to say "multiple caseworkers". 10

Sorry?---Well, this is partly due to the very high turnover of staff. As I've said in other parts of my evidence, there's - well, the last time the department publicly released any turnover figures it showed that there is a 73 per cent turnover in three years of staff. Now, what this means at the frontline is that any child who's been in care for a reasonable amount of time is extremely unlikely to have had a caseworker for three years and yet this person is sort of parenting - plays a parental role because they represent the state who is their parent. 20

That perhaps speaks to the multiple placements, but what do you mean by "inconsistent workers"? Is that the same criticism?---Yes.

They are different people?---They're different.

It's what you mean by "inconsistent"?---They're actually different people, yes. There's also the challenge of if a child moves office or a family moves office, they may have a worker who interprets the act completely different so there's a lot of criticisms around differences in ways, practices and protocol adopted between offices, meaning that very different decisions may be made from one office to the next. 30

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You used, on the top of page 13, "Are returned home too soon"?--Mm'hm. 1

Can you tell the commission how often that occurs and what is your evidence for that occurring?--Well, I can't tell you how often these things occur. However, I can tell you that the state as it's currently operating in Queensland, with a strong emphasis on the tertiary end of child protection services, has put a lot of investment into the investigative part so there tends to be more resources put into the investigation and then to immediate placements, particularly foster care placements. Now, foster care placements on the whole tend to suit very young children. They're not as suited to teenagers, so if you have a teenager, it's very unlikely the department will really have any suitable placement options for that child and they may decide to return the child home simply because they really don't have a suitable alternative for that child. 10

I just want to make sure that I understand your answer correctly?--Mm'hm.

You're speaking of circumstances where the department has obtained an order from the court?--Mm'hm. 20

The child is in the guardianship of the chief executive?  
---Yes.

And then the chief executive, through his or her offices, has taken certain decisions about the care and welfare of that particular child?---Yes.

And you say that there are circumstances where they are returned home - whatever that means - too soon?---Yes.

Isn't it desirable outcome for the chief executive to form a view that the child could be returned back to, notionally, their biological family?---It is if there's actually a formal assessment and that is the case, rather than there being really no other option for the child. I must say this is repeated feedback we receive from our members, and myself more generally from workers in the non-government sector. They find it very difficult to believe that the state may have a few years ago taken quite an intrusive action - you know, removed a child - and now the placement has broken down and the child is 13 years old. They don't really have an alternative for that child. It would cost a lot to put them in a residential, so the child can return home now sometimes with no assessment at all of the family. 30 40

So what you effectively said then was that the state takes great care to take the children off the parents initially - - -?---Yes.

- - - but not too long down the track that child's welfare

5/9/12

HEALY, MS K. XN

is left to languish?---It is, and it doesn't seem to be any 1  
- the assessment process for returning a child is nowhere  
near as structured as the decision to take a child into  
care. Nowhere near as structured.

Okay. You say structured?---Mm'hm.

Last time you were in the witness box a week ago, you had  
some things to say about structured decision-making?---  
Mm'hm.

As opposed to professional discretion?---Yes. 10

You've just critiqued the system there as saying it's not  
as structured as it perhaps should be - - -?---Mm'hm.

- - - in terms of when the child should return home.  
Shouldn't that be a question for professional discretion by  
the officers of the department, having already been armed  
with the order of the court to place them in that position  
to exercise that authority?---Not necessarily. Not  
professional discretion alone, although that's an  
interesting point, because my evidence last week, I believe 20  
I said that I could see no problem per se in structured  
decision-making tools. I see a problem with them when  
they're not coupled with professional discretion, which is  
how the designers of structured decision-making tools  
intended them to be used. It is astonishing to me that  
when I have interviewed workers about their decisions to  
release children, they're often quite vague about those  
decisions and it can be driven more by push factors such as  
the lack of placements than about any real assessment of  
the safety of the family. In fact the department doesn't  
keep any data on what happens to children who are released  
from care and, regrettably, Queensland is not on its own in 30  
that respect. Across Australia, government agencies do  
that. They fail to take any account of children who are  
released from care and there's very little information on  
how those decisions are made.

I just want to return to one of the topics I asked you some  
questions about last week?---Yes.

And I explored your professional views in respect of what  
role, if any, the state should have in respect of the  
adoption of children?---Yes.

Since last week, I've come across some statistics I want to 40  
put to you - - -?---Yes.

- - - and get you to comment upon what can be taken from  
those statistics. I'll just read out to you from the  
Department of Child Safety's "Characteristics for parents  
involved in the Queensland Child Protection System, Report  
3, history of contact with the department, August 2008"  
---Mm'hm.

5/9/12

HEALY, MS K. XN

On page 3 of that document it quotes a set of figures from April to June of 2007. It says at the top dot point, "One quarter - that is, 26 per cent - or 181 of the 695 substantiated households have had a history of ongoing departmental intervention, prior to the current substantiation." I take it from those figures, those figures that I just read to you are where the department has had a subsequent interaction with respect to a child where the earlier interaction was substantiated?---Yes.

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Does that say anything to you about the department's ability to manage ongoing issues with respect to whether there are multiple notifications?---It's not surprising. Those figures would be consistent with international evidence on families involved with the Child Protection Services, that there is a substantial subgroup who have ongoing issues. I think the problem for the Department of Child Safety, or what became then known as Child Safety Services, is the complete lack or absence of capacity to engage therapeutically with those families in ways that promote change.

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Would you accept the proposition that there is a sizeable number of children who come to the department's attention through the formal notifications process where they had a sibling who has also come to the notification of the department at an earlier time?---Yes.

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Do you have any idea what sort of numbers we might be talking about?---No.

In that situation where the department has received a notification in respect of, say, child number 2, and an order has already been made in respect of child number 1, what does that say to you about that parent - assuming it's the same parent who had the parental responsibility for the child - that parent's parental skills?---Without any other information other than they've been re-notified, it doesn't tell me much at all about the parents' skills. For example, there could be a range of other factors in the person's environment that have led to this. For example, they may have a malicious neighbour. You know, we don't know. Just re-notification in itself is not a - are you saying it was re-substantiated?

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Re-substantiated?---Re-substantiated, okay. In that case I would say that the parent hasn't received the help that they need to achieve change.

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Do you accept that if a parent is subject to orders in respect to two or more of their children, that perhaps gives rise to an understandable view that that parent does not have the ability to parent other children?---No. Substantiated notification may mean that the parent is in need of help, particularly as the vast majority of notifications are around neglect issues. Now, neglect can

5/9/12

HEALY, MS K. XN

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be extremely serious. Children can die of neglect, but neglect is also something that's quite open to intervention and, with the right support, many of these families could be helped.

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Returning to your submission, if I could take you again to page 13 of your submission, in the second paragraph?  
---Mm'hm.

You say, "Research conducted by" - and you identify some academics there - "found that parents went to Child Protection Services to 'involve them and their children in the assessment and decision-making process rather than simply telling them what to do'"?---Mm'hm.

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Isn't that the point of family group meetings?---That's one of the points of family group meetings, but I would argue that this should be the process adopted from the very beginning of engagement. You cannot simply say one part of the intervention is about involving families if all of your parts have not also had that culture alongside it. So I think the investigation and assessment process should be much more engaging with families and that can lead people to trust the family group meeting process a great deal more.

