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TRANSCRIPT OF PROCEEDINGS

THE HONOURABLE TIMOTHY FRANCIS CARMODY SC, Commissioner

MS K McMILLAN SC, Counsel Assisting
MR M COPLEY SC, Counsel Assisting

IN THE MATTER OF THE COMMISSIONS INQUIRY ACT 1950

COMMISSIONS OF INQUIRY ORDER (No. 1) 2012

QUEENSLAND CHILD PROTECTION COMMISSION OF INQUIRY

BEENLEIGH

..DATE 4/10/2012

Continued from 3/10/2012

..DAY 22

THE COMMISSION RESUMED AT 9.35 AM

COMMISSIONER: Thank you. Good morning everyone. Mr Haddrick.

MR HADDRICK: Thank you, Commissioner. For the purposes of the transcript I appear, Haddrick, initials RW, of counsel, counsel assisting, instructed by officers of the commission. Do you wish to take appearances, Commissioner?

COMMISSIONER: I note appearances as yesterday.

MR HADDRICK: Thank you. We return to the evidence of the officer of yesterday, officer Waugh.

WAUGH, PETER called:

MR HADDRICK: Officer, I want to return to some of the topics that I asked you some questions about yesterday. One of them was in relation to the issue of missing persons. I want to show you this document, please? ---Thank you.

Do you recognise that document?---Yes, I do.

What is that document?---It's a document I prepared in 2008 that related to missing persons in residential child facilities.

Okay. It's a four-page document for the purposes of the transcript?---That's correct.

Can I get you to turn over to page 3 of that document, please. Can you explain the information provided on page 3?---It's a document that relates to missing people living in residential care facilities in the Logan district between the periods 2005 to 2006, 2007 to 2008. Breaks it down in totals, males, females, DOCS - whether they're in DOCS care or DOCS involvement, and a percentage of totals.

Okay. When it describes missing persons in the top left-hand corner next to the arrow, are they people who are reported as missing - - -?---Yes.

- - - to just your unit, or the QPS in general?---The Logan district.

The Logan district, but just to your unit in the Logan district, or to QPS in general?---No, to QPS for children residing in the Logan district.

Okay. And so if I compare the far left column with the far right column - - -?---Yes.

- - - sorry, the second left column with the far right

column, so in 05-06 there were 369 children who were reported as missing?---Yes.

And of that, 63 per cent of those children were children who are either in residential care or subject of some sort of protection order?---Yes, that is correct.

Okay. And in 2007 and 2008 that figure goes up dramatically to 556 but the percentage decreases slightly to 45 per cent. Is that correct?---That's correct.

Do you have any more up-to-date figures for the figures for the years post 2008?---No, I don't.

Can I get you to turn over the page. Can you explain this page to the commission?---Basically it's from QPS holdings, from the material there, is we identified a large number of missing people who are in care of DOCS and cared by private care facilities and groups and housed within the community. Basically is from the investigation of the data we identified a number of repeat calls for services, children that were the cause of repeat calls for service, as in reported missing.

So they were the subject of the report?---Correct.

Yes?---And whether - the last column identifies whether or not they were in DOCS care and housed in residential care facilities.

Over what time frame do those figures in the second column reflect?---I can't be exactly sure, but it would have been 2005 to 2008.

Okay?---I believe.

Just for the benefit of the other parties at the bar table, I'll be making an application for a non-publication order in respect of the children in a moment. But going through the names there, so for instance, just so we're absolutely clear about what this information is: a child - or a then child - by the name of (name suppressed) was reported missing - - -

MR HANGER: I object to mentioning names. I'm just making an objection.

COMMISSIONER: Is this person now an adult?

MR HADDRICK: We don't know, Mr Commissioner.

MR HANGER: I'm just looking after the interests of the child on behalf of the director.

COMMISSIONER: Yes.

MR HANGER: We suggest that these matters - call him A or B or something, rather than mentioning names.

MR HADDRICK: I propose to resolve this issue by a non-publication order as to the names of the children.

COMMISSIONER: But we're publishing it in here, that's all. It won't be published outside of here, but it's published to the people who are in here.

MR HADDRICK: Certainly. Okay, I'll work on the - I'm happy to - - -

COMMISSIONER: (indistinct) live streaming as well.

MR HADDRICK: Certainly. Okay - - -

COMMISSIONER: I think we might be in luck. It might not be working, as usual, but anyway, that's another issue (indistinct)

MR HANGER: Would you direct non-publication of that name?

COMMISSIONER: I will.

MR HADDRICK: We'll just call him the first person mentioned in the table?---Yes.

So for the purposes of the completeness of transcript, that child or person was reported missing 34 times?---Correct.

And he was known to the Department of Community Services? ---Correct.

I said "known to the Department of Community Services", do you have any idea as to what the status of that particular child was?---No, I don't.

Okay. As the officer in charge of the unit with 22 years' experience in this field, what do these figures tell you about the missing persons system in respect of children who are known to the Department of Community Services?---As you could imagine, being reported 34 times would be a considerable workload placed on the QPS - our unit - being reported. From my experience is every case must be looked at, at its merit. However, is looking at this to be - it's not consistent with a person being a missing person; it is a person that's absconded, that had made a choice to leave the residence and to return at his own volition. It's not a person that is classed as a missing person that is at risk.

Can I just run this fact or scenario or possibility past you - and correct me as I articulate each of these steps - you receive - or your officers receive a report of a

missing person from the carer? That's how it occurs? ---Carer, DOCS, yes - - -

Okay?--- - - - a member of the public, as the case may be.

When they - - -

COMMISSIONER: Sorry, do carers have to report a child in care missing under either the service agreement? I know they have to report to DOCS if the caring relationship has broken down under the legislation.

MR HADDRICK: Perhaps Mr Hanger is best placed to answer that question, Commissioner.

COMMISSIONER: Okay.

MR HANGER: It's usually done under the service-provider's own internal policy rather than - - -

COMMISSIONER: It's not required by the department?

MR HANGER: No, not required by the department. That's what - we can check on that, but that's my understanding of the situation.

COMMISSIONER: Yes. There seems to be a lot of other people imposing their policy on yours, like Woolworths making you open your bags for inspection. It might be part of their policy, but it may not be yours.

MR HADDRICK: My instructions accord with that, that there is no positive obligation but it is worked out between the department and the carer when the arrangement is entered into.

COMMISSIONER: It just seems all too convenient to pass the buck to the police and then - I mean, it costs money for the police to respond to these calls, I suppose. And the other thing it does is it means they're not available for another sort of call that might be more urgent or pressing. And you can't take them back anyway, can you, once you catch them?---That's correct.

Like the dog that caught the car, you don't know what to do with it?---If we do manage to take them back a lot of times is they're gone before the paperwork is completed.

They're just AWOL, are they?---Yes, that's correct.

MR HADDRICK: But just in that respect of taking them back, I just want to check whether this is what might be occurring on some occasions: your officers receive a report of a missing person from the carer?---Yes.

The carer advises you where that child is when they provide

that report of a missing person?---Yes.

That child could be in the CBD when the carer's house is located in Beaudesert, for argument's sake?---Yes.

Your officers attend upon the child in the CBD?---Yes.

And it's your duty to return the child back to the carer's residence in Beaudesert?---At times that has occurred, yes.

Officer, aren't you just being used as a blue-light taxi? ---I wouldn't put it that way but our services are being used to return children to care.

When you say your services are being used to return children to care, are we talking about multiple times or single times with individual children?---I'm aware that it's occurred on multiple occasions.

How often do you think that this might be occurring, that your officers are advised where the child is that's so-called missing and that they then return the child back to the carer's residence?---I couldn't give you accurate figures, and I can say that on times where DOCS or the residential care parents are available on most occasions we are able to get them to do it. However, DOCS are only available between the hours of 9.00 to 5.00. Residential care people normally have minimal staff on to manage the children that they have in the house.

COMMISSIONER: There are other children to be worried about as well?---That's correct. So in the scheme of things on a lot of occasions it's left to the QPS.

MR HADDRICK: Just picking up on that theme of what the QPS does in terms of after-hours service, you mention in your statement - and I'm just looking for the paragraph number and those around might quickly tell me where it is in respect of what services you provide after hours, paragraph 45 of your statement on page 9. We touched upon this briefly yesterday and I asked you who should be doing these functions and you said the Department of Community Services. Can I get you to explain more fully to the commission what sort of things your officers are doing after hours which are best done by the Department of Community Services rather than your officers?
---As I said before, the QPS is the only 24/7 agency. As a result, it impacts significantly on us. Removal of children under orders - if we become aware of a situation where a child needs to be removed, it's the QPS that does it. Transporting of those children, whether or not it's one facility to the next - to another facility, for whatever reason it breaks down, the QPS would undertake those duties. Whether or not it's welfare checks - on a number of times we've been asked because of - to conduct welfare checks on children because an assessment has not been able to be completed during the daytime hours or it's incomplete. So to check on a child's welfare until that full assessment can be done, the QPS conduct that welfare assessment to see whether the child's done.

Does need to be you and your officers doing that function? ---It's normally not able to be done by CPIU staff. It's normally done by a general duties officer who has little experience in child protection work.

And the real reason that they're doing the function is they're the only one on duty at that point in time? ---That's correct.

What sort of services do you think should be provided by the department that has primary responsibility for doing all those functions?---In my opinion they should have an ability to perform their full services 24 hours a day seven days a week, as the Police Service are.

What would that involve from their perspective?---It might need a staff model. It might need, for instance, a covering crew. For instance, in the Beenleigh area it might need one office to actually have - and I'll grab figures out of the sky - five people, seven people, whatever it takes, but a suitable number of staff that can respond to whatever the child protection issue is at the time.

Yes?---For instance, there might be a vast difference between Biloela and Logan Central. Biloela might be able to perform all their duties by one person on a call-out basis and Logan City can't.

Now, you said earlier in your evidence - it was either in your statement or yesterday. You identified the number of child safety offices, that is, offices, the actual facilities, that are located in your district. Can you refresh our memory as to how many there are - sorry, paragraph 35 on page 7 of your statement you've identified that you interact with six Child Safety Service centres, Beaudesert, Beenleigh, Browns Plains, Logan Central, Loganlea and Woodridge. Would it be a reasonable proposition that to address the concern that you've identified to this commission about after-hours service that through some sort of rotation model those offices rotate the responsibility for providing after-hours service to the children who are subject to orders where the department has responsibility for them?---I see that that model has merit. It may be the fact that, as you say, Logan Central does it for a period of time that covers all those areas. It rotates through from there, similar to what the QPS does with a night wireless car which does the police functions, the investigative functions, over a period of night. We have a car that does the detective functions over the periods between 10.00 to 6.00, the night hours.

COMMISSIONER: But the police - under the Child Protection Act you have got powers and responsibilities up to the

point of an assessment order being applied for or made, haven't you?---That's correct.

Is that where your child welfare or protection responsibilities should end, once it's gone into the department's forensic investigation and assessment process?---As QPS, we all have functions of protecting the community.

Yes, and children are part of it?---And children are part of it. However, due to the volume is - the volume is - it is in their sphere. My point of view is they are the lead agency in child protection.

So you should only do - your position is that police should do what the child protection agency can't reasonably do, whereas at the moment you're saying they're not trying hard enough and leaving a lot of it to you to pick up the slack when just a bit of managerial re-organisation would allow them to discharge their primary responsibilities as parent?---Yes.

If the department wasn't the parent, it's a bit hard to translate the more common situation where you have two parents in a family or one parent in a family and the child goes missing. Maybe a parent would conduct the searches and report the child missing as a last resort sort of thing after they have exhausted all their contacts and you're saying that that's what the department should do as parent as well?---Yes. What I'm also saying is the QPS is responsible for the investigation of crimes. That's one of our portfolios and a big percentage of our portfolios. Child Safety are responsible for the protection of children. Their primary function is the protection of children. The primary function of the QPS is the protection of life and property. That's our primary function. At the moment the impact of doing the child protection work after hours is impacting on our ability to perform our primary function of protecting life and property and the community.

MR HADDRICK: I just want to make sure I understand the facts correctly. I'm instructed that there is an after-hours telephone service that the department provides. Are you aware of that?---Crisis Care or Child Safety after hours, yes.

Now, are you aware of whether that service has changed in recent times over the preceding years?---It may have changed slightly but in fact is - my experience up till now is they are still unable to respond - I'll correct that. They are unable to respond to the full state. On very, very, very rare occasions do they physically come and response to a child protection investigation that's undertaken in our area.