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But isn't the assessment process at least partially designed to achieve the objective of making a decision as to whether an application will be brought in respect of that child?---Yes, it is, but I believe you cannot have a completely different approach to assessment as you do to family group meetings. In fact, this is one of the criticisms that parents make and other caregivers make of their experience of child safety services, is that first of all they're treated with a great deal of suspicion and then there's some kind of idea that they could possibly move into a family group meetings process and participate as partners in that. It's too big a shift.

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But with respect to them, they would say that, wouldn't they, given that they are being investigated to ascertain whether they have in some way neglected their child and that neglect rises to the level of the child being in need of protection?---Mm'hm.

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So we shouldn't be too concerned that when they are being investigated, that they feel like they're being investigated?---Except that the term is not just investigation, it's investigation and assessment. For the vast majority of these families the children will remain with them. From the outset I believe the agency should be seeking to develop a therapeutic relationship with them.

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But there comes a point when therapeutic isn't the most pressing concern; immediate care and safety of the child (indistinct) concern, does it?---Yes, there comes a point, but in the majority of cases those children will remain in the home.

Okay. At the bottom of page 13 of your submission under the heading Decision-Making Frameworks you say that the system generally, "Operates more and more on a rule of evidence approach as opposed to an evidence-based approach"?---Mm'hm.

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Can I get you to decipher what that means for me?---Sure. This again is feedback from our members. In fact, that's a direct quote from one of our members who currently works in the Department of Child Safety. Their view is that they are more being asked to collect evidence for a court process than adopt evidence around what is best engagement

5/9/12

HEALY, MS K. XN

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with vulnerable families and children to protect children and keep them safe. 1

But you do accept - your organisation or you - - - ?---Yes.

You do accept at the end of the day the machinery of government requires there to be a court process that crystallises in a lawful way the decision-making of departmental officials to allow them that authority to take what action is deemed necessary for the child, don't you? ---I accept that court is one option, but it should be in the minority of cases. The majority of these families never go to court. This is an investigation and assessment that in the vast majority of cases should divert families away from courts and to the services they need to keep their children safe and promote their children's wellbeing. 10

I just want to ask you some generalist questions?---Mm'hm.

They follow on for some of the things I asked you last Wednesday. Do you accept that there are persons who should not be parents?---Persons who are parents are parents regardless of whether they have their children. I accept - - - 20

Sorry, can you say that again for me?---Well, people who become parents remain - they still have the identity of a parent, whether the child is in their care or not.

COMMISSIONER: It's a status?---It's a status. Once you give birth or your partner gives birth to a child you are a parent for life, whether - - -

But it may not be a function?---Yes, it may not be function, correct. However, certainly there are some people who cannot provide a safe home environment for their children. 30

Can you describe what those some people - what their characteristics are?---I can more describe the sorts of acts that would lead to that. Someone who presents life-threatening risk to their child either through their own acts or through the acts of - their incapacity to prevent harm from others around their child. So by that I mean for example a person who might be heavily drug-dependent and cannot provide a safe environment to protect their child from others coming into the home. 40

Okay. You say life-threatening is one threshold or one category of descriptor?---Yes.

What might be other categories or descriptors?---Extremely long-term damage to the child's capacity to function or to reach their potential.

Can you tell us what that might be?---These things, it's

5/9/12

HEALY, MS K. XN

very hard to answer with specificity outside specific cases. 1

But you used the expression "extremely long term", that invites one to compare and contrast to a very short term but equally damaging event that could have exactly the same consequences as an extremely long term. I'll give you an example?---Yes, good.

A household where for instance there is a sexual predator in the household. There may only be one event that constitutes that particularly short-term form of harm, but that may create just as much damage as extreme long-term harm?---Mm'hm. 10

So I'd just invite you to revisit or express a view as to whether you would only classify extremely long-term harm as opposed to short-term harm as being grounds for the person not being able to exercise the parental function?---Well, in the example that you've just given, if the parent then is able to protect their child from that predator - and for example remove the predator from the home - then yes their parenting functions could be resumed. 20

What about in the circumstance of intellectual impairment? ---As I suggested the other day, with regard to intellectual impairment, there's many factors that come into this equation. There are several program operating in Brisbane such as the Community Living program, the WWILD program, where there is support offered to parents experiencing intellectual disability. They have a great deal of success in supporting families to keep their children safe. 30

It might be controversial to explore this topic, but I just want to get on the record your views as someone who holds a chair in social work?---Mm'hm. 30

Do you see sterilisation - albeit in the rarest of cases - as an appropriate policy tool for the state to use in the case of intellectually impaired females?---No.

Why not?---Because it's a violation of a person's right to force sterilisation upon them. If the person chooses or their caregiver chooses with them, consistent with the rule of law to do that, then that might be a private decision; but no, I couldn't support any idea of forced sterilisation. 40

In your answer there you made reference to it being - you touched upon whether they had the capacity to form their own view as to whether they would have that procedure taken upon themselves or done upon themselves?---Mm.

Do you accept the proposition that there are some females who - some persons, they obviously may not be females - who

are not capable or have the capacity to develop informed views as to their own medical treatment?---If there was such a person they would have some kind of guardian. 1

Okay?---They would typically have a guardian to look after their financial affairs and so forth. I don't understand why the state would be making those sorts of decisions.

So you see there is no role for sterilisation at all, albeit in the absolute rarest of occasions, in the policy arsenal - if I could put it in that way - of the state? ---No. 10

COMMISSIONER: Part of the policy of the state is to have either the child guardian or the public trustee in place? ---That's right.

To act on behalf of the - and enforce the rights of the person involved?---Exactly.

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5/9/12

HEALY, MS K. XN

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MR HADDRICK: Can you tell commission or give us an understanding of what is meant by "attachment theory"? ---Okay. Attachment theory has been well established for almost a century and the idea that's very important to the social work and human service professions is the idea of the attachment between the parent and a child or caregiver and a child being foundational to the immediate wellbeing and safety and their long-term psychosocial development, so their development psychologically as well as a socially functioning human being.

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Could you correct me in my understanding of what it means? Does it resemble the following view - and please correct me where I go wrong?---Mm'hm.

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It is a view that is in the best interests of the child or it is in the interests of the child that we foster the relationship between who the child has a relationship with as opposed to necessarily who the child's biological parents are?---I don't accept that view. I believe the child needs to know who their biological parent is. I believe they need as far as possible - we should do everything we can to ensure they have a safe attachment with that person. That is not saying that they should live with them.

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Sorry, I didn't catch that last bit?---I'm not saying that they should necessarily live with them.

COMMISSIONER: Because it's essential to their sense of identity?---Yes, exactly. We know that now through things like IVF and people now who say, "I want to know who my father was." Through sperm donation they're saying, "I now need to know who my father was." So we just know this from so many realms of life, through the forced adoptions inquiry, the forgotten Australians, now through IVF and so forth how important identity is to people.

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Because who we are isn't just a matter of random chance? ---No.

We're made up - 100 per cent of us is 50 per cent of both our parents' DNA?---Yes; yes, and I believe this - - -

What happens if we don't know who we are?---Well, we know from the forced adoption inquiry and to a lesser extent the forgotten Australians it's extremely traumatic for people. They find it very hard to develop a coherent sense of themselves if there's a large piece of the jigsaw missing fro them, who their parents are.

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Do they stop searching?---Some stop searching. We know that again from adoption, from the outcomes of not only forced adoptions but earlier other forms of adoption when adoption was much more commonplace that a small proportion of people stop searching, but it seems the majority want to

know where their biological heritage is.

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So it seems that ignorance of your origins and the identity of your parents has a damaging effect on your psychological and emotional development?---Yes.

Does it have any costs, community costs?---Well, there are some studies to suggest that there's a link between some mental illness, mental distress, and a lack of sense of identity so we could talk about costs in the mental health system as well.

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MR HADDRICK: Does your views just expressed then in respect of one needing to know their biological heritage - do those views underpin your assertions of both last week and today in respect of forced adoptions?---Yes, they are linked to that, but I think not only do we need to know our biological heritage, I think we need the opportunity to have a safe connection with that family because another thing that is very important in my outlook - and this is informed by internationally research as well - is that children not only need to know their parents, they need to know their family, their kin, and this is particularly important for Aboriginal and Torres Strait Islander people who don't hold such a nuclear view of the family that European cultures tend to hold.

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Okay. Just going further on in your submission on page 14, the final paragraph on about the fourth of fifth line down you say, "The department therefore relies much more so on outsourced services to provide family intervention support." That's both an assertion of fact and opinion? ---Mm'hm.

Can you tell us what services you're referring to there - sorry, support you're referring to there and why you hold that assertion of fact or that implicit assertion - sorry, that implicit assertion of opinion that that is a bad thing?---Well, the outsourcing of family intervention services is not per se a bad thing because in fact many people who are involved with the child protection system have had such traumatic dealings that they would find it very hard to accept in-home services from statutory authorities. So I personally and I think many people in our association also believe that the appropriate place for the delivery of some forms of family support service is the non-government sector. The issue in this - - -

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Just before you go on - I just don't want to lose that particular thought - can I give you an example and ask you to comment upon that? You've previously in your evidence talked about the conflict between the helping and the investigation functions of the department?---Yes.

Would it be a useful device to help deal with that conflict between the families being able to trust in the people

5/9/12

HEALY, MS K. XN

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asking them questions without worrying about the  
investigative function if some other functions are  
outsources to organisations other than the department?  
---No, it wouldn't be, and that's because child protection  
is fundamentally a human process. It's about engaging with  
vulnerable human beings.

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Yes, but if the department over here does the investigating  
to decide whether an application should be brought before  
the court for an order and this other organisation delivers  
the more helping end of the spectrum, wouldn't that help to  
resolve the conflict that you say exists in the minds of  
those who have interactions with the department?---No, it  
wouldn't.

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Why?---Well, for a start, what you've talked about actually  
seems exactly the model that the CMC tried to introduce.  
Now, one of the reasons that doesn't work is because all  
the money goes into the investigative end because that's  
what the state is primarily concerned about.

But that's just a resource-balancing issue, isn't it?  
---Yes.

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There's nothing theoretically wrong with that, is there?  
---It's not just a resource-balancing issue. For some  
reason it just never seems to work that way so we have to  
understand why that's not working. The second reason is  
that the investigative process is investigation and  
assessment. So, for example, with nurses you don't say,  
"Well, the nurse will just do this." You can separate all  
the menial tasks out, if you like, you know, the sort of  
emptying vomit or some other bodily excretions. A nurse  
might need to examine those and say, "Oh, look, there's  
something more serious. We need to get people involved  
with this here." It's a similar thing in child protection.  
You need professionally qualified people going to homes  
where they can understand the environment that this child  
and family is living in and possible support services that  
may keep them out of the child protection system and the  
court system.

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But the example you just gave of nurses performing both  
functions to determine whether there is something wrong  
with it and further action might need to be taken as well  
as the support function - that's exactly the same reason  
why those two functions should stay together with  
departmental officials, isn't it?---That's what I'm saying.  
It should stay together so that there is a more holistic  
assessment that occurs, so investigation and a holistic  
assessment process.

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But then how can you possibly break the nexus between - how  
can we in any meaningful way address your concern that  
families who have interactions with a child safety officer  
have a concern that they're more being investigated for a

5/9/12

HEALY, MS K. XN

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crime as opposed to helped out? How can we do that in a meaningful way?---I believe we can do it in a meaningful way through having appropriately professionally qualified workers with the skill base needed to do that. It is quite possible to perform an investigation and assessment in a professional assertive way that is still supporting to families. It's not possible if you start to see one element of it as policing and one element of it as helping. Both of them are together.

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But that doesn't make sense. If you were a family and someone came along and tapped on your door and said, "I'm here from Child Safety Services. I'm here to help," you're still going to believe that you're under investigation, aren't you, no matter how many degrees or how many in-service training sorts of activities that particular person who taps on the door has done?---My observation and experience is it makes a huge difference as to how the worker approaches the problem. If they knock on the door and say, "I'm here to investigate and I'm here to help," in that way, yes, it's quite insensitive, but there are other ways of approaching families to say, "We really do need to look at these concerns," and to assure the family that you are all interested in the best interests of their children.

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Okay. Going on to page 15 of your submission, the third dot point under the heading "Recommendations 20 to 23", you say your organisation recommends a review of the caseloads of child safety officers as part of this inquiry to ascertain levels of case responsibility performed by frontline workers. What do you mean by that recommendation?---Okay. Well, following the CMC inquiry there was a recommendation that caseloads of workers should be no more than 15 and this is because prior to the CMC inquiry - - -

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During the inquiry, it came to light that workers were regularly carrying case loads in excess of 40 clients. Given that we've got about a 36-hour working week, you can see highly vulnerable clients - you might be seeing them once a month.

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Yes, but equally there will be ones you won't see for several weeks?---And there will be ones that you see every day, so I'm talking on average there; so this is very difficult. Now, an interesting problem with the use of the term "front line" for everyone in the agency meant that the case load seemed to be being divided by that total number of workers whether or not they had any client contact. So the department, in public statements, was for a time saying that they were reaching these benchmarks of 15 - - -

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So you're saying that of that total figure, they just divide the total number of cases by the total staff number and that would work out the case load?---Well, I don't know, because I don't know how they do it. They don't make, again, these matters public, but the recommendation of the CMC was that a case worker should not be carrying a case load of more than 15 clients. I can assure you, I have new graduates who in post-CMC times had in excess of 60 clients on their case loads, so it is just - - -

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When you say post-CMC, you mean post-2006?---Yes.

Are you aware of what might be the average currently?---I am not aware of the average currently and, to tell you the truth, I wouldn't necessarily believe the figures the department gave unless it also revealed how it calculated those figures, because for a time they were saying they were reaching the CMC benchmarks, yet because I have contact with newly qualified workers as a result of my role as an educator, in four years of working closely with these people, I only met one person who had a case load anywhere near approximating the CMC recommendation.

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Okay. You say you have contact with newly qualified case workers?---Mm.

Do you have any anecdotal evidence from discussions with them as to what their current case load is or has been in more recent times?---Well, I gave you the example of 60. Someone who was working in a very disadvantaged Aboriginal community had 60 or 61.

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And how long ago was that figure?---That was around 2008.

You do accept the proposition, don't you, that some cases are more troublesome and more onerous to a case officer than other ones?---Absolutely, yes.

So you would accept that there is a degree of artificiality about what the number actually means in terms of workload,

5/9/12

HEALY, MS K. XN

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wouldn't you?---I do, but there doesn't seem to be any attempt to even try and calibrate in the way that your question seems to imply. Certainly many services, such as employment services, they'll give a weighting for a more complex case.

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Yes?---Whereas this doesn't seem to be the case in Child Safety. That example of a new graduate I was talking about, he was dealing with very complex cases and, if I remember correctly, he even said, "I have trouble remembering some of the names of the people on my case load."