So you're not aware of services shrinking or contracting a few years ago in terms of after-hours services by the department?---I'm aware that they had very few numbers that were manning a phone system that had information to access, but to actually come out and physically do a job, that happened on very, very, very rare occasions due to capacity.

COMMISSIONER: Well, I suppose it was one thing to take a call, it's another thing to respond to it?---Certainly.

It's not like you're got an ambulance or a police car parked in the carpark, is it? I mean, that's what you're saying, that even if they got the call they still wouldn't be able to respond to it because they haven't got a wireless car, for example?---Correct. That's right.

Their own wireless car, anyway?---That's right.

MR HADDRICK: I'm not sure whether you're in a position to give evidence as to this point, officer, but from your experience of many years as an officer of the Queensland Police Service, which government - and I suppose the question answers itself. Which government agency would be able to do those services cheaper, QPS or the Department of Community Services, those after hours services? ---Department of Community Services. I'm not sure of the exact pay scales, however it's their primary function, I believe, and they should be actually doing the duties.

COMMISSIONER: Would you have two people to respond to absconding or missing persons?---Yes.

MR HADDRICK: Can I now take you back to some evidence you gave yesterday about - - -

COMMISSIONER: Sorry to interrupt, but do they have - the child safety officer has got an ongoing role even though the child is in care or under long-term guardianship orders, doesn't he or her?

MR HADDRICK: I'm instructed that would be the case. Certainly the legal obligation would continue with the chief executive of the department and then the chief executive would delegate that to whichever officer he or she chose.

COMMISSIONER: So do you know who the child safety officer for say that person A on the list is?---No.

Would it help if you did?---Very, very limited, because they don't come out anyway.

MR HADDRICK: What do you mean, they don't come out? ---Well, if the child is missing they don't respond to that child.

COMMISSIONER: So all you could do after the event is say, "We had to pick him up again last night"?---That's right.

Have a word to him, see how that goes?---37 times. I don't think it works.

MR HADDRICK: Just returning to a topic I asked you some

questions about yesterday and page 4 of your statement, paragraph 22 and 23. You deposed to the commission evidence in relation to your officers' obligations placed upon the QPS by the Child Protection (Offender Reporting) legislation. I just want to make sure that we understand clearly what those obligations are and what sort of resources are consumed in performing those obligations. Now, you will recall your evidence yesterday was that there was about 100 or so persons in this police district who you and your officers needed to keep tabs on, if I can put it that way. Can I invite you to perhaps tell us a bit more about the size or the number of those people, how they're classified and what sort of obligations that your officers have in respect of keeping tabs on those people?---Right. Reportable offenders are basically normally people that have been convicted of sexual offending against children or serious criminal offences that have been committed against children. The legislation requires that they have reporting periods between seven and up to life, depending on the offence or the number of offences that have been committed. As a result of the legislation they are required to report to the police for an initial report. In that initial report details are obtained from the person as to – including names, residential addresses, Internet, who they're living with, motor vehicles they use, tattoos they're using – tattoos they have, and if anything was to change over that period between when they first register and up until 15 years or in some cases life they are then required to come back to the police station and actually report those changes.

So if an offender goes and gets a tattoo, an additional tattoo they're required to come and - - -?---They're required to report to the police. We are then required to record that on our systems, send that through. It's a lengthy process. In doing that the legislation also requires that on a yearly basis they make an annual report. So again, they come into the police station and they report again the details that they have, confirm the details that we have from them. Offenders are basically categorised from a SORAT, a risk assessment that's actually done. It's based on a number of things, including the offences committed, whether they're residing with children, et cetera. There's a number of issues that can rise or lower the risk assessment from there.

What are the names of each of the categories?---Categories start at very high, high, medium, and I don't think we have a low.

Okay. I think Mr Hanger wishes to ask the commissioner a question.

COMMISSIONER: Yes, Mr Hanger?

MR HANGER: Yes. You asked a question and thanks to

modern technology, this is the answer.

COMMISSIONER: You have the answer, Mr Hanger.

MR HANGER: Well, I have – yes, I have an answer. My instructions, in answer to the question do residential services have an obligation imposed on them to report a person who absconds to the police, the only legislative obligation on residential services is under section 148, which is to report harm to the child – sorry, technology problems now.

COMMISSIONER: Yes.

MR HANGER: Thank you. Which is to report harm to children in licensed care service to the department. There is then a policy to report children who are missing to the police immediately if a child is under 12 years or any suspicious circumstances or where a child has run away and is over 12 years if we - - -

COMMISSIONER: You've got to scroll down, Mr Hanger.

MR HANGER: Yes, it's different from my phone. If we don't know where they are after 24 hours. It's a police policy, that they want the last person to have seen the child to make the report.

COMMISSIONER: All right. Well, we might get a comment on that, but I think there is another reporting obligation under the act, and that is if the placement has broken down then the carer has to notify.

MR HANGER: Yes.

COMMISSIONER: As I understand it, and tell the department what the address is, if known.

MR HANGER: Yes.

COMMISSIONER: But other than that, I don't think there are any.

MR HANGER: No, but I suspect what the senior sergeant is referring to are not placements breaking down - - -

COMMISSIONER: Yes, that's right.

MR HANGER: - - - just kids running away for - - -

COMMISSIONER: So it's policy – someone's policy, anyway.

MR HADDRICK: Now, you were just explaining the names of the categories which the offenders fall in, in terms of reporting obligations. Can I just get you to continue there?---The QPS policy and management policy requires us

to have face-to-face contact with these people on a three-monthly basis only of the very high and the high. As I said yesterday, the ones that I referred to, the 100 odd, were in the high and the very high. There is another group that are actually in the medium or lower. We are also required to actually still do the yearly reporting on those, we are still required to do the tattoos, the changes, and one of the big ones now is change of Internet addresses, et cetera. So each time they change an Internet address or a mobile phone number or technology they come into the police station and are required to report that again.

COMMISSIONER: Do they have to report an add one, even if they keep the other one?---Yes. Yes, employment is another one, overseas travel, interstate travel, contact with children.

MR HADDRICK: You said yesterday there are about 100 who fell in those top two categories. Now, I think, if I understood you correctly, there's one further category beneath that?---Yes.

How many people in the Logan district roughly fall into that category?---The low?

Yes?---As I said, I don't think we have a low. We have a very high, we have a high and we have a medium.

Okay?---I don't think we class any of them as low.

Okay, well, those in the medium category, what is the number of persons who are classified as medium?---They would be approximately 200.

So there would be 300 or so persons through the time of the cycle of the reporting obligations that your officers need to in one way or another keep tabs on?---Over 300. There is also another class which we're not legislatively obliged to monitor.

And who are they?---We have persons of interest. For what other reasons, we've identified people in the community who we believe may pose a risk to children.

And they're people who aren't caught in any framework of the legislation?---They're not caught. We're not legislatively required to report on those. However, the QPS has taken it - we have identified that that person for whatever reason - it may be the fact that he's been found not guilty in a court; it may be the fact that a person has - we don't quite have the evidence to suggest that he has committed the offence; or it may be the fact that prior to this legislation coming into - he is a convicted offender.

Yes. So they're people who you have intelligence upon? ---Yes.

Who may have committed an offence?---Yes.

Or simply the offence may have occurred prior to the introduction of the legislation?---Correct.

Okay. In terms of resources, what sort of resources does the Logan district dedicate to those monitoring functions associated with those reporting obligations?---To fulfil our duties and do the monitoring of the people we're required to, basically we run an operation in the Logan district. We found that to be possibly the best way to manage. We run an operation involving all staff from the child protection unit. We - - -

What does "run an operation" mean for us lay people? ---Sorry. We conduct an operation which basically we organise all our available resources, being resources from the QPS. We're able to obtain resources from crime operations command, and from times from the flying squad. Utilising all those resources over a three-day period we go into - three days, whatever it takes - we go and do our face-to-face interaction, monitoring of the offenders.

How many people are involved in that?---Our office has 32. Where possible I put all my resources from my office into doing that. Whatever I can get from crime ops when they come down, two, three; flying squad, at times we've had between - - -

So two to three people - - -?---Two to three officers - - -

- - - who are not connected to your office - - -? ---Correct.

- - - but are other officers from QPS who come and assist you with that particular function?---Yes.

How many from your actual office are dedicated effectively

full-time to that function?---Full-time - I relocate resources that would normally be doing child protection work or to do juvenile justice work to then be fully utilised on that operation to do face-to-face monitoring over those three days.

How many people does that involve? How many people from your office?---If I can roster them all on it's 32. At times it gets down because of days off, court, et cetera; then it's 20.

Okay. And so these are officers who but for performing this statutory function, they would be doing other child protection-related work?---Correct.

I want to take you to page 6 and page 7 of your statement. You express a view - and I'm going to read it out and invite you to comment further upon it.

COMMISSIONER: Just before you do that, did you want to tender that schedule?

MR HADDRICK: Yes, if I could, please, Commissioner. I tender the schedule and I make a formal application for a non-publication order in respect of the names on page 4.

COMMISSIONER: The 2008 conference document dated 25 November 2008 will be admitted and marked exhibit 74.

ADMITTED AND MARKED: "EXHIBIT 74"

COMMISSIONER: It may be published except for the names mentioned under the heading on the last page, Repeat Missing Persons. Are you happy with that, Mr Hanger?

MR HANGER: Yes.

MR HADDRICK: Going to paragraph 33 of your statement, I'll read it out for the purposes of the transcript, you say:

> *In my view, the current legislation and policy model relating to care facilities is not adequate for the proper supervision, safety and welfare of children who are exhibiting extreme and/or unmanageable behaviours. Careful consideration of a containment model for extreme cases should be undertaken. Such a model would not rely on the voluntariness of a child; it would be utilised where deemed appropriate for the immediate and long term safety, welfare, rehabilitation and education of the child. Such a model would require staffing by appropriately trained professionals who can provide a stable environment to allow interventions, treatment or supports to occur.*

Can I invite you to tell the commission in more detail what you mean by a containment model?---I'll start by saying I'm not an expert in this field. It's very difficult, but the situation is - - -

Just before you go on, you've had 22 years in child safety with the Queensland police service?---That's correct.

Continue?---We are reliant on present legislation. We are relying on the voluntariness of children to stay in an environment. It doesn't work. We're in a situation where we're trying to give them support; we're trying to get them in a stable sphere where we can start to work with them. In relying on their voluntariness to actually do that is they continue to leave, they continue to come back. We're not in a position to do any significant proper work with them to improve them.

COMMISSIONER: So we're relying on them to obey the unenforceable?---Exactly right. As with the - I say missing persons - they come and go as they please. No meaningful work can be done when a child can decide, "I don't want to go. I don't want to attend. I don't want to do it." Whatever case plan can be put in place at the time; child safety may put in a case plan to actually work with this child, the child can derail that by purely going, "I'm not going. I'm going to move from this house to the next house. I don't feel like it." No meaningful work can be done at all. From my point of view is work takes a period of time, so to have a situation where a child comes and goes - - -

So to do anything meaningful you have to engage. And if it's left up to them to choose to engage, the chances are, they won't. They'll choose not to. So how do you focus their attention and get them to engage?---From my beliefs we're spending many millions of dollars housing these people in a situation and trying to work with them when purely and simply if they don't want to engage, they walk away. We've got to be able to come up with a model where we have the children in our care, in our contact, so we can actually start the work. It's no good making an appointment from my point of view for a child to see a psychologist, psychiatrist, or whatever, at 10 o'clock on Friday afternoon, if the kid goes, "I'm not going." If the kid wants to talk at 10 o'clock at night because the time is right for that child to express their feelings, we've got to be in a position then to actually reach out and provide, because that could be the opportunity we're looking for.

So what are you saying, you've got to limit their choice to refuse?---Sorry, I - - -

Well, how do you get them to engage? Is it more coercive

than it is at the moment?---At the moment it's purely and simply their goodwill.

Okay, so how do you - - -?---Or their want.

What do you change it to?---We change - and again, I'm not an expert, but in my way of thinking is we need a situation where the children are, by legislation - "you are required to be at this premises" - and I'm not saying at where - medical, whether educational, psychological, whatever is there on a 24/7 basis where they are required to stay there and can be made stay there. There have previously been models which have actually utilised a similar - - -

MR HADDRICK: Just so that the commission understands your suggestion, are you proposing that there be another option other than a residential care facility that has got a greater degree of services provided at that one facility? ---Absolutely. Whether it be education; whether it be access to social workers 24/7; whether it be carers - - -

COMMISSIONER: I see, you bring the service to them, not them to the service?---I'm saying there should be a facility - there should be a facility established where these children can be brought and kept by legislation and the services are made available from that facility.