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So without naming particular names, you're talking about a particular officer of the department who has a case load who can't recall the names of the children that he's responsible for because of the sheer numbers of children? ---Yes.

Again on page 15 of your submission, recommendation 24. Your organisation recommends that the department "recognise and support front line staff capacity to develop effective professional relationships with vulnerable children and families"?---Mm'hm.

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What does that mean?---It means that they develop a relationship that's capable of promoting change. Change that keeps children safe.

And they don't do that now?---No, I don't believe they do.

Why do you hold that view?---Because the role has moved much more to a policing role. There has also been an escalation in turnover, so that it's quite difficult for them to develop a relationship. One of our, if you like, informants to our submission, had herself had experiences as a child in care and she talked about her case worker sending birthday cards and Christmas cards, and remembering important events in her life. Now, given the status like a parent in this case, this sort of thing was very important to her and to other children who are in care. They've got very little chance today of having a worker who's around long enough for even one birthday.

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Speaking generally, do you hold the view that the state removes too many or too few children from their family environments?---I believe that the Queensland state removes too many children. It certainly was for a time. The figures increased so dramatically compared to other states that the only conclusion I could draw is that some of those were false positives.

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You explained what you mean by false positives before? ---Mm.

So which figures are you referring to previously?---Well,

5/9/12

HEALY, MS K. XN

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there was - post-2005, once the separation of Child Safety from the Family Support occurred and the introduction of structured decision-making tools, over the next few years we saw around a 30 per cent increase in children in care. Now, we didn't see a similar increase in other states. We didn't see a substantial decline in child deaths, so to me something was going on there that wasn't going on in other states. If you see, as I see, that child removal is a very serious step to take to keep children safe, I think we have to consider other alternatives. At the same time we were the only state or territory that had a decline in its family support funding.

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Do you have any anecdotal evidence from your membership base as to why that explosion in numbers occurred?---It's not just anecdotal, it's just what I've said. There were several things that happened. One of the things that's very important is that we saw a decline in family support funding, so there were less services available to help families keep their children safe.

When was that?---Post-2007. I could bring the figures in on another occasion if you wish, but we saw a decline in a proportion of the child protection budget and in real dollars being spent on family support services. This is most unheard of. It's highly unusual across Australia. Why did this occur?

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But that doesn't directly connect why the department would be making application for and successfully obtaining from the court orders in respect of children, does it?---I don't accept - I think it does, because the Act says that it doesn't have a parent able and willing to protect the child from harm. An important role of family support services is to help parents develop the skills and have the supports they need to prevent harm to their children.

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Are there any other reasons why you think that explosion in numbers has occurred?---Well, I hear from members and also from some other researchers that they believe the introduction - the badly implemented introduction - of the structured decision-making tool was also part of the reason; where more and more children were being screened in at that time, so we saw a really big increase in notifications and a risk adverse view that we couldn't take the risk of keeping the children in the home, particularly when there were no family support services or far too few family support services.

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COMMISSIONER: So is it a question of more you screen in, the more you screen in?---Yes.

If I was a protective parent misjudged by the department as a danger to my child, what remedies were available to me, being protective and having my child identified as a false positive?---Mm.

5/9/12

HEALY, MS K. XN

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What do I do about it?---Well, you would need to get legal representation and you would quite possibly need to pay for that yourself. 1

And I'd have to take on the department and show that their decision-making tool had produced an inaccurate result?---Yes, and also many families, they don't have the financial capacity to defend themselves and, secondly, there may be complexities in their life that might lead them to be wary of going into a court environment.

Even though you might have been capable within the statutory definition - - -?---Yes. 10

- - - of a protective parent, you still have to look for some way to - - -?---Yes.

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Which might be a deterrent?---Yes. Any human endeavour is complex and people would quite likely think twice before taking on a government agency around these matters. People feel very disenfranchised. What did also happen - anecdotally, I'm told this, but I've been told it even by senior members of the department - that there was a big increase in parents threatening violence against officers. I think there's just a level of frustration, that there was just nothing that people could do.

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There is a safety net in the system, isn't there? Like, okay, there's a false positive, but in order for that child to get lost in the system, there's lots of barriers to that, aren't there, like the court supervision, like the department working with the family, reassessing the family - the parent's capacity, the short and long-term orders? ---Sure. Look, the majority of these children go home, but it's after a very intrusive, often traumatic experience if they've been falsely brought into the system.

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And then you're marked with that?---Yes.

And it's a mark against your name forever?---Yes, as far as - I mean, these things are mostly confidential, but still - - -

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Yes, but not to the department?---Not to the department, that's correct.

So having been substantiated once - - - ?---Yes, and having your child removed will be a very big mark against - - -

Puts you in a bad light if you don't fight against it again.

MR HADDRICK: Can I just ask you, I want to put to you a conundrum that was put to the commission some time ago. Again it came from current Deputy Commissioner Stewart, who told the commission that under the current operational procedures of the Queensland police service where the police have been called out to a house where a domestic violence incident has occurred, if a child lives at that house, regardless of whether the child was there whilst this incident occurred, the police under their own operational procedures automatically notify that child and that family to the department for possible investigation? ---Mm.

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Wearing in your professor of social work hat, does that strike you as perhaps a bit of overkill in terms of the need to notify the department to do an investigation?---The department doesn't have to do an investigation once it's notified. It can just take these matters on note; you know, can note that there's been a notification to them. They may decide not to investigate. I see no problem with the police needing to notify with there's a domestic

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5/9/12

HEALY, MS K. XN

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violence in a home. One of the reasons I see no problem with that is that domestic violence poses very serious risk to child safety and I think child safety authorities should be aware of it.

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COMMISSIONER: Did I see somewhere that one of the department's key performance indicators was that it investigates 100 per cent of the reports it receives? It takes longer than other states, but their investigation rate is much higher than any other state as well. I might be wrong about that - mistaken - but I think by comparison it takes Victoria or New South Wales - their approach is you investigate everything?---Mm.

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It takes longer to do and you come up with a lot of cases that don't reach the threshold?---Unsubstantiated, yes.

So you spend a lot of time finding out what you never needed to know?---Yes.

And there doesn't seem to be - at least there hasn't been explained to me yet what the procedures are within the department for passing that information on to a more appropriate place for appropriate action - - - ?---Yes.

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- - - whether that's family support or - - - ?---Or domestic violence specialist service, would be another place, yes.

Yes, so I'm no - do you know? Do you know once a thing is not substantiated what happens to the not substantiated information?---No, it's just - as far as I know it's just collected within the agency. If a case is investigated there's also the option of just referring people to a referral for active intervention, various family support options, but there's no compulsion on the family to follow up on that.

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MR HADDRICK: Mr Commissioner, I think Prof Linda Apelt gave that evidence that you're referring to, but I think she also suggested it was probably an overkill.

COMMISSIONER: Right. I've certainly seen it in some of the document as well?---Yes.

MR HADDRICK: Can I just return you to that proposition? ---Mm.

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Mum and dad at home, Friday night; dad's come home, he's been out on the drink, just to give a sort of stereotypical example here?---Yes.

They have one child, he's 16 years old?---Mm'hm.

He's not at home, he's off wherever; domestic violence incident occurs. Shouldn't the police in that circumstance

have the discretion not to necessarily bog down themselves and the department with the paperwork of having to notify the department that this incident occurred so that an investigation could occur?---I'm not sure about that because in that instance we just don't know the background. Unless the police person had the capacity to fully assess the history of the domestic violence - this is how the parents may have presented it, it was a one-off incidence, and I think you really need other people involved who maybe can make that fuller assessment.