And they don't get to decide?---They don't get to decide.

MR HADDRICK: Now, you describe that as a containment model. You would appreciate that living in residential facilities right now are kids who don't cause any problem at all but are there because of their circumstances - quite frankly, the circumstances of their parents - and there are kids there who are there because in part - and I stress it is in part - they have behavioural problems?---Yes.

Do you accept that such a solution would only address one part of the kids who are currently in residential facilities?---For sure; and there's different models for containment facilities as well. There are situations - I regularly receive phone calls from mental health workers, liaison officers, "Hi, how you going? We have" - and I'll use a name - "Mary Smith. Mary Smith is a child that's being sexually abused. She's 14 years of age. She's placed in a residential care facility. She's not staying. She won't go to appointments. She won't do this. What can you do, the police?" My reply is, "We will respond but when we get there, we have no legislative ability to make her go to appointments." I ask them, "Is she subject of any other orders, as in can we have her assesses under an EEO?" "No, she's not insane," so we can't enforce that order and I then say - the police turn up on this instance. A young girl goes - in this instance she regularly takes her clothes off and runs down the street. What do the police do then? We end up in a situation where enforcement action is required. She's 14 years of age. Does that help the situation? In my ways, no. We need to be able to, in my opinion, have that girl in a stable environment where we can address her needs, where she can't run away and we can start to work through. It will then - I hope we get to a situation where we've broken in; we've given her some assistance; we've moved on; we've found out. It may be then that she has an ability to go and live in a residential care.

COMMISSIONER: What do you mean, something between residential care and detention?---Yes.

And what, force feed them with the help they need whether they know they need it or want it or not?---Yes. We're spending, on my recollections, many millions of dollars.

So cost effectiveness is obviously an important element and there's going to be a tension between that and human rights?---There is, but the alternative, as I see it, is we then get to a situation where some of these people are then going to a detention centre, a juvenile detention centre or, as they're getting older, they're going to gaol. We need to get in early. We need to have these kids in a situation where we can actually give them some care without the kid taking control or the child.

MR HADDRICK: Just so you're not taken out of context, you're referring to those children who are currently in residential or could be in residential facilities who have very pronounced behavioural problems that could require more intensive assistance?---Definitely. I'm not talking about everyone. I'm definitely not talking about everyone, but there are cases down there, as been discussed here, where kids have significant behavioural issues.

COMMISSIONER: Which themselves are an impediment to them getting the help they need?---Correct, and there are also situations where they're possibly putting the community at some danger.

Right. So in order to address these behavioural problems and their consequences for the child and everyone else you're suggesting that there be a facility of containment which they would be required to be placed by law until - to enable them to get the help they need. Is that right? ---Correct, yes.

All right. You said that there were models elsewhere for that?---What I understand is there's been models in Canada. We've previously had models in the state that have worked on a similar principle.

In disabilities?---No.

No?---From what I understand - and I'm more than prepared to get some names and report back to the commission if that's - - -

MR HADDRICK: What you might be referring to, commissioner, is the provisions under the Disability Services Act that permits in the cases where a disabled person - I don't want to use the incorrect language here, but there are significant behavioural problems associated with a disabled person and the department can apply for an order from the court to - - -

COMMISSIONER: That's a restrictive practices order.

MR HADDRICK: Yes. I think they were called Carter orders and that allows them to take more coercive action than they otherwise would have been able to.

COMMISSIONER: Yes, that's because they are violent and they need to be contained to get treatment, but they are already in a facility, wouldn't they be?

MR HADDRICK: They would be subject to a - if we're talking about children who are currently in a residential facility, they would be subject to an order by a magistrate that they be in the care of the chief executive and there would be a case plan that would have been approved as well

in the making of that order and the chief executive, at least at the time that order was made, would have had to put the proposed plan before the court, but the model suggested here today, in my submission, invites consideration of whether there needed to be a further consideration judicially of what conditions should be attached to particular orders for a child who is deemed to be able to get something out of such a facility.

COMMISSIONER: It really would amount, wouldn't it, to detention for therapeutic purposes rather than for punitive ones.

MR HADDRICK: The "detention" word if problematic.

COMMISSIONER: I know, but we have got to stop beating around the bush. I think this is part of the problem. People don't say what they mean and there are no facts. There are just interpretations of facts. What other word would you use?

MR HADDRICK: I will leave that for submissions further down the track, commissioner.

COMMISSIONER: What you are saying is what's happening at the moment is unsatisfactory because the children aren't staying where they have been placed?---That's right.

They are becoming misplaced?---That's correct.

In many cases they're misplacing themselves?---Yes.

And the people who are responsible for them as a substitute parent aren't capable of retaking and replacing them back where they should be and keeping them there?---Correct.

So there's some deficiency in the system, whether it's the human aspect of it or the structural or the supervisory role of the department, that needs to be strengthened to ensure somehow that children so-called, that is, any child under 18 who is in the care of the department or for whom the chief executive is the long-term guardian, have to be controlled, just as other children in other family situations are?---Yes, and I think it's important to say the control is a mechanism so they can get help for their issues. We can't help them for their issues unless we have some control and some ability to have them in a stable environment. We can't help them.

And the first step to getting help is knowing that you need it and if you don't know that you need it, then you have to find that out somehow?---Exactly.

MR HADDRICK: I should just correct the transcript. I'm advised that it is already the case that restrictive practice orders or Carter orders are made for disabled

children who currently live in residential facilities currently, so that is already the case in respect to that subset of residents of the - - -

COMMISSIONER: That's because they're covered by the disability services legislation.

MR HADDRICK: Yes.

COMMISSIONER: But restrictive is more than – the restrictive practice is more than containment - - -

MR HADDRICK: Perhaps that's - - -

COMMISSIONER: - - - it's immobilising, half the time.

MR HADDRICK: Perhaps that's a matter for submission down the track in terms of what the commission should take of the suggestion.

COMMISSIONER: Anyway, what you are suggesting is that somehow you have to make the troublesome children a captured audience so that they can get the help that they don't even know they need?---Correct.

All right, well, no doubt that will be a rich mine for submission, Mr Haddrick.

MR HADDRICK: Can I turn to another topic, and that is paragraph 39 of your statement on page 8? In that paragraph there you identify a couple of challenges faced by your officers in terms of investigating abuse insofar as your investigations occur parallel to the investigations in the Department of Community Services. Can you explain in your own words what those challenges are?---Because of the system that's presently in place, notifications go to RIS, RIS assesses the information available and then passes it on to an agency office to investigate. Because also to different interpretations, philosophies on – philosophies is what can happen is what we, as in the QPS, consider as an urgent matter is not considered as urgent or requiring as urgent a response by DOCS and vice versa. For instance, by way of example, we receive a notification that a child is being, for instance, sexually abused. It comes to our office. We immediately act on it. We go out there, we interview the child, obtain the evidence, investigate from there. It may be the fact that the information then passes from DOCS, it goes to RIS – sorry, it goes from RIS, it goes to an area office and then the investigation is from there. That takes time. We immediately get the information and go and investigate it. For instance, that is problematic when it comes to it – is we do it on the first, so if there is available evidence we are in a position to obtain that evidence there and then and there's no loss of time, loss of evidence, et cetera. Going on the other way, DOCS may have a notification that a child has been the subject of a physical assault by a parent. From the information they have that child is being – unknown, the degree of assault. It might be a hit, it might be a small hit. Because of previous notifications or other

information that might be a 24 hour notification. For our office at the moment, with resources that we do have, and the QPS is that child is at lesser danger and we have other jobs. So it may be the fact that their 24-hour notification doesn't relate to our 24-hour notification. It's of a lesser concern than our own. Also, the availability for DOCS and the availabilities of QPS officers. We're in a situation where between us, as in DOCS and the QPS, we have a certain amount of staff that's available to us. So we don't have resources to go and do that job. It's a lesser job. "DOCS, well, you go and investigate that one. If there's something in it, let us know." We, on the other hand, get to a situation, "Yes, we've got resources available. We'll go and do that one. We'll let you know what the result is there."

So depending upon who receives the first report of a possible crime or abuse, depending upon the priorities of the agency receiving that report it might affect the outcome of the investigation by the other agency?---Yes.

Just to give a practical example to that, say, for instance, a young girl made a disclosure as to sexual abuse within the family and the family reported it to DOCS, how long would it usually take for your officers to find out about the allegation?---Sexual abuse is normally quick. It can take - working its way through the system from DOCS, it can take a couple of days.

What sort of evidence can be lost over that period of time?---An examination of the child, being physical evidence on the child. It can be physical evidence, whether it be body fluids, it can be marks, bruises, it can be initial disclosures, it can be witnesses that aren't spoken to at the time. Considerable.

Those are the things that are in jeopardy depending upon the priorities of the agency receiving the report?---Yes.

As a final topic I want to ask you some questions in regards to a matter that previous witnesses have provided evidence to this commission in relation to. It's essentially this, when officers of the QPS receive reports, be it domestic violence, be it allegations of abuse against a child, what paperwork is generated as a result of those reports?---If police attend a domestic violence incident we complete a domestic violence – a (indistinct) from there.

Then who has access to that documentation?---Queensland police.

If the members of the family or people associated with the child are involved in a family law dispute can they have access to that documentation?---No, only through FOI.

What about through the subpoena process?---Yes.

So the QPS provides information to the Family Court or the Federal Magistrates Court, currently, as it's called, when a subpoena has been served to provide that documentation to the court?---Yes.

That documentation contains possible allegations of misconduct against one party or the other?---Yes.

Now, I'm going to suggest to you that that process is abused by people in the community so as to get something on the other party in the family law dispute. Can you tell me whether that occurs or not?---I'm aware that QPS has been - - -

Of all people that should not go off, it should not be me. A first in every career. Keep going, sorry?---I'm aware that there has been notifications that have been made to the QPS through investigation have been malicious or been vexatious and I know that they have been used as ammunition in possible family law court proceedings.

How often does that occur?---I can't give you exact figures but I can say anecdotally regularly.

What are some of the features that give it away, that this is effectively an allegation for the purposes of ammunition, from your perspective as an officer?---We get in the practice now of asking early, "Are there presently family law court matters before the court?" "Yes." That at times gives a flavour, by looking at records, by looking at previous records on the QPS system from there. You can possibly get a feel for the child has been interviewed on a number of other times and the child has never made disclosures, or by at times a child has been interviewed, or the children have been interviewed, and it's very evident that they have been fed, directed, assisted in providing an allegation.

What do you and your officers do when you come across those sorts of cases where it's plain to you that there is very little, if any at all, substance to the disclosures, or the so-called disclosures?---There are times where we've actually reported the parent who has actually brought the child in that is consistently making the allegations, we've reported the child - as inflicting emotional abuse on the child for the number of times that we've had to interview the child about the same notification. So we've got to the point where officers have actually been required to give evidence in Family Law Court or give information to the child's rep, as in, "We believe this didn't occur."

Wasting police time is an offence, isn't it?---Causing false investigations, yes.

Does anyone get charged with that offence?---Very irregularly people get charged with that offence.

Why not?---The evidence that's required; the actual resources that are required to prepare a brief of evidence to the standard required is very, very time-consuming and with the allocation of resources that we do have, it's just not going to occur.

Is there any way that officers can record or let it be known in their records that they don't believe there to be any substance to the allegation?---Different reporting criteria that we have under our systems under Q-crime, one of the reporting criteria is "unfounded, did not occur". I'll stand corrected, there is a criteria that basically says, "It is very unlikely that this did occur," and it's recorded as such.

Do your officers ever recorded as a malicious allegation? ---There's times we put comments in the actual field, "It is believed" - something along the lines to reflect that we don't believe it has occurred; if the Family Law Court matter is involved, yes, regularly.

Let me just check my notes.

COMMISSIONER: See, under section 22 an honest notification is protected from civil, criminal or administrative liability. So that's an encouragement, but that protection only applies if the notification is honest. So for an example, you'd be exposed to action for defamation if you made a dishonest allegation or report that was unfounded or belief that wasn't genuinely held? ---From my experience is it would be extremely difficult for us to get to that point to prove criminally that an offence has occurred.

So given that you can't legislate for honesty, how do you stop vexatious and malicious reports being made, or is it just an occupational hazard?---I'd like to have the answer.

MR HADDRICK: You and me both.

COMMISSIONER: So would I.

MR HADDRICK: That's the evidence of the witness, Commissioner.