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But earlier in your evidence you - in answer to a number of my questions the underlying tenant, if I could say, to those answers was effectively that we screen too many children in as needing the care of the department, if I can put it in that expression, be it intervention or indeed court orders intervention?---Mm.

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Wouldn't it be useful if where it's more than likely the case where there isn't a child who is in need of protection according to the statutory definition, that the police should have that discretion not to have to make a notification to the department?---My concern is that domestic violence is so strongly associated with known child harm. The act of domestic violence itself is harmful to children - being witness, being around it - and in child death cases domestic violence is often present. So it's one of those really important risk factors. That's why I think the department should be aware of it.

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So speaking globally, how do we get down the number of notifications the department has to process?---I believe we have to have a much more effective family support system. I think some of these families would not come to the attention of the agency if there was more effective diversion prior to that.

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But isn't it when they come to the attention of the department that the department then refers them to the secondary services that keeps them away from the tertiary end of the spectrum? They still come to the attention of the department and there's still an assessment/investigation, isn't there?---That's one pathway, but other pathways are for example through hospitals. For example, when a vulnerable parent has a child, the hospitals have the discretion to then - the hospital social worker could say, "We really would like you to be involved with a particular support service," bring that support service into the hospital to meet with the family and form a connection with them before the child goes home. And that could avert some of these problems.

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COMMISSIONER: Don't they do that now?---They do do that now, but I'm just saying that there could be more of that, because we have so few services. Our mix of services in Queensland is a large part of the problem. Many people

5/9/12

HEALY, MS K. XN

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believe that. One of the damning things in all this is the very low proportion of expenditure on family support services in the state. It's less than half that - - -

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So would you shift some of the \$773 million that's used to fund the tertiary intervention down towards the front and use it to fund family support systems within a different division of the department?---Yes. If it were up to me, what I would be doing is really reviewing your bureaucratic overhead in the Department of Child Safety or Child Safety Services. I would try to really understand what role that bureaucracy played, how it helped the work of the front line. I would shift some of the funding, definitely, towards more early intervention of family support. The tertiary intervention end should be a tip of the iceberg, not the main part of the berg.

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And the funding of the tertiary intervention should reflect that?---Yes, it should. It should. And if you compare us with any other state, we spend a much greater proportion of a child protection funding on that investigative end than on family support end. It's quite alarming, the difference we have in - - -

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Parkinson's law is that time, money and space expand according to what's available?---Yes, exactly.

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Is that what's happened here?---I believe so. We've had an enormous expansion in our child protection budget, to some extent with no appreciable positive outcome.

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But it might have had positive outcomes if it had been redirected to family support?---I believe so.

MR HADDRICK: Can I take you to page 96 of the act there and in particular section 62?---Okay.

It's the section entitled "Duration of Child Protection Orders"?---96.

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Page 96?---Yes; yes.

Can you see in subsection (2) there that it says, "If an order does not grant custody or guardianship, the maximum duration of an order is not more than one year from the day the order is made"?---Mm'hm.

And under (2)(b) it says, "If the order does grant custody or short-term guardianship, it must be not more than two years from that day and if it grants long-term guardianship of the child, it must end on the day before the child turns 18." Having regard to all your answers today and last Wednesday about the need of finding a way back for those children to in some way be returned to their families, if I can put it in that expression, do you see any value in there being another option available to the court so that it fills the gap between sort of the two years and the possibly 18 years in the case of a long-term guardianship?---Mm.

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I'll give you an example. Do you see any value in, say, five-year orders?---Well, I'm not sure about that and one of the reasons is that I think that we need to provide children with permanency and stability. I don't think today Queensland child protection services have done that very well, but at the end of two years we should have a sense of whether the child is going to be returned or not to the family or if there's going to be some sort of other relationship that needs to be developed where the person is still a parent but they're not the custodial parent. My concern with a five-year order is that it could produce a lot of instability in the child's life. So if the child is three, what happens when they're eight? Could we conceive of them being returned when they're eight if they've had a stable placement for five years? So there's concern with a five-year order from that angle.

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On the flip side of that, is there any value or can we make anything of the fact that a child might be in need of care at the age of two but the parent - at least one parent has got their act into gear by the time that child enters high school and it might be a good idea to where possible open the door to that parent having full legal responsibility

5/9/12

HEALY, MS K. XN

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for that child at that juncture in that child's life? 1  
---Well, my understanding is that a parent can do that if  
they get their act together. They can apply to the courts  
for a reconsideration of the guardianship order. It rarely  
happens and what - - -

Sorry, is it regularly or rarely?---It rarely happens, but  
what more commonly happens is that the child turns 12 or  
13, they've had multiple placements and they'd go home  
anyway.

When they go home anyway, the chief executive just simply 10  
lets that occur?---Yes.

Can I take you to a final issue at page 16 of your  
submission? It's perhaps a mechanical/technical point?  
---Yes.

In the second dot point you refer to the effectiveness of  
QCAT, the Queensland Civil and Administrative Tribunal,  
processes?---Yes.

The submission says that the key to an effective QCAT 20  
process remains having a multidisciplinary tribunal panel  
with child protection expertise being crucial?---Mm'hm.

You go on to say your association would further support the  
need for an increased focus on ensuring all tribunal  
members have particular understanding and expertise in  
child protection matters as opposed to general tribunal  
experience?---Mm'hm.

When you say "all tribunal members", you mean all tribunal 30  
members who hear matters relating to children, don't you?  
---Yes; yes.

Obviously not the wider - - -?---Yes.

What sort of expertise are you thinking of there?---Well, 40  
I'm thinking of an understanding of the sorts of issues  
around attachment, around child abuse and neglect, but also  
fundamentally an understanding of how the child protection  
system operates. My experience of QCAT is that they're  
often dealing with people who felt very frustrated by the  
system, confused about things like why the family group  
meeting wasn't more a solution-finding meeting, so the  
person needs to understand how this current system  
operates.

You do appreciate that QCAT is a multidisciplinary  
administrative tribunal?---Yes.

Not just staffed with lawyers but with a variety of  
professionals in a variety of backgrounds?---Yes.

What do you say with as much as particularity as possible

5/9/12

HEALY, MS K. XN

is the error in the way that QCAT is run?---Well, I think it's actually running very well from what I'm seeing. We're wanting to support QCAT because it is a point at which people from a variety of backgrounds come and assess how a child-protection decision has been made.

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But that's not what your submission gives rise to the imputation of. It says "support the need for an increased focus", "an increased focus"?---Mm.

By that you mean currently there is not that level of focus that there needs to be, so from that we have to take a criticism of QCAT, or would I be putting too much emphasis on the words "an increased focus"?---I think perhaps you are putting a bit too much. The members of the association are very satisfied with QCAT as a forum and we would just like to see more emphasis put on that forum as a place where families can and children can seek further clarification of the decision that was made in relation to them.

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Just as a final topic on the QCAT, as you're aware, currently orders under the Child Protection Act are made by the Children's Court which is constituted by a magistrate? ---Yes.

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It's conducted wherever the Magistrates Court sits? ---Mm'hm.

Would you like to see QCAT play a larger role and, if so, why in making those sorts of orders instead of magistrates?---I'm uncertain of that and I would really need to speak to with out members about their view. The feedback that we received from our members is that in some of the courts the magistrate may have very limited knowledge of the child protection system. So, for example, I understand that in some courts the magistrate is a general magistrate. He has Children's Court matters in addition to a range of other matters and this can sometimes lead to inconsistencies in decision-making. This is the feedback I received.