COMMISSIONER: All right. Thanks, Mr Haddrick. Mr Hanger?

MR HANGER: Just a couple of things, Mr Waugh. Do you have access to all the information from all the other

interested people readily when you're making investigations?---No.

So what would you like to see? Because the Commissioner would be interested in hearing such matters?---We have information on our QPS data from there. As for the information that is contained on DOCS or health, for instance, we have no access to that; it's only through information sharing through our SCAN units, or what is provided to us by telephone calls, et cetera.

So what should we do to assist?---It would be very advantageous for all agencies to have an IT solution which - an IT solution - we have for Queensland Transport, for instance; we have access to their main roads records, to the vehicle registrations, to their licences, et cetera. I believe that if we had a solution that would be able to give DOCS access to relevant QPS data, that could be there. It would also be advantageous, I suppose, for the other agencies if we had some information from health, for instance, about - advantageous for them, and vice versa.

COMMISSIONER: You just caveat it. You just caveat that information?---Correct, yes. We don't have access, for instance, to full Department of Transport records, we don't have access to full drivers licence or other state's computer systems.

MR HANGER: For example, I'm trying to take it down to the next level of what you want access to. In health you obviously wouldn't want access to the fact that a child had had a cold last week or flu last year, but you would, I presume, want access to anything that related to possible abuse of the child?---Absolutely, yes.

And you'd like to have a computer system that enabled you to get that limited access to health matters?---Yes.

And what are the matters are we talking about, then? ---School.

School records, or not?---School records could be very helpful when it came to child protection matters. Attendance at school, for instance, would be something of interest. If it came to complaints, complaints or information that came from school relating to child protection, that could be advantageous.

Of course, in return from this the commission might say that you have to give access to some of your police records?---Yes.

No problem with that?---I have personally - personally I have no issue with relevant material being provided to other agencies and I think it would assist.

COMMISSIONER: Or if you want information you might give rise to an expectation that you will do something useful with it, which will only increase your workload?---Correct. As I see it, is we're basically to capacity anyway.

MR HANGER: Yes, but you draw a clear line between - you think there should be a clear line between policing and picking up children who go out late at night?---Yes. DOCS are the lead agency when it comes to child protection. Their major function is the protection of children. Our lead responsibility is - although we have a responsibility, it's not our lead responsibility.

COMMISSIONER: I suppose people would turn the argument around and say, "Well, actually it is not that these children need protection, it's that others need protection from them, so that is a police responsibility. We are supposed to care for them but we're ineffectual parents; like other ineffectual parents, our kids are on the streets and that's a police job." What do you say to that?---I believe that the police are responding to it at the moment when it comes to, for instance, youth crime.

Yes?---We are seeing the impact of it.

But there are children who are not in care who commit youth crime as well?---I agree, yes.

And who is responsible for them? Their parents and themselves? But when neither the parent nor the child acts responsibly, the police have to pick up the pieces. That's just the deal?---Correct.

So why should it be any different just because a child is under the long-term guardianship of the state?---All parents have a responsibility to actually care for their children, to do what is ever in their powers - I believe to do what's ever in their powers, whether it be financially, through their own - to provide the best for their children. I believe that DOCS are the lead agency when it comes to the protection of children and in some cases they are the parent of the child.

Yes?---So they are responsible to do everything in their power to actually look after their children.

And do you accept that if they do everything reasonably within their power and do their best but still fail, that then, fair enough, the police can pick up the pieces there; but in order for that to happen it must be that they've done everything they reasonably can do as parent?---Yes.

And that's not currently being done?---That's correct. The police find themself in a fall-back position where in the end of it we pick up the pieces.

MR HANGER: Can I turn to another matter, that is, we've heard evidence obviously from a lot of people and one of my clients, part of my client, the DOCS, complain of over-reporting by the Police Service? If I become a little bit more precise, for example, the police, they suggest, report all domestic violence complaints where there are children of the parties, whether or not they are present at the time of the alleged domestic violence. Could I ask you to comment on that?---It is our policy. As I see it, to make an informed decision on anything is you should have all the information possibly available so you can make an informed decision. In this instance DOCS are provided all the information that's known to give them an opportunity to make an informed decision on the welfare of a child or the child's protective needs. So in doing that, if we provide them all the information, domestic violence, this household has violence occurring in it - it might be the fact that the child wasn't present at the time, but in fact this house has some violent activity going on with it, coupled with the information that we don't have that DOCS have in their own holdings that may be something they need to take into consideration when they're making an assessment of the present and future welfare of that child.

And their complaint is that this takes about four hours. At least one witness has said this takes about four hours to fill in the paperwork, whatever it is, and therefore a lot of their time is being wasted. You think it's time well spent. You can't comment on the four hours?---Can't comment on the four hours.

But you think it's something that they need to know, that there's been domestic violence and there are children of the partnership, but the children may or may not have been present during that violence?---As has been previously stated, there's a lot of strands that go up to make a rope. This is one piece of information that may be the vital piece of information that's required to make an informed decision on the protection of the present and future of a child.

COMMISSIONER: That assumes that the department is in the business of making ropes and maybe it isn't. What it says is, "Look, we're a reactive - the public expectation of what we do and understanding of what we actually do, including some of our partners is misconceived. Our job is to assess whether a job is in need or protection and the only way we can do that in a liberal democracy is reactively. We can only act on information that reaches a threshold where as well as harm or risk of it there's non-existing protective parent. Actually telling us that there was violence in that home on a particular day 12 months ago doesn't help us deal with the assessment as to whether or not there's a protective parent now because now is the only time we've got a report that meets our criteria of a child apparently in need of protection." If, on the other hand,

it was a proactive, preventative based agency, then all that information, intelligence, that it could trail through and identify children in need would be useful, but that's not what they do?---I'll give you a situation. A child is - the family are together. It's to the situation where a child is basically considered at harm. DOCS's case plan is, "Mum, it's like this. If you stay with him, it will basically be in a position where we will have to take some action." Mum says, "Okay. I'm now going to leave dad. I'm going to live elsewhere." We then, for instance, go to a domestic violence situation where the kids, for instance, have gone down the shop, gone whatever. They're not in the house at the time. Mum is telling DOCS lies. She is still with dad. The children are still residing in that premises. Because they're not physically there, that information is provided to DOCS. It would then give them the ability through all the information available, "Mum is not telling us the truth." The kids - just because they weren't there at that particular instance at the time the kids are still in that environment.

And mum is not acting protectively?---And mum's not acting protectively.

So that is what is relevant to them, but that's mum breaching a case plan or something?---Yes. It also gives rise to possible suspicion that: is mum acting protectively? Is mum able to act protectively?

Right; and they conclude, "No, she's not." There's another child to be removed, or take some other action?---Yes.

Take them away from the mother because she's not acting protectively because - yes, well, look, information is useful if you are going to do something useful with it, but just collecting information isn't much good so you have to design a system that actually uses the information that you have got properly. Do you agree with that? You have a lot of information, haven't you, but you're like the dog catcher or any community based agency. You can only act reactively. You have got to wait till someone does something wrong before you can jump in. You can't stop them from doing something wrong just because you know they're likely to because of their history and what you know about them, can you?---No.

Do you know why; because you might be wrong and you might jump too early so you have got to wait. That's just the deal. You have got to wait. There are other agencies like the Health Service that do act preventatively. They give us injections so that we don't get sick and they diagnose causes as well as symptoms, but dog catchers and police and child safety officers have to wait until something happens that crosses into their realm. A dog catcher can't take a dog from a house because it knows tomorrow that that dog is going to escape. We may as well lock it now before it

happens. That would be preventative action but it wouldn't be lawful. So I think we have got to be careful with our expectations of what the system can actually do and what the role of the state actually is before we say that they should get all this information and spend five hours processing it to find out that - for what they are actually supposed to do under the legislation it doesn't help. You could change the legislation, I suppose, to make them do something with it like - I don't know what yet. Maybe there is something. Someone will be able to tell me.

MR HANGER: The commissioner is only trying out ideas on you.

COMMISSIONER: I just think it's important if we are going to identify a problem, we have got to come up with a solution not only that works but that actually works in the context that we are dealing with. If we had an agency, for example, whose job was to get all the information from all allied sources, including police information about violence being in a home which would be a relevant fact if you were making a rope about identifying children in need before they get to crisis need and then giving them the help they need before they get to the point where they need protection, that would be great?---Yes.

But the system is not built like that yet. It may never be, but until it is, I don't think we can expect it to do that. So what you are saying is, I guess, that there should be a capability within the system generally, within the child welfare, if not the protection system, but in a system that gathers together in a central hub all relevant information about children, their needs, the families, their problems, so that they can identify in advance or as it emerges vulnerabilities that could be dealt with by some part of the system before the protective part of the system is activated?---Definitely.

All right. Well, Mr Hanger, can you come up with a design for that, please?

MR HANGER: I will. I will.

COMMISSIONER: Thank you.

MR HANGER: I quite like your rope analogy. I'm not sure the commissioner does, but, I mean, supposing, just using a hypothetical case, that you had 50 reports of domestic violence caused by alcohol. Do you think that this adds more strands to the rope and that again, the Department of Children's Services should be aware of it?---Every situation should be looked at its merits. There's obviously, from looking at that 50 incidents involving alcohol - because obviously, if we're using that analogy, there's an alcohol problem in there. If it's causing harm to children, yes.

From your experience, I take it is likely to cause harm to children?---If the police are being called to an incident involving alcohol where it's to the point where it's requiring police intervention and the children are being exposed to it on a continuous basis, yes.

Yes, thank you, your Honour.

COMMISSIONER: Ms Stewart?

MS STEWART: Good morning?---Good morning.

I'm Lisa Stewart from the Aboriginal and Torres Strait Islander Legal Service. Just before I take you to your statement, the commissioner might like to be informed about - on that containment issue. There is a model that's being trialed in the Northern Territory in two locations, one at Yirra House in Darwin and another at Kumpaya, I think it's pronounced, in Alice Springs.

COMMISSIONER: So it's an involuntary facility?

MS STEWART: Yes, and at first reading it seems to have taken some elements of - if you're aware of the restricted practices under the Disability Services Act there's a similar process. It doesn't go as far as restricted practice such as seclusion or chemical restraint, it's just containment, but there has been a model, and I'm instructed that Queensland even explored whether it was something that we would trial. I think it came back that it was too intrusive, but you might like to source your own information on how the model has gone in the Northern Territory.

COMMISSIONER: Did you say the department looked at introducing it but then decided against it?

MS STEWART: So I'm instructed that it has been considered in Queensland already, but Northern Territory have gone a lot further.

If I can just firstly take you to paragraph 44 of your statement. It's about bullet point 5 where you identify the inability of carers to provide supervision or assistance in compliance with bail conditions. Can you just talk to me a little bit about what your experience is there at the practical level? What have you identified? What's the inability?---Basically, for instance, a child goes to court after committing offences. A number of bail conditions are imposed. Some of these bail conditions include curfews, no contact clauses, et cetera, to reside at a particular residence.

Okay, and on those court occasions is the carer there with the child, in your experience?---A representative of the department would be there.

Always?---I believe so. I can't give categorically, but I would believe so.

So where you have identified that, has that information come from other sources or is it from your practical experience in the youth justice system?---Practical experience. Practical experience with the youth justice system. We conduct bail compliance checks in an effort to address the reoffending.

Yes?---We've identified on numerous occasions people don't abide by their bail conditions.

Are you aware of what assistance the carers have in helping the young person comply with bail conditions? Do you have that dialogue with the department?---No.

That could be a useful dialogue to have. If your young person is consistently reoffending or not complying with bail conditions is there some forum where you have these discussions with the department how you can better assist the carer in assisting the young person?---I would expect when a child actually goes to court, as I've said, I believe there is a representative of the department that's actually there in court at the time. The child gets the bail conditions from there. I would have thought that being the parent of the child - that they would discuss that with the actual carer of the residence of what the bail conditions are, et cetera.

Okay, I might come back to that. The paragraph where you're talking about this containment model - because you've had a lengthy experience with the Police Service so I understand that you've made that comment from that perspective, of a policing perspective, rather than an alternative perspective. Yesterday we heard some evidence

from the regional director from the department and specifically in relation to these residential facilities, and I'll be interested in your view about this, mainly they're of children that – more teenagers rather than the, you know, nine, 10, 11 age?---Yes.

Yes, and they've probably spent some time in care already? ---Possibly.

Before getting to the residential - - -?---Yes.

They've obviously come into care because they need protection and there hasn't been a parent able and willing?---I would assume so, yes.

Because of that there's probably some underlying emotional issues that need to be addressed, because they've obviously suffered some trauma from coming into care, from being removed from their parents, and if we understand they've had quite a few placements those underlying emotional issues can go unaddressed. Would you accept that?---Yes, I would.

If we don't identify that these issues need to be addressed they can just manifest into probably the behaviour that you have to end up addressing?---As I said, with my model what I'm trying to say is we need to be able to get to those underlying reasons, and as for the model, the children aren't allowing us because of their inactivity - - -

But is that your role? That's what I'm getting at. Is that - - -?---As I see it, I'm in charge of the child protection unit. From there it's my job to actually assist. You said before, and correct me here if I'm wrong, is I was looking at a police point of view. I was actually looking at it as the protection of children, being in charge of a child protection unit. Whether or not it's from a police perspective or whether or not it's from a child safety perspective, I was looking at my views as for the protection of that child and the best interests of that child, present and future.

If you look at it from a therapeutic perspective what do you think needs to be done?---Therapeutic - - -

MR HADDRICK: I object, commissioner. This witness is not in a position to provide evidence as to a therapeutic perspective. He's a police officer. He's deposed to the answer in his evidence that he's had 22 years' policing experience. I didn't ask him any questions – that question is best placed to a psychologist or psychiatrist and they are questions best placed to someone with a medical background.

COMMISSIONER: Yes, I think it's just a - - -

MS STEWART: I'll withdraw the question.

COMMISSIONER: Okay. I was going to allow it, but - - -

MS STEWART: Okay. I was just going to bring you back to your own evidence where you - - -

COMMISSIONER: No, well, I think it's just a term of the logical debate. You're saying that the detective senior sergeant, although he works in the child protection area for a long time, he's still a policeman and his paradigm is through the police - - -

MS STEWART: You see it at the end.

COMMISSIONER: On the other hand, you're asking him to put himself less of a policeman and more of a child carer. Therapeutically, less coercive, more therapeutic, what would you come up with, but I think it's the same. I think what he's saying is, look, you have to help the kids to help themselves and the only way you're going to do that is if you get them focused on what they have to do, and they're not focused at the moment because they can choose. What you have to do is choose for them and then force feed them, if you have to, for their own good. That's his idea of therapy and his solution to also making them make themselves available. They won't do it voluntarily so they have to do it involuntarily. While you might say that is a police sort of perspective, it's also a non-police perspective as well. There would be other people in the community who would take that view. On the other hand there would be others who would take a more therapeutic view and say let the children decide.

MS STEWART: Well, perhaps not go as far as let the children decide. I think it's more about the level of engagement.

But you've identified and you gave evidence that, you know, to let the children choose doesn't work, they need - you give them support and they need - you either set a stable atmosphere or stable sphere, something like that. I see that that's the role of the chief executive in providing for the care and protection needs of the children under orders. So if that is provided to these children then we can address the underlying issues?---As I said, at the moment is a majority - a great number of these children are under the care of the chief executive at the moment. What is happening at the moment isn't working, is the kids can leave and do leave. It's - - -

Why are they leaving? Sorry to interrupt, but I think we need to get to why they're leaving. Would you agree with that?
---To get to why they're leaving we need to be able to talk to them. We need to be in a situation where they can't just walk off, they can't just leave.

But is that your role nor is that the engagement of the child safety officer or the residential carer or the carer?---As I've shown from the - the residential carer can't do it at the moment. As I see it the child safety officers can't do it at the moment.

And the can't is why; because the child won't engage?

COMMISSIONER: The child won't stay still to engage. But what you're saying is that - I think you agree - you say it's the child services' role but they're not performing that role; and because they're not performing their role - doesn't matter why, you don't really know why - but it's left to you then to perform the role for them?---That's correct.

As their agent?---What I am also trying to say is the child - so in the end of it the bottom line is the child safety people can't work with the child, they can't actually do their good work, they can't get there because the child is not making themself available - - -

So the first thing they have to do is make sure they have the control of the child so that they can help the child and meet the needs the child currently hasn't had met?
---Correct.

I think that's as far as we need to take the debate because that's what it is becoming, is a bit of a debate.

MS STEWART: Okay. Yes, Commissioner. I have no further questions, Commissioner. They've already been addressed in the couple of hours that counsel assisting has been questioning.

COMMISSIONER: All right, thanks, Ms Stewart.

Mr (indistinct)

MR .....: We have no questions, sir.

COMMISSIONER: Really? Okay. Excellent. Do you have some questions?

MR CAUGHLIN: Mr Commissioner, I have some questions. I neglected yesterday to announce my appearance - - -

COMMISSIONER: Yes, you might, thanks.

MR CAUGHLIN: For the record, my name is Caughlin, initials DJ, I appear for the Crime and Misconduct Commission.

COMMISSIONER: Thanks, Mr Caughlin.

MR CAUGHLIN: Detective, I've just got a few questions to ask you about the child offender reporting regime that you were giving evidence about previously. Fundamentally the objective of that child protection offender reporting regime is to assist in protecting children by addressing the risk of reoffending and encouraging - sorry, by reducing the - I'll read out the purpose of the act from the short title:

> *And act to require particular offenders who commit sexual or particular other serious offences against children to keep police informed of their whereabouts and other personal details for a period of time; to reduce the likelihood that they will reoffend; and to facilitate the investigation and fusion of any future offences that they may commit; and for related purposes?*

---Yes.

Bearing in mind that the objective of that legislation is to protect the community, and children in particular, can you say whether or not you're aware of any situations where that reporting regime has assisted in the prevention of offences against children or in detection or investigation of those offences?---Prevention, no, I can't give any data or input on that. As to detection, I've been aware that offenders on the register have reoffended and I am aware of information that we have obtained from the person has been relevant in a police investigation. Is that what you're after?

In a general sense. So is that one particular example that you're talking about there?---Yes.

And in that case was that in terms of identification information?---Identification, yes.

And that was an offender who was reporting regularly in compliance with their obligations?---Yes.

And it's that information which you had in your possession and was presumably up-to-date, did provide some assistance in terms of investigating, or at least prosecuting the events?
---Yes.

You talked before about the classification of offenders: high risk, very high risk, or medium risk offenders. In that particular example was that offender a medium, high, or very high risk offender?---I believe it was a medium.

And in your view that regime then provided some value?
---From the reporting information we had available is we did use it, it was of some value to the investigation.

You've given evidence about the significant impost, I guess, of your obligation as a CPIU in terms of ensuring compliance for reportable offenders. Do you have any views on whether or not the benefits from the information that you get through that process outweigh or are outweighed by the workload?---The workload is significant. The workload is definitely significant. As to any views on - workload is significant. As to the value of the information, it was of assistance. It definitely was assistance. However, through holdings which we did have, we would possibly have been able to move towards that same offender; however, maybe not as quickly.

As a general proposition do you think that the resources that are spent on ensuring compliance with that offended reporting regime could be better directed to other areas of the CPIU's work?---My personal opinion, yes.

You mentioned that there were legislative changes in 2011 which required additional reporting information to be provided by reportable offenders. That included an increase in a range of offences that became reportable offences. Is that right?---Yes.

And did that lead to a spike in the number of reportable offenders or an increase at any rate?---I don't know. I can't comment on that.

Presently - and I don't know the extent to which you can comment on this - but there's fairly limited discretion under the offender reporting legislation as to when a person is or is not a reportable offender. The criteria, just for the record, is set out in section 5 of the Child Protection Offender Reporting Act 2004. By and large the circumstances in which a person becomes a reportable offender are down to the sentence which is imposed on them by the court rather than any discretion being vested in the

court to actually determine whether or not a person should be a reportable offender?---Yes.

Are you able to comment on whether you need there'd be any value in giving the courts discretion as to whether or not a person becomes reportable offender?---I don't think I'm in a position to comment on that.

Finally, you mention that in the Logan district it is the responsibility of the CPIU to ensure compliance with the ANCOR obligations. Is that the case throughout Queensland?---Yes, the officer in charge of the child protection unit in which the offender resides is responsible and the officer in charge is - the CPIU is responsible for the management of all reportable offenders that reside in that district.

And if we accept your evidence that the offender-reporting compliance obligations take away police resources from other duties of the child protection and investigation unit, that would be the case throughout Queensland, wouldn't it?---Yes.

Do you think that another agency, governmental or otherwise, could appropriately monitor those obligations? ---Yes, quite possible and through information sharing is the information still could be made available to the QPS.

For example, an agency like Corrective Services which in a large number of these cases would have some ongoing supervision obligations in relation to a number of these reportable offenders - do you have any views about whether or not they could appropriately monitor those offender-reporting obligations?---I believe they could. They have staff that have been specifically trained. It's their duties. It's their practice for other people on probation and I can see no impediment.

From a police perspective, do you think that there would be any value in another agency than QPS supervising those obligations?---With the information-sharing facilities, yes, it would be of assistance to the QPS.

From the information-sharing comment that you made, I take it that your view would be that that information should be - could be collected by another agency on the proviso that it was made available to QPS?---Yes. We regularly meet with Corrective Services and we discuss a management plan to reduce risks and to identify risks so, yes.

Thank you. I have got nothing further.

COMMISSIONER: I just wonder, do you think there is just shifting - a subtheme that has emerged is that a couple of things seem to be happening. One is everybody in the business wants to impose its own policy on someone else just to either reduce risk or give it to someone they think might be able to use it, right. So let's assume that it's the latter, even though the receiving agency doesn't really use it or want it and has a different policy, on the one hand, and, on the other hand, there's no central place where these agencies who get a lot of information imposed on them externally who don't use it, can't actually access information they do want and could use. So in order to correct that, would there be some advantage in having a central hub of information that everybody could plug into as and when required to get what they need and use it rather than spending time finding out that the information that has been mounting up outside your door is actually - 80 per cent of it isn't what they want or isn't anything they can do anything about and spending time looking into this information hub and seeing if there's anything in there that they do want?---I think it would be greatly

helpful.

All right. I know you're not speaking on behalf of the department and I'm sure that there are a lot of policy implications in what I'm about to ask you and, please, don't feel obliged to answer just because I ask the question; not even my children do that. Do you think the police would have the capability of managing such a system?---I don't think that I'm in the right place to comment.

Fair enough?---However, I can say we have access to other government records previously which we've been able to manage from there, but I'm not in a position to say that our present computer system would have the capacity or the ability to do so.

But what you do know is that police do hoard a lot of information about a lot of things in order to do their investigative work?---Yes.

Okay, thanks. Mr Caughlin, are you finished?

MR CAUGHLIN: Yes, thank you.

COMMISSIONER: Thank you. Mr Haddrick?

MR HADDRICK: Nothing by way of re-examination, but I have had discussions with my learned friend Mr Hanger, Queen's Counsel, in respect of the issue of containment model which was discussed at some length by way of my questions. I have indicated to Mr Hanger that it would be perhaps helpful if the Crown provides information to the commission as to whether such a thing has been considered in the past and, if so, what exactly was considered.

Of course I will let him speak for himself, but what I propose is that the commission invites the Crown to write to you and identify the following: what, if anything, the Queensland government has considered to establish in what can be described as a containment model, that is, a more structured and restrictive placement of a child - - -

COMMISSIONER: Along the lines of the Northern Territory model.

MR HADDRICK: Along the lines identified today, either the Northern Territory model or otherwise that could have occurred prior to that, and what I'm suggesting is what was considered, when was it considered, what was the structure and nature of the proposal, singular or plural, and why was it decided not to pursue any proposal, if indeed it was decided to pursue a proposal.

COMMISSIONER: It sounds perfectly - Mr Hanger, do you want Mr Haddrick to draft an information notice or are you

happy to take it on notice?

MR HANGER: No, I have taken it on notice. It is in hand. It's actually being done now.

COMMISSIONER: Okay.

MR HANGER: There was a proposal along these lines a number of cabinets ago. It wasn't adopted. I'm just going to say at this stage, as Sir Humphrey Appleby would say, "A courageous decision, minister." I can't tell you why it wasn't adopted.

COMMISSIONER: Yes.

MR HANGER: But we will respond to Mr Haddrick's request.

COMMISSIONER: All right. It will probably find its way into an issues paper or discussion paper at some point and people can - - -

MR HADDRICK: That's the evidence of this witness and if it's convenient to the commission, now might be a good time to take a morning tea break.

COMMISSIONER: You assume that we take one every day, Mr Haddrick. We don't always.

MR HADDRICK: There is conferencing I need to do before the next witness, like meet the witness.