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Yes, I appreciate that. Can that deficiency be resolved by greater training or expertise by those magistrates who make decisions under the Child Protection Act?---I'm unsure, you know, because I see child protection as much more closely akin to things like family law. Now, in family law there are specialist judges in that field. It seems interesting to me that we don't adopt that model in child protection.

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COMMISSIONER: What do you mean, that they're superior court judges who are making the same sorts of decisions as magistrates in the state system?---No, what I mean by it is that the family law court judge specialises in being a family law court judge, whereas a Children's Court magistrate may one day, I understand, be hearing completely

5/9/12

HEALY, MS K. XN

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different matters, nothing to do with child protection and then on other days managing child protection matters. We don't do that with family law. That's my understanding. 1

No, we don't. I'm not sure that the jury is not out on the question of whether we should?---Yes.

I mean, there is always an argument between having generalist decision-makers and specialist decision-makers? ---Yes.

The Family Law Act does require an aptitude or experience in making family-related decisions so you need to have a background?---Yes. 10

Or at least if you don't have a background, you need to have the ability to rapidly acquire the skills necessary in that jurisdiction?---Mm.

In the world we live in, how would we do that given the geography of Queensland?---Mm.

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How would we place and where would we place, how would we fund, child protection specialist decision-makers, whether they're magistrates or QCAT members or something else?--- Look, I would need to go back to my members and put these questions to them. It's not a very strong view. There's ambivalence about it, as well. There is just some critical feedback around the fact that some magistrates appear to lack expertise in the child protection system - not the Child Protection Act, but the child protection system - and that leads to inconsistencies in decision-making.

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Even so, I suppose experience in a particular type of litigation is never a guarantee of predictability or consistency - - -?---No.

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That's why we've got the Full Court or the Family Court? ---Yes.

You can appeal from these experienced specialist judges? ---Yes, but we're dealing with a very different sub-population in child protection to the population you deal with in the Family Court and their capacity to appeal and so forth is much more limited.

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MR HADDRICK: That's the end of my questions, Mr Commissioner. I'm just conscious of how long Prof Healy has been in the box. Perhaps a short 10-minute break to give her a moment before we proceed on?

COMMISSIONER: I don't know. We'll give the option to the professor?---I'd like that, please.

Would you?---Yes, just 10 minutes. Thank you.

THE COMMISSION ADJOURNED AT 11.59 AM

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THE COMMISSION RESUMED AT 12.11 PM

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MR HADDRICK: As I said before the break, that's the completion of questions in chief to Prof Healy, Commissioner.

COMMISSIONER: Yes, Mr Hanger.

MR HANGER: There are two things that I want to say before I deal with the professor. First is that obviously a failure to challenge arguments that the professor puts up isn't taken as accepting them in any way, shape or form. There are thousands of arguments being put up by everybody and we're listening to them all. Some might be good, some might be bad. I'm not going to start debating the arguments with the professor. The second thing is this, sir, in terms of some matters of fact that come from witnesses, one could waste many hours cross-examining, and I'm not going to.

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For example, if a witness says, "The department has spent \$10 on this," and my instructions are the government has spent \$20 on this, there is no point in debating that with the professor, who has obviously given evidence that she believes to be correct, because she's going to say, "I don't know," or, "I can't say," or, "I don't agree." So I'm not going to join issue on factual matters that don't need the joinder of issue on.

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COMMISSIONER: Yes. No, I understand that. If it's not going to make any difference to the outcome then why waste time doing it? In the long term if I'm going to be making an adverse finding of fact you'll get notice.

MR HANGER: Of course.

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COMMISSIONER: And then you can deal with it then.

MR HANGER: Yes.

COMMISSIONER: And if you don't get put on notice then it wasn't going to make any difference.

MR HANGER: That's right. That's the way it seems to me. I could spend hours, but it would be wasting time, so I have no questions of the witness.

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COMMISSIONER: Okay, thank you. Ms Ekanayake.

MS EKANAYAKE: Thank you, Commissioner.

Prof Healy, Jennifer Ekanayake of the Aboriginal and Torres Strait Islander Legal Service. Start with page 5 of the submission attached to your statement?---Mm'hm.

5/9/12

HEALY, MS K. XXN

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At top of page 5 - - - ?---Mm'hm.

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- - - you mention - or you referred - or the submission refers to the difficulties in finding teachers and foster carers due in part to blue card requirements that automatically preclude many Aboriginal and Torres Strait Islander people. Could you comment on that?---I believe that William Hayward spoke very well to this the other day, that the feedback from our members and also in Mr Hayward's submission there was a discussion about firstly people sometimes not having the documentation needed to see them through the blue card process; the perception of it being yet another bureaucratic process that they needed support to be walked through. I understand there's also a cost attached to blue cards.

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Do you have information that these applicants might not be meeting the blue card requirements of the legislative requirements of blue cards?---The feedback from our members is not so much that people may not meet those requirements, it is more that they find the process onerous and that they may not have the necessary paperwork to complete the blue card requirements.

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Thank you. Going to page 6 of the submission, the submission makes reference to FGMs, family group meetings? ---Mm'hm.

The research or the information that's been brought back to you, to what extent are independent convenors used at family group meetings?---Independent family group meeting convenors are rarely used. There is only one non-government agency in Queensland funded to provide FGMs - family group meetings. There is also occasional use of private practitioners. Those private practitioners tell me they're brought in when there's a politically sensitive matter.

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You mentioned one service that's funded. Could you inform the commission about that?---Sure. That service is the Logan Youth and Family service. They're a non-government agency that provides outreach to vulnerable children and young people and families. They run a family mediation service and as part of that they run a family group meetings process.

Have you observed these convenors at work or have you had information given back to you about how effective or not effective they are?---I conducted a study between 2008 and 2011 looking at these family group meetings and in that process I observed the meeting area of the family group meeting at Logan City. I had a research assistant sit in on those meetings, record those meetings, do an ethnographic study of the meetings, and compared those to the meetings that occurred in the department, and there was

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5/9/12

HEALY, MS K. XXN

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an appreciable difference in the meetings.

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In what sense?---In the sense that for a start there was much more time spent in preparing the families and ensuring that all the voices of different family members, including the children, were represented. So there was at least 10 hours spent in preparation work. The families felt much assured that they were going into an independent process, so the family convenor spent time with each party, also with the child protection agency. It was much higher levels of satisfaction with that meeting process overall than with the departmental based ones. That said, there were some very good meetings within the department and in most of those cases it was people who'd had independent mediation training.

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Thank you, professor. On page 7 of the submission there's reference to a case planning for children?---Yes.

What information do you have about case plans and how the implementation of case plans? Whether or if - or the rate at which the implementation takes place?---I understand that a case plan is developed for every child that comes into the care system. I don't particularly hear criticisms of whether a case plan occurs, it's more how well the case plan is implemented. I hear a lot of criticisms from our members about transition from care and the lack of case planning around that. The other criticism I hear is the lack of support for families who have their children in the home to be supported to keep those children in the home - any sort of case planning around that.

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Thank you, professor. Moving to page 9 of the submission, the second dot point?---Yes.

There's reference to - it says, "The failure of child protection authority to involve Aboriginal and Torres Strait Islander workers in a meaningful way"?---Mm'hm.

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Would you like to comment on that or explain what you mean by "more meaningful way"?---Okay. This again is feedback from our members and they believe that the recognised entities are not fully respected in the child protection decision-making process; that they're invited in to be present but they're not really involved in the decision-making process that would be respectful and meaningful to them.