COMMISSIONER: All right. Detective senior sergeant, thanks for coming and for the evidence that you have given fully and frankly. We appreciate it.

WITNESS WITHDREW

COMMISSIONER: I will adjourn until - how long, Mr Haddrick?

MR HADDRICK: Perhaps 20 minutes.

COMMISSIONER: 20 minutes. I will adjourn until 20 to 12.

THE COMMISSION ADJOURNED AT 11.22 AM UNTIL 11.40 AM

4/10/12

THE COMMISSION RESUMED AT 11.43 AM

COMMISSIONER: Mr Haddrick?

MR HADDRICK: Just by way of housekeeping before we move to the final witness, Mr Commissioner, it's been drawn to my attention that in the ACT there is a legislative regime down there that permits therapeutic detention orders in respect of young people under the Children's and Young Persons Act of the ACT, section 512 of that act or Part 16.2. I will be asking the officers of this commission to have a look into the operation of that piece of legislation, in particular that provision, and I just put it on the transcript that we will be looking into that to give the other parties an opportunity to have a look at the operation of that particular regime and allow them to make submissions down the track if they think that relevant to the commission's terms of reference.

COMMISSIONER: Thanks, Mr Haddrick.

COMMISSIONER: I call Ms Ann Kimberley.

KIMBERLEY, ANN sworn:

ASSOCIATE: For recording purposes, please state your full name, your occupation and your business address?---My name is Ann Kimberley. I'm the child protection liaison officer for Queensland Health on the Gold Coast and I work at the Gold Coast Hospital.

COMMISSIONER: Thanks, Ms Kimberley, welcome?---Thank you.

Mr Haddrick?

MR HADDRICK: Could the witness, please, see this document?

Ms Kimberley, do you recognise that document in front of you?---Yes.

What is that document?---This is my statement that I wrote for the Commission of Inquiry.

What is the date which you made that statement on?---The last page.

The last page?---28 September 2012.

Are the contents of that document true and correct?---Yes, they are.

Is there anything you wish to add or subtract from the contents of that document at this stage?---No.

I tender that statement, Mr Commissioner.

COMMISSIONER: Ms Kimberley's statement will be exhibit 75 and it will be published, thank you.

ADMITTED AND MARKED: "EXHIBIT 75"

MR HADDRICK: Ms Kimberley, I don't propose to take you through the total contents of your statement. I just wish to go to two specific issues that I identified in your statement?---Mm'hm.

Now, for the purposes of the hearing, you are the child protection liaison officer for the Gold Coast Hospital and Health Service. Is that correct?---Yes, that's correct.

And how big is that hospital and health service geographically? What does that take in?---It goes from Tweed Heads which is the border with New South Wales up until we encompass Beenleigh but not Logan.

How many public hospitals are in that health service? ---There are two.

What are they?---They are the Robina Hospital and the Gold Coast Hospital.

And the Gold Coast is the larger of the two hospitals?---It is.

How long have you held that role for?---I've held the role of child protection liaison officer for approximately six years.

And what did you do by way of occupation prior to that?---I was the nurse unit manager of the paediatric unit at the Gold Coast Hospital for the previous 10 years to that.

Okay. Now, I want to ask you some questions in respect of your function as the child protection liaison officer in terms of when children are removed from mothers after birth?---Mm'hm.

In particular I want to get you to explain to the commission the circumstances in which action is taken and how that action is taken. So, first of all, how often or how regular is the following event: that a mother gives birth to a child and some government agency comes in and removes the child after the birth?---In the Gold Coast district I'd say approximately once a month.

So there might be on average for those two hospitals 12 children removed per year?---Mm'hm.

Why are those children removed?---They're usually assessed by the Department of Child Safety and the hospital would be

informed of their intent to remove the child upon birth. The maternity unit is actually in the Gold Coast Hospital itself, not at Robina so it's just from the one hospital.

How is that information provided to Queensland Health employees?---The Department of Child Safety contact myself usually and also I work with the social worker who works with child protection unit and the special-care nursery where the baby would possibly go after birth and also the maternity unit and they would let us know the details of this mother and the child and the reasons why those children were going to be taken into care. It's usually because of some concern they have from the mother prior to birth.

Okay. Let's just slow down. What sort of factors or features have to be present before a child is removed? ---The child has to be at risk from the mother herself.

And what are the typical signs of a child being at risk from the mother herself?---There are numerous reasons. It could be the mum has a mental problem or a substance abuse problem that isn't being addressed so therefore the child would be at risk. Also there could be concerns - - -

Just before you go on, you say substance abuse. For completeness, for the purposes of the transcript, what sort of substances are we talking about here, alcohol?---Drugs and alcohol.

Okay?---So if mum has a drug or alcohol problem and wasn't addressing that while she was present, then they would be concerns for the child after birth or there could be safety concerns for that child after birth, physical safety.

How long after birth is the child usually removed from the mother?---Not initially straightaway if the child isn't at risk of physical harm from that mother. If she was a mum who previously had harmed her children, then that child would not be left with that mother on its own at all. If the child wasn't at physical risk from the mother, then the mother would be able to keep the child with her while the child was needed to be in hospital. The child would be kept in hospital a minimum of 24 hours to make sure it's okay after birth and then it would be organised by the Department of Child Safety for the child to be taken into foster care and then it would be removed into foster care then.

That's the situation where the mother is deemed to be a risk to the child?---Yes.

What if the father were a risk to the child? Explain what happens then?---It would depend on the mother. If the mother was working with the Department of Child Safety while she was pregnant, if she has a history with the

department and they were aware of the pregnancy - - -

What do you mean "working with the department"?---If mum has a drug or alcohol problem and she was to address those concerns by seeking mental health treatment or going to the drugs and alcohol either rehabilitation or cutting down on her drugs and alcohol, seeking help in that way, then she was doing something so she would be a fit mother to be able to look after that child once it was born, then - sorry, I've sidetracked and I've lost myself.

I was asking about what happens in the event that the father is deemed to be a risk to the child?---Yes, if mother had problems and she had problems with the father and - it could be drug and alcohol for both of them or mental health and she was not willing to leave the father and keep the child safe from the father, then that child would be deemed to be at risk being in the mother's care.

Is there any difference in the way the mother has contact with the child after the birth of the child where the father has been considered to be the - - -?---No, because the nursing staff in the ward would be aware. They may deem mum to be a flight risk. That means she would leave the hospital with the child so therefore she would - they would possibly put the baby into special-care nursery which is a locked, secure unit.

And so there's a locked door once you've gone in and out. So therefore she would be allowed in there to see the baby and handle the baby, et cetera, give the baby care, but would not be able to take the baby out of that nursery.

Okay. When is the mother told of a decision that the child will be taken into the department's care?---That is again the role of the Department of Child Safety; Health do not say that to the mother. So if a mother is working - - -

My question is when is the mother informed that a decision has been taken?---It's usually after birth. They start their assessments before the child is born but until a child is born it isn't a person, it is in - legally it's not a person so therefore they can't make a decision if there is no person. So therefore they have to wait till the child is born before they can complete their assessment. Then the Department of Child Safety would come within, I'm sure, 24 hours to tell the mother of that if necessary.

So the formal decision is taken when the child comes into the world?---Yes.

And it becomes a subject of the law?---Yes.

But in practice on occasions the decision-making process can occur prior to the child's birth?---It's started before the child is born but is not completed until the child is a person.

COMMISSIONER: That's technically, but the only changed circumstances the birth?---Yes.

Nothing else has changed. Everything else has stayed the same except the child is now a person?---Correct.

So while theoretically you might say the assessment is not formally completed until the birth because the last step in the process has just been completed?---Yes.

But the reality is the decision has been made before birth to take the child at birth, isn't it?---It is, yes. Unless they gave the mother the opportunity once she's actually had the baby and seen it and held it in her arms and she decides that she wants to mother the child and, "Yes, I will go to mental health or a well" - et cetera, and she may do a full turn-around once she said the baby.

MR HADDRICK: I want you to explain that was a bit more detail. It is an important point. What is the last opportunity the mother has to indicate to departmental officers that she is willing to perform the functions that she needs to perform in order to allow the child to remain with her? Does every mother get an opportunity to convince - even if she doesn't know that she is trying to convince -

the departmental officers that she is a fit and proper person - - -?---Yes, I would.

- - - for the purposes of looking after her newly born child?---I think a mum at any time can make that decision to do a turnaround. I think this is Department of Child Safety information that I'm giving to you. It happens in Queensland Health but Department of Child Safety actually make all these decisions, not us. So they actually talk to the parents before the birth and after the birth and at any time she can change her mind and say, "Yes, I am going to work with you. I am going to do this." So therefore they wouldn't take the baby directly to care, they give that mother every opportunity to keep her child.

COMMISSIONER: By complying with the conditions they impose for doing so?---Correct.

Okay.

MR HADDRICK: How often in your experience has, in essence, the decision to remove the child being taken prior to birth?---The ones that are usually taken into care immediately after birth or very shortly after a birth, the overall assessment is almost completed that that child will go into care.

COMMISSIONER: Well, you'd have to do that too, wouldn't you?---That's correct.

Because you have to have all the things in place - - -? ---Correct.

- - - to take the child from birth to ensure the father doesn't create any trouble, the mother doesn't - you have to have security officers if required?---That's right.

So you have to make a decision beforehand to make the arrangements?---The reasons why they don't actually say they completed that is because we've had instances in the past where the Department of Child Safety had done that, made a decision that child will be taken into care at birth, before the child was born and the order that they were taking the child into care was a TAO, which is a temporary assessment order. And so therefore the child was taken into care for them to be able to complete an assessment. That's why they take the three-day order. It was taken to the magistrate and the magistrate said would not allow the TAO to be granted because the assessment was already completed. So therefore they lost the custody of that child, it was given to its mother, and she injured the child. So our purpose - - -

MR HADDRICK: When did that occur?---A number of years ago on the Gold Coast.

What sort of injuries did the child received?---Fractured limbs.

How old was the child?---Weeks old.

And the department made an application to the court? ---Correct.

And that application was rejected by the court?---Yes.

Okay?---Because a previous sibling had also been injured by the parents.

COMMISSIONER: Yes, but the refusal by the court was because on a technical grounds that - - -?---Correct.

- - - the assessment had been made - - -?---Had already been completed.

At the purpose of the order they were seeking was to make an assessment that had already finished?---Correct. That's why they now don't complete the assessment until after the birth.

So that they can go to the magistrate and say, "I haven't actually finished it yet so you can give us a temporary assessment order"?---Correct.

MR HADDRICK: Just excuse me for a second, Commissioner, please. My learned friend Mr Selfridge points out to me the wording of section 27 of the Child Protection Act and that is effectively the jurisdictional fact required for the making of the order, and the key words being, "An investigation is necessary to assess." Based on Ms Kimberley's evidence there, the jurisdictional fact was not proven.

COMMISSIONER: That's right, yes.

MR HADDRICK: Can I just take you back to how is the news broke to the mother that such a decision has been made? Who breaks the news?---The Department of Child Safety officers.

Okay?---A social worker is in attendance to support the mother at that time and they listen to what the departmental officers are saying to the mother so therefore afterwards she knows what has been said because a lot of the mothers wouldn't take in all the information, and so therefore she can reiterate it afterwards in support. She is the advocate for the mother.

What has been your experience - I mean, it perhaps answers itself - what had been your experience of the typical reaction of a mother who has just been told by the department that the child is being removed off the mother?

---Obviously mothers are very distressed at that time, and yes, they would be. A number of the mothers have previously been involved with the Department of Child Safety and are aware that their child may be taken into care or possibly will be taken into care so it's not as big a shock as you may think it could be with some of the mothers.

What is the variety of reactions? You've indicate shock - - - ?---Some of the mothers actually hospital-shop. Once they're - and I'll explain that - is when they're pregnant they will come to a hospital for ante-natal care - that's if they choose to come, some don't come at all, and try and hide the pregnancy. But they will come to a hospital and come to antenatal care and then they think the department is going to take their child so they would go to a different hospital to actually deliver the baby where they're not known and therefore they then think that the child will be safe and they'll be able to take the child home with them.

When you say safe, safe from being removed by the department?---Correct.