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Are you familiar with the Aboriginal Islander Child - I think it was the ACCA services? Are you familiar with that model at all?---That used to exist?

Yes?---Yes, I am aware of them. As a child safety worker I used to work with them.

What do you recall of how they operated?---That was more a

5/9/12

HEALY, MS K. XXN

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personal experience that I had and working as a departmental worker. My recollection was that they were actually very effective, but that may have been the particular offices within which I worked where we developed a relationship with those workers and we engaged them in the case management process.

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Thank you, professor. Moving to page 13 of the submission, you commented on children being returned to families sooner than they should have?---Mm.

What are your thoughts on children who run away or frequently - who are placed with carers, stable homes with carers, but keep running away to their families or a parent?---I think each case is different so it's hard to make a general statement about children running away, but I think my evidence to this commission has - in my evidence I've repeatedly stated that children will often want to maintain a safe connection with their family and running away may be one way of them wanting to reconnect with their families. I think that there needs to be very good casework practise in trying to understand why some children will continually return to families, whether or not they're safe.

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Thank you. Page 15 of the submission at the fifth line?  
---Yes.

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There is a reference to, "Most family support services are time limited. That is, three months in duration"?---Mm'hm.

Could you explain that or the knowledge that you have of - - -?---Yes, services - again, this was feedback from our members, but services can be provided with time-limited funding so that their reporting figures are in relation to the provision of a short term program or a specified period of support for the family.

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And how might this affect the ongoing work with the family?  
---Well, the majority of clients that come to the attention of the child protection services in this state, and in fact any state or territory of Australia, face chronic issues to do with social disadvantage and typically issues related to one or a combination of the following: mental health issues, domestic violence issues, drug and alcohol issues or some form of disability issue. These issues will never be resolved in a three-month period and the need for ongoing support is obvious if these families are to be enabled to keep their children safe. I believe it's also cost-effective to do so.

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Thank you, professor. I have no further questions.

COMMISSIONER: Thanks very much, Ms Ekanayake. Yes, Ms Wood, do you - - -

MS WOOD: I have no questions, Commissioner.

MR CAPPER: Thank you. Craig Capper for the Commission for Children and Young People and Child Guardian?---Mm'hm.

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At page 7 of your submission you indicate that in the Commission for Children and Young People and Child Guardian Act you refer to - 2000 -4A?---Mm'hm.

"Child safety officers facing - possibility of criminal liability if they are found to have been negligent in their practice"?---Mm'hm.

What are you referring to there?---They can be held liable if they have made a decision where they haven't taken into account the full facts of the situation.

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You're saying that occurs under the Commission for Children and Young People and Child Guardian Act?---I understand so.

Okay. I'd certainly invite you to have a look at the Act and refer you to the - - -?---Mm'hm.

You said 4A. I'm not sure. Is that section 4A, part

5/9/12

HEALY, MS K. XXN

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4A? I'm not sure what you're referring to?---I couldn't tell you again - yes. 1

Okay?---Is this incorrect legally?

I'm just asking. This is in your submission?---Yes.

So I'm trying to ascertain where that information came from?---Yes.

And what specifically you're referring to at that point? ---Okay. Well, I'm referring to the fact that front line child safety workers are very concerned about the personal liability they bear for adverse outcomes in decision-making. 10

Okay. So the fact that you're saying is that the child protection workers are scared of that issue?---Yes.

Not that they are criminally liable?---Well, I understood them to be criminally liable.

Okay. I've asked that a copy of the Act be given to you. There is no section 4A under our Act?---Okay. 20

It could be possibly part 4A of the unamended Act, the previous Act?---Okay.

It was changed in 2010?---Okay.

That related to the Child Death Case Review Committee? ---Yes.

Is that what you're referring to or - - -?---Possibly, yes. Yes. 30

Possibly?---Yes.

But you're not sure what you're referring to with this section?---I'm not sure now, no.

Okay. Certainly on my reading, and I'm happy to be corrected - and I've had the Act passed to you for that purpose - there is nothing in the commission's Act that says the CSO is criminally liable for actions of negligence?---Okay, but there was previously?

Not that I'm aware of. They are my instructions. There has never been a provision - - -?---There has never been in this section 4A before? 40

Not on my instructions, no?---Okay.

COMMISSIONER: Did you think it was a positive provision made for liability or was it a default position?---I understood it was a positive provision, so I - - -

5/9/12

HEALY, MS K. XXN

It's unusual in our - - -?---Yes.

It's unusual to provide for criminal liability positively?  
---Yes, okay.

In Queensland.

MR CAPPER: So the only way a person would be criminally liable would be the same - a CSO particularly, and this is what we're referring to in relation to your submission?  
---Mm'hm.

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Would only be the same standard of criminal liability that applies to every person in every activity in every job, not just the CSOs.

COMMISSIONER: Which in that context would probably mean criminal negligence which has the moral perpetude dimension to it?---Sure. It may be that if this was in the previous Act, that some of our members still have memory of that.

MR CAPPER: No. As I'm saying, my instructions are - I'm saying part 4A relates to - - -?---Child death reviews.

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- - - the Child Death Review Committee?---Yes.

But there has never been, as I'm aware and on my instructions, a provision that creates positive criminal liability for child safety officers?---Okay.

COMMISSIONER: But it may be a genuine fear based on misconception?---Yes. There may be misconception around that and there's certainly conception that the Child Death Review process is about looking at their individual practice and assessing their liability.

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MR CAPPER: Now, certainly the Commissioner is obliged under section 25 to refer criminal matters where they're aware that a person has committed a criminal offence to - - -?---Mm'hm.

But under no other circumstances. You say that matters in relation to Child Death Review - have you got any examples of where Child Death Review cases have in fact actually been referred for criminal sanction or referred for some other issue?---No, not from our members, but the fear is with them.

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Okay. So there's a fear that this may one day happen?  
---Yes.

But it has not happened as far as you're aware?---Yes.  
Correct, yes.

5/9/12

HEALY, MS K. XXN

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Now, in relation to the Child Death Review, during the course of your evidence you were certainly indicating that you wanted - and part of your submission says that you would like to see the departmental front line staff, as you refer to them - - -?---Yes.

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- - - involved in those review processes?---Yes.

Okay. Is that at the departmental level or at the Child Death Case Review committee level?---The feedback from our members is that some of the decision-making or review processes do not necessarily take into account the complexity of the factors that they're working with and they feel quite disconnected, alienated and even fearful of these processes. Their sense is that if they could be involved in these processes more, people with current front line experience, not only might it reduce the fear of these processes, it may also contribute to solutions that were more meaningful for the front line worker.

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Okay. You do accept that there are two levels of Child Death Review? There is a two-tier process that's engaged in. Do you accept that?---Yes.

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Or are you aware of that?---I'm not really aware of that. Tell me more about the two steps.

Well, this is what I'm asking. You're saying that you want your members to be involved in the Child Death Reviews. I'm trying to work out where you see them fitting into that process?---Mm'hm.

Certainly where a child dies that is known to the department, within a period of time there is certainly a review undertaken by the department?---Mm'hm.

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You would expect that your members should be involved in that?---Yes, my members would like to be involved in the review process rather than feeling quite separate from it. Not the person who is under investigation obviously, but the members would like more option to be involved with it, yes.

And then after the department has conducted its review of the death - - -?---Yes.

- - - the matter is then separately undertaken?---Yes.