What does Queensland Health or the Department of Communities to your knowledge do to stop hospital-shopping?---What the department do is they put on an unborn child high risk alert. These are put on by the Department of Child Safety to hospitals in the area of where they think that mother may go. The alerts are sent to the hospitals to put on the system to make you aware that there is a mother who - her details and when she's due to deliver - and they put on the high risk alerts, the concerns that they have for the mother and also the risk that the child may be at. Sometimes it says on there the actions that the department are going to take once the baby is born, either to take the baby straight into care or they will complete an assessment on that mother once she's had the baby, and they're sent to hospitals in the area so that if mum does go to the Gold Coast for all her antenatal and then she goes to Ipswich suddenly on the Saturday night and delivers, they don't know; but then because of these unborn alerts, yes, they do know.

How why it is that unborn alerts sent out?---Usually only in the close area. Occasionally we have numbers of families who do go from northern Queensland and down, but it's usually in the local vicinity, Logan, Ipswich, Mater, Gold Coast, et cetera.

Now, given that you take the Gold Coast in your – or Gold Coast hospitals in your area, what about northern New South Wales?---Yes, we do. The unborn alerts do go to northern New South Wales as well and we actually get them from New South Wales too because we're so close to the border.

So there's an arrangement between the health departments in both states - - -?---Correct.

- - - to provide that information across the border?---Yes.

What sort of help and assistance is given to the mother if the mother does not take the news well?---The social worker obviously at that time supports her while she's in hospital, but I would think they would arrange counselling for that mother and supports afterwards.

What about the father?---I don't really know about the father. I don't have a lot to do with them.

If the father - - -?---I would think that he would be counselled too if he wanted to keep contact with his child. I know that the mother – on discharge from the hospital they have the normal maternity follow-up, which is a midwife would visit that mother at home for the week past delivery, which is normal even if she hasn't got a baby at home, to check that physically she's well, and then after then she can be referred to counselling and also work with the Department of Child Safety.

Now, I just want to make sure the commission have a very clear understanding of what physically happens to the child in the days and weeks following birth where that child is the subject of being removed from its natural mother. Okay, just follow my chronology along here. Say, for instance 24 hours after the child is born the child is informed that – sorry, the mother is informed that the child will be removed from her because she presents a risk of harm to the child?---Yes.

What physically happens to that child 24 hours after?---If the child is well and it's deemed it can be discharged from hospital, the Department of Child Safety would be informed that the child is ready for discharge and they would arrange foster carers to come to take the child. They have emergency foster carers.

Just slow down a second. What is the earliest point a child leaves hospital in the care of the department?---I think it can be a number of hours. I think it can be, because now mothers can be discharged from hospital within six hours of giving birth. So if the child was at risk and carers and everything was arranged beforehand, I think it can be in a number of hours, but it's usually a 24-hour period, because the baby has to have checks to make sure that it's physically well and normal itself.

So if a child is - you've told the commission that on average there's one child removed per month between the two hospitals, or with the Gold Coast hospital?---Yes.

On average how long does that child remain in the Gold Coast hospital before being removed?---Usually they're 24 hours minimum.

What's the typical time-frame? Two, three days?---Well, a number of the children who are taken into care straight after birth are the babies who would be drug withdrawal babies and so therefore they're taken into the special care nursery and actually have to physically withdraw from the mother's addiction before they're actually released from hospital. So those babies are released usually after about a week.

I think I understand what you mean by drug withdrawal, but just for completeness can you explain to the commission what you mean by drug withdrawal babies?---That would be a mother who has taken a substance during her pregnancy. She could be on methadone, which is a drug that's given to adults who have had a drug addiction in the past who are trying to get off their drug addiction and they're given methadone on a daily basis, a specific dose. That obviously would go through the placenta into the foetus so the baby would be addicted to the drug that the mother is taking. So therefore after birth the baby would withdraw from the drugs so those babies are in special care nursery and they are given a small amount of morphine and the morphine is titrated down and it's normally over a week to two-week period, the withdrawal from the drug. The babies do not have any after effects once they have withdrawn.

In either of the two situations, the first situation being the child doesn't need to go into - what did you call it, the intensive - - -?---Special care nursery.

The special care nursery?---Yes.

Or the second situation where the child does go into the special care nursery, at the end point of that process what physically happens to the child then?---The Department of Child Safety would arrange for the foster carers to come to the hospital to take the child into their care.

Who are the foster carers?---People that volunteer to be foster carers for the Department of Child Safety. It's usually - the type of people who become foster carers in this instance, an emergency, 24-hour or a short-term carer, tend to be families that have got children who are slightly older and they can afford for the mother not to work, so therefore she can be at home to care for a new baby and they like the idea of looking after babies. Therefore they volunteer - or I'm sure carers get paid, but they say that they would like to be an emergency carer, so therefore the

carers would be arranged by the Department of Child Safety.

To your knowledge, how long do the children stay in the care of that particular foster carer, the one that picks them up from the department, straight after the child is - - -?---My understanding, it's usually a short-term care until a longer term carer is organised. It all depends on the Department of Child Safety, what they're working with this mum. These babies stay in the care of the department for different lengths of time. It could be a month, it could be six months, it could be a couple of years.

Yes?---So therefore the carer would have to change from the emergency carer which they had organised.

What happens – say, for instance, the child is seven days old and the mother has demonstrated an entirely different approach to her obligations as a mother than she did seven days previously and the child has been taken off the mother. If the mother has demonstrated a willingness to play a greater parental role in the child's life how does that mother get back into the life of the child?---If the department deem that the baby would be safe in the care of that mother then obviously the care would be given back to that mother, with frequent observation, I'm guessing, from the Department of Child Safety.

Okay, what about this situation, where the mother is not deemed to be safe for the child but there might be reasons why it would be a good idea for the mother to spend some time with the child to see if any bonding can occur? ---Well, that would be - - -

How is that facilitated?---The Department of Child Safety organise that in their offices, I believe. They arrange for the carer to bring the baby to their offices and then it's arranged with the mother that she would come to the department and a child safety officer for that baby would be in the room with the mother and the baby at that time and she would visit for a period of time.

Okay?---So she wouldn't be left on her own with the baby.

Now, returning to matters slightly more medical, in a situation where a child is removed from the mother how is the child fed?---The child can be formula fed from a bottle or if the mum wishes to breast feed it is not discouraged. The mother can express her breast milk which is then frozen and then it's transported by the child safety officers to the foster carer and then it's actually fed to the baby.

How often does that occur?---Quite often.

Most of the time?---Most of the time. If the mother was taking drugs or on mental health medication that would have

some ill effects on the child then the breast milk wouldn't be given to the child and the baby would be formula fed, but a majority of the time if the mums express their breast milk and feed it then it is given to the child.

Do you find that most mothers who find themselves in these circumstances wish to provide their milk for the child? ---Yes, they do.

Now, can I ask you, what sort of safeguards does Queensland Health have in place to protect against situations where either the mother or perhaps the father don't like the news that has been broken to them on the first or second day of the child's life?---If the baby is in special-care nursery, then obviously it' a locked environment so they wouldn't be let in so therefore they wouldn't be able to get close to the child or we'd have security on the maternity floor. If we have concerns about any parents, we inform security and they come up to the floor and they would be around and they're given the circumstances so they're there to help the staff. If anything, you know, should occur, they're there on hand, but if we're expecting parents - like, if dad rang and spoke to the nursing staff and started to abuse them and saying, "I'm coming in there to take my child," then we would get security on the floor and either (a) not let them in the hospital or (b) make sure that they didn't get to where the child was. We often move rooms to protect the child so they couldn't find it.

How often does that occur?---Not as often as you think, maybe two or three times a year, that degree, but we do call security just to have them there as a backup reasonably regularly on, say, a weekly basis.

Now I wish to turn to the topic of - sorry, I thought it was a question. Turn to the topic of the SCAN - - -

COMMISSIONER: I don't always interrupt.

MR HADDRICK: Turn to the top of the SCAN system in the hospital?---Yes.

We have heard previously in this inquiry other officers of Queensland Health explain how SCAN operates in their respective districts. I just want you to give an explanation of how SCAN operates in your area and tell us what are the good and bad features of the way SCAN operates in your area? Can you tell, first of all, us laypeople what is SCAN?---SCAN is suspected child abuse and neglect and it's a multi-agency, health, police, education and Department of Child Safety. The Department of Child Safety are the lead agency but there is - a core member from each of those four agencies attends a meeting and it is an information-sharing meeting on specific cases that the Department of Child Safety bring but also police, education and health all can bring cases to SCAN and they tend to be the worst type of cases that need more information sharing for the safety of the children.

Can you describe what you mean by the worst type of cases? ---More than one problem. It could be a family who have had severe domestic violence at home through substance abuse, drug and alcohol or mental health problems or it could be neglect issues or it could be education bringing them because of behaviour problems or truanting at school or it could be Department of Child Safety bringing them - through different reasons Child Safety are bringing them to the meeting and it's information sharing because all the information together makes a whole picture. It makes a jigsaw for a family. So therefore you've got it from the health side: is their mental health client attending their psychiatrist? Are they taking their medications? Are there medical problems with that parent that impact on that family and that household? The police obviously bring their cases because they could have problems in the home and education bring them because they have problems with the children obviously, so all the four together make a better picture for the families.

Who actually runs the suspected child abuse and neglect team for your health service?---We have a SCAN coordinator and we also have an administrator who types and takes the minutes of the meetings and that's organised by the Department of Child Safety who are the lead agency.

How often does it meet?---We have our SCAN meetings once a fortnight. We cover four offices which is Department of Child Safety offices. They're held in the Department of Child Safety offices. We have Nerang, Mermaid Beach, Labrador and Beenleigh child safety offices and we hold a meeting in each office once a fortnight. It used to be once a week but the numbers diminished so therefore there wasn't sufficient so therefore that's why we made it once a fortnight.

How many cases or children are considered on the agenda of any one meeting?---However many we need; however is necessary. At the moment it's per family so it doesn't matter how many children in that family. It's per case so per family. So therefore we probably have about five or six cases per meeting.

Do you see SCAN as performing a valuable function?---Very much so.

Do you see SCAN as being able to be improved in some way? ---I think the information sharing is very good between the agencies. I think - this is possible a personal opinion. The Department of Child Safety obviously make the ultimate decisions about the children, but occasionally they come to conclusions without a thorough discussion with all the core agencies. It's okay us bringing all this information together and putting it on paper, but if it's not explained thoroughly by each agency, the understanding is not there. The health conditions - if you had a family where you had a mother with multiple sclerosis and so therefore - and father can't cope any more so he started drinking, so therefore he can't manage to look after the family. He's using all the money so therefore there's neglect issues on the children because they're not buying the money (sic) to feed the children, so therefore domestic violence starts so therefore the police are involved. So it's an ongoing - it's a snowballing effect, so therefore you have got to find out from health, "What can we do to help this mother with her multiple sclerosis in that household? Is she getting all the medications and care that she should be?" because father's now drinking so he can't care for her, so therefore the children aren't getting cared for. So are they going to school? Quite often not so therefore that's when education come in with the behaviour problems of the children, and also you A-grade students that suddenly go off because they're truanting from school because they have to stay home to look after mum who dad is now not capable of looking after, and that's just kind of a scenario. So that's why we need discussion at these meetings to get it from all sides.

So do you think that the information sharing is in some way deficient?---I think it's essential. I think it is essential. I think sometimes we go away and bring information back to the meeting and it isn't discussed

enough. I think it's the department say, "Yes, we've got all that information. We're making this decision," without sufficient discussion. That's my personal opinion.

That's the evidence of this witness, commissioner.

COMMISSIONER: Thank you. Yes, Mr Selfridge?

MR SELFRIDGE: Yes, thank you, Mr Commissioner.

Ms Kimberley, it's common knowledge - it's certainly knowledge that's known to this commission that the legislation, policies and procedures of those core entities that operate under the statutory child protection framework - the differences in the legislation, policies and procedures causes some difficulty between those core entities in terms of what's reportable, what the threshold or where the line should be drawn in the sand in relation to mandatory reporting and retention of information, et cetera. So that's common knowledge and it's certainly something that's been discussed on a few occasions before the commission. Now, could I just ask you to turn to page 4 of your statement. Bullet points 3 through to 6 talk about the Child Protection Guide. That is in, as I understand, that file that's been operating in the Gold Coast and this region?---Mm'hm.

Taking the words that are expressed in those bullet points, you obviously had - there was a collaborative approach to the introduction of this Child Protection Guide because you say you assisted in the production of that?---I did.

Yes, and it also says it was written by Child Safety and assistance with Queensland Health Department of Education and the CPIU?---Mm'hm.

Is that correct?---Yes.

Okay. How is that going?---Very well.

Going very well?---Very well, yes.

Just so we have an understanding of how it works practically, as I read, Ms Oliver - Ms Oliver gave evidence yesterday. She's the acting manager of the south-east regional intake service.