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In a separate review by the Child Death Review Committee, which is chaired by the Commission for Children, Young People and Child Guardian?---Yes.

Certainly the Act is very clear under section 18 that the Child Death Case Review committee is an independent review? ---Yes.

Surely you wouldn't expect that your members should be

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involved in the independent review of the department's actions or the conduct of the staff in - whether or not there were any issues in that original review?---I'd like to know how the members are selected for that review team and of course not all of our members work for the Department of Child Safety, or now what's called Child Safety Services.

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So you're not aware of the current membership of the Child Death Review Committee?---No.

So you can't comment on whether or not that's currently appropriate or inappropriate?---No, and also how are they recruited? How are these people selected?

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Now, you've indicated just a few moments ago when you were asked about the issues relating to blue cards - - -?---Mm.

You indicated there that Mr Hayward had indicated that there were some difficulties - let me show you it. In fact, Mr Hayward's evidence was on the basis that he considered the initial application wasn't particularly a difficulty?---Yes.

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But it was where there was a return to criminal history - - -?---Right.

- - - that that ongoing process of engaging in the submissions process, as it were, was where the complexity started to arise?---Right.

Do you agree that?---Yes. My recollection of his evidence - and I was here when he gave it - was that it was walking through that later process that was very difficult for people.

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And you've also indicated that the other difficulties that you see with the blue card process as an inhibitor to Aboriginal and Torres Strait Islander people engaging in the process is because of the identification process that's involved?---Yes.

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Are you aware of what the requirements are for identification for a worker?---Not off the top of my head but I have one so I've applied for one, and this is again feedback from our members who are trying to organise kinship care. This is the feedback they received from the Aboriginal and Torres Strait Islander people.

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And are you aware that the commission specifically has a form for alternative identification specifically noting that Aboriginal and Torres Strait Islander people who don't have identification can simply fill out that form and have somebody in a position of authority, school principals or somebody like that, declare that they are who they say they are?---Well, I'm not specifically aware of that and neither obviously are some Aboriginal and Torres Strait Islander people because this is the feedback that they give to our members when we're trying to organise kinship care for these children.

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And you understand that the blue card application process is actually undertaken by the Department of Child Safety screening unit. They're the ones who actually facilitate this whole process and make the applications on behalf of kinship carers. Are you suggesting they're not aware that this is a process that can be undertaken?---I am suggesting that a lot of people who might use this system are not aware of that and even how you describe it sounds quite bureaucratic to them and they just go. It's all too difficult.

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So it's too bureaucratic to fill out a form and say, "I don't have any ID documents," and have somebody witness it just to say, "This is Mary Bloggs"?---They're simply not aware of that and this again is feedback from our members who are on a day-to-day basis trying to organise kinship care. They gave us the feedback around the difficulties of accessing blue cards so maybe the information you've provided needs to be better communicated in that community.

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But you would agree though that the commission being advised of and satisfied of a person's identity is very important for the assessment of whether they're suitable - you know, their eligibility to have a blue card and to work with children in this area?---Sure.

Now, from my understanding of the evidence you have been giving about the standardised decision-making tools, you're not critical of the fact that there is a standardised tool. You're critical of the current one being used and that it's not necessarily fit for purpose is your suggestion. Is that right?---That's part of my criticism. The criticism that I've received both from workers in the department but also from researchers in this area, including international researchers is they feel it's being very poorly implemented in Queensland where there has been some confusion that the structure decision-maker tool can replace professional

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5/9/12

HEALY, MS K. XXN

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discretion, whereas the designers of these tools have always argued that the two should be together. 1

So the issue is more about not necessarily throwing away the decision-making tools but rather looking at how it's being used, firstly - - -?---Yes.

- - - and, from the evidence I'm getting, your view is that you've also made comments about the fact that there's some bias or cultural insensitivity in those documents. You would ask that they be reviewed to apply to a Queensland context as opposed to an international context?---Yes, I'd ask for that review. It's again a criticism that's frequently made. 10

Now, you said at page 5 of your submissions that there are difficulties in finding suitable kinship and foster carers in part due to blue card requirements?---Mm'hm.

What aspects do you say are contributing to that?---Well, again I think it's that perception that it's very difficult to get a blue card.

So as far as you're aware there's no actual impediment to people getting blue cards. It's just a perception out there that there may be some difficulties?---Yes, and also there may be a cultural issue around becoming part of the system. I'm not sure. Again this is feedback from our members. 20

Okay. So you're not making any specific suggestions that the offences that stop people from getting blue cards is wrong or the threshold is wrong or any of those things?---No; no.

You just think there's a perception out there?---There's a perception and it may also be that if you're not going to allow one family member to have this - and we're talking "family" in a much more extensive kinship network way - that it will be disloyal for other people in that network to apply for that - to participate in that same system. 30

You certainly indicate recommendations 2 and 3 - at page 4 you say there's a reference to a whole-of-government responsibility for funding for at-risk families?---Yes.

You say at page 6, recommendation 6 that the Child Protection Act should be amended to mandate the state's responsibilities for early intervention and prevention. At page 8 and 9, recommendation 10 you say there's a lack of balance in the tertiary child protection system compared to early intervention and a lack of transparency of funding. In your view, where does the responsibility lie for the coordination and funding of those services, particularly both statutory and the secondary services?---Well, I think there should be a single department responsible for both or 40

5/9/12

HEALY, MS K. XXN



certainly be managed within a single agency so all levels of child protection service systems be in a single agency. One of the problems with the split that happened post-CMC was the family support side became very devalued and in fact the Department of Communities wasn't even quite certain about how much funding it was allocating to family support services. It's very hard to get clear financial data on the amount of family support funding, and for myself as a researcher in this area I would have to piece together different parts of funding in different parts of the Department of Communities' annual general books, so how much harder must it be for people in the community who are not working in this area all the time?

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I guess the point I'm getting to is: where does that investment go? Who's responsible for it? Who monitors it? How do we measure it in your opinion?---I think we have to have a single agency doing it.

Do all of those things, including both the tertiary and the secondary services, the referrals, the monitoring, the performance management, making sure that we're meeting all those requirements?---Yes. Other states and territories do it. We're the only ones that try to do the split and I think it's been a failure.

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Now, when we had evidence previously from Ms Linda Apelt, she indicated that there was a notion of hump funding required to bolster the secondary services and that they needed to come up to par before we could remove any further funding or transfer any funding from the tertiary service? ---Yes.

Do you agree with that notion or would you suggest an alternate?---I agree with that notion. I think it needs to be done in a very considered way. There's so much about the system we don't understand because the data has been so confused.

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Thank you.

COMMISSIONER: Mr Haddrick?

MR HADDRICK: Nothing in reply and I think that is the end of this witness's evidence, commissioner.

COMMISSIONER: Professor, thank you very much for your time and for coming back at short notice today. We appreciate it and I'm sure it does inform the findings and recommendations I'm making?---Thank you for giving me your interest.

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Thank you. You are formally excused from further attendance, professor, thank you?---Thank you.

WITNESS WITHDREW

5/9/12

HEALY, MS K. XXN

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05092012 15/CES(BRIS) (Carmody CMR)

COMMISSIONER: Yes, Mr Haddrick?

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MR HADDRICK: That takes us to the end of the witnesses for today, as I am instructed, and so we resume here tomorrow.

COMMISSIONER: Okay. 10 o'clock tomorrow morning.

THE COMMISSION ADJOURNED AT 12.38 PM  
UNTIL THURSDAY, 6 SEPTEMBER 2012

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5/9/12

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