Her evidence, as I understood it, was that it's a computerised-type system?---Yes.

Yes?---What it is, the Gold Coast was chosen to trial the child protection guide.

Yes?---It's a guide for all health professionals to help them in their decision-making on whether they should make a report to the Department of Child Safety or not, whether it meets that threshold. And so the guide was written, and so that everybody could access it - papers going - so therefore we decided to make it computer-based. So it was - a design for a computer icon was made and it was put on every computer on the Gold Coast in communities, in every hospital, every single desktop PC has got the icon on it, so it's accessible by all staff at all times, 24 hours a day.

So in terms of the practical application to that, are there different forms of it? The best of your understanding are there different forms of it so to meet the Queensland Health reporting criteria is it a specific icon that addresses Queensland Health type application?---No, it's just the one icon for the child protection guide that we're trialing. It's also being trialed by Education as well.

Okay?---But education haven't got it on the computer systems, they've got it as a link through the Internet.

It is being trialed in 2012 and it's designed in its pilot form, if you like, for its trial period to end at the end of this year?---Yes.

Is that fair?---January, yes - - -

January 2013?---Correct.

But you see it as some form of success?---Very much so.

Does it assist you - the feedback that you get - - -? ---Yes.

- - - does it assist your Queensland Health professionals in how they deal with reporting procedures?---Yes. The change in legislation has helped us because it's increasing the knowledge of nurses. By using the guide, what it is, is an educational tool and it works on a split screen; on one side of the screen it has the concerns, and so on the right-hand side it has definitions, and these are really good definitions and full explanations of what the concerns are on this side.

Sorry to cut across you, but is its purpose twofold: one is an educational tool; the other one is some form of structured decision-making tool as well?---It is. It is. But it's also giving people knowledge as well and so

therefore if they come across an instance where they're caring for a child in the paediatric ward and - I'm trying to think of a for instance - if they come across a child and the mum's - I'm trying to think. I can't think. It's a tool that can be used; it doesn't have to be used, it's not mandatory. And so therefore it displays the concerns on one side, which could be physical abuse, sexual abuse, neglect, or domestic violence. And so therefore on the right-hand side it has definitions of these abuse types, so therefore you would find the one that met your criteria for your concern. Then from that - it's like a decision tree, it goes down a decision tree - so you tick the box that you want and it goes on to the next page. Then the next page will say, "If it's a parental concern I'll do that one."

Can I just stop you for a second because it is something we can obviously access as such in terms of looking at its practical application?---Yes.

Yourself as child protection liaison officer have you been getting feedback from your - - - ?---Yes.

- - - staff in relation to this?---Yes.

Has it always been positive feedback?---Yes.

Has it?---Because it is a really good tool; the reason being that not everybody was educated in child protection. A lot of the nursing staff and medical staff used to think that if they were looking after adults, that child protection really wasn't their core business, but they don't realise that their adults are mums and dads, grandmas and grandads, aunties and uncles look after children, who have children in their care, so therefore the safety of children is their responsibility. So lots of patience come into hospital and they will express their concerns to the staff in the hospital. They have to tell somebody. For instance, a 60-year-old lady came in who'd had a heart attack and she was saying, "I've got to go home. I've got to go home. I can't stay here any longer." She been there three days. "I've got to go home." Eventually the staff said to her, "Why do you have to go home?" "My daughter lives with me, she is a drug user, she's had a baby, I look after the baby. But while I've been in hospital the baby is going to be looked after by the neighbour because my daughter can't look after it. She's going on holiday on Saturday. I've got to go home and look after the baby." So therefore the Department of Child Safety were informed, the baby was then taken and given to an auntie to look after short-term. Grandma was fined after a few days, went home, and the baby went home.

What is the correlation here to the child protection guide as such?---Because the guide was addressed in those concerns for the grandma. The child was at risk at home from a parent with a substance abuse and so therefore it

would neglect issues and safety issues. So therefore the guide comes out with three outcomes: one outcome is referred to regional intake service, so therefore it gives you all the details of how and who to report to, complete the mandatory reporting form that we have for Queensland Health, and report to Department of Child Safety; the second outcome is referred to community agencies, and that is the family support alliance, which is community agencies - - -

So in terms of the need to assess the family and support them - - - ?---To go and support those families in the home before they get to the pointy end of child safety. So therefore supporting those families helps cut down on the amount of people who are reported to child safety. So putting those non-government organisations in to help those families is really helping. And then the third outcome, it says, "You do not need to report to child safety at this time." It means it wouldn't meet the criteria for the Department of Child Safety to take any action, nor would it be - those families need any assistance at this time of support, but it also state that you must continue to monitor this family, keep your relationship with that family. If you're seeing somebody outpatients - hospital, obviously - if they're meeting that person at outpatients and they go and review them often and they see them the next week and, "How things going at home? Is it still okay?" If the concerns change then obviously they run it through the guide again to see if it does meet the criteria for reporting to child safety.

Can I just ask you one other thing, then, in relation to this; it's a similar issue. At page 3, previous page comment you talk about a child protection liaison officer workshop?---Yes.

Which child safety unit convenes that?---The Queensland Health in Brisbane.

Okay. So it's internal to Queensland Health?---Yes.

I see. I understand. And it is only Queensland Health personnel that attend that?---Correct, yes.

Think you very much, I've no further questions.

COMMISSIONER: Ms Stewart.

MS STEWART: Lisa Stewart from the Aboriginal and Torres Strait Islander Legal Service. I just wanted to clarify something in your evidence. The unborn child alert that comes up on the Queensland Health system, does that have much information?---No.

No. So when - - - ?---Just there is an unborn alert on that child.

So when you spoke about the types of concerns that the department might have about the mother, whether it be mental health, physical, substance abuse, that's from your knowledge of what constitutes a child protection concern, not necessarily what's communicated under an unborn child alert?---Two different things there: the unborn child alert, what we do on the Gold Coast - because I instigated the system - is we have our database which is name, address, date of birth and all the rest of it, and on there, we put the alert on there. It is a flashing alert and on the front at the bottom we put, "Unborn alert. See alert screen." On the alert screen we put there, "An unborn alert on this mother. Contact crisis care," and the phone number is put there, because usually they deliver after hours. And so therefore once the baby is delivered the maternity ward send a piece of paper through to the Department of Child Safety to that crisis care informing them that that baby has been born. And so the unborn alert actual piece of paperwork, the social worker keeps a copy.

I also have a copy put on the EDIS system, which is the emergency department's computer system, so that if that mum comes into the emergency department for any other reason – intoxicated, domestic violence, et cetera, or whatever, been in a car accident, we don't know, anything, they can see that there's concerns about that mum and her baby when they come into the emergency department, because that computer system is stand-alone in the emergency department, it isn't connected to the other one, so that's why I've put it on that one specifically as well.

Okay. I may move from topic to topic - - -?---That's fine.

- - - so sorry if I get confusing but there's a few things I just want to follow through?---Yes.

You mentioned that normally the hospital social worker is present when the mother is told by the department that they're going to remove the baby?---Yes.

Do you get any feedback from the social worker about that particular process?---Yes. I convene a meeting once a week with the social worker from special care nursery and maternity and paediatrics and we discuss the unborn alert. So therefore they're fully aware of them and so they would feed back to us in the child protection unit of what happened when that mum was told and the baby was taken into care, et cetera, so yes.

Is there any deficiencies in that process that your social workers communicate to you, anything that could be done better in what is an emotional situation to begin with?---I think – at that time I think it's quite adequate, because she's there – the reason why she's there is because then she knows exactly what the Department of Child Safety have told mum, because mum would only take in half of what they said if she's emotional. So therefore the social worker can reiterate that to make sure that mum has thoroughly got it. Maybe afterwards a follow-up with that mum possibly may help.

Okay, and just following on from that, from your service's point of view – well, what services are offered to the mum from the health perspective at that point? Not something that the department organises, but what do you offer the mum?---It would be the social worker would organise that. They would organise community referrals of support for that mother, and as I mentioned, the midwife would continue to visit that mum for the first week to 10 days after delivery and then she would be referred on to community agencies after that for support.

Again, from your particular practice framework as a medical professional, emotional attachment at birth, how do you – what do you look for to be satisfied that mum is bonding and attaching with an infant?

COMMISSIONER: Well, can I just clarify that? As I understand it, attachment is by the baby, bonding is by the mother?---Yes.

Is that right?---Yes.

So they're different concepts?---Yes.

The baby attaches, the mother bonds. Is that right?---Yes.

MS STEWART: Could you speak to both?---It's just a nurturing and caring attitude towards the child. If the baby cries does she pick it up and does she feed it, does she care for it. Is she talking nice and smiling to it and cuddling the baby and that sort of thing. Is the baby settling after feeding or is the baby, you know, left in a cot to cry and not bonding with the mum, or attaching.

Again, I say this from a health perspective, when that attachment is disrupted what are the effects on the mother as well as the baby?---I think the babies that would have that disruption more than any other would be the ones who are the drug withdrawal babies, because they are kept in the nursery, because they are very upset because they are withdrawing from drugs. So therefore they have the morphine to settle them and to help with the withdrawal. The mums do go into the nurseries and they do care for the babies and give them that, so it is – it's because mainly the baby is upset and possibly on the mother's thought it may be a little bit of guilt. Maybe, I don't know.

I should probably clarify, because it may be a regional issue, but is it mainly children that are removed from birth in this region, there's substance misuse and that the babies suffer from drug or alcohol withdrawal? Is that - - -?---Not all of them, but they can be.

Sorry, can I just have a minute? I think some of my questions have been answered.

COMMISSIONER: Perhaps while you're doing that could I ask this question? What's the incidence of foetal alcohol syndrome, in your experience, on the Gold Coast as a cause of removal or intervention?---I actually don't know any figures on that. I don't know. It is there. Yes, it is apparent, but I don't know any figures or statistics.

Okay, thanks.

MS STEWART: I've probably just got one last thing for you. As a health professional what is your understanding of trauma?---Trauma. It would be something that would be – you mean the definition of trauma?

I suppose, for a start?---I was going to say it's something that would be instant, urgent and, yes, a traumatic event

would be something – a shock to the system.

Responses to trauma, from a health perspective what should that look like?---From the person's - - -

Yes?---You mean the person having the trauma?

Yes?---What do you mean? I don't know what you mean?

So in the consequence of a baby that's been removed, as a health professional would you expect that mum may go through and experience trauma as a result of that?---I would expect her to suffer some kind of grief and loss rather than trauma.

Yes, and the response to that, do you feel your service adequately responds to it?---I would think so, because by offering that support initially, straightaway, and then going to counselling, yes, they would be.

Possibly one last issue. In this region are you aware of any intense family support that new mums can be referred to with their child?---There is the intensive family support that is being established on the Gold Coast which is that middle tier. You know I mentioned in the reporting guide, the report to the Department of Child Safety, the support agencies? Well, the IFS is part of that.

Okay, so you have the option of referring mum to that service?---Yes.

Are these the residential service – is it a residential service?---No. The only residential service would be the Ellen Barron Centre. There isn't anything on the Gold Coast.

I have no further questions, commissioner.

COMMISSIONER: Thanks very much. Could I ask you about trauma? So the mother would suffer a grief or loss, a sense of loss. What about the infant? At that age and stage of development can the infant who is taken from her mother suffer trauma?---I wouldn't know if it's trauma. I would think that a child, as long as they're fed and warm and nurtured, they wouldn't necessarily suffer trauma, but I think as they developed and became aware then they would perhaps miss some kind of nurturing and, as you said, the bonding and the attachment.

And the - - -?---But they can bond and attach with different people.

Others?---Yes.

But the trauma might be a later event in time?---Maybe.

All right, thank you. Mr Capper?

MR CAPPER: No further questions, thank you.

COMMISSIONER: Mr Caughlin?

MR CAUGHLIN: No, thank you.

COMMISSIONER: Mr Haddrick?

MR HADDRICK: Might this witness be excused?

COMMISSIONER: She might. Thank you very much for taking the time to come and share your knowledge and information with us. It's much appreciated?---Thank you very much.

WITNESS WITHDREW

MR HADDRICK: That concludes the Beenleigh hearings, commissioner.

COMMISSIONER: Is there any other business?

MR HADDRICK: Nothing from me.

COMMISSIONER: Okay, well, I'll adjourn until when? Aurukun. All right, we're adjourned.

THE COMMISSION ADJOURNED AT 12.41 PM
UNTIL WEDNESDAY, 10 OCTOBER 2012

4/10/12